

MONTGOMERY COUNTY BOARD OF EDUCATION
Rockville, Maryland

October 11, 2011

MEMORANDUM

To: Members of the Board of Education

From: Patricia O'Neill, Chair, Board of Education Policy Committee

Subject: Tentative Action, Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*

The Montgomery County Board of Education Policy Committee, in consultation with staff members, identified Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*, for updating. The policy sets forth the criteria for joint occupancy of Montgomery County Public Schools (MCPS) facilities. The updated draft reflects the recommendations of the child care and joint occupancy policy work group convened fall 2010 to discuss current priorities regarding joint occupancy and child care in Montgomery County.

Members of the Montgomery County Board of Education Policy Committee discussed draft Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities* on March 15, 2011. The Policy Committee recommended revisions to the policy that clarify terminology and update priorities for identifying non-MCPS users in operating or non-operating schools. Updated Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*, is attached.

The following resolution is provided for your consideration:

WHEREAS, Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*, sets forth the criteria for joint occupancy of Montgomery County Public Schools facilities; and

WHEREAS, The Montgomery County Board of Education Policy Committee has considered and recommended revisions to update Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*; now therefore be it

Resolved, That the Montgomery County Board of Education take tentative action on Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*; and be it further

Resolved, That Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*, be sent out for public comment.

Present at the Board table for the discussion are Mr. James Song, director, Department of Facilities Management, Office of the Chief Operating Officer; Ms. Janice Turpin, real estate management team leader, Department of Facilities Management, Office of the Chief Operating Officer; and Mrs. Stephanie P. Williams, director, Department of Policy, Records and Reporting, Office of Shared Accountability.

PO:hp

Attachment

1 Related Entries: ECK, ~~ECL~~, ECM-RA, FAA, KGA-RA, KGC, KGC-RA

2 **Responsible Office: Facilities Management**

3

4

5 Joint Occupancy of Montgomery County Public Schools (MCPS)

6

Facilities

7

8

9 A. PURPOSE

10

11 To permit and set forth the criteria for joint occupancy of

12 ~~school~~ Montgomery County Public Schools (MCPS) facilities

13

14 B. ISSUE

15

16 Surplus space in MCPS facilities is identified when a school's

17 projected enrollment is less than 80 percent of the school's

18 rated capacity or when surplus space in a non-operating school

19 facility is not needed for MCPS purposes. The Montgomery

20 County Board of Education (Board) permits joint occupancy of

21 its facilities ~~with~~ by eligible users to offset to the extent

22 feasible and practical the cost of maintaining surplus

23 ~~classroom~~ space.

24

25 ~~CB. PROCESS AND CONTENT POSITION~~

26

27 21. Joint occupancy ~~shall be~~ defined as the leased of

28 surplus space in a Board owned property ~~required by the~~

29 to a non-MCPS user to be allocated exclusively to for
30 his/her use. and which may not be subleased by the user.,
31

32 2. **Joint occupancy** is distinguished from **shared** space,
33 which is **space** shared with MCPS for **that** part of a day
34 when **it is** not needed for MCPS educational programs.
35 ~~8. The Interagency Coordinating Board is responsible for~~
36 locating the users of shared space.

37
38 3. The superintendent of schools shall actively seek joint
39 occupants who ~~will support, enrich, and enhance the~~
40 **educational experience of** complement, support, and
41 ~~benefit the educational program for MCPS students, their~~
42 **families, or MCPS staff** under this policy.

43
44 ~~54. Priority Order for Use of Available Space~~

45
46 ~~Priorities for~~ In order to best meet the needs of
47 children and to ensure prudent utilization of resources,
48 the superintendent of schools **will incorporate input from**
49 **the school community into the decision-making process for**
50 **selection of users to occupy joint occupants** for available
51 spaces in **operating facilities schools.** ~~will be determined~~
52 ~~by after his/her evaluation of information and reactions~~
53 ~~of community residents. The selection of users should be~~
54 ~~based upon the following~~

55
56 5. Criteria for Identification of Available Space

- 57
- 58 a) The space is projected to be surplus for at least
- 59 two years.
- 60
- 61 b) Joint occupancy arrangements that expand building
- 62 capacity through the use of relocatable units or
- 63 modular construction may be negotiated if site
- 64 conditions allow.
- 65
- 66 c) For joint occupancy agreements in operating
- 67 schools,
- 68
- 69 (1) No MCPS-operating school will be permitted to
- 70 house a nonpublic school serving parallel
- 71 school grades K-12 in joint occupancy spaces.
- 72
- 73 (2) The projected student enrollment at the school
- 74 is below 80 percent of ~~less than the low range~~
- 75 ~~building~~the MCPS rated student capacity. This
- 76 criterion may be waived ~~if enrollment exceeds~~
- 77 ~~the low range capacity~~ with input from the
- 78 principal.
- 79
- 80 (3) The space is located in a portion or section
- 81 of the building which can be easily isolated
- 82 from the educational program, preferably near
- 83 a restroom and separate entrance.
- 84

112 (3) Community programs that enrich or enhance the
113 learning experiences of children or provide
114 needed services to children and families

115
116 ~~(4e) Other purposes for government agencies Housing~~
117 ~~for other county agency function (e.g.,~~
118 ~~offices for human resource projects, county~~
119 ~~health services, or recreation department~~
120 ~~staff)~~

121
122 b) Priority users for space in non-operating schools

123
124 (1) County programs that benefit MCPS students,
125 their families, or staff

126
127 ~~e) Housing for school system staff or functions (e.g.,~~
128 ~~office space for staff of a federally funded~~
129 ~~project or location of any area resource room)~~

130
131 (21) Nonpublic schools and/or nurseries child care
132 providers in compliance with Maryland
133 licensing requirements who support, enrich, or
134 enhance the educational experiences of
135 children ~~(e.g., religious day schools) which~~
136 ~~will not attract additional students from the~~
137 ~~regular school program.~~

138

139 (3d) Community programs (~~public supported or private~~
140 ~~nonprofit~~) which will **that enrich or** enhance
141 **the** learning experiences ~~for~~of children or
142 provide needed ~~community~~ services **to children,**
143 **families, or the community** (~~e.g., elderly care~~
144 ~~centers, senior citizen centers, counseling~~
145 ~~centers, or nutrition centers~~)

146
147 (4f) Private enterprise

148
149 ~~(2) Private offices (e.g., real estate or~~
150 ~~lawyer consultant)~~

151
152 ~~(3) Private medical practice/community~~
153 ~~services (e.g., doctor, artist, beauty~~
154 ~~salon, or automation service)~~

155
156 ~~(4) Other private/political groups or~~
157 ~~organizations~~

158
159 7. In those cases where two or more candidates for the same
160 space within the same priority category are equally
161 desired, the space will be provided to the candidate
162 ~~providing the most beneficial offer~~**who best meets the**
163 **needs of the school community as determined by the Board.**

164
165 68. Cost to User Group

166

167 MCPS establishes a per square foot rental rate each
168 fiscal year to be applied to joint occupancy leases in
169 order to recover operating costs. Each non-MCPS user of
170 available space shall be expected to reimburse MCPS on a
171 prorated basis for applicable costs related to this use.
172 which may include normal building upkeep, building
173 services staff, utility expenditures, restroom supplies,
174 insurance, administrative costs, and other such items on
175 a square foot basis to be identified by the
176 superintendent of schools or his/her designee and
177 contained in the lease negotiated with each user group.
178 For each non-MCPS user group, the lease cost shall be
179 negotiated and be reflective of MCPS costs, comparable
180 market prices, and the profit/nonprofit status of the
181 proposed tenant. Lease fees may be negotiated with groups
182 which in some cases do not recover all MCPS costs for the
183 space to be leased. The income received from this
184 program **joint occupancy leases** will be received as general
185 revenue recorded in a separate account **enterprise fund**,
186 **the Real Estate Management Fund**. and used to offset the
187 cost of making available the space leased and the cost of
188 operating the joint occupancy program in accordance with
189 Internal Revenue Service regulations.

190
191 ~~7. Save Harmless Provision~~

192
193 The lease for each user group shall include appropriate
194 language to save the Board of Education and the school
195 system harmless against any and all claims, demands,

196 ~~suits, or other forms of liability that may arise out of~~
197 ~~this use of school space. Each proposed tenant must~~
198 ~~comply with all appropriate legal and zoning~~
199 ~~requirements.~~

200

201 **D. IMPLEMENTATION STRATEGIES**

202

203 ~~9. The superintendent of schools is authorized to negotiate~~
204 ~~fees for the use of surplus schools. space on the basis of the~~
205 ~~Board of Education cost guidelines.~~

206

207 ~~10. The Creative Enrichment Program shall continue to be~~
208 ~~administered by MCPS.~~

209

210 **EE. REVIEW AND REPORTING**

211

212 **1. The superintendent of schools and shall require ongoing**
213 **monitoring reports to be maintained** ~~submit to the Board~~
214 ~~quarterly reports on fee schedules and the use of the~~
215 ~~surplus space.~~

216

217 **2. This policy will be reviewed every** ~~three years in~~
218 ~~accordance with the Board of Education policy review~~
219 ~~process.~~

220

221

222 *Policy History:* Adopted by Resolution No. 122-78, February 14,
223 1978; amended by Resolution No. 509-78, July 11, 1978; amended by
224 Resolution No. 1056-79, December 17, 1979; reformatted in

Draft 15
09/27/11
ECM

225 accordance with Resolution No. 333-86, June 12, 1986, and
226 Resolution No. 458-86, August 12, 1986, and accepted by Resolution
227 No. 147-87, February 25, 1987-, **amended**

