

Dr. Hartzman explained the operational changes suggested in the white paper especially regarding special programs and language immersion programs.

Mrs. Gordon asked about the immersion program lotteries and whether or not all students would be placed in the lottery regardless of their home school. Dr. Hartzman replied that all students would be placed in the lottery in a effort to make application to all programs consistent.

Mrs. King pointed out that parents have told her that if the lottery was consistent and their child had a fair chance of getting into the program, they could deal with that approach. Dr. Hartzman pointed out that once the program is filled by lottery, the names will be placed on a waiting list in order by lottery selection.

Dr. Hartzman mentioned the concern over timelines and changing the due date from April 1 to March 15. Shortening the timeframe could be accomplished by using a form. Staff is comfortable about the appeals filed in the first season but there are late appeals filed in t he second season between June and August based on extenuating circumstances and families that are new to the county.

Ms. Bresler talked about the interplay among and between the various Board policies. The transfer policy is dynamic and puts into practical application the other, more theoretical policies such as the Long-range Educational Facilities Planning and Quality Integrated Education. The Student Transfer Policy deals with basic issues such as staffing, utilization of facilities, and racial/socioeconomic balance. Over time there have been changes in the procedure to streamline and collapse the timelines to make it more efficient and responsive as well as provide more information to the public. In state and court appeals, the validity of the student transfer policy has been consistently upheld.

Ms. Sneed remarked on the legal parameters relating to diversity in schools. The extent to which the school system takes race and ethnicity into account needs to comply with two tests: (1) is there a compelling governmental interest for taking race into account, and (2) the extent that race and ethnicity are taken into account needs to be narrowly tailored. Other factors that are taken into account are space, stability, and exceptions. The Board has done a good job of analyzing and looking at the implementation of the policy every year, and it is clear that the Board has met both of the tests that the courts have set out.

Mr. Abrams agreed with the recommended operational changes. He specifically asked about transfer in regard to the stability issue including grade reorganization, holding schools, and special programs. Dr. Hartzman replied that special programs are exempt from any restrictions.

Mr. Abrams asked about diversity profiles and the flexibility in applying the policy.

Ms. Bresler replied that the policy was intended to convey that the influence of the QIE and the diversity profile in operation and impact on the student transfer policy would remain the same. The transfer policy would operate the same on all groups but that the impetus for addressing those schools with small percentages of diversity would look at other mechanisms for addressing those populations.

Mr. Abrams inquired about those groups defined in the QIE policy and the need to reexamine what constitutes a protected class within the policy in terms of the achievement of diversity profiles. There have been examples of parental delineation in multicultural circumstances. Ms. Bresler stated that the racial and ethnic classifications in the policy parallel the federal government definitions which are being reexamined. Ms. Sneed added that one state has implemented a biracial category and others are considering some change.

Mr. Ewing commented on programs that were exempt from transfer restrictions. He thought it would be beneficial for the Board to take action on a such a list particularly given that there is a growing list of signature programs. Stability is a concept that should be taken into account but restrictions ought to be imposed with judgement as to seriousness of destabilizing factors. There should be an absolute deadline for the filing of transfer appeals except for dire emergencies. Mr. Ewing made general comments about actions that would enhance integration as well as to rethink the racial and ethnic categories.

Mr. McCullough inquired about timing and a preferred turn in date with the guarantee of placing a student prior to the beginning of school. Dr. Hartzman stated that the wording in the transfer booklet could be revised, but when a parent exercises due process rights, this elongates the process.

Mrs. King asserted that parents do not understand the process and there needs to be an additional effort to educate people with a possible public relations effort.

Mr. Abrams shared the concerns of his colleagues in that the policy must be reflective of contemporary definitions. The recommendations made by the superintendent are necessary in order to make a difficult process run smoother.

Mrs. Gordon commented on the fact that there were over 8,000 transfer and 50 were appealed to the Board. This fact demonstrates a good record of being cognizant of the needs of families. She suggested that the stability issues need to be closely examined before a decision is made citing that as a reason for the denial of a transfer. She stated that the Board has been vigilant in regard to racial and ethnic groups as the county has a more diverse population. She was concerned about giving special exceptions because there were small percentages of diversity and each student needs to be looked at as an individual and special circumstances. In regard to the timeline, her concern was that there

is a greater number of appeals during the second season. There is no recognition given to those who complied with the deadlines and, perhaps, there should be two batches indicating from which "season" those appeals stemmed.

* Ms. Gutierrez joined the meeting at this time.

RESOLUTION NO. 736-95

Re: STUDENT TRANSFER POLICY

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mr. Ewing, the following resolution was adopted with Mr. Abrams, Mr. Ewing, Mrs. Gordon, Mrs. King, and Mr. McCullough voting in the affirmative; Ms. Gutierrez abstaining:

Resolved, That the Board of Education approve the following operational changes to the Transfer Policy:

1. Instead of considering a change in policy that simply accepts the elimination of whole racial/ethnic groups from schools with small populations of certain racial/ethnic groups, MCPS will continue to employ the diversity profile as in the past. There will be a proactive approach to improving diversity by looking at school boundaries, additional pairing or clustering of schools, or creation of new or relocated magnet programs to raise the small numbers where feasible. The QIE Policy specifically cites such measures as means to enhance diversity.
2. Programs exempt from the transfer policy will be listed by name in the School Transfer Information Booklet. In addition, the language immersion programs will be added to the list of programs exempt from the student transfer policy restrictions. The impact of a lottery on sending schools will be minimal because the seat capacity of these programs is limited. Students residing in the attendance area of the school where the program is housed will be required to apply for a transfer into the language immersion program as is required of any other student. As is current practice, and in keeping with the Board's desire to avoid splitting families, whenever possible, siblings of students enrolled in these programs will receive preference for admission into the program prior to a lottery.
3. Late transfer requests will continue to be processed with extenuating circumstances. In order to shorten the processing of appeals at the superintendent level, an appeals form will be used that could be mailed with approvals instead of a formal letter. Late transfers will be processed by a group of staff knowledgeable about class size with the authority to override class size guidelines and/or allocate additional staff to schools to offset

increased enrollment.

and be it further

Resolved, That the Board of Education request from the superintendent for Board consideration (1) further operational changes with regard to the definition of school stability as it applies to how narrowly or broadly that it is a constraint on the transfer policy; (2) any additional programs to be included in the list of program exempt for the transfer policy reflecting that the elementary school immersion programs are added to the list; and (3) develop an improved process for late appeals.

- * At this point, Mrs. King, Mr. Abrams, and Ms. Gutierrez temporary left the meeting and the Board recessed into closed session at 11:50 a.m.
- * At 2:15 p.m., the Board reconvened with Mrs. Gordon in the Chair, Mr. Abrams, Dr. Cheung, Mr. Ewing, Ms. Gutierrez, Mrs. King, and Mr. McCullough in attendance.

RESOLUTION NO. 737-95

Re: POLICY BLC, *PROCEDURES FOR INFORMAL REVIEW AND RESOLUTION/IMPARTIAL DUE PROCESS HEARINGS (SPECIAL EDUCATION ONLY)*

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Dr. Cheung, the following motion was adopted unanimously by member present.

WHEREAS, The Board of Education has adopted Policy BLC to provide due process hearings in special education matters, consistent with federal and state requirements; and

WHEREAS, Policy BLC was first adopted in 1980 and the last substantive change to that policy was made in 1986; and

WHEREAS, A number of changes in laws and regulations have occurred as well as changes in departmental and job titles, as a result of which a general review of Policy BLC is now appropriate; and

WHEREAS, In addition to due process hearings, less formal options for resolution of disputes also are available to students with disabilities and their parents/guardians, and should be incorporated into the policy; and

WHEREAS, On June 26, 1995, the Board of Education adopted a resolution directing the superintendent to review Policy BLC; and

WHEREAS, On August 29, 1995, the Board of Education discussed and took tentative action on a proposed draft policy and requested that it be sent out for public comment; and

WHEREAS, Sixteen responses have been received and many of the suggestions have been incorporated into the policy as shown on the attached revised draft; now therefore be it

Resolved, That the Board of Education take final action to adopt Policy BLC, *Procedures for Informal Review and Resolution/Impartial Due Process Hearings (Special Education Only)*; and be it further

Resolved, That the responsibility for the coordination and scheduling of hearings shall be transferred from the Office of the Superintendent of Schools to the Office of the Board of Education effective with the beginning of the second semester of school year 1995-96.

Policy BLC, Procedures for Informal Review and Resolution/Impartial Due Process Hearings (Special Education Only)

A. PURPOSE

To establish informal review and resolution options that permit cooperative problem solving of disputes regarding identification, evaluation, or educational placement of children or the provision of a free appropriate public education and to establish hearing procedures to be initiated when a request is made to review any of these issues

B. ISSUE

Students with disabilities and their parent(s)/guardian(s) must be guaranteed procedural safeguards with respect to their right to free appropriate 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 informally and in an efficient and cooperative a manner as possible. MCPS has established informal review and resolution processes to permit the submission of disputes to administrative review or mediation without the need to utilize the formal due process hearing procedure.

The parent(s)/guardian(s)/student(s) of age may elect not to use the informal

review and resolution process, and may request a formal due process hearing. In addition, if an informal review and resolution process is selected, either party may request a due process hearing if the informal review and resolution process or the results of that process are not satisfactory.

It is also the intent of the Board of Education to provide hearings on special education disputes in accordance with applicable law while safeguarding the due process rights of the student. Due process hearings are held before qualified impartial hearing officers.

If either party to the hearing is dissatisfied with the outcome, the dispute may be appealed to the state hearing review board. Judicial review is available should either party be dissatisfied with a result of the appeal.

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*
- 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 Local Hearing Procedures and Bylaw 13A.05.01.15 State 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 latter shall govern.

4. Options for Informal Review and Resolution

There are two options for informal review and resolution: one is an administrative review and the other is a mediation process. The parent or

legal guardian may select one of these two as an alternative to the formal due process hearing procedures. The selection of one of these options is voluntary. At any time, a party may choose to file a request for a formal due process hearing.

a) Mediation Process

The process allows parents the opportunity to share opinions and concerns in an informal meeting with a mediator knowledgeable in the area of conflict resolution. The process involves a mediation conference with the parent(s), mediator, and as MCPS representative who was involved in the decision regarding the identification, evaluation, or educational placement, or the provision of a free appropriate public education. The mediator will facilitate the resolution of the dispute by the parties.

(1) When Available

Mediation is available whenever a parent/guardian is dissatisfied with a decision regarding identification, evaluation, or educational placement of a student or the provision of a free appropriate public education and has not yet filed a request for a formal due process hearing.

(2) Procedure

To initiate mediation, MCPS Form 336-43A, *Request for Informal Review and Resolution*, must be completed, checking the appropriate box for mediation. The form is then filed with the Department of Special Education.

A mediator will be selected by MCPS from a list of non-MCPS employees trained in mediation.

A mediation conference will be scheduled and held whenever possible at the student's public school or at a mutually agreeable location.

The participants shall be mediator, parent(s) and their representative (if any), and an MCPS official and its

representative (if any), depending on whether the parent is represented, and the student if appropriate. The parent(s) may bring a translator/interpreter if necessary to accommodate any language barrier, although MCPS also would provide a translator/interpreter upon request.

To maintain the informality and to encourage compromise and cooperation between parties, no statements made or documents generated during the mediation may be used in any subsequent formal due process hearing unless both parties agree.

If mediation is successful and agreement is reached, the mediator will reduce the agreement to writing for signature by the parties. Whenever possible, this should be done at the conclusion of the conference.

If unsuccessful, the mediator shall so inform the Department of Special Education.

The mediation process should be completed within twenty (20) calendar days of the filing of the request. However, at any time during mediation, or at the completion of the process, a party may request a due process hearing. If a due process hearing is requested, mediation will terminate and time limitations and procedures for the formal due process hearing will begin.

b) 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 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 yet filed a request for a formal due

process hearing or, if the parent/guardian has requested a formal due process hearing, dismisses such request or, prior to the conducting of a hearing, agrees to a deferral of the hearing with the concurrence of the hearing officer pending the outcome of the administrative review or mediation.

(2) Procedure

To initiate the administrative review, MCPS Form 336-43A, *Request for Informal Review and Resolution*, must be completed by the parent/guardian, checking the appropriate box to select the administrative review process. 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(s)/guardian(s)/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 a due process hearing. If a due process hearing is requested, the administrative review will terminate and time limitations and procedures for the formal due process hearing will begin.

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

5. Formal Due Process Hearing Procedures

Formal due process hearing procedures are intended to provide procedural safeguards in accordance with applicable law.

a) When Available

A parent(s)/guardian(s)/student(s) of age, or representative of the Montgomery County Public Schools may initiate a hearing when the school system proposes to initiate or change, or refuses a request by

a parent(s)/guardian(s)/student(s) of age to initiate or change the following matters¹:

- (1) The evaluation of the child
- (2) The identification of the child
- (3) The educational placement of the child
- (4) The provision of a free appropriate education for the child

b) Procedure

The party desiring a formal due process hearing should complete MCPS Form 336-43B, *Request for Impartial Due Process Hearing* and submit it to the Department of Special Education.

(1) General Arrangements

Unless otherwise agreed by both parties, the hearing officer will be chosen by the Office of the Board of Education in rotating alphabetical sequence from the list of qualified hearing officers approved by the Board of Education. In the event that a hearing officer is unavailable to serve on the date for which a hearing officer is required, the next available hearing officer in alphabetical rotation shall be selected.

In accordance with state law (Education Article §8-415), the Montgomery County Public Schools shall maintain a list of at least 10 hearing officers who have general knowledge of the law relating to the identification, evaluation, or educational placement of children with disabilities and the provision of a free appropriate public education, and who meet other requirements as the Board of Education may establish.

The Office of the Board of Education shall maintain the list of persons approved by the Board of Education of Montgomery County who serve as hearing officers in Montgomery County. The list shall include a statement of the qualifications of each

¹Disputes involving data maintained in the student's school records are governed by Regulation JOA-RA: *Student Records*.

person. The list will be made available upon request to the Office of the Board of Education, Montgomery County Public Schools, 850 Hungerford Drive, Rockville, Maryland 20850.

The Office of the Board of Education will schedule the date, time, and location of the hearing and arrange for the electronic verbatim record of the hearing.

(2) Notice of Hearing

As soon as practicable after receipt of the request (MCPS Form 336-43B: *Application for Impartial Due Process Hearing*) by the Office of the Director of Special Education, the Office of the Board of Education will issue a written notice to the parties which shall state:

- (a) The name and address of the hearing officer
- (b) Date, time, and place of hearing
- (c) Any other appropriate information

(3) Prehearing Duties and Rights

- (a) The parent(s)/guardian(s)/student(s) of age involved in the hearing has the right to:
 - (i) Have the hearing open or closed to the public

Parent(s)/guardian(s)/student(s) of age shall designate an open or closed hearing on the application for impartial due process hearing. If not specified, the hearing shall be closed.
 - (ii) Have an interpreter present if English is not the primary language of the parent(s)/guardian(s)/student(s) of age
 - (iii) Have the child who is the subject of the hearing attend
 - (iv) Have effective communication for individuals

with disabilities that might include the use of auxiliary aids, services, or other accommodations if such aid, service, or accommodation does not result in an undue burden or fundamentally alter the nature of the hearing

- (v) Inspect and copy, at reasonable times, both before any hearing and otherwise, all records of the Montgomery County Public Schools and its agents and employees pertaining to the child, including all tests or reports (excluding protocols) upon which the proposed action may be based and such other relevant records pertaining to the proposed action as may be relevant (Procedures and hearings concerning content of student records shall be governed by Regulation JOA-RA: *Student Records*.)
- (vi) Be represented by counsel or a designated representative at any stage during the hearing process
- (vii) Obtain an independent assessment of the child, the expense of which is to be borne in accordance with applicable federal regulations²

The results of these assessments must be considered by the Montgomery County Public Schools in any placement decision and may be presented as evidence at the hearing.

- (viii) Obtain information about where to acquire an independent assessment by contacting

²The Board of Education of Montgomery County shall not bear the responsibility for any fees for professional evaluations, witnesses, or representatives to assist parents/guardians in due process hearings except as provided by these procedures and applicable federal or state laws and regulations and locally established policy. Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria that the Montgomery County Public Schools uses when it initiates an evaluation.

Department of Special Education
Montgomery County Public Schools
850 Hungerford Drive
Rockville, MD 20850 or

Parent Information and Training Center
Lynnbrook Center
8001 Lynnbrook Drive
Bethesda, MD 20814

- (ix) Obtain information on free or low-cost legal or other relevant services available in the area, including information regarding possible reimbursement of attorney's fees incurred as a result of due process hearings or court actions by contacting

Office of the Board of Education
Montgomery County Public Schools
850 Hungerford Drive
Rockville, MD 20850 or

Parent Information and Training Center
Lynnbrook Center
8001 Lynbrook Drive
Bethesda, MD 20814

(b) Exchange of Evidence

At least five (5) calendar days before the hearing, each party shall provide to the other party and the hearing officer:

- (i) A copy of each document or other writing which the party intends to introduce into evidence at the hearing
- (ii) A list of the witnesses the party intends to call to testify at the hearing
- (iii) Any other evidence which the party intends to introduce at the hearing (This does not include

the expected testimony of witnesses.)

(c) Stipulations

The parties may confer prior to the hearing in a good faith attempt to stipulate facts, introduce evidence, and discuss any other matters for the purpose of expediting the hearing and reducing the hearing costs. Prior to, or at any point during a hearing the parties may agree upon the ultimate resolution of the issues in dispute. The resolution shall be committed to writing and signed.

(4) Hearing Rights

Any party to a hearing has the right to:

- (a) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of students with disabilities (Witnesses who fall within this category shall not be excluded from attending any part of the hearing.)
- (b) Have all persons present at the hearing identified for the record
- (c) Present competent evidence (Evidence must be competent, which generally means testimony from a witness or documents written by a person who is qualified, because of background or experience, to speak on the subject.)
- (d) Present relevant evidence (Evidence must be relevant, which means it must relate to the issues identified in the request for due process hearing.)
- (e) Cross-examine witnesses (Each party shall have the right to ask questions of [cross-examine] any witness called to testify on behalf of the other party.)
- (f) Prohibit the introduction of any evidence at the hearing that has not been disclosed and given to that party at least five (5) calendar days before the hearing (This

shall include the exclusion of testimony from a witness whose name was not provided five (5) calendar days before the hearing.)

- (g) Obtain an electronic verbatim record of the hearing (The Montgomery County Public Schools will arrange to have an electronic [tape] recording of the hearing unless the parties agree that this record need not be made. One copy of the tape recording is supplied free of charge.)
- (h) Obtain written findings of fact and decision by the independent hearing officer based on the testimony and documented information in the record at the hearing before the hearing officer
- (l) Any party to a hearing has the right to compel the attendance of witnesses at the hearing. The request by a party shall:
 - (l) Be made, with notice to the other party, to the hearing officer at least ten (10) calendar days prior to the date of the hearing
 - (ii) State the name, address, and title, if applicable, of the person
 - (iii) State the reason(s) for the request
- (j) The hearing officer shall decide if the request will be granted.
 - (l) If the request is granted, the hearing officer shall notify the person(s) involved. When a request is granted, the hearing officer and the parties to the hearing shall give consideration to minimizing interference with the regular duties of the person.
 - (ii) If the request is denied, the hearing officer shall notify the parties and state the reasons for the denial. The hearing officer may deny the request

if it is not shown to the satisfaction of the hearing officer that the person(s) has direct knowledge pertinent to the subject of the inquiry.

(5) Conduct of Hearing

The hearing shall be conducted in the following manner unless changes or modifications are made by the hearing officer or by mutual agreement of the parties with the consent of the hearing officer.

- (a) A general opening statement shall be made by the hearing officer and shall include an identification of the case, delineation of the issue(s) to be decided, and a reading of the application for impartial due process hearing.
- (b) All persons present shall be identified for the record. (Thereafter persons who enter the hearing shall be identified for the record.)
- (c) The hearing officer shall give each of the parties the opportunity to:
 - (i) Ask any questions about the procedure to be followed at the hearing
 - (ii) Raise any preliminary matters to be decided by the hearing officer
 - (iii) Agree that certain matters are not in dispute
 - (iv) Place documents into evidence or object to documents being entered into evidence because of irrelevancy, incompetency, or noncompliance with the five-day rule
 - (v) Make opening statements
- (d) The Montgomery County Public Schools shall explain the initial action or placement recommendation that is being appealed.

- (e) The party proposing the action shall present evidence that supports its appropriateness.
 - (f) The party opposing the action shall present evidence opposing the proposed action.
- (6) Decision
- (a) Rendering A Decision
 - (l) The decision shall be submitted to the Office of the Board of Education, in writing, by the hearing officer within forty-five (45) calendar days from the date the request was received for the hearing, unless an extension has been granted at the request of either party, in which case the decision shall be presented within sixty (60) calendar days from the initial request, unless good cause is shown. The written decision of the hearing officer shall be based on the applicable laws, identified and agreed upon issues, the testimony, and documented information on the record at the hearing and shall contain a statement of findings of fact and conclusions which:
 - (a) Specifies the nature and severity of any disability the child has
 - (b) Specifies any special education needs the child has as a result of those disabilities
 - (c) Specifies any modification of the child's Individualized Education Program required to provide the child with an appropriate program to meet those needs
 - (d) Identifies educational services that will provide the child with the required appropriate program

A program is considered appropriate if it provides special education and related services which:

- (1) Are provided at public expense, under public supervision and direction, and without charge
 - (2) Meet the standards of the Maryland State Department of Education
 - (3) Are provided in conformity with the Individualized Education Program
 - (4) Meet the educational needs of the child
 - (5) Cannot be provided satisfactorily in a less restrictive environment with the use of supplementary aids and services
- (ii) The decision will state the right of either party to appeal and the procedures for taking the appeal to the next higher authority
- (iii) The decision will be sent by the Office of the Board of Education to the parties and, if requested, their counsel or representative of record within the time prescribed by these procedures
- (b) Implementation of Decision

The decision of the hearing officer shall be implemented as soon as possible, but not later than thirty (30) school days after the decision, provided that during the pendency of appeals to the state level, unless the Maryland State Department of Education or the Montgomery County Public Schools and the parent(s)/guardian(s)/student of age otherwise agree,

the child shall remain in the then current placement of the child.

(7) Hearing Officers

(a) Eligibility

An independent hearing officer:

(i) Shall be knowledgeable in the fields and areas of significance to the educational review of the child

(ii) Shall not be:

(a) A person who was directly responsible for the recommendation of the proposed action

(b) A person who has furnished significant advice or consultation in reference to the recommendation

(c) A member of the Board of Education of Montgomery County

(d) An employee of the Board of Education of Montgomery County in any capacity other than as a hearing officer (An otherwise qualified person is not an employee of the Board of Education of Montgomery County solely because he or she is paid by the Board to serve as a hearing officer.)

(e) A person having a personal or professional interest that would conflict with his or her objectivity in the hearing

(b) Rights and Responsibilities

The independent hearing officer shall:

- (i) Be the sole and complete authority for the conduct of the hearing
 - (ii) Conduct the hearing in a manner that ensures that the due process rights of all parties are protected and enforced in compliance with these Rules of Procedure and applicable state and federal laws, rules, and regulations
 - (iii) Have the right to be advised by a legal advisor selected by the Office of the Board of Education
 - (iv) Not permit *ex parte* communications, between the independent hearing officer and the parties
- (c) After the parties have received notice of the hearing, communications concerning continuances and other matters relating to the conduct of the hearing shall be made directly to the designated hearing officer. Any party who desires to communicate with the hearing officer shall advise the other party of such communication so that, if requested, a conference call can be held. Any party who communicates with the hearing officer in writing must send a copy of the communication to the other party. In the event a hearing is continued to another date upon concurrence by the parties and approval by the hearing officer, the MCPS representative shall notify the Office of the Board of Education.
- (d) The independent hearing officer may request an independent assessment of the child, which shall be at public expense, either prior to rendering the decision or as part of the decision.

Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria which the Montgomery County Public Schools uses when it initiates an evaluation.

(8) Expedited Hearings

(a) When Held

An expedited hearing shall be held when a request for hearing concerning a proposed placement action is received and the child is not currently receiving free educational services. (This does not include situations where a free public school program is offered and the parent(s)/guardian(s)/student of age refuses the proposal and chooses to place the child in a private placement.)

(b) Placement Pending Local Expedited Hearing

When a student is identified as an individual with a disability and entitled to a free and appropriate educational program in a local public school program, and the child is not receiving such, the child shall be immediately placed in the appropriate public school program with the consent of the parent(s)/guardian(s)/student of age.

(c) Time Period for Expedited Hearing and Decision

(i) The expedited hearing shall be held within twenty (20) calendar days of the receipt of the request by the Montgomery County Public Schools (See Application for Impartial Due Process Hearing.)

(ii) The written decision shall be issued within fifteen (15) calendar days of the hearing.

(d) Implementation of Decision

The decision shall be implemented within fifteen (15) school days of the decision unless specifically stayed pending appeal or otherwise by the hearing officer; provided that during the pendency of appeals to the state level and unless the Montgomery County Public

Schools and the parent(s)/guardian(s)/student of age otherwise agree, the child shall remain in his or her then current educational placement; or, if the child is not yet receiving free educational services either because the parent(s)/guardian(s)/student of age did not consent to immediate placement or for any other reason, the child shall be placed in a local public school program until all appeals have been concluded, if the parent(s)/guardian(s)/student of age consents.

(9) Appeals

Appeals by a party of the decision of the hearing officer shall be made in writing to the Office of Administrative Hearings of the State of Maryland within thirty (30) calendar days of the mailing of the final decision at the following address:

Administrative Law Bldg.
Green Spring Station
10753 Falls Road
Lutherville, MD 21093

(10) Tuition Responsibility Concerning Placements Pending Appeal

While a child's placement status may not be changed during appeal except under conditions stated above, tuition responsibility for private placement during the pendency of appeals shall be as follows:

- (a) If a child with disabilities has available a free appropriate public education and the parent(s)/guardian(s)/student of age chooses a placement in a private school or facility, the Montgomery County Public Schools and the Maryland State Department of Education are not required to pay for the child's education at that private school or facility
- (b) Disagreements between the parent(s), guardian(s), or student of age and the Montgomery County Public Schools and the Maryland State Department of Education regarding the availability of a program appropriate for the child and the question of financial

responsibility are subject to these due process hearing procedures

- (c) The disapproval of a nonpublic placement that had been approved previously by the Maryland State Department of Education shall not be effective for that year until applications for administrative and judicial review have resulted in a final decision

D. DESIRED OUTCOME

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

E. IMPLEMENTATION STRATEGIES

1. The superintendent will publicize the options for informal 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 a formal due process hearing.
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.

Re: PUBLIC COMMENTS

- 1. John Hoven, Gifted and Talented Association
- 2. Mona Signor, MCCPTA
- 3. Judy Pearson
- 4. Suzanne Suchan
- 5. Daniel Parr
- 6. Lillian Rodriguez
- 7. Samuel Hernandez
- 8. Maggie Brewer
- 9. Michelle Lidd
- 10. Nancy Kull and Kris Gannon

RESOLUTION NO. 738-95

Re: PROCUREMENT CONTRACTS MORE THAN \$25,000

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mrs. King, the following resolution was adopted unanimously by members present:#

WHEREAS, Funds have been budgeted for the purchase of equipment, supplies, and contractual services; now therefore be it

Resolved, That having been duly advertised, the following contracts are awarded to the low bidders meeting specifications as shown for the bids as an follows:

1109 Printed T-Shirts for Drug Abuse Resistance Education

Awardee

Tee's Plus	\$ 26,600
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407-94 Global Access Project Manager - Extension

Awardee

BDM Federal, Inc.	\$ 323,844
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46-93 Heavy Equipment, Tractor and Mower Parts - Extension

Awardees

G.L. Cornell Company	\$ 6,000
Gaithersburg Ford Tractor Company	110,500
Gaithersburg Rental Center	1,000
Gladhill Brothers	32,000
Kohler Equipment, Inc.	1,000
Lyons & Lyons Sales Company, Inc.	14,500
N.J. Richardson and Sons	15,400
Turf Equipment and Supply, Inc.	<u>5,000</u>
Total	\$ 185,400

17-96 Safety Supplies and Equipment

Awardees

All American Poly Corporation	\$ 72,000
AramSCO	29,535
BWI Insulation Supply, Inc.	67,389
Inline Distributing Company	659
Metropolitan Safety, Inc.	5,012
Mizell Lumber and Hardware Company, Inc.	1009 *
Safeware, Inc.	96
Standard Supplies, Inc.	338 *
Vallen Safety Supply Company	<u>919</u>
Total	\$ 176,957

18-96 Woodwind and Brass Instrument Repair

Awardee

L & L Music - Wind Shop	\$ 35,000
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33-96 Automated Call Distributor System for the Client Services
Center Help DeskAwardee

Telecom Technologies	\$ 29,500
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36-96 Canned Fruits, Vegetables, Soups and Juices

Awardees

Blue Ribbon Food Services, Inc.	\$ 2,179
Canada Dry Potomac Corporation	137,500
Carroll County Foods, Inc.	108,860
JJM Foods, Inc.	37,659
JP Foodservice, Inc.	33,720
Man of NY	44,104
Sandler Foods	16,755
Smelkinson/SYSCO	<u>56,642</u>
Total	\$ 437,419

37-96 Scanner Forms and Scanning Machines

Awardee

National Computer Systems, Inc.	\$ 102,944
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63-96 Custom Science Kits

Awardees

Carolina Biological Supply Company	\$ 14,850
Delta Education, Inc.	28,680
Sci-Ma Education, Inc.	3,600
Sempco, Inc.	<u>168,738</u> *
Total	\$ 215,868

64-96 Classroom Furniture

Awardees

ATD-American Company	\$ 2,577
The Baltimore Stationery Company	23,570
Douron, Inc.	562,743 *
Systems Furniture Gallery	<u>59,525</u>
Total	\$ 648,415

65-96 Elementary Mathematics Supplies

Awardees

Delta Education, Inc.	\$ 1,465
Educator's Outlet, Inc.	9,945

ETA/Division of A. Daigger and Company, Inc.	9,130
J.L. Hammett Company	653
Nasco	6,508
School Specialties	228
Sempco, Inc.	<u>840</u> *
Total	\$ 28,769

MORE THAN \$25,000

\$2,210,716

* MFD vendors

RESOLUTION NO. 739-95 Re: FY 1996 EMERGENCY SUPPLEMENTAL
 APPROPRIATION FOR NORTHWEST MIDDLE
 SCHOOL/RECREATION CENTER

On recommendation of the superintendent and on motion of Ms. Gutierrez seconded by Mr. McCullough, the following resolution was adopted unanimously by members present:#

WHEREAS, The new Northwest Middle School is scheduled to open September 1997; and

WHEREAS, An FY 1996 emergency supplemental appropriation is necessary to begin construction in March 1996 so that the new facility will be ready for the 1997-98 school year; now therefore be it

Resolved, That an FY 1996 emergency supplemental appropriation in the amount of \$1,463,000 be requested for the construction of the new Northwest Middle School; and be it further

Resolved, That the county executive be requested to recommend approval of this supplemental appropriation to the County Council.

RESOLUTION NO. 740-95 Re: AWARD OF CONTRACTS FOR MAINTENANCE
 PROJECTS AT VARIOUS SCHOOLS

On recommendation of the superintendent and on motion of Ms. Gutierrez seconded by Mr. McCullough, the following resolution was adopted unanimously by members present:#

WHEREAS, Sealed bids for various maintenance projects to be funded from FY 1996 Planned Life-cycle Asset Replacement (PLAR) and Clean Air Act Capital Funds, were received on October 16 and 20, 1995, in accordance with MCPS procurement practices, with work to begin November 14, 1995 and to be completed by May 15, 1996; and

RESOLUTION NO. 743-95

Re: ACCEPTANCE OF WATKINS MILL HIGH SCHOOL

On recommendation of the superintendent and on motion of Mrs. King seconded by Mr. McCullough, the following resolution was adopted unanimously by members present:

Resolved, That having been duly inspected on November 1, 1995, the addition to Watkins Mill High School now be formally accepted; and be it further

Resolved, That the official date of completion be established as that date upon which formal notice is received from the architect that the building has been completed in accordance with the plans and specifications, and all contract requirements have been met.

RESOLUTION NO. 744-95

Re: ACCEPTANCE OF GEORGIAN FOREST ELEMENTARY SCHOOL

On recommendation of the superintendent and on motion of Ms. Gutierrez seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:

Resolved, That having been duly inspected on November 2, 1995, the modernization of Georgian Forest Elementary School now be formally accepted; and be it further

Resolved, That the official date of completion be established as that date upon which formal notice is received from the architect that the building has been completed in accordance with the plans and specifications, and all contract requirements have been met.

RESOLUTION NO. 745-95

Re: ACCEPTANCE OF NORTH CHEVY CHASE ELEMENTARY SCHOOL

On recommendation of the superintendent and on motion of Mr. Ewing seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:

Resolved, That having been duly inspected on November 9, 1995, the addition/modernization of North Chevy Chase Elementary School now be formally accepted; and be it further

Resolved, That the official date of completion be established as that date upon which formal notice is received from the architect that the building has been completed in accordance with the plans and specifications, and all contract requirements have been met.

RESOLUTION NO. 746-95

Re: ACCEPTANCE OF ROSEMONT ELEMENTARY SCHOOL

On recommendation of the superintendent and on motion of Mrs. King seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:

Resolved, That having been duly inspected on November 7, 1995, the addition/modernization of Rosemont Elementary School now be formally accepted; and be it further

Resolved, That the official date of completion be established as that date upon which formal notice is received from the architect that the building has been completed in accordance with the plans and specifications, and all contract requirements have been met.

RESOLUTION NO. 747-95

Re: ACCEPTANCE OF JACKSON ROAD ELEMENTARY SCHOOL

On recommendation of the superintendent and on motion of Ms. Gutierrez seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:

Resolved, That having been duly inspected on November 9, 1995, the addition/modernization of Jackson Road Elementary School now be formally accepted; and be it further

Resolved, That the official date of completion be established as that date upon which formal notice is received from the architect that the building has been completed in accordance with the plans and specifications, and all contract requirements have been met.

RESOLUTION NO. 748-95

Re: ACCEPTANCE OF BROOKHAVEN ELEMENTARY SCHOOL

On recommendation of the superintendent and on motion of Ms. Gutierrez seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:

Resolved, That having been duly inspected on November 6, 1995, the modernization of Brookhaven Elementary School now be formally accepted; and be it further

Resolved, That the official date of completion be established as that date upon which formal notice is received from the architect that the building has been completed in accordance with the plans and specifications, and all contract requirements have been

met.

RESOLUTION NO. 749-95 Re: ACCEPTANCE OF FOREST OAK MIDDLE SCHOOL

On recommendation of the superintendent and on motion of Mrs. King seconded by Mr. McCullough, the following resolution was adopted unanimously by members present:

Resolved, That having been duly inspected on November 9, 1995, the new Forest Oak Middle School now be formally accepted; and be it further

Resolved, That the official date of completion be established as that date upon which formal notice is received from the architect that the building has been completed in accordance with the plans and specifications, and all contract requirements have been met.

RESOLUTION NO. 750-95 Re: ACCEPTANCE OF ROCKY HILL MIDDLE SCHOOL

On recommendation of the superintendent and on motion of Ms. Gutierrez seconded by Mr. Abrams, the following resolution was unanimously adopted by members present:

Resolved, That having been duly inspected on November 6, 1995, the new Rocky Hill Middle School now be formally accepted; and be it further

Resolved, That the official date of completion be established as that date upon which formal notice is received from the architect that the building has been completed in accordance with the plans and specifications, and all contract requirements have been met.

RESOLUTION NO. 751-95 Re: UTILIZATION OF FY 1996 FUTURE SUPPORTED PROJECT FUNDS FOR THE MARYLAND STATE DEPARTMENT OF EDUCATION TARGETED POVERTY GRANT PROGRAM

On recommendation of the superintendent and on motion Mrs. King seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:#

Resolved, That the superintendent of schools be authorized to receive and expend within the FY 1996 Provision for Future Supported Projects an additional grant award of \$12,101 from the Maryland State Department of Education, under the Targeted Poverty Grant

Mr. Abrams, the following resolution was adopted unanimously by members present:#

Resolved, That the superintendent of schools be authorized to receive and expend within the FY 1996 Provision for Future Supported Projects a grant award of \$19,879 from the Maryland State Department of Education for the Literacy Works program in the following categories:

<u>Category</u>	<u>Amount</u>
2 Instructional Salaries	\$13,471
3 Other Instructional Costs	5,330
10 Fixed Charges	<u>1,078</u>
Total	<u>\$19,879</u>

and be it further

Resolved, That a copy of this resolution be sent to the county executive and the County Council.

RESOLUTION NO. 754-95 Re: UTILIZATION OF FY 1996 FUTURE
SUPPORTED PROJECT FUNDS FOR THE
INFUSION OF TECHNOLOGY INTO
INSTRUCTION FOR AT-RISK STUDENTS
PROJECT

On recommendation of the superintendent and on motion Mrs. King seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:#

Resolved, That the superintendent of schools be authorized to receive and expend within the FY 1996 Provision for Future Supported Projects, a grant award of \$7,000 from the National Foundation for the Improvement of Technology for the Infusion of Technology into Instruction for At-Risk Students project, in the following categories:

<u>Category</u>	<u>Amount</u>
2 Instructional Salaries	\$3,625
3 Other Instructional Costs	3,085
10 Fixed Costs	<u>290</u>
Total	<u>\$7,000</u>

and be it further

Resolved, That a copy of this resolution be transmitted to the county executive and the County Council.

RESOLUTION NO. 755-95 Re: UTILIZATION OF FY 1996 FUTURE
SUPPORTED PROJECT FUNDS FOR A
CURRICULA REVISION PROJECT

On recommendation of the superintendent and on motion Mrs. King seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:#

Resolved, That the superintendent of schools be authorized to receive and expend within the FY 1996 Provision for Future Supported Projects a grant award of \$7,140 from the National Retail Federation for a Marketing Education and Design and Merchandising curricula revision project, in the following categories:

	<u>Category</u>	<u>Amount</u>
2	Instructional Salaries	\$ 2,597
3	Other Instructional Costs	4,324
10	Fixed Charges	<u>219</u>
	Total	<u>\$ 7,140</u>

and be it further

Resolved, That a copy of this resolution be transmitted to the county executive and the County Council.

RESOLUTION NO. 756-95 Re: UTILIZATION OF FY 1996 FUTURE
SUPPORTED PROJECT FUNDS FOR A
NUTRITION SCIENCE VIDEOTAPE PROJECT

On recommendation of the superintendent and on motion Mrs. King seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:#

Resolved, That the superintendent of schools be authorized to receive and expend within the FY 1996 Provision for Future Supported Projects a grant award of \$5,000 from the Maryland State Department of Education, under the Child Nutrition Act, for a Nutrition Science Videotape Project, in the following categories:

	<u>Category</u>	<u>Amount</u>
3	Other Instructional Costs	\$ 5,000

and be it further

Resolved, That a copy of this resolution be transmitted to the county executive and the County Council.

RESOLUTION NO. 757-95 Re: UTILIZATION OF THE FY 1996 FUTURE
SUPPORTED PROJECT FUNDS FOR THE
STUDENT SERVICE-LEARNING PROGRAM

On recommendation of the superintendent and on motion Mrs. King seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:#

Resolved, That the superintendent of schools be authorized to receive and expend within the FY 1996 Provision for Future Supported Projects a grant award of \$13,000 from the Maryland State Department of Education, through the Maryland Student Service Alliance, authorized by the National and Community Service Act of 1990, to continue a student service-learning program, in the following categories:

	<u>Category</u>	<u>Amount</u>
2	Instructional Salaries	\$ 6,223
3	Other Instructional Cost	6,279
10	Fixed Charges	<u>498</u>
	Total	<u>\$13,000</u>

and be it further

Resolved, That a copy of this resolution be transmitted to the county executive and the County Council.

RESOLUTION NO. 758-95 Re: RECOMMENDATION TO SUBMIT AN FY
1996 GRANT PROPOSAL TO SUPPORT
DEVELOPMENT OF THE MONTGOMERY
COUNTY SCHOOL-TO-CAREERS PROGRAM

On recommendation of the superintendent and on motion Mr. Abrams seconded by Mrs. King, the following resolution was adopted unanimously by members present:

Resolved, That the superintendent of schools be authorized to submit an FY 1996 three-year grant proposal for \$1,200,000 to the Maryland State Department of Education, under the State Career Connections program, to support the development of Montgomery County's School-to-Careers program; and be it further

Resolved, That a copy of this resolution be sent to the county executive and the County Council.

RESOLUTION NO. 759-95 Re: RECOMMENDATION TO SUBMIT A FY 1996
GRANT PROPOSAL TO THE MARYLAND
STATE DEPARTMENT OF EDUCATION
SCHOOLS FOR SUCCESS/GOALS 2000
PROJECT FOR THE ROCKVILLE CLUSTER

On recommendation of the superintendent and on motion Mr. Abrams seconded by Mrs. King, the following resolution was adopted unanimously by members present:

Resolved, That the superintendent of schools be authorized to submit an FY 1996 grant proposal for \$305,181 to the Maryland State Department of Education Schools for Success/Goals 2000 Project, to improve the mathematics performance of students in the Rockville cluster by providing teachers with in-service training on instructional strategies and the use of technology, and implementing parent outreach programs to increase knowledge of the instructional program and involvement in their childrens' education; and be it further

Resolved, That a copy of this resolution be transmitted to the county executive and the County Council.

RESOLUTION NO. 760-95 Re: PERSONNEL MONTHLY REPORT

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mrs. King, the report was adopted unanimously by members present.

RESOLUTION NO. 761-95 Re: DEATH OF MR. BUFORD S. GREEN

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mrs. King, the report was adopted unanimously by members present.

WHEREAS, The death on October 13, 1995, of Mr. Buford S. Green, classroom teacher and general music teacher on professional improvement after three years leave from Takoma Park Middle School and Oak View Elementary School, has deeply saddened the staff, students, and members of the Board of Education; and

WHEREAS, Mr. Green was a teacher with Montgomery County Public Schools for more than six years and demonstrated enthusiasm for his subject matter; and

WHEREAS, Mr. Green provided enrichment opportunities for his student beyond his music classes and both students and parents were pleased with these musical experiences; now therefore be it

Resolved, That the members of the Board of education express their sorrow at the death of Mr. Buford S. Green and extend deepest sympathy to his family; and be it further

Resolved, That this resolution be made part of the minutes of this meeting and a copy be forwarded to Mr. Green's family.

RESOLUTION NO. 762-95

Re: DEATH OF MS. PAULETTE M. NOLAN

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mrs. King, the report was adopted unanimously by members present.

WHEREAS, The death on October 18, 1995, of Ms. Paulette M. Nolan, classroom teacher at Westover Elementary School, has deeply saddened the staff, students, and members of the Board of Education; and

WHEREAS, Ms. Nolan had been an outstanding teacher with Montgomery County Public Schools for more than 29 years; and

WHEREAS, Ms. Nolan's well-organized instruction along with a pleasant and friendly manner had earned her the respect of students, staff, and community; now therefore be it

Resolved, That the members of the Board of education express their sorrow at the death of Ms. Paulette M. Nolan and extend deepest sympathy to her family; and be it further

Resolved, That this resolution be made part of the minutes of this meeting and a copy be forwarded to Ms. Nolan's family.

RESOLUTION NO. 763-95

Re: PERSONNEL APPOINTMENT

On recommendation of the superintendent and on motion of Dr. Cheung seconded by Ms. Gutierrez, the following resolution was adopted unanimously:

Resolved, That the following personnel appointment be approved:

WHEREAS, A new policy has been developed to cover Title II of the law on services, programs, and activities (ACG); now therefore be it

Resolved, That the Board of Education take tentative action to amend Policy GBH (Employment of Individuals with Disabilities) as shown on the attached draft; and be it further

Resolved, That the Board of Education take tentative action to adopt new Policy ACG as follows:

Employment of Individuals with Disabilities (GBH)

A. PURPOSE

1. To provide a clear and comprehensive mandate for the prohibition and elimination of any discrimination against individuals with disabilities
2. To ensure equal employment opportunities for job applicants who have physical or mental disabilities
3. To ensure that every effort is made to provide for reasonable accommodation for the employment, continued employment in a presently held position, or reassignment to a **vacant** position for which the **individual** is qualified
4. To make clear to the citizens of the county, to staff of MCPS, and to students that the Montgomery County Public Schools are committed to the full participation of such individuals in the life and work of the schools, and that the policy of MCPS is to provide for that participation
5. To affirm a strong commitment to the goals of the Americans with Disabilities Act of 1990(ADA) as well as other applicable laws as they relate to employees and applicants for employment
6. To reaffirm that present policies and regulations will be administered to ensure that the rights of individuals with disabilities will be upheld in MCPS, consistent with the long-standing interest on the part of the Board of Education and MCPS in prohibiting discrimination against and in promoting affirmative action in employment and reassignment for individuals with disabilities

B. ISSUE

The Americans With Disabilities Act of 1990 (ADA) is a comprehensive civil rights statute which provides protection to individuals with disabilities in the areas of employment, state and local government services, and telecommunications. MCPS has expressed its commitment to nondiscrimination against individuals with disabilities in policies such as the policy on human relations and the resolution on nondiscrimination. With the enactment of the ADA, the Board of Education seeks to reaffirm its commitment to nondiscrimination with regard to employment for individuals with disabilities.

C. POSITION**1. Definitions**

- a) ***An individual with a disability*** is one who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded by MCPS as having such a impairment.
- b) The term *qualified individual with a disability* means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

2. MCPS will not discriminate against any qualified individual with a disability in regard to job application procedures; the hiring, advancement, or discharge of employees; employee compensation; job training and other terms, conditions, and privileges of employment. In addition, in accordance with its affirmative action plan, MCPS will continue to make outreach efforts to employ and to advance in employment individuals with disabilities.

3. MCPS will provide reasonable accommodations as required for the employment, continued employment, or reassignment of **individuals** with disabilities, unless such accommodations would impose undue hardship on the school system. The burden of demonstrating undue hardship will be with the school system in accordance with applicable laws.

D. DESIRED OUTCOME

1. All qualified individuals with disabilities who are seeking employment

with the Montgomery County Public Schools will have equal employment opportunities.

- 2. Reasonable accommodations for the employment, continued employment in a presently held position, or reassignment to a vacant position for which an individual with disabilities is qualified will be made to ensure participation of individuals with disabilities.**

E. IMPLEMENTATION STRATEGIES

1. Procedures for implementing these goals will be set forth in administrative regulations **as needed.**
- 2. The ADA Coordinator designated by the superintendent will be responsible for coordinating the efforts of MCPS to comply with and carry out its responsibilities under the ADA, including participating in investigation of any complaint, and will be available to provide guidance, and support in matters related to the rights of individuals with disabilities.**
- 3. Complaint procedures for prompt and equitable resolution of ADA complaints will be described in administrative regulations. MCPS will not discriminate or retaliate against an individual for filing a charge or participating in an investigation or proceeding under the ADA.**

F. REVIEW AND REPORTING

A report regarding the status of implementation and monitoring of this policy will be prepared annually for Board review.

**Access to Services, Programs, and Activities by Individuals with Disabilities
(ACG)**

A. PURPOSE

1. To provide a clear and comprehensive mandate for the prohibition and elimination of any discrimination or harassment against qualified individuals with disabilities in regard to their participation in the school system's services
2. To make clear to the public and to the staff and students of Montgomery County Public Schools (MCPS) that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of an MCPS service

3. To affirm a strong commitment to the goals of the Americans With Disabilities Act of 1990 (ADA), as well as to the Rehabilitation Act of 1973 and other applicable disability laws as they relate to the school system's services

B. ISSUE

MCPS has expressed its commitment to nondiscrimination against individuals with disabilities in policies such as the policy on human relations and the resolution on nondiscrimination. With the enactment of the ADA, MCPS adopted Policy GBH: *Employment of Individuals with Disabilities*. Since the adoption of that policy, federal regulations have been issued regarding the other areas protected under the ADA; i.e., services, programs, and activities. By issuing a companion ADA policy on services for individuals with disabilities, the Board of Education seeks to clarify and reaffirm its commitment to nondiscrimination in all areas for individuals with disabilities.

C. POSITION

1. Definitions

- a) An *individual with a disability* as defined by applicable law is one who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded by MCPS as having an impairment.
- b) The term *qualified individual with a disability* means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices; the removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of an MCPS service or the participation in an MCPS program or activity and does not pose a direct threat to the health or safety of himself/herself or others.
- c) The term *principal* means the principal of an MCPS school or an individual in charge of an MCPS unit that is not a school.
- d) The term *services* includes any services, programs, or activities provided by MCPS.
- e) The term *auxiliary aids* includes any auxiliary aids, benefits, or

services provided by MCPS.

2. Commitments

- a) MCPS will not discriminate on the basis of disability against any qualified individual with a disability with respect to participating in or benefiting from MCPS services.
- b) In providing any aids, program benefits or opportunities, or services, either directly or through contractual, licensing or other arrangements, MCPS will afford a qualified individual with a disability an equal opportunity to participate or benefit.
- c) MCPS will provide a qualified individual with a disability auxiliary aids that are effective and afford equal opportunity to obtain the same result, gain the same benefit or reach the same level of achievement as that provided to others.
- d) MCPS will not provide separate auxiliary aids to individuals with disabilities except where such action is necessary to provide such aids that are as effective as those provided to others.
- e) MCPS will notify applicants, participants, beneficiaries and other interested persons of the rights and protections of the ADA, including the right not to accept an auxiliary aid.
- f) MCPS will not perpetuate any discrimination against qualified individuals with disabilities by providing significant assistance to any agency, organizations, or persons that discriminate on the basis of disability.
- g) MCPS will not deny, on the basis of disability, a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards or committees.
- h) MCPS will not otherwise limit a qualified individual with a disability the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others.
- i) MCPS will not deny, on the basis of disability, a qualified individual with a disability the opportunity to participate in services provided to others.

- j) MCPS will not use criteria that have the effect of discriminating against individuals with disabilities on the basis of their disability.
- k) MCPS will not, in determining the site or location of any facility, make selections that unlawfully discriminate against individuals with disabilities.
- l) MCPS, in selection of procurement contractors, will not use criteria that subject qualified individuals with disabilities to discrimination on the basis of their disability.
- m) MCPS will make reasonable modifications in policies, practices and procedures when the modifications are necessary to avoid discrimination on the basis of disability unless such modifications would fundamentally alter the nature of the service, or, where applicable, result in an undue financial or administrative burden.
- n) MCPS will not use eligibility criteria that have the effect of screening out individuals with disabilities from fully and equally enjoying any service unless such criteria are necessary to the provision of the service.
- o) MCPS will administer its services in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
- p) MCPS will not impose any surcharge on any individual with disability to cover the costs entailed in ensuring nondiscrimination.
- q) MCPS will not deny services to an individual based on his/her relationship or association with an individual with a disability.
- r) MCPS will provide communications to qualified individuals with disabilities that are as effective as communications with others.

D. DESIRED OUTCOME

All qualified individuals with disabilities will be able to access MCPS services and be provided appropriate auxiliary aids whenever necessary to ensure participation, so long as the provision of the auxiliary aids results neither in an undue burden nor a fundamental alteration of the service.

E. IMPLEMENTATION STRATEGIES

1. Procedures for implementing this policy will be set forth in administrative regulations as needed.
2. The ADA Coordinator designated by the superintendent will be responsible for coordinating the efforts of MCPS to comply with and carry out its responsibilities under the ADA, including participating in investigation of any complaint, and will be available to provide guidance, and support in matters related to the rights of individuals with disabilities.
3. Complaint procedures for prompt and equitable resolution of ADA complaints will be described in administrative regulations. MCPS will not discriminate or retaliate against an individual for filing a charge or participating in an investigation or proceeding under the ADA.

F. REVIEW AND REPORTING

A report regarding the status for implementation and monitoring of this policy will be prepared annually for Board review.

Re: REVIEW AND ASSESSMENT OF
ADMINISTRATIVE REORGANIZATIONS,
FY 1990-96

Dr. Vance invited the following staff to the table: Dr. Stephen Lanham Tarason, principal of John F. Kennedy High School; Dr. Joseph S. Villani, associate superintendent for Global Access Technology; and Dr. Marlene Hartzman, acting director of the Department of Education Accountability.

Dr. Vance stated that the Board had the white paper reviewing and assessing the reorganizations and included a review of the Office of School Administration as requested by Mr. Ewing. Dr. Vance presented the most salient points of the report. Over the past six years the school system has significantly reshaped administration due to funding limitations, the drive toward greater efficiency and corporate style management practices, the need for more productivity, and a continuing shift of resources to school-based control. There have been four reorganizations of the central administration since 1990. The area offices were eliminated and the Office of School Administration was created in its stead. Despite the down-sizing, administrators have tried to keep pace with the demand for services that required planning, implementation, and assessment of services that have been responsive, professional, and effective.

A conclusion can be drawn that there needs to be an effort to identify concerns and suggestions through focus group interviews and survey as well as an individual discussions with school-based and field personnel. Improvements are necessary to bring administrative responsibilities into greater focus, to strengthen the role of the directors of school administration, and to recognize and reward successful practices and progress, to target intervention for units and schools not making such progress, and move toward great organizational teamwork and communications. The school system is rapidly becoming a much more decentralized organization in which the strategies for continued educational improvement are increasingly conceptualized, designed, and implemented at the local school level. The common mission and objectives should be managed centrally but with a greater focus toward bringing decisionmaking authority much closer to the local school.

MCPS has downsized too quickly, without allowing time and conditioning necessary to strengthen staff for the strain such complex change creates. This pressure has remained largely hidden in the midst of a school system that has continued to grown and flourish. The impact of the reductions in administrative staff can be quantified in obvious numerical terms, but a large, more pervasive human dimension the changes cannot be so readily seen nor appreciated by those who do not work under such conditions and expectations. Dr. Vance believed that there are not enough resources to establish and support an appropriately-sized administrative staff and infrastructure for a school system as large and complex as MCPS. He understood the frustration that occurs when the passion of administrators to do an excellent job is confronted with inadequate financial resources, lack of time and help, and the conflicting desires of an increasingly demanding community. The work of a public school administrator in Montgomery County at all levels is a tough and exacting responsibility that is not often appreciated or understood by parents and the general public.

Mrs. Gemberling reiterated a couple of points. At the time of these reductions, MCPS had a concomitant increase in accountability of student performance. When reductions were made, the outcomes and performance of the success for every student drove most of the budget decisions and the result has been a larger percentage of instructional staff as compared to administrative staff.

Mr. Bowers pointed out recent restructuring in staff reductions made in the area offices in 1991, the eliminations of one area office in 1992, the elimination of area offices and the formation of the Office of School Administration in 1993, minor restructure in 1994, and a transitional reorganization in 1995 which established the Office of Global Access, the Office of Pupil and Community Services, and moved special education into the Office of Instruction and Program Development.

Dr. Villani noted the recommendations of Alexander and Alexander, consultants.

Alexander and Alexander pointed out the extreme cutbacks and loss of administrative support throughout MCPS. Among their recommendations was looking at different ways to differentiate responsibilities and change the perceptions of the roles and responsibilities of administrators with additional training.

Dr. Selzenow remarked on the Alexander and Alexander report and the constant mentioning of the stress on employees after the middle management (area offices) were eliminated.

Dr. Hartzman stated that the Department of Educational Accountability followed up after the Alexander and Alexander report by surveying staff. The surveys were cross validated with focus groups consisting of elementary administrators, secondary administrators, central office staff, school administration directors, members of the Board, and cluster coordinators.

Dr. Vance concluded by stating that there are affirmative steps that can be taken, while not a solution in themselves, can form the beginning of immediate and long-term efforts to address the concerns have been identified such as: (1) share the central administrative duties of the school system with broader management teams that include school-based and central office managers; (2) expand responsibilities of directors of school administration for the allocation of staff and resources to work with schools to facilitate more local flexibility and authority in the use of staff and resources; (3) provide further support for the major functions of the directors of school administration, such as principal evaluation, by changing their position to a level higher than a principalship; (4) consider periodic rotation of cluster assignments for directors of school administration; (5) combine training efforts of the school system into a single organization to improve the delivery of services to schools and offices; (6) establish recognition program for schools and units that meet school system outcomes and standards or demonstrate significant progress toward those goals; (7) implement a process for providing focused resources and supports to schools and units that are not making progress toward student outcomes and standards and identify instruction and training needs and assure that these supports are coordinated and the results evaluated through the office of school administration; (8) explore ways to move local administrative staff into centralized locations in order to increase the accessibility to training resources and facilitate communications; and (8) develop a plan to improve internal and external communications.

Dr. Cheung congratulated staff for an outstanding review and assessment and was especially impressed with the use of technology and graphics. He agreed with the affirmative steps. He questioned whether staff had considered cluster-based instead of school-based management. He was concerned about additional salary in order to empower an administrator as a leader. If office administrators demonstrate leadership, the school-based administrators will respond in this new management paradigm. Dr. Tarason

replied that a supervisor should earn more money than those he/she supervise since that person oversees and evaluates the subordinate.

Mr. Ewing strongly agreed with the finding that MCPS has very talented people who are committed to managing the school system effectively. The superintendent had provided two themes: (1) developing and implementing systemwide policies and strategies that will achieve comparable results throughout the system, and (2) increasing desire to decentralize decisionmaking. MCPS still needs to (1) train staff and staff development to accommodate the changes; (2) assess programs and measure student achievement; and (3) report the results which is a key to accountability. The directors of school administration need additional resources to manage its responsibilities and the Board must seek a solution to this problem. Mrs. Gemberling commented that additional resources are not available but a decision that is being revisited is that of keeping the office isolated in the field when, in fact, the directors need input into systemwide decisions and the allocation of resources. Dr. Fisher mentioned that there is an advantage in a team effort in looking at systemwide needs as well as an the allocation of funds.

Ms. Gutierrez remarked that the Board requested an assessment of management after the elimination of the area offices and those responsibilities handled in relation to what is working and what is not working. There is an enormous wealth of information in the paper but there is a need for more specific actions in terms of long-term management and global visions. She was concerned because there are several themes and it was not clear to her that MCPS was addressing all of them aggressively. With diminishing resources, it is imperative that the system is restructured for maximum efficiency. She did not see in the report whether or not the system is organized in the best way to make effective decisions, and, if not, what strategic planning is taking place to address the issue.

Mrs. Gordon observed that the white paper points out that staff is dedicated despite difficulties. Due to reduction in resources, MCPS must work smarter and change the paradigm. This discussion is the first step in focusing on the organization and how improvements can be made. She fully supported the recommendations made by the superintendent. The principals are the closest to the students and school communities and, therefore, should have the authority to deal with issues to make them effective and successful. There needs to be a reevaluation of the function of the directors of school administration or whether a centralized administration will best serve the school system. MCPS does a very good job of measuring accountability and giving supports for improvement but lacks the attention to those areas where the goals are not accomplished. There needs to be recognition for those who are doing a good job, give support to those who are not doing a good job, and act to replace those who are not doing the job. Another point is that training is woefully lacking for administrators especially in light of relying on school-based administration for management decisions. The paper outlines administrative responsibilities and the superintendent needs the flexibility to manage but needs the sense

of the Board that it is willing to support the philosophy.

* Mr. Felton joined the meeting at this point.

Re: FINAL ACTION ON THE POLICY ON GIFTED
AND TALENTED EDUCATION

The superintendent presented the following resolution, a draft copy of the Student Transfer Policy, and a set of amendments for Board approval:

WHEREAS, In 1978, the Board adopted a policy on the education of gifted and talented students; and

WHEREAS, In 1988, the Board passed a Reaffirmation of the Board Policy on Gifted and Talented Students; and

WHEREAS, On December 13, 1994, the Board adopted a resolution requesting the superintendent to prepare a policy analysis of existing Policy IOA, Gifted and Talented Students; and

WHEREAS, On March 14, 1995, the Board discussed the policy analysis and a proposed draft policy; and

WHEREAS, The Board requested that staff review the proposed draft policy further; and

WHEREAS, The superintendent established a work group to review the issues and make recommendations for changes to the draft policy; and

WHEREAS, The work group presented recommendations, and staff redrafted a proposed policy on gifted and talented education (attached); and

WHEREAS, On July 11, 1995, the Board of Education discussed and took tentative action on the redrafted policy; and

WHEREAS, The Board of Education requested that the tentatively adopted policy and a set of amendments be sent out for public comment; and

WHEREAS, Responses have been received and summarized with many suggestions recommended for inclusion in the policy as shown; now therefore be it

Resolved, That the Board of Education take final action to adopt Policy IOA, Gifted and Talented Education.

RESOLUTION NO. 766-95 Re: AMENDMENT TO POLICY ON GIFTED AND
TALENTED EDUCATION

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mr. Ewing, the following resolution was adopted unanimously:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Definitions, 1. b):

Acceleration of instruction means that students are given a curriculum that is at a higher level than the regular curriculum; the information is more complex or more information is covered; the material is presented more rapidly than in typical instruction; and students are confronted by a greater challenge than is customary with on-grade level material. Acceleration may include, but is not limited to: ...

RESOLUTION NO. 766(A)-95 Re: AMENDMENT TO POLICY ON GIFTED
AND TALENTED EDUCATION

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mr. Ewing, the following resolution was adopted unanimously:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Definitions, 1. c):

Complexity of content which allows students to purpose topics of interest and selection in depth with research and analysis

Emphasis on thinking which requires comparisons and analogies and that encourages using the information gained in ways which allow and transform the knowledge

Creative and original products resulting from in-depth knowledge and reflection (analysis)

RESOLUTION NO. 766-95(B) Re: AMENDMENT TO THE POLICY ON GIFTED
AND TALENTED EDUCATION

On motion of Mr. Ewing and seconded by Mr. Abrams, the following resolution was adopted with Mr. Abrams, Dr. Cheung, Mr. Ewing, Mr. Felton, and Mrs. King voting in the affirmative; Mrs. Gordon, Ms. Gutierrez, and Mr. McCullough voting in the negative:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Curriculum at the end of 2. b):

Teachers are expected to use appropriate instructional materials that are above grade level, including but not limited to core books.

RESOLUTION NO. 767-95 Re: AMENDMENT TO THE POLICY ON GIFTED
AND TALENTED EDUCATION

On motion of Mr. Abrams and seconded by Mr. McCullough, the following resolution was adopted with Mr. Abrams, Dr. Cheung, Mr. Ewing, Mrs. Gordon, Ms. Gutierrez, Mrs. King, and Mr. McCullough voting in the affirmative; Mr. Felton abstaining:

Resolving, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Curriculum, a):

In Grades Pre-Kindergarten-8, accelerated and enriched curricula will be provided to all students who have the capability or motivation to accept the challenge of such a program. This curricula will be rigorous and challenging and matched to the abilities, achievement levels, and interests of high ability students.

under Curriculum b), (3)

Montgomery County Public Schools will prepare **a scope and sequence of objectives and activities as well as materials that accelerate and enrich the regular curriculum, in Pre-Kindergarten-8**, in mathematics, reading/language arts, science, and social studies which will allow gifted and talented students to progress with appropriate enrichment and at a pace matched to a child's achievement and readiness.

under Curriculum, 3)

Curriculum standards will be set **in initial format within six months of the adoption of the policy, with the expectation that these standards will be revised or refined over time. These standards will be designed to ensure curriculum and assessment practices that challenge gifted students.** Assessment of student progress will include mastery of content and demonstration of high-level thinking skills. Assessment measures will clearly indicate benchmarks for high achievers.

RESOLUTION NO. 768-95 Re: AMENDMENT TO POLICY ON GIFTED
AND TALENTED EDUCATION

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Dr. Cheung, the following resolution was adopted unanimously:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Identification, a):

Recognizing there is a range of abilities among gifted and talented students, this screening will identify gifted and talented students using multiple indicators of academic and leadership potential, including tests of academic achievement, aptitude, and creativity **and use of testing strategies designed for students of other languages**; samples of student work; and **nominations** obtained from teachers, counselors, peers, parents, subject area experts, community members, and the students themselves.

under Identification, b)(2):

Pre-Kindergarten, first, and second grade teacher will plan activities which will nurture curiosity, creativity, and the development of thinking skills.

under Identification, c):

In Grades 6-8, schools will recommend students for classes of gifted and talented or for **gifted and talented** cluster groupings on the basis of mastery of course prerequisites, willingness to complete challenging assignments, previous grades, teacher recommendations, or other appropriate measures.

RESOLUTION NO. 769-95 Re: AMENDMENT TO POLICY ON GIFTED
AND TALENTED EDUCATION

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mr. McCullough, the following resolution was adopted unanimously:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Implemented Strategies, E.:

The superintendent **shall direct implementation of this policy and specifically shall ensure that every school has a program that meets its requirements. Among the specific actions the superintendent will take are** the following:

under Implementation Strategies, E. 2):

Develop challenging curricula for **intellectual/academic and visual performance arts**, and, where appropriate improve high-end curricula and provide a continuum of objectives that fosters continuous progress.

under Identification, a)

Recognizing there is a range of abilities among gifted and talented students, this screening will identify gifted and talented students using multiple indicators of academic and leadership potential, including tests of academic achievement, aptitude, and creativity **and use of testing strategies designed for students of other languages**; samples of student work; and **nominations** obtained from teachers, counselors, peers, parents, subject area experts, community members, and the students themselves.

under Identification, b)(2):

Pre-Kindergarten, first, and second grade teacher will plan activities which will nurture curiosity, creativity, and the development of thinking skills.

under Identification, c):

In Grades 6-8, schools will recommend students for classes of gifted and talented or for **gifted and talented** cluster groupings on the basis of mastery of course prerequisites, willingness to complete challenging assignments, previous grades, teacher recommendations, or other appropriate measures.

RESOLUTION NO. 770-95 Re: AMENDMENT TO POLICY ON GIFTED
AND TALENTED EDUCATION

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Dr. Cheung, the following resolution was adopted with Mr. Abrams, Dr. Cheung Mrs. Gordon, Ms. Gutierrez, Mr. Felton, Mrs. King, and Mr. McCullough voting in the affirmative; Mr. Ewing voting in the negative:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Implemented Strategies, 10. c):

Schools will use the Montgomery County Public Schools Student Profile in mathematics, distributed biannually, for the purpose of reporting and informing parents of curriculum content, grade level expectations, and

individual student progress as measured by the instructional system in mathematics (ISM) for monitoring elementary mathematics.

RESOLUTION NO. 771-95 Re: AMENDMENT TO POLICY ON GIFTED
AND TALENTED EDUCATION

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mr. Ewing, the following resolution was adopted unanimously:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Implemented Strategies, 10. d):

Montgomery County Public Schools will report by grade for each middle school the number and percentage of students who complete Algebra 1 each year.

RESOLUTION NO. 772-95 Re: AMENDMENT TO POLICY ON GIFTED
AND TALENTED EDUCATION

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mr. Felton, the following resolution was adopted with Mr. Abrams, Dr. Cheung Mrs. Gordon, Ms. Gutierrez, Mr. Felton, Mrs. King, and Mr. McCullough voting in the affirmative; Mr. Ewing voting in the negative:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Implemented Strategies, 10. e):

Schools will use ongoing assessment criteria for gifted and talented students Pre-Kindergarten-Grade 8, that is consistent with the enriched and accelerated objectives in each discipline at each grade level. Montgomery County Public Schools Criterion Referenced Tests will be administered annually for school and student accountability using established standards and measures of distinguished performance for highly able students.

RESOLUTION NO. 773-95 Re: AMENDMENT TO POLICY ON GIFTED
AND TALENTED EDUCATION

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Dr. Cheung, the following resolution was adopted unanimously:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Implemented Strategies, 10, f):

For each high school, Montgomery County Public Schools will report annually the number of students who scored 3 or above on Advanced Placement (AP) examinations by Advanced Placement subject.

RESOLUTION NO. 774-95 Re: AMENDMENT TO POLICY ON GIFTED
AND TALENTED EDUCATION

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mrs. King, the following resolution was adopted unanimously:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Review and Reporting, 2 and 3:

Based on student outcomes, evaluations of program effectiveness, and other relevant information, this policy will be reviewed and updated on an ongoing basis in accordance with the Board of education policy review process.

Prepare and **update annually the *Timeline for the Implementation of the Gifted and Talented Policy*.**

RESOLUTION NO. 775-95 Re: AMENDMENT TO POLICY ON GIFTED
AND TALENTED EDUCATION

On motion of Mr. McCullough and seconded by Mr. Felton, the following resolution was adopted unanimously:

Resolved, That the Board of Education adopt the following amendment for inclusion in the Policy on Gifted and Talented Education under Related Entries:

This policy should be updated to include additional related policies that grant parents access to their child's data.

RESOLUTION NO. 776-95 Re: FINAL ACTION -- POLICY ON GIFTED
AND TALENTED EDUCATION

On recommendation of the superintendent and on motion of Mr. Abrams seconded by Mr. Ewing, the following resolution was adopted unanimously:

Resolved, That the Board of Education adopt the following amended Policy on Gifted and

Talented Education:

A. PURPOSE

To reaffirm gifted and talented education as a high priority for MCPS

To affirm that acceleration and enrichment of the entire academic program is appropriate

To provide direction to staff and community that places special emphasis on addressing the cognitive and affective needs of high-achieving and potentially high-achieving students

To extend each child's intellectual boundaries and help all students achieve their highest potential

To ensure that differentiated educational programs and/or services are systematically provided for gifted and talented students in all Grades K-12, including gifted students with learning disabilities or other special needs and to assure that gifted and talented students are offered an appropriate level and pace of instruction in each of our schools

B. ISSUE

Success for every student begins with establishment of clearly defined student outcomes, identification of each student who is not achieving those outcomes, intervention with appropriate strategies to improve each student's performance, and monitoring of results. Children with special abilities and talents are part of the human mosaic in our schools and communities. They typically learn at a pace and depth that set them apart from the majority of their same-age peers. Because they have the potential to perform at high levels of accomplishment and have unique affective and learning style needs when compared with others of their age, they require instructional and curricular adjustments that can create a better match between their identified needs and the educational services they typically receive. Special and critical emphasis needs to be placed upon addressing the needs of high-achieving and potentially high-achieving students exhibiting a broad spectrum of abilities and talents. The selection, training, development, and evaluation of staff who educate gifted and talented students, whether in the regular classroom or in specialized programs, is a critical element in any attempt to provide for the special needs of these students.

C. POSITION

1. Definitions

a) *Gifted and Talented Students* are defined in this policy as follows:

- (1) Children and youth with outstanding talent who perform or show the potential for performing at high levels of accomplishment when compared with others of their age, experience, or environment (These talents are present in children and youth from all cultural groups, across all economic strata, and in all areas of human endeavor.)
- (2) Children and youth who exhibit high performance capability in intellectual, creative, and/or artistic areas, possess an unusual leadership capacity, or excel in specific academic fields (They require services or activities that may go beyond those ordinarily provided by the schools.)

b) *Acceleration of instruction* means that students are given a curriculum that is at a higher level than the regular curriculum; the information is more complex or more information is covered; the material is presented more rapidly than in typical instruction; and students are confronted by a greater challenge than is customary with on-grade level material. Acceleration may include, but is not limited to:

- (1) Advanced placement in a subject (without being assigned to a higher grade, the student is placed for part of the day with students at more advanced grade levels for one or more subjects)
- (2) Curriculum compacting (the student is given reduced amounts of introductory activities, drill, and review so that the time saved may be used to move more quickly through the curriculum)
- (3) Telescoping curriculum (the student spends less time than usual in a course of study; e.g., completes a one-year course in one semester)
- (4) Concurrent programming in elementary/middle school, middle/high school, high school/college

- c) *Enrichment* is defined as giving students the opportunity to learn in greater depth and breadth. Enrichment may include but is not limited to:
- (1) Complexity of content that allows students to pursue topics of interest and selection in depth with research and analysis
 - (2) Emphasis on thinking which requires comparisons and analogies and that encourages using the information gained in ways that apply and transform the knowledge
 - (3) Creative and original products resulting from in-depth knowledge and reflection (analysis)

2. Curriculum

- a) In Grades Pre-kindergarten-8, accelerated and enriched curricula will be provided to all students who have the capability or motivation to accept the challenge of such a program. This curriculum will be rigorous and challenging and matched to the abilities, achievement levels, and interests of high ability students.
- b) There will be opportunities and expectations for students to learn at an accelerated pace, to learn in depth, and to learn integrated themes and connections between disciplines in order for students to attain the highest level of academic instruction.
- (1) Preassessment to determine what students already know will be routinely used in all curricular areas and provision made for advanced instruction.
 - (2) There will be a balance between accelerating the pace and enriching the instruction by the use of facilitative instructional strategies which include inquiry, small group or individual consultation, problem solving, and higher level questioning. The curriculum will be flexible enough to be responsive to student strengths and interests.
 - (3) Montgomery County Public Schools will prepare a scope and sequence of objectives and activities as well as an materials that accelerate and enrich the regular curriculum, in Pre-kindergarten-8, in mathematics, reading/language arts,

science, and social studies which will allow gifted and talented students to progress with appropriate enrichment and at a pace matched to a child's achievement and readiness.

- (4) Teachers are expected to use appropriate instructional materials that are above grade level, including but not limited to core books.
 - c) Curriculum standards will be set in initial format within six months of the adoption of the policy, with the expectation that these standards will be revised or refined over time. These standards will be designed to ensure curriculum and assessment practices that challenge gifted students. Assessment of student progress will include mastery of content and demonstration of higher-level thinking skills. Assessment measures will clearly indicate benchmarks for high achievers.
 - d) A variety of organizational options for delivery of curriculum in Grades K-12 will be implemented in all schools.
 - (1) Schools will utilize flexible and varied grouping practices that enhance the opportunity to receive expanded, intensive, enriched, and accelerated curricula at all instructional levels, as warranted by students' needs and their mastery of subject matter.
 - (2) A balance needs to be achieved so that highly able students have the opportunity to work in homogeneous groups, heterogeneous groups, and individually depending on the content area and task involved.
 - e) Schools will make classroom assignments that ensure that children who are achieving at the highest level are not isolated from each other.
3. Program
- To respond to the range of needs and abilities among gifted and talented students, every school will have an appropriate, clearly defined and articulated program for gifted and talented students.
- a) Programming will be developed as needed in each K-8 school and in other settings. Planning for gifted and talented will include special

provisions for:

- (1) Challenging instruction, flexible grouping, and scheduling arrangements that allow time with intellectual peers for in-depth study in mathematics, reading/language arts, science, social studies, and foreign language
 - (2) Communication of the program to parents
- b) The Honors Program will be the vehicle for serving gifted and talented students in all Grade 9-12 schools.
 - c) For students who require a markedly different programming, centers for highly gifted and other special programs including magnet programs will continue to be provided, and new programs will be developed as needed.

4. Identification

- a) MCPS will carry out a broad-based screening of all students in Grade 2 and a rescreening of all students in later elementary grades. Recognizing there is a range of abilities among gifted and talented students, this screening will identify gifted and talented students using multiple indicators of academic and leadership potential, including tests of academic achievement, aptitude, and creativity and use of testing strategies designed for students of other languages; samples of student work; and nominations obtained from teachers, counselors, peers, parents, subject area experts, community members, and the students themselves.
- b) To meet the needs of gifted and talented students during early childhood years:
 - (1) Schools will make every effort to recognize and foster early evidences of giftedness and adjust reading and other academic programs appropriately
 - (2) Pre-kindergarten, first, and second grade teachers will plan activities which will nurture curiosity, creativity, and the development of thinking skills
- c) In Grades 6-8, schools will recommend students for classes of gifted

and talented or for gifted and talented cluster groupings on the basis of mastery of course prerequisites, willingness to complete challenging assignments, previous grades, teacher recommendations, or other appropriate measures.

- d) In Grades 9-12, students will be admitted to Honors and Advanced Placement classes on the basis of mastery of course prerequisites, willingness to complete challenging assignments, previous grades, student interest, teacher/counselor recommendations, or other appropriate measures.

5. Nurturing/Mentoring

Underachieving and traditionally underrepresented students will be nurtured through a variety of efforts including:

- a) Informal identification of high achievers and potentially high achievers in primary grades
- b) Working with teachers, parents, and mentors on ways to nurture potential
- c) Distributing characteristics of gifted/learning disabled and/or underrepresented groups and adaptive techniques that assist these students in mastering challenging instruction
- d) Planning programs for long-term nurturing

6. Teachers and principals are of central importance to successful education for gifted students. Comprehensive training in the nature and needs of gifted students including the importance of using appropriate instructional strategies and program practices as well as the characteristics, identification, and programming strategies and accommodations for gifted learning disabled students, is essential. Staff development activities ranging from awareness to advanced skill level training will be provided on a continuous basis.

7. Communication

There will be a system of communication that includes the following:

- a) Informing parents about the content and expectations of their gifted

and talented programs, the selection procedures, and services available through support and advocacy groups

- b) Reporting to parents about the performance standards, authentic assessments that are appropriate for high-achievers and potential high-achievers, and progress of their child
- c) Resolving concerns about an individual student's program at a school through the regular consultative process by principal and teacher with the parent or guardian. Issues not resolved will be addressed in a timely manner by other administrative processes, including when appropriate the use of the Educational Management Team.
- d) Informing the broader community about gifted and talented programs, opportunities, and achievements, as appropriate.

8. Coordination

Central coordination for the management and implementation of programs for gifted and talented students will include but not be limited to the following:

- a) Planning and budget development
- b) Providing assistance and support to school staff in program development and parents in responding to student needs
- c) Developing, implementing, monitoring and revising, as necessary, the guidelines for identifying gifted and talented students
- d) Selecting and developing curriculum materials for gifted and talented students
- e) Designing and delivering training to a variety of audiences, including administrators, teachers, counselors, and central office personnel
- f) Selecting staff for Centers of Highly Gifted and special programs in collaboration with schools and the Office of Personnel Services
- g) Collecting data to monitor program participation

D. DESIRED OUTCOMES

1. An accelerated and enriched program in each subject area will be provided routinely in every school, K-12.
2. All students who are capable of doing so will be given the opportunity to work above grade level and in advanced and enriched materials in all content areas in every grade level in each school.
3. All schools will use a variety of flexible and varied grouping arrangements which will enhance the delivery of accelerated and enriched instruction.
4. The classroom, school organization, and instructional strategies will be designed to accommodate diversity in student backgrounds as well as their abilities and interests.

E. IMPLEMENTATION STRATEGIES

The superintendent shall direct implementation of this policy and specifically shall ensure that every school has a program that meets its requirements. Among the specific actions the superintendent will take are the following:

1. Implement consistently, evaluate periodically, and revise as necessary the MCPS identification procedures for intellectual/academic or visual and performance arts areas K-12, and develop, implement, and periodically review identification procedures for special and magnet programs
2. Develop challenging curricula for intellectual/academic and visual and performance arts and, where appropriate, improve high-end curricula and provide a continuum of objectives that fosters continuous progress
3. Include in all MCPS curriculum documents appropriate adaptations for accelerated and enriched learning and make available additional targeted curriculum documents and resource materials
4. Develop new curricula as the need arises, and identify, evaluate, and disseminate additional materials on a continuous basis
5. Develop instructional technologies through which students will be able to access an ever-expanding array of services that will enrich their learning experiences
6. Make available a variety of educational options, both inside and outside the

classroom

7. Transfer successful curricula and teaching strategies in gifted and talented programs to the general education program, as appropriate
8. Prepare budget requests that provide adequate resources to implement the policy
9. Disseminate effective strategies for increasing diverse participation in gifted and talented programs, and for nurturing potential giftedness, especially during preschool and early childhood years
10. Implement academic benchmarks and authentic assessments that measure the outcomes sought in an academically appropriate curriculum for high-achievers, and report to parents how their child is performing in relation to these standards:
 - a) The assessment tools may include criterion-referenced tests, checklists, portfolios, exhibitions, demonstrations, work products, and journals
 - b) Where appropriate, these assessments will be designed to be an integral part of the teaching/learning process, and students will be taught to assess their own progress and products
 - c) Schools will use the Montgomery County Public Schools Student Profile in Mathematics, distributed biannually, for the purpose of reporting and informing parents of curriculum content, grade level expectations, and individual student progress as measured by the instructional system in mathematics (ISM) for monitoring elementary mathematics
 - d) MCPS will report by grade for each middle school the number and percentage of students who complete Algebra 1 each year
 - e) Schools will use ongoing assessment criteria for gifted and talented students, Grades Pre-kindergarten-8, that is consistent with the enriched and accelerated objectives in each discipline at each grade level. Montgomery County Public Schools Criterion Referenced Tests will be administered annually for school and student accountability using established standards and measures of distinguished performance for highly able students

- f) For each high school, MCPS will report annually the number of students who scored 3 or above on Advanced Placement (AP) examinations by Advanced Placement subject

11. Encourage students to participate in academic competitions

F. REVIEW AND REPORTING

1. An annual report will be made to the Board of Education on the progress of implementing this policy during its first three years and include recommendations for policy changes if necessary.
2. The *Timeline for the Implementation of the Gifted and Talented Policy* will be prepared and updated annually.
3. Based on student outcomes, evaluations of program effectiveness, and other relevant information, this policy will be reviewed and updated on an ongoing basis in accordance with the Board of Education policy review process.

Re: BOARD/SUPERINTENDENT COMMENTS

Mrs. King reported that she inspected Forest Oak Middle School and was very impressed with the building as well as incredible instructional program. The workmanship at that building was excellent down to every detail.

Mr. Ewing commented on the Monthly Financial Report where there is a statement that legal fees are exceeding estimates and budgeted amounts. In Category 4, there are three factors: (1) legal fees; (2) cost of nonpublic placements; and (3) increased cost for instructional assistants. He requested information on each factor and how much each was contributing to the deficit.

Mr. Felton asked about the Minority-, Female- or Disabled-Owned Business Procurement report. He noticed that African-Americans represent less than 1 percent of the procurement contracts, Asian-Americans had less than 2 percent, and Hispanics had 3.1 percent. What is the central office doing to ensure and encourage greater numbers of participation of minority-owned businesses?

* Dr. Cheung left the meeting at this point.

Mrs. Gordon remarked that in visiting schools for acceptance, some principals have used the opportunity to discuss the instructional program which she welcomed. She noted that Jackson Road Elementary School was engaged in a pilot with the University of Maryland for professional development.

Ms. Gutierrez emphasized that the two seminars for financial aid information for Latino students and their parents. The first one was held last week in Gaithersburg High School and there were over 400 participants. The second opportunity will be on Sunday at Montgomery Blair High School. Unfortunately, there was irregular participation among high schools.

RESOLUTION NO. 777-95

CLOSED SESSION - NOVEMBER 27, 1995

On recommendation of the superintendent and on motion Mr. McCullough seconded by Ms. Gutierrez the following resolution was adopted unanimously of members present:

WHEREAS, The Board of Education of Montgomery County is authorized by the Education Article of the Annotated Code of Maryland and Title 10 of the State Government Article to conduct certain meetings or portions of its meetings in closed session; now therefore be it

Resolved, That the Board of Education of Montgomery County conduct a portion of its meeting on Monday, November 27, 1995, at 7:30 p.m. to discuss personnel matters, matters protected from public disclosure by law, and other issues including consultation with counsel to obtain legal advice; and be it further

Resolved, That these meetings be conducted in Room 120 of the Carver Educational Services Center, Rockville, Maryland, as permitted under Section 4-106, Education Article of the Annotated Code of Maryland and State Government Article 10-501; and be it further

Resolved, That such meetings shall continue in closed session until the completion of business.

Re: REPORT ON CLOSED SESSIONS -
OCTOBER 23 AND 25, 1995

On October 10, 1995, by the unanimous vote of members present, the Board of Education voted to conduct a closed session on Monday, October 23, 1995, as permitted under Section 4-106, Education Article of the Annotated Code of Maryland and State Government Article 10-501.

The Montgomery County Board of Education met in closed session on Monday, October 23, 1995, from 7:00 to 8:45 p.m. The meeting took place in Room 120, Carver Educational Services Center, Rockville, Maryland.

The Board met to discuss personnel appointments (principalship of Briggs Chaney Middle School and director of the Division of Enriched and Innovative Instruction). Votes taken

in closed session were confirmed in open session.

Board members reviewed and adjudicated the following appeals: 1995-26, 1995-31, 1995-32, 1995-43, 1995-48, 1995-49, 1995-40, T-1995-47.

In attendance at the closed session were Steve Abrams, Larry Bowers, Alan Cheung, Blair Ewing, Reggie Felton, David Fischer, Phinnize Fisher, Kathy Gemberling, Bea Gordon, Ana Sol Gutierrez, Nancy King, Paula Laboy, George Margolies, Elfreda Massie, Charles McCullough, Brian Porter, Glenda Rose, Mary Helen Smith, and Paul Vance.

Board members discussed a legal issue with its attorneys.

In attendance at this portion of the closed session were Steve Abrams, Larry Bowers, Alan Cheung, Patrick Clancy, Patricia Cousins, Blair Ewing, Reggie Felton, Kathy Gemberling, Bea Gordon, Ana Sol Gutierrez, Nancy King, George Margolies, Elfreda Massie, Charles McCullough, Glenda Rose, and Paul Vance.

On October 23, 1995, by the unanimous vote of members present, the Board of Education voted to conduct a closed session on Wednesday, October 25, 1995, as permitted under Section 4-106, Education Article of the Annotated Code of Maryland and State Government Article 10-501.

The Montgomery County Board of Education met in closed session on Wednesday, October 25, 1995, from 9:00 to 10:50 p.m. The meeting took place in Room 120, Carver Educational Services Center, Rockville, Maryland.

Board members reviewed and adjudicated the following appeals: 1995-29 and 1995-38.

Board members discussed a legal issue with its attorneys.

In attendance at this closed session were Steve Abrams, Larry Bowers, Alan Cheung, Patrick Clancy, Blair Ewing, Reggie Felton, Kathy Gemberling, Bea Gordon, Ana Sol Gutierrez, Nancy King, George Margolies, Elfreda Massie, Charles McCullough, Glenda Rose, Roger Titus, and Paul Vance.

RESOLUTION NO. 778-95

Re: MINUTES FROM SEPTEMBER 18, 1995

On motion of Mr. Felton seconded by Mr. McCullough, the following resolution was adopted unanimously of members present:

Resolved, That the minutes of the September 18, 1995, Board of Education meeting be approved.

RESOLUTION NO. 779-95

Re: BOE APPEAL NO. 1995-38

On motion of Ms. Gutierrez and seconded by Mr. McCullough, the following resolution was adopted unanimously by members present: *

Resolved, That the Board of Education adopt its Decision and Order in BOE Appeal No. 1995-38, an admission matter.

* Dr. Cheung participated in this Decision and Order and voted in the negative.

RESOLUTION NO. 780-95

Re: BOE APPEAL NO. 1995-40

On motion of Ms. Gutierrez and seconded by Mr. McCullough, the following resolution was adopted with Mrs. Gordon, Mrs. King, and Mr. McCullough voting in the affirmative; Mr. Abrams, Mr. Ewing, Mr. Felton, and Ms. Gutierrez voting in the negative: *

Resolved, That the Board of Education adopt its Decision and Order in BOE Appeal No. 1995-40, a placement matter.

* Dr. Cheung participated in this Decision and Order and voted in the negative.

RESOLUTION NO. 781-95

Re: BOE APPEAL NO. T-1995-41

On motion of Ms. Gutierrez and seconded by Mr. Felton, the following resolution was adopted unanimously by members present: *

Resolved, That the Board of Education adopt its Decision and Order in BOE Appeal No. T-1995-41, a transfer matter.

* Mr. Abrams and Ms. Gutierrez did not participate in this decision.

RESOLUTION NO. 782-95

Re: BOE APPEAL NO. 1995-34

On motion of Ms. Gutierrez and seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education adopt its Decision and Order in BOE Appeal No. 995-34, an admission matter.

RESOLUTION NO. 783-95

Re: BOE APPEAL NO. 1995-36

On motion of Ms. Gutierrez and seconded by Mr. Abrams, the following resolution was

adopted unanimously by members present:

Resolved, That the Board of Education adopt its Decision and Order in BOE Appeal No. 1995-36, a n admission matter.

Re: NEW BUSINESS

The following new business items were raised:

1. Mr. Ewing moved and Mr. Abrams seconded the following:

Resolved, That the Board of Education schedule a discussion related to further issues surrounding the QIE and transfer policies. The Board should review among other matters (1) the value and use of the ethnic and racial categories used in these policies; (2) strategies beyond the transfer policy for incentives and positive inducements to achieve integrated schools and improve the level of integration; and (3) options for achieving improved integration within MCPS schools.

2. Mr. Ewing moved and Mr. Abrams seconded the following:

Resolved, That the Board of Education schedule a time to discuss the need in policy for an assurance that parents are given access to test and other data in the possession of the school the child attends.

Re: ITEMS OF INFORMATION

1. Items in Process
2. Update on Global Access Technology
3. Minority-, Female-, or Disabled-Owned Business (MFP)
Procurement Report for the First Quarter of FY 1996
4. Construction Progress Report
5. Seneca Valley and Watkins Mill Cluster Middle Schools
6. Monthly Financial Report

RESOLUTION NO. 784-95

Re: ADJOURNMENT

On recommendation of the superintendent and on motion of Mr. Felton seconded by Mr. McCullough, the following resolution was adopted unanimously:

Resolved, That the Board of Education adjourn its meeting at 6:20 p.m.

PRESIDENT

SECRETARY

PLV:gr

MONTGOMERY COUNTY BOARD OF EDUCATION
SUMMARY SHEET
NOVEMBER 14, 1995

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