

REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries: ACA, ACA-RA, ACF, ACG, ACG-RA, ACH, ACH-RA, ACI, ACI-RA, BLB, GBA-RA, GCA-RA

Responsible Office: Superintendent of Schools;
Office of District Operations

Administrative Complaint

I. PURPOSE

To establish procedures to process and obtain prompt and equitable solutions to employee complaints concerning the interpretation or implementation of Montgomery County Board of Education (Board) policies or Montgomery County Public Schools (MCPS) regulations or rules, unless the subject matter is otherwise committed to another process

To encourage the informal resolution of such complaints whenever possible

To review administrative decisions involving such complaints

II. DEFINITIONS

- A. A *complaint* is an allegation that challenges the interpretation or application of Board policies or MCPS regulations or rules, except as delegated to an alternative process by a collective bargaining agreement, regulation, or statute.
- B. A *complainant* is an employee claiming that an action is contrary to that required by applicable laws, Board policies, or MCPS regulations or rules.
- C. A *grievance* means a claim that there has been a violation of the collective bargaining agreement between an individual's employee association and the Montgomery County Board of Education.
- D. The *party-in-interest* is the person or persons making the complaint, any person who might be required to take action, or the person or persons against whom action might be taken to resolve the complaint.
- E. *Work day* means a day, other than a Saturday, Sunday, or legal holiday, on which the central offices of MCPS are open for the transaction of business.

III. RIGHTS OF AN EMPLOYEE

- A. Nothing in this regulation is to be construed as limiting the rights of any employee having a complaint to discuss the matter with any appropriate member of the administration.
- B. There will be no adverse action taken against any individual because that individual, in good faith, makes or participates in making a complaint or cooperates with the investigation of a complaint.
- C. At all levels of the procedure, any party-in-interest may be accompanied and supported by any other individual of their choice.¹

IV. PROCEDURE

- A. Administrative Complaint Subjects
 - 1. A proper subject for an administrative complaint is an allegation that challenges the interpretation or application of Board policies or MCPS regulations or rules, other than as excluded below.
 - 2. The administrative complaint process is not to be used for filing a grievance; reporting discrimination, bullying, harassment, including sexual harassment, intimidation, or retaliation for having reported such conduct; or for requesting accommodations in compliance with the Americans with Disabilities Amendments Act of 2008 or religious accommodations. Such guidance is located in the following:
 - a) Regulation ACA-RA, *Nondiscrimination, Equity, and Cultural Proficiency*.
 - b) Policy ACI-RA, *Investigation of Title IX Sexual Harassment of MCPS Employees*.
 - c) Regulation ACH-RA, *Workplace Bullying*.
 - d) Regulation ACG-RA, *Reasonable Accommodations and Modifications for Individuals with Disabilities with Regard to Employment, Services, Programs, and Activities*.

¹ “Any other individual of their choice” includes a representative from an employee’s collective bargaining unit who may accompany and support the employee.

- e) Negotiated Agreements.
- f) *MCPS Employee Code of Conduct.*

3. When an employee files an administrative complaint with multiple allegations and at least one allegation relates to a concern listed in section IV.A.2, and the allegation cannot reasonably be addressed in the proceedings referred to in section IV.A.2, the administrative complaint will be held in abeyance until the Office of Human Resources and Development (OHRD) or the Department of Labor Relations (DLR) has an opportunity to complete its review of the related claims.

B. Informal Process

An employee with a request for information or a concern should address the concern to the parties most directly involved as amicably, expeditiously, and satisfactorily as possible.

1. An employee with a concern will discuss it with the principal/supervisor most directly concerned² to seek an informal resolution of the matter.
2. Additional resources that may be relevant to the employee include the Board ombudsperson and the MCPS Employee Assistance Program.

C. Filing a Complaint

1. Level One
 - a) If the complaint cannot be resolved to the satisfaction of the employee through the informal process within 15 work days, the employee should contact the DLR to obtain a register number, then complete MCPS Form 430-42, *Administrative Complaint*.
 - b) DLR staff members are available to help employees understand the requirements of Form 430-42. In performing this function, DLR staff must not act as the complainant's representative or advocate.
 - c) The complainant will submit the completed Form 430-42 to DLR.

² If the complaint is against the principal/supervisor, the employee may contact DLR directly, as set forth in Level One procedures.

- d) The DLR director/designee will review the administrative complaint and determine if it –
 - (1) presents an issue that is reviewable under the terms of this regulation,
 - (2) was timely filed, and
 - (3) otherwise complies with this regulation.
- e) An administrative complaint that does not satisfy all three requirements may be summarily dismissed without a substantive review, returned to the employee to provide more information, or redirected as set forth in section II.A.2 above with notice to the complainant.
- f) An administrative complaint that satisfies the requirements of this section will be forwarded by the DLR director to the appropriate principal/supervisor.
- g) Upon receipt of the administrative complaint, the principal/supervisor will –
 - (1) initial and date the form, and
 - (2) provide a copy to the complainant.
- h) Within 10 workdays of receiving the administrative complaint, the principal/supervisor will –
 - (1) investigate the administrative complaint and provide the complainant with the opportunity to present witnesses and evidence,
 - (2) render a determination and complete the section of the form titled "Level One: Administrative Disposition," and
 - (3) return the completed form to the complainant and copy DLR, informing them of their determination.

2. Level Two

- a) A decision of the principal/supervisor at Level Two may be appealed to the next appropriate administrator (associate superintendent or department director). A complainant may also appeal to the next appropriate administrator if –
- b) no determination has been rendered by the principal/supervisor within 10 workdays after presentation of the administrative complaint, and
 - (1) the complainant has not received notice of an extended timeline.
- c) The complainant will submit the completed Form 430-42 to the DLR, notifying the DLR of their intention to appeal.
- d) The DLR director/designee will review the administrative complaint and notify the appropriate administrator.
- e) Upon receipt of the administrative complaint, the appropriate administrator or designee will –
 - (1) initial and date the form, and
 - (2) provide a copy of the administrative complaint to the complainant.
- f) Within 10 workdays after receiving the administrative complaint, the appropriate administrator or designee will –
 - (1) schedule a meeting with the complainant for the purpose of resolving the administrative complaint,
 - (2) render a determination and complete the section of the form titled "Level Two: Administrative Disposition," or
 - (3) return the completed form to the complainant and copy the DLR, informing them of their determination.

3. Level Three

- a) A decision of the appropriate administrator at Level Two may be

appealed to the DLR director, who is the designee of the superintendent of schools for the purpose of reviewing administrative complaints.

- b) The DLR director will review a Level Two decision if –
 - (1) the complainant is not satisfied with the disposition of their administrative complaint at Level Two, or
 - (2) no determination has been rendered at Level Two within 10 workdays after the meeting with the appropriate administrator, and
 - (3) the complainant has not received notice of an extended timeline.
- c) The complainant must appeal the matter to the DLR within 10 workdays of the date of the determination at Level Two, or within 10 workdays of the 10th day without a determination at Level Two.
- d) Upon receipt of the administrative complaint, DLR will –
 - (1) initial and date the form, and
 - (2) provide a copy of the administrative complaint to the complainant.
- e) Within 10 workdays after receiving the administrative complaint, a trained hearing officer will –
 - (1) review investigation documents and arguments submitted in writing by the complainant,
 - (2) at the discretion of the hearing officer, schedule a meeting with the complainant to clarify information provided at Level One or Level Two,
 - (3) render a determination and complete the Level Three section of the form titled "Level Three: Administrative Disposition," and
 - (4) return the completed form to the complainant and notify the complainant of their right under Board Policy BLB, *Rules of*

Procedure in Appeals and Hearings, and state law to appeal the determination to the Board within 30 calendar days.

D. Time Limits

1. If the complainant does not file the administrative complaint at the next step of the procedure within the time limits specified in the procedure, the DLR director may consider the administrative complaint resolved on the basis of the most recent response and summarily dismiss the administrative complaint as abandoned.
2. If the principal, supervisor, or department director, as appropriate, does not respond within the time limits specified, the employee may file the administrative complaint at the next higher level.
3. The DLR director may extend the time limits stated in the administrative complaint procedure in increments of 10 workdays for compelling reasons, provided that the parties are given prompt notice of the extended timeline and rationale.
4. In the event an administrative complaint is filed at such time that it cannot be processed through all the steps in the procedure by the end of the school year and, if left unresolved until the beginning of the following school year, could result in irreparable harm to a party-in-interest, by mutual agreement of all parties-in-interest, the time limits set forth herein will be reduced so that the procedures may be completed prior to the end of the school year or as soon thereafter as possible.

E. If an employee who files an administrative complaint resigns, retires, or is separated from MCPS employment before the administrative complaint is resolved, MCPS will continue to process the administrative complaint if the relief requested by the employee could still be granted.

F. Confidentiality

1. The following documents and other matters associated with an administrative complaint are confidential:
 - a) The administrative complaint and the administrative complaint file
 - b) Responses to the administrative complaint
 - c) Meetings and other proceedings related to the administrative

complaint

- d) Written reports and materials related to the investigation of an administrative complaint
2. Despite the confidentiality requirements of this subsection, if the DLR director finds that an administrative complaint filed by a bargaining unit employee is covered by the employee's collective bargaining agreement, the DLR director must notify the representative for the bargaining unit of the employee's name and the subject of the administrative complaint.

G. Burden of Proof

The complainant has the burden of proof in an administrative complaint on any issue.

Related Sources:

Annotated Code of Maryland, Education Article §6-901 through §6-906, Public School Employee Whistleblower Protection Act; Negotiated Agreements; MCPS Employee Code of Conduct

Regulation History: Formerly Regulation No. 450-3, September 24, 1974; revised August 1985; amended by the Agreement Between the Board of Education and MCEA (1984-87) and MCCSSE (1984-87) and MCAASP (1985-88); directory information updated; revised August 1988; revised April 13, 1994; revised July 14, 2008; nonsubstantive revisions July 24, 2017; revised November 29, 2017; revised February 1, 2023.

MCPS NONDISCRIMINATION STATEMENT

Montgomery County Public Schools (MCPS) prohibits illegal discrimination based on race, ethnicity, color, ancestry, national origin, nationality, religion, immigration status, sex, gender, gender identity, gender expression, sexual orientation, family structure/parental status, marital status, age, ability (cognitive, social/emotional, and physical), poverty and socioeconomic status, language, or other legally or constitutionally protected attributes or affiliations. Discrimination undermines our community's long-standing efforts to create, foster, and promote equity, inclusion, and acceptance for all. The Board prohibits the use of language and/or the display of images and symbols that promote hate and can be reasonably expected to cause substantial disruption to school or district operations or activities. For more information, please review Montgomery County Board of Education Policy ACA, *Nondiscrimination, Equity, and Cultural Proficiency*. This Policy affirms the Board's belief that each and every student matters, and in particular, that educational outcomes should never be predictable by any individual's actual or perceived personal characteristics. The Policy also recognizes that equity requires proactive steps to identify and redress implicit biases, practices that have an unjustified disparate impact, and structural and institutional barriers that impede equality of educational or employment opportunities. MCPS also provides equal access to the Boy/Girl Scouts and other designated youth groups.**

For inquiries or complaints about discrimination against MCPS students*	For inquiries or complaints about discrimination against MCPS staff*
Director of Student Welfare and Compliance Office of District Operations Student Welfare and Compliance 850 Hungerford Drive, Room 55, Rockville, MD 20850 240-740-3215 SWC@mcpsmd.org	Human Resource Compliance Officer Office of Human Resources and Development Department of Compliance and Investigations 45 West Gude Drive, Suite 2500, Rockville, MD 20850 240-740-2888 DCI@mcpsmd.org
For student requests for accommodations under Section 504 of the Rehabilitation Act of 1973	For staff requests for accommodations under the Americans with Disabilities Act
Section 504 Coordinator Office of Academic Officer Resolution and Compliance Unit 850 Hungerford Drive, Room 208, Rockville, MD 20850 240-740-3230 RACU@mcpsmd.org	ADA Compliance Coordinator Office of Human Resources and Development Department of Compliance and Investigations 45 West Gude Drive, Suite 2500, Rockville, MD 20850 240-740-2888 DCI@mcpsmd.org
For inquiries or complaints about sex discrimination under Title IX, including sexual harassment, against students or staff*	
Title IX Coordinator Office of District Operations Student Welfare and Compliance 850 Hungerford Drive, Room 55, Rockville, MD 20850 240-740-3215 TitleIX@mcpsmd.org	

*Discrimination complaints may be filed with other agencies, such as the following: U.S. Equal Employment Opportunity Commission (EEOC), Baltimore Field Office, GH Fallon Federal Building, 31 Hopkins Plaza, Suite 1432, Baltimore, MD 21201, 1-800-669-4000, 1-800-669-6820 (TTY); Maryland Commission on Civil Rights (MCCR), William Donald Schaefer Tower, 6 Saint Paul Street, Suite 900, Baltimore, MD 21202, 410-767-8600, 1-800-637-6247, mCCR@maryland.gov; or U.S. Department of Education, Office for Civil Rights (OCR), The Wanamaker Building, 100 Penn Square East, Suite 515, Philadelphia, PA 19107, 1-800-421-3481, 1-800-877-8339 (TDD), OCR@ed.gov, or www2.ed.gov/about/offices/list/ocr/complaintintro.html.

**This notification complies with the federal Elementary and Secondary Education Act, as amended.

This document is available, upon request, in languages other than English and in an alternate format under the *Americans with Disabilities Act*, by contacting the MCPS Office of Communications at 240-740-2837, 1-800-735-2258 (Maryland Relay), or PIO@mcpsmd.org. Individuals who need sign language interpretation or cued speech transliteration may contact the MCPS Office of Interpreting Services at 240-740-1800, 301-637-2958 (VP) mcpsinterpretingservices@mcpsmd.org, or MCPSInterpretingServices@mcpsmd.org.