

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 649

(Chair, Government, Labor, and Elections
Committee)(By Request - Departmental - Civil Rights
Commission)

Government, Labor, and Elections

Education, Energy, and the Environment

Advancing Equal Educational Opportunities for All Students in Maryland

This departmental bill authorizes the Maryland Commission on Civil Rights (MCCR) to enforce prohibitions against discrimination in educational institutions. It establishes the powers, duties, and limitations of this authority and how MCCR and the State Superintendent of Schools are to share concurrent jurisdiction in the investigation, mediation, and resolution of complaints. Among other provisions, the bill also (1) authorizes a private civil action for discrimination in education; (2) requires information regarding a complaint of discrimination in postsecondary education to be referred to MCCR; and (3) expresses the policy of the State that all individuals must have equal opportunity for education. MCCR must adopt implementing regulations.

Fiscal Summary

State Effect: MCCR can likely implement the bill using existing budgeted resources. Higher education expenditures may increase, potentially significantly, due to increased enforcement of nondiscrimination laws, as discussed below. The bill is otherwise not anticipated to materially affect State operations or finances.

Local Effect: Local expenditures for school systems potentially increase due to increased enforcement of nondiscrimination laws as discussed below. No assumed material impact on local revenues.

Small Business Effect: MCCR has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment.

Analysis

Bill Summary/Current Law: The bill establishes a new subtitle to the State Government Article (Subtitle 7A – Discrimination in Education) and expands the definition of “discriminatory act” under the State Government Article to include acts prohibited under Subtitle 7A. The subtitle is an exercise of the police power of the State for the protection of the people of the State and makes MCCR a state educational authority under the federal Family Educational Rights and Privacy Act. In general, the provisions under Subtitle 7A, as well as other provisions in the bill related to MCCR’s new authority in regard to discrimination in education, are to be administered and enforced beginning 30 days after MCCR adopts initial regulations, as required by the bill.

Prohibitions: An educational institution is prohibited under the subtitle from excluding an individual from participation in, denying a person the benefits of, or subjecting an individual to discrimination within any program or activity of the educational institution on the basis of race, color, national origin, ethnicity, ancestry, religion, sex, pregnancy, sexual orientation, gender identity, disability, age, or marital status .

The prohibition against discrimination includes any contractual or other arrangement made by an educational institution that (1) uses criteria or methods of administration that have the effect of subjecting an individual to discrimination because of the individual’s protected class and (2) results in defeating or substantially impairing accomplishment of the objectives of a program or an activity of the educational institution with respect to individuals of a protected class. The bill includes limits on applicability, generally consistent with limits under current law.

An educational institution may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the subtitle or because the individual has made a complaint or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing that arises from alleged behavior prohibited by the subtitle.

Definitions: “Disability” means a physical or mental impairment, record of having a physical or mental impairment, or being regarded as having a physical or mental impairment, that substantially limits one or more of an individual’s major life activities. Disability includes any condition that requires a student to have an individualized education program under the federal Individuals with Disabilities Education Act (IDEA), a § 504 plan under the federal Rehabilitation Act of 1973, or any other special education or related services.

“Educational institution” means a public or nonpublic (1) prekindergarten program; (2) elementary school; (3) secondary school; (4) institution of postsecondary education, as defined by the Education Article; (5) institution of higher education, as defined by the Education Article; or (6) other educational program with an organized course of study that leads to the award of a certificate, diploma, or degree. “Educational institution” includes the governing body responsible for the administration of any school or program described above.

Concurrent Jurisdiction Between the Maryland Commission on Civil Rights and the State Superintendent of Schools

In General: Under current law, local boards of education, public prekindergarten programs, primary and secondary schools, and nonpublic prekindergarten programs and primary and secondary schools that receive State funds, are prohibited 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, retaliatory actions against a student or parent or guardian of a student who files a complaint alleging specified discrimination are prohibited. Statutory provisions also sets forth a complaint, mediation, and appeal process for violations, mainly conducted by the State Superintendent, as generally described below. All or part of specified funding may be withheld from a board, program, or school that violates the nondiscrimination requirements.

Under the bill, MCCR has concurrent jurisdiction with the State Superintendent over the enforcement of prohibitions against discrimination in education.

Complaint Process: Under current law, a person alleging specified discrimination in education may file a complaint with the State Superintendent. A complaint must specify the relief or remedy requested, and a parent or guardian may submit a complaint on behalf of a minor.

The bill also allows for filing a complaint directly with MCCR, generally under the same procedures. The bill also authorizes a parent or guardian to file a complaint (with either entity) on behalf of a student with a disability with has reached the age of 18, who remains enrolled in a secondary education program, and whose rights remain with a parent or guardian under the federal IDEA. MCCR may also file a complaint with the State Superintendent alleging an act of discrimination in education.

Notice Requirements: Under current law, on receipt of a complaint, the State Superintendent must provide notice of the complaint to the program or school and the local school board in which the public prekindergarten program or public primary or secondary school is located. Within 30 days of receiving notice, the program or school and, if appropriate, local board must submit a response to the State Superintendent. Under the bill, on receipt of a complaint filed with the State Superintendent, the State Superintendent must provide notice of the complaint to MCCR. Similarly, on receipt of a complaint filed with MCCR, MCCR must provide notice of the complaint to (1) the program or school that is the subject of the complaint; (2) the local board for the county in which the public prekindergarten program or public primary or secondary school is located; and (3) the State Superintendent. Unless a complainant objects, MCCR or the State Superintendent must provide the other with all information regarding a complaint alleging discrimination on request. At their discretion, MCCR and the State Superintendent may each refer a complaint to the other to be heard. The State Superintendent and MCCR must treat a referral from each other in the same manner as a complaint otherwise received.

Mediation: Under current law, the State Superintendent must attempt to mediate an agreement between the complainant and respondent to remedy and eliminate the discrimination. If mediation results in an agreement between the parties, the State Superintendent must issue a written statement to both parties of the mediation findings and agreement, including the timeline within which any agreed actions must be taken. If a mediation agreement is not reached within 60 days after the complaint is filed, the State Superintendent must issue a decision on the complaint to both parties. A decision must be in writing, contain findings of fact determined by the State Superintendent, and specify any actions necessary to remedy or eliminate the discrimination, including the timeline within which the actions must be taken.

The bill similarly requires MCCR to attempt to mediate an agreement and resolve the complaint, generally under the same procedures and requirements. In addition, the State Superintendent and MCCR may assist each other with mediation, including by making recommendations for remedying and eliminating discriminatory practices. If a complaint was submitted by MCCR, however, MCCR may also assist by representing the policy of the State against discrimination in education as part of the mediation process before the State Superintendent.

Failure to Remedy: Under current law, a complainant alleging that a local board, program, or school did not remedy or eliminate the discrimination as agreed or required under the decision issued by the State Superintendent may reopen a complaint with the State Superintendent without filing a new complaint or engaging in mediation.

If the State Superintendent finds that a local board, program, or school did not remedy or eliminate the discrimination as agreed or required, the State Superintendent *must* issue an updated written decision to both parties requiring the Comptroller to withhold funding from the program or school in an amount determined by the State Superintendent in accordance with law. Under the bill, a complaint may be reopened by MCCR under the same conditions, and MCCR is similarly required to notify the State Superintendent and issue an updated decision requiring the withholding of funds. On receipt of notice from MCCR, the State Superintendent must require the Comptroller to withhold funding from the program or school.

Appeals: Under current law, a complainant or respondent may appeal a decision by the State Superintendent to the Office of Administrative Hearings (OAH) within 10 days after receiving a decision issued by the State Superintendent or, if the State Superintendent does not issue a decision as required, within 10 days after the date by which the decision should have been issued. Under the bill, a complainant may appeal to OAH on similar grounds if MCCR has or has not issued its decision within 10 days. If MCCR submitted the complaint and the decision was issued by the State Superintendent, MCCR may also appeal the decision to OAH.

If, after reviewing all the evidence, the administrative law judge finds that the respondent has engaged in discrimination, the administrative law judge must (1) issue a decision and order stating the findings of fact and conclusions of law and (2) issue and cause to be served on the respondent an order requiring the respondent to cease and desist from engaging in the discrimination and take affirmative action to effectuate nondiscrimination.

Regulations: Under current law, the State Board of Education (SBE), in consultation with the State Superintendent, must adopt regulations to establish procedures for complaint processing, mediation, and enforcement and otherwise carry out the requirements above. As referenced above, MCCR is also required to adopt regulations to establish procedures for complaint processing, mediation, and enforcement. Under the regulations adopted pursuant to the bill, SBE and the State Superintendent must defer to MCCR on interpretations of whether an act constitutes discrimination; MCCR must defer to SBE and the State Superintendent on matters related to the education of students. The State Superintendent and MCCR must each defer to the authority of the entity generally facilitating the complaint. SBE (in consultation with the State Superintendent, as specified) and MCCR must jointly set guidelines for determining when allegations of discriminatory practices are sufficient to warrant mediation.

Civil Actions

In addition to a complaint made with MCCR, the bill authorizes an individual alleging a discriminatory educational practice to bring a civil action. If a complaint for discriminatory educational practice has been brought before MCCR, MCCR may elect to bring a civil action on its own behalf if (1) MCCR has found probable cause to believe that the respondent has engaged or is engaging in a discriminatory educational practice and (2) there is failure to reach an agreement to remedy and eliminate the discriminatory educational practice. If MCCR elects to bring a civil action on its own behalf, MCCR must give notice to all complainants and respondents.

A civil action must be filed in the circuit court for the county where the alleged discriminatory educational practice occurred. Filing a civil action automatically terminates any proceeding before MCCR based on the underlying complaint. If the court finds that a discriminatory educational practice occurred, the court may provide the following remedies:

- enjoining the defendant from engaging in the discriminatory educational practice;
- ordering appropriate affirmative relief;
- awarding compensatory damages;
- awarding punitive damages, if (1) the defendant is not a governmental unit or political subdivision and (2) the court finds that the defendant engaged or is engaging in a discriminatory educational practice with actual malice; and
- ordering any other equitable relief that the court considers appropriate.

Higher Education Referrals

Under the bill, if the Maryland Higher Education Commission (MHEC) or University System of Maryland's (USM) Board of Regents receives a complaint that an individual was excluded from participation in, denied the benefits of, or subjected to discrimination in an institution of postsecondary education or constituent institution because of race, color, national origin, ethnicity, ancestry, religion, sex, pregnancy, sexual orientation, gender identity, disability, age, or marital status, MHEC or the Board of Regents must refer any information received about the alleged discrimination to MCCR for investigation.

Federal Prohibitions Against Discrimination in Education

Prohibited Acts: 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 Americans with Disabilities Act (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.”

Office of Civil Rights: 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 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.

Background: According to MCCR, the bill supplements and expands existing prohibitions on discrimination in education. MCCR notes that existing *State* prohibitions are limited to elementary and secondary schools, which leaves students in higher education without similar protections. MCCR advises that the bill is needed to provide a mechanism by which all Marylanders who believe they have been victims of discrimination in education may file a complaint with MCCR, an independent State agency that is generally charged with the enforcement of laws prohibiting discrimination in the State.

State/Local Fiscal Effect: It is assumed that MCCR, the Judiciary, and OAH can handle additional complaints/cases under the bill. Higher education expenditures and local expenditures potentially increase to the extent there is more robust enforcement of discrimination in education.

The Maryland State Department of Education (MSDE) notes, for example, that current regulations require for a complaint of an alleged discriminatory act in education to be filed within 60 days of the act occurring (COMAR 13A.01.07.04). Under the bill, however, a complainant may file with MCCR within six months of the act occurring (generally consistent with timeframes for filing complaints alleging other discriminatory acts handled by MCCR). While the bill does not grant MCCR superseding enforcement authority comparatively to MSDE, the extended time period for filing a complaint and additional

oversight from MCCR may result in more robust enforcement of complaints of discrimination.

For example, both the Frederick County Public School System and Prince George’s County Public School System advise of a *potential* significant fiscal impact, largely due to increased exposure to civil litigation. Prince George’s County anticipates an increase in complaints that may necessitate additional legal staff. *For illustrative purposes only*, to the extent that an additional attorney is required by Prince George’s County, local expenditures increase by approximately \$250,000 annually.

Further, according to USM, higher education expenditures may increase due to increased litigation risk. Salisbury University anticipates an increase of pre-litigation demands, earlier civil action filings, and more resource-intensive defense strategies. University of Maryland, Baltimore and Towson University also anticipate potential litigation and settlement costs; these costs *may* be significant.

DLS notes that, while oversight of discrimination in education increases with the involvement of MCCR, the responsibilities for educational institutions – mainly in response to the complaint process – are largely unchanged by the bill, as are the prohibitions against discriminating based on certain protected classes. However, to the extent that more robust enforcement of discrimination prohibitions results in increased exposure to litigation and higher complaint volumes, expenditures may increase accordingly.

Additional Comments: According to MCCR, OCR reported the following number of complaints alleging discrimination in kindergarten through higher education in the State: 41 complaints in 2022; 55 complaints in 2023; and 130 complaints in 2024. OCR complaint data was last updated January 14, 2025.

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; Prince George’s County; Maryland State Treasurer’s Office; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Maryland Higher Education Commission; University System of Maryland; Office of Administrative Hearings; Baltimore City Public Schools; Anne Arundel County Public Schools; Prince George’s County Public Schools; Frederick County Public Schools; Department of Legislative Services

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Analysis by: Amanda L. Douglas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Advancing Equal Educational Opportunities for All Students in Maryland

BILL NUMBER: HB 649

PREPARED BY: S. Spencer Dove, Special Assistant to the Executive Director

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

No impact. All for profit colleges and universities in Maryland – DeVry University, University of

Phoenix Maryland Campus, Fortis College Landover, and Purdue Global Hagerstown Campus –

that could be found online but were not listed in MHEC's institution directory

https://mhec.maryland.gov/institutions_training/Pages/collegeinfo.aspx) have more than 50 full-time employees.