

POLICY

BOARD OF EDUCATION OF MONTGOMERY COUNTY

Related Entries: BLB, BLB-EA, BLC-EA, JOA-RA
Responsible Office: Board of Education
Instruction and Program Development

Procedures for Review and Resolution of Special Education Disputes

A. PURPOSE

To establish and recognize review and resolution options that permit cooperative problem solving of disputes regarding identification, evaluation, or educational placement of students with disabilities or the provision of a free appropriate public education

B. ISSUE

Students with disabilities and their parent(s)/guardian(s) must be guaranteed procedural safeguards with respect to their right to free appropriate public education and should have available less formal options for resolution of disputes.

C. POSITION

1. Statement of Philosophy

It is the intent of the Board of Education to resolve all disputes related to special education in as efficient and cooperative a manner as possible. MCPS has established an administrative review process that may be used and encourages the use of mediation processes authorized by state law.

The parent/guardian/eligible student (a student 18 years of age or older) may elect not to use an administrative review and may request mediation and/or a due process hearing in accordance with state law.

2. Applicable Laws, Rules, and Regulations

Where applicable, these procedures should be read in conjunction with state and federal laws, rules, and regulations that include the following:

- a) *The Annotated Code of Maryland, Education Article, Section 8-415*
- b) Maryland State Board of Education bylaws:
 - (1) Bylaw 13A.05.01 deals specifically with Programs for Students with Disabilities
 - (2) Bylaw 13A.05.01.14 deals specifically with Due Process Hearing Procedures
- c) The Individuals with Disabilities Education Act (IDEA) 20 U.S.C. §1400 *et seq.*, and Rules and Regulations Implementing IDEA

3. Conflicts

In cases of conflicts between these procedures and applicable state or federal laws, rules, or regulations, the state or federal laws, rules, or regulations shall govern.

4. Administrative Review and Resolution

The parent/guardian/eligible student may select, as an alternative to mediation/due process hearing procedures, an administrative review.

The process for administrative review involves reviewing all available records on the student and obtaining information required for clarification so that a decision that attempts to resolve the dispute in a way that is satisfactory to both parties can be offered.

- (1) When Available

An administrative review is available whenever a parent/guardian/eligible student is dissatisfied with a decision, or lack thereof, regarding identification, evaluation, or educational placement of a student or the provision of a free appropriate public education and has not filed a request for mediation and/or a due process hearing

(2) Procedure

To initiate the administrative review, MCPS Form 336-43A, *Request for Administrative Review and Resolution*, must be completed by the parent/guardian. The form is then filed with the Department of Special Education. A committee of no less than two (2) MCPS professional staff members, at least one of whom is certificated in special education, who have had no direct involvement in the decision, will obtain relevant records and consider any information submitted by the parent/guardian/eligible student with the form or gained from other sources. The administrative review should be completed within twenty (20) calendar days of filing. However, at any time during the process, or at the completion of the process, a party may request mediation and/or a due process hearing. If mediation and/or a due process hearing is requested, the administrative review will terminate.

When a review is completed, a representative of the Department of Special Education will inform the parties in writing of the suggested resolution. If all parties concur, the resolution shall be committed to writing and signed.

5. Mediation/Due Process Hearing Procedures

The Board of Education encourages the use of state provided mediation as an alternative to resolution of disputes prior to or current with a due process hearing. Mediation attempts to bring about a resolution of the dispute by the parties through the intervention of a neutral third party. Mediation is made available through the State Office of Administrative Hearings and is conducted by an impartial administrative law judge.

The Board of Education also recognizes the availability of due process hearings through the State Office of Administrative Hearings.

A parent or MCPS may initiate mediation/due process hearings concerning free appropriate public education by making a written request to the MCPS Department of Special Education. If an oral request is received, MCPS will provide the individual with a request form and assist the individual in completing the form, as appropriate.

D. DESIRED OUTCOME

Montgomery County Public Schools desires to seek early resolution of disputes in as informal and cooperative manner as possible.

E. IMPLEMENTATION STRATEGIES

1. The superintendent will publicize the options for review and resolution of disputes regarding identification, evaluation, or educational placement of children or the provision of a free appropriate public education as well as the procedures for applying for mediation/ due process hearings.
2. The superintendent will develop regulations and other procedures as necessary to implement this policy.
3. The superintendent will establish a data collection process to determine the effectiveness of the implementation of these procedures.

F. REVIEW AND REPORTING

1. The superintendent shall bring to the Board all matters related to this policy that involve issues of great importance.
2. The level of authority of the superintendent to settle claims related to special education without specific approval of the Board of Education shall be set by resolution adopted by the Board of Education. Settlement of fees and costs that exceed the level adopted by the Board of Education shall be evaluated by legal counsel and reported to the Board of Education.
3. This policy will be reviewed on an ongoing basis in accordance with the Board of Education policy review process.

Policy History: Adopted by Resolution No. 399-80, June 23, 1980; amended by Resolution 429-80, July 8, 1980; amended by Resolution No. 536-84, October 9, 1984; amended by Resolution No. 590-86, November 6, 1986; reformatted in accordance with Resolution No. 333-86, June 12, 1986 and Resolution No. 458-86, August 12, 1986, and accepted by Resolution No. 550-88, October 24, 1988; amended by Resolution No. 737-95, November 14, 1995; amended by Resolution No. 472-96, July 9, 1996.