

POLICY BOARD OF EDUCATION OF MONTGOMERY COUNTY

Related Entries: ACA, ACF-RA, ACI, ACI-RA, GCC-RA, IGP-RA, JFA, JFA-RA, JGA-RB, JGA-RC, JHC, JHC-RA, JHF, JHF-RA

Responsible Offices: Chief of the Office of District Operations; Chief of the Office of School Support and Improvement

Sexual Misconduct and Sex-Based Harassment of Students

A. PURPOSE

To prohibit sexual misconduct and sex-based harassment on Montgomery County Public Schools (MCPS) property.

To mandate the development of educational programs designed to help MCPS employees and students recognize, understand, and report sexual misconduct and sex-based harassment.

To establish a framework of effective procedures for addressing complaints of sexual misconduct and sex-based harassment.

B. ISSUE

1. The Montgomery County Board of Education (Board) does not tolerate sexual misconduct or sex-based harassment of any kind, of or by students, in its educational programs and activities, or property, under any circumstances. For the purposes of this policy, MCPS property means any school or other facility, including grounds owned or operated by MCPS, MCPS buses and other MCPS vehicles, and the facility and grounds of any MCPS-sponsored program or activity, which includes locations, events, or circumstances over which MCPS exercises substantial control over the individuals involved and the context in which an alleged harassment occurred.
2. Students, employees, and third parties have a right to be free from sex-based harassment. The Board is committed to the creation and maintenance of an educational environment in which all persons are free from all forms of sexual misconduct and sex-based harassment and to the prevention, correction, and discipline of behaviors that violate this policy.

3. Definitions

a) Sexual misconduct

- (1) Sexual misconduct includes verbal, written, or physical behavior directed at an individual or against a particular group, because of that individual's or group's actual or perceived sex; sexual orientation; gender identity; gender expression; parental, familial, or marital status; pregnancy/parenting status; and/or sex-based stereotyping, based on conformance or nonconformance to stereotypical notions of masculinity or femininity, when the conduct is unwelcome and meets the following criteria:
 - (a) Submission to or rejection of the conduct is made either explicitly or implicitly a term or condition of an individual's education or participation in an MCPS activity or program; or
 - (b) Submission to or rejection of the conduct is used as the basis for, or as a factor in, decisions affecting an individual's education or participation in an MCPS activity or program; or
 - (c) The conduct has the purpose or effect of creating an intimidating, hostile, or offensive environment for an individual's education or participation in an MCPS activity or program; or
 - (d) The conduct interferes unreasonably with an individual's education or ability to participate in an MCPS activity or program; and
- (2) The conduct is sufficiently severe or pervasive that it alters the terms, conditions, or privileges of an individual's education or participation in an MCPS activity or program.
- (3) Conduct may be verbal, nonverbal, written, or electronic.

b) Sex-based harassment

- (1) Conduct considered sex-based harassment is actionable under Title IX of the Education Amendments of 1972, and its implementing regulations and other civil rights laws, including 42 U.S.C. Section

1983 (Title IX), as interpreted by the U.S. Department of Education, if an MCPS student experiences one or more of the following:

- (a) An MCPS employee conditioning the provision of an MCPS aid, benefit, or service on an individual's participation in unwelcome sexual conduct.
 - (b) Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from MCPS's education program or activity.
 - (c) "Sexual assault," "dating violence," "domestic violence," or "stalking," as defined in federal law.
- (2) MCPS will address all sex discrimination or unwelcome sex-based conduct with its program or activities, including, but not limited to, conduct contributing to a hostile environment that may have occurred outside MCPS's program or activity or outside the United States.
- (3) Conduct that does not meet the elements of sex-based harassment, as defined in federal law, may constitute sexual misconduct, which is also subject to investigation and discipline in accordance with Board Policy JHF, *Bullying, Harassment, or Intimidation*, the *Student Code of Conduct in MCPS*, and the *MCPS Employee Code of Conduct*.
- c) Conduct that may be considered sexual misconduct or sex-based harassment may include, but is not limited to, offensive jokes, slurs, epithets or name-calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, and offensive objects or pictures.
 - d) A third party is any person, other than an MCPS employee or student, who participates in MCPS activities or is present on MCPS property and is under the authority or control of MCPS, and may include, but is not limited to parents/guardians, mentors, volunteers, vendors, contractors, coaches, and others with whom employees and/or students interact on MCPS property.

C. POSITION

1. The superintendent of schools is directed to make every effort to ensure that everyone affected by this policy shall be informed of its provisions and also informed that infractions of the policy may violate state or federal civil and/or criminal laws, resulting in criminal penalties.
2. This policy applies to all incidents of sexual harassment of an MCPS student. It addresses incidents committed by students, employees, and third parties.
3. Sex-based harassment can occur as single or repeated incidents between any persons.
4. Reporting and Supportive Measures
 - a) Students, or their parents/guardians, experiencing or witnessing sexual misconduct or sex-based harassment of a student should report the matter to their principal or other MCPS staff member, who will guide them in the reporting and investigation process as well as other supportive measures available. A report also may be made to the Title IX sex-based harassment reporting email drop box at TitleIX@mcpsmd.org.
 - b) In cases of sexual misconduct or sex-based harassment, all involved parties will be notified of available supportive measures. Supportive measures include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of class schedules, or mutual restrictions on contact between the parties.
 - c) The Board prohibits retaliation against an individual who reports sexual misconduct or sex-based harassment in either an oral or written complaint, or who participates in or cooperates with an investigation.
5. Investigations

All allegations of sexual misconduct or sex-based harassment committed against students by students, MCPS employees, contractors, vendors, or volunteers will be investigated by the principal or designee in collaboration with Student Welfare and Compliance and in accordance with requirements of state and federal laws.

D. DESIRED OUTCOMES

1. All MCPS employees and students are educated to recognize inappropriate sexual conduct in all forms that may constitute sexual misconduct or sex-based

harassment.

2. All students and employees are enabled to report sexual misconduct or sex-based harassment.
3. Effective and legally compliant measures for reporting, investigating, responding, and providing supportive measures are established and implemented.
4. MCPS students, employees, and third parties shall learn and work in an environment free of sex-based harassment.

E. IMPLEMENTATION STRATEGIES

1. The superintendent of schools will –
 - a) appoint a Title IX coordinator to coordinate the implementation of this policy and related federal and state laws and regulations;
 - b) develop regulations to implement this policy in compliance with Title IX, including investigative procedures that lead to the prompt and equitable resolution of a complaint and the provision of supportive measures as appropriate;
 - c) educate all students and parents/guardians about this policy and associated federal and state laws prohibiting sexual misconduct or sex-based harassment and how a student may file a complaint or receive assistance, by widely disseminating information in documents such as announcements, bulletins, brochures, applications, contracts, and other communications;
 - d) conduct professional development to support MCPS employees in implementing this policy, and provide –
 - (1) annual mandatory training to all employees to ensure the appropriate implementation of this policy; and
 - (2) a code of conduct and other guidance for students, employees, and others on MCPS property with clear standards for responsible behavior and appropriate conduct; and
 - e) implement the Comprehensive Health Education instructional program for all students, as required by Maryland law; and
 - f) use other opportunities, as appropriate, to educate students about matters

related to sexual misconduct and sex-based harassment in order to develop behaviors and attitudes that mitigate against inappropriate sexual overtures and pressures in school, work, and social settings.

2. Any student who violates this policy shall be subject to appropriate disciplinary action responsive to the offense, in accordance with the *MCPS Student Code of Conduct*.
3. At any time, a student alleging a violation of Title IX, including but not limited to sexual harassment, may file a complaint with the U.S. Department of Education Office for Civil Rights (OCR). A student is not required to file a complaint with MCPS before or after making a complaint with the U.S. Department of Education Office for Civil Rights.

U.S. Department of Education, Office of Civil Rights
OCR [Electronic Complaint Form](http://www.ed.gov/about/offices/list/ocr/complaintintro.html)
(<http://www.ed.gov/about/offices/list/ocr/complaintintro.html>); or
U.S. Department of Education, Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100

4. At any time, a student alleging crimes of a sexual nature may report or file a complaint directly with law enforcement:

Montgomery County Police Department
Special Victims Investigation Division
100 Edison Park Drive
Gaithersburg, MD 20878

Or, the Safe Schools Maryland Tip Line, 1-833-MD-B-SAFE

F. REVIEW AND REPORTING

1. The superintendent of schools will report quarterly to the Board on reported sex-based harassment and sexual misconduct incidents and other compliance efforts, as required in this policy. The incident reports shall include aggregated incident data from the preceding quarter. The compliance report shall include complaint and resolution process evaluations and improvements; training statistics and schedules; ongoing evaluation of work environments in all MCPS schools, offices, and work locations; and any other activities being planned or carried out by MCPS that are relevant to the successful implementation of this policy.

2. This policy will be reviewed on an ongoing basis, in accordance with the Board policy review process.

Related Sources: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e et seq; Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq; 29 C.F.R. §1604,11; 34 C.F.R 106.30(a); Annotated Code of Maryland, Education Article, §6-104, §6-113, §6-113.2, §7-303.1, §7-424, §7-424.1, §7-424.3, and §11-60; Annotated Code of Maryland, State Government Article, Title 20, Human Relations; Code of Maryland Regulations §13A.12.05.02; Student Code of Conduct in MCPS; MCPS Employee Code of Conduct; MCPS Guidelines for Student Gender Identity

Policy History: Adopted by Resolution No. 837-92, November 23, 1992; amended by Resolution No. 466-96, June 24, 1996; amended by Resolution No. 322-21, June 29, 2021; amended by Resolution No. 465-24, on October 10, 2024.

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.*

It is the policy of the state of Maryland that all public and publicly funded schools and school programs operate in compliance with:

- (1) Title VI of the federal Civil Rights Act of 1964; and
- (2) Title 26, Subtitle 7 of the Education Article of the Maryland Code, which states that public and publicly funded schools and programs may not
 - (a) discriminate against a current student, a prospective student, or the parent or guardian of a current or prospective student on the basis of race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability;
 - (b) refuse enrollment of a prospective student, expel a current student, or withhold privileges from a current student, a prospective student, or the parent or guardian of a current or prospective student because of an individual's race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability; or
 - (c) discipline, invoke a penalty against, or take any other retaliatory action against a student or parent or guardian of a student who files a complaint alleging that the program or school discriminated against the student, regardless of the outcome of the complaint.**

Please note that contact information and federal, state, or local content requirements may change between editions of this document and shall supersede the statements and references contained in this version. Please see the online version for the most up-to-date information at www.montgomeryschoolsmd.org/info/nondiscrimination.

<p>For inquiries or complaints about discrimination against MCPS students***</p> <p>Director of Student Welfare and Compliance Office of District Operations Student Welfare and Compliance 15 West Gude Drive, Suite 200, Rockville, MD 20850 240-740-3215 SWC@mcpsmd.org</p>	<p>For inquiries or complaints about discrimination against MCPS staff***</p> <p>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</p>
<p>For student requests for accommodations under Section 504 of the Rehabilitation Act of 1973</p> <p>Section 504 Coordinator Office of School Support and Improvement Well-Being and Student Services 850 Hungerford Drive, Room 257, Rockville, MD 20850 240-740-3109 504@mcpsmd.org</p>	<p>For staff requests for accommodations under the Americans with Disabilities Act</p> <p>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</p>
<p>For inquiries or complaints about sex discrimination under Title IX, including sexual harassment, against students or staff***</p> <p>Title IX Coordinator Office of District Operations Student Welfare and Compliance 15 West Gude Drive, Suite 200, Rockville, MD 20850 240-740-3215 TitleIX@mcpsmd.org</p>	

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

**This notification complies with the Code of Maryland Regulations Section 13A.01.07.

***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; Agency Equity Officer, Office of Equity Assurance and Compliance, Office of the Deputy State Superintendent of Operations, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201-2595, oeac.msde@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 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.