

# POLICY

## BOARD OF EDUCATION OF MONTGOMERY COUNTY

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**Related Entries:** ACA, ACB, ACE, ACF-RA, GEG, JFA-RA

**Responsible Office:** Human Relations

### Sexual Harassment

#### A. PURPOSE

To affirm the Board of Education's opposition to sexual harassment in the Montgomery County public school system

To establish explicitly the responsibilities of all MCPS employees and students by defining conduct which constitutes prohibited and inappropriate behaviors

To create a mandate to develop educational programs designed to help MCPS employees and students recognize, understand, prevent, and take corrective action to end sexual harassment

To establish the framework for effective procedures for addressing harassment complaints

#### B. ISSUE

Inappropriate sexual conduct will not be tolerated and may constitute sexual harassment. Sexual harassment is an unlawful form of discrimination on the basis of sex under Title VII of the Civil Rights Act of 1964, as amended in 1972 and 1991, Title IX of the Education Amendment of 1972, and Article 49B of the *Annotated Code of Maryland*. Some forms of sexual harassment may also constitute criminal conduct resulting in criminal penalties as has occurred in some cases already decided.

By issuing a single, comprehensive policy statement, the Board of Education seeks to clarify and reaffirm its commitment to ensuring that all MCPS employees and students are provided with a work and learning environment that is free of sexual harassment.

#### C. POSITION

MCPS does not condone or tolerate any form of sexual harassment of, or by, staff or students.

MCPS is committed to the creation and maintenance of a learning and work environment in which all persons who participate in school programs and activities can do so in an atmosphere free from all forms of sexual harassment. The superintendent is directed to make every effort to make certain that everyone affected by this policy shall be informed of its provisions and also that infractions of it may be in violation of Federal or Maryland civil and/or criminal laws. It is the intention of MCPS to take whatever action may be needed to prevent, correct, and, if necessary, discipline behavior which violates this policy.

It is the responsibility of every supervisor and principal to recognize acts of sexual harassment and take necessary action to ensure that such instances are addressed swiftly, fairly, and effectively. Consequently, all MCPS administrative and supervisory staff in schools, offices, and other facilities shall be cognizant of, and responsible for, effectively implementing the sexual harassment complaint resolution procedures established in this policy.

1. Definition

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, written, or physical conduct of a sexual nature that takes place under any of the following circumstances:

- a) When submission to such conduct is made, explicitly or implicitly, a term or condition of employment, instruction, or participation in other school activities
- b) When submission to or rejection of such conduct by an individual is used by the offender as the basis for making personnel or academic decisions affecting the individual subjected to sexual advances
- c) When such conduct has the effect of unreasonably interfering with the individual's work and/or academic performance or creating an intimidating, hostile, or offensive work or learning environment

2. Application to Employees

- a) This policy applies to all sexual harassment incidents involving MCPS employees. It addresses incidents committed by a person of either sex against a person of the opposite or same sex. It also establishes that it is against policy and recognizes that it is unlawful for MCPS employees to commit acts of sexual harassment. Depending on the severity of the offense, any MCPS employee who violates this policy shall be subject to appropriate disciplinary action. These may include but

are not limited to oral or written reprimand, reassignment, demotion, suspension, or termination. In all cases, parties will be notified that the Employee Assistance Program is available for them.

- b) Dating or sexual relationships between employees and students or adult volunteers and students is prohibited.

3. Application to Students

Sexual harassment committed by students of either sex against students or staff of the opposite or same sex constitutes inappropriate behavior. All allegations will be investigated by the principal using the guidelines of Section E of this policy. Depending on the severity of the offense, appropriate disciplinary action, from a conference to suspension or expulsion, can be taken using the discipline policies adopted by the Board of Education. In all cases, students will be notified that school counselors are available for counseling.

4. Application to Others

Employees and students also have a right to be free from sexual harassment by others, including, but not limited to contractors, vendors, and volunteers. The supervisor or principal is responsible for investigating and taking or recommending appropriate action to address complaints of sexual harassment committed by others.

**D. DESIRED OUTCOME**

All MCPS employees and students are being educated to recognize inappropriate sexual behavior in all its forms which may constitute sexual harassment and are enabled to respond with actions to prevent, correct, and/or eliminate these offensive behaviors from the MCPS system.

**E. IMPLEMENTATION PRINCIPLES AND GUIDELINES AND STRATEGIES**

1. Principles and Guidelines

- a) Any MCPS employee or student who believes that he/she has been subjected to sexual harassment has the right to file a complaint and to receive prompt and appropriate handling of her/his complaint. In all phases of the complaint resolution process, every reasonable effort shall be made to maintain the confidentiality and protect the privacy of all parties, consistent with MCPS' responsibility to investigate and address such complaints.

- b) Any MCPS employee or student who believes that he/she has been subjected to sexual harassment should report such conduct promptly, orally or in writing, to the immediate supervisor/principal, a designated representative, or in a case involving an employee, directly to the Equal Employment Opportunity (EEO) Officer or Title IX compliance officer in the Department of Human Relations. The supervisor/principal will report to the EEO officer or Title IX compliance officer, any complaint received regarding sexual harassment involving employees. If the complaint involves MCPS employees, the investigation will be conducted by the supervisor/principal or the Department of Personnel Services through the Office of the Associate Superintendent for Supportive Services in coordination with the EEO Officer or Title IX compliance officer. If the complaint involves only students, the investigation will be carried out in accordance with the provisions in Regulation JFA-RA: *Implementation of Student Rights and Responsibilities* for allegations of misconduct.
- c) The full circumstances of the situation will be considered in the investigation of possible harassment incidents. In determining whether the alleged conduct constitutes sexual harassment, consideration shall be given to the record of the incident as a whole and to the totality of the circumstances, including the context in which the alleged incidents occurred. Employees and students should be aware that they are responsible for their conduct even if the conduct was not specifically intended to harass.
- d) Retaliation against an individual who either orally reports or files a written complaint regarding sexual harassment or who participates in or cooperates with an investigation is prohibited. The right to confidentiality, both of the complainant and the accused, shall be preserved consistent with applicable laws and MCPS' responsibility to investigate and address such complaints.
- e) MCPS employees and students should seek guidance, support, and/or advocacy in addressing matters related to sexual harassment or inappropriate behavior of a sexual nature. Employees of the Department of Human Relations, Employee Assistance, and the Office of Student Affairs are to be available for these services.

## 2. Strategies

The superintendent will direct the EEO officer to coordinate the implementation of this policy. Implementation activities will include, but not be limited to:

- a) Education of all staff and students about this policy and associated federal and state laws prohibiting sexual harassment by widely disseminating information in documents such as announcements, bulletins, brochures, applications, contracts, and other communications
- b) Publication and dissemination of information to all MCPS employees and students that will inform them of this policy, what sexual harassment is, what the individual can do, and where to go for help
- c) Development of mandatory training seminars and in-service programs for all principals, supervisors, and administrators to ensure the appropriate implementation of this policy. These training programs shall be designed to:
  - (1) Inform them of their duties, responsibilities, and potential liabilities as workplace managers when dealing with incidents involving sexual harassment
  - (2) Assist them in developing training programs for MCPS employees dealing with sexual harassment to inform them of the policy, what sexual harassment is, what the individual can do, and where to go for help. The aim of such training is to ensure increased awareness of inappropriate behaviors prohibited by this policy and other state and federal laws on sexual harassment.
  - (3) Provide clear guidelines and assistance for handling appropriately all incidents of sexual harassment in MCPS.
- d) Appropriate opportunities to educate students about matters related to sexual harassment in order to develop behaviors and attitudes that mitigate against inappropriate sexual overtures and pressures in school, work, and social settings. Programs and curricula such as the Comprehensive Guidance and Counseling Program, which already include related competencies or objectives, should include student materials regarding sexual harassment. K-12 curricular modifications that integrate activities and skill building to help students understand and overcome sexual harassment problems should be introduced as soon as possible.

**F. REVIEW AND REPORTING**

- 1. The superintendent will report quarterly to the Board of Education on reported sexual harassment incidents. Reports shall include quantitative as well as qualitative monthly

incident aggregate data for both MCPS staff and students; 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 on-going basis in accordance with the Board of Education policy review process.

*Policy History:* Adopted by Resolution No. 837-92, November 23, 1992; amended by Resolution No. 466-96, June 24, 1996.