

POLICY

BOARD OF EDUCATION OF MONTGOMERY COUNTY

Related Entries: ACA, ACB, ACG-RA
Responsible Office: Superintendent of Schools

Access to Services, Programs, and Activities by Individuals with Disabilities

A. PURPOSE

1. To provide a clear and comprehensive mandate for the prohibition and elimination of any discrimination or harassment against qualified individuals with disabilities in regard to their participation in the school system's services
2. To make clear to the public and to the staff and students of Montgomery County Public Schools (MCPS) that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of an MCPS service
3. To affirm a strong commitment to the goals of the Americans With Disabilities Act of 1990 (ADA), as well as to the Rehabilitation Act of 1973 and other applicable disability laws as they relate to the school system's services

B. ISSUE

MCPS has expressed its commitment to nondiscrimination against individuals with disabilities in policies such as human relations and nondiscrimination. With the enactment of the ADA, MCPS adopted Policy GBH: *Employment of Individuals with Disabilities*. Since the adoption of that policy, federal regulations have been issued regarding the other areas protected under the ADA; i.e., services, programs, and activities. By issuing a companion ADA policy on services for individuals with disabilities, the Board of Education seeks to clarify and reaffirm its commitment to nondiscrimination in all areas for individuals with disabilities.

C. POSITION

1. Definitions
 - a) *An individual with a disability* as defined by applicable law is one who has a

physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded by MCPS as having an impairment.

- b) The term *qualified individual with a disability* means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices; the removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of an MCPS service or the participation in an MCPS program or activity and does not pose a direct threat to the health or safety of himself/herself or others.
- c) The term *principal* means the principal of an MCPS school or an individual in charge of an MCPS unit that is not a school.
- d) The term *services* includes any services, programs, or activities provided by MCPS.
- e) The term *auxiliary aids* includes any auxiliary aids, benefits, or services provided by MCPS.

2. Commitments

- a) MCPS will not discriminate on the basis of disability against any qualified individual with a disability with respect to participating in or benefiting from MCPS services.
- b) In providing any aids, program benefits or opportunities, or services, either directly or through contractual, licensing or other arrangements, MCPS will afford a qualified individual with a disability an equal opportunity to participate or benefit.
- c) MCPS will provide a qualified individual with a disability auxiliary aids that are effective and afford equal opportunity to obtain the same result, gain the same benefit or reach the same level of achievement as that provided to others.
- d) MCPS will not provide separate auxiliary aids to individuals with disabilities except where such action is necessary to provide such aids that are as effective as those provided to others.

- e) MCPS will notify applicants, participants, beneficiaries and other interested persons of the rights and protections of the ADA, including the right not to accept an auxiliary aid.
- f) MCPS will not perpetuate any discrimination against qualified individuals with disabilities by providing significant assistance to any agency, organizations, or persons that discriminate on the basis of disability.
- g) MCPS will not deny, on the basis of disability, a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards or committees.
- h) MCPS will not otherwise limit a qualified individual with a disability the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others.
- i) MCPS will not deny, on the basis of disability, a qualified individual with a disability the opportunity to participate in services provided to others.
- j) MCPS will not, in determining the site or location of any facility, make selections that unlawfully discriminate against individuals with disabilities.
- k) MCPS, in selection of procurement contractors, will not use criteria that subject qualified individuals with disabilities to discrimination on the basis of their disability.
- l) MCPS will make reasonable modifications in policies, practices, and procedures when the modifications are necessary to avoid discrimination on the basis of disability unless such modifications would fundamentally alter the nature of the service, or, where applicable, result in an undue financial or administrative burden.
- m) MCPS will not use eligibility criteria that have the effect of screening out individuals with disabilities from fully and equally enjoying any service unless such criteria are necessary to the provision of the service.
- n) MCPS will administer its services in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
- o) MCPS will not impose any surcharge on any individual with disability to cover the costs entailed in ensuring nondiscrimination.

- p) MCPS will not deny services to an individual based on his/her relationship or association with an individual with a disability.
- q) MCPS will provide communications to qualified individuals with disabilities that are as effective as communications with others.

D. DESIRED OUTCOME

All qualified individuals with disabilities will be able to access MCPS services and be provided appropriate auxiliary aids whenever necessary to ensure participation, so long as the provision of the auxiliary aids results neither in an undue burden nor a fundamental alteration of the service.

E. IMPLEMENTATION STRATEGIES

1. Procedures for implementing this policy will be set forth in administrative regulations as needed.
2. The ADA Coordinator designated by the superintendent will be responsible for coordinating the efforts of MCPS to comply with and carry out its responsibilities under the ADA, including participating in investigation of any complaint, and will be available to provide guidance, and support in matters related to the rights of individuals with disabilities.
3. Complaint procedures for prompt and equitable resolution of ADA complaints will be described in administrative regulations. MCPS will not discriminate or retaliate against an individual for filing a charge or participating in an investigation or proceeding under the ADA.

F. REVIEW AND REPORTING

A report regarding the status for implementation and monitoring of this policy will be prepared annually for Board review.

Policy History: Adopted by Resolution No.26-96, January 11, 1996.