

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: August 25, 2009

TO: **BOARD OF EDUCATION**

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: **REPORT ON THE PROPOSED DELETION OF BOARD OF EDUCATION POLICY 5171 – IMPARTIAL DUE PROCESS HEARING PROCEDURE**

ORIGINATOR: Judith Smith, Executive Director, Department of Liberal Arts

RESOURCE PERSON(S): Patricia Lawton, Director, Office of Special Education
J. Stephen Cowles, Esquire, Associate General Counsel, Law Office

RECOMMENDATION

That the Board of Education reviews the proposed deletion of Policy 5171 Special Education Programs and Services. This is the first reading.

Attachment I – Policy Analysis
Attachment II – Policy 5171

**Policy Analysis for
Board of Education Policy 5171
Impartial Due Process Hearing Procedures**

Statement of Issues Addressed By the Proposed Policy

Board of Education Policy 5171 is being recommended for deletion as the policy is being replaced by proposed Board of Education Policy 6402.

Cost Analysis and Fiscal Impact on School System

No fiscal impact is anticipated by the deletion of this policy.

Relationship to Other Board of Education Policies

Board of Education Proposed Policy and Rule 6402, *Instruction*.

Legal Requirement

COMAR 13A.05.01.15 Procedural Safeguards – State Complaints, Mediation and Due Process
This regulation provides that a parent of a student with a disability may file a State Complaint, or request a Mediation/Due Process Hearing when there is a dispute about any matter related to the identification, evaluation, educational placement, or the provision of a free, appropriate, public education to a student with a disability. These procedures are outlined in proposed Board of Education Policy 6402.

Similar Polices Adopted by Other School Systems

The following policies were reviewed:

- Montgomery County, Policy IOB - Education of Students with Disabilities;
- Frederick County, Section 508 and Reg. 400.22 Special Education;
- Carroll County, Policy IGBA Program for Students with Disabilities–1992; and,
- Prince George’s County.

Each of these school systems has outlined in the policies noted above the procedures for filing State Complaints and Mediation/Due Process Hearings for students with disabilities similar to proposed Board of Education Policy 6402.

Draft of Proposed Policy

Attached

Other Alternative Considered By Staff

No other alternatives were considered.

Timeline:

- First reading – August 25, 2009
- Public comment – September 8, 2009
- Third reading – October 6, 2009

STUDENTS: Enrollment and Attendance

Assignment to Special Education Programs: Impartial Due Process Hearing Procedures

The Baltimore County Board of Education assures that handicapped children and their parents or guardians, who are residents of Baltimore County, are guaranteed procedural safeguards with respect to a free appropriate public education.

Parents will have an opportunity for an impartial “due process” hearing conducted by a certified independent hearing officer who is not an employee of the Baltimore County Public Schools. At the hearing, both the parents and representatives of the Baltimore County Public Schools shall have the opportunity to present evidence and testimony. Approved procedures for the initiation and conduct of the hearing which meet the legal requirements will be distributed to parents seeking such action.

A parent of a handicapped child or the Baltimore County Public Schools may initiate a hearing to review the proposal of the Baltimore County Public Schools or the refusal of the Baltimore County Public Schools to initiate or change:

1. the identification
2. the evaluation
3. the educational placement of the child; or
4. the provision of a free, appropriate education to the child.

Legal Reference: State Board of Education Bylaw 13A.05.01.07A Local Hearing Procedures

Policy
Adopted: 11/11/76
Revised: 10/12/78
Revised: 06/16/83]

Board of Education of Baltimore County