

INVESTIGATIONS OF STAFF MEMBERS

WHEN ARE INVESTIGATIONS NECESSARY

Investigations are necessary when 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/Supervisors or Designees
- Office of the Chief Technology Officer/Office 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 Office of Information and Organizational Systems, 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 nonsexual manner) of students are handled at the school/local level by a school administrator/supervisor 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 services 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 March 5, 2008, memorandum from Jody A. Leleck, chief academic officer and Stephen L. Bedford, chief school Performance Officer to all principals, "Protocol for the Review of Alleged Test Security Violations." Timely notification to the Department of Shared Accountability and the Office of School Performance is critical. Identification of 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 unable to write), 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 also should 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 student sexual harassment and 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 also is 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 the 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 letter of reprimand is available in the sample letters section.

RESPONSIBILITIES OF THE SCHOOL ADMINISTRATOR DURING AN “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 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 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

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