

Office of the Superintendent of Schools
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland

October 27, 2021

MEMORANDUM

To: Members of the Board of Education

From: Monifa B. McKnight, Interim Superintendent of Schools

Subject: Health Contingency Plan (09-09-2021-02-A, 03, 04)

During the *Health Contingency Plan* discussion, Board members requested the following information:

Question 3

Please provide a comparison chart benchmarking MCPS with other districts regarding their testing programs and procedures (opt-out, Maryland laws of consent regardless of the testing method (saliva test) and their efficacy.

Response

Staff have compiled a comparison chart for COVID-19 testing in neighboring districts.

School District	COVID-19 Testing?	Type of Testing
Baltimore County Public Schools	Yes	<ul style="list-style-type: none">• Student Symptomatic testing (rapid and PCR)• Staff Screening testing (PCR)• Staff Symptomatic testing (rapid and PCR)
Frederick County Public Schools	No	<ul style="list-style-type: none">• N/A
Howard County Public Schools	Yes	<ul style="list-style-type: none">• Student Symptomatic testing (rapid and PCR)• Staff Screening testing (PCR)
Prince George’s County Public Schools	Yes	<ul style="list-style-type: none">• Student Screening testing (PCR)• Student Symptomatic testing (rapid and PCR)• Staff Screening testing (PCR)• Staff Symptomatic testing (rapid and PCR)

The Office of the General Counsel has provided information around informed consent (or opt-in) for COVID testing:

Maryland has not enacted legislation on the informed consent, and more specifically consent for saliva tests. Rather, Maryland relies on a court opinion precedent for consent which states that patients must be provided an overview of the procedure and the risks/potential dangers, and that by signing a document, the individual provides informed consent.

In addition to the court precedent, Centers for Disease Control and Prevention Guidance and Family Educational Rights and Privacy Act require affirmative opt-in parental consent to test students for COVID-19.

Citations can be found on the Attachment.

Question 4

Given the emergence of the Delta variant, and others, weekly testing may not be sufficient. Symptoms from Delta variant exposure can present within four days—Can we ask CIAN about doing more frequent testing?

Response

Staff is working closely with CIAN Diagnostics, our Maryland Department of Health approved vendor, to expand asymptomatic COVID-19 testing to include high schools. There have been discussions and preliminary planning to deploy additional testing teams to schools identified as hotspots or with greater consented student populations to increase and expand testing.

If you have any questions, please contact Ms. Eugenia S. Dawson, chief of finance and operations, via e-mail.

MBM:ESD:MKL:sr

Attachment

Copy to:

Ms. Dawson
Mrs. Williams
Mr. Hollis
Mr. Lewis
Ms. Miller
Ms. Webb

Citations

Maryland Informed Consent

In the 1977 case of *Sard v. Hardy*, the court handed down an opinion regarding the two situations where it applies:

- Informed Consent for Planned Procedures
- A health care provider is required to advise a patient on an overview of the procedure, and risks and potential dangers. By signing a document outlining these items, the individual provides informed consent to medical care.

CDC Consent Mandates: COVID-19 testing should not be conducted without informed consent from the individual being tested (if an adult) or the individual's parent or guardian (if a minor).^{1[1]} Informed consent requires disclosure, understanding, and free choice, and is necessary for students' families to act independently and make choices.^{2[2]}

FERPA Consent Requirement: A parent/guardian must provide written consent before a school district discloses PII from a student's education records. FERPA requires that a consent form be signed and dated by a parent and (1) specify the records that may be disclosed; (2) state the purpose of the disclosure; and (3) identify the party or class of parties to whom the disclosure may be made.^{3[3]}

^{4[1]} Guidance for COVID-19 Prevention in K-12 Schools, updated Aug 5, 2021,

<https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html>

^{5[2]} Operational Strategy for K-12 Schools through Phased Prevention, updated May 15, 2021,

<https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html>

^{6[3]} FERPA & COVID-19 FAQ, updated March 2020,

https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20and%20Coronavirus%20Frequently%20Asked%20Questions.pdf