

A. Purpose

To establish the process and expectations with respect to service of legal process on the Board of Education of Frederick County (Board), the Frederick County Public Schools (FCPS), or individual FCPS staff members who are acting in the course and scope of their employment.

B. Background

1. Legal actions in Federal or Maryland courts are initiated by service of an original pleading, usually a complaint. As part of such litigation, a party or a non-party may be served with a subpoena duces tecum to produce records or a subpoena ad testificandum to appear to give testimony at a deposition or as part of a hearing or trial. Similarly, subpoenas may be issued by administrative agencies of the State of Maryland, a subdivision thereof, or by the Federal government. Together, these documents are considered “legal process” and must be served in a particular manner described by law.
2. Individuals or organizations served with a complaint or with a subpoena have a legal obligation to respond within a defined time period. That response may include filing an answer, compiling responsive records, presenting testimony, or objecting to the document being served. Because these actions are time sensitive, it is important that prompt action be taken when service is attempted or made.

C. Definitions

1. “Indigent” is defined as an individual whose family household income is less than fifty percent (50%) of the median family income for the State as reported in the Federal Register.
2. “Legal Process” is defined to mean the legal means by which a person is given notice of a legal proceeding, usually in the form of a summons or writ, or is compelled to produce records or appear to give testimony, usually in the form of a subpoena.
3. “Original Pleading” is defined to mean a legal instrument used to initiate an action against an individual or entity.
4. “Process Server” is defined to mean an individual hired to serve Legal Process and who is not a litigant in the instant proceeding.
5. “Subpoena” is defined to mean a legal instrument used to compel a party to a proceeding or a nonparty to a proceeding to produce specified records or to appear to give testimony at a deposition, hearing, trial, or other court proceeding.
6. “System” is defined to mean the Board, FCPS, and Board members and FCPS employees acting on FCPS-business or within the course and scope of their employment.

D. Procedures

1. Applicability

- a. This Regulation applies to Legal Process to be served on the Board, FCPS, or a Board member or FCPS employee acting within the course and scope of their employment.
- b. This Regulation does not apply to Legal Process to be served on a Board member or FCPS employee in their individual capacity.

2. Generally Applicable Terms

- a. In accordance with [FCPS Regulation 111-02, School Security and Facility Access](#) (formerly 200-29), a principal may deny access to a school if the individual is not registered student, staff, or faculty member and does not have lawful business to pursue in the school or if the individual acts in a manner that disrupts or disturbs the normal educational functions of the institution. If a Process Server attempts to serve Legal Process at a school, the school administrator or their designee should refer the Process Server to the Legal Services Division. Do not accept the Legal Process to make a copy or to review what is being served as doing so may be deemed acceptance of service.
- b. FCPS expects individuals seeking to serve Legal Process on the System to comply with Maryland law regarding do so, except as may otherwise be indicated in this Regulation.
- c. Nothing contained within this Regulation waives the right to seek to dismiss a pleading, to quash a subpoena, or to seek a protective order as may be appropriate.

3. Original Pleadings

- a. Original Pleadings must be served in accordance with federal or Maryland law, except where alternative arrangements have been made with the Legal Services Division in advance of service, at the FCPS Central Office located at 191 South East Street, Frederick, MD 21701.
- b. The only individuals authorized to accept service of an Original Pleading on behalf of the System are the Board President, the Superintendent, or an FCPS employee within the Legal Services Division. No other employee is authorized to accept the service of an Original Pleading, including employees stationed at the Central Office front desk, school-based staff, and school administrators.
- c. Individuals seeking to serve an Original Pleading are encouraged to contact the Legal Services Division in advance to ensure an individual authorized to accept the Original Pleading is available to receive it.

4. Record Subpoenas / *Subpoena Duces Tecum*

- a. All subpoenas to produce System records, regardless of whether the requested records are school-based or located at Central Office, should be addressed as follows:

Attn: Chief Legal Counsel
Legal Services Division
Frederick County Public Schools
191 South East Street
Frederick, MD 21701

- b. A record subpoena may be served in accordance with Maryland law, through the FCPS subpoena submission portal on the [FCPS Division of Legal Services webpage](#), or by e-mail to Subpoenas@fcps.org.
- c. The only individuals authorized to accept record subpoenas on behalf of the System are the Board President, the Superintendent, or an FCPS employee within the Legal Services Division. No other employee is authorized to accept the service of Legal Process, including employees stationed at the Central Office front desk, school-based staff, and school administrators.
- d. Where an FCPS office or school receives an emailed or mailed Subpoena, staff should immediately forward the Subpoena to the Legal Services Division via email at Subpoenas@fcps.org.
- e. The Legal Services Division will coordinate the response to the record subpoena. Employees who are contacted by the Legal Services Division to support the response are expected to provide full and timely cooperation.
- f. Individuals seeking to serve a record subpoena in-person are encouraged to contact the Legal Services Division in advance to ensure an individual authorized to accept the subpoena is available to receive it.

5. **Testimony Subpoenas / *Subpoena Ad Testificandum***

- a. All subpoenas requiring the attendance of a specific individual at a deposition, hearing, or trial must be served in accordance with Maryland law, except where the subject individual has authorized the Legal Services Division to accept the subpoena on their behalf.
- b. The Legal Services Division is not authorized to accept service of testimony subpoenas through the FCPS subpoena submission portal or the Subpoenas@fcps.org email address.
- c. Where an FCPS office or school receives an emailed or mailed Subpoena, staff should immediately forward the Subpoena to the Legal Services Division via email at Subpoenas@fcps.org.
- d. Individuals seeking to serve a testimony subpoena are strongly encouraged to
 - i. Contact the Legal Services Division in advance of attempting to serve the subpoena for testimony related to Board or FCPS business. If contacted in advance, Legal Services will reach out to the individual to seek authorization to accept the subpoena on their behalf and will notify the issuing party whether authorization has been granted within three (3) working days. Under no circumstances will the Legal Services Division accept service of a testimony subpoena for an individual in connection with a matter unrelated to that person's position with the Board or FCPS.
 - ii. Consider the FCPS calendar when selecting dates for a deposition, hearing, or trial. Employee availability during scheduled school breaks may be limited.
- e. FCPS employees who are properly served with a subpoena to give testimony related to FCPS-business may request support from a Legal Services Division attorney, which may include preparing for testimony and attending the deposition, hearing, or trial. Such a request should be promptly made as outlined in Legal Services Division SOP LS-SOP-002 and should include a copy of the subpoena and a description of how the subpoena was served.

6. Fees

- a. FCPS may charge a reasonable fee for the time spent searching for records responsive to a subpoena, for the cost of reproducing such records, or for the time an employee is required to provide testimony in connection with a hearing or trial.
- b. **Record search fees**
 - i. Fees related to searching for records will be calculated based on the current hourly salary of each employee involved in the search multiplied by the number of hours that the individual spent searching in quarter-hour increments. This may include the time spent by Legal Services Division employees.
 - ii. There will be no reproduction fees to produce electronic copies of records, unless a thumb drive or external hard drive is required to produce the records. In that circumstance, FCPS may charge for the cost of the drive.
 - iii. The reproduction fee for physical copies of certified records will be one dollar (\$1.00) per page.
- c. **Testimony fees**
 - i. If it is necessary for an employee to appear to give testimony, FCPS reserves the right to charge a fee to offset the cost associated with that individual being excused from their regular duties.
 - ii. The fee will be calculated based on the current hourly salary of the employee multiplied by the number of hours that individual spent traveling to the place of testimony, giving testimony, and returning to their worksite.
 - iii. FCPS also reserves the right to impose a fee for the cost of hiring a substitute teacher or other substitute staff to cover the cost associated with the absence of the employee.
- d. FCPS may waive or reduce any fee set under this section if the issuing party asks for a waiver and FCPS determines that:
 - i. The waiver or reduction is in the public interest; or
 - ii. The issuing party is indigent and files an affidavit verifying the facts that support the claim of indigence.
- e. There will be no fees associated with a subpoena issued in connection with a criminal proceeding or investigation.

E. Related Information

1. Board Policy

- a. [Policy 106, General Powers and Duties](https://apps.fcps.org/legal/documents/106)
(<https://apps.fcps.org/legal/documents/106>)

2. Board Resources

- a. Board Resolution Regarding the Electronic Service of Subpoena Duces Tecum, Feb. 12, 2025

3. FCPS Regulations

- a. [Regulation 111-02, School Security and Facility Access](https://apps.fcps.org/legal/documents/111-02) (formerly 200-29)
(<https://apps.fcps.org/legal/documents/111-02>)
- b. [Regulation 209-02, Retention, Access, and Disclosure of FCPS Video Recordings](#)

- (<https://apps.fcps.org/legal/documents/209-02>)
- c. [Regulation 421-01, Student Education Records](#) (formerly 400-20)
(<https://apps.fcps.org/legal/documents/421-01>)

4. **FCPS Resources**

- a. [FCPS / Departments / Legal Services](#)
(https://www.fcps.org/departments/division_of_legal_services)

5. **Maryland Rules**

- a. Md. Rule 2-121
- b. Md. Rule 2-510

F. Regulation History (Maintained by Legal Services)

<i>Responsible Office</i>	Legal Services Division
Adoption Dates	05/27/25
Review Dates	
Revision Dates	10/28/25; 12/02/25; 04/09/26

