

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 659 (Senator Love)
Education, Energy, and the Environment

Prekindergarten Programs and Primary and Secondary Schools - Student
Privacy Policy Requirements and Discrimination Reporting

This bill requires *public and private* schools in Maryland to adopt policies and procedures, as specified, on protecting the right of privacy of a student and a student's parent regarding access to and release of a student's records. The written policies and procedures may not abrogate the privacy rights of a student or parent under applicable federal and State law. *Private* schools must annually report to the Maryland State Department of Education (MSDE) on certain allegations of discrimination. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: None. MSDE can meet the bill's reporting requirements using existing resources. Revenues are not affected.

Local Effect: None. Local school systems can meet reporting requirements under the bill and, if necessary, modify existing discrimination and privacy policies using existing resources.

Small Business Effect: None.

Analysis

Bill Summary: Private schools must, by September 1, 2027, and each subsequent September 1, report to MSDE on the number of incidents reported in the preceding 12 months of alleged discrimination on the grounds of race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability (1) against a student or (2) under specified circumstances, a student's parent or a

prospective student or a prospective student's parent. MSDE must by December 31, 2027, and each subsequent December 31, report to the Governor and the General Assembly on information compiled from the school reports; relevant findings and trends; and other relevant information. The required school and MSDE reports must not include personal identifying information.

Current Law:

Prohibited Discrimination

Under Chapter 739 of 2022, local boards of education, prekindergarten programs, and public and private schools that receive State funds, may not refuse enrollment of a prospective student, expel a current student, withhold privileges from, or otherwise discriminate 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.

Chapter 739 established 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. Each local board of education, prekindergarten program and private and public school that receives State funds must print a specified antidiscrimination statement in its student handbook.

Student and Student Record Privacy

The federal Family Educational Rights and Privacy Act (FERPA) generally prohibits the disclosure by schools that receive federal education funding of personally identifiable information from a student's education records, unless the educational institution has obtained written consent from a parent or eligible student or one of FERPA's exceptions applies. The FERPA statute and regulations exclude from the definition of education records those records created and maintained by a law enforcement unit of an educational agency or institution for a law enforcement purpose.

According to the Code of Maryland Regulations, individual student records maintained by teachers or other school personnel under certain provisions are to be confidential in nature, and access to these records may be granted only for the purpose of serving legitimate and recognized educational ends. Individual student records, with the exception of records that are designated as permanent and with other exceptions provided by law, must be destroyed when they are no longer able to serve legitimate and recognized educational ends.

The Student Data Privacy Act of 2015 (Chapter 413), amended by Chapters 163 and 164 of 2022, requires an operator of specified websites, online services, online applications, and mobile applications designed primarily for a preK-12 public school purpose operating in accordance with a contract to (1) protect covered information from unauthorized access, destruction, use, modification, or disclosure; (2) implement and maintain reasonable security procedures and practices to protect covered information; and (3) delete covered information upon request of the public school or local school system. In addition, an operator may not knowingly (1) engage in targeted advertising based on the data collected through the website, online service, or application; (2) except in furtherance of a preK-12 school purpose, use information to make a profile about a student; (3) sell a student's information, except as provided; or (4) disclose covered information, except as detailed in the Act. Operators may use aggregated or de-identified information under certain circumstances. The Act does not apply to general audience websites, online services, online applications, or mobile applications, even if a login is created.

A Student Data Privacy Council was established by Chapter 398 of 2019 and reestablished, through September 30, 2028, by Chapter 163 and 164. The council must:

- study the development and implementation of the Student Data Privacy Act of 2015 to evaluate specified impacts of the Act;
- review and analyze similar laws and best practices in other states;
- review and analyze developments in technologies as they may relate to student data privacy; and
- make recommendations regarding (1) statutory and regulatory changes to the Student Data Privacy Act based on the findings of the council and (2) repealing the termination date of the council in the bill to allow the council to continue its evaluation of student data privacy in the State on a permanent basis.

The Council has issued its [report](#) as required by Chapter 163 and 164.

Local Fiscal Effect: Multiple local public school systems (in Baltimore City, and Anne Arundel, Frederick, Montgomery, and St. Mary's counties) advise that the bill is consistent with current local school system policies and practices, and has no impact on expenditures or revenues.

Additional Comments: Some private schools in the State may incur additional costs under the bill, to meet reporting requirements, and to the extent that existing policies and procedures do not align with the bill's specific privacy requirements.

Additional Information

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

Designated Cross File: HB 1032 (Delegate Wolek) - Ways and Means.

Information Source(s): Anne Arundel County Public Schools; Baltimore City Public Schools; Frederick County Public Schools; Montgomery County Public Schools; St. Mary's County Public Schools; Maryland State Department of Education; Department of Legislative Services

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jg/clb

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