

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, **sexual misconduct** is defined as **unwelcomed 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 affecting;
 - Has the purpose or effect of creating an intimidating, hostile, or offensive environment for;
 - Unreasonably interferes with; or
 - Is sufficiently severe or pervasive that it alters 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 Harassment defined

Under MCPS policy 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 denies a person equal access to MCPS's educational programs or activities; or
- The federal definitions of "Sexual Assault", "Dating Violence", "Domestic Violence", or "Stalking"; or
- A MCPS employee conditioning the provision of an aid, benefit, or service of MCPS contingent on an individual's participation in unwelcome sexual conduct; 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.]

QUICK REFERENCE: Student to Student Sexual Misconduct Procedures

Sexual misconduct is prohibited under MCPS Board Policy ACF. All allegations of sexual misconduct **must be investigated and documented**. Incidents of sexual misconduct may be categorized as sexual harassment under Title IX of the Educational Amendments of 1972.

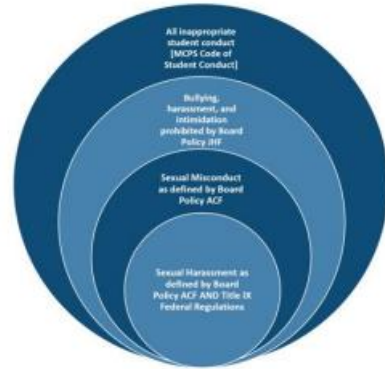
Sexual Misconduct under MCPS Board Policy ACF

Unwelcome verbal, written, electronic, or physical behavior directed at an individual, or against a particular group because of actual or perceived sex, sexual orientation, gender identity, gender expression.

Sexual Harassment under Title IX Federal Regulations

A student experiences unwelcome sexual conduct:

- Determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively **DENIES** a person equal access to an MCPS educational program or activity; or
- The federal definitions of "Sexual Assault", "Dating Violence", "Domestic Violence", or "Stalking"; or
- A MCPS employee conditioning the provision of an aid, benefit, or service of MCPS contingent on an individual's participation in unwelcome sexual conduct; or
- Under circumstances in which MCPS have substantial control over both the harasser and the context in which the harassment occurred.



STEPS FOR ALLEGATIONS OF SEXUAL MISCONDUCT

1. **REPORT:** Student, staff member, parent/guardian, makes verbal or written report to any staff member/administrator. A report may also be made by emailing the Title IX Coordinator at TitleIX@mcpsmd.org, Student Welfare and Compliance (SWC).
2. **COMPLETE MCPS FORM 230-35, Bullying, Harassment, or Intimidation Reporting Form:** All allegations of sexual misconduct must be documented on [MCPS Form 230-35](#). The form may be completed by any staff member, student, or parent/guardian. **SUBMIT THE COMPLETED MCPS FORM 230-35 to PRINCIPAL/DESIGNEE.** [Available to complete online [HERE](#)]
3. **PRINCIPAL/DESIGNEE WILL CONTACT the Office of School Support and Well-Being (OSSWB):** Call **OSSWB 240-740-3100** within one hour of the incident being reported. OSSWB will enter the incident into **SYNERGY** and SWC will be contacted.
4. **POLICE NOTIFICATION: ANY CASE INVOLVING ALLEGED RAPE, SEXUAL ASSAULT** by threat/force, or violent nature require a call to **MCPD Emergency Communications Center (ECC) 240-683-1600**.
5. **CPS/APS NOTIFICATION:** Cases where the student is an alleged victim of sexual abuse, or a staff member suspects that the student's behavior may indicate they are a victim of sexual abuse, call Child Protective Services (CPS) **240-777-4417**, or if the student is 18 years or older call Adult Protective Services (APS) **240-777-3000**.

August 2022

An incident of SEXUAL MISCONDUCT has been reported:

1. Know the policy QUICK REFERENCE is based on policy
2. Complete MCPS FORM 230-35
3. Inform Administration
4. Call Police Emergency Communications Center(ECC) if case involves rape or sexual assault by force (or threat of force).

IF the police take 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.

5. Report Serious Incident to OSSWB
6. If police do not take the case, an investigation must be done by the school.
(Discipline handles through the *Student Code of Conduct*.)
7. Admin should send letters to victims and alleged perpetrators following any bullying cases of sexual misconduct.
8. Cases categorized as Sexual Harassment/Title IX have additional protocols to follow.
9. Call *Student Welfare and Compliance* for support

Reporting Sexual Misconduct / Harassment

How STUDENTS can report?

- ✓ Contact your school principal, counselor, or any MCPS staff member.
- ✓ Contact the Police Emergency Communication Center (ECC), 240-683-1600.
- ✓ Submit MCPS Form 230-35, Bullying, Harassment, or Intimidation Reporting Form. This form may be submitted to the principal, counselor or any school staff (via email).
- ✓ Contact the MCPS Title IX Coordinator at TitleIX@mcpsmd.org. Reports and allegations concerning MCPS employees will immediately involve the Department of Compliance and Investigations (DCI), 240-740-2888.
- ✓ Safe Schools Maryland Tip Line is an anonymous reporting system used to report threats to the safety and/or well-being of students. Call 1-833-MD-B-SAFE or download the app.
- ✓ Contact the Montgomery County Hotline at 301-738-2255. A trained staff member or volunteer will provide supportive listening and information, 24 hours a day, seven days a week.
- ✓ Send a TEXT to Montgomery County Hotline at 301-738-2255, daily between 8am and midnight.
- ✓ Contact the Victim Assistance and Sexual Assault Program (VASAP) for support, 240-777-4357. VASAP provides information, referrals and advocacy, as well as crisis and ongoing counseling for victims of sexual assault.

WAYS TO REPORT

Reporting Sexual Misconduct / Harassment

How to Report

Sexual Assault/Sexual Harassment?

REPORT

- Police Emergency Communications Center **240-683-1600**
- Crisis Center **240-777-4000**
- Maryland Schools Safe Tip Line **1-833-MD-B-SAFE**
- Victim Assistance and Sexual Assault **240-777-4357**
- MCPS Staff/Administrator
- MCPS Form 230-35 **Bullying Harassment Reporting Form**
- MCPS Title IX Formal Complaint Form
- Title IX Coordinator at **TitleIX@mcpsmd.org**

WAYS TO REPORT

Reporting Sexual Misconduct / Harassment

The school principal is notified of all reports of sexual harassment, regardless of reporting method, and follows these steps:

- A serious incident is filed with MCPS and MCPS Form 230-35 is completed.
- Police are notified of cases involving sexual assault.
- CPS is notified of any cases involving an adult, pertaining to adult care, and/or including concerns of victimization of sexual abuse.
- Principal consults with director of school, as well as Student Welfare and Compliance.
- The school's designated Student Welfare Liaison is notified for support.
- A Safety and Supportive Measures Plan is developed and implemented for all students involved.
- Investigation is conducted (in coordination with MCPD, as appropriate).
- Outcomes of investigation revealed and disciplinary measures taken in accordance with the Student Code of Conduct.
- Preventative measures are implemented, including counselor/liaison post-welfare check-ins.
- Incident outcomes and disposition sent to Student Welfare and Compliance for documenting.

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MCPS Form 230-35
August 2022
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Bullying, Harassment, or Intimidation Reporting Form

Office of District Operations—Student Welfare and Compliance
MONTGOMERY COUNTY PUBLIC SCHOOLS • Rockville, Maryland 20850

This form is to be maintained confidentially in accordance with the Safe Schools Reporting Act of 2005, Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g. See Montgomery County Board Policy ACA, Nondiscrimination, Equity, and Cultural Proficiency, Board Policy JHF, Bullying, Harassment, or Intimidation, and MCPS Regulation JHF-RA, Student Bullying, Harassment, or Intimidation, for additional information and definitions.

Today's date / / School School System MONTGOMERY COUNTY PUBLIC SCHOOLS

DIRECTIONS

The Bullying, Harassment or Intimidation Reporting Form should be used to report alleged incidents of bullying, harassment, or intimidation that occurred during the current school year on school property, at a school-sponsored activity or event off school property, on a school bus, on the way to and/or from school, or through personal mobile device on or off school property. School staff will address incidents that occur at school or have a connection or nexus back to the school setting that create a risk of harm to other students while they are at school or interfere with the educational environment.

If you are a student, the parent/guardian or a family member of a student, a school staff member, or a bystander and wish to report an incident of alleged bullying, cyberbullying, harassment, or intimidation, please complete this form and return it to the school principal. You may contact the school for additional information or assistance at any time. (Bullying, cyberbullying, harassment, and intimidation definitions are provided below.)

DEFINITIONS

BULLYING—is unwanted, demeaning behavior among students that involves a real or perceived power imbalance. The behavior is repeated, or is highly likely to be repeated, over time. In order to be considered bullying, the behavior must be intentional and include 1) An imbalance of power (students who bully use their physical, emotional, social, or academic power to control, exclude, or harm others) and 2) Repetition (bullying behaviors happen more than once or are highly likely to be repeated based on evidence gathered).

CYBERBULLYING—is bullying transmitted by means of personal mobile devices through electronic communication that allows individuals to view or share content. Cyberbullying includes sending, posting, or sharing personal or private information about someone causing embarrassment or humiliation.

HARASSMENT—includes actual or perceived negative actions that offend, ridicule, or demean another student with regard to race, ethnicity, national origin, immigration status, family/parental or marital status, sex, sexual orientation, gender identity, gender expression, religion, ancestry, physical attributes, socioeconomic status, physical or mental ability, or disability.

INTIMIDATION—is any communication or action directed against another student that threatens or induces a sense of fear and/or inferiority. Retaliation may be considered a form of intimidation.

PERSON REPORTING INCIDENT (Please print all information)

Name

Telephone - - Email

Check the appropriate box:
 Student Parent/guardian/caregiver of a student Close adult relative of a student School staff Bystander

1. COMPLAINANT(S): PERSON(S) ALLEGED TO BE THE VICTIM				
Name	Age	School (if known)	Days absent as a result of the incident (if known)	

2. ALLEGED WITNESS(ES) (if known)				
Name	School (if known)	Age (if known)	Student: (Y/N)	Days absent as a result of the incident (if known)

WAYS TO REPORT

What Happens

Once Sexual Misconduct/Harassment is alleged:

Complaints involving **SEXUAL ASSAULT** or **SEXUAL OFFENSES** are reported to law enforcement and may result in criminal charges

MCPS FORM 230-35, Bullying, Harassment, or Intimidation Reporting Form, documents all complaints

Victim(s) receive **supportive measures** and a **safety plan**

MCPS will **INVESTIGATE**, determine if harassment occurred and remedy the effects

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

Supportive measures for involved students

Ensure that students and families know how to report subsequent incidents





Helpful Tips for school investigation

- Asking clarifying questions is not investigating
- Be prompt, thorough, and impartial
- Have an investigation plan → who to interview, what to ask, logistics
- Know the policy and have the QUICK REFERENCE guide close by
- Gather all the facts from the complainant (who, what, where, when, race, ethnicity, gender, witnesses, time of day, disposition, mood, tone)
- Ask for potential evidence → emails, texts, notes
- Assess current disposition of complainant/victim (impact and affect)
- With witnesses → ask what they saw, but also if they have information that might be helpful (current incident, but also past issues)
- Inform respondent of allegation(s) and give opportunity to explain behavior
- Take good notes and stay organized

Student Safety Plan

A safety plan will be implemented to ensure all students involved are safe to access educational programming at the school

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0101.22 EGPS
August 2021

MCPS Supportive Measures Plan

Montgomery County Public Schools provides a safe and secure learning environment that is free from **bullying, harassment (including sexual harassment) and intimidation**. Students who have been the **alleged targets** of such behavior may need supportive measures to ensure their emotional and physical safety is secure during investigations and/or after discipline has been imposed on the aggressor. This safety plan highlights key issues for you to consider to assist in providing supportive measures to complainants (alleged victims). It is also strongly encouraged that supportive measures be provided to respondents (alleged offenders) as appropriate. It is understood that each situation is different and that additional considerations may be included. The plan involves two components: the actions **school staff** will engage in and the expected actions of the **student(s)** involved. This plan has a definite start and a proposed end date. It is meant to cover the entire school day, from the time a student boards a bus in the morning until they depart the bus at the end of the day. The complainant needs to be safe during before-school and after-school activities, and protected from any new bullying/harassment by others in retaliation for reporting or in response to disciplinary actions. The plan designates a **Primary Staff Contact** for the complainant. This person is someone with whom the student feels most comfortable. It is the intent of this plan to be implemented in a way which is minimally intrusive and not unreasonably burdensome.

STUDENT INFORMATION

School Name -- Choose One --
Student's Name _____
Student Number _____
Primary Staff Contact _____ Bus Route Number _____
Plan Start Date ____/____/____ Proposed End Date ____/____/____ Secondary Staff Contact _____ Grade Level _____

STAFF SUPPORTS

Staff who work with the student will be informed of this safety plan and will make every effort to implement it successfully within the school.
 Staff who witness or are otherwise made aware of any harassing, intimidating or bullying behavior directed toward the student will intervene immediately and will report such behavior to administration.
 Staff/security will be visible in the hallways to monitor students during passing times.
 Additional supports in place: _____

SCHOOL SUPPORTS

Student schedule was changed on ____/____/____
 Classroom/lunch room seat assignments changed: _____
 Student will be dropped off in the main office during arrival, where they will wait until just after the bell rings to go to class to ensure there is no hallway contact.
 Student will be excused 5 minutes early, at the end of each class/dismissal to ensure there is not hallway contact.
 Trusted friends/student escorts: _____
 Bus Route changes, seat assignments, after school activity/team travel: _____
 Extracurricular school activities/events support plan: _____
 Additional supports in place: _____

STUDENT SUPPORTS

Student will avoid contact or online communication with _____ while this plan is in effect.
 Flash Pass issued: ____/____/____
 The student will immediately report any breach of this plan including on/off school grounds.
 Additional supports in place: _____

PARENTS/GUARDIANS

Parents/Guardians agree to monitor and support the student with this plan, monitor the student's interactions outside of the school, and contact the school if the problem persists.

This plan is in place from the dates stated above, pending any agreed upon revisions or termination.

WE AGREE TO THE SUPPORTIVE MEASURES PLAN AS STATED ABOVE

Student Signature _____ Parent/Guardian Signature _____
Principal/Principal Designee _____ Date ____/____/____

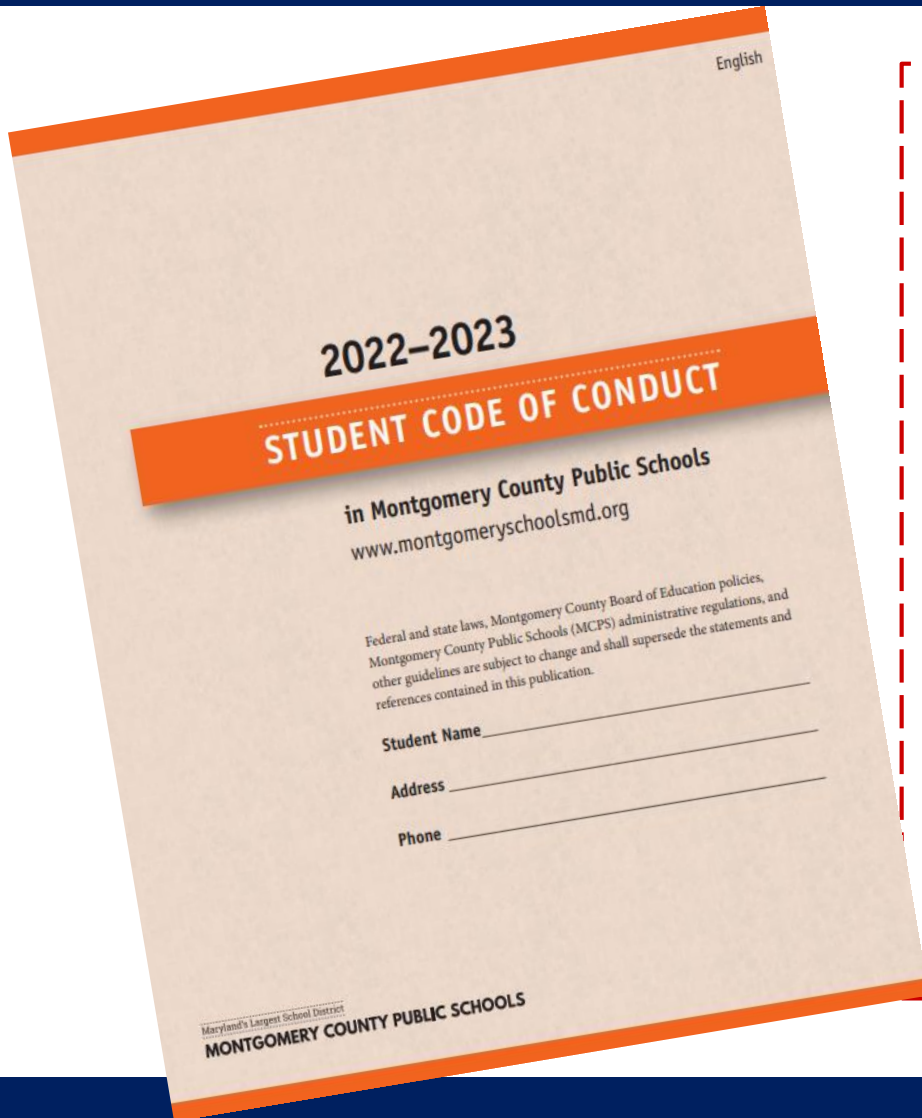
School Level Consequences

Consequences...



School-level consequences range from:

- Exclusion from the activity or group
- Restorative justice practices
- Short-term suspension
- 10-day suspension with recommendation for expulsion



Lowest level should be considered first, followed by progressively more intensive consequences, based on severity, age, and repetition of behavior.
(Refer to Disciplinary Response Matrix guidance on page 10)

	LEVEL 1 Classroom and Teacher-led Responses (e.g., written apology, talk with school counselor, detention)	LEVEL 2 Teacher-led/Referenced and Administrative Supported Responses (e.g., community service, peer mediation, temporary removal from class)	LEVEL 3 Administrative Supported and/or Removal Responses (e.g., restorative practices, in-school suspension)	LEVEL 4 Administrative Supported and Short-Term Out-of-School Exclusionary Responses (e.g., mentoring programs, short-term suspension)	LEVEL 5 Long-Term Administrative Supported, Out-of-School Exclusionary, and Referral Responses (e.g., long-term suspension, expulsion)
Inappropriate or Disruptive Behavior (Identified by state suspension code)					
Sexual Attack (601) As part of any disciplinary response, school staff should refer students to appropriate counseling.				Engaging in behavior toward another that is physically, sexually aggressive.	
Sexual Harassment (602) As part of any disciplinary response, schools should emphasize intervention strategies, and refer students to appropriate counseling. <small>*See Board Policy ACF and MCPS Regulation ACF-RA, Sexual Harassment, Board Policy IIB, Bullying, Harassment, or Intimidation, Bullying, Harassment, or Intimidation, MCPS Form 230-35, Bullying, Harassment, or Intimidation Reporting Form.</small>			Unwelcome sexual advances; requests for sexual favors; and/or other directed toward others; inappropriate use of electronic devices/social media in such context. (Consideration would need to be given to the circumstances in determining an appropriate course of action and consequences.)		
Bullying/Harassment (407) As part of any disciplinary response, schools should emphasize intervention strategies, and refer students to appropriate counseling. <small>*See Board Policy IIB, Bullying, Harassment, or Intimidation, and MCPS Regulation IIB-RA, Student Bullying, Harassment, or Intimidation, and MCPS Form 230-35, Bullying, Harassment, or Intimidation Reporting Form.</small>			In accordance with Maryland law, conduct, including verbal, physical, or written conduct or an intentional electronic communication that creates a hostile educational environment by substantially interfering with a student's physical or psychological well-being, and is— (1) Either (a) motivated by an actual or a perceived personal characteristic, including race, ethnicity, color, ancestry, national origin, religion, immigration status, sex, gender, gender identity, gender expression, sexual orientation, family/parental status, marital status, age, physical or mental disability, poverty and socioeconomic status, language, or other legally or constitutionally protected attributes; sexual in nature; or (c) threatening or seriously intimidating. and (2) Either (a) occurs on school property, at a school-sponsored activity or event, or on a school bus; or (b) substantially disrupts the orderly operation of a school. Cyberbullying is a form of bullying, harassment, and intimidation. "Cyberbullying" means a communication transmitted by means of an electronic device, and includes the use of social media sites. Cyberbullying shall include any future applications that fall under "electronic communication." "Electronic Communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer or tablet.		

Reporting Sexual Misconduct / Harassment

The following MCPS offices can also provide additional support:

- **MCPS Student Welfare and Compliance** works collaboratively with schools, central office and community agencies to ensure consistency and coherence with implementation of policies, regulations and guidelines, such as issues related to human relations; bullying, harassment (including Title IX sexual harassment) and intimidation; recognizing and reporting child abuse and neglect; and gender identity. You can call **240-740-3215** or email **SWC@mcpsmd.org**.
- **MCPS Office of Student and Family Support and Engagement (OSFSE)** oversees MCPS services and programs needed to promote positive school cultures and advance the academic, physical, social and psychological well-being of every student. You can call the office at **240-740-5630**.
- **The Equity Initiatives Unit** supports, coaches, consults and collaborates with schools and offices to design and implement efforts to address equity and cultural competency. They help school and office employees, in their day-to-day work, address structural barriers that enable our racial achievement gap to persist. You can call the office at **240-740-4070**.
- **MCPS school psychologists** can be contacted by calling your school, or by contacting the office at **240-740-5640**.

AVAILABLE SUPPORTS

Online Resources

Resources and linked documents:

- Student Welfare and Compliance webpage [found here](#)
- MCPS Nondiscrimination Statement [found here](#)
- Support for a student who may be the target of bullying, harassment (including sexual harassment), and/or intimidation can be [found here](#)
- Support for a student who may be the target of sexual harassment or sexual assault by force or threat of force can be [found here](#)
- Support for a student who may need a Safety and Supportive Measures Plan can be [found here](#)
- The Superintendent's letter regarding MCPS efforts to address recent allegations of sexual assault, harassment and discrimination, and provide supports to students and families can be [found here](#)
- Support for anyone who suspects the abuse or neglect of a child or vulnerable adult can be [found here](#)
- Student Rights and Responsibilities can be [found here](#)

ONLINE RESOURCES

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MONTGOMERY COUNTY PUBLIC SCHOOLS

LANGUAGES

EMERGENCY INFO

SCHOOL CALENDAR

MCPs NEWS CENTER

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SCHOOLS

PARENTS

STUDENTS

ACADEMICS

STAFF

BOARD OF EDUCATION

SUPERINTENDENT

CAREERS



STAFF DIRECTORY



STUDENT WELFARE AND COMPLIANCE

Maintaining a lawful, positive, safe, and healthy climate and culture

SWC@mcpsmd.org

240-740-3215