

REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries: COB-RA, COE-RA, COG-RA, IGO-RA, IGT-RA, JFA-RA, JGA-RA, JGA-RB, JPC-RA

Responsible Offices: Chief Operating Officer; Office of District Operations, Department of Systemwide Safety and Emergency Management; Office of School Support and Well-being

Search and Seizure

I. PURPOSE

To specify the conditions under which Montgomery County Public Schools (MCPS) staff members may conduct a search and seizure, which is defined as examining a student's person or property with the intent of discovering an item or items, the possession or inappropriate use of which is prohibited by Maryland law, Montgomery County Board of Education policy or MCPS regulation or rule, and the procedures by which MCPS staff members may take possession of discovered items.

Procedures for search and seizure of students' possessions, or school-supplied items, by law enforcement officers will be in accordance with state law. Community engagement officers (CEOs) are law enforcement officers and are not considered MCPS staff members.

Every effort will be made to conduct searches and seizures in a manner that will minimize disruption of the normal school routine and minimize embarrassment to students affected.

II. PROCEDURES

A. Search and seizure provisions set forth in this regulation are in effect whenever students or their possessions are on MCPS property. For purposes of this regulation, MCPS property is defined as any school or other MCPS facility, including grounds owned and operated by MCPS, MCPS buses and other MCPS vehicles, and grounds of any MCPS-sponsored activity involving students. Students participating in an activity (e.g., performance, competition, or athletic event) in their capacity as MCPS students are subject to this regulation, regardless of the location of the activity.

B. Reasonable Belief

1. Students are protected by the Fourth Amendment of the U.S. Constitution against unreasonable search and seizure of their person and/or their possessions by school officials.
2. Reasonable belief refers to the standard used for an Authorized Searcher (see II.B.) to conduct a search of a student or the student's possessions.
 - a) Searches must be based on reasonable belief at the inception of the search that the student possesses an item that is a criminal offense under the laws of Maryland or a violation of any law, Board policy, MCPS regulation or rule, or the *Student Code of Conduct in MCPS*.
 - b) An Authorized Searcher may not conduct a search of a student based solely on the request of a law enforcement officer. However, credible information provided by a law enforcement officer may form the basis for an Authorized Searcher to acquire reasonable belief to conduct a search.
3. An Authorized Searcher may search the physical plant of the school, which includes, but is not limited to, its fixtures, equipment, auxiliary buildings, and lockers and storage cubicles of students; and search of such school-supplied items does not require the reasonable belief of a violation.

However, student possessions within the locker or storage cubicles (e.g., backpacks, coats, or purses) or vehicles on MCPS property (e.g., a car or bicycle) may only be searched subject to the reasonable belief of a violation, and an additional MCPS staff member must be present at the time of any search of a student and/or the student's possessions. Prior to any search of a vehicle, the Authorized Searcher must contact the Department of Systemwide Safety and Emergency Management (DSSEM), and a DSSEM staff member will direct the search.
4. Reasonable belief is determined by considering the nature of the suspicion, the amount and credibility of the evidence, and all relevant circumstances. Less-verifiable evidence is needed to justify the search of a student if the information concerns the possession of a weapon.
5. The scope of the search and seizure also must be reasonable, taking into consideration the student's age, gender, the nature of the offense, and the size of the suspected item.

C. Authorized Searcher

1. The DSSEM is responsible for training Authorized Searchers on search-and-seizure procedures.
2. An authorized Searcher includes the following:
 - a) A principal or assistant principal
 - b) An MCPS DSSEM staff member and/or a school-based security staff member (employed by MCPS)
 - c) A teacher on a school-sponsored trip who has been so designated in writing by the principal/designee and who has been trained in conducting searches
3. Authorized Searcher, under this regulation, does not include the following:
 - a) A parent/guardian or volunteer
 - b) A staff member supervising after-school activities
 - c) A Montgomery County Department of Police CEO, or other law enforcement officer

In the event that the person in charge of supervising students is not an Authorized Searcher and has a reasonable belief that a student has an item, the possession or inappropriate use of which is a criminal offense or a violation of any law, Board policy, MCPS regulation or rule, or the *Student Code of Conduct in MCPS*, they must do one of the following:

- (1) Immediately contact a school Authorized Searcher.
- (2) Contact law enforcement if an Authorized Searcher is not immediately available.

D. Conducting a Search

1. Authorized Searchers conducting a search of a student, possessions, or school-supplied items will make a reasonable effort to inform the student prior to the search.

2. At the conclusion of the student search, an appropriate administrator will contact the parent/guardian of the student who was searched to provide information related to the reason for the search and its outcome.
3. If a student refuses to permit a search of the student's person or possessions, the Authorized Searcher should advise the student that the student's parent/guardian and/or the police may be contacted. A student's refusal to permit a lawful search may result in disciplinary action.
4. An additional MCPS staff member must be present at the time of any search of a student and/or the student's possessions.

E. Search and student self-search procedures

1. A student self-search is defined as a student's own examination of the student, under the direction of an Authorized Searcher.
2. The DSSEM maintains and distributes guidance, as appropriate, to schools including, but not limited to—
 - a) search-and-seizure procedures, including student self-search,
 - b) sample letter for designation of teachers as an Authorized Searcher on school-sponsored trips, and
 - c) Memoranda of Understanding with law enforcement.

F. Identification and storage of seized items

1. If an Authorized Searcher discovers an item or items, the possession or inappropriate use of which is prohibited by Maryland law, Board policy or MCPS regulation or rule, as a result of a search of a student's person or property, the item(s) will be seized, identified, and stored as follows:
 - a) Place the item in a sealed envelope or other container.
 - b) Label the envelope/container with the name of the Authorized Searcher who seized it; date, time, and method of attainment; and the name of the person from whom the material was obtained. The label must not include the name of the person from whom the material was obtained in the case of drugs acquired from a student seeking help with overcoming drug use during confidential

counseling, consistent with state law and MCPS Regulation IGO-RA, *Guidelines for Incidents of Alcohol, Tobacco, and Other Drug Abuse Involving Students*.

- c) Store the envelope/container in a secure place until the item(s) are released to the proper authorities or until the Authorized Searcher is advised to return the item(s), as appropriate, to the student or parent/guardian within a reasonable period of time.

2. Personal mobile devices

- a) MCPS Regulation COG-RA, *Personal Mobile Devices*, defines personal mobile devices (PMDs) and establishes guidelines for authorized use of PMDs on MCPS property.
- b) For any PMD seized based on a reasonable belief that it is or was being used inappropriately in violation of Maryland laws, Board policies, or MCPS regulations or rules, the authorized searcher will label and store the PMD securely, following procedures in section II.D.1 of this regulation, then confer with the DSSEM to determine appropriate next steps, to include the following:
 - (1) The authorized searcher should only search the contents of a PMD under direction from DSSEM.
 - (2) The PMD should be turned over to law enforcement, including the CEO, only in consultation with the DSSEM.

3. Firearms

If a student is suspected of possessing a firearm, law-enforcement assistance must be requested immediately (see Regulation COE-RA, *Weapons*).

- a) Law enforcement, DSSEM staff members, or school-based security staff members (employed by MCPS) will remove the suspected firearm from the student or location when safe and practical.
- b) In the case of an emergency or other circumstances requiring swift action to prevent harm to others, the search may be initiated prior to obtaining assistance from law enforcement.

F. Reporting

In accordance with MCPS Regulation COB-RA, *Incident Reporting*, any search or seizure will be reported according to established procedures to—

1. the Office of School Support and Well-being, when referring to regular or special education schools or alternative programs, or
2. the Office of the Chief Operating Officer, when referring to all other locations or operations sites.

G. The principal/designee will inform parents/guardians and students about the laws, Board policies, and MCPS regulations and rules regarding search and seizure through the distribution of *A Student's Guide To Rights and Responsibilities in MCPS* and *Student Code of Conduct in MCPS* at the beginning of the school year.

H. Actions not subject to this regulation

1. These rules do not apply when teachers/school staff members temporarily take away student possessions that are openly used in a manner that distracts from the learning environment, as long as there is no search involved.
2. Teachers/school staff members are expected to—
 - a) store such item(s) in a secure place, and
 - b) return the items, as appropriate, to the student or parent/guardian within a reasonable period of time.

Related Sources: Annotated Code of Maryland, Education Article, §7-308; Code of Maryland Regulations 13A.08.01.14; Memorandum of Understanding¹; Student's Guide to Rights & Responsibilities in MCPS; Student Code of Conduct in MCPS

Regulation History: Formerly Regulation No. 270-7, May 21, 1979 (directory information updated, October 1986); revised June 11, 1993; revised October 4, 1996; revised October 13, 1999; updated office titles June 1, 2000; revised December 22, 2005; revised July 1, 2017; revised June 8, 2023.

¹ Full title: *Memorandum of Understanding Between the Montgomery County Police Department and the Montgomery County Public Schools and Other Agencies Regarding the Community Engagement Officer Program and Other Law Enforcement Responses to School-Based Incidents, April 4, 2022 (Memorandum of Understanding)*

MCPS NONDISCRIMINATION STATEMENT

Montgomery County Public Schools (MCPS) prohibits illegal discrimination based on race, ethnicity, color, ancestry, national origin, nationality, religion, immigration status, sex, gender, gender identity, gender expression, sexual orientation, family structure/parental status, marital status, age, ability (cognitive, social/emotional, and physical), poverty and socioeconomic status, language, or other legally or constitutionally protected attributes or affiliations. Discrimination undermines our community's long-standing efforts to create, foster, and promote equity, inclusion, and acceptance for all. The Board prohibits the use of language and/or the display of images and symbols that promote hate and can be reasonably expected to cause substantial disruption to school or district operations or activities. For more information, please review Montgomery County Board of Education Policy ACA, *Nondiscrimination, Equity, and Cultural Proficiency*. This Policy affirms the Board's belief that each and every student matters, and in particular, that educational outcomes should never be predictable by any individual's actual or perceived personal characteristics. The Policy also recognizes that equity requires proactive steps to identify and redress implicit biases, practices that have an unjustified disparate impact, and structural and institutional barriers that impede equality of educational or employment opportunities. MCPS also provides equal access to the Boy/Girl Scouts and other designated youth groups.**

For inquiries or complaints about discrimination against MCPS students*	For inquiries or complaints about discrimination against MCPS staff*
Director of Student Welfare and Compliance Office of District Operations Student Welfare and Compliance 850 Hungerford Drive, Room 55, Rockville, MD 20850 240-740-3215 SWC@mcpsmd.org	Human Resource Compliance Officer Office of Human Resources and Development Department of Compliance and Investigations 45 West Gude Drive, Suite 2500, Rockville, MD 20850 240-740-2888 DCI@mcpsmd.org
For student requests for accommodations under Section 504 of the Rehabilitation Act of 1973	For staff requests for accommodations under the Americans with Disabilities Act
Section 504 Coordinator Office of Academic Officer Resolution and Compliance Unit 850 Hungerford Drive, Room 208, Rockville, MD 20850 240-740-3230 RACU@mcpsmd.org	ADA Compliance Coordinator Office of Human Resources and Development Department of Compliance and Investigations 45 West Gude Drive, Suite 2500, Rockville, MD 20850 240-740-2888 DCI@mcpsmd.org
For inquiries or complaints about sex discrimination under Title IX, including sexual harassment, against students or staff*	
Title IX Coordinator Office of District Operations Student Welfare and Compliance 850 Hungerford Drive, Room 55, Rockville, MD 20850 240-740-3215 TitleIX@mcpsmd.org	

*Discrimination complaints may be filed with other agencies, such as the following: U.S. Equal Employment Opportunity Commission (EEOC), Baltimore Field Office, GH Fallon Federal Building, 31 Hopkins Plaza, Suite 1432, Baltimore, MD 21201, 1-800-669-4000, 1-800-669-6820 (TTY); Maryland Commission on Civil Rights (MCCR), William Donald Schaefer Tower, 6 Saint Paul Street, Suite 900, Baltimore, MD 21202, 410-767-8600, 1-800-637-6247, mCCR@maryland.gov; or U.S. Department of Education, Office for Civil Rights (OCR), The Wanamaker Building, 100 Penn Square East, Suite 515, Philadelphia, PA 19107, 1-800-421-3481, 1-800-877-8339 (TDD), OCR@ed.gov, or www2.ed.gov/about/offices/list/ocr/complaintintro.html.

**This notification complies with the federal Elementary and Secondary Education Act, as amended.

This document is available, upon request, in languages other than English and in an alternate format under the *Americans with Disabilities Act*, by contacting the MCPS Office of Communications at 240-740-2837, 1-800-735-2258 (Maryland Relay), or PIO@mcpsmd.org. Individuals who need sign language interpretation or cued speech transliteration may contact the MCPS Office of Interpreting Services at 240-740-1800, 301-637-2958 (VP) mcpsinterpretingservices@mcpsmd.org, or MCPSInterpretingServices@mcpsmd.org.