

HOUSE BILL 1204

D5, F5, F1

0lr2461
CF SB 993

By: **Delegates Wilkins, Acevero, D. Barnes, Bartlett, Bridges, Cain, Carr, Charkoudian, Ebersole, Feldmark, Lopez, Luedtke, McIntosh, Moon, Palakovich Carr, Shetty, Smith, Solomon, and Washington**

Introduced and read first time: February 7, 2020

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2020

CHAPTER _____

1 AN ACT concerning

2 **County Boards and Public and Nonpublic Prekindergarten Programs and**
3 **Schools – Discrimination – Prohibition**

4 FOR the purpose of prohibiting a county board, public prekindergarten program, nonpublic
5 prekindergarten program that receives State funds, public primary or secondary
6 school, or nonpublic primary or secondary school that receives State funds from
7 discriminating against a person because of certain factors, refusing enrollment of,
8 expelling, or withholding privileges from any student or prospective student because
9 of certain factors, and from taking certain retaliatory actions against a student or
10 parent or guardian of a student who files a complaint alleging certain discrimination;
11 authorizing a certain person to file a certain complaint with the State
12 Superintendent of Schools; requiring the complaint to specify certain information;
13 authorizing a certain parent or guardian to file a certain complaint on behalf of a
14 minor; requiring the State Superintendent, on receipt of a certain complaint, to
15 provide notice of the complaint to certain parties; requiring the parties to submit a
16 certain response within a certain period of time; requiring the State Superintendent
17 to attempt to mediate a certain agreement; requiring the State Superintendent to
18 issue a certain statement of the mediation findings and agreement in a certain
19 manner under certain circumstances; requiring the State Superintendent to issue a
20 certain decision within a certain period of time under certain circumstances;
21 requiring that certain prekindergarten providers that violate a certain law are
22 subject to certain penalties; requiring the decision to be in writing and contain
23 certain information; authorizing the State Superintendent to impose a certain

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 remedy under certain circumstances; authorizing a complainant to reopen a certain
2 complaint under certain circumstances without taking certain actions; requiring the
3 State Superintendent to impose a certain remedy under certain circumstances;
4 authorizing a complainant or respondent to appeal to the Office of Administrative
5 Hearings within a certain period of time; requiring an appeal hearing to be held in a
6 certain county; requiring an administrative law judge in a certain appeal to issue a
7 certain decision and order under certain circumstances; providing that a certain
8 penalty is applicable to a certain prekindergarten provider under certain
9 circumstances; requiring that a certain ultimate decision be deemed a finding that a
10 certain prekindergarten provider violated certain nondiscrimination requirements;
11 requiring the State Board of Education, in consultation with the State
12 Superintendent, to adopt certain regulations; authorizing the State Superintendent
13 to enforce certain provisions of law in a certain manner; requiring each county board
14 of education and certain nonpublic prekindergarten programs and nonpublic
15 primary and secondary schools to develop and maintain a certain antidiscrimination
16 policy; defining a certain term; providing for the application of certain provisions of
17 this Act; making certain provisions of this Act contingent on the taking effect of
18 certain Acts; and generally relating to discrimination by county boards and in
19 prekindergarten programs and schools.

20 BY repealing and reenacting, with amendments,
21 Article – Education
22 Section 2–303(b) and 4–108
23 Annotated Code of Maryland
24 (2018 Replacement Volume and 2019 Supplement)

25 BY adding to
26 Article – Education
27 Section 26–701 through 26–705 to be under the new subtitle “Subtitle 7.
28 Discrimination in Education”
29 Annotated Code of Maryland
30 (2018 Replacement Volume and 2019 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article – Education
33 Section 7–1A–04(c)(4)
34 Annotated Code of Maryland
35 (2018 Replacement Volume and 2019 Supplement)
36 (As enacted by Chapter (S.B. 1000/H.B. 1300) of the Acts of the General
37 Assembly of 2020)

38 BY repealing and reenacting, with amendments,
39 Article – Education
40 Section 26–704
41 Annotated Code of Maryland
42 (2018 Replacement Volume and 2019 Supplement)
43 (As enacted by Section 1 of this Act)

1 BY repealing and reenacting, with amendments,
2 Article – Education
3 Section 26–702
4 Annotated Code of Maryland
5 (2018 Replacement Volume and 2019 Supplement)
6 (As enacted by Section 1 of this Act)

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

9 **Article – Education**

10 2–303.

11 (b) (1) The State Superintendent shall enforce the provisions of:

12 (i) This article that are within his jurisdiction; and

13 (ii) The bylaws, rules, and regulations of the State Board.

14 (2) If an educational institution [or], A county board, **OR A NONPUBLIC**
15 **PREKINDERGARTEN PROGRAM OR NONPUBLIC SCHOOL SUBJECT TO THE**
16 **REQUIREMENTS OF § 26–703 OF THIS ARTICLE** violates any of these provisions, the
17 State Superintendent, by written notice, may require the State Comptroller to withhold
18 from that institution [or], board, **PROGRAM, OR SCHOOL**:

19 (i) All or any part of an appropriation made by the General
20 Assembly; and

21 (ii) All or any part of any other payment from funds budgeted by the
22 State.

23 4–108.

24 Each county board shall:

25 (1) To the best of its ability carry out the applicable provisions of this article
26 and the bylaws, rules, regulations, and policies of the State Board;

27 (2) Maintain throughout its county a reasonably uniform system of public
28 schools that is designed to provide quality education and equal educational opportunity for
29 all children;

30 (3) Subject to this article and to the applicable bylaws, rules, and
31 regulations of the State Board, determine, with the advice of the county superintendent,
32 the educational policies of the county school system; [and]

1 (4) Adopt, codify, and make available to the public bylaws, rules, and
 2 regulations not inconsistent with State law, for the conduct and management of the county
 3 public schools; AND

4 (5) **ADOPT AND MAINTAIN A WRITTEN ANTIDISCRIMINATION POLICY**
 5 **FOR THE COUNTY SCHOOL SYSTEM THAT, IN ACCORDANCE WITH TITLE 26,**
 6 **SUBTITLE 7 OF THIS ARTICLE, PROHIBITS A SCHOOL FROM:**

7 (I) **DISCRIMINATING AGAINST ANY PERSON BECAUSE OF THE**
 8 **INDIVIDUAL'S RACE, ETHNICITY, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN,**
 9 **MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY;**

10 (II) **REFUSING ENROLLMENT OF, EXPELLING, OR**
 11 **WITHHOLDING PRIVILEGES FROM ANY STUDENT OR PROSPECTIVE STUDENT**
 12 **BECAUSE OF THE INDIVIDUAL'S RACE, ETHNICITY, COLOR, RELIGION, SEX, AGE,**
 13 **NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR**
 14 **DISABILITY; AND**

15 (III) **DISCIPLINING, INVOKING A PENALTY AGAINST, OR TAKING**
 16 **ANY OTHER RETALIATORY ACTION AGAINST A STUDENT OR PARENT OR GUARDIAN**
 17 **OF A STUDENT WHO FILES A COMPLAINT ALLEGING THAT THE SCHOOL**
 18 **DISCRIMINATED AGAINST THE STUDENT, REGARDLESS OF THE OUTCOME OF THE**
 19 **COMPLAINT.**

20 **SUBTITLE 7. DISCRIMINATION IN EDUCATION.**

21 **26-701.**

22 **THIS SUBTITLE DOES NOT APPLY TO:**

23 (1) **WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SEX, A**
 24 **NONPUBLIC PREKINDERGARTEN PROGRAM OR NONPUBLIC SCHOOL THAT LIMITS,**
 25 **AND CONTINUALLY SINCE THE TIME OF ITS ESTABLISHMENT HAS LIMITED,**
 26 **ADMISSION TO STUDENTS OF ONLY ONE SEX; ~~AND~~**

27 (2) **WITH RESPECT TO DISCRIMINATION ON THE BASIS OF RELIGION,**
 28 **A NONPUBLIC PREKINDERGARTEN PROGRAM OR NONPUBLIC SCHOOL THAT IS**
 29 **AFFILIATED WITH A RELIGIOUS INSTITUTION DECLINING TO INSTRUCT STUDENTS**
 30 **IN THE TENETS OF A RELIGION THAT IS DIFFERENT FROM THE RELIGION WITH**
 31 **WHICH THE PROGRAM OR SCHOOL IS AFFILIATED; AND**

32 (3) **WITH RESPECT TO DISCRIMINATION ON THE BASIS OF**
 33 **DISABILITY, A NONPUBLIC PREKINDERGARTEN PROGRAM OR NONPUBLIC SCHOOL**

1 THAT PROVIDES A STUDENT WITH A REASONABLE ACCOMMODATION UNDER
2 FEDERAL LAW.

3 **26-702.**

4 **THIS SUBTITLE DOES NOT REQUIRE A NONPUBLIC PREKINDERGARTEN**
5 **PROGRAM OR NONPUBLIC SCHOOL TO ENROLL, RETAIN, OR EXTEND PRIVILEGES TO**
6 **A STUDENT OR PROSPECTIVE STUDENT WHO DOES NOT MEET THE USUAL AND**
7 **REGULAR QUALIFICATIONS, REQUIREMENTS, AND STANDARDS OF THE PROGRAM OR**
8 **SCHOOL, PROVIDED THAT THE DENIAL IS NOT BASED ON DISCRIMINATION ON THE**
9 **GROUND OF RACE, ETHNICITY, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN,**
10 **MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY.**

11 **26-703.**

12 **(A) THIS SECTION APPLIES TO:**

13 **(1) A COUNTY BOARD;**

14 **(2) A PUBLIC PREKINDERGARTEN PROGRAM;**

15 **(3) A PUBLIC PRIMARY OR SECONDARY SCHOOL;**

16 **(4) A NONPUBLIC PREKINDERGARTEN PROGRAM THAT RECEIVES**
17 **STATE FUNDS; AND**

18 **(5) A NONPUBLIC PRIMARY OR SECONDARY SCHOOL THAT RECEIVES**
19 **STATE FUNDS.**

20 **(B) AN ENTITY LISTED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT:**

21 **(1) DISCRIMINATE AGAINST ANY PERSON BECAUSE OF THE**
22 **INDIVIDUAL'S RACE, ETHNICITY, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN,**
23 **MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY;**

24 **(2) REFUSE ENROLLMENT OF, EXPEL, OR WITHHOLD PRIVILEGES**
25 **FROM ANY STUDENT OR PROSPECTIVE STUDENT BECAUSE OF THE INDIVIDUAL'S**
26 **RACE, ETHNICITY, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL**
27 **STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY; OR**

28 **(3) DISCIPLINE, INVOKE A PENALTY AGAINST, OR TAKE ANY OTHER**
29 **RETALIATORY ACTION AGAINST A STUDENT OR PARENT OR GUARDIAN OF A**
30 **STUDENT WHO FILES A COMPLAINT ALLEGING THAT THE PROGRAM OR SCHOOL**

1 DISCRIMINATED AGAINST THE STUDENT, REGARDLESS OF THE OUTCOME OF THE
2 COMPLAINT.

3 **26-704.**

4 (A) (1) A PERSON ALLEGING DISCRIMINATION IN VIOLATION OF § 26-703
5 OF THIS SUBTITLE MAY FILE A COMPLAINT WITH THE STATE SUPERINTENDENT.

6 (2) A COMPLAINT FILED UNDER PARAGRAPH (1) OF THIS
7 SUBSECTION SHALL SPECIFY THE RELIEF OR REMEDY REQUESTED.

8 (3) A PARENT OR GUARDIAN OF A MINOR ALLEGING DISCRIMINATION
9 MAY SUBMIT A COMPLAINT UNDER THIS SUBSECTION ON BEHALF OF THE MINOR.

10 (B) ON RECEIPT OF A COMPLAINT UNDER SUBSECTION (A) OF THIS
11 SECTION, THE STATE SUPERINTENDENT SHALL PROVIDE NOTICE OF THE
12 COMPLAINT TO:

13 (1) THE PROGRAM OR SCHOOL THAT IS THE SUBJECT OF THE
14 COMPLAINT; AND

15 (2) THE COUNTY BOARD FOR THE COUNTY IN WHICH THE PUBLIC
16 PREKINDERGARTEN PROGRAM OR PUBLIC PRIMARY OR SECONDARY SCHOOL IS
17 LOCATED.

18 (C) WITHIN 30 DAYS OF RECEIVING A NOTICE UNDER SUBSECTION (B) OF
19 THIS SECTION, THE PROGRAM OR SCHOOL AND, IF APPROPRIATE, COUNTY BOARD
20 SHALL SUBMIT A RESPONSE TO THE STATE SUPERINTENDENT.

21 (D) (1) (I) THE STATE SUPERINTENDENT SHALL ATTEMPT TO
22 MEDIATE AN AGREEMENT BETWEEN THE COMPLAINANT AND RESPONDENT TO
23 REMEDY AND ELIMINATE THE DISCRIMINATION.

24 (II) IF MEDIATION UNDER SUBPARAGRAPH (I) OF THIS
25 PARAGRAPH RESULTS IN AN AGREEMENT BETWEEN THE PARTIES, THE STATE
26 SUPERINTENDENT SHALL ISSUE TO BOTH PARTIES A WRITTEN STATEMENT OF THE
27 MEDIATION FINDINGS AND AGREEMENT, INCLUDING THE TIMELINE WITHIN WHICH
28 ANY AGREED ACTIONS MUST BE TAKEN.

29 (2) (I) IF A MEDIATION AGREEMENT IS NOT REACHED UNDER
30 PARAGRAPH (1) OF THIS SUBSECTION WITHIN 60 DAYS AFTER THE COMPLAINT IS
31 FILED, THE STATE SUPERINTENDENT SHALL ISSUE A DECISION ON THE COMPLAINT
32 TO BOTH PARTIES.

1 **(II) A DECISION ISSUED UNDER SUBPARAGRAPH (I) OF THIS**
2 **PARAGRAPH SHALL:**

3 1. **BE IN WRITING;**

4 2. **CONTAIN ANY FINDINGS OF FACT DETERMINED BY**
5 **THE STATE SUPERINTENDENT; AND**

6 3. **SPECIFY ANY ACTIONS NECESSARY TO REMEDY OR**
7 **ELIMINATE THE DISCRIMINATION, INCLUDING THE TIMELINE WITHIN WHICH THE**
8 **ACTIONS MUST BE TAKEN.**

9 **(III) IF THE STATE SUPERINTENDENT FINDS THAT A COUNTY**
10 **BOARD, PROGRAM, OR SCHOOL VIOLATED § 26-703 OF THIS SUBTITLE, A DECISION**
11 **ISSUED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY REQUIRE THE**
12 **COMPTROLLER TO WITHHOLD FUNDING FROM THE PROGRAM OR SCHOOL IN AN**
13 **AMOUNT DETERMINED BY THE STATE SUPERINTENDENT IN ACCORDANCE WITH §**
14 **2-303(B) OF THIS ARTICLE.**

15 **(E) (1) A COMPLAINANT ALLEGING THAT A COUNTY BOARD, PROGRAM,**
16 **OR SCHOOL DID NOT REMEDY OR ELIMINATE THE DISCRIMINATION AS AGREED OR**
17 **REQUIRED UNDER SUBSECTION (D) OF THIS SECTION MAY REOPEN A COMPLAINT**
18 **MADE UNDER THIS SUBSECTION WITHOUT:**

19 **(I) FILING A NEW COMPLAINT UNDER SUBSECTION (A) OF THIS**
20 **SECTION; OR**

21 **(II) ENGAGING IN MEDIATION UNDER SUBSECTION (D)(1) OF**
22 **THIS SECTION.**

23 **(2) IF THE STATE SUPERINTENDENT FINDS THAT A COUNTY BOARD,**
24 **PROGRAM, OR SCHOOL DID NOT REMEDY OR ELIMINATE THE DISCRIMINATION AS**
25 **AGREED OR REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, THE STATE**
26 **SUPERINTENDENT SHALL ISSUE AN UPDATED WRITTEN DECISION TO BOTH PARTIES**
27 **REQUIRING THE COMPTROLLER TO WITHHOLD FUNDING FROM THE PROGRAM OR**
28 **SCHOOL IN AN AMOUNT DETERMINED BY THE STATE SUPERINTENDENT IN**
29 **ACCORDANCE WITH § 2-303(B) OF THIS ARTICLE.**

30 **(F) A COMPLAINANT OR RESPONDENT MAY APPEAL TO THE OFFICE OF**
31 **ADMINISTRATIVE HEARINGS:**

32 **(1) WITHIN 10 DAYS AFTER RECEIVING A DECISION ISSUED BY THE**
33 **STATE SUPERINTENDENT UNDER SUBSECTION (D)(2) OF THIS SECTION; OR**

1 **(2) IF THE STATE SUPERINTENDENT DOES NOT ISSUE A DECISION AS**
 2 **REQUIRED UNDER SUBSECTION (D)(2) OF THIS SECTION, WITHIN 10 DAYS AFTER**
 3 **THE DATE BY WHICH THE DECISION SHOULD HAVE BEEN ISSUED.**

4 **(G) (1) AN APPEAL HEARING SHALL BE HELD IN THE COUNTY WHERE THE**
 5 **ALLEGED DISCRIMINATORY ACT OCCURRED.**

6 **(2) IF, AFTER REVIEWING ALL OF THE EVIDENCE, THE**
 7 **ADMINISTRATIVE LAW JUDGE FINDS THAT THE RESPONDENT HAS ENGAGED IN**
 8 **DISCRIMINATION, THE ADMINISTRATIVE LAW JUDGE SHALL:**

9 **(I) ISSUE A DECISION AND ORDER STATING THE JUDGE'S**
 10 **FINDINGS OF FACT AND CONCLUSIONS OF LAW; AND**

11 **(II) ISSUE AND CAUSE TO BE SERVED ON THE RESPONDENT AN**
 12 **ORDER REQUIRING THE RESPONDENT TO:**

13 **1. CEASE AND DESIST FROM ENGAGING IN THE**
 14 **DISCRIMINATION; AND**

15 **2. TAKE AFFIRMATIVE ACTION TO EFFECTUATE THE**
 16 **PURPOSES OF THIS SUBTITLE.**

17 **(H) THE STATE BOARD, IN CONSULTATION WITH THE STATE**
 18 **SUPERINTENDENT, SHALL ADOPT REGULATIONS TO ESTABLISH PROCEDURES FOR**
 19 **COMPLAINT PROCESSING, MEDIATION, AND ENFORCEMENT AND OTHERWISE CARRY**
 20 **OUT THE REQUIREMENTS OF THIS SECTION.**

21 **26-705.**

22 **EACH NONPUBLIC PREKINDERGARTEN PROGRAM THAT RECEIVES STATE**
 23 **FUNDS AND NONPUBLIC PRIMARY OR SECONDARY SCHOOL THAT RECEIVES STATE**
 24 **FUNDS SHALL DEVELOP AND MAINTAIN A WRITTEN ANTIDISCRIMINATION POLICY**
 25 **THAT PROHIBITS DISCRIMINATION AS DESCRIBED UNDER § 26-703 OF THIS**
 26 **SUBTITLE.**

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

29 **Article – Education**

30 **7-1A-04.**

31 **(c) (4) (i) An eligible prekindergarten provider shall comply with Title VI**
 32 **of the Civil Rights Act of 1964, as amended, Title 20, Subtitle 6 of the State Government**

1 Article, and not discriminate in student admissions, retention, or expulsion or otherwise
2 discriminate against any student or parent of a student on the basis of race, color, national
3 origin, disability, sexual orientation, or gender identity or expression.

4 (ii) If a student has a disability, placement of the student shall be
5 based on where the student will be best served.

6 (iii) An eligible prekindergarten provider **THAT DOES NOT REACH A**
7 **MEDIATED AGREEMENT UNDER § 26-704 OF THIS ARTICLE AND IS** found to have
8 violated the nondiscrimination requirements under this section:

9 1. May not continue to be an eligible prekindergarten
10 provider; and

11 2. Shall reimburse the Department all public funds provided
12 under this subtitle minus any amount received from the child care scholarship program.

13 (IV) **AN ULTIMATE DECISION UNDER § 26-704 OF THIS ARTICLE**
14 **THAT AN ELIGIBLE PREKINDERGARTEN PROVIDER ENGAGED IN DISCRIMINATION**
15 **SHALL BE DEEMED A FINDING THAT THE PROVIDER VIOLATED THE**
16 **NONDISCRIMINATION REQUIREMENTS UNDER THIS PARAGRAPH.**

17 26-704.

18 (a) (1) A person alleging discrimination in violation of § 26-703 of this subtitle
19 may file a complaint with the State Superintendent.

20 (2) A complaint filed under paragraph (1) of this subsection shall specify
21 the relief or remedy requested.

22 (3) A parent or guardian of a minor alleging discrimination may submit a
23 complaint under this subsection on behalf of the minor.

24 (b) On receipt of a complaint under subsection (a) of this section, the State
25 Superintendent shall provide notice of the complaint to:

26 (1) The program or school that is the subject of the complaint; and

27 (2) The county board for the county in which the public prekindergarten
28 program or public primary or secondary school is located.

29 (c) Within 30 days of receiving a notice under subsection (b) of this section, the
30 program or school and, if appropriate, county board shall submit a response to the State
31 Superintendent.

1 (d) (1) (i) The State Superintendent shall attempt to mediate an
 2 agreement between the complainant and respondent to remedy and eliminate the
 3 discrimination.

4 (ii) If mediation under subparagraph (i) of this paragraph results in
 5 an agreement between the parties, the State Superintendent shall issue to both parties a
 6 written statement of the mediation findings and agreement, including the timeline within
 7 which any agreed actions must be taken.

8 (2) (i) **[If] SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH,**
 9 **IF a mediation agreement is not reached under paragraph (1) of this subsection within 60**
 10 **days after the complaint is filed, the State Superintendent shall issue a decision on the**
 11 **complaint to both parties.**

12 (ii) A decision issued under subparagraph (i) of this paragraph shall:

13 1. Be in writing;

14 2. Contain any findings of fact determined by the State
 15 Superintendent; and

16 3. Specify any actions necessary to remedy or eliminate the
 17 discrimination, including the timeline within which the actions must be taken.

18 (iii) If the State Superintendent finds that a county board, program,
 19 or school violated § 26–703 of this subtitle, a decision issued under subparagraph (i) of this
 20 paragraph may require the Comptroller to withhold funding from the program or school in
 21 an amount determined by the State Superintendent in accordance with § 2–303(b) of this
 22 article.

23 **(IV) IF AN ELIGIBLE PREKINDERGARTEN PROVIDER, AS**
 24 **DEFINED IN TITLE 7, SUBTITLE 1A OF THIS ARTICLE, VIOLATES THE**
 25 **NONDISCRIMINATION PROVISIONS OF § 7–1A–04(C)(4) OF THIS ARTICLE, THE**
 26 **PROVIDER SHALL BE SUBJECT TO THE PENALTIES SPECIFIED UNDER §**
 27 **7–1A–04(C)(4) OF THIS ARTICLE.**

28 (e) (1) A complainant alleging that a county board, program, or school did not
 29 remedy or eliminate the discrimination as agreed or required under subsection (d) of this
 30 section may reopen a complaint made under this subsection without:

31 (i) Filing a new complaint under subsection (a) of this section; or

32 (ii) Engaging in mediation under subsection (d)(1) of this section.

33 (2) **[If] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF the State**
 34 **Superintendent finds that a county board, program, or school did not remedy or eliminate**

1 the discrimination as agreed or required under subsection (d) of this section, the State
2 Superintendent shall issue an updated written decision to both parties requiring the
3 Comptroller to withhold funding from the program or school in an amount determined by
4 the State Superintendent in accordance with § 2-303(b) of this article.

5 **(3) IF AN ELIGIBLE PREKINDERGARTEN PROVIDER, AS DEFINED IN**
6 **TITLE 7, SUBTITLE 1A OF THIS ARTICLE, VIOLATES THE NONDISCRIMINATION**
7 **PROVISIONS OF § 7-1A-04(C)(4) OF THIS ARTICLE, THE PROVIDER SHALL BE**
8 **SUBJECT TO THE PENALTIES SPECIFIED UNDER § 7-1A-04(C)(4) OF THIS ARTICLE.**

9 (f) A complainant or respondent may appeal to the Office of Administrative
10 Hearings:

11 (1) Within 10 days after receiving a decision issued by the State
12 Superintendent under subsection (d)(2) of this section; or

13 (2) If the State Superintendent does not issue a decision as required under
14 subsection (d)(2) of this section, within 10 days after the date by which the decision should
15 have been issued.

16 (g) (1) An appeal hearing shall be held in the county where the alleged
17 discriminatory act occurred.

18 (2) **[If] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF, after**
19 **reviewing all of the evidence, the administrative law judge finds that the respondent has**
20 **engaged in discrimination, the administrative law judge shall:**

21 (i) Issue a decision and order stating the judge's findings of fact and
22 conclusions of law; and

23 (ii) Issue and cause to be served on the respondent an order
24 requiring the respondent to:

25 1. Cease and desist from engaging in the discrimination; and

26 2. Take affirmative action to effectuate the purposes of this
27 subtitle.

28 **(3) IF AN ELIGIBLE PREKINDERGARTEN PROVIDER, AS DEFINED IN**
29 **TITLE 7, SUBTITLE 1A OF THIS ARTICLE, VIOLATES THE NONDISCRIMINATION**
30 **PROVISIONS OF § 7-1A-04(C)(4) OF THIS ARTICLE, THE PROVIDER SHALL BE**
31 **SUBJECT TO THE PENALTIES SPECIFIED UNDER § 7-1A-04(C)(4) OF THIS ARTICLE.**

32 (h) The State Board, in consultation with the State Superintendent, shall adopt
33 regulations to establish procedures for complaint processing, mediation, and enforcement
34 and otherwise carry out the requirements of this section.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 2 as follows:

3 Article – Education

4 26–702.

5 (A) IN THIS SECTION, “RACE” HAS THE MEANING STATED IN § 20–101 OF
 6 THE STATE GOVERNMENT ARTICLE.

7 (B) This subtitle does not require a nonpublic prekindergarten program or
 8 nonpublic school to enroll, retain, or extend privileges to a student or prospective student
 9 who does not meet the usual and regular qualifications, requirements, and standards of the
 10 program or school, provided that the denial is not based on discrimination on the grounds
 11 of race, ethnicity, color, religion, sex, age, national origin, marital status, sexual
 12 orientation, gender identity, or disability.

13 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
 14 effect July 1, 2020, contingent on the taking effect of Chapter _____ (S.B. 1000/H.B. 1300) of
 15 the Acts of the General Assembly of 2020, and if Chapter _____ (S.B. 1000/H.B. 1300) does
 16 not become effective, Section 2 of this Act, with no further action required by the General
 17 Assembly, shall be null and void.

18 SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take
 19 effect October 1, 2020, contingent on the taking effect of Chapter _____ (S.B. 0531/H.B. 1444)
 20 of the Acts of the General Assembly of 2020, and if Chapter _____ (S.B. 0531/H.B. 1444) does
 21 not become effective, Section 3 of this Act, with no further action required by the General
 22 Assembly, shall be null and void.

23 SECTION ~~2~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in
 24 Sections 4 and 5 of this Act, this Act shall take effect July 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.