INTERNAL BOARD POLICIES: Operations

Appeal Before the Board of Education

I. Policy Statement

A. Maryland law provides that the Board of Education of Baltimore County (Board) may hold hearings on certain matters arising out of a dispute or for appeals of decisions of the Superintendent.

B. Neither the Board as a whole nor any individual member will discuss the case with the aggrieved party, or his/her designated representative, or the Superintendent or his/her staff, prior to final action being taken by the Board.

II. Definitions

A. Appellant – Means the individual or entity appealing a final decision or recommendation of the Superintendent/designee.

B. Business Day – Any day that the central offices of the school system are open for business and as provided on the official school system calendar.

C. Designated Representative – Means a party’s advocate or association/union representative.

D. File or Filed – Means Received by the Board. An appeal will be deemed to have been timely filed with the Board if the appeal has been:
   1. Delivered to the administrative office of the Board on or before the appeal is due; or
   2. Deposited in the United States mail as registered or certified or express or priority mail or deposited with a delivery service, such as federal express, UPS or DHL, that provides verifiable tracking of the item from the point of origin before the appeal is due.

E. Party – Means either an appellant or any person or entity allowed to intervene or participate as a party in interest regarding issues outlined in paragraph IV.
F. **Presiding Officer** – Means the Board Chair, or in the Chair’s absence, the Vice Chair; or in the absence of both, a member designated by the Board Chair, or, in the absence of such designation, by the Board.

G. **Superintendent/Designee** – The Superintendent or the Superintendent’s designated representative.

H. **Written Notice** – Means to deposit said notice in the United States mail, stamped and addressed to the addressee at the mailing address provided by the appellant or appearing in the records of the Baltimore County Public Schools (BCPS).

III. Procedural Overview

A. All appeals to the Board shall be from a recommendation, final action or decision of the Superintendent/designee.

B. The Board may consider the appeal itself or refer the appeal to a hearing examiner, as authorized by law. If referred to a hearing examiner, the procedures outlined in Board Policy 8341, *Appeal Before a Hearing Examiner*, shall apply.

C. An aggrieved employee affected by a matter involving an alleged violation of statutory rights that is also addressed in the employee’s applicable negotiated agreement may raise the matter by requesting an administrative appeal or through the grievance procedure contained in the employee’s applicable negotiated agreement, but not both.

1. An employee shall be deemed to have exercised his/her option under this paragraph when the employee timely initiates an action under this policy or timely files a written grievance, whichever event occurs first.

2. If an aggrieved employee requests an administrative appeal while a grievance on the same subject is being processed in accordance with the formal grievance procedure, the administrative appeal will be held in abeyance until the grievance has reached Level III/arbitration of the applicable bargaining agreement procedures.

4. When a matter has reached Level III/arbitration, the aggrieved employee may file an appeal of the Superintendent/designee’s decision following the procedures outlined in this policy, or appeal to arbitration, but not both.
D. It is the responsibility of the party appealing to follow these procedures and to file all documents by the specified deadlines. If an appeal is not filed within the stipulated time period, or if the required documentation to be provided by the party is incomplete, or if the party fails to appear at a scheduled hearing, such failures may constitute sufficient grounds for the Board to dismiss the appeal.

IV. Applicability

A. The procedures outlined in this policy govern appeals and hearings within the quasi-judicial responsibilities of the Board. They are not applicable to proceedings involving the Board’s exercise of its legislative or policy-making function.

B. Appeals and hearings covered by this policy arise from proceedings pursuant to the Education Article, Sections 6-202(a), 4-205(c) and 6-203.
1. Hearings under Section 6-202(a) are on recommendations of the Superintendent/designee to suspend or dismiss certificated personnel.
2. Proceedings under Section 4-205(c) involve appeals filed from decisions of the Superintendent/designee with respect to controversies and disputes involving the rules and regulations of the Board or the proper administration of the county public school system.
3. Proceedings under Section 6-203 are hearings held pursuant to Sections 4-205(c), 6-202(a) and Section 7-305, which were referred by the Board to a hearing examiner. (See, Policy 8341).

V. Appeals or Requests for Hearings

A. All appeals filed with the Board shall be from a final action or decision of the Superintendent/designee, which adversely affects the appellant(s).

B. The appeal must be in writing and filed with the Board and include the following:
1. The appellant’s full name, or, if represented by an attorney or a designated representative, the name of his/her attorney or designated representative;
2. The appellant’s current mailing address and a telephone number where the appellant or his/her attorney/designated representative may be reached during regular business hours;

3. A copy of the decision from which the appeal or request for hearing is being taken;

4. A concise statement of the issues presented by the appeal for decision by the Board; and

5. A concise statement of the facts for which the appeal is being taken or for which the appellant is requesting a hearing.

C. Deadline for Filing a Notice of Appeal under Section 4-205(c)

1. Under Section 4-205(c), a written notice of appeal shall be filed with the Board within 30 calendar days after the date of the Superintendent/designee’s decision or final action. The Superintendent/designee’s decision will be mailed to the appellant within 3 business days after the Superintendent/designee completes the written decision.

2. The time period for filing a written appeal with the Board begins on the day after the date of the Superintendent/designee’s decision or final action.¹

3. If the 30th calendar day falls on a Saturday, Sunday or on a day that the administrative offices of the school system are closed, the notice of appeal must be filed with the Board on the very next business day that the administrative offices of the school system are open.

D. Deadline for Filing a Written Request for Hearing under Section 6-202(a)

1. Under Section 6-202(a), a written request for hearing before the Board, or a request for hearing before an arbitrator, shall be filed with the Board within ten (10) calendar days after the date of the Superintendent/designee’s recommendation that a professional or certificated employee be suspended or dismissed.

2. If the request does not specify that the hearing be before an arbitrator, the request shall be considered a request for hearing before the Board.

3. The time period for filing a request for hearing begins on the day after the date of the Superintendent/designee’s recommendation.²

¹ For further clarification, see the Questions and Answers on Appeals and Hearings Before the Board of Education of Baltimore County

² For further clarification, see the Questions and Answers on Appeals and Hearings Before the Board of Education of Baltimore County.
4. If the 10th calendar day falls on a Saturday, Sunday or on a day that the administrative offices of the school system are closed, the request for hearing must be filed with the Board on the very next business day that the administrative offices of the school system are open.

E. Mailing of Written Notices and Decisions

In all proceedings provided for herein, written notice and decisions shall be mailed:

1. To the appellant at the mailing address provided by the appellant or the address appearing in the records of the Baltimore County Public Schools (BCPS); or

2. Where the appellant is represented by an attorney or a designated representative, to the appellant’s attorney or designated representative and such mailing shall constitute official notice to the party.

F. Compliance

If an appeal is not filed within the time periods set forth above, or if an appellant fails to appear at a scheduled hearing, such failure shall constitute sufficient grounds for the Board to dismiss the appeal.

VI. Evidentiary Hearings

A. Applicability

1. The provisions of this paragraph apply to evidentiary hearings before the Board unless otherwise indicated.

2. The strict rules of evidence shall not apply to hearings conducted before the Board.

3. All testimony shall be given under oath.

4. Hearings will not be held in a public session of the Board, unless the appellant and the Superintendent agree in advance, in writing, or on the record that the hearing be public.

B. Notice

The Board will provide written notice of the date, time and location of hearing to all parties.
C. Representation
   1. Individuals may represent themselves in any hearing before the Board or its hearing examiners.
   2. An individual may be accompanied, represented and advised by an attorney or designated representative at all stages of an appeal.
   3. If an individual is represented by an attorney or designated representative, the attorney or designated representative shall be responsible for:
      a. Receiving all notices of hearings;
      b. Filing of all pleadings, motions or other papers;
      c. Submitting evidence, examining and cross-examining witnesses; and
      d. Representing the individual before the hearing examiner and, if applicable, at oral argument before the Board.

D. Procedures
   1. The appellant may submit in writing any particulars related to the case which he/she wishes the Board members to have an opportunity to study in advance. The Board will forward a copy of all documents provided by the appellant to the Superintendent.
   2. The Superintendent may send to members of the Board any particulars related to the case which he/she wishes the Board members to have an opportunity to study prior to the hearing, with a copy to the aggrieved person or his/her attorney. The Superintendent shall not discuss the case with any member of the Board prior to the hearing.
   3. The presiding officer shall have charge of the hearing with authority to permit the examination of witnesses, admit evidence, rule on admissibility of evidence and adjourn or recess the hearing.
   4. The Board shall arrange for the preparation of a stenographic or electronic record of any hearing.
   5. Both sides in any hearing shall be given adequate time, in the judgment of the Board, for presentation of facts. Cross-examination shall be permitted, and representatives of both sides shall be given adequate opportunity for rebuttal.
   6. In appeals from decisions of the Superintendent/designee, the Board and its hearing examiners shall follow the standard of review set forth in COMAR 13A.01.05.06.
VII. Oral Argument Before the Board

A. Applicability
   1. The provisions of this paragraph apply to requests for oral argument from a recommendation rendered by a Board hearing examiner.
   2. Oral arguments will not be held in a public session of the Board, unless the appellant and the Superintendent agree in advance, in writing or on the record that the hearing be public.
   3. The Board shall arrange for the preparation of a stenographic or electronic record of any oral argument.

B. The Board’s scheduler shall prepare or cause to be prepared an official record, which shall include all pleadings, testimony, exhibits and other memoranda or material filed in the proceedings and provide same to each Board member prior to the scheduled oral argument.

C. Oral argument shall be limited to 15 minutes per side, unless the Board indicates otherwise.

D. No additional evidence not contained in the record of the hearing will be considered by the Board.

VIII. Decision by the Board

A. In cases involving a decision of the Superintendent, the Board will not substitute its judgment for that of the Superintendent unless the decision is arbitrary, illegal or unreasonable as defined by the Maryland State Board of Education.

B. In cases involving the discipline or discharge of a certificated employee, the Board shall exercise its independent judgment on the record before it in determining whether to sustain the suspension or dismissal of a certificated employee. The Superintendent has the burden of proof by a preponderance of the evidence.

C. The Board shall deliberate on the facts, evidence and testimony presented at the hearing in those cases where the Board holds an evidentiary hearing.

D. Formal action of the Board will be taken publicly at a Board meeting.
E. The Board shall notify the parties in writing of the decision of the Board.
   1. Each Opinion and Order of the Board shall be mailed in writing to all parties by certified mail or any other delivery method which provides proof of delivery.
   2. The hearing examiner’s Findings of Fact, Conclusions of Law and Recommendation shall accompany the Opinion and Order when applicable.

IX. Appeal of Board’s Decision to State Board

Decisions of the Board may be appealed to the Maryland State Board of Education in accordance with that agency’s procedures and timelines.

X. Inclement Weather

Hearings and oral arguments scheduled before the Board will be cancelled due to inclement weather only when the closure announcement states that the Board meeting is cancelled.

Legal References:  
- Annotated Code of Maryland, Education Article §4-205, Powers and Duties of County Superintendent
- Annotated Code of Maryland, Education Article §6-202, Suspension or Dismissal of Teachers, Principals, Supervisors, Assistant Superintendents or other Professional Assistants
- Annotated Code of Maryland, Education Article §6-203, Hearings
- Annotated Code of Maryland, Education Article §7-305, Suspension and Expulsion Procedures
- COMAR 13A.01.05, Appeals to the State Board of Education
- COMAR 13A.05.09.07, Dispute Resolution

Related Policies:  
- Board of Education Policy 5560, Suspensions and Expulsions
- Board of Education Policy 8341, Appeal Before a Hearing Examiner

Other:  
- Questions and Answers on Appeals and Hearings Before the Board of Education of Baltimore County
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