

1 **Related Entries:** BLB-EA, BLC, GJC-RA, GJD-RB, JGA-RB  
2 **Responsible Office:** Board of Education  
3  
4

5 **Rules of Procedure in Appeals and Hearings**  
6  
7

8 **A. PURPOSE**  
9

10 To provide Rules of Procedure adopted pursuant to the  
11 authority of the *Annotated Code of Maryland*, Education  
12 Article, Sections 4-205, 6-202, 6-203, and 7-305 which govern  
13 all appeals to the Montgomery County Board of Education  
14 (Board) and all hearings before the Board requested on a  
15 recommendation by the superintendent **of schools** to the Board  
16 or a final decision of the superintendent **of schools** which is  
17 contested by persons who are adversely affected, unless other  
18 procedures are specifically required by statute or bylaws of  
19 the State Board of Education, ~~or~~ **Montgomery County Board of**  
20 **Education** policies, **or** ~~regulations of~~ Montgomery County  
21 Public Schools (MCPS) **regulations**, such as those applicable  
22 to special education and student transfer appeals  
23

24 **B. PROCESS AND CONTENT**  
25

26 1. Definitions  
27

28 a) *Board* means the **Montgomery County** Board of  
29 Education ~~of Montgomery County.~~

30

31 ~~1. Time and Notice Requirements~~

32 e)b) *Computation of Time, days shall be calculated*  
33 **consistent with Maryland Rule 1-203:**

34

35 (1) *Starting Point* - When computing any period of  
36 time prescribed by these rules or by any  
37 applicable statute, the day of the act or  
38 event after which the designated period of  
39 time begins to run is not to be included. And,  
40 if the day immediately following the day of  
41 the act of event is a Saturday, Sunday or  
42 holiday, it shall be counted.

43

44 (2) *End Point* - When computing the final date for  
45 any period of time prescribed by these rules  
46 or by any applicable statute, if the office  
47 of the Board is not open during its regular  
48 hours on the last day of the period, the  
49 documents shall be filed on the next day  
50 thereafter when the office of the Board is  
51 open.

52 ~~In computing any period of time prescribed by~~  
53 ~~these rules or by any applicable statute, the~~  
54 ~~day of the act or event after which the~~

55 ~~designated period of time begins to run is not~~  
56 ~~to be included. Saturdays, Sundays, and legal~~  
57 ~~holidays shall be counted. When the last day~~  
58 ~~so computed would fall on a Saturday, Sunday,~~  
59 ~~or legal holiday, the period shall extend to~~  
60 ~~the first day thereafter not one of these~~  
61 ~~days. For filing of documents with the Board,~~  
62 ~~if the office of the Board is not open during~~  
63 ~~its regular hours on the last day of the~~  
64 ~~period, the documents shall be filed on the~~  
65 ~~next day thereafter when the office of the~~  
66 ~~Board is so open.~~

67  
68 ~~d)~~ *Extension and Shortening of Time* - For good cause,  
69 the Board, upon its own motion or at the request of  
70 either party, may at any time shorten or extend the  
71 time provided under these rules for filing any  
72 document or providing any notice, except in those  
73 instances where the time is specified by state law.

74  
75 ~~b)~~**c)** *Filed or filing* as used in these rules means  
76 received by the Board. Appeals may be filed by a  
77 student or the student's parent or guardian. If an  
78 appeal is filed by a student, the student's parent  
79 or guardian will be provided notice of the appeal  
80 and given an opportunity to comment on the appeal.

81

82 e)d) *Party or parties* include each person, group, or  
83 entity named or admitted as a party, including a  
84 student, a parent, parent surrogate, or guardian of  
85 a student, and shall include the superintendent. The  
86 presiding officer may permit any other person,  
87 group, or entity to participate for limited purposes  
88 upon satisfactory demonstration of the nature and  
89 extent of its interest.

90  
91 e)e) *Presiding officer* means the hearing examiner in  
92 hearings before the hearing examiner. In hearings  
93 before the Board, the presiding officer means the  
94 president; or in the president's absence, the vice  
95 president; or in the absence of both, a member  
96 designated by the president, or, in the absence of  
97 such designation, by the Board.

98  
99 e)f) *Superintendent* means the superintendent of schools  
100 or the superintendent of schools' designee

101  
102 f)g) *Written notice* under these rules shall be complete—  
103  
104 (1) upon actual delivery if a party hand delivers,  
105  
106 (2) ~~upon deposit of said notice in the United~~  
107 ~~States mail, depositing the papers in the~~  
108 **United States mail as registered or certified**

109 mail or Express Mail, or deposited with a  
110 delivery service, such as Fed Ex, UPS, or DHL,  
111 that provides verifiable tracking of the item  
112 from the point of origin on or before the date  
113 the papers are due. ~~stamped and addressed to~~  
114 the addressee at the mailing address provided  
115 or appearing on the records of MCPS, or  
116

117 (3) on the date an e-mail is sent if an e-mail  
118 notification is requested by the party(ies).  
119

120 2. Applicability  
121

122 a) These rules govern appeals and hearings within the  
123 quasi-judicial responsibilities of the Board. They  
124 are not applicable to proceedings involving the  
125 Board's exercise of its legislative or policy-making  
126 function.  
127

128 ~~a)~~**b)** Proceedings covered by these rules arise under the  
129 Education Article, Sections **4-205(c)**, 7-305, 6-202,  
130 and ~~4-205(e)~~**6-203** and local board proceedings  
131 permitted under the Education Article.  
132

133 ~~(2)~~**(1)** Proceedings under Section 4-205(c) are on  
134 appeals from decisions of the superintendent  
135 **of schools** on controversies and disputes

136 involving the rules and regulations of the  
137 Board or the proper administration of the  
138 county public school system. **Under Maryland**  
139 **law, such decisions of the superintendent of**  
140 **schools must be appealed to the Board within 30**  
141 **calendar days.**

142  
143 (2) Hearings under Section 6-202(a) are on  
144 recommendations of the superintendent **of**  
145 **schools** to suspend or dismiss certificated  
146 personnel. (Section 6-201(b)(iv)).

147  
148 (3) Hearings under Section 6-203 are those matters  
149 which are referred by the Board for an initial  
150 hearing by a hearing examiner.

151  
152 (4) Appeal hearings under Section 7-305(c) are  
153 from a finding by the superintendent **of**  
154 **schools** that suspension of a student for more  
155 than ten **school** days or expulsion of a student  
156 is warranted. **Under Maryland law, such**  
157 **suspensions must be appealed within 10 calendar**  
158 **days.**

159  
160  
161 3. Appeals or Requests for Hearings-Section 4-205(c)  
162

- 163 a) All appeals to the Board shall be from a final action  
164 or decision of the superintendent **of schools** which  
165 adversely affects the appellant(s). For purposes of  
166 this paragraph, the failure of the superintendent  
167 **of schools** to act upon an appeal within ~~60~~**45**  
168 **calendar** days may, at the option of the appellant,  
169 be deemed a denial by the superintendent **of schools**  
170 for purposes of appeal to the Board.  
171
- 172 b) Each appeal to the Board under Section 4-205(c)  
173 shall be initiated by filing a written notice of  
174 appeal with the Board within 30 **calendar** days of the  
175 date of the superintendent **of schools's** or  
176 designee's final action or decision adversely  
177 affecting the appellant(s). **Each appeal shall be**  
178 **signed by each party taking the appeal, and include**  
179 **the printed name, regular mail and email address[es]**  
180 **of each party.**  
181
- 182 c) With the notice of appeal, or within 10 **calendar**  
183 days after the notice of appeal has been filed, the  
184 person or persons filing the appeal must file with  
185 the Board, with a copy to the superintendent **of**  
186 **schools**, the following:  
187
- 188 (1) A concise statement of the issues presented by  
189 the appeal for decision by the Board

- 190
- 191 (2) A concise statement of the facts that the
- 192 appellant(s) believes support the appeal
- 193
- 194 (3) A statement of which findings of fact, if any,
- 195 set forth by the superintendent **of schools** are
- 196 disputed by the appellant(s)
- 197
- 198 (4) A copy of all documents which are believed to
- 199 be relevant or which are relied upon by and are
- 200 in the possession or control of the
- 201 appellant(s)
- 202
- 203 **d)** ~~Within 10 days a~~After the submission of the
- 204 information and documentation required by Section
- 205 3c), the superintendent **of schools** may submit
- 206 additional information or documentation in support
- 207 of the decision which is the subject of the appeal
- 208 and shall provide a copy to the appealing party.
- 209
- 210 (1) **For appeals of decisions related to Board**
- 211 **Policy JEE, Student Transfers, the**
- 212 **superintendent of schools may respond to the**
- 213 **Board office within 10 school days.**
- 214
- 215 (2) **For all other appeals under Section 4-205(c),**
- 216 **the superintendent of schools may respond to**



217                   the Board office within 15 calendar days.

218

219                   (3) If the superintendent of schools' response  
220                   requires participation of a school office,  
221                   days when schools are closed are not counted  
222                   in time allowed under B.3.d(1-2) above.

223

224           e)e) Within five **work** days after the submission by the  
225           superintendent **of schools**, the appealing party may  
226           submit additional documentation in response to that  
227           submitted by the superintendent **of schools** and shall  
228           provide a copy to the superintendent **of schools**.

229

230           f) **Except in those instances where the time is**  
231           **specified by state law, the Board or the Board's**  
232           **designee may exercise discretion to extend the time**  
233           **limits stated for either party's response on a case-**  
234           **by-case basis, provided that the parties are given**  
235           **prompt written notice of the extended timeline and**  
236           **rationale. Compelling reasons include, but are not**  
237           **limited to, an extensive record, substantial**  
238           **documentation, or numerous sources to be consulted.**

239

240           e)g) In addition, the Board may request of either party  
241           that additional information or documentation be  
242           submitted.

243

244 ~~f~~h) If either party believes that oral argument or an  
245 evidentiary hearing, or both, is necessary to a  
246 decision of the appeal, such party shall include in  
247 the submission made under Section 3c) a concise  
248 statement of the reasons therefore, specifically  
249 addressing the factors set forth in Section 3i~~h~~)  
250 and/or Section 3~~i~~j) herein.

251  
252 ~~g~~i) If an appeal is not filed within the period set  
253 forth in Section 3c), or if the statements required  
254 are not filed within the period set forth in Section  
255 3d), such failure shall constitute sufficient  
256 grounds for the Board ~~(or a committee of the Board~~  
257 ~~or a Board officer, acting on behalf of the Board)~~**or**  
258 **the Board's designee** to dismiss an appeal.

259  
260 ~~h~~j) Appeals filed under Section 4-205(c) will be  
261 considered by the Board based on documents and  
262 arguments submitted in writing by the parties. The  
263 Board may grant a request by either party or the  
264 Board may direct:

265  
266 (1) That oral argument on the issues be presented,  
267 or

268  
269 (2) That a hearing be conducted in accordance with  
270 Section 5 of these rules. In determining

271 whether to grant a request for oral argument  
272 or formal hearing, the Board may consider-

273  
274 (a) whether the issues involved are of  
275 constitutional or significant public  
276 importance,

277  
278 (b) whether resolution of the issues raised  
279 is likely to have significant value as  
280 precedent in the administration of the  
281 school system,

282  
283 (c) whether the issue or issues raised require  
284 determination of some substantial  
285 employee right which cannot be  
286 satisfactorily adjudicated otherwise  
287 within existing appeal procedures, and/or

288  
289 (d) other appropriate factors as determined by  
290 the Board.

291  
292 ~~i)~~**k)** In those instances in which the Board determines  
293 that an evidentiary hearing is necessary, the Board  
294 shall conduct such hearing, unless the Board  
295 determines in its sole discretion to refer the  
296 matter to a hearing examiner. Among the factors  
297 which the Board may consider in determining whether

298 to refer such a matter to a hearing examiner in the  
299 first instance are:

300  
301 (1) Whether it appears that there are facts in  
302 dispute which are likely to require a lengthy  
303 evidentiary hearing, and/or

304  
305 (2) Whether it appears there is an extensive  
306 record, substantial documentation, or  
307 additional information which the Board feels  
308 should be evaluated by a hearing examiner  
309 before the matter is submitted to the Board for  
310 its decision.

311  
312 4. Initiation of Appeals or Requests for Hearings - Sections  
313 6-202(a) and 7-305(c)

314  
315 a) Section 6-202(a)

316  
317 (1) All requests to the Board for hearing under  
318 Section 6-202(a) shall be from a recommendation  
319 of the superintendent **of schools** to the Board  
320 for suspension or dismissal of a teacher,  
321 principal, associate superintendent, or other  
322 certificated employee who requests the  
323 hearing.

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325 (2) Each request for a hearing under Section 6-  
326 202(a) (as to recommendation for certificated  
327 employee suspension or dismissal) shall be  
328 initiated by filing with the Board a written  
329 request for a hearing within ten **calendar** days  
330 of the date the Board sends the individual a  
331 copy of the charges against him/her and has  
332 given the individual written notice of the  
333 superintendent **of schools'** recommendation and  
334 the meeting (which shall be more than ~~ten~~**10**  
335 **calendar** days after the written notice) at  
336 which the recommendation will be considered by  
337 the Board if no hearing is requested.

338  
339 (a) Such notice shall advise the individual  
340 of the right to request a hearing before  
341 the Board or, alternatively, to request a  
342 hearing before an arbitrator as  
343 authorized by Section 6-202(a). If a  
344 request for a hearing before the Board or  
345 an arbitrator is not received within the  
346 time specified in the notice, the right  
347 to request either type of hearing shall  
348 be deemed waived and the Board will act  
349 on the recommendation of the  
350 superintendent **of schools**. If the  
351 individual does not specify that the

352 hearing is before an arbitrator, the  
353 request shall be considered a request for  
354 a hearing before the Board.

355  
356 **(b)** In the event the individual requests a  
357 hearing before an arbitrator, the Board  
358 shall refer the matter to the  
359 superintendent **of schools**, who shall  
360 designate appropriate staff to engage in  
361 the process to select an arbitrator  
362 according to the provisions of Section 6-  
363 202(a), and the decision of the arbitrator  
364 shall be final and binding on the  
365 individual and the Board, subject to  
366 judicial review governed by the Maryland  
367 Uniform Arbitration Act.

368  
369 **(c)** **In the event the individual requests an**  
370 **evidentiary hearing before the Board, the**  
371 **Board may conduct such hearing, or it may**  
372 **refer the matter to a hearing examiner.**  
373 **In either situation, the hearing shall be**  
374 **conducted in accordance with the**  
375 **procedures set forth in Section 5 of this**  
376 **Policy.**

377  
378 ~~(4)~~ **(3)** The Board reserves the right on its own

379 motion to take any action it deems appropriate,  
380 in the manner and to the extent permitted by  
381 law, on recommendations of the superintendent  
382 **of schools** under Section 6-202(a), even if no  
383 formal request for hearing is before it.

384  
385 ~~(5)~~ (4) In those circumstances where a negotiated  
386 employee agreement precludes appeal to the  
387 Board [e.g., those disputes or claims committed  
388 to arbitration pursuant to the Grievance  
389 Procedure established under agreements  
390 between the Board and the Montgomery  
391 County Education Association (MCEA), between  
392 the Board and the Service Employees  
393 International Union (SEIU), Local 500, and  
394 between the Board and the Montgomery County  
395 Association of Administrators and Principals  
396 (MCAAP)], the Board shall not hear appeals  
397 involving such disputes or claims unless both  
398 parties to the employee agreement and the  
399 grievant all agree in advance and in writing  
400 or on the record that the Board may hear the  
401 dispute or claim.

402  
403 b) Section 7-305(c)  
404  
405 (1) Each appeal under Section 7-305(c) (student

406 suspension for more than ten **school** days or  
407 expulsion), shall be made by filing a notice  
408 of appeal or a request for a hearing with the  
409 Board within ten **calendar** days of the date of  
410 the written notice of the determination made  
411 by the superintendent **of schools** to the student  
412 or the parent or guardian. The superintendent's  
413 notice shall advise the student, parent, or  
414 guardian of the right to appeal to the Board  
415 and to request a hearing.

416  
417 (2) All requests for hearings under Section 7-  
418 305(c) (student suspension for more than 10  
419 **school** days or expulsion) will be referred to  
420 a hearing examiner, unless the Board in its  
421 sole discretion determines that the Board, or  
422 a committee of the Board, should hear the  
423 matter in the first instance. Among the factors  
424 which the Board may consider in determining if  
425 it wishes to hear such a matter in the first  
426 instance are:

427  
428 (a) Whether there do not appear to be material  
429 facts in dispute or whether it appears  
430 that the material facts in dispute can be  
431 heard by the Board without a lengthy  
432 evidentiary hearing,



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(b) Whether there is an overriding need for prompt resolution of the matter, and/or

(c) Whether the matter is of such public importance, of such importance to proper administration of the school system, or of such sensitive nature that the Board concludes it should hear the evidence.

(3) If the parent/student/legal guardian desires to waive the right to a hearing (for Section 7-305(c), such right applies only for a student suspension for more than ten **school** days or expulsion), ~~he/she~~**they** may: (1) request to have the matter decided on the written record following the procedures outlined below; and/or (2) request to have only oral argument before the Board.

(a) The person or persons requesting that the matter be considered on the written record must file with the Board, with a copy to the superintendent **of schools**, the following:

(i) A concise statement of the issues

460 presented by the appeal

461  
462 (ii) A concise statement of the facts that  
463 the appellant(s) believe support the  
464 appeal

465  
466 (iii) A statement of which findings of  
467 fact, if any, set forth by the  
468 superintendent **of schools** are  
469 disputed by the appellant(s)

470  
471 (iv) A copy of all documents which are  
472 believed to be relevant or which are  
473 relied upon by and are in the  
474 possession or control of the  
475 appellant(s)

476  
477 (b) Within ten **school** days after the  
478 submission of this information and  
479 documentation, the superintendent **of**  
480 **schools** may submit additional information  
481 or documentation in support of the  
482 decision which is the subject of the  
483 appeal and shall provide a copy to the  
484 appealing party.

485  
486 (c) Within five **work** days after the submission

487 by the superintendent **of schools**, the  
488 appealing party may submit additional  
489 documentation in response to that  
490 submitted by the superintendent and shall  
491 provide a copy to the superintendent.

492  
493 (d) If either party believes that oral  
494 argument is necessary to a decision of the  
495 appeal, such party shall include a concise  
496 statement of the reasons therefore.

497  
498 (e) In addition, the Board may request of  
499 either party that additional information  
500 or documentation be submitted.

501  
502 (4) All cases involving a student suspension for  
503 more than ten **school** days or expulsion under  
504 Section 7-305(c) must be heard and decided upon  
505 within the timeframe determined by state  
506 regulations.

507  
508 c) If an appeal or request for hearing is not filed  
509 within the period set forth in Section 4b(1), such  
510 failure shall constitute sufficient grounds for the  
511 Board ~~(or a committee of the Board or a Board~~  
512 ~~officer, acting on behalf of the Board)~~**or the**  
513 **Board's designee** to dismiss an appeal or request for

514 hearing.

515

516 5. Hearings

517

518 a) Applicability

519

520 The provisions of this part apply to hearings before  
521 a hearing examiner, as well as evidentiary hearings  
522 and oral arguments before the Board, or a committee  
523 of the Board, unless otherwise indicated.

524

525 b) Hearing Examiner

526

527 The hearing examiner shall be an attorney admitted  
528 to practice before the Maryland Court of Appeals.

529

530 c) Notice

531

532 (1) Except for cases arising under Section 7-  
533 305(c), written notice of hearings shall be  
534 given by the Board, or ~~its~~**the Board's**  
535 designee, to all interested parties not less  
536 than twenty (20) **calendar** days prior to the  
537 hearing.

538

539 (2) Such notice shall also state the date, time,  
540 and place of the hearing. Any disagreement

541 concerning the charges, issues, or facts shall  
542 be resolved as part of the disposition of the  
543 appeal.

544  
545 (3) Each party shall provide a witness list and a  
546 copy of all documents to be used in the hearing  
547 at least five **work** days before the hearing.

548  
549 d) Public and Private Hearings

550  
551 (1) Hearings pursuant to Section 6-202(a) will not  
552 be public unless both the party seeking the  
553 hearing and the superintendent **of schools** agree  
554 in advance and in writing or on the record that  
555 the hearing be public.

556  
557 (2) Hearings pursuant to Section 7-305(c) will not  
558 be public unless a public hearing is requested  
559 by the person appealing or seeking the hearing.

560  
561 (3) All other hearings will not be public unless:  
562 good cause is shown by a party, the Board  
563 agrees on its own motion to have a public  
564 hearing, or a public hearing is required by  
565 law.

566  
567 e) Representation

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All parties appearing at hearings under these rules shall have the right to appear in person ~~or~~ with an **attorney who is admitted to practice before the Supreme Court of Maryland.** ~~representative of their choice. All parties shall have the right to be accompanied, represented, and advised by counsel.~~

f) Records - Transcript

(1) The presiding officer shall prepare or cause to be prepared official records, which shall include all pleadings, testimony, exhibits, and other memoranda or material filed in the proceedings.

(2) An accurate record of all hearings, disputes, or controversies shall be kept by the superintendent **of schools** in order that, if an appeal is taken, the record shall be submitted.

(3) Unless waived by all the parties, a stenographic record of that part of the proceedings which involves the presentation of evidence shall be made at the expense of the Board. The record need not be transcribed, however, unless requested by a party to the

595 controversy, the local superintendent **of**  
596 **schools**, the local board, the state  
597 superintendent, or the state board, as the case  
598 may be. The cost of any typewritten transcript  
599 of any proceedings, or a part of any  
600 proceedings, shall be paid by the party  
601 requesting it.

602

603 g) Duties and Authority of Presiding Officer

604

605 The presiding officer shall have charge of the  
606 hearing, with authority to permit the examination  
607 of witnesses, admit evidence, rule on the  
608 admissibility of evidence, and adjourn or recess the  
609 hearing from time to time. The presiding officer  
610 shall cause an oath to be administered to all  
611 witnesses testifying in a proceeding. The  
612 superintendent **of schools** may administer oaths to  
613 witnesses (Section 4-205(b)).

614

615 h) Quorum

616

617 Each hearing before the Board shall be held before  
618 not less than a quorum of the Board, or a quorum of  
619 the designated committee of the Board in appeals  
620 arising under Section 7-305(c).

621

622 i) Order of Procedure

623

624 The order in which the parties shall present their  
625 case shall be determined by the presiding officer,  
626 except as follows:

627

628 (1) In a hearing on a student suspension or  
629 expulsion or the suspension or dismissal of a  
630 professional employee, the superintendent **of**  
631 **schools** shall proceed first and carry the  
632 burden of persuasion.

633

634 (2) In all other appeals, the appellant shall  
635 proceed first.

636

637 j) Examination of Witnesses and Introduction of  
638 Evidence

639

640 (1) The strict judicial rules of evidence shall not  
641 be applicable to evidentiary hearings  
642 conducted hereunder, and, in each case, the  
643 test of admissibility shall be whether the  
644 evidence is reasonably relevant to a material  
645 issue and whether it has substantial probative  
646 value with respect to such a material issue.  
647 The presiding officer may limit or refuse to  
648 admit cumulative or repetitive evidence and may



649 curtail redundant questioning. The presiding  
650 officer shall encourage (but not demand) the  
651 parties, where possible, to make stipulations  
652 as to matters not reasonably in dispute and to  
653 make proffers and stipulations in place of  
654 cumulative evidence. All testimony shall be  
655 given under oath.

656  
657 (2) A party, or where a party is represented by  
658 counsel or other representative, such counsel  
659 or other representative may submit evidence,  
660 examine and cross-examine witnesses, make  
661 objections, and file exceptions and motions.

662  
663 (3) The superintendent **of schools** may appear in  
664 person or through counsel or a designated  
665 representative, and shall be accorded the same  
666 rights as a party to submit evidence, examine  
667 and cross-examine witnesses, make objections,  
668 and file exceptions and motions.

669  
670 (4) The presiding officer may examine all  
671 witnesses. The presiding officer may call as a  
672 witness any person whose testimony may be  
673 relevant and material. In hearings before the  
674 Board, any Board member may examine any  
675 witness.

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k) Written Memoranda

Each party and the superintendent **of schools** may submit written memoranda on the issues of fact and law involved in the hearing in such form as the presiding officer may designate. Such memoranda may be submitted at any time prior to the hearing of a matter. With the approval of the presiding officer and on such schedule as the presiding officer may designate, written memoranda may be submitted after a hearing.

l) Counsel for the Board

The presiding officer of the Board may request the Board's attorney to participate in any hearings as counsel for the Board.

m) Findings of the Hearing Examiner

In all matters heard initially by a hearing examiner, the hearing examiner shall make findings of fact, conclusions of law, and recommendations. The hearing examiner shall submit a transcript of the proceedings, exhibits, findings of facts, conclusions of law, and recommendations to the

703 Board. The hearing examiner shall distribute or mail  
704 to all parties and the Board the findings of fact,  
705 conclusions of law, and recommendations not more  
706 than fifteen (15) **calendar** days after completion of  
707 the hearing. Except for matters arising under  
708 Section 7-305(c), if the hearing examiner has  
709 provided for oral argument or for the submission of  
710 written memoranda after a hearing, the 15-day period  
711 shall not commence until after such oral argument  
712 or submission of written memoranda, whichever is  
713 later.

714

715 n) Oral Argument

716

717 (1) Parties to proceedings before a hearing  
718 examiner may make oral arguments before the  
719 Board at the Board's hearing on the  
720 recommendations of the hearing examiner, but  
721 additional evidence shall not be introduced  
722 before the Board unless the Board in its sole  
723 discretion agrees to hear additional evidence  
724 for good cause shown.

725

726 (2) Parties to appeals and hearings before the  
727 Board where no facts are in dispute may make  
728 oral arguments to the Board.

729

730 (3) Parties to proceedings before a hearing  
731 examiner and to evidentiary hearings before the  
732 Board may make oral argument to the hearing  
733 examiner or the Board. The presiding officer  
734 may permit oral arguments at such times during  
735 or after an evidentiary hearing, after the  
736 submission of written memoranda, or after a  
737 transcript becomes available as the presiding  
738 officer considers appropriate in a particular  
739 case.

740  
741 (4) The presiding officer may limit, in advance,  
742 the time allowed for oral argument by each  
743 party. Oral argument by each party before the  
744 Board shall not exceed 30 minutes, unless the  
745 presiding officer shall allow additional time  
746 for good cause shown.

747  
748 (5) The Board's attorney shall be notified and  
749 requested to be present when oral arguments are  
750 heard by the Board.

751  
752 o) Decision and Order

753  
754 Each decision and order of the Board shall be  
755 delivered in writing, unless it shall immediately  
756 follow the hearing, in which case it shall be

757 delivered orally and thereafter in writing, with  
758 copies to all parties. Each written decision and  
759 order shall be accompanied by written findings of  
760 fact, conclusions of law, and a specific description  
761 of the disposition of the case. Final action of the  
762 Board shall be taken publicly at a Board meeting  
763 following the hearing.

764

765 p) Ex Parte Communications

766

767 While a matter is on appeal to the Board or is under  
768 consideration by a hearing examiner:

769

770 (1) The hearing examiner shall not receive  
771 communications from, or communicate orally  
772 with, any party outside the presence of all  
773 other parties, nor communicate in writing  
774 without providing copies to all other parties  
775 and, when appropriate, providing an  
776 opportunity for response.

777

778 (2) Outside of the official appeal process a Board  
779 member may not: (a) discuss appeal matters  
780 with any party, or (b) receive or review any  
781 oral or written communications from any party  
782 regarding appeal matters.

783

784 (3) No information concerning a pending matter may  
785 be released by the Board, a Board member, a  
786 hearing examiner, or a member of the MCPS  
787 administration unless it is a matter of public  
788 record or unless it is released to a party and  
789 copies supplied simultaneously to all other  
790 parties.

791

792 q) Rehearings

793

794 (1) A party aggrieved by the decision and order  
795 rendered in the particular case may apply for  
796 rehearing within 30 **calendar** days after the  
797 date of the decision and order. An application  
798 for rehearing shall state with specificity the  
799 reasons therefore, and action on any  
800 application shall lie in the sole discretion  
801 of the Board.

802

803 (2) Unless otherwise ordered, neither the  
804 rehearing nor the application for a rehearing  
805 shall stay the enforcement of the order or  
806 excuse the persons affected by it for failure  
807 to comply with its terms.

808

809 (3) The Board, on rehearing, may consider facts not  
810 presented in the original hearing, including

811 facts arising after the date of the original  
812 hearing, and may by new order abrogate, change,  
813 or modify its original order.

814

815 r) Effect on Other Procedural Regulations

816

817 These rules of procedure supersede all other  
818 procedures which may have been adopted by the Board  
819 governing hearings by a hearing examiner and by the  
820 Board in contested matters appealed to the Board or  
821 as to which hearings by the Board have been  
822 requested on recommendations of the superintendent  
823 **of schools.**

824

825 **C. REVIEW AND REPORTING**

826

827 This policy will be reviewed in accordance with the Board  
828 policy review process.

829

830 **Related Sources:** Md. Code Ann., Education Sections 4-205, 6-  
831 202, 6-203, and 7-305; Maryland Rules, Rule 1-203.

832

833 **Policy History:** Adopted by Resolution No. 227-84, April 10, 1984;  
834 amended by Resolution No. 536-84, October 9, 1984; reformatted in  
835 accordance with Resolution No. 333-86, June 12, 1986, and Resolution  
836 No. 458-86, August 12, 1986, and accepted by Resolution No. 550-  
837 88, October 24, 1988; amended by Resolution No. 1050-91 December

838 10, 1991, amended by Resolution No. 18-13, January 8, 2013; amended  
839 by Resolution No. 315-14, June 30, 2014; technical amendments by  
840 Resolution No. 415-18, September 11, 2018; **amended** .