

Chapter 541

(House Bill 355)

AN ACT concerning

~~Public Ethics Law~~ Education – School Boards County Boards of Education –
Disclosures and Requirements
~~(School System Ethics and Transparency Act of 2019)~~

FOR the purpose of repealing the requirement that certain county boards of education develop and maintain a certain funding accountability website; requiring that each county board annually report certain financial information to the Department of Budget and Management beginning on a certain date; requiring the Department to post certain information on a certain website; providing for the construction of certain provisions of law; ~~prohibiting the official custodian of certain documents from charging a fee for documents requested by a county board under certain circumstances;~~ requiring the custodian of certain documents for a local school system, instead of only Howard County, to provide written notice to a certain applicant regarding the filing of a certain complaint; ~~requiring rather than authorizing a school board to adopt certain conflict of interest regulations; requiring that certain conflict of interest regulations be equivalent to or exceed certain requirements; requiring certain regulations to require that certain conflict of interest statements filed on or after a certain date be maintained by a school board for a certain number of years; requiring rather than authorizing a school board to adopt certain financial disclosure regulations; requiring that certain financial disclosure regulations be equivalent to or exceed certain requirements; requiring a financial disclosure statement filed by a certain individual to be filed at a certain time and by a certain date; requiring that a certain financial disclosure statement filed on or after a certain date be maintained by a school board for a certain number of years; requiring a school board to submit a copy of certain financial disclosure statements to the State Ethics Commission; requiring a superintendent to file a secondary employment disclosure statement with a certain school board each year; requiring a school board to maintain a secondary employment disclosure statement filed on or after a certain date for a certain number of years; requiring rather than authorizing a school board to adopt certain regulations relating to lobbying; requiring that certain regulations relating to lobbying be equivalent to or exceed certain provisions of law; repealing the authority for a school board to modify certain regulations relating to lobbying; prohibiting a superintendent, any other official or employee of a school system, or a member of a school board who is involved with procurement from accepting compensation, an honorarium, a gift, or an in-kind service from certain business entities; prohibiting a superintendent, any other official or employee of a school system, or a member of a school board from holding a certain employment relationship with or performing pro bono work for a business entity under certain circumstances; requiring a school board to provide a certain ethics training course for certain individuals; requiring certain individuals to complete an ethics training course within a certain number of months after a certain deadline; defining certain~~

terms; providing for the construction of this Act; ~~establishing a certain short title for certain provisions of law;~~ making conforming changes; and generally relating to ~~the Public Ethics Law and school boards~~ county boards of education.

BY repealing

Article – Education

Section 5–115 through 5–119

Annotated Code of Maryland

(2018 Replacement Volume and 2018 Supplement)

BY adding to

Article – Education

Section 5–115

Annotated Code of Maryland

(2018 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – General Provisions

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

Annotated Code of Maryland

(2014 Volume and 2018 Supplement)

~~BY adding to~~

~~Article – General Provisions~~

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

~~Annotated Code of Maryland~~

~~(2014 Volume and 2018 Supplement)~~

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

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

Article – Education

5–115.

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

(2) “PAYEE” DOES NOT INCLUDE:

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

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

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

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

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

- (I) THE NAME OF A PAYEE RECEIVING A PAYMENT;
- (II) THE LOCATION OF A PAYEE BY POSTAL ZIP CODE;
- (III) THE AMOUNT OF A PAYMENT;
- (IV) FOR THE BALTIMORE COUNTY BOARD OF EDUCATION:
 1. THE PURPOSE FOR THE PAYMENT; AND
 2. WHETHER THE PAYEE IS A MINORITY BUSINESS ENTERPRISE; AND

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

(2) EACH COUNTY BOARD SHALL PROVIDE THE INFORMATION SPECIFIED IN PARAGRAPH (1)(I) OF THIS SUBSECTION TO THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR THE FOLLOWING PREVIOUS FISCAL YEARS:

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

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

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

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

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

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

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

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

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

Article – General Provisions

4–206.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the applicant asks for a waiver; and

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

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

~~[(e) 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.~~

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

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

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

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

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

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

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

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

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

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

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

~~[(i)] shall be similar to the provisions of Subtitle 6 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 regulations adopted under subsection (a)(1)(ii) of this section:]~~

~~[(i)] (1) shall be equivalent to or exceed the requirements of Subtitle 6 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) (1) [(i)] This section does not compel a school board to require an individual to file a financial disclosure statement except:~~

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

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

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

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

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

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

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

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

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

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

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

~~5-817.1.~~

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

~~(B) THE SCHOOL BOARD SHALL MAINTAIN A SECONDARY EMPLOYMENT DISCLOSURE STATEMENT FILED ON OR AFTER JULY 1, 2019, FOR AT LEAST 10 4 YEARS.~~

~~5-818.~~

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

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

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

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

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

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

~~5-819.1.~~

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

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

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

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

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

~~5-819.2.~~

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

- ~~(1) GENERAL ETHICS REQUIREMENTS;~~
- ~~(2) FINANCIAL DISCLOSURES;~~
- ~~(3) CONFLICTS OF INTEREST; AND~~
- ~~(4) ANY OTHER AREA THE SCHOOL BOARD CONSIDERS APPROPRIATE.~~

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

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

Approved by the Governor, May 13, 2019.