

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

House Bill 495 (Delegate Kaufman, *et al.*)
Ways and Means and Appropriations

Education - Antidiscrimination Policies - Policy and Notice Requirements

This bill requires a prekindergarten program that receives State funding, a public or nonpublic elementary or secondary school, or an institution of higher education that has adopted an antidiscrimination policy as specified to (1) ensure that the policy includes specified information relating to victims of sexual violence or any sex-based criminal offense; (2) provide the policy in specified formats; (3) make the antidiscrimination policy available to students, employees, volunteers, and parents or guardians as specified; and (4) provide mandatory training or programming to students on enrollment or employees on employment regarding the school's antidiscrimination policies. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: Expenditures by institutions of higher education may increase for additional trainings, interpretation services, and policy distribution. Costs for training may be partially offset to the extent a community organization is able to provide trainings as authorized under the bill. Revenues are not affected.

Local Effect: Expenditures by local school systems and local community colleges may increase for additional trainings, interpretation services, and policy distribution. Costs for training may be partially offset to the extent a community organization is able to provide trainings as authorized under the bill.

Small Business Effect: None.

Analysis

Bill Summary: The bill applies to “schools,” defined as (1) a prekindergarten program that receives State funding; (2) a public or nonpublic elementary or secondary school; and (3) an institution of postsecondary education.

Antidiscrimination policies under the bill mean any policy, procedure, protocol, or guidelines regulating incidents that occur on school premises, on school transportation, or at a school-sponsored, off-campus event. These policies may concern either (1) bullying or harassment based on race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, disability, or any other protected status or (2) sexual violence, domestic violence, dating violence, or stalking.

This bill requires a school that has adopted an antidiscrimination policy to ensure that the policy includes information pertaining to (1) reporting options for an alleged victim of sexual violence or any sex-based criminal offense; (2) a point of contact for the school with an actively monitored email address and telephone number; (3) a description of the school’s investigation process and disciplinary proceedings; (4) a description of the criminal justice system’s investigation and adjudication process; (5) potential reasonable accommodations that the school may provide to an alleged victim; (6) the telephone number and website address of the local, State, or national hotline providing information to victims of sexual violence, that is updated periodically; and (7) the name and location of the nearest medical facility where an individual may have a rape kit administered by a professional trained in sexual assault forensic medical examination and evidence collection, including available transportation options and financial resources.

The policy must be (1) written in plain language; (2) printed in a color, size, and font that enhances readability; (3) available in frequently encountered languages; (4) available, by request through oral interpretation in less frequently encountered languages; and (5) compliant with the federal Americans with Disabilities Act (ADA).

A school that has adopted an antidiscrimination policy must make the antidiscrimination policy available to students, employees, volunteers, and parents or guardians by (1) including the antidiscrimination policy in any handbook or other publication describing the rules, procedures, and standards of conduct for the school (that is distributed as specified) or providing a written copy of the antidiscrimination policy to students, employees, volunteers, and parents or guardians each school year; (2) distributing copies of the antidiscrimination policy electronically by email to all enrolled students at least one time each school year; (3) posting a copy of the policy at appropriate locations on the school’s campus at all times; and (4) posting the policy in a prominent location on the school’s website or local school system’s website as specified.

A school that has adopted an antidiscrimination policy must provide training or programming to students on enrolment or employees on employment regarding the school's antidiscrimination policies. For students, the training must be conducted at the beginning of each school year in student classes, a school assembly, student orientation events, or similar events. For employees, the training must be conducted within four weeks of the first day of work at a parent-teacher association or organization meeting, and public meetings of the school administration office, local school system office, or the office of the governing body of an institution of postsecondary education.

If a school does not have sufficient resources to provide the training, the school must coordinate with a community organization with expertise related to the antidiscrimination policy to provide the training to students or employees at no cost.

Current Law: State regulations establish that all public school students, regardless of race, ethnicity, region, religion, gender, sexual orientation, language, socioeconomic status, age, or disability have the right to educational environments that are safe, appropriate for academic achievement, and free from harassment. State law also requires *all* individuals who are ages 5 or older and younger than age 21 to be admitted, free of charge, to the public schools of the State.

Antibias Guidance and Training

Chapter 128 of 2024 requires the Maryland State Department of Education (MSDE) to develop guidelines, with specified elements, for an antibias training program for school employees. In developing the guidelines, MSDE must incorporate lessons learned from real-life incidents of discriminatory bullying, harassment, or intimidation reported in accordance with the bullying, harassment, or intimidation policies required by law. MSDE periodically must update the guidelines.

Each local board of education must, in turn, develop a training (or make changes to existing trainings) based on the guidelines and, every other year, train each public school employee whose job duties include frequent interactions with students using its antibias training, as specified. Antibias training must be job-embedded, paid professional development training that is provided during nonteaching time. To the extent practicable, the training must (1) be offered in a peer-to-peer setting; (2) take a half day or less to complete; and (3) incorporate lessons learned from incidents of bullying, harassment, or intimidation in the county, as reported.

Federal Nondiscrimination Laws

Numerous provisions of federal law prohibit discrimination in education. The federal Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, sex, religion,

or national origin by public elementary and secondary schools and public institutions of higher learning. Private (nonpublic) schools receiving federal funds must comply with federal law provisions regarding discrimination. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex by private schools receiving federal funding. Federal law includes exceptions for the admissions practices of single-sex schools. The ADA also prohibits state and local governments from discriminating on the basis of disability. Private schools not run or controlled by religious organizations must abide by the ADA. *Title VI of the Civil Rights Act of 1964* states: “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Under Title IX, each federal funding recipient must designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The recipient must notify all of its students and employees of the name, office address, and telephone number of the employee or employees appointed. Further, a recipient must adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by this part. Title VI, however, does *not* require the designation of an employee as a coordinator.

Office of Civil Rights – Complaints

Any individual who believes that an education institution that receives federal financial assistance has discriminated against someone on the basis of race, color, national origin, sex, disability, or age may file a complaint with the federal Office for Civil Rights (OCR). The person or organization filing the complaint does not have to be a victim of the alleged discrimination. A complaint must be filed within 180 days of the alleged discrimination. OCR does not handle cases that are being addressed by another agency or within a school’s formal grievance procedure if OCR anticipates the agency or school will provide a comparable resolution process. Once that complaint process is complete, an individual has 60 days to file a complaint with OCR. OCR’s first step will be to determine whether to defer to the result reached in the other process. An OCR discrimination complaint may be filed by contacting the local OCR enforcement office to obtain a form, or the [online complaint form](#) may be used. In addition, an individual may write an email or a letter explaining the complaint to the OCR enforcement office.

Additional State Nondiscrimination in Public Schools Legislation

Chapter 739 of 2022 prohibits a local board of education, public prekindergarten programs and primary and secondary schools, and nonpublic prekindergarten programs and primary

and secondary schools that receive State funds, from refusing enrollment of a prospective student, expelling a current student, withholding privileges from, or otherwise discriminating against any individual because of an individual's race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability. Further, the Act prohibits retaliatory actions against a student or parent or guardian of a student who files a complaint alleging specified discrimination. The Act establishes a complaint, mediation, and appeal process for violations. All or part of specified funding may be withheld from a board, program, or school that violates the nondiscrimination requirements. Chapter 739 complaint resolution process flows through the State Superintendent of Schools and mediation process through the Office of Administrative Hearings.

State Expenditures: Institutions of higher education may face additional minimal expenditures associated with translation and oral interpretation services as required by the bill. Exact costs for such services depend on existing resources of institutions and the languages covered by the bill's definitions of frequently and less-frequently encountered languages.

Institution of higher education expenditures may further increase minimally to implement the required training program for employees. Such costs are offset to the extent community organizations can provide training as authorized by the bill and to the extent institutions of higher education already provide some form of training on antidiscrimination policies. Some institutions of higher education currently conduct employee trainings on antidiscrimination policies virtually. To the extent that the bill's requirements for employee training to take place at specified meetings also mean that the trainings must be delivered in-person; institutions of higher education may experience additional operational and financial burdens to conduct such trainings at in-person meetings.

Institutions of higher education can update antidiscrimination policies to meet the requirements of the bill with existing resources. Institutions of higher education can also disseminate antidiscrimination policies as specified in the bill, including providing written copies and posting copies of the policy as specified with existing resources.

Local Expenditures: Local school systems can update antidiscrimination policies to meet the requirements of the bill with existing resources. Local school systems can also likely disseminate antidiscrimination policies as specified in the bill with existing resources. However, local school systems may face additional minimal expenditures associated with translation and oral interpretation services as required by the bill. Local school system expenditures also increase minimally to implement the required training program for school employees. Local school system expenditures may include hiring substitutes or providing teacher stipends to allow teachers to attend training. Such costs are offset to the extent community organizations can provide training as authorized by the bill and to the

extent local school systems already provide some form of training on antidiscrimination policies that complies with the bill's timing requirements.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Commission on Civil Rights; Maryland State Department of Education; University System of Maryland; St. Mary's College of Maryland; Morgan State University; Baltimore City Public Schools; Anne Arundel County Public Schools; Baltimore County Public Schools; Charles County Public Schools; Frederick County Public Schools; Montgomery County Public Schools; Prince George's County Public Schools; St. Mary's County Public Schools; Talbot County Public Schools; Wicomico County Public Schools; Department of Legislative Services

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