

HB1204/395467/1

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL 1204
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 20, after “circumstances;” insert “requiring that certain prekindergarten providers that violate a certain law are subject to certain penalties;”; and in line 29, after “circumstances;” insert “providing that a certain penalty is applicable to a certain prekindergarten provider under certain circumstances; requiring that a certain ultimate decision be deemed a finding that a certain prekindergarten provider violated certain nondiscrimination requirements;”.

On page 2, in line 5, after “policy;” insert “defining a certain term;”; in line 6, after “Act;” insert “making certain provisions of this Act contingent on the taking effect of certain Acts;”; and after line 18, insert:

“BY repealing and reenacting, with amendments,

Article - Education

Section 7-1A-04(c)(4)

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

(As enacted by Chapter (S.B. 1000/H.B. 1300) of the Acts of the General Assembly of 2020)

BY repealing and reenacting, with amendments,

Article - Education

Section 26-704

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,

Article - Education

Section 26-702

(Over)

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Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)
(As enacted by Section 1 of this Act)”.

AMENDMENT NO. 2

On page 3, in line 14, after “**THAT**” insert “**, IN ACCORDANCE WITH TITLE 26, SUBTITLE 7 OF THIS ARTICLE,**”.

On page 4, in line 2, strike “**AND**”; and in line 7, after “**AFFILIATED**” insert “**; AND**”.

(3) WITH RESPECT TO DISCRIMINATION ON THE BASIS OF DISABILITY, A NONPUBLIC PREKINDERGARTEN PROGRAM OR NONPUBLIC SCHOOL THAT PROVIDES A STUDENT WITH A REASONABLE ACCOMMODATION UNDER FEDERAL LAW”.

AMENDMENT NO. 3

On page 7, after line 30, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

7-1A-04.

(c) (4) (i) An eligible prekindergarten provider shall comply with Title VI of the Civil Rights Act of 1964, as amended, Title 20, Subtitle 6 of the State Government Article, and not discriminate in student admissions, retention, or expulsion or otherwise discriminate against any student or parent of a student on the basis of race, color, national origin, disability, sexual orientation, or gender identity or expression.

(ii) If a student has a disability, placement of the student shall be based on where the student will be best served.

(iii) An eligible prekindergarten provider THAT DOES NOT REACH A MEDIATED AGREEMENT UNDER § 26-704 OF THIS ARTICLE AND IS found to have violated the nondiscrimination requirements under this section:

1. May not continue to be an eligible prekindergarten provider; and

2. Shall reimburse the Department all public funds provided under this subtitle minus any amount received from the child care scholarship program.

(IV) AN ULTIMATE DECISION UNDER § 26-704 OF THIS ARTICLE THAT AN ELIGIBLE PREKINDERGARTEN PROVIDER ENGAGED IN DISCRIMINATION SHALL BE DEEMED A FINDING THAT THE PROVIDER VIOLATED THE NONDISCRIMINATION REQUIREMENTS UNDER THIS PARAGRAPH.

26-704.

(a) (1) A person alleging discrimination in violation of § 26-703 of this subtitle may file a complaint with the State Superintendent.

(2) A complaint filed under paragraph (1) of this subsection shall specify the relief or remedy requested.

(3) A parent or guardian of a minor alleging discrimination may submit a complaint under this subsection on behalf of the minor.

(b) On receipt of a complaint under subsection (a) of this section, the State Superintendent shall provide notice of the complaint to:

(1) The program or school that is the subject of the complaint; and

(2) The county board for the county in which the public prekindergarten program or public primary or secondary school is located.

(c) Within 30 days of receiving a notice under subsection (b) of this section, the program or school and, if appropriate, county board shall submit a response to the State Superintendent.

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(d) (1) (i) The State Superintendent shall attempt to mediate an agreement between the complainant and respondent to remedy and eliminate the discrimination.

(ii) If mediation under subparagraph (i) of this paragraph results in an agreement between the parties, the State Superintendent shall issue to both parties a written statement of the mediation findings and agreement, including the timeline within which any agreed actions must be taken.

(2) (i) [If] SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, IF a mediation agreement is not reached under paragraph (1) of this subsection within 60 days after the complaint is filed, the State Superintendent shall issue a decision on the complaint to both parties.

(ii) A decision issued under subparagraph (i) of this paragraph shall:

1. Be in writing;
2. Contain any findings of fact determined by the State Superintendent; and
3. Specify any actions necessary to remedy or eliminate the discrimination, including the timeline within which the actions must be taken.

(iii) If the State Superintendent finds that a county board, program, or school violated § 26-703 of this subtitle, a decision issued under subparagraph (i) of this paragraph may require the Comptroller to withhold funding from the program or school in an amount determined by the State Superintendent in accordance with § 2-303(b) of this article.

(IV) IF AN ELIGIBLE PREKINDERGARTEN PROVIDER, AS DEFINED IN TITLE 7, SUBTITLE 1A OF THIS ARTICLE, VIOLATES THE NONDISCRIMINATION PROVISIONS OF § 7-1A-04(C)(4) OF THIS ARTICLE, THE PROVIDER SHALL BE SUBJECT TO THE PENALTIES SPECIFIED UNDER § 7-1A-04(C)(4) OF THIS ARTICLE.

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(e) (1) A complainant alleging that a county board, program, or school did not remedy or eliminate the discrimination as agreed or required under subsection (d) of this section may reopen a complaint made under this subsection without:

- (i) Filing a new complaint under subsection (a) of this section; or
- (ii) Engaging in mediation under subsection (d)(1) of this section.

(2) [If] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF the State Superintendent finds that a county board, program, or school did not remedy or eliminate the discrimination as agreed or required under subsection (d) of this section, the State Superintendent shall 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 § 2–303(b) of this article.

(3) IF AN ELIGIBLE PREKINDERGARTEN PROVIDER, AS DEFINED IN TITLE 7, SUBTITLE 1A OF THIS ARTICLE, VIOLATES THE NONDISCRIMINATION PROVISIONS OF § 7–1A–04(C)(4) OF THIS ARTICLE, THE PROVIDER SHALL BE SUBJECT TO THE PENALTIES SPECIFIED UNDER § 7–1A–04(C)(4) OF THIS ARTICLE.

(f) A complainant or respondent may appeal to the Office of Administrative Hearings:

(1) Within 10 days after receiving a decision issued by the State Superintendent under subsection (d)(2) of this section; or

(2) If the State Superintendent does not issue a decision as required under subsection (d)(2) of this section, within 10 days after the date by which the decision should have been issued.

(g) (1) An appeal hearing shall be held in the county where the alleged discriminatory act occurred.

(2) [If] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF, after reviewing all of the evidence, the administrative law judge finds that the respondent has engaged in discrimination, the administrative law judge shall:

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(i) Issue a decision and order stating the judge’s findings of fact and conclusions of law; and

(ii) Issue and cause to be served on the respondent an order requiring the respondent to:

1. Cease and desist from engaging in the discrimination;
and

2. Take affirmative action to effectuate the purposes of this subtitle.

(3) IF AN ELIGIBLE PREKINDERGARTEN PROVIDER, AS DEFINED IN TITLE 7, SUBTITLE 1A OF THIS ARTICLE, VIOLATES THE NONDISCRIMINATION PROVISIONS OF § 7-1A-04(C)(4) OF THIS ARTICLE, THE PROVIDER SHALL BE SUBJECT TO THE PENALTIES SPECIFIED UNDER § 7-1A-04(C)(4) OF THIS ARTICLE.

(h) The State Board, in consultation with the State Superintendent, shall adopt regulations to establish procedures for complaint processing, mediation, and enforcement and otherwise carry out the requirements of this section.”.

AMENDMENT NO. 4

On page 8, before line 1, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

26-702.

(A) IN THIS SECTION, “RACE” HAS THE MEANING STATED IN § 20-101 OF THE STATE GOVERNMENT ARTICLE.

(B) This subtitle does not require a nonpublic prekindergarten program or nonpublic school to enroll, retain, or extend privileges to a student or prospective student who does not meet the usual and regular qualifications, requirements, and

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standards of the program or school, provided that the denial is not based on discrimination on the grounds of race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2020, contingent on the taking effect of Chapter _____ (S.B. 1000/H.B. 1300) of the Acts of the General Assembly of 2020, and if Chapter _____ (S.B. 1000/H.B. 1300) does not become effective, Section 2 of this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect October 1, 2020, contingent on the taking effect of Chapter _____ (S.B. 0531/H.B. 1444) of the Acts of the General Assembly of 2020, and if Chapter _____ (S.B. 0531/H.B. 1444) does not become effective, Section 3 of this Act, with no further action required by the General Assembly, shall be null and void.”.

On page 8, in line 1, strike “2.” and substitute “6.”; and in the same line, after “That” insert “, except as provided in Sections 4 and 5 of this Act,”.