



Mohammed Choudhury
State Superintendent of Schools

BILL: House Bill 350 – Public Schools – Reporting of Sexual Misconduct, Stalking, and Harassment (Report Act of 2023) **DATE:** February 15, 2023

SUBJECT: Letter of Information **COMMITTEE:** Ways and Means

POSITION: Information Only

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EXPLANATION:

The Maryland State Department of Education (MSDE) offers this letter of information for House Bill (HB) 350 – *Public Schools – Reporting of Sexual Misconduct, Stalking, and Harassment*. HB 350 requires that if sexual misconduct, stalking, or harassment is reported to the school administration, as defined in the bill, the school administration shall file an administrative incident report with the local education agency (LEA) that includes certain details of the incident. A copy of the administrative incident report shall be provided to the victim of the incident and, if the victim is a student, the parent of the student.

If the victim of an incident is a student, LEAs have policies and protocols in place for reporting and investigating incidents based on Maryland’s Model Policy for Bullying, Harassment, or Intimidation. Under the Model Policy, LEAs use specific forms for reporting and investigating incidents as required in the Education Article, Section 7-424. The forms provide a way for students, parents, staff, and close family members to report incidents of the bullying, harassment, sexual harassment, or intimidation of students to school administration. Data on incidents is reported annually to MSDE and the General Assembly under current law.

If the intent of HB 350 is to capture similar data for adults and produce a written report, MSDE would need to create new standardized forms, share with all LEAs, and annually collect and report data on the number of reported administrative incidents to the General Assembly 60 days after the final day of the school year.

HB 350 would require LEAs to adopt regulations and policies that specify the requirements of an administrative incident, reporting requirements, and specify penalties for violations of the provisions of this bill up to, and including termination of employment.

It is not clear in the language of the bill whether the administrative incident report is to be filed if the alleged perpetrator is a student, an employee of the LEA, or both. If the alleged perpetrator is a student, the Maryland Student Records Manual contains discipline codes that apply to incidents.

Furthermore, HB 350 does not clarify whether incidents involving students described in the bill would be maintained as part of the student's educational record. A student's educational record and private information has protections outlined in federal Law under the Family Educational Rights and Privacy Act (FERPA). If the alleged perpetrator is an employee of an LEA, the LEA has policies and procedures through the respective human resources departments to address employee misconduct including sexual misconduct, stalking, and harassment.

MSDE respectfully requests that you consider this letter of information as you deliberate HB 350 – *Public Schools – Reporting of Sexual Misconduct, Stalking, and Harassment*. Please contact Mary Gable, Assistant State Superintendent, Division of Student Support, Academic Enrichment, and Educational Policy by phone at 410-767-0472, or by email at mary.gable@maryland.gov for additional information.