

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: April 8, 2008

TO: **BOARD OF EDUCATION**

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: **CONSIDERATION OF THE PROPOSED CHANGES TO BOARD OF EDUCATION POLICY 8340 – APPEAL BEFORE THE BOARD OF EDUCATION**

PRESENTERS:

RESOURCE PERSONS: P. Tyson Bennett, Esquire

RECOMMENDATION

That the Board of Education reviews and approves the proposed changes to policy 8340. This is the third reading of this policy.

Attachment I – Policy Analysis
Attachment II – Policy 8340

BOARD OF EDUCATION POLICY ANALYSIS

Revisions to Board of Education Hearing Policies

Policy 8339: Appeal Before Hearing Examiner

Policy 8340: Appeal Before the Board of Education

Statement of issues or questions to be addressed by the proposed policy

The Board of Education's Policy Review Committee continues its process of revising the Board's Internal policies. (8000 series)

The Committee, following advice of Board counsel, makes the following recommendations to its hearing policies:

Policy 8339: Appeal Before Hearing Examiner include: (1) Paragraph III - Substitute "Board" for "Hearing Examiner" to follow practice of the Board in sending the hearing notice; (2) Non-substantive edits.

Policy 8340: Appeal Before the Board of Education include: (1) Paragraph 2 - Deletion of reference to "informal" nature of hearing; (2) Paragraph 4 - Deletion of last sentence, to follow the practice of the school system providing and paying for the transcripts of Board hearings; (3) Paragraph 8 - Removal of "President" to follow current practice of the Board's attorney sending decisions of the Board to the parties and to provide more flexibility to the Board.

Note that, in addition to the above, the Policy Review Committee has recommended non-substantive changes for ease of reference.

Fiscal Impact on the school system

No fiscal impact is anticipated or contemplated by these revisions.

Relationship to other Board of Education Policies

These policies form the basis of the Board's procedures for hearings before the Board and are reference in Policy 5140 and Policy 5150.

Similar Policies adopted by other local school systems

ANNE ARUNDEL COUNTY BOARD OF EDUCATION

Policy 200.07, Investigations and Due Process

CECIL COUNTY BOARD OF EDUCATION

Policy BDEA, Procedures for Appeals to Board of Education from Decisions of County Superintendent

Policy BDEB, Procedures Governing Hearings in Matters of Suspension or Dismissal of Certificated Personnel

Policy BDEC, Procedures Governing Appeals to Board of Education in Extended
Suspension or Expulsion of Students

FREDERICK COUNTY BOARD OF EDUCATION
Policy 105, Appeal and Hearing Procedures

GARRETT COUNTY BOARD OF EDUCATION
Policy 110, Appeal to Board of Education
Policy 110.1, Hearing Procedure for Appeals Heard by Board of Education

HARFORD COUNTY BOARD OF EDUCATION
Policy 22-0018-000, Hearings Before the Board of Education of Harford County or
the Hearing Examiner

MONTGOMERY COUNTY BOARD OF EDUCATION
Policy BLB, Rules of Procedure in Appeals and Hearings

Legal Requirements, such as federal, state or local laws or regulations
Annotated Code of Maryland, Education Article, Sections 4-205 and 6-202

A draft of the proposed policies
See attached

Timeline
First Reader, February 26, 2008
Citizen Comment, March 11, 2008
Proposed Date of Approval, April 8, 2008

INTERNAL BOARD POLICIES: Operation

Appeal Before the Board of Education

1. Whenever a person exercises his/her right of appeal from any decision of the Superintendent [of Schools] to the Board of Education OF BALTIMORE COUNTY (BOARD), the following procedures will be employed:
 - a. When [the] AN appeal is made [by] AND A HEARING IS GRANTED BY THE BOARD TO an employee under the [grievance procedure, the tenure law, or the law governing the suspension or dismissal of teachers,] AUTHORITY OF SECTION 4-205 (C) OR SECTION 6-202 OF THE EDUCATION ARTICLE, OR IN AN APPEAL IN WHICH A PERSONNEL MATTER IS AT ISSUE, the party appealing shall be notified of his/her option of appearing in executive or regular session. [In any other appeal, regardless of origin, in which a personnel matter is at issue, the employee will have the option of appearing in executive or regular session.]
 - b. When the appeal is made by a student who has been suspended or expelled, the provisions and procedures of Policy 5560 shall apply and will supersede items 2 and 3 below.
 - c. All other appeals or hearings before the Board [of Education] shall be in public session.
2. The party shall be notified of the date, [the approximate] time, and place of [the] ANY hearing. He/she shall be informed that he/she may appear with or without counsel [and that the hearing will be informal]. He/she shall be invited to submit in writing [to the Superintendent of Schools] any particulars related to the case which he/she wishes the Board members to have an opportunity to study in advance. [It shall be the responsibility of the Superintendent of Schools to distribute such exhibits to the individual Board members.] It is inappropriate for a member of the Board to discuss the case [orally] with the aggrieved party or his/her representative prior to the hearing.
3. The Superintendent [of Schools] 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 [orally] with ANY MEMBER OF the Board prior to the hearing.

4. The Superintendent [of Schools] shall provide a stenographic or electronic record of [the proceedings of appeals as described in 1-a, above] any hearing. [In the event a further appeal is taken, the appealing party shall pay for the cost of the transcript.]
5. The Superintendent [of Schools] shall be represented at the hearing by designated staff members [and an Assistant County Attorney] FROM THE OFFICE OF LAW.
6. 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.
7. The Board shall deliberate on the facts and testimony presented at the hearing. The Board shall render a decision on the case in regular session.
8. The [President of the] Board [of Education, or his/her designee,] shall notify the [appealing party] PARTIES in writing of the decision of the Board.

[Also see policy and rule, "Suspension and Expulsion," Series 5000, Students.]

LEGAL REFERENCES: *ANNOTATED CODE OF MARYLAND*, EDUCATION ARTICLE § 4-205
ANNOTATED CODE OF MARYLAND, EDUCATION ARTICLE § 6-202
COMAR 13A.01.05.02
COMAR 13A.05.09.07

RELATED POLICIES: Board of Education Policy 8339

Policy Board of Education of Baltimore County
Adopted: 4/13/72
Revised: 8/19/82
Revised: 2/21/85
REVISED: _____