

HOUSE BILL 355

F1, G2

9lr1201

By: **Delegates Patterson, Luedtke, D. Barnes, Barron, Ebersole, Fennell, Hill,
Hornberger, Ivey, Kelly, Proctor, Smith, Washington, and Wilkins**

Introduced and read first time: January 28, 2019

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Ethics Law – School Boards – Disclosures and Requirements**
3 **(School System Ethics and Transparency Act of 2019)**

4 FOR the purpose of repealing the requirement that certain county boards of education
5 develop and maintain a certain funding accountability website; requiring that each
6 county board report certain financial information to the Department of Budget and
7 Management beginning on a certain date; requiring the Department to post certain
8 information on a certain website; providing for the construction of certain provisions
9 of law; prohibiting the official custodian of certain documents from charging a fee for
10 documents requested by a county board under certain circumstances; requiring the
11 custodian of certain documents for a local school system, instead of only Howard
12 County, to provide written notice to a certain applicant regarding the filing of a
13 certain complaint; requiring rather than authorizing a school board to adopt certain
14 conflict of interest regulations; requiring that certain conflict of interest regulations
15 be equivalent to or exceed certain requirements; requiring certain regulations to
16 require that certain conflict of interest statements be maintained by a school board
17 for a certain number of years; requiring rather than authorizing a school board to
18 adopt certain financial disclosure regulations; requiring that certain financial
19 disclosure regulations be equivalent to or exceed certain requirements; requiring a
20 financial disclosure statement filed by a certain individual to be filed at a certain
21 time and by a certain date; requiring that a certain financial disclosure statement
22 be maintained by a school board for a certain number of years; requiring a school
23 board to submit a copy of certain financial disclosure statements to the State Ethics
24 Commission; requiring a superintendent to file a secondary employment disclosure
25 statement with a certain school board each year; requiring a school board to maintain
26 a secondary employment disclosure statement for a certain number of years;
27 requiring rather than authorizing a school board to adopt certain regulations
28 relating to lobbying; requiring that certain regulations relating to lobbying be
29 equivalent to or exceed certain provisions of law; repealing the authority for a school
30 board to modify certain regulations relating to lobbying; prohibiting a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 superintendent, any other official or employee of a school system, or a member of a
2 school board who is involved with procurement from accepting compensation, an
3 honorarium, a gift, or an in-kind service from certain business entities; prohibiting
4 a superintendent, any other official or employee of a school system, or a member of
5 a school board from holding a certain employment relationship with or performing
6 pro bono work for a business entity under certain circumstances; requiring a school
7 board to provide a certain ethics training course for certain individuals; requiring
8 certain individuals to complete an ethics training course within a certain number of
9 months after a certain deadline; defining certain terms; providing for the
10 construction of this Act; establishing a certain short title for certain provisions of
11 law; making conforming changes; and generally relating to the Public Ethics Law
12 and school boards.

13 BY repealing

14 Article – Education

15 Section 5–115 through 5–119

16 Annotated Code of Maryland

17 (2018 Replacement Volume and 2018 Supplement)

18 BY adding to

19 Article – Education

20 Section 5–115

21 Annotated Code of Maryland

22 (2018 Replacement Volume and 2018 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – General Provisions

25 Section 4–206, 5–816, 5–817, and 5–818

26 Annotated Code of Maryland

27 (2014 Volume and 2018 Supplement)

28 BY adding to

29 Article – General Provisions

30 Section 5–817.1, 5–819.1, and 5–819.2

31 Annotated Code of Maryland

32 (2014 Volume and 2018 Supplement)

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
34 That Section(s) 5–115 through 5–119 of Article – Education of the Annotated Code of
35 Maryland be repealed.

36 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
37 as follows:

38 **Article – Education**

39 **5–115.**

1 (A) (1) IN THIS SECTION, “PAYEE” MEANS ANY PARTY WHO RECEIVES AN
2 AGGREGATE PAYMENT OF \$25,000 IN A FISCAL YEAR FROM A SCHOOL BOARD.

3 (2) “PAYEE” DOES NOT INCLUDE:

4 (I) A PUBLIC SCHOOL EMPLOYEE WITH RESPECT TO THE
5 EMPLOYEE’S COMPENSATION;

6 (II) A PUBLIC SCHOOL RETIREE WITH RESPECT TO THE
7 RETIREE’S RETIREMENT ALLOWANCE; OR

8 (III) IN BALTIMORE COUNTY, A THIRD-PARTY PAYEE THAT
9 ACCEPTS EMPLOYEE PAYROLL-RELATED PAYMENTS, INCLUDING:

- 10 1. RECURRING PAYMENTS FOR PAYROLL TAXES;
11 2. EMPLOYEE PAYROLL DEDUCTIONS; AND
12 3. INVESTMENT-RELATED ACTIVITIES RELATING TO
13 FUND BALANCES.

14 (B) (1) BEGINNING JANUARY 1, 2020, EACH COUNTY BOARD SHALL
15 REPORT THE FOLLOWING INFORMATION FOR THE IMMEDIATELY PRECEDING
16 FISCAL YEAR TO THE DEPARTMENT OF BUDGET AND MANAGEMENT:

17 (I) THE NAME OF A PAYEE RECEIVING A PAYMENT;

18 (II) THE LOCATION OF A PAYEE BY POSTAL ZIP CODE;

19 (III) THE AMOUNT OF A PAYMENT;

20 (IV) FOR THE BALTIMORE COUNTY BOARD OF EDUCATION:

- 21 1. THE PURPOSE FOR THE PAYMENT; AND
22 2. WHETHER THE PAYEE IS A MINORITY BUSINESS
23 ENTERPRISE; AND

24 (V) FOR THE PRINCE GEORGE’S COUNTY BOARD OF
25 EDUCATION, THE BUDGET DATA PREPARED UNDER § 5-101 OF THIS SUBTITLE.

26 (2) EACH COUNTY BOARD SHALL PROVIDE THE INFORMATION

1 SPECIFIED IN PARAGRAPH (1)(I) OF THIS SUBSECTION TO THE DEPARTMENT OF
2 BUDGET AND MANAGEMENT FOR THE FOLLOWING PREVIOUS FISCAL YEARS:

3 (I) FOR THE MONTGOMERY COUNTY BOARD OF EDUCATION,
4 FISCAL YEARS 2010 THROUGH 2018;

5 (II) FOR THE HOWARD COUNTY BOARD OF EDUCATION, FISCAL
6 YEARS 2011 THROUGH 2018;

7 (III) FOR THE BALTIMORE COUNTY BOARD OF EDUCATION,
8 FISCAL YEARS 2012 THROUGH 2018;

9 (IV) FOR THE PRINCE GEORGE'S COUNTY BOARD OF
10 EDUCATION, FISCAL YEARS 2012 THROUGH 2018;

11 (V) FOR THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION,
12 FISCAL YEARS 2017 AND 2018; AND

13 (VI) FOR ALL OTHER COUNTY BOARDS, FISCAL YEAR 2018.

14 (3) THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL POST
15 THE INFORMATION REPORTED UNDER PARAGRAPHS (1) AND (2) OF THIS
16 SUBSECTION ON ITS FUNDING ACCOUNTABILITY & TRANSPARENCY WEBSITE.

17 (C) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THE DISCLOSURE
18 OF INFORMATION THAT IS CONFIDENTIAL UNDER FEDERAL, STATE, OR LOCAL LAW.

19 (D) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE MARYLAND
20 PUBLIC SCHOOLS FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT.

21 Article – General Provisions

22 4–206.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) “Indigent” means an individual’s family household income is less than
25 50% of the median family income for the State as reported in the Federal Register.

26 (3) “Reasonable fee” means a fee bearing a reasonable relationship to the
27 recovery of actual costs incurred by a governmental unit.

28 (b) (1) Subject to the limitations in this section, the official custodian may
29 charge an applicant a reasonable fee for:

1 (i) the search for, preparation of, and reproduction of a public record
2 prepared, on request of the applicant, in a customized format; and

3 (ii) the actual costs of the search for, preparation of, and
4 reproduction of a public record in standard format, including media and mechanical
5 processing costs.

6 (2) The staff and attorney review costs included in the calculation of actual
7 costs incurred under this section shall be prorated for each individual's salary and actual
8 time attributable to the search for and preparation of a public record under this section.

9 (c) The official custodian may not charge a fee for:

10 (1) the first 2 hours that are needed to search for a public record and
11 prepare it for inspection; **OR**

12 (2) **DOCUMENTS REQUESTED BY A COUNTY BOARD OF EDUCATION IF**
13 **THE REQUEST IS ACCOMPANIED BY AN OFFICIAL LETTER STATING THAT AT LEAST**
14 **ONE-THIRD OF THE MEMBERS OF THE COUNTY BOARD ARE MAKING THE REQUEST.**

15 (d) (1) If another law sets a fee for a copy, an electronic copy, a printout, or a
16 photograph of a public record, that law applies.

17 (2) The official custodian may charge for the cost of providing facilities for
18 the reproduction of the public record if the custodian did not have the facilities.

19 (e) The official custodian may waive a fee under this section if:

20 (1) the applicant asks for a waiver; and

21 (2) (i) the applicant is indigent and files an affidavit of indigency; or

22 (ii) after consideration of the ability of the applicant to pay the fee
23 and other relevant factors, the official custodian determines that the waiver would be in
24 the public interest.

25 (f) **[In Howard County, if] IF** the custodian of a public record for **[the Howard**
26 **County Public School System] A LOCAL SCHOOL SYSTEM** charges an applicant a fee under
27 subsection (b) of this section, the custodian shall provide written notice to the applicant
28 that the applicant may file a complaint with the **[Board] COUNTY BOARD OF EDUCATION**
29 to contest the fee.

30 5-816.

31 (a) In accordance with this section, a school board[:

1 (1) may] SHALL adopt conflict of interest regulations applicable to officials
2 [and], employees of the school system[; and

3 (2) shall adopt conflict of interest regulations applicable to], AND members
4 of the school board.

5 (b) [(1) The conflict of interest regulations adopted by a school board under
6 subsection (a)(1) of this section:

7 (i) shall be similar to the provisions of Subtitle 5 of this title; but

8 (ii) in accordance with regulations adopted by the Ethics
9 Commission and consistent with the intent of this title, may be modified to the extent
10 necessary to make the regulations relevant to the prevention of conflicts of interest in that
11 school system.

12 (2) The conflict of interest regulations adopted [by a school board] under
13 subsection [(a)(2)] (A) of this section:

14 [(i)] (1) shall be equivalent to or exceed the requirements of
15 Subtitle 5 of this title; but

16 [(ii)] (2) in accordance with regulations adopted by the Ethics
17 Commission and consistent with the intent of this title, may be modified to the extent
18 necessary to make the regulations relevant to the prevention of conflicts of interest in that
19 school system.

20 [(c) Unless a school board adopts and maintains conflict of interest regulations
21 under subsection (a)(1) of this section, the provisions enacted by the county under § 5–808
22 of this subtitle shall apply to officials and employees of that school system.]

23 (C) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION
24 SHALL REQUIRE THAT A CONFLICT OF INTEREST STATEMENT BE MAINTAINED BY
25 THE SCHOOL BOARD FOR AT LEAST 10 YEARS.

26 5–817.

27 (a) (1) In accordance with this section, a school board[:

28 (i) may] SHALL adopt financial disclosure regulations applicable to
29 officials [and], employees of that school system[; and

30 (ii) shall adopt financial disclosure regulations applicable to], AND
31 members of the school board.

1 (2) (i) The regulations adopted under paragraph [(1)(i)] **(1)** of this
2 subsection shall apply to:

- 3 1. the superintendent of that school system; [and]
- 4 2. those other officials and employees of that school system
5 designated by the school board, subject to subparagraph [(iii)] **(II)** of this paragraph[.];

6 [(ii)] The regulations adopted under paragraph (1)(ii) of this
7 subsection shall apply to:

- 8 1.] **3.** each member of the school board; and
- 9 [2.] **4.** if the school board is an elected board under Title 3,
10 Subtitle 1, Part III of the Education Article, each candidate for election to the school board.

11 [(iii)] **(II)** The regulations may not apply to a classroom teacher
12 unless the teacher has additional duties, not normally expected of classroom teachers, that
13 cause the teacher for other reasons to be covered by the financial disclosure regulations.

14 (b) [(1)] Except as provided in subsection (c) of this section, the regulations
15 adopted under subsection [(a)(1)(i)] **(A)(1)** of this section:

- 16 [(i)] shall be similar to the provisions of Subtitle 6 of this title; but
- 17 (ii) in accordance with regulations adopted by the Ethics
18 Commission and consistent with the intent of this title, may be modified to the extent
19 necessary to make the regulations relevant to the prevention of conflicts of interest in that
20 school system.

21 (2) The regulations adopted under subsection (a)(1)(ii) of this section:]

22 [(i)] **(1)** shall be equivalent to or exceed the requirements of
23 Subtitle 6 of this title; but

24 [(ii)] **(2)** in accordance with regulations adopted by the Ethics
25 Commission and consistent with the intent of this title, may be modified to the extent
26 necessary to make the regulations relevant to the prevention of conflicts of interest in that
27 school system.

28 (c) (1) [(i)] This section does not compel a school board to require an
29 individual to file a financial disclosure statement except:

30 [1.] **(I)** when the personal interest of the individual will
31 present a potential conflict with the public interest in connection with an anticipated public
32 action of the individual; and

1 **[2.] (II)** at least annually to report on gifts received by the
2 individual.

3 **[(ii)** The regulations adopted under subsection (a)(1)(i) of this section
4 shall require that a statement filed under subparagraph (i)1 of this paragraph be filed
5 sufficiently in advance of the public action to provide adequate disclosure to the public.]

6 (2) The regulations adopted under subsection **[(a)(1)(ii)] (A)(1)** of this
7 section:

8 **(I) THAT APPLY TO A SUPERINTENDENT OR ANY OTHER**
9 **OFFICIAL OR EMPLOYEE OF A SCHOOL SYSTEM UNDER SUBSECTION (A)(2)(I)1 AND**
10 **2 OF THIS SECTION SHALL REQUIRE THAT A STATEMENT FILED UNDER PARAGRAPH**
11 **(1)(I) OF THIS SUBSECTION BE FILED SUFFICIENTLY IN ADVANCE OF THE PUBLIC**
12 **ACTION TO PROVIDE ADEQUATE DISCLOSURE TO THE PUBLIC;**

13 **(II) THAT APPLY TO EACH MEMBER OF THE SCHOOL BOARD AND**
14 **CANDIDATES FOR ELECTION TO THE SCHOOL BOARD UNDER SUBSECTION (A)(2)(I)3**
15 **AND 4 OF THIS SECTION** shall require that a statement filed by a member of a school board
16 be filed on or before April 30 of each year; AND

17 **(III) SHALL REQUIRE THAT A FINANCIAL DISCLOSURE**
18 **STATEMENT BE MAINTAINED BY THE SCHOOL BOARD FOR AT LEAST 10 YEARS.**

19 **[(d)** Except as provided for a school board member under this part, unless a school
20 board adopts and maintains financial disclosure regulations under this subtitle, the
21 provisions enacted by the county under § 5–809 of this subtitle shall apply to:

22 (1) the superintendent of that school system; and

23 (2) the other officials and employees of the school system designated by the
24 governing body of that county.]

25 **(D) A SCHOOL BOARD SHALL SUBMIT A COPY OF THE FINANCIAL**
26 **DISCLOSURE STATEMENTS RECEIVED UNDER THIS SECTION TO THE ETHICS**
27 **COMMISSION.**

28 **5–817.1.**

29 **(A) A SUPERINTENDENT SHALL FILE A SECONDARY EMPLOYMENT**
30 **DISCLOSURE STATEMENT WITH THE APPROPRIATE SCHOOL BOARD EACH YEAR.**

31 **(B) THE SCHOOL BOARD SHALL MAINTAIN A SECONDARY EMPLOYMENT**

1 **DISCLOSURE STATEMENT FOR AT LEAST 10 YEARS.**

2 5–818.

3 (a) In accordance with this section, a school board [may] **SHALL** adopt regulations
4 relating to lobbying of members of the school board and of officials and employees of the
5 school system.

6 (b) The lobbying regulations adopted by a school board under subsection (a) of
7 this section:

8 (1) shall be [substantially similar to the] **EQUIVALENT TO OR EXCEED**
9 **THE** provisions of Subtitle 7 of this title; but

10 (2) [(i)] may be modified to the extent necessary to make the provisions
11 relevant to that school system[; and

12 (ii) may be further modified to the extent considered necessary and
13 appropriate by and for that school system].

14 [(c) Unless a school board adopts and maintains lobbying regulations under this
15 subtitle, the provisions enacted by the county under § 5–810 of this subtitle shall apply to
16 that school system.]

17 **5–819.1.**

18 **(A) A SUPERINTENDENT, ANY OTHER OFFICIAL OR EMPLOYEE OF A SCHOOL**
19 **SYSTEM, OR A MEMBER OF A SCHOOL BOARD WHO IS INVOLVED WITH PROCUREMENT**
20 **FOR A SCHOOL SYSTEM MAY NOT ACCEPT COMPENSATION, AN HONORARIUM, A GIFT,**
21 **OR AN IN–KIND SERVICE FROM A BUSINESS ENTITY THAT:**

22 **(1) IS A CONTRACTOR OR IS SEEKING TO BE A CONTRACTOR WITH THE**
23 **SCHOOL SYSTEM;**

24 **(2) REPRESENTS A COMPANY OR AN ORGANIZATION THAT IS A**
25 **CONTRACTOR OR IS SEEKING TO BE A CONTRACTOR WITH THE SCHOOL SYSTEM; OR**

26 **(3) FACILITATES THE INTERACTION OF SCHOOL SYSTEM EMPLOYEES**
27 **WITH A COMPANY OR AN ORGANIZATION THAT IS A CONTRACTOR OR IS SEEKING TO**
28 **BE A CONTRACTOR WITH THE SCHOOL SYSTEM.**

29 **(B) A SUPERINTENDENT, ANY OTHER OFFICIAL OR EMPLOYEE OF A SCHOOL**
30 **SYSTEM, OR A MEMBER OF THE SCHOOL BOARD MAY NOT HOLD ANY OTHER**
31 **EMPLOYMENT RELATIONSHIP WITH OR PERFORM PRO BONO WORK FOR A BUSINESS**

1 ENTITY THAT WOULD IMPAIR OR HAVE THE APPEARANCE OF IMPAIRING THE
2 IMPARTIALITY OR INDEPENDENT JUDGMENT OF THE INDIVIDUAL.

3 **5-819.2.**

4 (A) A SCHOOL BOARD SHALL PROVIDE A TRAINING COURSE FOR
5 SUPERINTENDENTS, OTHER SCHOOL SYSTEM OFFICIALS AND EMPLOYEES, AND
6 SCHOOL BOARD MEMBERS ON STATE AND LOCAL ETHICS LAWS, REGULATIONS, AND
7 POLICIES INCLUDING:

8 (1) GENERAL ETHICS REQUIREMENTS;

9 (2) FINANCIAL DISCLOSURES;

10 (3) CONFLICTS OF INTEREST; AND

11 (4) ANY OTHER AREA THE SCHOOL BOARD CONSIDERS APPROPRIATE.

12 (B) EACH INDIVIDUAL REQUIRED TO FILE A FINANCIAL DISCLOSURE
13 STATEMENT UNDER THIS PART SHALL, WITHIN 6 MONTHS OF THE DEADLINE FOR
14 FILING THE STATEMENT, COMPLETE THE TRAINING COURSE PROVIDED BY THE
15 SCHOOL BOARD UNDER THIS SECTION.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
17 1, 2019.