

REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries:	ACA, ACG-RA, ACG-RB, ACF, ACF-RA, ACI, ACI-RA, GKA-RA, GMA, JFA, JFA-RA, KLA, KLA-RA
Responsible Offices:	Chief Operating Officer; Chief of Human Resources and Development; Chief of District Operations; Chief Academic Officer

Nondiscrimination, Equity, and Cultural Proficiency

I. PURPOSE

To designate appropriate lead offices responsible for implementation of Montgomery County Board of Education Policy ACA, *Nondiscrimination, Equity, and Cultural Proficiency*, and ensure compliance with all federal, state, and local nondiscrimination laws

To establish procedures for responding to allegations of discrimination

II. DEFINITIONS

- A. *Employment discrimination* means being treated differently or unfairly in violation of Title VII of the Civil Rights Act of 1964, which makes it unlawful to discriminate against someone on the basis of race, color, national origin, sex (including pregnancy, sexual orientation, and gender identity) or religion, or other perceived characteristics, as set forth in Board Policy ACA, *Nondiscrimination, Equity, and Cultural Proficiency*.
- B. A *party-in-interest* is the person or persons making a complaint, any person who might be required to take action, or the person or persons against whom action might be taken to resolve the complaint.

III. ISSUE

Board Policy ACA, *Nondiscrimination, Equity, and Cultural Proficiency*, sets forth the Board's expectation that Montgomery County Public Schools (MCPS) develop and promote a culture of high expectations for all student and staff performance; maintain working and learning environments that are equitable, fair, safe, diverse, and inclusive; and eliminate inequities of opportunities, raise the level of achievement for all students, and significantly address achievement gaps.

Discrimination against a person based on "perceived characteristics," as defined in Policy ACA, will not be tolerated. It impedes MCPS's ability to discharge its responsibilities to students, staff, and families and achieve the community's long-standing efforts to create, foster, and promote equity, inclusion, and acceptance for all.

IV. PROCEDURES

A. Discrimination Complaint

1. MCPS shall review all reported discrimination complaints and take appropriate action, including investigation and offering supportive measures.
2. MCPS will maintain the confidentiality of investigations, including claims by employees and third parties, consistent with applicable laws and MCPS's responsibility to investigate and address such complaints.
3. No adverse action will be taken against any individual because that individual, in good faith, makes or participates in making a discrimination complaint or cooperates with an investigation of a discrimination complaint.

B. Student Complaints of Discrimination by Students

1. The chief of the Office of District Operations, Student Welfare Compliance Unit, is responsible for implementing the Board's commitment to nondiscrimination of students¹, and coordinating MCPS compliance with applicable federal, state, and local nondiscrimination laws.

¹ Effective March 2, 2023, the Office of District Operations, Student Welfare and Compliance Unit issued guidance regarding complaints of hate-bias incidents. Such complaints should be reported using MCPS Form 226-5, *Hate-Bias Incident Reporting Form*. The completed form is returned to the principal at the alleged student victim's school.

2. As set forth in Board Policy JHF, *Bullying, Harassment, or Intimidation*, discrimination against students may include bullying, harassment, or intimidation conduct. MCPS procedures for reporting acts of bullying, harassment, or intimidation are set forth in MCPS Regulation JHF-RA, *Bullying, Harassment, or Intimidation*.
3. As set forth in Board Policy ACF, *Sexual Misconduct and Sexual Harassment of Students*, discrimination against students may take the form of sexual harassment. MCPS procedures for reporting acts of sexual harassment are set forth in JHF-RA, *Bullying, Harassment, or Intimidation*.
4. Concerns or complaints of discrimination regarding students not otherwise specified above should be addressed through processes outlined in Board Policy KLA, *Responding to Inquiries and Complaints from the Public*, and MCPS Regulation KLA-RA, *Concerns, Complaints, and Appeals to the Superintendent of Schools*.
5. A complainant alleging discrimination in violation of Education Article, §26-704, Annotated Code of Maryland, may file a complaint in writing with the Maryland State Superintendent of Schools as set forth in Code of Maryland Regulations §13A.01.07.
6. At any time, a student alleging a violation of Title VI or Title IX may file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR). A student is not required to file a complaint with MCPS before or after making a complaint with the OCR.

U.S. Department of Education, Office of Civil Rights

OCR [Electronic Complaint Form](#)

(<http://www.ed.gov/about/offices/list/ocr/complaintintro.html>); or

U.S. Department of Education, Office for Civil Rights

Lyndon Baines Johnson Department of Education Building

400 Maryland Avenue, SW

Washington, DC 20202-1100

C. Employment Discrimination Complaint

1. The Office of Human Resources and Development (OHRD) is responsible

for implementing the Board's commitment to nondiscrimination in the workplace and coordinating MCPS compliance with applicable federal, state, and local employment nondiscrimination laws. Allegations of employee discrimination will be investigated by the human resource compliance officer in the Department of Compliance and Investigations (DCI), in accordance with the requirements of federal and state laws.

2. Any individual who alleges employment discrimination, or has observed an MCPS employee engage in such discriminatory conduct, should report the incident promptly to the DCI. (Reporting procedures for discrimination concerning students are addressed in section III.C below.)
 - a) An individual who alleges employment discrimination should complete Form 230-39, *Complaint of Discrimination or Workplace Bullying*, or contact the DCI directly by emailing DCI@mcpsmd.org. Alternatively, employees may contact their principal/supervisor, as appropriate, who will refer the issue to the DCI.
 - b) If the complainant has not completed Form 230-39, *Complaint of Discrimination or Workplace Bullying*, the DCI human resource compliance officer will complete the form, in consultation with the complainant, at the beginning of the DCI investigation.
3. Investigation
 - a) In determining whether the alleged conduct constitutes employment discrimination, consideration will 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 incident occurred.
 - b) At all levels of the procedure, any party-in-interest may be accompanied and supported by any other individual of their choice.²
 - c) Within 60 duty days, the human resources compliance officer will do the following:
 - (1) Review the complaint to determine if it is reviewable under

² "Any other individual of their choice" includes a representative from an employee's collective bargaining unit, who may accompany and support the employee.

this regulation and, if so,

- (2) investigate the allegation, render a determination, and notify the parties-in-interest.
 - d) If, upon the review, the complaint does not meet the criteria for investigation, the complaint will be returned to the complainant, without notification to other parties named in the complaint.
 - e) The human resources compliance officer may extend the time limit for compelling reasons, provided that the parties are given prompt notice of the extended timeline and rationale.
4. Appealing an Employee Discrimination Determination
- a) A decision of the human resource compliance officer may be appealed to the chief operating officer (COO).
 - b) An appeal must be filed in writing by the complainant within 10 duty days of the issuance of the determination.
 - c) A trained hearing officer will be assigned to review investigation documents and arguments submitted in writing by the complainant.
 - d) Within 10 duty days after receiving the written complaint, the COO hearing officer will —
 - (1) review investigation documents and arguments submitted in writing by the complainant;
 - (2) at the discretion of the hearing officer, schedule a meeting with the complainant to clarify information provided;
 - (3) render a written determination describing the result of the appeal and the rationale for the result; and
 - (4) notify the complainant of the determination and their right under Board Policy BLB, *Rules of Procedure in Appeals and Hearings*, and state law to appeal the decision to the Board within 30 calendar days.

5. Allegations of employment discrimination are not subject to the administrative complaint process described in MCPS Regulation GKA-RA, *Administrative Complaint*.
6. Pursuing an employment discrimination complaint, as set forth in this regulation, does not prohibit or prevent the complainant from directly filing a Maryland Commission for Civil Rights (MCCR) complaint at mccr.maryland.gov or an Equal Employment Opportunity Commission (EEOC) complaint directly with the EEOC, Baltimore District Office:

- a) U.S. Equal Employment Opportunity Commission

Baltimore Field Office
GH Fallon Federal Building
31 Hopkins Plaza, Suite 1432
Baltimore, MD 21201
1-800-669-4000, 1-800-669-6820 (TTY)

- b) An employee complaint under Title IX of the Education Amendments Act of 1972, as amended, may be filed with the Office for Civil Rights, United States Department of Education.

7. Disciplinary Action

Consequences for employees committing acts of discrimination, engaging in reprisal or retaliation, and/or employees found to have made intentional false accusations will be subject to disciplinary action. Such action could include, but not be limited to, written reprimand, professional counseling, reassignment, demotion, suspension, or termination.

- C. Community members bringing concerns or complaints of discrimination within MCPS should be directed to the formal complaint process outlined in Board Policy KLA, *Responding to Inquiries and Complaints from the Public*, and MCPS Regulation KLA-RA, *Responding to Inquiries and Complaints from the Public*.

V. COMMUNICATION, REPORTING, AND PROFESSIONAL LEARNING

- A. Nondiscrimination Statement

1. The *MCPS Nondiscrimination Statement* summarizes the Board's position on nondiscrimination and complies with state and federal requirements.

Maryland regulations require the *Nondiscrimination Statement* to include the following:

"It is the policy of the state of Maryland that all public and publicly funded schools and school programs operate in compliance with –

- a) *Title VI of the federal Civil Rights Act of 1964, and*
- b) *Title 26, Subtitle 7, of the Education Article of the Maryland Code, which states that public and publicly funded schools and programs may not –*
 - (1) *discriminate against a current student, a prospective student, or the parent or guardian of a current or prospective student on the basis of race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability;*
 - (2) *refuse enrollment of a prospective student, expel a current student, or withhold privileges from a current student, a prospective student, or the parent or guardian of a current or prospective student because of an individual's race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability; or*
 - (3) *discipline, invoke a penalty against, or take any other retaliatory action against a student or parent or guardian of a student who files a complaint alleging that the program or school discriminated against the student, regardless of the outcome of the complaint."*

2. The *MCPS Nondiscrimination Statement* will be prominently featured as a web page on the MCPS website.
3. The *MCPS Nondiscrimination Statement* will be included in all systemwide publications of three or more pages, published by the Editorial, Graphics &

Publishing Services (EGPS) Unit, for any MCPS systemwide document published after June 30, 2023.

4. The Office of the General Counsel (OGC) is responsible for including the *MCPS Nondiscrimination Statement* on Board policies and MCPS regulations adopted, amended, revised, or reviewed after June 30, 2023.
 5. Documents published by EGPS or policies and regulations published by the OGC will be updated to the current *MCPS Nondiscrimination Statement* and document translation protocol as they are revised, amended, or reprinted.
- B. The superintendent of schools/designee is responsible for establishing a process for analyzing data to develop goals, objectives, strategies, and timelines for the implementation of Policy ACA and federal and state nondiscrimination laws.
1. The Department of Shared Accountability is responsible for analyzing trends and identifying gaps in efforts to achieve the commitments expressed in Board Policy ACA, *Nondiscrimination, Equity, and Cultural Proficiency*.
 2. In compliance with Maryland law, data collection, reports, or internal documentation for analysis by the Board will include a category for each racial and ethnic group that constitutes at least 5 percent of the students enrolled in MCPS that is separate from any other category.

Related Sources:

U.S. Constitution U.S.C.), Amendment 14; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.; Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.; 34 Code of Federal Regulations (CFR), Part 106, 34 CFR Part 100; Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § § 1400-1487; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Americans with Disabilities Act (ADA), 42 U.S.C. § 12131 et seq.; Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981; Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634; Equal Pay Act of 1963, 29 U.S.C. § 206(d); Equal Rights Amendment to the Maryland Constitution's Patient Protection Affordable Care Act, 42 U.S.C. § 18001 et seq.; Maryland Constitution Declaration of Rights (Article 46); Annotated Code of Maryland, State Government Article, Title 20, Human Relations; Annotated Code of Maryland, Education Article §4-141, §6-104, and §7-424.1; Code of Maryland Regulations (COMAR) §13A.05.01; Montgomery County Racial Equity and Social Justice Act Amendments to Montgomery County Code §1A-201, §2-64A, §2-81C, §27-83, and §33A-14; MCPS Culture of Respect

Compact³; Student Code of Conduct in MCPS; MCPS Employee Code of Conduct; MCPS Guidelines for Respecting Religious Diversity; MCPS Guidelines for Student Gender Identity.

Regulation History: New Regulation July 5, 2005; revised February 21, 2023; technical updates to comply with updates to COMAR 13A01.07, April 19, 2024.

³ *Culture of Respect Compact among Montgomery County Public Schools, Montgomery County Education Association, Service Employees International Union Local 500, and the Montgomery County Association of Administrators and Principals.*

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.*

It is the policy of the state of Maryland that all public and publicly funded schools and school programs operate in compliance with:

- (1) Title VI of the federal Civil Rights Act of 1964; and
- (2) Title 26, Subtitle 7 of the Education Article of the Maryland Code, which states that public and publicly funded schools and programs may not
 - (a) discriminate against a current student, a prospective student, or the parent or guardian of a current or prospective student on the basis of race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability;
 - (b) refuse enrollment of a prospective student, expel a current student, or withhold privileges from a current student, a prospective student, or the parent or guardian of a current or prospective student because of an individual's race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability; or
 - (c) discipline, invoke a penalty against, or take any other retaliatory action against a student or parent or guardian of a student who files a complaint alleging that the program or school discriminated against the student, regardless of the outcome of the complaint.**

Please note that contact information and federal, state, or local content requirements may change between editions of this document and shall supersede the statements and references contained in this version. Please see the online version for the most up-to-date information at www.montgomeryschoolsmd.org/info/nondiscrimination.

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 15 West Gude Drive, Suite 200, 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 School Support and Well-being Office of Well-being, Learning, and Achievement 850 Hungerford Drive, Room 257, Rockville, MD 20850 240-740-5630 504@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 15 West Gude Drive, Suite 200, Rockville, MD 20850 240-740-3215 TitleIX@mcpsmd.org	

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

**This notification complies with the Code of Maryland Regulations Section 13A.01.07.

***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; Agency Equity Officer, Office of Equity Assurance and Compliance, Office of the Deputy State Superintendent of Operations, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201-2595, oeac.msde@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 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.