
By: **Delegates Hubbard, Barkley, Benson, Bobo, Branch, Carter, Conroy,
Gordon, Healey, Holmes, Madaleno, Marriott, Moe, Niemann, Oaks,
Patterson, Pendergrass, Proctor, Ross, and Vaughn**

Introduced and read first time: February 7, 2005

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Ethics - Members of School Boards and County Superintendents of**
3 **Education - Application of Provisions**

4 FOR the purpose of designating members of school boards as State officials who are
5 subject to certain State ethics laws applicable to State officials; designating
6 certain county superintendents of education as public officials who are subject to
7 certain State ethics laws applicable to public officials; establishing that certain
8 provisions governing the conflict of interest standards, financial disclosure
9 requirements, and lobbying regulations of school systems do not apply to
10 members of school boards or certain county superintendents of education;
11 making certain conforming changes; and generally relating to the application of
12 ethics provisions to members of school boards and county superintendents of
13 education.

14 BY repealing and reenacting, without amendments,
15 Article - State Government
16 Section 15-102(a), (bb), (ff), (jj), and (mm)
17 Annotated Code of Maryland
18 (2004 Replacement Volume)

19 BY repealing and reenacting, with amendments,
20 Article - State Government
21 Section 15-102(II), 15-103, and 15-811 through 15-814
22 Annotated Code of Maryland
23 (2004 Replacement Volume)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

1

Article - State Government

2 15-102.

3 (a) In this title the following words have the meanings indicated unless:

4 (1) the context clearly requires a different meaning; or

5 (2) a different definition is adopted for a particular provision.

6 (bb) "Official" means either a State official or a public official.

7 (ff) "Public official" means an individual determined to be a public official in or
8 pursuant to § 15-103 of this subtitle.9 (jj) "School board" means a county board of education or, in Baltimore City, the
10 Board of School Commissioners.

11 (ll) "State official" means:

12 (1) a constitutional officer or officer-elect in an executive unit;

13 (2) a member or member-elect of the General Assembly;

14 (3) a judge or judge-elect of a court under Article IV, § 1 of the
15 Constitution;

16 (4) a judicial appointee as defined in Maryland Rule 16-814;

17 (5) a State's Attorney;

18 (6) a clerk of the circuit court;

19 (7) a register of wills; [or]

20 (8) a sheriff; OR

21 (9) A MEMBER OF A SCHOOL BOARD.

22 (mm) "Superintendent" means a county superintendent as defined in § 1-101 of
23 the Education Article.

24 15-103.

25 (a) The determination of whether an individual is a "public official" for the
26 purposes of this title shall be made in accordance with the provisions of this section.27 (b) Except as provided in subsection [(f)] (G) of this section, the following
28 individuals in executive units are public officials:

1 (1) an individual who receives compensation at a rate equivalent to at
2 least State grade level 16, or who is appointed to a board, if the Ethics Commission
3 determines under § 15-208 of this title that:

4 (i) the individual, acting alone or as a member of an executive unit,
5 has decision making authority or acts as a principal advisor to one with that
6 authority:

7 1. in making State policy in an executive unit; or

8 2. in exercising quasi-judicial, regulatory, licensing,
9 inspecting, or auditing functions; and

10 (ii) the individual's duties are not essentially administrative and
11 ministerial;

12 (2) any other individual in an executive unit, if the Ethics Commission
13 determines that the individual, acting alone or as a member of the executive unit, has
14 decision making authority or acts as a principal advisor to one with that authority in
15 drafting specifications for, negotiating, or executing contracts that commit the State
16 or an executive unit to spend more than \$10,000 in a year;

17 (3) a member, appointee, or employee of the Maryland Stadium
18 Authority;

19 (4) a member, appointee, or employee of the Canal Place Preservation
20 and Development Authority; and

21 (5) a member of the Emergency Medical Services Board.

22 (c) Except as provided in subsection [(f)] (G) of this section, an individual in
23 the Legislative Branch is a public official if the individual:

24 (1) receives compensation at a rate equivalent to at least State grade
25 level 16; and

26 (2) is designated a public official by order of the presiding officers of the
27 General Assembly.

28 (d) (1) Except as provided in paragraph (3) of this subsection or in
29 subsection [(f)] (G) of this section, an individual in the Judicial Branch is a public
30 official if the individual receives compensation at a rate equivalent to at least State
31 grade level 16.

32 (2) For the purposes of paragraph (1) of this subsection, "individual in
33 the Judicial Branch" includes an individual who is:

34 (i) employed in the office of a clerk of court;

35 (ii) paid by a county to perform services in an orphans' court or
36 circuit court;

- 1 (iii) employed by the Attorney Grievance Commission;
- 2 (iv) employed by the State Board of Law Examiners; or
- 3 (v) employed by the Court of Appeals Standing Committee on Rules
4 of Practice and Procedure.

5 (3) The Ethics Commission may exclude the individuals in a position in
6 the Judicial Branch from inclusion as public officials under paragraph (1) of this
7 subsection:

- 8 (i) upon the recommendation of the State Court Administrator;
9 and
- 10 (ii) if the Ethics Commission determines that the position does not
11 have policy, policy advice, quasi-judicial, or procurement functions.

12 (e) A member of a bicounty commission is a public official.

13 (f) A SUPERINTENDENT IS A PUBLIC OFFICIAL.

14 (G) The following are not public officials:

15 (1) a State official;

16 (2) an individual employed on a contractual basis unless the individual
17 is:

- 18 (i) employed on a full-time basis for more than 6 months; and
- 19 (ii) designated pursuant to subsection (b)(1) or (c) of this section;
20 and

21 (3) a part-time or full-time faculty member at a State institution of
22 higher education:

23 (i) as to subsection (b)(2) of this section, only when the individual
24 is acting in the capacity of a faculty member; and

25 (ii) as to any other provision of this section, unless the individual
26 also:

27 1. is employed in another position that causes the individual
28 to be designated as a public official; or

29 2. directly procures, directly influences, or otherwise directly
30 affects the formation or execution of any State contract, purchase, or sale, as
31 established by regulations adopted by the Ethics Commission and approved by the
32 Joint Committee on Administrative, Executive, and Legislative Review.

1 15-811.

2 (A) [This] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS
3 Part II governs the conflict of interest standards, financial disclosure requirements,
4 and lobbying regulations of school systems.

5 (B) THE PROVISIONS OF THIS PART II DO NOT APPLY TO:

6 (1) A MEMBER OF A SCHOOL BOARD; AND

7 (2) A SUPERINTENDENT.

8 15-812.

9 (a) A school board may adopt conflict of interest regulations applicable [to
10 members of the school board and] to officials and employees of the school system in
11 accordance with this section.

12 (b) The conflict of interest regulations adopted by a school board under
13 subsection (a) of this section shall be similar to the provisions of Subtitle 5 of this
14 title, but may be modified to the extent necessary to make the regulations relevant to
15 the prevention of conflicts of interest in that school system.

16 (c) Unless a school board adopts and maintains conflict of interest regulations
17 under this subtitle, the provisions enacted by the county under § 15-804 of this
18 subtitle shall apply [to the members of the school board and] to officials and
19 employees of that school system.

20 15-813.

21 (a) (1) A school board may adopt financial disclosure regulations applicable
22 [to members of the school board and] to officials and employees of that school system
23 in accordance with this section.

24 (2) (i) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
25 THE regulations adopted under paragraph (1) of this subsection shall apply to[:

26 1. each member of the school board;

27 2. if the school board is an elected board under Title 3,
28 Subtitle 1, Part III of the Education Article, each candidate for election to the school
29 board;

30 3. the superintendent of that school system; and

31 4. subject to subparagraph (ii) of this paragraph, those
32 other] officials and employees of that school system designated by the school board.

33 (ii) The regulations may not apply to a classroom teacher unless the
34 teacher has additional duties, not normally expected of classroom teachers, that cause
35 the teacher for other reasons to be covered by the financial disclosure regulations.

1 (b) Except as provided in subsection (c) of this section, the regulations adopted
2 under subsection (a) of this section shall be similar to the provisions of Subtitle 6 of
3 this title, but may be modified to the extent necessary to make the regulations
4 relevant to the prevention of conflicts of interest in that school system.

5 (c) (1) This section does not compel a school board to require an individual
6 to file a financial disclosure statement except:

7 (i) when the personal interest of the individual will present a
8 potential conflict with the public interest in connection with an anticipated public
9 action of the individual; and

10 (ii) at least annually to report on gifts received by the individual.

11 (2) The regulations shall require that a statement filed under paragraph
12 (1)(i) of this subsection be filed sufficiently in advance of the public action to provide
13 adequate disclosure to the public.

14 (d) Unless a school board adopts and maintains financial disclosure
15 regulations under this subtitle, the provisions enacted by the county under § 15-805
16 of this subtitle shall apply to[:

17 (1) each member of the school board;

18 (2) the superintendent of that school system; and

19 (3)] the [other] officials and employees of the school system that the
20 governing body of that county designates.

21 15-814.

22 (a) A school board may adopt regulations relating to lobbying [of members of
23 the school board and] of officials and employees of the school system in accordance
24 with this section.

25 (b) The lobbying regulations adopted by a school board under subsection (a) of
26 this section shall be substantially similar to the provisions of Subtitle 7 of this title,
27 but:

28 (1) may be modified to the extent necessary to make the provisions
29 relevant to that school system; and

30 (2) may be further modified to the extent considered necessary and
31 appropriate by and for that school system.

32 (c) Unless a school board adopts and maintains lobbying regulations under
33 this subtitle, the provisions enacted by the county under § 15-806 of this subtitle
34 shall apply to that school system.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2005.

