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INFORMATION

Office of the Chief Academic Officer
Office of School Performance
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland

March 5, 2008

MEMORANDUM

To: All Principals

From: Jody A. Leleck, Chief Academic Officer
Stephen L. Bedford, Chief School Performance Officer

Subject: INFORMATION: The Montgomery County Public Schools Procedures for Reporting and Responding to State Test Violations

As you know, the Maryland State Board of Education has policies governing state test administration. These policies, revised in 2007, include descriptions of specific actions and incidents which constitute testing violations related to test security and data reporting. Additionally, the Maryland State Department of Education (MSDE) has articulated a hierarchy of disciplinary sanctions to help guide local education agencies in responding to specific instances of testing violations. These policies are outlined in the *Guide to Test Security & Data Reporting for Local Accountability Coordinators*, which is attached for your review (Attachment A).

To ensure that there is consistent implementation of all policies and procedures related to state testing, the Montgomery County Public Schools (MCPS) also has developed *MCPS Procedures for Reporting and Responding to State Test Violations* (Attachment B). These procedures were developed by a collaborative stakeholder work group that included representatives from central services, Montgomery County Education Association, Montgomery County Association of Administrative and Supervisory Personnel, and input from Service Employees International Union Local 500. When implementing these procedures, it will be necessary for the principal or designee to investigate all reported incidents using the attached guidelines (Attachment C).

All identified school test coordinators (STCs) are required to attend test security training this month in preparation for administration of the Maryland School Assessments. During this training, the attached documents will be reviewed in detail and the STCs will be provided with additional copies for their STC manual. While the upcoming training is mandatory for identified

STCs, all principals are encouraged to attend training with their staff. Review these documents with your STC to ensure that all established testing procedures are followed within your school and any potential testing violations are reported promptly in accordance with the established procedures.

If you have any questions about the specific procedures for reporting and responding to state test violations or the upcoming STC training, please contact Ms. E. Grace Chesney, supervisor of testing, Department of Shared Accountability, at 301-279-3595, or by e-mail at Elizabeth_Chesney@mcpsmd.org.

JAL:egc

Attachments

Copy to:

Executive Staff
Ms. Chesney
Directors of School Performance
Ms. Cullison
Mrs. Cuttitta
Dr. Newman

Approved: _____

Larry A. Bowers, Chief Operating Officer

Frieda K. Lacey, Deputy Superintendent of Schools

MCPS Procedures for Reporting and Responding to State Test Violations

Step 1

School test coordinator (STC) is made aware of incident.

Step 2

STC reports the incident to the principal immediately (or principal designee if the principal is not in the building on the day of the incident).

Step 3

The principal or designee investigates the reported incident, gathering signed statements from all involved individuals.

Step 4

The principal, in consultation with the STC, determines whether the incident appears to meet the criteria for identification as a Category 1 or Category 2 testing violation, as outlined on pages 12–13 and 15–17 in the *Guide to Test Security & Data Reporting for Local Accountability Coordinators (LACs)*.

- If it appears that the incident **does not** constitute a violation, then the principal or designee will verbally inform involved staff member(s) that it appears no testing violation has occurred. No further action is needed.
- If it appears that the incident **does** constitute a violation, then proceed to Step 5. If the principal believes the incident warrants, he/she will contact the Office of School Performance (OSP) and/or the Office of Human Resources (OHR) at this time.
- If the STC and principal disagree about whether or not the incident constitutes a testing violation, then the principal will contact the community superintendent. The community superintendent, in collaboration with the LAC (MCPS testing supervisor, Ms. E. Grace Chesney), will make a final determination and communicate this to the principal.

Step 5

STC contacts the LAC with details of the incident.

Step 6

STC completes the *STC Testing Incident Report Form*, submits the form to the LAC electronically, copies the principal and involved staff member(s), and places a copy of the completed form in the local school assessment binder. A sample of this form is in the *Guide to Test Security & Data Reporting for LACs* on page 23.

- STC may contact LAC at any time to discuss the incident and receive guidance.
- LAC contacts STC by phone or by e-mail if further clarification of violation is needed.

Step 7

LAC verifies whether the incident constitutes a Category 1 or Category 2 violation (See *Guide to Test Security & Data Reporting for LACs*, pages 12–13 and 15–17).

- If the incident is identified as a Category 1 violation, then the incident will be reported in the Year-End Case Log to MSDE and no further action is needed.
- If the incident is identified as a Category 2 violation, then the LAC contacts the state test security officer with details of the incident. Proceed to Step 8.

Step 8

LAC completes a draft of the *Testing Incident Report Form* (TIRF) with proposed sanctions drawn from the *Sanctions Issued in Past Test Security Violations* section of the *Guide to Test Security & Data Reporting for LACs*, pages 15–17. A sample of this form is in the *Guide to Test Security & Data Reporting for LACs* on page 20.

- LAC sends the completed draft TIRF to the principal and copies the community superintendent and the Office of Human Resources (OHR).
- The principal, community superintendent, and OHR staff review the draft TIRF and provide input within one week.
- LAC finalizes TIRF, submits it to the State Test Security Officer, and forwards a copy to the principal, community superintendent, and OHR.

Step 9

State test security officer receives the TIRF.

- State Test Administration and Security Committee (STASC) reviews the report to determine whether additional information is needed. If so the LAC will be contacted.
- STASC reviews the reported testing violation and proposed sanctions and determines whether these sanctions are appropriate.
- State Test Security Officer notifies the LAC in writing of the STASC recommendation.

Note: According to the MSDE Chief for the Division of Accountability and Assessment, MSDE does not dictate the sanctions but makes recommendations for a range of sanctions. However, if there is a serious discrepancy between the LAC recommendation and MSDE recommendation, MSDE will not close the case until a mutually agreeable resolution is reached. In addition, there is no formal appeal process for disagreeing with MSDE sanction recommendations. These disagreements are resolved through informal discussions between MSDE and LAC.

Step 10

LAC communicates the STASC recommendation to the principal or direct supervisor of the individual responsible for the testing violation and the community superintendent.

- If the principal or direct supervisor has concerns regarding the recommended sanctions, then he/she will contact the LAC directly to resolve their concerns.
- If the principal or direct supervisor and LAC do not agree on the recommendation, then the community superintendent and the associate superintendent for the Office of Shared Accountability will consult with the principal or supervisor to resolve the disagreement prior to making the final recommendation.

Step 11

Principal or direct supervisor informs the staff member in writing of the determined sanctions and copies the LAC and community superintendent. A determination to copy OHR is made by the principal or direct supervisor.

Step 12

LAC will inform MSDE in writing that agreed upon sanctions have been implemented.

INVESTIGATIONS OF STAFF MEMBERS

When Are Investigations Necessary

Investigations are necessary whenever inappropriate, unprofessional, or criminal behavior is observed or alleged. The purpose of the investigation is to determine who is responsible for the behavior, what the behavior consisted of, and what steps and disciplinary action, if necessary, need to be taken as a follow-up to the investigation.

Anonymous notification of the behavior stated above is not discounted. For the employee's benefit, he/she is to be made aware of anonymous allegations and given the opportunity to address what has been stated.

Offices/Personnel Responsible for Conducting Investigations

Principals or Designees

Office of the Chief Technology Officer

Department of Shared Accountability

Office of Special Education and Student Services

Office of School Performance

Office of Human Resources

Other MCPS Offices as Appropriate

Department of Health and Human Services/Child Welfare Services and/or Family Services

Division/Montgomery County Police Department

Determination of Investigating Office

Incidents or allegations of incidents that necessitate consideration of an investigation are to be reported immediately to the appropriate community superintendent. Additional reports to the Department of Shared Accountability, the Office of the Chief Technology Officer, the Office of Student and Community Services, the Office of Human Resources or other MCPS offices may be recommended by the community superintendent or required by procedure. The community superintendent, often in consultation with other offices, will determine if the investigation is to be conducted at the school level or in conjunction with another office.

Most incidents of unprofessional behavior such as inappropriate language, loss of temper, insubordination, or touching (in a non-sexual manner) of students are handled at the school level by a school administrator or designee. However, if the offense is not the first to be committed by the individual, and in accordance with the progressive discipline procedures, the above stated offenses may need to be investigated at another level. A request to have an office outside the school conduct an investigation of a certificated employee is submitted to the appropriate community superintendent. If the request is determined to be appropriate, the community superintendent requests an investigation from the associate superintendent, Office of Human Resources. A request for an investigation of a substitute teacher or a supporting service employee should be submitted in writing to the director, Performance Evaluation, Office of Human Resources.

If allegations of test security violations are reported, principals should refer to the *Guide to Test Security & Data Reporting for Local Accountability Coordinators* and the *MCPS Procedures for Reporting and Responding to State Test Violations*, which can be found in the online Principals Handbook. Timely notification to the Department of Shared Accountability and the Office of School Performance is critical. The investigating party will be dependent upon the nature of the violation.

Principals need to be aware that **allegations of child abuse, neglect, or mental/physical injury** are handled in a different manner than all other allegations. Once school staff is made aware of such an allegation, questioning of the student should cease. The Department of Health and Human Services/Child Welfare Services (240-777-4417) or the Family Services Division of the Montgomery County Police Department (240-773-5400) must be contacted immediately. A written report also will be required within 48 hours of notification. No further questioning by school system staff is to take place until clearance is given by either the Child Welfare Services or the Family Services Division. **An ombudsperson is available at 240-777-3516 to assist school personnel in clarifying concerns about child maltreatment cases.**

Investigations Conducted by a School Administrator/Designee

- Notify the appropriate community superintendent of your need to conduct an investigation. A serious incident report or a report "for the record," documenting the incident and follow-up action should be prepared, as appropriate.
- Conduct all interviews with a second staff member present as a witness.
- Ask detailed questions regarding exactly what happened.
- Get a signed, written statement from the complainant. If the complainant is a young student (or illiterate), a staff member may take the statement, read it back to the complainant for approval, and have them sign and date the statement. The note taker should also sign and date the statement and include their position title.
- Always contact parents when students are involved and need to be interviewed. It is advisable to even contact the parents of students who have reached the age of majority. Parents often ask to attend the interview. This is permissible.
- Interview witnesses or others who may corroborate what the complainant has alleged. Ask for all possible individuals who may have knowledge of the incident and will need to be interviewed. Request a signed and dated written statement from the witness.
- Inform the complainant and all witnesses named by the complainant that they are responsible for maintaining confidentiality.
- If sexual harassment is alleged, refer to the Board of Education Policy ACF, *Sexual Harassment*, and MCPS Regulation ACF-RA, *Sexual Harassment*. Make sure that the complainant and alleged perpetrator are never required to meet together as part of the investigation. When interviewing the complainant, ask how what was said or done made him/her feel. Ask the complainant what possible relief he/she is expecting as a result of the investigation. Never make or indicate any promises about what will happen.

The telephone number for Employee Assistance Program should be made available to the complainant and alleged perpetrator (240-314-1040).

School administrators must report suspected student-to-student sexual harassment and suspected student-to-staff sexual harassment as well as incidents of sexual harassment involving parents or members of the community to the appropriate community superintendent in the Office of School Performance. Staff-to-student or staff-to-staff sexual harassment incidents should be reported to the director, Performance Evaluation, Office of Human Resources. It is also recommended that administrators contact the director, Performance Evaluation if conducting an in-house investigation (301-279-3361).

- If the allegations involve complaints of any type against another staff member, the complainant should provide the name of the alleged perpetrator and names of possible witnesses. Interview the alleged perpetrator and take a signed, written statement from this individual. Take statements from all witnesses this individual asks you to contact. Notify them of your expectation for confidentiality.
- Review all statements and check to make sure that written/typed statements—
 - are signed and dated,
 - assign a time frame (as specific as possible) to the incident(s),
 - indicate if a report of an incident is first hand or if it is hearsay,
 - are as precise as possible, and
 - identify all persons mentioned in the statement.
- If clarification is needed, return to any party who submitted a statement.
- Make a decision regarding culpability, prepare a report, and determine extent of disciplinary action if appropriate.
- Disciplinary action available to a school administrator consists of—
 - an oral reprimand,
 - a written reprimand, or
 - removal from a specific responsibility or privilege.
- Written reprimands should be in letter form and should state—
 - that the letter is indeed a reprimand,
 - the allegations leading to the investigation,
 - the findings, and
 - that “any further instances of inappropriate behavior will require a recommendation for more serious disciplinary action.”
- Employees receiving reprimands should sign or initial a copy of the reprimand that will be placed in their school or personnel file, as appropriate. The reprimand should be included in the data used to conduct the individual's next performance evaluation. A sample reprimand letter is available in the sample letters section in Attachment A.

Responsibilities of the School Administrator During and “Outside” Investigation

- The contacting of students' parents is handled by a school administrator or designee.
- It is advisable that school administrators or their designee sit in as an observer on interviews of students conducted by an outside investigator.
- Initial (which may become final) statements are often taken under the direction of the school administrator.
- If suspected child abuse and neglect is reported—
 - an oral report needs to be made as "soon as is reasonably possible";
 - a written report, MCPS Form 335-44, *Report of Suspected Child Abuse and/or Child Neglect*, must be submitted within 48 hours by the person making the original oral report; and
 - a call, made to the Child Welfare Services ombudsperson for questions/information (240-777-3516).
- If the police request directory information, it should be provided.
- Statements must be kept confidential. Police must subpoena any statements if they want them **unless** it is determined that a person or persons is, or will be, in "immediate danger" if the police are not given information.
- The investigation, the resolution, and any subsequent action must be kept confidential.
- Disciplinary action by the superintendent of schools or designee may consist of—
 - a written reprimand,
 - demotion,
 - suspension,
 - transfer,
 - course work,
 - reassignment, or
 - termination.

Placing an Employee on Leave During an Investigation

The "responsible administrator," acting in accordance with MCPS Administrative Regulation GJC-RA, can place a certificated employee (e.g. teacher, counselor) on leave as an emergency measure. This leave cannot exceed one duty day. If the certificated employee is to be placed on additional leave, it is done under the authority of the superintendent of schools. A request to place a supporting services employee on leave must be submitted in writing to the associate superintendent, Office of Human Resources.

During investigations, employees are most often placed on leave with salary. It is sometimes possible to place an employee at another work location rather than resorting to paid leave. Certain charges prevent the option of permitting the employee to continue to work with students or other employees during an investigation.

While on administrative leave, the employee is not allowed to be on school grounds or attend events at any MCPS location without the express permission of the superintendent or his designee. The duration of leave cannot be predicted. Some investigations involve taking statements from many

individuals. If police and/or Child Welfare Services are involved, clearance must be obtained prior to MCPS initiating an investigation. Only the superintendent of schools or his designee can return an individual to an assignment and prior to his signature, the case is reviewed and approved by the associate superintendent of the Office of Human Resources, legal counsel for MCPS, the director of association relations, and the deputy superintendent.

Pertinent Policies and Regulations for Referral

ACF	Sexual Harassment
ACF-RA	Sexual Harassment
COB-RA	Reporting a Serious School Incident
GJC-RA	Suspension and Termination of Professional Personnel
GJC-EA	Suspension or Dismissal of Teachers, Principals, and Other Professional Personnel (State Law)
GJD-RB	Discipline or Discharge of Supporting Services Employees
JFA- RA	Students' Rights and Responsibilities