

# REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

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**Related Entries:** ACA, ACF, ACH, ACH-RA, GKA-RA, JFA, JFA-RA, JHC, JHC-RA, JHF, JHF-RA

**Responsible Office:** Superintendent of Schools  
Deputy Superintendent of School Support and Improvement  
Chief Operating Officer

## Sexual Harassment

### I. PURPOSE

To provide procedures for implementing the policy on sexual harassment

### II. DEFINITION

A. *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, and *Title IX of the Education Amendments Act of 1972*.

*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:

1. When submission to such conduct is made, explicitly or implicitly, a term or condition of employment, instruction, or participation in other school activities
2. 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
3. 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

- B. *Sexual violence* refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the person's age or use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent).

### III. PROCEDURES

Some forms of sexual harassment may also constitute criminal conduct resulting in criminal penalties or child abuse, and therefore require reporting according to MCPS Regulation JHC-RA, *Reporting and Investigating Child Abuse and Neglect*, and/or the terms of the Memorandum of Understanding with law enforcement authorities<sup>1</sup>. MCPS must conduct any internal investigations in a manner that is fully cooperative with the external law enforcement agencies that are investigating, and that does not interfere with or jeopardize the external investigation.

#### A. Application to Students

1. Conduct that violates Montgomery County Board of Education Policy, ACF, *Sexual Harassment*, committed by students of either sex against students or staff of the opposite or same sex is inappropriate behavior.
2. Students may seek guidance, support, and/or advocacy in addressing matters related to sexual harassment or inappropriate behavior of a sexual nature. Staff members in the Office of School Administration are available for these services in addition to school staff.
3. Filing a Complaint
  - a) MCPS students who believe that they have been subjected to sexual harassment should report such conduct promptly.
    - (1) The report can be made verbally or in writing.
    - (2) The report can be made to any staff member. The staff member will assist the student in reporting to the principal or designee, using MCPS Form 230-35, *Bullying, Harassment, or Intimidation Reporting Form*.

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<sup>1</sup> Full title: *Memorandum of Understanding Between the Montgomery County Public Schools and Montgomery County Department of Police and Montgomery County Sheriff's Office and Rockville City Police Department and Gaithersburg City Police Department and Takoma Park Police Department and Montgomery County State's Attorney's Office: School Resource Officer Program and Other Law Enforcement Responses to School-Based Incidents (Memorandum of Understanding)*

- b) There will be no adverse action against an individual for reporting an incident, or participating in or cooperating with an investigation of an alleged incident.
- c) An investigation will be conducted in accordance with MCPS Regulation JHF-RA, *Bullying, Harassment, or Intimidation*, using MCPS Form 230-36, *Bullying, Harassment, or Intimidation Incident School Investigation Form*.
- d) Confidentiality will be preserved consistent with applicable laws and MCPS' responsibility to investigate and address such complaints.
- e) Findings and appropriate action will be rendered within as timely a manner as practicable and reported to the Office of School Administration.
- f) Any student who violates Board Policy ACF, *Sexual Harassment*, will be subject to disciplinary action in accordance with MCPS Regulations JGA-RB, *Suspension or Expulsion of an MCPS Student*, JGA-RC, *Suspension and Expulsion of Students with Disabilities*, and the *Student Code of Conduct in MCPS*. Depending on the severity of the offense, such action could include but not be limited to counseling, suspension, or expulsion.

B. Application to Employees

1. Board Policy ACF, *Sexual Harassment*, and this regulation apply to all sexual harassment incidents involving MCPS employees. The policy and regulation address incidents committed by a person of either sex against a person of the opposite or same sex and establish that it is against policy for MCPS employees to commit acts of sexual harassment.
2. It is the responsibility of supervisory staff to recognize acts of sexual harassment and take prompt necessary action.
3. Employees may seek guidance, support, and/or advocacy in addressing matters related to sexual harassment or inappropriate behavior of a sexual nature. The Office of Employee Engagement and Labor Relations (OEELR) is available for these services.

## 4. Filing a Complaint

- a) MCPS employees who believe that they have been subjected to sexual harassment should report the incident promptly.
  - (1) The report can be made verbally or in writing.
  - (2) The report can be made to the associate superintendent of OEELR, or their designees.
- b) There will be no adverse action against an individual for reporting an incident, or participating in or cooperating with an investigation of an alleged incident.
- c) Confidentiality will be preserved consistent with applicable laws and MCPS' responsibility to investigate and address such complaints.
- d) An investigation will be made by OEELR.
  - (1) The full circumstances of the situation will be considered in the investigation of possible sexual harassment incidents.
  - (2) 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.
- e) Findings and recommendations will be rendered in as timely a manner as practicable.
- f) Any employee who violates Board Policy ACF, *Sexual Harassment*, or MCPS regulations or rules regarding sexual harassment will be subject to disciplinary action. Such action could include but not be limited to verbal or written reprimand, professional counseling, reassignment, demotion, suspension, or termination.

## C. Overall Coordination

The Office of School Administration will coordinate the implementation of this regulation with respect to students, and OEELR will coordinate the implementation of this regulation with respect to employees, as follows:

1. Disseminate information on complaint resolution, and reporting and investigation procedures regarding sexual harassment
2. Support the development of training programs and guidelines for investigating and for resolving allegations of sexual harassment
3. Support the development of student materials to be used in schools
4. Support the development of K-12 curricular modifications that integrate activities and skill building to help students understand and overcome sexual harassment problems
5. Facilitate the investigation, documentation, and notification to the superintendent of schools of both employee and student sexual harassment complaints in MCPS
6. Monitor the application of the procedures for responding to complaints of sexual harassment
7. Maintain a recordkeeping system of complaints, reports, and subsequent management action in conformance with privacy requirements
8. Prepare a quarterly report on reported sexual harassment incidents. Reports will include
  - a) quantitative as well as qualitative monthly incident aggregate data for both MCPS staff and students,
  - b) complaint and resolution process evaluations and improvements,
  - c) training statistics and schedules,
  - d) ongoing evaluation of work environments in all MCPS schools, offices, and work locations, and
  - e) other activities being planned or carried out by MCPS that are relevant to the successful implementation of the sexual harassment policy.

D. Dissemination of Information

There will be publication and dissemination of information to all MCPS employees and students that will inform them of the Board policies, and MCPS Regulations and rules that address sexual harassment, what sexual harassment is, what the individual can do, and where to go for help. Information about sexual harassment will be developed by OEELR and the Office of School Administration, in conjunction with the Office of Curriculum and Instructional Programs.

Information will be disseminated in a variety of ways including but not limited to

1. training workshops and/or on-line modules,
2. brochures,
3. bulletins,
4. applications,
5. announcements, and/or
6. other communications, as appropriate

E. Training

1. Training for supervisory staff will include, but not be limited to
  - a) a review of the applicable laws and policies with regard to sexual harassment,
  - b) their duties, responsibilities, and potential liabilities as workplace managers when dealing with incidents involving sexual harassment,
  - c) guidelines for training their staff,
  - d) guidelines for responding to complaints of sexual harassment,
  - e) guidelines for investigating employee complaints,
  - f) guidelines for investigating student complaints, and
  - g) guidelines for providing follow-up support.

2. School principals will be responsible for developing and implementing a plan to help students recognize, understand, and prevent sexual harassment that will include
  - a) guidelines for responding to complaints of sexual harassment,
  - b) opportunities designed to develop behaviors and attitudes that mitigate against inappropriate sexual overtures and pressures in school, work, and social settings, and
  - c) using available MCPS student materials regarding sexual harassment.

**Related Sources:**

*Civil Rights Act of 1964, Title VII; Title IX of the Education Amendments Act of 1972, as amended; Equal Employment Opportunity Commission (EEOC) Sexual Harassment Guidelines (29 C.F.R. §1604.11); Annotated Code of Maryland, Education Article, §7-424; Memorandum of Understanding<sup>2</sup>; MCPS Student Code of Conduct; MCPS Employee Code of Conduct*

**Regulation History:** New Regulation, February 17, 1993; revised February 22, 2006; revised July 31, 2017.

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<sup>2</sup>Full title: *Memorandum of Understanding Between the Montgomery County Public Schools and Montgomery County Department of Police and Montgomery County Sheriff's Office and Rockville City Police Department and Gaithersburg City Police Department and Takoma Park Police Department and Montgomery County State's Attorney's Office: School Resource Officer Program and Other Law Enforcement Responses to School-Based Incidents (Memorandum of Understanding)*