



MONTGOMERY COUNTY BOARD OF EDUCATION

Expanding Opportunity and Unleashing Potential

850 Hungerford Drive ♦ Room 123 ♦ Rockville, Maryland 20850

BILL: HB0042
TITLE: Public Information Act - Applications for Inspection - Responses and Time Limits
DATE: 2/11/2020
POSITION: SUPPORT WITH AMENDMENTS
COMMITTEE: Health and Government Operations
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The Montgomery County Board of Education (Board) **supports** HB0042 **contingent upon funding.**

Montgomery County Public Schools (MCPS) has experienced a significant increase in the number of public information act requests and the complexity of the requests since fiscal year 2015.

In Fiscal Year 2019, MCPS fulfilled 216 MPIA requests – 79 more than in 2015. These 216 requests yielded thousands of pages of documents and represent thousands of hours of employee time from more than one hundred employees across the system. In Fiscal Year 2020, we are already experiencing a remarkable increase in both the number and complexity of the requests. At this time last fiscal year, we had received 97 requests, whereas this year, we have already received 129.

MCPS seeks to avoid assessing fees for requests when possible to allow for greater access and transparency. In addition, MCPS has made best efforts and has successfully provided readily available responses prior to the initial 10-day deadline whenever possible. This good faith effort demonstrates the district's commitment to transparency and expeditious responses.

Significantly reducing the period to respond to a public information act request would impede transparency and accuracy by forcing state agencies, without additional state resources, to rush a complete and reasonable search to comply with the law. This rush may lead to incomplete disclosure of relevant public information. The reduction of the response time, without additional resources, could also force state agencies to rush required redactions and application of exemptions that are required by State and federal law. Failure to properly withhold exempt information, such as student records; records related to public security; and proprietary business and/or confidential records. Improper disclosure would lead to the release of sensitive information and significant criminal and civil penalties. Such penalties will likely cost the district in legal fees and additional staff time.

The reduction of the response time, without additional resources, could also force MCPS to more frequently assess higher initial fee estimates, as there would be less time to work with the offices

maintaining the documents to understand the labor required to fulfill the request. This higher fee may deter a requester.

Under the Public Information Act, Section 4-201(b), agencies are obligated to “protect public records and to prevent unnecessary interference with official business.” Additional time constraints, coupled with the continuing increase in the number of requests MCPS receives, will interfere with the official business of MCPS, a district committed to the important work of providing a free, quality, equitable education for all students.

The reduction in response time and the limited resources, along with the above reasons, will result in the district’s predictable failure to respond within the timeline for many requests. This would likely severely damage the public’s trust in a district that is already making best efforts to reply to requests within the current timeline.

MCPS would support the reduced production time if funding was provided to acquire sufficient staff to ensure documents are properly gathered, reviewed, redacted and disclosed. Therefore, MCPS respectfully requests an amendment to provide funding for this work be included in the legislation.

For these reasons, the Board **supports** this legislation **contingent upon funding** and urges a favorable report.