


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #18-0223/ EQUITY ASSESSMENT PROGRAM		

DATE:

TO

The Honorable President and
 Members of the City Council
 City Hall, Room 400
 100 North Holliday Street

May 31, 2018

At its regular meeting of May 31, 2018, the Planning Commission considered City Council Bill #18-0223, Equity Assessment Program, for the purpose of providing for the implementation of an Equity Assessment Program for Baltimore City, to be developed and overseen by the Department of Planning; requiring City agencies to assess existing and proposed policies and practices for disparate outcomes based on race, gender, or income and to proactively develop policies, practices, and investments to prevent and redress those disparate outcomes; defining certain terms; providing for the adoption of rules and regulations to carry out this Program; requiring certain notices and reports; and generally relating to the goal of eliminating structural and institutional racism and other forms of discrimination based on immutable characteristics.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendment and approval of City Council Bill #18-0223 with the following additional amendments,

1. recommended to change the wording in section 39-6 :B, to read as follows: "Starting in the second year following enactment, all city agencies shall develop an Equity Assessment Program that requires city agencies to consider."
2. recommended amendment and approval of the bill on the basis that there will be no net increase to the City budget based on the new equity legislation/policy and that resources to implement this initiative will be found by reprioritizing existing resources, as necessary and voted to approve the staff's recommendations as amended; and adopted the following resolution, seven members being present (seven in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its Departmental staff, and additional two amendments to the bill and recommends that City Council Bill #18-0223 be amended and passed by the City Council.

If you have any questions, please contact Mrs. Stephanie Smith in the Land Use and Urban Design Division at 410-396-8337.

TJS/wya

Attachment

cc: Mr. Pete Hammen, Chief Operating Officer

Mr. Jim Smith, Chief of Strategic Alliances
Ms. Karen Stokes, Mayor's Office
Mr. Colin Tarbert, Mayor's Office
Mr. Kyron Banks, Mayor's Office
The Honorable Edward Reisinger, Council Rep. to Planning Commission
Mr. Derek Baumgardner, BMZA
Mr. Geoffrey Veale, Zoning Administration
Ms. Sharon Daboin, DHCD
Ms. Elena DiPietro, Law Dept.
Mr. Francis Burnszynski, PABC
Ms. Katelyn McCauley, DOT
Ms. Natawna Austin, Council Services



Catherine E. Pugh
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Thomas J. Stosur
Director

May 31, 2018

REQUEST: City Council Bill #18-0223/Equity Assessment Program

For the purpose of providing for the implementation of an Equity Assessment Program for Baltimore City, to be developed and overseen by the Planning Department; requiring City agencies to assess existing and proposed policies and practices for disparate outcomes based on race, gender or income and to proactively develop policies, practices and investments to prevent and redress those disparate outcomes; defining certain terms; providing for the adoption of rules and regulations to carry out this Program; requiring certain notices and reports; and generally relating to the goal of eliminating structural and institutional racism and other forms of discrimination based on immutable characteristics.

RECOMMENDATION: Amendment and approval

STAFF: Stephanie Smith, Eric Tiso, and Laurie Feinberg

HISTORY

There are no previous legislative or Planning Commission actions regarding this matter.

ANALYSIS

Background:

Baltimore remains one of the most segregated cities in the US, according to 2010 Census data. It is undeniable that historic policy and planning decisions created and exacerbated inequity and inequality in Baltimore City. Policies to deliberately segregate white and black residents – such as restrictive covenants, the Federal Housing Administration’s openly racist system for mortgage loan approval, urban renewal, and others – directly contributed to many of the economic and social challenges Baltimore City faces today.

These and other policies have led to distinct “health and wealth gaps” between white and black populations in Baltimore. For example, the Baltimore Neighborhood Indicator Alliance found a 22.4 year difference in life expectancy between two neighborhoods, with the lowest in a neighborhood with 96.3% black residents and the highest life expectancy in a neighborhood with 20.4% black residents. Black residents in Baltimore have higher unemployment rates, more children living in poverty, less access to goods and services, and lower educational attainment than white populations within the city.

A desire to understand and actively work to dismantle and remedy the legacies of inequity drove the Department of Planning (DOP) to hold staff training on structural racism in March 2015. The Uprising a

month later accelerated conversation and increased commitment within the Department, leading to the creation of the Equity in Planning Committee (EIPC).

The goal of EIPC is to help erode the forces that create or sustain structural racism and other entrenched inequities in Baltimore City. EIPC promotes use of an “equity lens” for planning and hopes it ultimately will be applied to all City-driven decisions. The lens is not a static rubric, but sets an intention and provides a framework to provoke conscious acknowledgement of equity considerations during public engagement and decision-making processes, as well as accountability after the fact.

Drawing from the Urban Sustainability Directors Network, EIPC’s equity lens considers four overarching areas of equity and prompts questions like those listed below. For any policy or project, decision makers should consider:

1. **Structural Equity:** *What historic advantages or disadvantages have affected residents in the given community?*
2. **Procedural Equity:** *How are residents who have been historically excluded from planning processes being authentically included in the planning, implementation, and evaluation of the proposed policy or project?*
3. **Distributional Equity:** *Does the distribution of civic resources and investment explicitly account for potential racially disparate outcomes?*
4. **Transgenerational Equity:** *Does the policy or project result in unfair burdens on future generations?*

Summary of the key provisions of CCB 18-0223, as introduced

This bill is intended to require the development, implementation and reporting of an Equity assessment program in City government. It requires that the Director of Planning, with approval of Planning Commission, develop, adopt and oversee an equity assessment program for all City agencies. It outlines four areas to be covered:

1. Disparate race, gender and income impacts should be addressed
2. Act to eliminate structural and institutional racism and discrimination
3. Develop and implement an equity action plan embedding principles and strategies into City operations, programs and services
4. Conduct an equity assessment of existing and proposed City actions and policies

The bill also outlines Planning Commission notice for hearing these assessments, requires an agency equity coordinator and that equity be included in bill reports and capital budget requests/recommendations.

The bill also requires an annual report to be prepared by the Director of Planning and submitted to the Mayor and City Council by June 30 of each year.

Recommendations

Inspired by the internal work Planning staff had completed, Council Bill 18-0223 seeks to broadly reshape a more equitable approach to Baltimore's municipal governance. This is an admirable and important aim. Our concerns are that this bill sets an aggressive timetable and puts a heavy burden on the Planning Department and Planning Commission.

- The timetable doesn't allow agencies to conduct training and develop action plans that are necessary before they can create meaningful assessments.
- To properly administer this program requires leadership from a position of authority. The Planning Commission does not have broad authority over other City agencies.
- The Planning Commission's scope of authority is focused on a limited range of topics, such as land use, master plans, and capital budgeting. The Commission is not equipped to provide guidance on equity assessments for such a broad range of City government functions.
- Many of the roles necessary to make this program successful would be better handled by other agencies. For example, the Department of Human Resources is better positioned to bring in trainers with national expertise to coordinate collective training for all agencies.
- Planning does not have the resources to adequately fulfill the responsibilities necessary to make this a meaningful process. The equity assessments should be a rigorous process, which would require significant resources and staffing to develop and administer properly.

This Planning Commission role should not include formal approval of an agency assessment or action plan, or adoption of the overall program. These actions would best be handled by other entities with broader purview over the full range of City agency programs and operations.

To achieve the goals of this bill Planning recommends a series of amendments and has attached a redline version of the bill draft, reflecting our recommendations for improving efficiency, managing scope and streamlining agency reporting. A **purpose statement** should be added to the bill to explain the reasons for such an equity assessment program. This will give the bill the background or context for better understanding its goals and the optimal steps and mechanisms for implementation.

Section 39.1 Definitions

A **definition of equity** should be included.

Section 39.2 Rules and Regulations

This section should be deleted or re-written to remove the Director and the Planning Commission as the entities responsible for Rules and Regulations. While it is outside of our purview to identify the responsible agency, it is important that the appropriate agency be charged with this task. Similarly, for other roles listed below that are not appropriate for the Planning Commission, the appropriate agency should be identified.

§39-6 Program Initiated

Reorganizing the sequence and increasing the preparation time for agency program implementation is critical to improving the quality of the agency work performed in accordance with this section. We

recommend a one year timeline for an agency to produce an equity assessment of its existing and proposed actions and policies. Given the broad scope of the Equity Assessment Program outlined in this section of the bill, **we recommend that references to the Planning Director and Planning Commission developing, adopting and overseeing the program be deleted from this section.**

Within this initial one-year period, agencies can participate in training and ongoing capacity building around equity and inclusion to produce a baseline analysis of the equity impacts of the agency's existing and proposed actions and policies, encompassing programs, operations and capital projects. This training should be provided from external local or national experts and be available to all lead agency staff.

Then another six months would be granted for agencies to develop an action plan informed by the baseline setting equity assessment.

Discussion in section (2) should strike the word "immutable" as income is not an immutable characteristic of the human condition.

§39-7 Notice of Planning Commission Meetings

This section should be deleted.

§39-8 Agency Implementation

Agencies should implement their obligations under §39.6 with each respective agency's Director working in cooperation with an identified senior team member who will serve as an Equity Officer. This person should report directly to an agency's Director.

§39-9 Agency Implementation-Bill Reports

This section will benefit from the proposed amendment to define equity as it pertains to the purpose and goals of this bill.

Clarify that the equity assessment should be focused on the proposal's impact on disparity, not agency operations.

§39-10 Agency Implementation -- Capital Budget Scoring

This section should be deleted. An equity assessment of both the capital and operating budget should be provided through a bill report on the Ordinance of Estimates.

The Planning Department has begun and intends to continue to review the capital budget with an equity lens. This process has already proven beneficial and staff will continue to refine and improve this assessment, in cooperation with other agencies. To-date, actual scoring of capital project requests has not been part of this analysis.

§39-11 Annual Equity Report

In order to maintain quality reporting per this section, without unduly burdening the Department of Planning, we recommend assessments be prepared by each respective agency and made available to City Council and the Department of Legislative Reference, rather than prepared by the Director of Planning. The City Council may hold hearings for public review of the Equity reports submitted.

The foregoing recommendations will provide the proper pacing to support agencies and their leadership on the effort outlined in the bill. Further, these recommendations will assist in reducing administrative burdens on Planning staff and the Planning Commission.

With the inclusion of these recommendations, Planning staff recommends that the Planning Commission support the bill.

Notification:

Email notification was sent to over 9,800 recipients via the GovDelivery system.



Thomas J. Stosur
Director

**CITY OF BALTIMORE
COUNCIL BILL 18-0223
(First Reader)**

Introduced by: Councilmembers Scott, Sneed, Henry, President Young, Councilmembers
Dorsey, Bullock, Burnett, Pinkett, Schleifer, Cohen, Middleton, Reisinger, Stokes,
Clarke, Costello

Introduced and read first time: April 16, 2018

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Baltimore Development Corporation,
Office of the Comptroller, Department of Finance, Department of General Services, Department
of Housing and Community Development, Department of Human Resources, Department of
Planning, Department of Public Works, Department of Recreation and Parks, Department of
Transportation, Fire Department, Health Department, Mayor's Office of Employment
Development, Mayor's Office of Human Services, Mayor's Office of Information Technology,
Police Department, Board of Ethics, Baltimore Municipal and Zoning Appeals, Commission for
Historical and Architectural Preservation, Commission on Sustainability, Employees' Retirement
System, Environmental Control Board, Fire and Police Employees' Retirement System, Labor
Commissioner, Baltimore City Parking Authority Board, Wage Commission

A BILL ENTITLED

AN ORDINANCE concerning

Equity Assessment Program

FOR the purpose of providing for the implementation of an Equity Assessment Program for
Baltimore City, to be developed and overseen by the Department of Planning; requiring City
agencies to assess existing and proposed policies and practices for disparate outcomes based
on race, gender, or income and to proactively develop policies, practices, and investments to
prevent and redress those disparate outcomes; defining certain terms; providing for the
adoption of rules and regulations to carry out this Program; requiring certain notices and
reports; and generally relating to the goal of eliminating structural and institutional racism¹⁰
and other forms of discrimination based on immutable characteristics.

BY adding

Article I - Mayor, City Council, and Executive Agencies

Section(s) 39-1 to 39-12, to be under the new subtitle

"Subtitle 39. Equity Assessment Program"

Baltimore City Code

(Edition 2000)

**SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the
Laws of Baltimore City read as follows:**

Baltimore City Code

Article 1. Mayor, City Council, and Executive Agencies

SUBTITLE 39. EQUITY ASSESSMENT PROGRAM

§ 39-1. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) AGENCY.

"AGENCY" MEANS ANY DEPARTMENT, AUTHORITY, OFFICE, BOARD, COMMISSION, COUNCIL, COMMITTEE, OR OTHER UNIT OF THE CITY GOVERNMENT.

(C) DIRECTOR.

"DIRECTOR" MEANS THE DIRECTOR OF ~~THE BALTIMORE CITY DEPARTMENT OF PLANNING OR THAT DIRECTOR'S DESIGNEE~~ BALTIMORE CITY AGENCY.

(D) EQUITY.

"EQUITY" MEANS ADDRESSING THE NEEDS AND ASPIRATIONS OF A DIVERSE POPULATION AND MEANINGFULLY ENGAGING RESIDENTS THROUGH INCLUSIVE AND COLLABORATIVE PROCESSES TO EXPAND ACCESS TO POWER AND RESOURCES.

Insert definition of equity

(~~E~~) EQUITY ASSESSMENT.

"EQUITY ASSESSMENT" MEANS A SYSTEMATIC PROCESS OF IDENTIFYING POLICIES AND PRACTICES THAT MAY BE IMPLEMENTED TO IDENTIFY AND REDRESS DISPARATE OUTCOMES ON THE BASIS OF RACE, GENDER, OR INCOME.

(~~F~~) GENDER.

"GENDER" MEANS ACTUAL OR PERCEIVED SEX AND INCLUDES A PERSON'S GENDER IDENTITY, SELF-IMAGE, APPEARANCE, BEHAVIOR, OR EXPRESSION, WHETHER OR NOT THAT GENDER IDENTITY, SELF-IMAGE, APPEARANCE, BEHAVIOR, OR EXPRESSION IS DIFFERENT FROM THAT TRADITIONALLY ASSOCIATED WITH THE SEX ASSIGNED TO THAT PERSON AT BIRTH.

~~§ 39-2. RULES AND REGULATIONS.~~

~~(A) IN GENERAL.~~

~~THE DIRECTOR, WITH THE APPROVAL OF THE PLANNING COMMISSION, MAY ADOPT RULES AND REGULATIONS TO CARRY OUT THIS SUBTITLE.~~

~~(B) FILING WITH LEGISLATIVE REFERENCE.~~

~~A COPY OF ALL RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.~~

~~§§ 39-3 TO 39-5. {RESERVED}~~

~~§ 39-6. PROGRAM INITIATED.~~

~~THE DIRECTOR, WITH THE APPROVAL OF THE PLANNING COMMISSION, SHALL DEVELOP, ADOPT, AND OVERSEE~~

~~(A) IN THE FIRST YEAR FOLLOWING ENACTMENT, AGENCIES MUST PARTICIPATE IN TRAINING AND ONGOING CAPACITY BUILDING AROUND EQUITY AND INCLUSION TO PRODUCE A BASELINE ANALYSIS OF THE EQUITY IMPACTS OF THE AGENCY'S EXISTING AND PROPOSED ACTIONS AND POLICIES, ENCOMPASSING PROGRAMS, OPERATIONS AND CAPITAL PROJECTS. THIS TRAINING SHOULD BE PROVIDED BY EXTERNAL EXPERTS.~~

~~(B) STARTING IN THE SECOND YEAR FOLLOWING ENACTMENT, ALL CITY AGENCIES SHALL DEVELOP AN EQUITY ASSESSMENT PROGRAM THAT CONSIDERS/REQUIRES CITY AGENCIES TO:~~

- ~~(1) PROACTIVELY DEVELOP POLICIES, PRACTICES, AND STRATEGIC INVESTMENTS TO REVERSE DISPARITY TRENDS BASED ON RACE, GENDER, OR INCOME;~~
- ~~(2) ACT TO ELIMINATE STRUCTURAL AND INSTITUTIONAL RACISM AND DISCRIMINATION OF ALL KINDS BASED ON IMMUTABLE AND MUTABLE CHARACTERISTICS TO ENSURE THAT OUTCOMES AND OPPORTUNITIES FOR ALL PEOPLE ARE NO LONGER PREDICTABLE BASED ON THOSE CHARACTERISTICS;~~
- ~~(3) DEVELOP AND IMPLEMENT AN EQUITY ACTION PLAN TO INCORPORATE AND EMBED EQUITY PRINCIPLES AND STRATEGIES INTO CITY OPERATIONS, PROGRAMS, SERVICES, AND POLICIES; AND~~
- ~~(4) CONDUCT EQUITY ASSESSMENTS OF EXISTING AND PROPOSED CITY AGENCY ACTIONS, AND POLICIES, AND BUDGETS this should include operating budget.~~

Comment [PS1]: There need to be rules and regulations, even if not developed by Planning. Maybe sub-cabinet responsibility?

Comment [PS2]: There needs to be a central coordinator/manager, even if not Planning. Maybe sub-cabinet?

~~§ 39-7. NOTICE OF PLANNING COMMISSION MEETINGS.~~

~~THE PLANNING COMMISSION SHALL GIVE TO EACH MEMBER OF THE CITY COUNCIL AT LEAST 5 DAYS WRITTEN NOTICE OF ANY COMMISSION MEETING AT WHICH THE COMMISSION PROPOSES TO CONSIDER APPROVING:~~

- ~~(1) THE ADOPTION OF OR AMENDMENT TO THE EQUITY ASSESSMENT PROGRAM; OR~~
- ~~(2) ANY RULE OR REGULATION ADOPTED OR AMENDED UNDER THIS SUBTITLE.~~

~~§ 39-8. AGENCY IMPLEMENTATION – IN GENERAL.~~

~~THE PROGRAM SHALL REQUIRE EACH CITY AGENCY, IN COOPERATION WITH THE DIRECTOR, TO:~~

- ~~(1) IDENTIFY AN EQUITY COORDINATOR OFFICER WHO WILL BE RESPONSIBLE FOR MANAGING THAT AGENCY'S PARTICIPATION IN THE EQUITY ASSESSMENT PROGRAM; THE EQUITY OFFICER SHALL REPORT DIRECTLY TO THE DIRECTOR.~~
- ~~(2) CONDUCT EQUITY ASSESSMENTS OF THE AGENCY'S EXISTING AND PROPOSED PRACTICES AND POLICIES; AND~~
- ~~(3) DEVELOP AND IMPLEMENT A PLAN TO ADDRESS ANY DISPARATE OUTCOMES BASED ON RACE, GENDER, OR INCOME THAT HAVE BEEN IDENTIFIED BY THE AGENCY'S ASSESSMENTS.~~

~~§ 39-9. AGENCY IMPLEMENTATION – BILL REPORTS.~~

~~WHENEVER AN AGENCY REPORTS TO THE CITY COUNCIL ON A PROPOSED ORDINANCE OR RESOLUTION INCLUDING THE ORDINANCE OF ESTIMATES, THE AGENCY SHALL INCLUDE IN THAT REPORT THE RESULTS OF AN EQUITY ASSESSMENT OF THE PROPOSAL'S IMPACT ON ITS OPERATIONS DISPARITY.~~

~~§ 39-10. AGENCY IMPLEMENTATION – CAPITAL BUDGET SCORING.~~

~~WITH THE APPROVAL OF THE PLANNING COMMISSION, THE DIRECTOR SHALL CONDUCT DEVELOP AN EQUITY ASSESSMENT ON METHODOLOGY TO BE APPLIED TO ANY PROPOSED CAPITAL BUDGET AND SCORE THE PROPOSED PROJECTS BASED ON THAT ASSESSMENT.~~

Comment [TE3]: From Eric: I don't think this section will work on a day-to-day basis. When we have routine bills, such as a conditional use approval, how does an equity assessment get done for a private project? I'd recommend limiting the scope to something that's more generally related somehow? If something as short as "no expected impact" is ok, then we might be able to live with it. It'll come down to expectations.

Comment [PS4]: For each individual conditional use, it might be very hard to identify an equity impact, but the report could indicate that the department will do an annual review of conditional uses and see whether inequitable patterns emerge.

Comment [PS5]: Both the capital budget and operating budget go to Council as a bill (Ordinance of Estimates), but we don't do a bill report. Maybe we should just do a bill report and then section 39-9 would apply. We would be able to choose whether we did an overall equity analysis or scoring of each individual request. We could add language to 39-9 specifying that a bill report is required (from Planning and Finance) for the Ordinance of Estimates.

§ 39-11. ANNUAL EQUITY REPORT.

(A) IN GENERAL.

~~ON OR BEFORE JUNE 30 OF EACH YEAR BEGINNING ONE-YEAR AFTER THE EFFECTIVE DATE OF THE ORDINANCE, THE DIRECTOR SHALL PREPARE AND SUBMIT TO THE MAYOR AND THE CITY COUNCIL AN ANNUAL EQUITY REPORT. AGENCIES SHALL SUBMIT THEIR EQUITY REPORT TO THE MAYOR AND CITY COUNCIL AND DEPARTMENT OF LEGISLATIVE REFERENCE FOR PUBLIC REVIEW. CITY COUNCIL MAY HOLD HEARINGS TO REVIEW ANNUAL EQUITY REPORTS AS WARRANTED.~~

~~Further, agencies would be invited on a triennial basis, to present their assessments to Planning Commission during a public session, within three months of the annual equity report submission deadline.~~

(B) CONTENTS.

THE REPORT SHALL INCLUDE:

- (1) AN ASSESSMENT OF PROGRESS TOWARDS ACHIEVEMENT OF THE GOALS OF THE EQUITY ASSESSMENT PROGRAM;
- (2) AN ASSESSMENT OF THE CURRENT SCOPE OF AGENCY COMPLIANCE;
- (3) A DISCUSSION OF ANY DISPARATE OUTCOMES IDENTIFIED THROUGH EQUITY ASSESSMENTS OF EXISTING CITY POLICIES OR PROCEDURES;
- (4) RECOMMENDED STEPS TO ADDRESS THE IDENTIFIED DISPARATE OUTCOMES; AND
- (5) AN UPDATE ON PROGRESS TOWARDS ELIMINATING PREVIOUSLY IDENTIFIED DISPARITIES AND IMPLEMENTING ACTIONS RECOMMENDED IN PAST REPORTS.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th Day after the date it is enacted.

