2024 NEW Amendments Regarding Title IX





MONTGOMERY COUNTY PUBLIC SCHOOLS

Title IX Sexual Harassment

Education Amendments of 1972

ACA, Nondiscrimination, Equity, and Cultural Proficiency

ACF, Sexual Misconduct and Sexual Harassment of Students

ACI, Sexual Harassment of MCPS Employees

COMAR 13A.01.06

What is it?

Designed to prevent discrimination by sex and sexual harassment in public schools and government funded institutions

What does it mean?

Schools are prohibited from restricting admission or participation in any educational program or activities "based on sex". In terms of sports, all students must have equal opportunity for participation.

No Person, in the United States, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination, under any education program or activity receiving Federal Financial Assistance

What are the consequences?

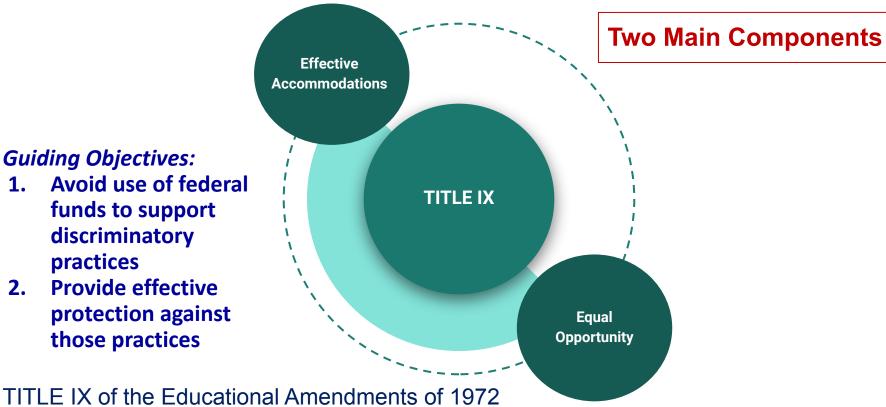
If a school is in violation of Title IX, a claim may be filed in court or with the Office of Civil Rights, which has the power to limit Federal funding to that school.

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TITLE IX in Athletics



- Avoid use of federal funds to support discriminatory practices
- 2. Provide effective protection against those practices



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1. <u>Substantial Proportionality</u>

a. Correct enrollment and participation ratio
 (2-3%) female enrollment to female participation.

- b. Law does not require strict proportionality
- c. Unduplicated and Duplicated (1 Athlete... 3 teams.... Counts as 3 opportunities)
- d. As of first day of competition



2. <u>Program Expansion</u>

- a. Historically AND Recent Practices
- b. Recent Actions and Plans to Increase



3. Full and Effective Accommodations

- a. A demonstrated interest in the sport/activity
- b. Sufficient interest to field a viable team
- c. Adequate number of competitors in the schools geographical area of competition
- d. Student Voice (Surveys)
- e. Review of non-interscholastic programs
- f. Intramurals, clubs, PE courses, community programs
- g. Legitimate documentation

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"Laundry List" 11 Categories

- 1. Equipment and supplies
- 2. Scheduling of games/practice times
- 3. Travel and Per Diem Allowance
- 4. Tutoring
- 5. Coaching
- 6. Locker Rooms, Practice/Game facilities
- 7. Medical and training facilities
- 8. Housing and Dining Facilities and Services
- 9. Publicity
- 10. Support Services
- 11. Recruitment of student athletes

MONTGOMERY COUNTY PUBLIC SCHOOLS

2024 Amendments

(effective August 1, 2024)

MEMORANDUM

September 5, 2024 Information - NFW



Office of District Operations MONTGOMERY COUNTY PUBLIC SCHOOLS Rockville, Maryland

TO: All Principals and Administrators

FROM: Dana E. Edwards. Chief of District Operations SUBJECT: 2024 Amendments to Title IX Regulations

Summary

The U.S. Department of Education amended the Final Rule implementing Title IX of the Education Amendments of 1972 (Title IX), effective August 1, 2024. Montgomery County Public Schools (MCPS) continues to meet the requirements of Title IX. The Final Rule strengthens vital protections for students and provides clear rules to help schools meet their Title IX obligation to eliminate sex discrimination in their education programs and activities. The final regulations strengthen vital protections from all forms of sex-based harassment, including sexual violence and unwelcome sex-based conduct that creates a hostile environment by limiting or denying a person's ability to participate in or benefit from a school's education program or activity.

Background

The most significant amendments to the Department's Final Rule are -

- the expansion of the term based on sex, which now specifically highlights the schools' obligations not to discriminate based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; and
- . the inclusion of "limits access" to educational programming and services as a basis for claiming harassment, whereas the Rules as amended in 2020 had set a stricter criterion that harassment must "deny access."

Since October 2019, Maryland regulations (COMAR 13A.01.06) have required Maryland public schools to create educational environments that are equitable, fair, safe, diverse, and inclusive; ensure that there are no obstacles to students accessing educational opportunities; and to view each student's characteristics as valuable. The Montgomery County Board of Education updated Policy ACA, Nondiscrimination, Equity, and Cultural Proficiency, in compliance with the updated COMAR. In addition, Maryland law requires, and MCPS adheres to, a state model policy to prohibit discrimination or harassment based on pregnancy or parenting, MPCS Regulation IOE-RA, Guidelines for the Continuing Education of Pregnant and Parenting Students.

2024 Title IX Regulations An Overview of the Final Rule MONTGOMERY COUNTY PUBLIC SCHOOLS

Purpose: To provide a brief overview of the highlighted changes and implications, including how MCPS continues to meet the requirements of Title IX. The Final Rule strengthens vital protections for students and provide clear rules to help schools meet their Title IX obligation to eliminate sex discrimination in their education programs and activities. The final regulations strengthen vital protections from all forms of sex-based harassment, including sexual violence and unwelcome sex-based conduct that creates a hostile environment by limiting or denying a person's ability to participate in or benefit from a school's education program or activity.

Effective Date: In April 2024, the U.S. Department of Education (Department) amended the Final Rule implementing Title IX of the Education Amendments of 1972 (Title IX), effective August 1, Key Takeaways:

- The most significant amendments to the Department's Final Rule are -• the expansion of the term on the basis of sex, which now specifically highlights the schools' obligations not to discriminate based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; and
- the inclusion of "limits access" to educational programming and services as a basis for claiming harassment, whereas the Rules as amended in 2020 had set a stricter criterion that

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2020 Title IX Regs	2024 Amendments
Sexual Harassment on the basis of sex	Term on the basis of sex expanded protected class to not discriminate based on: * sex stereotypes
Harassment (<i>The Big 5</i>) on the basis of sex that <i>denies</i> access to the educational program: 2020 set a stricter criterion that the harassment must "deny access"	Harassment and Discrimination on the basis of sex that denies or limits access to the educational program.

The Big 5

- Sexual Assault
- Domestic Violence
- Dating Violence
- Stalking
- Employee Quid Pro Quo

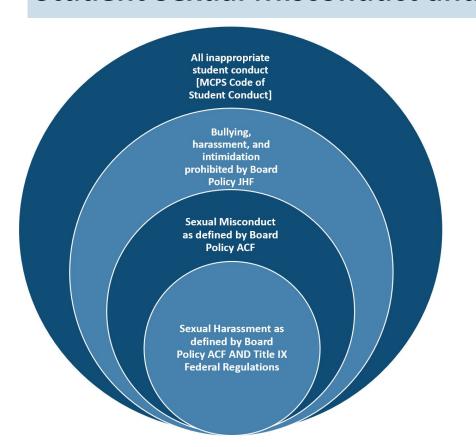
→ Unwelcome "sexual conduct or discrimination on the basis of sex"... determined by a reasonable person to be severe, pervasive, and objectively offensive, that it effectively DENIES or LIMITS a person's equal access to an education program or activity.

Moms For Liberty Court Injunction

Moms For Liberty is a political organization that advocates against school curricula and programming that promotes rights among LGBTQ+, race and religion, and critical race theory.

- Filed a motion against the new Title IX Amendment: "Sex Discrimination."
- Courts issued a preliminary temporary injunction to specific schools that are connected by Moms For Liberty members.
- Final ruling could take months/years to determine if the temporary injunction should be upheld/limited/vacated.
- Injunction currently lists <u>48 MCPS schools</u>.
- Schools listed in the injunction will continue to use the 2020 Title IX Regulations and complaints involving the new rule, will be consulted with SWC and OGC. These schools will continue to be covered under the various MCPS policies and regulations, including COMAR, listed HERE.

Student Sexual Misconduct and Sexual Harassment



Sexual Misconduct and Sexual Harassment are subsets of bullying, harassment, and intimidation [Policy JHF] and are governed by additional regulations, policies, and laws, including Title IX of the Educational Amendments of 1972. [Policy ACF]

Sexual Misconduct defined

Under MCPS Policy ACF, sexual misconduct is defined as unwelcome verbal, written or physical behavior directed at an individual, or against a particular group, because of actual or perceived sex, sexual orientation, gender identity, gender expression...

that takes place under any of the following circumstances:

What is Sexual Misconduct?

- •When submission to or rejection of such conduct is made (explicitly or implicitly):
 - A term or condition of;
 - •Used as a basis for, or as a factor in decisions <u>affecting</u>;
 - •Has the purpose or effect of creating an intimidating, hostile, or offensive environment for;
 - •Unreasonably <u>interferes</u> with; or
 - Is sufficiently severe or pervasive that it <u>alters</u> the terms, conditions, or privileges of

... an individual's education, or ability to participate in a MCPS activity or program.

[Misconduct can happen on school grounds, sporting events, off-campus or online]

Sexual <u>Harassment</u> defined

Under MCPS Policy ACF and Title IX of the Educational Amendments of 1972, conduct considered **sexual harassment** is considered if a MCPS student experiences one or more of the following:

What is Sexual Harassment?

•Conduct meets one or more of the following conditions:

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively <u>denies or limits</u> a person equal access to MCPS educational programs or activities; or
- The federal definitions of "Sexual Assault", "Dating Violence", "Domestic Violence", or "Stalking";
- A MCPS employee conditioning the provision of an aid, benefit, or service of MCPS contingent on an individual's participation in unwelcome sexual conduct "Quid Pro Quo"; or
- Under circumstances in which MCPS have substantial control over both the harasser and the context in which the harassment occurred.

[Factors are evaluated from both the subjective and objective viewpoints, considering not only the effect that the conduct actually had on the person, but also the impact it would likely have had on a reasonable person in the same situation.]

What Happens

EVERYONE is Protected from Sexual Harassment

Inappropriate student conduct addressed in the MCPS Student Code of Conduct

Bullying, harassment, and intimidation prohibited by Board policy and state law

Sexual harassment prohibited by Title IX



When sexual harassment is alleged, MCPS will act in the

following ways:

Report and
Implement
a Safety
and
Supportive
Measures
Plan

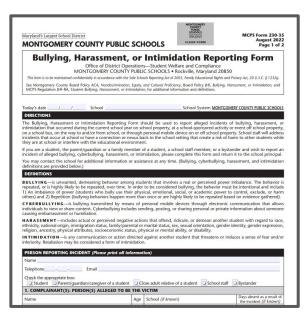
Investigate
the incident
and
determine if
harassment
occurred

- Prevent its recurrence
- Remedy its effects
- Provide Support
 Services for both the victim/offender
- Ensure students & families know how to report subsequent incidents

Depending on the severity of the offense, appropriate disciplinary action will be taken per the Student Code of Conduct

Reporting Forms:





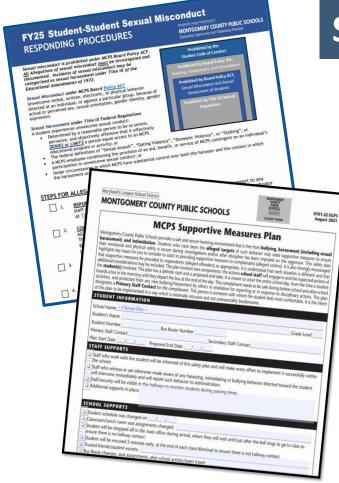
Maryland's Largest School District MCPS Form 230-39 MONTGOMERY COUNTY PUBLIC SCHOOLS Discrimination, Harassment, and **Workplace Bully Complaint** Office of Human Resources and Development (OHRD) MONTGOMERY COUNTY PUBLIC SCHOOLS Rockville, Maryland 20850 r workplace bullying under MCPS Regulations ACA-RA: Nondiscrimination, Equity, and Cultural Proficiency and/or ACH-RA:
Norkplace Bullying. The electronic version of this form is found online: ww2.montgomeryschoolsmd.org/departments/forms/detail. spx?formID=3711&formNumber=230-39&catID=1&subCatId=78. Forms can be emailed to DCI@mcpsmd.org. Employees should complete all sections of this form. Be specific as possible when discussing the incident(s), Include the date(s), escription(s), the name(s) of the person(s) involved, and the name(s) of those who may have witnessed the incident(s). In addition t this form, you are permitted to attach additional materials, which may assist in the investigation process. Questions about complaints of discrimination, harassment, or workplace bullying may be directed to the Department of Compliance and Investigations (DCI) at 240-740-2888. EMPLOYEE INFORMATION Today's Date: ___/____ Employee ID#_ Preferred Phone: - -Work Location: Name of Offending Person(s) Complaint Type Discrimination Harassment Workplace Bullying Complaint of Discrimination/Harassment Only: Select basis □ Color ☐ Genetic Information ☐ Sex, Sexual Orientation, Pregnancy Retaliation ☐ Disability ☐ Marital Status ☐ Race ☐ Veteran Status When dld the Incident(s) occur? (Include all dates if there are multiple instances) Where did the incident(s) occur? (Include specific location information Describe what happened (events, impact, and outcome). (Attach any additional pages or documentation as needed)

Formal Complaint Form

<u>Title IX Complaint Form</u>

Student Complaints MCPS Form 230-35

Staff Complaints
MCPS Form 230-39



School-Based Student Investigations

- ☐ Know the policies, use the **Quick Guides**: outlines steps
- Student incidents complete MCPS BULLYING
 REPORTING FORM 230-35
- ☐ Inform Administration
- **POLICE** are called for allegations involving rape or sexual assault by force (or threat of force)

IF MCPD takes the case, you must immediately implement a safety plan to ensure both students have full access to school programming and activities, while not having interactions or access to each other

- Serious Incidents are reported to OSSI
- Student investigations complete MCPS FORM 230-36
- □ Staff investigations consult with DCI (DCI@MCPSMD.ORG)

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School Investigations: 230-36 Bullying Investigation Form

- Be prompt, thorough, and impartial
- Know the policy and have the QUICK REFERENCE GUIDE
- Have an investigation plan, who to interview, what to ask, logistics
- Gather the facts/statement from the alleged victim(s): who/what/where/when/why?

Investigative Interview Questions

- Gather potential evidence: security cameras, emails, texts, notes, etc.
- Witnesses interview/statements, include all potential evidence
- Alleged offender(s) interview/statement, include all potential evidence





Helpful Tips

WAYS TO REPORT HATE-BIAS, BULLYING, HARASSMENT, AND HAZING INCIDENTS

Montgomery County Police Department (MCPD) 301-279-8000

> Victim Assistance and Sexual Assault 240-777-4357

Lighthouse Hotline 877-268-8620 reports@lighthouse-services.com

MCPS FORM 230-35, Bullying Harassment, or Intimidation Reporting Form (MCPS Website)

Crisis Center TEXT OR CALL 988

MCPS SCHOOL STAFF/ ADMINISTRATOR

TITLE IX COORDINATOR TitleIX@mcpsmd.org

MCPS FORM 226-5, Hate-Bias Incident Reporting Form VISIT OUR WEBISTE Student Welfare and Compliance Unit

ANONYMOUS reports will be investigated

*Anonymous reports will be investigated For Emergency Service Call 9-1-1

CALL 911 FOR ANY INCIDENTS OF IMMINENT DANGER

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Options for <u>Anonymously</u> Reporting Student or Staff allegations of Misconduct, Sexual Harassment or Bullying (Including Workplace Bullying)

LightHouse Hotline

MCPS employees are encouraged to speak freely with their supervisors, even with regard to concerns they may have about their workplace. In certain cases, however, they may feel it is not appropriate to discuss their concerns with their supervisor. Lighthouse Services provides a place where they can report concerns anonymously.

Employees can make a report anonymously 24 hours a day, 7 days a week. Reports can be received in more than 140 languages, including Spanish.

Toll free telephone number:

877-268-8620

Email address:

reports@lighthouse-services.com

The Montgomery County Office of the Inspector General

The Montgomery County Office of the Inspector General (OIG) is an independent office of county government that conducts investigations and proactive audits and evaluations to increase transparency and accountability in publicly funded programs and agencies including Montgomery County Public Schools and the Board of Education. Anyone may contact the office to make a report or raise a concern. Under County law, it is illegal to retaliate against employees and contractors for making a report to the OIG.

Hotline phone number: 240-777-7644

Email address:

Maryland Center for Safe Schools

Safe Schools Maryland is an ANONYMOUS and FREE reporting system available to students, teachers, school staff members, parents, and the general public to report any school or student safety concerns, including mental health concerns. Safe Schools Maryland is Maryland's only official anonymous reporting system. Safe Schools Maryland operates 24 hours a day, seven days a week, and 365 days a year.

Safe Schools Phone Line: 833-632-7233 Web: safeschoolsmd.org

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IG@montgomerycountymd.gov

QUESTIONS?

Student Welfare and Compliance 240-740-3215

SWC@mcpsmd.org
TITLEIX@mcpsmd.org



Scan & Save Site
Resources/Quick Guides

https://www2.montgomeryschoolsmd.org/compliance/

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