

REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries: ACA, ACF, ACG, ACH, ACH-RA, BLB, GCA-RA
Responsible Office: Superintendent of Schools
Chief Operating Officer

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 policies or Montgomery County Public Schools (MCPS) regulations or rules, and allegations made by employees of discrimination on the basis of any individual's actual or perceived personal characteristics as defined in Board Policy ACA, *Nondiscrimination, Equity, and Cultural Proficiency*; unless otherwise committed to another process; to encourage the informal resolution of such complaints whenever possible; and 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 those committed to an alternative process by a collective bargaining agreement or another regulation), or an allegation of discrimination under applicable laws.
- B. A *complainant* is an employee claiming that an action is contrary to that required by applicable laws, Board policies, MCPS regulations or rules.
- C. The *party in interest* is the person or persons making the complaint and any person who might be required to take action or the person or persons against whom action might be taken to resolve the complaint.
- D. *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. No reprisals of any kind will be taken by anyone against any party in interest.
- C. At all levels of the procedure, any party in interest may be represented or accompanied by any other individual of their choice.

IV. PROCEDURE

- A. No administrative complaint shall be initiated more than 15 work days after the cause has occurred or should have been discovered except for complaints of unlawful discrimination which must be brought within 180 calendar days after the cause has occurred or should have been discovered.
- B. Complaints are to be processed as soon as possible; therefore, the number of days indicated at each level should be considered as a maximum, and every effort made to expedite the process. In the event a 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 the procedures may be completed prior to the end of the school year or as soon thereafter as possible.
 - 1. Informal Process
 - a) An employee with a complaint will discuss it with the principal, or immediate supervisor¹, to seek an informal resolution of the matter.
 - b) The employee may be represented or accompanied by any individual of the employee's choice.
 - 2. Level One
 - a) If the complaint cannot be resolved to the satisfaction of the complainant through the informal process within 15 work days, the

¹ If the complaint is of sexual harassment against the principal/immediate supervisor, the employee can contact the Office of Employee Engagement and Labor Relations, Carver Educational Services Center, Room 55, (240) 314-4899, to process the complaint.

complainant will obtain a register number from the Office of Employee Engagement and Labor Relations (OEELR) and complete MCPS Form 430-42, *Administrative Complaint*.

- b) The complainant will submit the completed form to the principal/immediate supervisor within five (5) work days after the informal discussion.
- c) Upon receipt of the written complaint, the principal/immediate supervisor will:
 - (1) Initial and date the form
 - (2) Provide a copy of the complaint to the complainant
 - (3) Direct all complaints involving discrimination under applicable laws to OEELR which will assist the appropriate administrator with the investigation of the complaint² and may for reasonable cause extend for up to 10 additional work days any timeline required herein.
- d) The principal/immediate supervisor has ten (10) work days to:
 - (1) Review the written complaint and provide the complainant with the opportunity to present witnesses and evidence
 - (2) Render a decision and complete the section of the form entitled "Level One: Administrative Disposition" informing the complainant of the decision
 - (3) Return the original form to the complainant
- e) The complainant will date and initial the appropriate section of the form, and return the original to the principal/immediate supervisor.
- f) The principal/immediate supervisor will distribute copies of the completed form to all parties in interest and return the original to the complainant.

² Note that during an investigation of a sexual harassment complaint the complainant is not to be required to attend a face to face meeting with, or confront in any way, the alleged harasser.

3. Level Two

- a) If the complainant is not satisfied with the disposition of their complaint at Level One, or if no decision has been rendered within ten (10) work days after presentation of the written complaint, the complainant may appeal the matter to the appropriate administrator (associate superintendent or department director).
- b) Upon receipt of the written complaint, the appropriate administrator or designee will:
 - (1) Initial and date the form
 - (2) Provide a copy of the complaint to the complainant
- c) Within ten (10) work days after receiving the written complaint, the appropriate administrator or designee will schedule a meeting with the complainant for the purpose of resolving the complaint.
- d) Within ten (10) work days after the meeting, the appropriate administrator will:
 - (1) Complete the section of the form entitled "Level Two: Administrative Disposition" informing the complainant of the decision
 - (2) Return the original form to the complainant
- e) The complainant will date and initial the appropriate section of the form, and return the original document to the appropriate administrator.
- f) The appropriate administrator will distribute copies of the completed form to all parties in interest and return the original document to the complainant.

4. Level Three

- a) If the complainant is not satisfied with the disposition of their complaint at Level Two or if no decision has been rendered within ten (10) work days after the meeting with the appropriate administrator, the complainant may appeal the matter to the superintendent of schools/designee.

- b) Upon receipt of the written complaint, the superintendent of schools/designee will:
 - (1) Initial and date the form
 - (2) Provide a copy of the complaint to the complainant
- c) Within ten (10) work days after receiving the written complaint, the superintendent of schools/designee will schedule a meeting with the complainant for the purpose of resolving the complaint.
- d) Within ten (10) work days after the meeting, the superintendent of schools will:
 - (1) Complete the section of the form entitled "Level Three: Administrative Disposition," informing the complainant of the decision
 - (2) Return the original form to the complainant
- e) The complainant will date and initial the appropriate section of the form, and return the original document to the superintendent of schools/designee.
- f) The superintendent of schools/designee will distribute copies of the completed form to all parties in interest and return the original document to the complainant.
- g) The decision of the superintendent of schools may be appealed to the Board of Education if made in writing within 30 calendar days of the superintendent of school/designee's decision.
- h) A complaint under Section 504 of the *Rehabilitation Act of 1973* or the Americans with Disabilities Act may be filed with the United States Equal Employment Opportunity Commission within 180 calendar days of the alleged discrimination. A complaint under Title IX of the *Education Amendments Act of 1972*, as amended, may be filed with the Office for Civil Rights, United States Department of Education.

- C. The procedures set forth in this regulation and/or MCPS Regulation KLA-RA, *Responding to Inquiries and Complaints from the Public*, constitute the administrative remedies that must be exhausted before an MCPS employee may institute a civil action under the Public School Employee Whistleblower Protection Act, Maryland Annotated Code, Education Article, § 6-901 through 6-906.

Related Sources:

Equal Pay Act of 1963, as amended; Civil Rights Act of 1866, 1871, and 1991; Age Discrimination in Employment Act of 1967, as amended; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964, as amended; Equal Protection Clause of the 14th Amendment; Rehabilitation Act of 1973, Section 504; Uniform Services Employment and Reemployment Rights Act of 1994; Americans with Disabilities Act of 1990; Title IX of the Education Amendments Act of 1972; Maryland Annotated Code, Education Article, §6-901 through §6-906, Public School Employee Whistleblower Protection Act; Employee Association Agreements.

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; non-substantive revisions July 24, 2017; revised November 29, 2017.