

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

Reassigned: Ways and Means, February 4, 2019

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2019

CHAPTER _____

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 annually report certain financial information to the Department of
7 Budget and Management beginning on a certain date; requiring the Department to
8 post certain information on a certain website; providing for the construction of
9 certain provisions of law; ~~prohibiting the official custodian of certain documents from~~
10 ~~charging a fee for documents requested by a county board under certain~~
11 ~~circumstances~~; requiring the custodian of certain documents for a local school
12 system, instead of only Howard County, to provide written notice to a certain
13 applicant regarding the filing of a certain complaint; requiring rather than
14 authorizing a school board to adopt certain conflict of interest regulations; requiring
15 that certain conflict of interest regulations be equivalent to or exceed certain
16 requirements; requiring certain regulations to require that certain conflict of interest
17 statements filed on or after a certain date be maintained by a school board for a
18 certain number of years; requiring rather than authorizing a school board to adopt
19 certain financial disclosure regulations; requiring that certain financial disclosure
20 regulations be equivalent to or exceed certain requirements; requiring a financial
21 disclosure statement filed by a certain individual to be filed at a certain time and by
22 a certain date; requiring that a certain financial disclosure statement filed on or after
23 a certain date be maintained by a school board for a certain number of years;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 requiring a school board to submit a copy of certain financial disclosure statements
2 to the State Ethics Commission; requiring a superintendent to file a secondary
3 employment disclosure statement with a certain school board each year; requiring a
4 school board to maintain a secondary employment disclosure statement filed on or
5 after a certain date for a certain number of years; requiring rather than authorizing
6 a school board to adopt certain regulations relating to lobbying; ~~requiring that~~
7 ~~certain regulations relating to lobbying be equivalent to or exceed certain provisions~~
8 ~~of law~~; repealing the authority for a school board to modify certain regulations
9 relating to lobbying; prohibiting a superintendent, any other official or employee of
10 a school system, or a member of a school board who is involved with procurement
11 from accepting compensation, an honorarium, a gift, or an in-kind service from
12 certain business entities; prohibiting a superintendent, any other official or employee
13 of a school system, or a member of a school board from holding a certain employment
14 relationship with or performing pro bono work for a business entity under certain
15 circumstances; requiring a school board to provide a certain ethics training course
16 for certain individuals; requiring certain individuals to complete an ethics training
17 course within a certain number of months after a certain deadline; defining certain
18 terms; providing for the construction of this Act; ~~establishing a certain short title for~~
19 ~~certain provisions of law~~; making conforming changes; and generally relating to the
20 Public Ethics Law and school boards.

21 BY repealing
22 Article – Education
23 Section 5–115 through 5–119
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2018 Supplement)

26 BY adding to
27 Article – Education
28 Section 5–115
29 Annotated Code of Maryland
30 (2018 Replacement Volume and 2018 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article – General Provisions
33 Section 4–206, 5–816, 5–817, and 5–818
34 Annotated Code of Maryland
35 (2014 Volume and 2018 Supplement)

36 BY adding to
37 Article – General Provisions
38 Section 5–817.1, 5–819.1, and 5–819.2
39 Annotated Code of Maryland
40 (2014 Volume and 2018 Supplement)

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

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

6 **Article – Education**

7 **5–115.**

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

10 (2) “PAYEE” DOES NOT INCLUDE:

11 (I) A PUBLIC SCHOOL EMPLOYEE WITH RESPECT TO THE
12 EMPLOYEE’S COMPENSATION;

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

15 (III) IN BALTIMORE COUNTY, A THIRD–PARTY PAYEE THAT
16 ACCEPTS EMPLOYEE PAYROLL–RELATED PAYMENTS, INCLUDING:

- 17 1. RECURRING PAYMENTS FOR PAYROLL TAXES;
- 18 2. EMPLOYEE PAYROLL DEDUCTIONS; AND
- 19 3. INVESTMENT–RELATED ACTIVITIES RELATING TO
20 FUND BALANCES.

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

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

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

26 (III) THE AMOUNT OF A PAYMENT;

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

- 28 1. THE PURPOSE FOR THE PAYMENT; AND

1 (2) "Indigent" means an individual's family household income is less than
2 50% of the median family income for the State as reported in the Federal Register.

3 (3) "Reasonable fee" means a fee bearing a reasonable relationship to the
4 recovery of actual costs incurred by a governmental unit.

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

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

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

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

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

16 ~~(1)~~ the first 2 hours that are needed to search for a public record and
17 prepare it for inspection; ~~OR~~

18 ~~(2) DOCUMENTS REQUESTED BY A COUNTY BOARD OF EDUCATION IF~~
19 ~~THE REQUEST IS ACCOMPANIED BY AN OFFICIAL LETTER STATING THAT AT LEAST~~
20 ~~ONE THIRD OF THE MEMBERS OF THE COUNTY BOARD ARE MAKING THE REQUEST.~~

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

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

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

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

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

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

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

5–816.

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

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

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

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

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

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

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

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

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

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

(C) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL REQUIRE THAT A CONFLICT OF INTEREST STATEMENT FILED ON OR AFTER JULY 1, 2019, BE MAINTAINED BY THE SCHOOL BOARD FOR AT LEAST ~~10~~ 4 YEARS.

5–817.

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

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

4 (ii) shall adopt financial disclosure regulations applicable to], **AND**
5 members of the school board.

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

8 1. the superintendent of that school system; [and]

9 2. those other officials and employees of that school system
10 designated by the school board, subject to subparagraph [(iii)] **(II)** of this paragraph[.];

11 [(ii) The regulations adopted under paragraph (1)(ii) of this
12 subsection shall apply to:

13 1.] **3.** each member of the school board; and

14 [2.] **4.** if the school board is an elected board under Title 3,
15 Subtitle 1, Part III of the Education Article, each candidate for election to the school board.

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

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

21 [(i) shall be similar to the provisions of Subtitle 6 of this title; but

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

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

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

29 [(ii)] **(2)** in accordance with regulations adopted by the Ethics
30 Commission and consistent with the intent of this title, may be modified to the extent

1 necessary to make the regulations relevant to the prevention of conflicts of interest in that
2 school system.

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

5 [1.] (I) when the personal interest of the individual will
6 present a potential conflict with the public interest in connection with an anticipated public
7 action of the individual; and

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

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

13 (2) The regulations adopted under subsection [(a)(1)(ii)] (A)(1) of this
14 section:

15 (I) THAT APPLY TO A SUPERINTENDENT OR ANY OTHER
16 OFFICIAL OR EMPLOYEE OF A SCHOOL SYSTEM UNDER SUBSECTION (A)(2)(I)1 AND
17 2 OF THIS SECTION SHALL REQUIRE THAT A STATEMENT FILED UNDER PARAGRAPH
18 (1)(I) OF THIS SUBSECTION BE FILED SUFFICIENTLY IN ADVANCE OF THE PUBLIC
19 ACTION TO PROVIDE ADEQUATE DISCLOSURE TO THE PUBLIC;

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

24 (III) SHALL REQUIRE THAT A FINANCIAL DISCLOSURE
25 STATEMENT FILED ON OR AFTER JULY 1, 2019, BE MAINTAINED BY THE SCHOOL
26 BOARD FOR AT LEAST ~~10~~ 4 YEARS.

27 [(d)] Except as provided for a school board member under this part, unless a school
28 board adopts and maintains financial disclosure regulations under this subtitle, the
29 provisions enacted by the county under § 5-809 of this subtitle shall apply to:

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

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

1 (D) A SCHOOL BOARD SHALL SUBMIT A COPY OF THE FINANCIAL
2 DISCLOSURE STATEMENTS RECEIVED UNDER THIS SECTION TO THE ETHICS
3 COMMISSION.

4 5-817.1.

5 (A) A SUPERINTENDENT SHALL FILE A SECONDARY EMPLOYMENT
6 DISCLOSURE STATEMENT WITH THE APPROPRIATE SCHOOL BOARD EACH YEAR.

7 (B) THE SCHOOL BOARD SHALL MAINTAIN A SECONDARY EMPLOYMENT
8 DISCLOSURE STATEMENT FILED ON OR AFTER JULY 1, 2019, FOR AT LEAST 4
9 YEARS.

10 5-818.

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

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

16 (1) shall be ~~substantially similar to the~~ ~~EQUIVALENT TO OR EXCEED~~
17 ~~THE~~ provisions of Subtitle 7 of this title; but

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

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

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

25 5-819.1.

26 (A) A SUPERINTENDENT, ANY OTHER OFFICIAL OR EMPLOYEE OF A SCHOOL
27 SYSTEM, OR A MEMBER OF A SCHOOL BOARD WHO IS INVOLVED WITH PROCUREMENT
28 FOR A SCHOOL SYSTEM MAY NOT ACCEPT COMPENSATION, AN HONORARIUM, A GIFT,
29 OR AN IN-KIND SERVICE FROM A BUSINESS ENTITY THAT:

30 (1) IS A CONTRACTOR OR IS SEEKING TO BE A CONTRACTOR WITH THE
31 SCHOOL SYSTEM; OR

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

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

6 **(B) A SUPERINTENDENT, ANY OTHER OFFICIAL OR EMPLOYEE OF A SCHOOL**
7 **SYSTEM, OR A MEMBER OF THE SCHOOL BOARD MAY NOT HOLD ANY OTHER**
8 **EMPLOYMENT RELATIONSHIP WITH OR PERFORM PRO BONO WORK FOR A BUSINESS**
9 **ENTITY THAT WOULD IMPAIR OR HAVE THE APPEARANCE OF IMPAIRING THE**
10 **IMPARTIALITY OR INDEPENDENT JUDGMENT OF THE INDIVIDUAL.**

11 **5-819.2.**

12 **(A) A SCHOOL BOARD SHALL PROVIDE A TRAINING COURSE FOR**
13 **SUPERINTENDENTS, OTHER SCHOOL SYSTEM OFFICIALS AND EMPLOYEES, AND**
14 **SCHOOL BOARD MEMBERS ON STATE AND LOCAL ETHICS LAWS, REGULATIONS, AND**
15 **POLICIES INCLUDING:**

16 **(1) GENERAL ETHICS REQUIREMENTS;**

17 **(2) FINANCIAL DISCLOSURES;**

18 **(3) CONFLICTS OF INTEREST; AND**

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

20 **(B) EACH INDIVIDUAL REQUIRED TO FILE A FINANCIAL DISCLOSURE**
21 **STATEMENT UNDER THIS PART SHALL, WITHIN 6 MONTHS ~~OF~~ AFTER THE DEADLINE**
22 **FOR FILING THE STATEMENT, COMPLETE THE TRAINING COURSE PROVIDED BY THE**
23 **SCHOOL BOARD UNDER THIS SECTION.**

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
25 1, 2019.