

# REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

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**Related Entries:** COF-RA, JHC, JHC-RA  
**Responsible Offices:** Chief Operating Officer

## Staff Self-Reporting of Arrests, Criminal Charges, and Convictions

### I. PURPOSE

Maryland law prohibits a county board of education from knowingly hiring or retaining any individual who has been convicted, or pled guilty or nolo contendere (no contest) to certain crimes; therefore, applicants for employment with Montgomery County Public Schools (MCPS) are required to complete a criminal history records check. After they are hired, MCPS requires that all staff members self-report if they are arrested or criminally charged for any offenses listed in this regulation, as well as the disposition of any ensuing criminal proceeding. This self-reporting requirement reflects MCPS' commitment to providing a safe and secure environment for all students and staff, and promotes compliance with Section 6-113 of the Education Article of the Annotated Code of Maryland.

### II. DEFINITIONS

- A. *Arrest* means the taking of a person into legal custody.
- B. *Criminal charge* means a formal accusation of an offense, including through issuance of a criminal charging document (such as a citation, an indictment, a statement of charges, or a warrant), as a preliminary step to prosecution.
- C. *Conviction* means the act or process of finding an individual guilty of a crime in a court of law. For purposes of this regulation, conviction includes a plea of guilty or nolo contendere (no contest).
- D. *Disposition* means the outcome of a criminal proceeding, including a conviction, acquittal, guilty plea, probation before judgment, etc.
- E. *Self-Reporting* means a MCPS employee provides information, either personally or through a legal representative, to the Department of Compliance and Investigations within the Office of Employee Engagement and Labor Relations (OEELR), regarding an arrest or criminal charge, as well as the disposition of any ensuing

criminal proceeding, as set forth in this regulation. This self-reporting requirement applies prospectively to arrests and criminal charges, as well as disposition of any criminal proceedings, which occur on or after October 1, 2016.

### III. PROCEDURES

- A. Any person employed by MCPS in any capacity (including but not limited to full- or part-time, probationary or non-probationary, employed in a temporary or seasonal capacity, or substitute teachers) shall report an arrest or criminal charge for any of the offenses listed below to DCI within seven business days of such arrest or criminal charge (i.e., days that MCPS offices are open), except in circumstances beyond the employee's control.
1. All arrests and criminal charges, as well as the disposition of any ensuing criminal proceeding, must be reported for any offenses involving distribution of drugs or other controlled substances, as well as the following crimes listed in Section 6-113 of the Education Article of the Annotated Code of Maryland:
    - a) A sexual offense in the third or fourth degree under § 3-307 or § 3-308 of the Criminal Law Article of the Maryland Code or an offense under the laws of another state that would constitute an offense under § 3-307 or § 3-308 of the Criminal Law Article if committed in Maryland;
    - b) Child sexual abuse under § 3-602 of the Criminal Law Article, or an offense under the laws of another state that would constitute child sexual abuse under § 3-602 of the Criminal Law Article if committed in Maryland; or
    - c) A crime of violence as defined in § 14-101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14-101 of the Criminal Law Article if committed in Maryland, including: (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking; (11) armed carjacking; (12) sexual offense in the first degree; (13) sexual offense in the second degree; (14) use of a handgun in the commission of a felony or other crime of violence; (15) child abuse in the first degree; (16) sexual abuse of a minor; (17) an attempt to commit any of the crimes described in items (1) through (16) of this list; (18) continuing course of conduct with a child under § 3-315 of the Criminal Law Article; (19) assault in the first degree; (20) assault with intent to murder; (21) assault with intent to rape; (22) assault with intent to rob; (23) assault with intent

to commit a sexual offense in the first degree; and (24) assault with intent to commit a sexual offense in the second degree.

2. Self-reporting must occur regardless of where the alleged criminal activity occurred and whether or not it was within the scope of the employee's job duties.
- B. Employees shall provide the following required information to DCI by completing MCPS Form 230-41, *Staff Self-Reporting of Arrests, Criminal Charges, and Convictions*, or by telephone, email, or mail: (a) name; (b) employee identification number; (c) job title; (d) all work assignment locations; (e) nature of charges; and (f) contact telephone number (g) e-mail address; and (h) updated street address.
  - C. Under this regulation, employees are responsible for self-reporting directly to DCI regardless of whether MCPS may receive notice of an arrest or criminal charge from the Montgomery County Police Department or another source.
  - D. All information regarding an arrest or criminal charge, as specified in this regulation, self-reported by a MCPS employee shall be maintained in a confidential manner by DCI and will be accessible exclusively for purposes of conducting any necessary follow-up internal investigation, as discussed below, or as required by law or court order.
  - E. Following the employee's self-report, OEELR shall conduct a further review of this matter. The employee will be notified if OEELR proceeds with an internal investigation.
  - F. Any internal investigation must be in accordance with all memoranda of understanding with the Montgomery County Police Department and other Montgomery County partner agencies, as well as all due process safeguards set forth in applicable laws and association agreements. If the allegations involve abuse or neglect of children or vulnerable adults, the internal investigation must be in compliance with MCPS Regulation JHC-RA, *Reporting and Investigating Child Abuse and Neglect*.
  - G. Self-reporting a charge or an arrest shall not be considered or treated as an admission of guilt.
  - H. Pending the outcome of the judicial process and/or the internal investigation, MCPS may place the employee on administrative leave or it may take administrative actions if it determines that a nexus or connection exists between the criminal charge, arrest, conviction and the employee's duties and responsibilities with MCPS, or if the employee's continuation in their job poses a potential threat to students or staff, to the investigation, or to the perpetuation of the allegedly inappropriate conduct.

- I. To assist in its review, DCI may request that the employee provide additional information, including a copy of the charging documents and disposition of any ensuing criminal proceeding.
- J. If MCPS concludes that an employee has violated this regulation by failing to self-report, the individual shall be subject to appropriate discipline.
- K. Employees may address any questions regarding obligations under this regulation to DCI.
- L. Nothing in this regulation is intended to limit or conflict with any other reporting obligation under law, Board policy, MCPS regulation, or otherwise.

**Related Sources:**

*Annotated Code of Maryland*, Family Law Article § 5-561; *Annotated Code of Maryland*, Education Article § 6-113; *Annotated Code of Maryland*, Criminal Procedure Article § 1-101; Code of Maryland Regulations (COMAR) 13A.12.05.02

**Regulation History:** New regulation, June 29, 2016; non-substantive revisions, July 24, 2017.