

REGULATION **MONTGOMERY COUNTY PUBLIC SCHOOLS**

Related Entries:	BLB, BLC, JFA, JFA-RA, JHE-RA, JNA, JNA-RA, KLA-RA
Responsible Office:	Shared Accountability Division of Policy, Records, and Reporting
Related Sources:	<i>Family Educational Rights and Privacy Act</i> , 20 U.S.C. §1232g; 34 CFR, Part 99; <i>Individuals with Disabilities Education Act (IDEA)</i> , 20 U.S.C. §1400, et seq.; <i>Code of Maryland Regulations</i> §13A.08.02, §13A.08.07; Annotated Code of Maryland, <i>Generals Provisions Article</i> §4-313; Rehabilitation Act of 1973, 20 U.S.C. §794 (Section 504)

Student Records

I. PURPOSE

To provide procedures and establish responsibility for collecting, maintaining, and releasing information about students that is contained in the students' records

II. DEFINITIONS

- A. *A child in state-supervised care* means a child who is in the custody of, committed to, or otherwise placed by a placement agency.
- B. *An eligible student* is a student who is 18 years of age or older, or is attending an institution of postsecondary education. Parents/guardians of dependent eligible students may access the student's education records without prior consent of the eligible student.
- C. *A parent* is a parent, guardian, or individual acting as a parent in the absence of a parent or guardian.
- D. *Placement agency* means—
1. a local department of social services;
 2. the Department of Health and Mental Hygiene;
 3. the Department of Juvenile Services; or

4. a private agency that–
 - a) engages in the placement of children in homes with individuals; and
 - b) is licensed by the Social Services Administration under Annotated Code of Maryland, *Family Law Article*, §5-507 .

- E. A *responsible adult acting on behalf of a child in state-supervised care* is a parent, guardian, individual acting as parent of a child such as a relative or stepparent with whom the child lives, foster parent with whom the child lives if the foster parent has been granted limited guardianship for educational decision-making purposes by the court, and other individuals who are legally responsible for the child’s welfare. They are afforded all rights as parents.

- F. A *school* is a public school or noncollegiate educational institution that has an educational program approved by a state department of education.
 1. *Receiving school* is a school in which a student is newly enrolled or seeks to enroll.
 2. *Sending school* is a school in which a student was enrolled prior to enrolling, or seeking to enroll, in another school.

- G. A *student record* consists of information directly related to a student. It is maintained by the educational agency in written, photographic, or computer media format. Student records include records concerning disciplinary actions taken against the student. Student records do not include personal files kept by professionals or records of a law enforcement unit of the school system if the records are maintained separately from education records, maintained only for law enforcement purposes, and disclosed only to law enforcement officials of Montgomery County.

III. GENERAL PROVISIONS

- A. School recordkeeping practices and procedures will be in accordance with federal and state law, regulations of the Maryland State Board of Education, and the *Maryland Student Records System Manual*.

- B. Files Kept by Professionals for the Purpose of Recalling Information
 1. Administrators, counselors, teachers, psychologists, nurses, pupil personnel workers, social workers, and other staff members may maintain personal files containing notes, transcripts of interviews, clinical diagnoses, and

other memory aids for recalling information.

2. Personal files are to be kept in a secure place, preferably locked, and will not be available to or shared with any other person.
 3. Personal files are to be destroyed when no longer useful.
 4. If a subpoena for these records is received, a staff member will notify the principal. The principal then follows the procedures set forth in the Montgomery County Public Schools (MCPS) *Student Record Keeper Manual* and contacts the Office of the General Counsel.
- C. Principals may withhold the sending of report cards or other records if the student has an outstanding obligation to the school. However, parents or eligible students may request and receive copies of the student's records regardless of the obligation. (See MCPS Regulation JNA-RA, *Curricular Expenses for Students*.)
- D. Records for students who have graduated or withdrawn are maintained by each school and ultimately forwarded to Central Records in accordance with procedures described in the MCPS *Student Record Keeper Manual*.
- E. Abuse and neglect reports, including but not limited to MCPS Form 335-44, *Report of Suspected Abuse and Neglect*, are to be kept in a separate location from the student's records and do not become part of a student's record. The reports/forms must be maintained until the student is 22 years of age.

IV. CONTENT OF STUDENT RECORDS

In accordance with procedures described in the MCPS *Student Record Keeper Manual*, a record is created for each student who enrolls in MCPS, which consists of the following folders:

- A. The cumulative folder—
1. includes the following:
 - a) Basic student data recorded on forms and cards mandated by the *Maryland Student Records System Manual* or MCPS
 - b) Suspension reports and discipline records
 - c) Report cards

- d) Documentation of residency
- e) Restraining orders, custody documentation, and court orders
- f) Any other information identified in the *MCPS Student Record Keeper Manual*

2. does not include the following:

- a) Personal files kept by professionals in accordance with Section III.B
- b) Records of a law enforcement unit of the school system that are maintained only for law enforcement purposes
- c) Abuse and neglect reports, including but not limited to MCPS Form 335-44, *Report of Suspected Abuse and Neglect*, sent to or from the Montgomery County Department of Health and Human Services (commonly known as Child Protective Services) or, for vulnerable adults, Adult Protective Services.
- d) State-mandated bullying and harassment reports, which include MCPS Form 230-35, *Bullying, Harassment, or Intimidation Reporting Form* and MCPS Form 230-36, *Bullying, Harassment, or Intimidation Incident School Investigation Form*.

If the investigation results in a disciplinary action, follow the procedures set forth in MCPS Regulation JGA-RB, *Suspension and Expulsion*.
- e) Data not collected for all students, unless it is authorized by the parent or eligible student

B. A health folder–

- 1. is usually maintained in the health room by school health services staff,
- 2. consists of information pertaining to a student’s medical history and health needs, and
- 3. includes cards and forms required by the *Maryland Student Records System Manual* and any other information identified in the *MCPS Student Record Keeper Manual*.

C. A confidential folder–

1. is created when a student is referred for special education screening under the federal Rehabilitation Action of 1973 codified at 29 U.S.C, §794 (Section 504) plan or under the federal *Individuals with Disabilities Education Act* (IDEA) codified at 20 U.S.C. §1400 has been established, or when information is gathered to supplement basic student data;
2. consists of forms and documents listed in the MCPS *Student Record Keeper Manual*; and
3. may include independent evaluations and assessments provided to the school by a parent or eligible student or at the parent's or eligible student's request.

V. RESPONSIBILITIES

The principal/designee supervises and has the ultimate responsibility for student records within their building. These responsibilities include the following:

- A. Becoming acquainted with the record system.
- B. Collecting, retaining, using, and disposing of required data in accordance with the *Code of Maryland Regulations* (COMAR) for each student in the school.
- C. Establishing procedures to review and maintain complete and accurate records in accordance with the MCPS *Student Record Keeper Manual*. At a minimum, student records must be reviewed when—
 1. the student articulates to the next higher transitional level, such as from elementary to middle school;
 2. the student graduates from high school;
 3. the student withdraws for any reason; or
 4. the student is referred for special education or Section 504 plan consideration.
- D. Ensuring that all data are legible and current. Material or records that no longer serve a legitimate educational purpose are destroyed so that they cannot be reconstructed and used to identify the student.

1. Examples of such material are miscellaneous notes, duplicate copies of report cards and Individualized Education Programs (IEPs), and obsolete test booklets.
 2. Material may not be removed from the student's records if the school has received a request to review the record, if there is an outstanding subpoena for student records, or if the school has been notified of a request to preserve documents due to pending or potential litigation, including special education hearings.
- E. Signing graduate transcripts as required by the *Maryland Student Records System Manual*.
- F. Submitting on an annual basis a certification of the accuracy of student records by using MCPS Form 226-7, *Student Records Review and Update Verification Certification Statement*.
- G. Ensuring the security of each student's cumulative, health, and, when appropriate, confidential folders.
- H. Notifying the parent or eligible student in writing immediately when a confidential folder is established. The written notification will—
1. include a statement as to why the confidential folder is being established;
 2. inform the parent or eligible student of their right of access to the file; and
 3. state that the file will be destroyed when it is no longer useful for educational purposes.
- I. Providing guidance to staff members about student records and maintaining their confidentiality.
- J. Keeping copies of past psychological assessment reports as well as the most current psychological assessment report in the student's confidential folder.

VI. NOTIFICATION OF RIGHTS

- A. In accordance with federal law, MCPS provides an annual notification of rights to parents and eligible students that will include the following:
1. The right to inspect and review student's education records and the procedure for doing so.

2. The opportunity for a hearing to challenge the content of the student's education record when it is believed it contains information that is inaccurate, misleading, or in violation of the privacy or other rights of the student and the procedure for doing so. (Grades are not subject to challenge through this regulation.)
3. The right to limit disclosure of information from the student's education record to individuals identified in Section VI.B. of this regulation.
4. The right to file a complaint with the U.S. Department of Education if the parents or eligible student believe their rights under this law have been violated and efforts to resolve the situation through MCPS appeal channels have not proved satisfactory.
5. A statement that student records are forwarded on request, without consent from the parent or eligible student, to a receiving school in which a student seeks or intends to enroll.

B. Directory Information

1. Directory information is information relating to a student that would not generally be considered harmful or an invasion of privacy if disclosed.
2. A student's address and phone number are designated by MCPS as directory information and may be released to organizations of any combination of parents, teachers, and students of a school; a branch of the military; a person engaged by a school or board of education to confirm a home address or home phone number; a Maryland community college; or the Maryland Higher Education Commission, unless specifically prohibited by the parent or eligible student. Release of a student's address or phone number to any other person or entity is not permitted unless: (a) the procedures set forth in Section VII of this regulation are followed or (b) the release of the directory information is otherwise consistent with applicable law and aligned with the educational mission of the district, as determined by the superintendent of schools or designee.
3. Other categories of personally identifiable information that MCPS has designated as directory information may be disclosed to anyone who requests it unless specifically prohibited by the parent or the student. The categories are the student's and/or parent's name, e-mail address, student's date and place of birth; major field of study; participation in officially recognized activities and sports; degrees and awards received (including honor roll); most recent school attended; dates of attendance; photograph,

or other likeness; the weight and height of members of athletic teams; and other similar information.

4. Other categories of information maintained in a student's record and not listed in the two previous items cannot be released without following the procedures set forth in Section VII of this regulation.
- C. Within 30 days following the beginning of each school year, MCPS will give public notice of the following:
1. The categories of personally identifiable information that MCPS has designated as directory information.
 2. The right of the parent or eligible student to withhold all or part of the personally identifiable information from public release.
 3. The right to limit disclosure of a student's home address and phone numbers.
 4. The period of time within which the parent or eligible student must inform the school in writing that such personally identifiable information is to be withheld.

VII. RELEASE OF AND ACCESS TO STUDENT RECORDS

- A. Parents and students may access the student's record by submitting a written request to the school. Requests will be complied with, whenever practicable, within 10 school days after the written request has been received and prior to any hearing relating to the identification, evaluation, or placement of the student, and in no case more than 45 days after the request has been made.

A staff member is to be present during the review. If needed or requested, an appropriate professional staff member must be present to interpret a psychological report or health record.

- B. A student's record is accessible to school officials, which includes administrators, supervisors, teachers, school nurses, health care professionals who work with schools, school security personnel, school attorneys and auditors, and others acting on behalf of the school system who need access to fulfill their job responsibilities.
- C. Record Keeping Procedures

1. Student records only may be removed from the immediate area in which they are stored by obtaining written or verbal permission of the principal/designee and by placing a dated and signed document in the storage file to indicate the folder's location.
2. A record (log) of individuals who have requested and/or obtained access to a student's record must be maintained by the principal/designee.
 - a) The log must indicate the name(s) of the person(s) requesting/obtaining access, the date of request/review, and the purpose of the review.
 - b) The log is kept with the student's record.
 - c) Exceptions to this record log procedure are the following:
 - (1) School officials and authorized personnel as noted in Section VII.B.
 - (2) Persons who have received written consent of the parent or eligible student.
 - (3) A person seeking or receiving the records as directed by a federal grand jury or other lawfully issued subpoena or order where the issuing agency has ordered that the existence, the content of the subpoena, or the information furnished in response not be disclosed.
 - (4) The parent or eligible student.

D. General Procedures for Release of Records

1. Release of student records is the responsibility of the principal/designee, and requests must be made in writing, signed, and dated.
2. Exceptions that allow disclosure without written consent are as follows:
 - a) School officials (as listed in Section VII.B.) and others acting on behalf of the school system who need access to fulfill their job responsibilities.
 - b) Receiving school into which a student seeks to enroll.

- c) Representatives of a public agency, as determined by the principal/designee in a safety or health emergency, after considering–
 - (1) the seriousness of the threat to the health or safety of the student or other individuals;
 - (2) the need to know the information to meet the emergency;
 - (3) whether the individuals to whom the information is disclosed are in a position to deal with the emergency; and
 - (4) the extent to which time is of the essence in dealing with the emergency.
- d) Authorized government officials.
- e) To an agency caseworker or other representative of a state or local child welfare agency, when the agency or organization is legally responsible for the care and protection of the student.
- f) Financial aid personnel, if needed to determine eligibility for financial aid.
- g) Accrediting organizations carrying out accrediting functions.
- h) Judicial order or subpoena, following the procedures described in the *MCPS Student Record Keeper Manual*.
- i) To organizations conducting studies for, or on behalf of, the school, in order to
 - (a) develop, validate, or administer predictive tests;
 - (b) administer student aid programs; or
 - (c) improve instruction.
- j) To accrediting organizations to carry out their accrediting functions.
- k) To parents of an eligible student if the student is a dependent for Internal Revenue Service tax purposes.

3. A request should be honored within 10 school days from the date of request; however, federal and state law permit compliance within 45 days.

E. Release of Records to Parents and Students

1. If a parent or student requests copies of the student's cumulative, health, and/or confidential records, one complete set of same will be released free of charge. A reasonable fee may be charged for additional copies of these records.
2. The first three sets of transcripts are provided free of charge. For further information concerning fees for transcripts see Montgomery County Board of Education (Board) Policy JNA, *Curricular Expenses for Students*.

F. Release of Student Records to the Noncustodial Parent

Parents who do not have custody of their children are entitled to receive copies of report cards, test scores, school newsletters, interim reports, loss-of-credit notification, and other information that pertains to the student's education and that is routinely sent to or available to the parent who has custody unless there is a court order or legally binding agreement, such as a separation agreement, in the student's cumulative folder to the contrary.

1. The noncustodial parent has the responsibility to submit a written request to the principal/designee and should include the noncustodial parent name, address, and type of information desired.
2. Schools may ask the noncustodial parent to provide self-addressed envelopes for sending this material or to pay a reasonable fee at the beginning of the school year for copying and mailing unless the noncustodial parent signs a notarized statement that they are unable to pay the fee.
3. The custodial parent should be notified when such a request has been made.

VIII. CORRECTION OF STUDENT RECORDS

If a parent or eligible student believes the education records relating to the student are inaccurate, misleading, or in violation of the student's rights to privacy, the parent or eligible student may ask MCPS to amend the record, in accordance with MCPS Regulation KLA-RA, *Responding to Inquiries and Complaints from the Public*, which governs the resolution of disputes and the review of administrative decisions and includes formal steps

that utilize a hearing officer, as appropriate.

- A. If, as a result of a hearing, MCPS decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall amend the student records accordingly and inform the parent or eligible student in writing.
- B. If, as a result of a hearing, MCPS decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the parent or eligible student of the right to place a statement commenting on the contested information in the student records or stating why they disagree with the decision of the school system. MCPS shall maintain the statement as long as the record is maintained and disclose the statement whenever it discloses the portion of the record to which the statement relates.
- C. If the party wishes to appeal the Board's decision, they may file a complaint with the U.S. Department of Education. Complaints should be addressed to the U.S. Department of Education, Family Policy Compliance Office, 400 Maryland Avenue, SW, Washington, DC 20202-5920.

IX. TRANSFERRING STUDENT RECORDS

- A. General
 - 1. The original records are never given to the student or parent for transfer; however, they may receive copies.
 - 2. Once a school has received a formal request for records, the sending school will send the records to the receiving school, with the following exceptions:
 - a) No records or reports of suspected child abuse or neglect may be sent to any school.
 - b) No records of a student's treatment for substance abuse or effort to obtain treatment for substance abuse may be sent to any school unless the sending school has obtained written consent of the student, even if the student is a minor.
 - 3. Before sending psychological reports, schools should confirm that they have the most current report on file by contacting the psychological services unit of the MCPS Department of Student Services.
 - 4. Specific records are forwarded in accordance with the MCPS *Student*

Record Keeper Manual.

B. Within MCPS

1. A MCPS sending school should not forward student records until a verbal or written request has been made by a MCPS receiving school.
2. Records are routinely sent to another MCPS school for students who transfer as a result of promotion or boundary change. Records of students who fail to report to the receiving school by September 30 are returned to the sending school.
3. Records may be hand carried by the principal/designee to the receiving school or sent through the interoffice mail system offered through the Department of Materials Management.

C. To Schools Outside MCPS

1. Student records may not be transferred to another school outside MCPS without a written request from the receiving school.
 - a) Oral requests, however, may be accepted in the case of homeless students to expedite the transfer. A written record should be made of an oral request for the records of a homeless student. The written record should include the MCPS response.
 - b) If a state agency involved in state-supervised care requests student records, the sending school must comply.
2. If the request is from a non-MCPS public school in Maryland, the sending school must use MCPS Form SR-7, *Maryland Student Withdrawal/Transfer Record*. This is optional for transfers to nonpublic schools and out-of-state schools.
3. Records may be mailed to receiving schools outside MCPS.

D. Transfer of records for students in state-supervised care

1. Prior to or concurrent with the placement or modification of the placement of a child in state-supervised care, a placement agency responsible for the child in state-supervised care or the placement agency's designee, or the responsible adult acting on behalf of the child in state-supervised care, education guardian, parent surrogate, foster parent, court-appointed

attorney, or court-appointed special advocate acting on behalf of the child in state-supervised care, will provide notice to a receiving school regarding the enrollment or imminent enrollment of the child in state-supervised care.

2. Within two school days after receiving notice regarding the student's enrollment or imminent enrollment, a receiving school will—
 - a) inform the sending school of the enrollment or imminent enrollment of the child in state-supervised care;
 - b) request in writing, the educational records of the child in state-supervised care from the sending school;
 - c) provide a copy of the request for educational records to the child in state-supervised care or the responsible adult acting on behalf of the child in state-supervised care; and
 - d) inform the child in state-supervised care or the responsible adult acting on behalf of the child in state-supervised care of their rights concerning the transfer of records.

3. After receiving a request from a receiving school, a sending school will—
 - a) immediately inform the receiving school orally of the grade level in which the child in state-supervised care was last enrolled;
 - b) immediately inform the receiving school orally of the status of the child in state-supervised care under the federal *Rehabilitation Act of 1973* codified at 29 U.S.C. §794 (Section 504) or under the federal *Individuals with Disabilities Education Act* codified at 20 U.S.C. §1400; and
 - c) Within three school days following receipt of notice from the receiving school, send by mail or transmit electronically to the receiving school a copy of the following:
 - (1) A completed student withdrawal or transfer record of the child in state-supervised care.
 - (2) The academic records of the child in state-supervised care.
 - (3) The immunization records of the child in state-supervised care.

- (4) If applicable, the most recent IEP or Section 504 plan and the most recent assessment of the child in state-supervised care.
 - (5) The discipline records of a child in state-supervised care.
 - (6) Health records that are educationally relevant.
 - (7) A birth certificate or other proof of age, and
 - (8) A blood lead testing certificate; if applicable.
- d) A placement agency or school employee may hand carry copies of the documents listed in Section IX.D.3(c) from a sending school to a receiving school.
 - e) If the sending school does not have or provide the records listed in Section IX.D.3(c) and the placement agency has access to them, the placement agency will provide them to the receiving school.

Regulation History: Formerly Regulation No. 545-1, revised October, 1982, revised December 1986; revised November 11, 1993; revised October 20, 2000; revised May 8, 2008; revised October 8, 2008; revised September 10, 2013; revised November 17, 2015.