

**Procedures for Policy #3610 (Students) of the Board of Education  
Regarding Students' Rights and Responsibilities in Calvert County Public Schools**

I. Definitions

- A. Student – An individual who is enrolled full-time or part-time in Calvert County Public Schools
- B. Employee – An individual whose compensation is paid by Calvert County Public Schools
- C. School Property – Any Calvert County Public School (CCPS) building and/or grounds, any CCPS leased or owned vehicles, including school buses when they are in use for official school business. This includes any location used for co- or extra-curricular activities, including any field trips.

II. Student Attendance

- A. Students between the ages of 5-21 years have the right to a free and appropriate public education. Coupled with this right is the legal duty to attend school regularly. The right to learn in an environment that is safe, secure and free of disruption is essential for student success.
- B. Student attendance requirements are governed by state law and regulation as well as Calvert County Public Schools Policy 3005 Regarding Student Attendance.

III. Non-Discrimination and Harassment Laws

- A. Students have and shall be accorded the right to freedom from discrimination. The United States Constitution guarantees basic freedoms such as speech, press, assembly and religion. From this, laws exist to protect students. These are summarized in the following four laws and regulations:
  - 1. Discrimination/Harassment on the Basis of Race, Color or National Origin
    - a. *Title VI of the Civil Rights Act of 1964 and 1991* prohibits discrimination or harassment against students whose home language is not English and covers admission to courses and activities.
  - 2. Discrimination/Harassment on the Basis of Sex or Sexual Orientation
    - a. *Title IX of the Education Amendments of 1972* prohibits discrimination and/or harassment on the basis of sex and guarantees equal opportunities for females and males in course enrollment, guidance services, physical education, athletics, vocational programs, etc. Moreover, Title IX legally protects students against sexual harassment. Students have a right to participate in all school and classroom activities in an atmosphere free from sexual harassment. Furthermore, students have a responsibility not to engage in sexual behaviors that are unwelcome or offensive to others.

3. Discrimination/Harassment on the Basis of Disability
  - a. *The Individuals with Disabilities Education Improvement Act, the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973* prohibit discrimination or harassment based on disability and guarantee that all students with disabilities have a right to an appropriate education and access to the general education curriculum.
4. Discrimination on the Basis of Language
  - a. *The Equal Educational Opportunities Act of 1974* assures that school systems provide assistance in overcoming language barriers to students in need.

B. Calvert County Public Schools Policy 1118 Regarding Discrimination delineates the school system's responsibilities regarding the prevention of discrimination and the steps individuals can take to report incidents of discrimination and harassment.

#### IV. Search and Seizure

- A. School officials have the authority to search students under their jurisdiction without a warrant when there are reasonable grounds for suspecting that the search will reveal evidence that the student has violated or is violating either the law or school rules.
  1. A principal, vice principal, school safety advocate, or principal's designee may make a reasonable search of a student on school premises or on a school-sponsored trip if the searcher has a reasonable belief that the student has in the student's possession an item, the possession of which is a criminal offense under the laws and/or regulations of this State or a violation of any other State law, or a policy, procedure or guideline of the Board of Education.
  2. The search shall be made in the presence of a third party.
  3. Search of the School
    - a. The principal, vice principal, safety advocate, or principal's designee may make a search of the physical plant of the school and its apertures, including the lockers of students.
  4. Search on School-Sponsored Trips
    - a. If designated in writing by the principal, a teacher may make a reasonable search of a student on a school-sponsored trip if the teacher has a reasonable belief that the student has in his/her possession an item, the possession of which is a criminal offense or violation of any State law and/or regulation or a policy or procedure of the Board of Education.
    - b. To qualify to conduct a search under this section, a teacher must receive training to conduct a search commensurate with training received by a principal.
    - c. The search shall be made in the presence of a third party.

- d. As soon as possible after the search, the teacher must notify the school principal or designee. The principal or designee must notify the parent.

#### B. Police Searches

1. Police searches on school premises require a warrant and are generally restricted to prevent imminent danger to students. Under this authority, police may use drug-detecting dogs on school property.
2. Police officers may not search the person of a student who is not under arrest unless the officers have a reasonable suspicion that the student is concealing a weapon that poses a danger to others. School officials may not conduct such searches at the request of police officers. COMAR 13A.08.01.14(E)
3. School officials are to cooperate with police officers searching school premises.
4. The school principal or designee should notify the Superintendent or designee when the police search school property.

- C. Every effort should be made to perform searches of school premises in a manner which minimizes disruption of normal school activities and embarrassment to affected students. COMAR 13A.08.01.14(F)

#### D. Arrest and Questioning of Students

1. Whenever possible, the arrest of a student should be made away from school premises and after school hours - COMAR 13A.08.01.12(A).
2. If it is necessary to arrest a student during school hours, school officials should ascertain the facts surrounding the arrest and make every effort to inform the child's parent or guardian immediately - COMAR 13A.08.01.12(B-C).
3. An arrested student may not be questioned by the police on school premises and shall be removed from the premises as soon as practicable after the arrest - COMAR 13A.08.01.12(E).
4. During a police investigation, students may not be questioned on school premises unless the questioning concerns a crime committed on the premises or unless the failure to question the student immediately would threaten the success of the investigation or endanger the safety of students or other persons.
5. A school official should be present during the questioning of any student - COMAR 13A.08.01.13(A)- and, except for child abuse or neglect investigations, shall promptly advise the student's parents or guardians of the nature of the investigation - COMAR 13A.08.01.13(C).
6. In the absence of an arrest, a student may not be removed from school premises for questioning without the consent of the child's parent or guardian.

#### V. Student Activities

##### A. Student Organizations

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1. All student organizations desiring to conduct activities in public school buildings or on public school grounds shall be permitted to conduct these activities only if authorized to do so and shall thereafter be subject to the supervision of the administration and faculty of the school - COMAR 13A.08.01.09(A).
2. Participation in such organizations shall be governed by procedures agreed upon by the school administration and students, but may not exclude participation based on sex, race, disability, religion, ethnic background or program of study. Academic eligibility for participation in such organization shall be governed by the Calvert County Board of Education – See Calvert County Public Schools Policy 3452 Regarding Academic Eligibility in Extracurricular Activities.
3. Any secret, exclusive, or self-perpetuating organization which seeks to organize and perpetuate itself by taking in members from among the students enrolled in the public schools in which they are students, upon the basis of decision of the membership of the organization, rather than from the free choice of any students in the school who are qualified to fill the special aims of the organization, shall be prohibited from conducting its activities in public school buildings or on public school grounds. COMAR 13A.08.01.09(B)

#### B. Interscholastic Athletics

1. Interscholastic athletics in Calvert County Public Schools are governed by Calvert County Public Schools Policy 3450 Regarding the Interscholastic Athletics Handbook.
2. Student eligibility for high school athletics is governed by State and Southern Maryland Athletic Conference (SMAC) regulations - COMAR 13A.06.03 and by Calvert County Public Schools Policy 3452 Regarding Academic Eligibility for Extracurricular Activities.
3. The equal opportunity to participate in athletics is governed by Calvert County Public Schools Policy 1118 Regarding Discrimination.

### VI. Student Expression

- A. The First Amendment of the United States Constitution prohibits laws “abridging the freedom of speech or the press,” and guarantees “the rights of the people to peaceably assemble and to petition the government for a redress of grievances.” The protections of the First Amendment also apply to public school students. Students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker v Des Moines Independent School District* 393 US.503 at 506(1969) However, the First Amendment rights of students are subject to restriction if the exercise of those rights materially and substantially disrupts the educational environment.
- B. Disruptive Speech and Activities
  1. Certain types of speech and behavior are considered so disruptive that they may be prohibited outright. The willful disturbance of school activities or other actions that prevent the orderly conduct of educational functions is

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forbidden by law. Similarly, persons may not threaten with bodily harm or otherwise molest individuals in the immediate vicinity of public schools. Courts may take action to bar such disruptive conduct and may impose misdemeanor criminal penalties on persons who engage in it. § 26-101a-d of the Education Article of the Annotated Code of Maryland

2. The free speech rights that students have in the school environment are governed by a rule of reason applied to specific facts. For example, a school official may take disciplinary action against students who use vulgar and offensive language in school.
3. Distribution of Literature
  - a. Written communication by students in school-sponsored publications is subject to the reasonable restrictions of school officials. For example, the Supreme Court recently determined that students' free speech rights were not violated by the decision of a high school principal to remove from a school newspaper two pages that contained articles about pregnancy and divorce. The Court held that "educators do not offend the First Amendment by exercising editorial control of the content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns."
4. Assembly and Petition
  - a. The First Amendment provides students with the fundamental right to assemble and to circulate petitions. However, students, like other members of the community, do not have "an absolute constitutional right to use all parts of a school building or its immediate environs...for unlimited expressive purposes." Thus, a high school administrator may restrict the use of school facilities for group activities. In fact, total denial of the use of facilities for any activity outside the formal school curriculum is constitutional principally because a public school is not viewed as a traditional "public forum." Rather, a school is considered to be a "limited open forum" where equal access to all groups – regardless of their religious, political, philosophical, or other views – is guaranteed when a school "grants an offering to or opportunity for one or more non-curriculum related student groups to meet on school premises."
  - b. Schools may set reasonable limits as to the time, place, and manner in which students and student groups may assemble.
5. Symbolic Expression – Buttons and Armbands
  - a. Students may display buttons and armbands or other symbolic forms of expression in school as long as the display does not materially and substantially interfere with discipline and class work. However, if a symbolic form of expression creates educational concerns, school officials may disassociate the school from the symbol.

## 6. Hair and Dress

- a. Public schools may regulate the dress or hair length of their students if the regulations are rationally related to a legitimate school objective such as school discipline, safety, health, or disruption to the educational process. In some states, for instance, the wearing of earrings by males was prohibited as part of a policy barring the display of “gang symbols” in school and a ban on excessively tight or suggestive clothing was upheld in some states as well.

## 7. The Right to Assemble

- a. The right to assemble and to circulate petitions carries with it an equal responsibility to respect the orderly operation of the school. School authorities have a right to restrict the time, place and manner of such activities and may require advance notice to avoid conflicts and to ensure proper protection of the school community.

## 8. Patriotic and Religious Exercises

- a. There has been a long history of litigation over the rights of students and school officials in connection with patriotic and religious exercises in schools. It has been established that students cannot be required to participate in either activity. Questions as to the nature of student rights to exercise freedom in school commonly arise in two contexts and both of these have been addressed in Maryland statutes.

### 1) Display of the Flag and Student Participation in Patriotic Exercises

- i. Section 7-105 of the Education Article of the Annotated Code of Maryland encourages all students and school staff to recite the Pledge of Allegiance daily. However, any student or teacher who wishes to be excused from the Pledge of Allegiance and other patriotic exercises shall so be excused.

### 2) Religious Exercises

- i. Public schools may offer a moment of silence for personal reasons. During this period, students and teachers may pray or read Holy Scripture provided they do so silently - § 7-104b of the Education Article of the Annotated Code of Maryland
- ii. Absences from school for the observation of religious holidays are considered lawful. See Calvert County Public Schools Policy 3005 Regarding Attendance.

## VII. Student Records

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- A. Federal and State laws and regulations grant students and their parents certain rights and protections regarding student educational records. Calvert County Public Schools Policy 1920 Regarding Records Retention and Disposition governs student records.
- VIII. Disciplinary Action
- A. In order to maintain a safe school environment, schools must respond when students fail to meet certain standards of conduct.
  - B. Each local school board is responsible for adopting regulations designed to maintain an environment of order and discipline necessary for effective learning. Such regulations may include provisions for counseling, interventions, and mediations and should allow for suspensions, expulsion, and any other appropriate disciplinary measure.
  - C. Student discipline in Calvert County Public Schools is governed by Calvert County Public Schools Policy 1112 Regarding Student Discipline.
- IX. Due Process
- A. Each student in Calvert County must be afforded his/her due process rights. This means that a student must be given an opportunity to learn what he/she is accused of doing and must be given the chance to offer an explanation before the principal or his/her designee makes a final decision regarding consequences for specific behaviors.
  - B. Any student or parent alleging a violation of due process rights is encouraged to discuss these concerns with the principal. Absent resolution at that meeting, the student/parent may appeal a decision of the school principal or his/her designee to the Superintendent or his/her designee within 10 school days of the final decision of the school principal. The Superintendent or his/her designee's decision may be appealed to the Board of Education within 30 days of the decision. The Board of Education's decision may be appealed to the State Board of Education within 30 days after a final decision has been made by the local Board of Education
- X. Investigation of Complaints
- A. All complaints of discrimination will be investigated in accordance with Calvert County Public Schools Procedure 1118.1 Regarding Discrimination: Investigation and Resolution of Complaints.