

REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries: ACF, ACF-RA, BLB, COA, COA-RA, COA-RB, COB-RA, DJA-RA, IOE-RB, IOI-RA, JEE-RA, JGA-RC, KBA, KBA-RA

Responsible Offices: Office of Security and Compliance; Office of School Support and Improvement; Office of Special Education

Responding to Reportable Offenses by Students

I. PURPOSE

To define and implement Maryland law regarding “reportable offenses” and to clarify necessary Montgomery County Public Schools (MCPS) and local school actions related to educational programs and safety when a student is facing community-based charges

II. DEFINITIONS

- A. *Arrest* means the taking of a person into legal custody.
- B. *Disposition* means the outcome of a criminal proceeding.
- C. *MCPS property* means any MCPS school or other facility, including grounds owned or operated by MCPS, MCPS buses and other MCPS vehicles, and locations of MCPS activity while such activity is in process.
- D. *Regular school program* means the courses, classes, and related services that the student is enrolled in through MCPS at the time of the student’s reportable offense.
- E. *Reportable offense* means an offense that occurred off MCPS property and involved certain crimes of violence defined in Code of Maryland Regulations (COMAR) 13A.08.01.17.A.(8)(c). These crimes of violence include, but are not limited to, arson; assault; burglary; criminal organization activity; offenses related to controlled dangerous substances and noncontrolled substances; offenses related to destructive devices and weapons; and using a minor to manufacture, deliver, or distribute a controlled dangerous substance.

III. ISSUE

An arrest for a reportable offense means a student is alleged to have committed a certain specified crime of violence off MCPS property, as defined above. Therefore, it is not only the severity of the allegation that defines a reportable offense, but also the location. The law enforcement agency making the arrest is required by law to notify the superintendent of schools/designee and the school principal within 24 hours of the arrest or as soon as practicable.

Maryland law states that notice of a reportable offense may not be the sole basis for suspension, expulsion, or a change in the student's regular school program.

IV. NOTIFICATION AND CONFIDENTIALITY OF INFORMATION**A. Notification or Confirmation of Arrest Information**

1. The chief of Security and Compliance is the superintendent of schools' designee for receiving information from law enforcement agencies regarding reportable offenses and promptly communicating the basic arrest information (i.e., student's name, date of incident, and charge) to –
 - a. the principal of the MCPS school in which the student is enrolled and appropriate offices, including the appropriate director within the Office of School Support and Improvement (OSSI) and the director of Communication, or
 - b. the superintendent of another school system to which the student may have been enrolled or been transferred.
 - c. If the student who has been arrested is an identified student with disabilities who is enrolled by MCPS in a nonpublic school program, the chief of Security and Compliance will provide the arrest information to the principal of the nonpublic school.
2. If the principal receives information about a student arrest for a reportable offense prior to receiving notification from the chief of Security and Compliance or law enforcement, the appropriate OSSI director/designee will confirm the information in consultation with the chief of Security and Compliance.

B. Confidentiality of Arrest Information

1. As specified in Maryland law, the reportable offense information obtained by the superintendent of schools/designee is confidential (i.e., the information is not public information).
2. The information must be provided –
 - a. to the superintendent of another school system in which a student has enrolled or been transferred, or
 - b. as otherwise directed by order of a court.
 - c. Except by order of a juvenile court or other court upon good cause as shown or as provided in COMAR 13A.08.01.17.F, the reportable offense information is confidential and may not be redisclosed by subpoena.
3. The information –
 - a. shall be transmitted only to MCPS staff and staff of the school in which the student is enrolled as necessary to carry out the purposes of this regulation;
 - b. shall not be made part of the student’s permanent educational record; and
 - c. shall be destroyed when the first of the following occurs:
 - i. the student graduates;
 - ii. the student otherwise permanently leaves school;
 - iii. the student turns 22 years old;
 - iv. the criminal case involving the reportable offense is dismissed;
 - v. the student is found not guilty of the reportable offense; or
 - vi. the student pleads to a lesser offense that is not a reportable offense.

4. The chief of Security and Compliance and the chief of OSSI will develop a protocol that identifies appropriate additional MCPS staff to receive such confidential information necessary to carry out the purposes of this regulation.
5. The principal and appropriate director of OSSI must consult with the director of Communications/designee about any communication with students, staff, or the school community.

V. PLAN FOR AN APPROPRIATE EDUCATIONAL PROGRAM

Within 10 school days of MCPS receiving notification of/confirming a reportable offense by an MCPS student, a plan for an appropriate educational program must be developed and implemented. Responsible offices participating in developing and implementing the plan are expected to collaborate swiftly to ensure that the 10-school-day deadline is met.

A. Fact-finding

Promptly on notification/confirmation of the arrest, the principal will gather appropriate information as follows:

1. The principal must immediately determine if the student has an Individualized Education Program (IEP) or 504 plan.
 - a. If removing a student with a disability from the student's regular program is under consideration, a manifestation or causation meeting shall occur as set forth in MCPS Regulation JGA-RC, *Suspension and Expulsion of a Student with Disabilities*, sections IV.C or V.C, and should occur as soon as possible and not later than 10 school days of notification/confirmation of the reportable offense.
 - b. If the student has an attorney, the attorney shall be invited to attend any meeting to discuss the manifestation or causation review.
2. The school principal, in consultation with appropriate staff, shall determine whether there is a nexus to the school and other students and staff, and consider whether the student's presence presents a risk to the safety of other students and staff.
 - a. The principal may assess risk in consultation with an OSSI director and appropriate representatives from the OSSI, the chief of Security

and Compliance/designee, and the Division of Pupil Personnel and Attendance Services (DPPAS).

b. MCPS shall consider prohibiting a student who is arrested for a reportable offense involving rape or a sexual offense from attending the same school or riding on the same school bus as the alleged victim of the reportable offense if such action is necessary or appropriate to protect the physical or psychological well-being of the alleged victim.

3. If the student is subsequently convicted or adjudicated delinquent for the rape or sexual offense, the student may not attend the same school or ride the same school bus as the victim. MCPS Regulation COA-RB, *Registered Sexual Offenders on MCPS Property*, sets forth the requirements and procedures for developing an educational program for a student who has been convicted or adjudicated delinquent for a rape or sexual offense and is required to register with the Maryland Sex Offender Registry.

B. Plan for the Safety of Other Students or Staff

1. If the principal believes the student presents a safety risk, the principal shall immediately develop a plan that –

a. addresses appropriate educational programming and related services for the student, and

b. maintains a safe and secure school environment for all students and staff.

2. The principal shall request that the student’s parent/guardian participate in the development of the plan and submit information that is relevant to developing the plan.

3. If the student has an attorney, the principal shall invite the student’s attorney to participate in any meeting with the student’s parent/guardian to discuss the plan. If the parent/guardian brings an attorney, the principal shall contact the Office of the General Counsel to designate legal counsel to attend as well.

C. Consideration of Threat of Imminent Harm

1. Under Maryland law, “threat of imminent harm” represents a more stringent standard than “safety risk,” and a student may not be removed from the

student's regular program, as defined above, unless the student presents an imminent threat of serious harm to other students or staff.

2. Removal from the student's regular program means the student no longer has the opportunity to continue in the courses, classes, related services, or special education services, if applicable, the student was enrolled in at the time of the reportable offense. The following are examples, but not an exhaustive list, of what may constitute removal from a student's regular program:
 - a. a change from in-person to virtual instruction, or
 - b. an administrative placement to Alternative Programs.
3. The following are examples, but not an exhaustive list, of plans that maintain the courses, classes, and related services the student was enrolled in at the time of the reportable offense and may not constitute removal from a student's regular program:
 - a. continued enrollment in the same school with an altered schedule that provides the same courses, classes, related services, or special education services if applicable, or
 - b. assignment to another comprehensive school with a schedule that provides the same courses, classes, related services, or special education services if applicable.
4. If, after consultation as set forth above in section V.A.2.a, the school principal believes the student presents an imminent threat of serious harm to other students or staff and must be removed from the student's regular school program, the principal must request, in writing, a determination by the superintendent of schools. The chief of OSSI may serve as the superintendent of schools' designee for the purpose of making this determination.
5. The request to the superintendent shall include the following:
 - a. Confirmation of a nexus between the reportable offense and other students or staff.
 - b. Documentation of the imminent threat of serious harm to other students or staff the student poses necessitating removal from their regular school program, as defined above.

- c. A recommended appropriate educational program and a safety plan.
 - d. Confirmation that the principal has determined whether the student has an IEP or 504 plan. If the program recommended to the superintendent would result in a change of the student's regular program, manifestation or causation meeting determination is expected to accompany the request. Further, documentation of a manifestation or causation review shall confirm that the student's attorney was invited to attend the meeting, if the student has an attorney.
 - e. Documentation that the parents/guardians and the student's attorney, if the student has an attorney, were invited to participate in the development of a plan and submit information that is relevant to developing the plan.
3. The superintendent of schools/designee shall –
- a. hold a conference with the student, the student's parent/guardian, and, if the student has an attorney, the student's attorney; and
 - b. determine whether the student poses an imminent threat of serious harm to other students or staff, necessitating removal from the student's regular program.
4. If, after the conference, the superintendent of schools/designee determines that a removal from the student's regular school program is warranted, the student or the student's parent/guardian may appeal the removal to the Montgomery County Board of Education within 15 calendar days after the receipt of the written determination and notice of appeal rights.

VI. APPEALS

Appeal procedures shall follow COMAR 13A.08.01.17.D.(7)-(12), which include the following provisions:

- A. The appeal to the Board does not stay the decision of the superintendent of schools. The student will attend the educational program as set forth in the plan determined by the superintendent of schools while an appeal is in process.

- B. Unless a public hearing is requested by the parent/guardian of the student, Maryland law requires that such a hearing shall be held out of the presence of all individuals, except those whose presence is considered necessary or desirable by the Board.

VII. REVIEW REQUIREMENTS

At a minimum of every 45 school days pending notification from the state's attorney, or immediately upon notification from the state's attorney of the disposition of the reportable offense, the following must occur:

- A. The safety plan, the educational program, and the student's status shall be reviewed and adjustments made as appropriate.
- B. The review shall include the individuals designated in section V.A-B above, with input from the student's parent/guardian. If the student has an attorney, the student's attorney shall be invited to participate in any meeting with the student or the student's parent/guardian to discuss the review of the plan.
 - 1. The student and the student's parent/guardian shall be provided in writing with the outcome of the review.
 - 2. If the student or the student's parent/guardian disagrees with the review decision, the student or the student's parent/guardian may appeal the decision as set forth in section VI above.
- C. If the disposition of the reportable offense was a conviction or an adjudication of delinquency, or the criminal charge or delinquency petition is still pending, the superintendent of schools/designee shall transmit the information as a confidential file to the superintendent of another school system or to another nonpublic school in the state in which the student has enrolled or has been transferred, to carry out the purposes of this regulation; and the superintendent of schools/designee shall include in the confidential transmittal information any educational programming or related services provided to the student.

VIII. REPORTING REQUIREMENTS

Each year, MCPS shall provide to the Maryland State Department of Education the information specified in COMAR 13A.08.01.17.J for each reportable offense for which MCPS received information.

Related Sources: Annotated Code of Maryland, Education Article, §7-303 and 7-305; ANN CODE MD, Criminal Procedure Article, §§11-704, 11-704.1, 11-713, 11-721, and 11-722; Code of Maryland Regulations (COMAR) 13A.08.01.17

Regulation History: New Regulation November 21, 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.