

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") made this 20th day of JUNE, 2011 by and between the MONTGOMERY COUNTY BOARD OF EDUCATION (the "Board"), and MONTGOMERY COUNTY, MARYLAND (the "County"), (each individually a "Party" and together the "Parties").

WITNESSETH

WHEREAS, the Board is the owner of the fee simple title in the property known as Bel Pre Elementary School, located at 13801 Rippling Brook Drive, Silver Spring, Maryland, 20906, in Montgomery County, Maryland; and

WHEREAS, the Amended FY 2011-2016 Capital Improvements Program included funding from the County to construct a child care suite at Bel Pre Elementary School as part of the school's modernization project; and

WHEREAS, the Board completed the modernization project at Bel Pre Elementary School which included the construction of the child care suite for the County's use; and

WHEREAS, the Board desires to lease the child care suite to the County, which the County shall sublicense to a selected child care provider (the "County Licensee") for the sole purpose of operating a child care program; and

WHEREAS, it is the desire and intent of the Parties that the child care suite at Bel Pre Elementary School be maintained and operated in accordance with and subject to the terms and conditions as set forth in this Lease.

NOW THEREFORE, in consideration of the above recitals, which are incorporated into the terms of this Lease, and of the mutual covenants contained in this Lease, and of the payment of rent to the Board by the County, and for the good and valuable consideration, the receipt and

sufficiency of which is acknowledged by the Parties, the Parties hereto mutually agree as follows:

1. LEASED PREMISES: The Board hereby leases to the County and the County rents from the Board that part of the Bel Pre Elementary School building (the "Building") currently designated as Room 126, containing approximately 1,700 square feet of space (the "Leased Premises"). The Leased Premises includes the area shown crosshatched on the Exhibit A, which is attached and incorporated into this Lease.
2. TERM: The term of this Lease shall be five (5) years, from July 1, 2015, until June 30, 2020 (the "Initial Term"), unless terminated for cause as provided below before the expiration of the Initial Term. The "Rent Commencement Date" is the date that the Board delivered the Leased Premises to the County, which was July 1, 2015.
3. RENEWAL OPTION: Subject to the limitations contained in this Lease, the County shall have the option to extend the Initial Term of this Lease for two (2) five-year periods (each a "Renewal Term"). The County agrees to provide written notice to the Board as to each renewal of the Lease, in writing, not less than six (6) months before the end of the Initial Term or the then Renewal Term. All the terms, conditions and covenants in this Lease shall apply during the Renewal Terms.
4. RENT: The County has paid Rent to the Board for the first Lease Year of the Initial Term, as reimbursement of operating costs, an amount equal to Twelve Dollars and Fifty Cents (\$12.50) per square foot of the Leased Premises for an annual cost of Twenty-One Thousand Two Hundred Fifty Dollars and Zero Cents (\$21,250.00), and equal to twelve (12) monthly installments of One Thousand Seven Hundred Seventy Dollars and Eighty-Three Cents (\$1,770.83). A "Lease Year" begins on July 1 and continues through June 30 of the following year. Before each July 1 during the Initial Term and any Renewal Term, the Board will establish a per square foot rate to be paid by the County for the following Lease Year, based on the rates charged to joint occupancy tenants in Montgomery County Public Schools ("MCPS"). All payments are to be made in advance on the first day of each month and shall be payable to Division of Controller, Montgomery County Public Schools, 45 West Gude Drive, Suite 3202, Rockville, Maryland 20850.

5. USE OF THE LEASED PREMISES: The Leased Premises shall be used for a licensed full-day child care program from 7:00 a.m. to 6:30 p.m., Monday through Friday, excluding official school holidays, and for no other use.

6. USE OF OUTDOOR PLAYGROUND AREAS: The County shall have access to the outdoor playground areas adjacent to the Leased Premises when used by the County in connection with its child care program during its normal hours of operation or to any other age-appropriate playground area designated by the school principal that does not conflict with MCPS use. The County and its County Licensee shall be solely responsible for the safety and supervision of children under the care of the County Licensee during their use of the outdoor playground areas.

7. SERVICES: The Board shall provide the services indicated below to the Leased Premises, except on the following days: (i) when the Building is closed; (ii) when 12-month MCPS employees are not required to work; and (iii) when building services are not provided under the terms of this Lease.

A. Facilities maintenance services as follows:

- i. Routine facility inspections;
- ii. Preventive maintenance including but not limited to inspecting the roof and waterproofing, electrical system, HVAC system, and fire protection systems;
- iii. Repair and replacement of electrical, mechanical, plumbing and structural systems and components installed or constructed as a part of the original child care facility, which includes, but is not limited to, electronic systems, such as fire, security alarm and audio systems; electric lamp replacement; roofs, locks, doors, windows, walls, ceilings, walks, etc.; and
- iv. Refuse removal and disposal.

B. Maintenance, security, sanitizing and utility services as follows:

- i. Interior cleaning and sanitizing services;
- ii. Exterior grounds maintenance;
- iii. 24-hour security services; and

iv. Electrical, water, sewage and other utility services.

C. On days when the Board is not required to provide such services, and the County Licensee chooses to continue its use of the Leased Premises, the County will require its County Licensee to contract directly with the Inter-Agency Coordinating Board ("ICB") for necessary support services whose address is 255 Rockville Pike, Suite 201, Rockville, Maryland 20850. Main Office Number: (240) 777-2725 Email: cupf@montgomerycountymd.gov. It will be the responsibility of the County to require its Licensee to pay either directly to the ICB or through the County for any additional support services on the days that the Board is not required to provide such services.

8. RESPONSIBILITIES OF COUNTY: The County covenants and agrees to the following responsibilities and shall include them in its license agreement with its County Licensee:

A. The County will not, and will require its County Licensee to not, strip, overload, damage or deface the Leased Premises or hallways, stairways, or other approached thereto, of said Building, or the fixtures therein or used therewith, nor to suffer or permit any waste to, in or upon the Leased Premises or any part of the Building.

B. The County will not, and will require its County Licensee to not, use or allow anyone else to use the Leased Premises or any part thereof for any illegal, unlawful, or improper purpose, or for any activity which will constitute a nuisance to adjacent properties or the adjacent neighborhood or disrupt school activities or operations.

C. All covenants of the County relating to the use or misuse of the Leased Premises and of the property of which they are a part or anything therein shall be construed to include use or misuse thereof by the County's agents and employees, the County's Licensee, participants of the County Licensee's child care program, and participants' parents/guardians who enter the Leased Premises.

D. The County will prohibit its County Licensee from engaging in the following activities in

the Leased Premises at all times:

- i. Use or possession of alcoholic beverages or other intoxicants;
- ii. Smoking or use of tobacco products;
- iii. Gambling;
- iv. Fires, grilling, open flames, and the use of flammable materials;
- v. Parties and celebrations that are essentially private in nature, including but not limited to wedding receptions and other similar activities;
- vi. Use or possession of weapons, firearms, ammunition; and
- vii. Excessive noise.

E. The County shall conduct, and require its County Licensee to conduct, all of its operations hereunder in an efficient, safe, and careful manner and to comply with all rules and regulations for the Building promulgated from time to time by the Board, and any violation of said rules and regulations shall be a violation of this Lease.

F. To the extent that the County or the County Licensee make improvements to the Leased Premises, as approved by MCPS, the County will, and will require the County Licensee to, comply with the Americans with Disabilities Act and all federal, state and local laws regarding providing access and services to disabled persons. The Board agrees that the Leased Premises as delivered to the County will comply with the Americans with Disabilities Act and all federal, state and local laws regarding providing access and services to disabled persons.

G. The County will require the County Licensee not to discriminate against children whose parents participate in state or local subsidy programs.

H. The County agrees to maintain reports relating to the County Licensee's license(s) or certification(s) as a child care provider for inspection and evaluation for Board review. The County will report to the Board any violation or revocation of its County Licensee's Maryland State Department of Education (MSDE) license of which it has knowledge of,

within ten (10) days of the County's receiving notice of a violation or revocation.

- I. The County agrees to, and to require its County Licensee to, not place upon the Leased Premises any placard, sign, lettering or awning except such, and in such place and manner as shall have been first approved in writing by the Montgomery County Public Schools Department of Facilities Management ("MCPS DFM").
- J. The County agrees to require the County Licensee to pursue accreditation of County Licensee's program by the Maryland State Department of Education.
- K. The County will require its County Licensee to use the Leased Premises only for the provision of infant and child care services and those activities related to such services.
- L. The County will require its County Licensee to provide its child care program in the manner set forth in its written proposal and presentation to the Child Care Selection Committee, if applicable; provided that in the event of any inconsistency between any provision of the written proposal or presentation and this Lease, this Lease shall govern.
- M. The County will require its County Licensee to provide its child care program in accordance with any and all applicable state, local and federal laws pertaining to the operation of child care centers and must maintain its license or certification to provide such services in accordance with the requirements of the entity issuing such license or certification.
- N. The County will require its County Licensee to not have pets in or about the Leased Premises. This provision does not limit the County or the County's Licensee, employees or guest's right to have bona fide service animals on the Leased Premises in accordance with MCPS regulation ACG-RC, attached hereto as Exhibit B. The County agrees to, and will require its County Licensee to, be solely responsible for the proper care of service animals in the Leased Premises and in keeping the Leased Premises clean and free of debris and waste associated with the care and feeding of service animals.

- O. The County agrees to, and to will require its County Licensee to: (a) close and lock all entrance doors and windows in the Leased Premises when the Leased Premises are not in use, (ii) before closing and leaving the Leased Premises at any time, close all windows and doors and secure the Leased Premises, (iii) not place any additional locks or bolts of any kind upon any of the entrance or interior doors or windows, (iv) not prop open any doors, other than for the purposes of moving furniture and equipment into or out of the Leased Premises or moving children to outdoor play areas; in all other cases, doors must remain closed. The County and its County Licensee shall not change any existing locks without prior written approval of MCPS DFM. In the event an approved change is made to the existing locks, the County and/or County Licensee must provide MCPS DFM with keys to the new locks. Upon the termination of this Lease, the County must return all keys of the Building, offices, and bathrooms, either furnished to, or otherwise procured by, the County to MCPS DFM. In the event of the loss of any keys provided to the County, the County must pay the Board the cost of such keys and/or locks.
- P. The County agrees to perform any and all obligations under this Lease in a timely manner.
- Q. The County agrees to repair any damage, at its sole expense, to the Leased Premises caused by removal of the County's or the County Licensee's property from the Leased Premises, so that the Leased Premises are in substantially the same condition as at the commencement of the Lease Term, reasonable wear and tear excepted.
- R. The person executing this Lease on behalf of the County warrants they are authorized to do so and have the power and authority to bind the County to this Lease. The person executing this Lease on behalf of the Board warrants they are authorized to do so and have the power and authority to bind the Board to this Lease.
- S. The County agrees to verify and acknowledge that, at the time of the execution of a license agreement with its County Licensee, the County Licensee is in good standing and/or qualified to do business in the State of Maryland.

T. The County agrees to provide or require its County Licensee to provide all paper towels, hand soap and toilet tissue in its restrooms, if such restrooms are within the Leased Premises.

U. The County agrees to require that its County Licensee take appropriate measures to conserve and efficiently use energy and other resources (i.e., heat, cooling, water, and utilities). The County agrees to abide by the Board's standards, policies, rules and regulations for operating and maintaining schools, as attached as Exhibit C, "Resource Conservation Policy and Guidelines."

V. The County agrees to require that its County Licensee abide by emergency orders requiring that the Building or all school facilities and central offices be closed, during which time no programs will operate in the school, except for weather related incidents where the child care centers may remain open.

9. PARKING: Parking arrangements for the County Licensee on the school site are determined by the school principal, building service manager, or other so designated administrative staff. Any vehicles parked at the site shall be at the sole risk of the County Licensee or vehicle owner.

10. COUNTY'S IMPROVEMENTS: The County shall be permitted to perform minor remodeling and improvements to the Leased Premises when requested by its County Licensee and approved by Montgomery County's Health and Human Services Department. Before performing any minor remodeling and improvements, the County will obtain formal approval from the MCPS Director of Facilities Management and perform such work in a manner that will not cause any disturbance to the instructional program at the school. Drawings or written plans for the improvements may be required. Improvements are limited to installation of shelving, minor changes in office arrangements (not to include moving of the County Licensee's own furniture), the addition of electrical outlets, office repainting, carpet repairs, and other non-structural changes. Work performed shall be in accordance with current construction and life safety codes. No structural, electrical or mechanical systems shall be altered without the concurrence of the Board, which

concurrence shall not be unreasonably conditioned, delayed or withheld.

11. MODERNIZATION OF ENTIRE BUILDING: The Board and the County agree that if modernization of the entire Building is undertaken by the Board, the Leased Premises shall also be modernized. The County shall share in the design and construction costs on a pro-rata basis, using the gross square footage of the Building as the denominator. The County reserves the option of relocating the child care facility within the Building, as space and other factors allow, for the period during which the Building is being modernized. The County and its County Licensee will cooperate with the Board on modernization projects by moving as required. The Board must provide the County and its County Licensee with not less than 180 days' written notice of any approved modernization project so that the parents can make alternate child care arrangements. All costs to provide a child care facility at another public school on a temporary basis shall be borne by the County at the same rates as the County pays at any of the other public schools that the County has child care space.

12. PROPERTY DAMAGE AND LIABILITY INSURANCE:

A. The County and the Board shall have the right to self-insure. The Parties are both members of the Montgomery County Self-Insurance Program. Section 20-37(c) of the Montgomery County Code restricts the legal defense fund to members of the fund and does not allow for outside entities. The insurance coverage for the County is subject to the limitations set forth in the Local Government Tort Claims Act (the "LGTC"), Md. Ann. Code, Cts. & Jud. Proc. §§ 5-301 et seq, (2016 Replacement Volume). The insurance coverage for the Board is subject to the limitations set forth in § 4-105 of the Education Article, Annotated Code of Maryland. Membership in the Montgomery County Self-Insurance Program must be maintained continuously by the County and the Board during the Initial Term of this Lease and during any Renewal Term or the parties agree to notify the other, in writing, of changes to their coverage.

B. The County agrees, and will require its County Licensee to agree to, not keep in or upon the Leased Premises or any part thereof, any article, which may be prohibited by the

standard form of fire or hazard insurance policy, or to do any act or thing upon the Leased Premises or in or about the Building which makes void or voidable any insurance on the Leased Premises or Building. In the event that the County or its County Licensee keeps articles on the Leased Premises that cause any increase in the insurance premiums for the Leased Premises, the County, or its County Licensee, shall pay the additional premiums as they become due. The Parties agree that the County's Division of Risk Management or the County Licensee will purchase and maintain any required additional policies. The County agrees to conform to all rules and regulations from time to time established by the Maryland Insurance Rating Bureau, or any other authority having jurisdiction and will require the same of its County Licensee.

C. The County agrees to hold harmless and hereby indemnifies the Board, from and against any and all claims, actions, damages, liability, and expense in connection with loss of life, personal injury, or damage to property arising from or out of any occurrence, or occasioned wholly by any negligent act or omission of the County or its employees at or upon the Leased Premises, or the occupancy or use by the County of the Leased Premises, or the County's use of the exterior areas designated by the Board for the comfort and convenience of the County. For the purposes of this Section 12, the County includes Montgomery County, Maryland and its officers, officials, employees, and agents. This indemnification is subject to the notice requirements and the liability and damage caps stated in the LGTCA. This indemnification shall not be considered to be a waiver of governmental immunity and is not intended to create any rights or causes of action in third parties. Any indemnification by the County is subject to the availability of appropriations from its funding authorities. The County shall not, however, be liable for damage or injury occasioned by the acts or omissions of the Board or its employees or agents, or the Board's failure to comply with its obligations hereunder.

D. The Board agrees to hold harmless and hereby indemnifies the County, from and against any and all claims, actions, damages, liability, and expense in connection with loss of life, personal injury, or damage to property arising from or out of any occurrence, or occasioned by any act or omission of the Board or its employees at or upon the Leased Premises, or

the occupancy or use by the Board of the Leased Premises, or the Board's use of the exterior areas designated by the County for the comfort and convenience of the Board. For the purposes of this Section 12, the Board includes the Board of Education of Montgomery County and its officials, officers, employees, and agents. This indemnification is subject to the notice requirements and the liability and damage caps stated in the Maryland Education Article. Nothing herein shall be construed to abrogate, impair, or waive any defense to liability, damages limitation, or governmental immunity of the Board, its officials, officers, employees, or agents pursuant to Maryland law, or otherwise. Any indemnification by the Board is subject to the availability of appropriations from its funding authorities. This indemnification is not intended to create any rights or causes of action in third parties. The Board shall not, however, be liable for damage or injury occasioned by the acts or omissions of the County or its employees or agents, or the County's failure to comply with its obligations under this Lease.

- E. The County shall deliver to MCPS DFM a certificate of insurance evidencing the coverage described above within thirty (30) days after the execution of this Lease.
- F. The County shall require its County Licensee to provide evidence of insurance coverage as follows:
 - i. A policy of comprehensive general liability insurance, including fire legal liability, in a company authorized to do business in Maryland and in a form satisfactory to the Board with coverage of not less than One Million Dollars (\$1,000,000) liability per occurrence and Two Million Dollars (\$2,000,000) aggregate.
 - ii. Five Hundred Thousand Dollars (\$500,000.00) automobile liability (if the County Licensee has any company owned vehicles);
 - iii. Workers' Compensation per State of Maryland statute.
 - iv. All policies shall contain provisions naming the County and the Board as additional insureds, and shall contain a provision that each said policy shall not be canceled or terminated without thirty (30) days written notice to the County and to the Board.
 - v. The County will require its County Licensee to provide the Board copies of the County Licensee's insurance policies upon request and certificates of insurance within thirty

(30) days of the execution of the County's License Agreement with the County Licensee and on an annual basis thereafter.

- G. All certificates of insurance shall be issued to: Board of Education of Montgomery County, c/o Montgomery County Public Schools, Department of Facilities Management, 45 West Gude Drive, Suite 4000, Rockville, Maryland 20850.
- H. The County will require its County Licensee to hold harmless the County and the Board from all claims, actions, damages, liability and expenses, including reasonable attorneys' fees, arising out of any occurrence or occupancy of the Leased Premises or of the exterior use of the Building arising under the license agreement.
- I. If a casualty or other occurrence which should be covered by the insurance required by this Lease occurs, the County will require the County Licensee to look solely to its insurer for reimbursement, and the County Licensee shall ensure that such insurance is so written that the County Licensee's insurer waives all rights of subrogation and shall have no cause of action against the County, the Board, or their agents or employees as a result of such casualty or occurrence. The County will require the County Licensee to waive and release all right of recovery which it might otherwise have against the County or the Board or their agents or employees by reason of any loss or damage resulting from such casualty or other occurrence, to the extent that the County Licensee would be covered by insurance if the County Licensee complied with the requirements of this Lease pertaining to insurance.
- J. Notwithstanding anything to the contrary in this Lease, from and after the date hereof, (i) any goods, automobiles, property, or personal effects stored or placed by the County or its County Licensee in or about the Leased Premises shall be at the sole risk of such party, and the County and its County Licensee hereby expressly waive their right to recover against the Board, except to the extent of the Board's negligence or willful misconduct, and subject always to applicable Laws, and (ii) each of the Board and the County acknowledges to the other that neither Party shall be liable to the other for indirect, consequential, incidental or punitive damages or damages for lost profits, arising out of the loss or damage to any

person or property of such Party, or otherwise in connection with this Lease.

13. DESTRUCTION OF LEASED PREMISES: In the event of damage or destruction of the Leased Premises by fire or any other casualty, this Lease shall not be terminated, but the Leased Premises shall be promptly and fully repaired and restored as the case may be by the Board to the extent of the Board's insurance proceeds provided such repair and or restoration returns the Leased Premises to substantially the same condition prior to such damage or destruction. Due allowance, however, shall be given for reasonable time required for adjustment and settlement of insurance claims, and for such other delays as may result from government restrictions, and controls on construction, if any, and for strikes, national emergencies and other conditions beyond the control of the Board. It is agreed that in the event of damage or destruction, this Lease shall continue in full force and effect, except for abatement of rent as provided herein.

If the condition is such as to make the entire Leased Premises untenable, then the rent which the County is obligated to pay hereunder shall abate as of the date of the occurrence until the Leased Premises have been fully restored by the Board. Any unpaid or prepaid rent for the month in which said condition occurs shall be prorated and credited or paid to the appropriate Party. If the Leased Premises are partially damaged or destroyed, then during the period that the County is deprived of the use of the damaged portion of said Leased Premises, the County shall only be required to pay rent prorated to reflect that portion of the Leased Premises which continues to be tenable and appropriate for the County's use of the Leased Premises. The Board will proceed at its expense to the extent of its insurance proceeds, and as expeditiously as may be practicable to repair the damage.

Notwithstanding any of the foregoing, the Board shall not be required to expend any funds, other than insurance proceeds, to repair the Leased Premises which have been damaged by casualty. In the event that the Board elects not to repair the damage because of a lack of insurance proceeds, or because the damages are so extensive to make repair economically unfeasible, in which event and at the Board's sole option, the Board may terminate this Lease forthwith, by giving the County a written notice of its intention to terminate within sixty (60) days after the date of the casualty. No compensation, or claim, or diminution of rent other than as described above will be allowed or

paid, by the Board, by reason of inconvenience, annoyance, or injury to business, arising from the necessity of repairing the Leased Premises or any portion of the Building of which they are a part.

14. HAZARDOUS MATERIALS:

- A. For purposes hereof, the term "Hazardous Materials" means Hazardous Material, Hazardous Substance, Pollutant or Contaminant, and Petroleum and Natural Gas Liquids, as those terms are defined or used in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and any other substances regulated because of their effect or potential effect on public health, public safety, or the environment, including, without limitation, PCBs, lead paint, asbestos, urea formaldehyde, radioactive materials, putrescible materials, and infectious materials. The term Hazardous Materials excludes common cleaning and maintenance supplies in sufficient quantities to permit the efficient operation of the child care center on the Leased Premises, provided that such supplies are stored, contained and otherwise dealt with in accordance with applicable Hazardous Materials Law. The term Hazardous Materials Law means any present or future federal, state, or local law, code, rule, regulation, ordinance, order, standard, permit, license, guidance document, or requirement (including consent decrees, judicial decisions and administrative orders) together with all related amendments, implementing regulations and re-authorizations, relating to industrial hygiene, environmental or unsafe conditions and/or the protection, preservation, conservation, or regulation of the environment.
- B. The County will not use or permit the Leased Premises to be used in violation of any Hazardous Materials Laws. The County assumes sole and full responsibility for, and will remedy at its cost, all such violations, by the County or County's Licensee provided that County must first obtain the Board's written approval of any remedial actions, which approval the Board may not unreasonably withhold. The County will not use, generate, release, store, treat, dispose of, or otherwise deposit, in, on, under or about the Lease Premises, any Hazardous Materials, nor will the County permit or allow County Licensee to do so, without the Board's prior written consent; provided however, that the County and its affiliates, including its County Licensee, without the Board's consent, may use toner,

ordinary cleaning supplies, and other substances commonly found in educational facilities or used in the normal business operations of a child care center as long as they are used and stored in compliance with Hazardous Materials Law.

15. BOARD'S RIGHT OF INSPECTION: The Board shall be entitled to visit and inspect the Leased Premises during reasonable hours and after reasonable notice but shall be under no obligation to make any visits or inspections. In the event of fire, property damage, or other emergency, the Board, its employees, or agents may have access to the Leased Premises to prevent further damage or injury. The Board shall have access to the Leased Premises at any other time for the purpose of performing any work required to be performed by the Board, or which the Board considers necessary or desirable, or for any purpose for the reasonable protection of said Leased Premises or of the Building of which the Leased Premises are a part.

16. CONDITION OF LEASED PREMISES: The County agrees to maintain the Leased Premises, including all improvements therein, in good condition and state of repair throughout the Initial Term of this Lease and any Renewal Terms.

17. QUIET POSSESSION: The Board covenants and warrants that it has delivered to the County exclusive possession of the Leased Premises for the purposes set forth in this Lease.

18. NOTICE OF ACCIDENTS AND/OR DEFECTS: The County and/or its County Licensee shall give prompt written notice to the MCPS DFM of accidents on or about or of damages or defects in the Leased Premises or the Building in which the Leased Premises are a part.

19. EMINENT DOMAIN: The Board is entitled to receive any award from a governmental authority for the fair market value of the land and improvements upon which the Leased Premises are located. The County is not precluded from claiming, proving, and receiving, in a separate claim filed by the County against the authority exercising the power of eminent domain, such sums to which the County may be entitled as compensation, provided that such a separate claim does not interfere with or reduce the Board's award. The County or the Board may terminate this Lease upon exercise of eminent domain by a condemning authority that renders the Leased Premises

unfit for the use set forth in Section 5 herein.

20. EVENT OF DEFAULT AND RIGHTS OF THE PARTIES:

- A. The Board or the County shall be deemed to be in default of this Lease if either Party fails to perform any provision, covenant, condition, or agreement of this Lease continuing for more than thirty (30) after the defaulting Party receives written notice from the non-defaulting Party stating the manner in which the defaulting Party has failed to perform. The defaulting Party shall be liable for any and all loss or damage resulting to the other Party from any such default to the extent permitted by applicable law.
- B. If the defaulting Party fails to cure the event of default, the non-defaulting Party may, upon giving not less than thirty (30) days' written notice, terminate this Lease and the Board may re-enter the Leased Premises and have the possession of the same on the date of the notice, or on any later date specified in the notice.

21. WAIVER: No waiver by the Board or the County of any breach of any covenant, condition, or agreement herein contained shall operate as a waiver of the covenant, condition, or agreement itself or of any subsequent breach thereof.

22. ASSIGNMENT AND LICENSING: The County shall not assign this Lease or license the Leased Premises without the prior written consent of the Board, provided that such consent will not be unreasonably withheld, conditioned or delayed. The County agrees to provide a copy of any proposed license agreement to the MCPS DFM director for approval prior to presentation to a County Licensee. MCPS DFM shall approve the license agreement within 10 days of receipt and the failure to do so within the 10 day period shall be deemed an approval of the license agreement by MCPS DFM. The above notwithstanding, the Board hereby approves the licensing of the Leased Premises to the Rockville Daycare Association, the licensed child care provider selected by the County for the sole purpose of operating a child care program in the Leased Premises.

23. SURRENDER OF POSSESSION:

- A. At the conclusion of the Term as set forth in Section 2, or following the termination of this Lease for any other cause, the County must remove, and require the County Licensee to remove, all of its goods and effects from the Leased Premises and return to the Board all keys, locks, and other fixtures belonging to the Board, in good repair, reasonable wear and tear excepted.
- B. The County shall return the Leased Premises to the Board in the same condition as received at the beginning of the Initial Term, in "broom clean" condition, reasonable wear and tear excepted.
- C. In the event that the County's property or the County Licensee's property is not removed from the Leased Premises within 72 hours after the termination of this Lease, the property remaining will become the property of the Board. Following termination of this Lease, the County must remove any and all signs erected by or on behalf of the County or the County Licensee and must pay for or repair any damage caused by the installation or removal of such signage. At the time of termination of this Lease, and at the Board's option, the County must participate in a walk-through with the Board's agent or employee to inspect the Leased Premises.

24. HOLDOVER: In the event that the County or its County Licensee shall continue to occupy said Leased Premises or any part thereof after the conclusion of the Initial Term or any Renewal Term, the tenancy thus created shall be deemed to be upon a month-to-month basis and may be terminated by either Party giving the other not less than thirty (30) days' written notice, to expire on the day of the month from which the tenancy commenced. During any month-to-month tenancy, both Parties shall continue to observe all agreements and covenants contained in this Lease.

25. REVIEW OF MSDE RECORDS. The County agrees that its license agreement with its County Licensee shall include a provision that gives the County and the Board written authorization to review relevant records maintained by the Maryland State Department of

Education (MSDE), Office of Child Care, on the County Licensee's operations, as permitted by law.

26. NON-APPROPRIATION: This Lease shall terminate automatically on July 1 of any year for which the Montgomery County Council does not make an appropriation of funds for the County to pay the obligations stated in this Lease. The County shall give the Board at least thirty (30) days written notice of the lack of appropriation. The County shall not make or to be entitled to make any claims for reimbursement of any kind, except for prepaid items or as otherwise agreed to in this Lease in writing by the Parties.

27. BENEFIT AND BURDEN: All of the covenants, provisions, terms, agreements, and conditions of this Lease shall inure to the benefit of and be binding upon the Board, its successors or assigns, and upon the County, its successors or assigns.

28. THIRD PARTY BENEFICIARIES: The Parties agree that the County's Licensee is a third party beneficiary of this Lease. Other than the County Licensee, none of the provisions of this Lease are intended for the benefit of any other third party, and no such other third party shall have the right to enforce the provisions of this Lease.

29. MAILING NOTICES: All notices required or desired to be given hereunder by either Party shall be given in writing and shall be addressed as follows:

COUNTY:

Montgomery County, Maryland
Department of General Services
Office of Real Estate
101 Monroe Street, 9th Floor
Rockville, Maryland 20850
Attn: Director of Real Estate

BOARD:

Board of Education of Montgomery County
c/o Montgomery County Public Schools
Department of Facilities Management
45 West Gude Drive, Suite 4000
Rockville, Maryland 20850
Attn: Director of Facilities Management

With copy that does not constitute a notice:

Office of the County Attorney for Montgomery County, Maryland
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attn: County Attorney

Montgomery County Public Schools
Office of the General Counsel
850 Hungerford Drive, Room 156
Rockville, MD 20850
Attn: General Counsel

30. COMPLIANCE WITH LAWS: The Parties agree to promptly comply with, observe and perform all of the requirements of all applicable Federal, State, County and Local statutes, ordinances, rules, orders and regulations in effect during the Initial Term or any Renewal Term. The County shall require its County Licensee to comply with all applicable statutes, ordinances, rules, regulations and Board policies and MCPS regulations which have been provided to the County in writing and that are available for review at www.montgomeryschoolsmd.org/departments/policy/.

31. NON-DISCRIMINATION: The County agrees to comply with, and will require its County Licensee to comply with the non-discrimination policies of the Board and all applicable laws regarding discrimination, including employment discrimination. The County agrees that it will not discriminate in any manner on the basis of race, color, religious creed, sex, marital status, national origin, ancestry, disability, sexual orientation, gender identity, or genetic status and to require its County Licensee, other agents, or related parties to follow the same non-discrimination requirements.

32. MARYLAND LAWS REGARDING SEX OFFENDERS AND PERSONS WITH UNCONTROLLED ACCESS TO CHILDREN: Maryland Law requires that any person who enters into a contract with a local school system "may not knowingly employ an individual to work at a school" if the individual is a registered sex offender. Under § 11-722 of the Criminal Procedure Article of the Maryland Code, an employer who violates this requirement is guilty of a misdemeanor and, if convicted, may be subject to up to five years imprisonment and/or a \$5000 fine. Effective July 1, 2015, amendments to § 6-113 of the Education Article of the Maryland Code further require that a contractor or subcontractor for a local school system may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of, or pled guilty or nolo contendere to, a crime

involving:

- A. A sexual offense in the third or fourth degree under § 3-307 or § 3-308 of the Criminal Law Article of the Maryland Code or an offense under the laws of another state that would constitute an offense under § 3-307 or § 3-308 of the Criminal Law Article if committed in Maryland;
- B. Child sexual abuse under § 3-602 of the Criminal Law Article, or an offense under the laws of another state that would constitute child sexual abuse under § 3-602 of the Criminal Law Article if committed in Maryland; or
- C. A crime of violence as defined in § 14-101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14-101 of the Criminal Law Article if committed in Maryland, including: (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking; (11) armed carjacking; (12) sexual offense in the first degree; (13) sexual offense in the second degree; (14) use of a handgun in the commission of a felony or other crime of violence; (15) child abuse in the first degree; (16) sexual abuse of a minor; (17) an attempt to commit any of the crimes described in items (1) through (16) of this list; (18) continuing course of conduct with a child under § 3-315 of the Criminal Law Article; (19) assault in the first degree; (20) assault with intent to murder; (21) assault with intent to rape; (22) assault with intent to rob; (23) assault with intent to commit a sexual offense in the first degree; and (24) assault with intent to commit a sexual offense in the second degree.

Upon execution of a license agreement with the County Licensee, the County shall require its County Licensee to submit a letter confirming that its direct employees and those of any subcontractors and/or independent contractors assigned to perform work in the Leased Premises meet this obligation. Additionally, County shall require its County Licensee to confirm that it continues to meet this obligation on an annual basis and/or when there are changes in the workforce that the County Licensee and/or its subcontractors use to operate its child care program in

the Leased Premises. The term "work-force" includes all of the County Licensee's direct employees, subcontractors and their employees, and/or independent contractors and their employees that the County Licensee uses to operate its child care program in the Leased Premises.

33. MARYLAND CRIMINAL BACKGROUND CHECK LAW: The County shall require that its County Licensee comply with Maryland laws regarding required criminal background checks. § 5-551 of the Family Law Article of the Maryland Code requires that any local school system or child care center, and any contractor or subcontractor of a local school system or child care center, ensure that any individuals in its work-force undergo a criminal background check, including fingerprinting, if the individuals will work in a school or child care facility in circumstances where they have direct, unsupervised, and uncontrolled access to children. Upon the execution of the County's license agreement with its County Licensee, the County shall require its County Licensee to:

- A. Implement the background check process in accordance with Maryland law and Maryland State Department of Education (MSDE) child care licensing requirements as set forth in Code of Maryland Regulations 13A.16.06;
- B. Comply with any determination by MSDE to prohibit the employment of an individual based on the criminal background check;
- C. Ensure that all individuals in the County Licensee's work-force receive training on recognizing, reporting, and preventing child abuse and neglect in accordance with Code of Maryland Regulations 13A.16.06.02; and
- D. Provide all individuals in the County Licensee's work-force with an identification badge to be worn at all times in the Building.

34. PESTICIDES USE IN SCHOOL: The Board has implemented a regulation regarding integrated pest management in schools, labeled ECF-RB, attached hereto and incorporated herein as Exhibit D in accordance with the Annotated Code of Maryland, Agriculture Article. The County

agrees to comply with, and will require its County Licensee to comply with, the integrated pest management program established for the Building within its Leased Premises by following the procedures outlined in the regulation.

35. RECYCLING: All public facilities are required by the Montgomery County Government to recycle 50 percent of all solid waste material generated. The Board has implemented a regulation regarding recycling, labeled ECF-RC, attached hereto and incorporated herein as Exhibit E. The County agrees to comply with and will require its County Licensee to comply with the recycling plan for the Leased Premises by collecting recyclable waste material generated by its operation into appropriate receptacles provided by the County or its County Licensee for this purpose.

36. NO BROKERS: The Board and the County each represent and warrant to the other that it has not retained any broker, agent, or finder to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee.

37. ETHICS REQUIREMENT: The Board assures the County that it shall adhere to its own ethics Policies and regulations as authorized and approved by the State of Maryland pursuant to Maryland Code General Provisions, Title 5, Subtitle 8, Part III. The County assures the Board that it shall adhere to its own ethics policies and regulations pursuant to Chapter 19A and Section 11B-52 of the Montgomery County Code (2014), as amended.

38. NO PARTNERSHIP: Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between the Board and the County, or to create any other relationship between the Board and the County other than that of landlord and tenant.

39. CERTAIN OBLIGATIONS TO SURVIVE: The provisions set forth in Section 12, Section 14, Section 20, and Section 45, as well as any other of the County's obligations and warranties, which directly or indirectly are intended by their nature or by implication to survive the County's performance, including the County's obligation to pay Rent and any other sums of money due and payable to the Board under the terms of this Lease, shall survive the expiration, cancellation, or earlier termination of the Lease. Section 26, Non-Appropriation, is not affected by this Section

39.

40. FORCE MAJEURE: Neither Party shall be required to perform its obligations under this Lease, nor shall it be liable for loss or damage for failure to do so, where such failure arises from or through acts of God, strikes, lockouts, labor difficulties, explosions, sabotage, accidents, riots, civil commotions, acts of war, results of any warfare or warlike conditions in this or any foreign country, fire or casualty, energy shortage, or other causes beyond its reasonable control, unless such loss or damage results from its willful misconduct or negligence. Failure to meet monetary obligations shall not be excused by Force Majeure.

41. INVALIDITY OF PARTICULAR PROVISIONS: If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remaining terms and provisions of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

42. ENTIRE AGREEMENT: This Lease contains all of the agreements and conditions made between the Parties and may not be modified in any manner other than by an agreement in writing duly executed by the Parties or their respective successors in interest.

43. RIGHTS AND REMEDIES: In addition to any and all rights and remedies specifically mentioned in this Lease, the Parties shall have all rights and remedies granted by Law or in equity. Resort to one remedy shall not be construed as a waiver of any other remedy. Failure by the Parties to resort to any or all of their respective rights or remedies shall not be considered to be a waiver of such rights or remedies, nor to be acquiescence of any Party in any action or default.

44. GOVERNING LAW: This Lease shall be governed by and enforced under the laws of the State of Maryland.

45. WAIVER OF JURY TRIAL: THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY

ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY ONE AGAINST THE OTHER WITH RESPECT TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF THE COUNTY AND THE BOARD HEREUNDER, THE USE OR OCCUPANCY OF THE LEASED PREMISES BY THE COUNTY OR ITS COUNTY LICENSEE, OR ANY CLAIM OF INJURY OR DAMAGE, INCLUDING THE TERMINATION OF THIS LEASE OR THE COUNTY LICENSEE'S EVICTION FROM THE LEASED PREMISES.

46. COUNTERPARTS: This Lease may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument. Each Party may rely on facsimile signature pages if such facsimile pages were originals.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this Lease to be properly executed.

WITNESS:

BOARD:

BOARD OF EDUCATION OF MONTGOMERY
COUNTY

By: 

By: 

Jack R. Smith, Ph.D.
Superintendent of Schools

Date: 6/20/17

WITNESS:

COUNTY:

MONTGOMERY COUNTY, MARYLAND

By: 

By: 

Ramona Bell-Pearson
Assistant Chief Administrative Officer

Date: June 8, 2017

APPROVED AS TO FORM & LEGALITY RECOMMENDED:
OFFICE OF COUNTY ATTORNEY

By: 

By: 

Cynthia L. Brenneman, Director
Office of Real Estate

Date: 6/17/17

Date: 6/2/17

[illegible]

LEASED PREMISES

EXHIBIT B

ACG-RC

REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries: ACG, ACG-RA, ACG-RB, ECJ-RA, IOB
Responsible Office: Chief Operating Officer
Deputy Superintendent for Teaching, Learning, and Programs
Related Sources: Americans with Disabilities Act of 1990 (ADA), Americans with Disabilities Act Amendments Act of 2008 (ADAAA); Code of Federal Regulations, Title 28, §35.104, §35.130(b)(7), and §35.136

Service Animals in Schools

I. PURPOSE

To establish procedures for the use of service animals by Montgomery County Public Schools (MCPS) students, employees, and visitors to MCPS properties

II. BACKGROUND

MCPS acknowledges its responsibility to permit individuals with disabilities to be accompanied by service animals in its facilities, school buildings, in classrooms, or at school functions, as required by the *Americans with Disabilities Act* and the *Americans with Disabilities Act Amendments Act of 2008*.

III. DEFINITIONS

A. *Individual with a disability* is

1. A person with a physical or mental impairment that substantially limits one or more major life activities;
2. A person with a record of such an impairment; or
3. A person regarded as having such an impairment.

B. *Service animal* means any dog, or under specific circumstances, a trained miniature horse, that is individually trained to do work or perform tasks for the benefit of an individual with a disability.

- C. A *service dog in training* is a dog that does not currently meet the definition of "service animal" but is undergoing a process of instruction designed to lead to its employment as a service dog. A service dog in training is owned by an accredited organization that trains dogs for future employment as service dogs, and that organization is responsible for any damages or injuries caused by its dog.

IV. PROCEDURES

A. Access to Public Services, Programs, or Activities

Individuals with disabilities are permitted to be accompanied by their service animals in all areas of MCPS properties, as relevant, where members of the public, students, and employees are allowed to go.

1. When an individual with a disability brings a service animal to an MCPS property, MCPS employees shall not ask about the nature or extent of a person's disability, but may make the following two inquiries to determine whether an animal qualifies as a service animal:
 - a) If the animal is required because of a disability
 - b) What work or task the animal has been trained to perform
2. MCPS employees shall not make these inquiries of an individual with a disability bringing a service animal to an MCPS property when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability.
3. An individual with a disability may not be required to provide documentation such as proof that the animal has been certified, trained, or licensed as a service animal.

B. Requirements

1. The animal must be a dog or, under certain conditions, a miniature horse.
2. The animal must be individually trained to do work or a task for the individual with a disability.
3. A service animal must be under the control of its handler. A service animal must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or

the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

4. MCPS is not responsible for the care or supervision of a service animal.

C. Miniature Horses

1. In assessing whether a miniature horse may be permitted into a specific facility as a service animal, the following factors shall be considered:
 - a) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
 - b) Whether the handler has sufficient control of the miniature horse;
 - c) Whether the miniature horse is housebroken; and
 - d) Whether the miniature horse's presence in the specific facility compromises legitimate safety requirements that are necessary for safe operation.
2. Sections I through IV of this Regulation shall also apply to miniature horses.

D. Making Arrangements for Service Animals Required by Employees or Students

1. The Office of Human Resources and Development is the resource for MCPS employees who may require service animals and is responsible for assisting employees and schools, as necessary, with making arrangements for service animals required by employees.
2. The MCPS Office of Special Education and Student Services is the resource for parents of students who may require service animals and is responsible for assisting parents, students, and schools with making arrangements for service animals required by students.
3. Employees using service animals and parents of students with disabilities using service animals should proactively collaborate with school staff members to make arrangements for the service animal at school. The

following are examples of arrangements that may be considered, as necessary:

- a) A rest place and rest time for the service animal
 - b) Appropriate areas and times of the day for the service animal to relieve itself
 - c) Information, as needed, for employees and students about the service animal
 - d) Clarification, as needed, of emergency procedures
4. Individuals with disabilities, employees, or parents of students with disabilities, who are assisted by service animals, are responsible for providing supplies and equipment needed by the service animal.

E. Liability and Care

- 1. Owners of service animals are liable for any harm or injury caused by the animal to other students, staff, visitors, and/or property.
- 2. Students with service animals are expected to care for and supervise their animals. In the case of a young child or a student with disabilities who is unable to care for or supervise his/her service animal, the parent/guardian is responsible for providing care and supervision of the animal. Issues related to the care and supervision of service animals will be addressed on a case-by-case basis at the discretion of the building administrator.

F. Removal or Exclusion of a Service Animal

A school administrator may ask an individual with a disability or parents/guardians of a student with a disability to remove a service animal from an MCPS property if any one of the following circumstances occurs:

- 1. The animal is out of control and the animal's handler does not take effective action to control it.
- 2. The animal is not housebroken.
- 3. The animal's presence would fundamentally alter the nature of the service, program, or activity.

4. If an animal is properly excluded, MCPS shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.

G. Service Animals in Training

1. MCPS permits service dogs in training on school property, under conditions specified below. The training cannot disrupt or interfere with the school's education process. It is not expected that training would normally take place in the classroom during instructional time.
2. No more than one service dog in training is permitted at a particular school at any time.
3. The organization that owns the service dog in training must provide the following:
 - a) Documentation of immunization, proof of liability insurance, and assurances that the dog is housebroken and at least six months old.
 - b) A plan, submitted to the principal, describing how the dog will be managed in the school, including arrangements detailed in section IV.D.3 above.
 - c) A harness, vest, or other appropriate equipment identifying the animal as a service dog in training, which the dog must wear at all times while on MCPS property.
4. A service dog in training may be excluded from an MCPS property as described in section IV.F. above.
5. At the discretion of the school's principal, MCPS may grant access to an MCPS school by a trainer from the organization who is part of a three-unit service dog team and is conducting continuing training of a service dog on school property for school-related business or activities.

Regulation History: New Regulation, July 24, 2013; revised May 16, 2014.

EXHIBIT C

**RESOURCE CONSERVATION POLICY AND GUIDELINES
BOARD OF EDUCATION POLICY ON ENERGY CONSERVATION**

- **ELECTRICITY GUIDELINES**
 - **HEATING GUIDELINES**
- **FOOD PREPARATION GUIDELINES**
 - **WATER USE GUIDELINES**

POLICY

BOARD OF EDUCATION OF MONTGOMERY

Related Entries: ECM, ECM-RA
Responsible Office: Supportive Services

Energy Conservation

A. PURPOSE

To ensure that Montgomery County Public Schools pursues energy conservation efforts and practices that continue to preserve our natural resources while providing a safe and comfortable learning environment for all staff and students

B. ISSUE

The nation is experiencing a depletion of its natural resources which include crude oil, natural gas, and other energy sources. The Montgomery County Public Schools is committed to reducing its consumption of natural resources and still improving the quality of its educational programs. The Montgomery County Board of Education desires to work with other agencies of government and plan school system activities so that the learning environment of essential education programs are not curtailed or compromised.

C. POSITION

1. The superintendent of schools shall continue to establish procedures to ensure the conservation of natural resources by personnel at all levels of the school system, which shall include the following practices:
 - a) Generation of a system-wide resource conservation plan that outlines goals and objectives
 - b) Development of acceptable energy conservation guidelines as outlined in the resource conservation plan
 - c) Continued development and implementation of conservation programs
 - d) Performance of energy studies on all new MCPS construction
 - e) Monitoring the general operation and maintenance of all heating, ventilation and air-conditioning equipment

- f) Procurement and consumption management of fossil fuels and electricity
 - g) Continuing reminders to staff and students of the need for conservation of all natural resources
2. MCPS will participate in a coordinated effort by government authorities to establish appropriate resource conservation plans and utility price monitoring systems to ensure that public schools have adequate supplies of essential fuels and can obtain these at the best possible prices.

D. DESIRED OUTCOME

Create a healthy and comfortable learning environment while controlling energy consumption more efficiently and diverting the otherwise rising utility costs towards educational programs. Continue development of energy conservation efforts that proportionally reduces energy consumption in new and existing facilities.

E. IMPLEMENTATION STRATEGIES

1. Should natural resources be insufficient to meet normal operating needs, the superintendent will develop further plans for the consideration of the Board of Education to conserve energy.
2. Copies of this policy and the annual resource conservation plan will be sent to appropriate school system and county government officials.

F. REVIEW AND REPORTING

This policy will be reviewed on an on-going basis in accordance with the Board of Education's policy review process.

Policy History: Adopted by Resolution No. 654-73, November 13, 1973; amended by Resolution No. 285-97, May 13, 1997.

MCPS RESOURCE CONSERVATION GUIDELINES

Electricity

1. **Temperature Set Point:** The maximum cooling level is 76° F. Set thermostats accordingly. Some temperature variation will occur as equipment cycles on and off. Report cooling problems only if room temperature measured with a thermometer stays three degrees or more above or below set point.
2. **Controls:** Do not attempt to tamper with energy management or HVAC controls on equipment. Any problems with controls or equipment should be dealt with promptly through the work order system. Provide frequent inspection of pneumatic controls, including system filter/dryer, automatic bleed, and compressor run time. Test and calibrate all pneumatic thermostats at the start of each cooling season.
3. **Computers:** Shutting down computers not in use is important. Computers in our schools consume more energy than the lighting. **Teachers and students should shut down the computer at the end of each use, unless a new user is waiting.** Sweeps should be made to shut down all computers immediately after school hours and before weekends, holidays, and breaks. Use of **flat panel monitors** is encouraged whenever procuring new displays. Flat panel monitors use 70 percent less energy than CRT models and help reduce excessive heat build-up in computer labs and closets.
4. **Lights:** Teachers should ensure lights are turned off when leaving the classrooms unoccupied, even for a few minutes. Every effort should be made to avoid accidentally leaving lights on in storerooms, crawl spaces, attics, and other unoccupied spaces. Corridor lighting should be reduced in over-illuminated areas and turned off during unoccupied periods. Gym, auditorium, and stadium lights should be controlled on a tight schedule. Gym lights should be turned off during class periods when the gym is not in use.
5. **Light Levels:** Light levels may be reduced to the acceptable levels for different activities as listed on the attached chart: **Recommended Footcandle Levels.** Your SERT Energy Facilitator will provide you with instruments and instructions to successfully reduce light levels and save energy.
6. **Task Lighting:** Use a desk lamp (with compact fluorescent bulb) instead of overhead lighting as much as possible, especially at teaching stations when students are out. Computer labs should use compact fluorescent uplights (torchiere lamps) to improve visibility of computer screens, and save energy by turning out overhead lights.
7. **Lighting Maintenance:** Maintain automatic lighting controls, occupancy sensors, or daylight sensors where installed. Light fixtures and lenses should be cleaned annually and the date documented.
8. **Daylighting:** Whenever possible, teachers should utilize natural light instead

of artificial light. Window shades should be adjusted to make best use of daylighting. Most classroom lights are controlled by two or more switches, so artificial lighting can be reduced when daylight is available.

9. Exterior Lighting: All outside lighting should be **off** during daylight hours. Building security lighting should be on from dusk to dawn daily. Parking lot lights should be turned off at the close of the regular school day or evening activities (by 12:00 midnight at the latest) and back on at 6:00 a.m., to dawn (unless sunrise is before 6:00 a.m.) Building service managers should notify the maintenance depot of any irregularities in exterior lighting control.

10. Cleaning Crews: All lights are to be turned **off** when students and teachers leave school. Building service workers are to turn on lights only in the areas in which they are currently working.

11. Holidays and Breaks: All electrical equipment should be shut down or unplugged per checklists before long weekends and school breaks.

12. Off-Peak Use: When possible, electricity use (for kilns, laminators, etc.) should be scheduled prior to 12:00 noon when lower, off-peak rates are in effect.

13. Infiltration Control: All windows and outside doors are to be kept closed when cooling systems are in operation. Corridor doors and doors to classrooms should remain closed when HVAC is provided. Doors to gyms and pools are to be kept closed. Report faulty door closers to the maintenance depot.

14. Vending Machines: Vending machines are major electric users that often cost more to operate than the school receives in revenues. A typical soft drink machine costs over \$500 per year to operate. Measures should be taken to minimize the number of vending machines and the hours of use.

- a. Review your school's vending machine use and have little-used units removed.
- b. Vending machines must be removed from the main entrance or lobby of all schools effective with the 2004-2005 school year.
- c. Unplug vending machine units when "Sold Out" is displayed.
- d. Operation of vending machines must be automatically controlled per the following specifications.

Vending Machine Specification for Montgomery County Public Schools

Effective Date: August 1st, 2006

Application: This specification applies to all vending machines in Montgomery County Public Schools (MCPS), located inside the buildings or in outside areas surrounding the school buildings. These items include beverages, such as soft drinks, fruit juice and juice beverages, water, sports drinks; and snacks, such as cookies, crackers, chips, ice cream and candy.

References: Maryland Code, Education, Section 7-423, Division II, title 7 subtitle 4, "Health and Safety of Students"

MCPS Policy JPG: *Wellness: physical and Nutritional Health*; MCPS Regulation JPG-RA: *Wellness: physical and Nutritional Health*; MCPS Policy BCA: *Energy Conservation*

Timing Controls: Vending machines in MCPS schools must have an integrated timing device to automatically shut off operation of the machine in accordance with nutrition policies established by the Board of Education and energy conservation policy.

Automatic shut off is to include the following features:

1. Prohibit access to products
2. Turn off all lighting
3. Turn off refrigeration

Hours of Operation

Machines containing approved items-

- Non-perishable—7:00 a.m. until midnight, with refrigeration timed to resume one hour before access.
- Perishable—Refrigeration units remain on 24 hours; however access by students is limited too 7:00 a.m. until midnight.
- Machines containing items not approved for sale during the instructional day must be programmed for automatic shutoff from midnight until the end of the instructional day. Refrigeration may be timed to resume one hour before access.
- Vending machines in teachers' lounges must be operational from 5:30 a.m. until midnight. Refrigeration may be timed to resume one hour before access.

Approved Items:

Beverages (container size not to exceed 16 ounces except for unflavored water)

- Flavored, non-carbonated water
- 100% fruit juice
- Fruit juice beverages with a minimum 50% fruit juice
- Low fat or nonfat milk
- Sports drinks (only allowed in the immediate area of the gymnasiums)

Snacks

- Single-serving size packages
- 7 grams or less of fat (except for nuts and seeds)
- 2 grams or less of saturated fat
- 15 grams or less of sugar (except for fruit)

**Recommended Footcandle (fc) Levels For
Voluntary SERT De-Lamping Projects**

Corridor and Stairways	10 -20 fc
<ul style="list-style-type: none"> ▪ As low as 10fc – for high reflectivity flooring/walls (white or pastel) ▪ Up to 20 fc for dark-colored flooring 	
Conference Rooms	30 fc at table height
Reception Areas	20 fc (average ambient) 50 fc (on task surface/desk)
Classrooms	30 fc (reading/ writing)
Art class	75 fc (preferably natural lighting)
Computer labs	15 fc
Restrooms	15 fc
Gyms	30 fc
Cafeteria (seating area)	30 fc
Cafeteria (food prep area)	75 fc

MCPS RESOURCE CONSERVATION GUIDELINES

Heating

1. **Temperature Setpoint:** The maximum heating level is 70° F. Set thermostats accordingly and recheck monthly. Some temperature variation will occur as equipment cycles on and off. Report heating problems only if room temperature measured with a thermometer stays 3° or more below set point.
2. **Controls:** Building staff or occupants should not attempt to manually control equipment by tampering with energy management or HVAC controls of equipment. Any problems with controls or equipment should be dealt with promptly through the work order system. Provide frequent inspection of pneumatic controls, including system filter/dryer, automatic bleed and compressor run time. Test and calibrate all pneumatic thermostats at the start of each heating season.
3. **Hours:** During non-school hours, heat is furnished only for MCPS activities and user groups with reservations through the ICB/CUPF. Consolidate necessary MCPS evening activities into the minimum number of zones possible. HVAC will not be provided for an individual to use a classroom or office outside of normal hours. HVAC systems will remain off during cleaning, except when ventilation is required for waxing or stripping activities.
4. **Filters:** Replace filters of all equipment at recommended intervals. Maintain documentation per your building maintenance plan.
5. **Boiler Maintenance:** Fuel oil burners should be cleaned and tuned for optimum combustion twice yearly.
6. **Pumps:** Only one main heating pump should be operated, except where additional pumps are provided for separate zones. Do not operate main pump and standby pump at the same time.
7. **Unit Ventilators:** Maintain unit ventilators free of obstruction, such as books, plants, and furnishings, both on the top grill and at the bottom intake, so that air can circulate efficiently throughout the room.
8. **Infiltration Control:** All windows and outside doors are to be kept closed when heating systems are in operation. Corridor doors and doors to classrooms should remain closed when HVAC is provided. Doors to gyms and pools are to be kept closed. Report faulty door closers to the maintenance depot.
9. **Storage Spaces:** Close unused storage rooms and set thermostat controls, where installed, to the lowest possible temperature setting that will prevent freezing.
10. **Personal Electric Space Heaters:** Personal space heaters will not be permitted. Such units, in addition to having high energy costs, are a fire and safety hazard. Only heaters installed by the Division of Maintenance for emergency use will be permitted; others will be confiscated.

MCPS RESOURCE CONSERVATION GUIDELINES

Food Preparation

Cooking Equipment

1. Preheat only equipment to be used 15 minutes before using.
2. Reduce temperature or turn equipment off during slack periods.
3. Cook full loads on every cooking cycle when possible.
4. Use the correct size equipment for all operations.
5. Avoid slow loading and unloading of ovens and opening doors unnecessarily.
6. Keep equipment clean for efficient operation.

Hot Food Holding and Transporting

1. Preheat equipment before loading.
2. Always use at full capacity when possible.
3. Clean thoroughly daily.

Refrigeration Equipment

1. Keep doors tightly closed and avoid frequent or prolonged opening.
2. Place food in refrigerator or freezer immediately upon arrival from supplier.
3. Keep evaporator coils free of excessive frost.
4. Keep condenser coils free of dust, lint, or obstructions.
5. Unplug equipment that is not needed.

Ware Washing Equipment

1. Always operate equipment at full capacity when possible.
2. Flush after heavy meal periods—clean thoroughly, daily.

Water Heating

1. Repair leaking faucets as soon as possible.
2. Reduce storage temperature to 120° F where possible.
3. Insulate hot water pipes.

Ventilating System

1. Use only the number of fans necessary at all times to provide adequate ventilation.
2. Turn fans off upon completion of cooking.
3. Operate two-speed fans on the lower speed when possible.
4. Keep filters and extractors clean.

MCPs RESOURCE CONSERVATION GUIDELINES

WATER USE

GENERAL

1. **Be alert for water leaks** and water main breaks. Look for continuous water flow through the water meter at any time, ponding of water around the building, and report leaks to maintenance immediately. A broken water main can release tens of thousands of dollars in water a week until it is repaired.
2. **Report and repair leaking faucets** and faulty flush valves promptly. Check and adjust valves for proper timing annually.
3. **Water is an MCPs resource and not to be given away** or used by outsiders. Users scheduled through ICB are allowed to use water related to their activities. Do not provide free water to road maintenance tankers or any other non-MCPs agency.
4. Do not allow local residents to use school hose bibbs or to control irrigation.
5. **Car washes may not** use school water supplies. Off-site arrangements may be made with a local gas station to hold a car wash for fund raising.
6. The utility budget pays for bottled water only in elementary school portable classrooms.

IRRIGATION

These general guidelines are supplied for the education of individuals operating turf irrigation equipment to help with the successful management of healthy turf.

1. **Avoid Excess Watering.** Excessive watering promotes fungal growth and prevents the development of long, deep root systems needed for healthy turf.
 - a. **Use a simple rain gauge.** Turf in our climate needs only 1" of water per week for optimum health. Use weather reports or your school's rain gauge to determine whether irrigation is needed each week.
 - b. **With timer systems, check zones for proper saturation levels.** Make sure water saturates the root zone when irrigating but no further. No runoff should occur from the area being watered.
 - c. **Make sure irrigation systems are turned off when it rains.** The installation of rain switches on automated irrigation systems is highly recommended.
2. **Irrigate only in early morning or late evening hours.** This timing minimizes evaporation to the air.
3. **Irrigate only two or three times a week.** This interval promotes deeper root growth, which establishes healthier and sturdier turf.

EXHIBIT D
MCPS REGULATION ECF-RB
"Pesticides Use in Schools"

REGULATION

MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries:

Responsible Office: Chief Operating Officer
Facilities Management

Pesticides Use in Schools

I. PURPOSE

To establish procedures to implement an integrated pest management program in accordance with the *Annotated Code of Maryland, Article - Agriculture*

II. DEFINITIONS

A. *Integrated Pest Management* is the use of combined pest control alternatives, most effective to prevent or reduce to acceptable levels pests and damage caused by pests.

B. *Pesticide* as defined in the law, means any substance or mixture of substances intended for:

1. Preventing, destroying, repelling or mitigating a pest
2. Use as plant regulator, defoliant, or dessicant
3. Use as a spray such as a wetting agent or adhesive

Pesticide does not include:

1. An antimicrobial agent, such as a disinfectant, sanitizer or deodorizer, used for cleaning purposes
2. A bait station

C. *Space spraying* means application of a pesticide by discharge into the air throughout an area. It does not include crack and crevice treatment.

III. PROCEDURES

A. Contact Person

The Integrated Pest Management Supervisor in the Division of Maintenance will be the contact person and will manage all information on pest control efforts in the school system, including material safety data sheets and product label of each pesticide or bait station that may be used in schools, or on school grounds and site-specific information on pest control activities at each school.

B. Notification by Schools

1. At the beginning of each school year, schools will include notice of the school's integrated pest management system in information to parents. The notice will include the following information:
 - a) A statement that explains the school's integrated pest management system and a list of any pesticides or bait station that may be used in the school building or on school grounds as part of the integrated pest management system
 - b) A statement that:
 - (1) The contact person maintains the product label and material safety data sheet of each pesticide or bait station that may be used by the certified applicator in buildings and on school grounds
 - (2) The label and material safety data sheet is available for review by a parent, guardian, staff member, or student attending the school
 - (3) The contact person is available to parents, guardians, and staff members for information and comment
 - c) The name, address, and telephone number of the contact person
 - d) Instructions for including a parent/guardian or staff member on a pesticide notification list (see Section C)
 - e) Information about the opportunity to provide public comments on the Integrated Pest Management practices of the school system during the a public comments segment of each regularly scheduled Board meeting
2. After the start of each school year, written notification will be provided to each newly employed staff member in the orientation packets or to the

parent/guardian of a student newly enrolled in the new student information packet.

3. Notification Lists

- a. At the start of each school year, each middle and high school will develop a pesticide notification list containing each staff member and parent/guardian of a student attending the school who requests in writing prior notification of a pesticide application made in the school or on school grounds during the school year. Elementary schools are required to notify each parent or guardian of a student attending the school and each staff member regardless of whether they have requested prior notification.
- b. The school will keep the pesticide notification list current and add names upon written request by a parent or guardian of a student attending the school or a staff member.
- c. The school will make the pesticide notification list available upon request to representatives of the Department of Agriculture of the State of Maryland.

C. Pesticide Applications

1. Elementary Schools

At least 24 hours before the pesticide is applied in a school building, or on school grounds, the Integrated Pest Management Supervisor will provide the following information to the school principal who in turn will provide written notification to each parent/guardian and staff member:

- a) Common name of the pesticide
- b) Location of the application
- c) Planned date and time of the application
- d) The following language:

"The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: *Where possible, persons who potentially are more sensitive, such as pregnant*

women and infants (less than two years old), should avoid any unnecessary pesticide exposure."

2. Middle or High Schools

The Integrated Pest Management Supervisor will provide information to the school's principal, allowing sufficient time for the principal to notify students and staff. Principals will provide written notification to each parent, guardian, or staff member on the pesticide notification list, post notices at the site of the application and in conspicuous locations such as bulletin boards commonly seen by students and staff, and make an announcement on the school's public announcement system at least 24 hours before the application of a pesticide.

3. Space Spraying of Pesticides

a) Although space spraying of pesticides is not practiced in Montgomery County Public Schools, in the unlikely event that space spraying becomes necessary, the written notification to parents/guardians, staff, and students will be made at least one week before the space spraying.

b) The notice will be on a separate sheet of paper at least 8 1/2 inches by 11 inches in size and shall contain the following information:

- (1) Common name of the pesticide
- (2) Location of the space spraying
- (3) Planned date and time of space spraying
- (4) The following language:

"The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: Where possible, persons who potentially are more sensitive such as pregnant women and infants (less than two years old) should avoid any unnecessary pesticide exposure."

- (5) If the pesticide is not addressed in the notice sent at the beginning of the school year, a brief description of the pesticide to be applied

- (6) A brief description of potential adverse effects based upon the material safety data sheet of the pesticides to be applied
 - (7) The name and telephone number of the Integrated Pest Management Supervisor who is the designated contact person
4. For application on school grounds, the notice of planned date and time of application may specify that weather conditions or other extenuating circumstances may cause the actual date of application to be postponed to a later date or dates.
 5. If the actual date of application is more than 14 days later than the planned date provided in the notice, notice of the application required under this regulation shall be reissued.

D. Emergency Pesticide Applications

A pesticide may be applied in a school building or on school grounds without prior notification only if an emergency pest situation exists.

In the case of an emergency pesticide application in an elementary school building or school grounds, within 24 hours after pesticide application or on the next school day, the school will provide to each parent, guardian, or staff member:

1. Common name of the pesticide
2. Location of the application
3. Date and time of the application
4. The following language:

"The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: Where possible, persons who potentially are more sensitive, such as pregnant women and infants (less than two years old) should avoid any unnecessary pesticide exposure."

5. A brief description of potential adverse effects based upon the material safety data sheet of the pesticide applied

E. Use of Bait Stations

Before a bait station is used in a school, the Integrated Pest Management Supervisor and/or his staff will place a notice or sign on the door of the room in which the bait station is placed indicating the date of placement, the name of the contact person for additional information including information on potential adverse effects. The notice or sign will remain posted until the bait station is removed.

F. Public Comments

The Integrated Pest Management Supervisor or his designee will monitor and address public comments regarding the Integrated Pest Management program practices of MCPS.

Regulation History: New Regulation July 17, 2000.

EXHIBIT E
MCPS REGULATION ECF-RC
"Recycling"

REGULATION

MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries:

Responsible Office: Chief Operating Officer
Facilities Management

Recycling

I. PURPOSE

To set forth the process and guidelines for Montgomery County Public Schools (MCPS) staff, students, and other users of school facilities for recycling in accordance with Montgomery County Government regulation

II. DEFINITION

- A. *Recycling* is any process by which materials are diverted from a disposal facility and are collected, separated, processed, and returned to the economic mainstream in the form of raw materials or product for reuse.
- B. A *recycling plan* is a plan describing a program for solid waste reduction and recycling.
- C. An *MCPS Site* is defined as any school or facility, including grounds owned or occupied by MCPS.
- D. The *facility administrator* is the principal of a school or the administrator responsible for facilities other than schools.
- E. The *building recycling coordinator* is the individual designated by the facility administrator to coordinate the facility recycling program.
- F. The *recycling material specialist* is the individual assigned to the Division of Maintenance to coordinate material pick up and assist facilities with recycling plan implementation.

III. PROCEDURES

All public facilities are required by the Montgomery County Government to recycle 50 percent of all solid waste material generated.

- A. The director of the Department of Facilities Management is responsible for ensuring that the procedures outlined below are properly implemented.

1. Facility administrators for MCPS facilities will designate a building recycling coordinator to complete the following tasks:
 - a) Establish a comprehensive recycling plan for the facility. The facility administrator will endorse the recycling plan and submit a copy to the recycling material specialist prior to September 30 of each school year.
 - b) Form a team of staff, students, and community members to increase awareness of the need to recycle, build school/community support for the program, and provide oversight for compliance with the recycling plan.
2. Facility administrators will submit the name of the building recycling coordinator and a designated back-up to the recycling material specialist prior to September 15 of each school year.
3. The recycling material specialist will be responsible for assisting the building recycling coordinator and school-based staff in the implementation and maintenance of recycling programs for MCPS facilities.
4. The following items without food contamination will be recycled:
 - a) Paper
 - Office/classroom paper
 - Mixed paper
 - Magazines
 - Printer paper
 - Computer paper
 - Fax paper
 - Corrugated cardboard
 - Phone books
 - Newspaper
 - b) Other
 - Aluminum cans
 - Bi-metal (sheet and tin) cans

Glass bottles and jars
Plastic containers (must have a neck on them)
Yard trim (grass, leaves, and brush)

5. The Montgomery County Division of Solid Waste Services (MCDSWS) will assist in the development of recycling plans upon request.
6. MCDSWS will conduct periodic on-site evaluations to monitor the effectiveness of recycling programs and provide assistance for improving recycling efforts. Evaluation results and recommendations will be provided to the school and director, Department of Facilities Management.

Regulation History: New Regulation March 10, 2000.