

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 34
Ways and Means

(Delegate Campbell)

Special Education - Student Placement - Hearing Rights

This bill grants any party to a due process hearing on the educational placement of a disabled student the right to require a prehearing conference to identify the specific issues to be addressed at the hearing and each party's response to the specific issues. The bill also requires an expedited hearing for appeals relating to a student disciplinary action if the student has been suspended, expelled, or placed in an alternative educational setting. The expedited hearings must occur from 2 to 20 calendar days from the request for a hearing.

Fiscal Summary

State Effect: The Office of Administrative Hearings could handle any additional prehearing conferences with existing resources.

Local Effect: Any additional costs resulting from prehearing conferences could be offset by potential lower costs for due process hearings. Accordingly, local school expenditures should not be significantly affected by participating in additional prehearing conferences.

Small Business Effect: None.

Analysis

Current Law: Under the federal Individuals with Disabilities Education Act (IDEA) and Section 8-413 of the Education Article (Annotated Code of Maryland), parents of children with disabilities are provided certain due process rights to assure that students with disabilities are provided with a free, appropriate public education under federal and

State laws. As part of these due process rights, in the event of a dispute between the local school system and the parents or guardians, a parent/guardian or the local school system may file for mediation or a due process hearing. The Office of Administrative Hearings (OAH) administers both the mediation and due process hearings. The administrative law judge may require the parties (parents/guardians and local school officials) to attend a prehearing conference prior to the due process hearing. Under current law, neither party can require a prehearing conference.

Due process hearings must be scheduled and a written decision by OAH must be issued within 45 calendar days from the request for the hearing. The administrative law judge may grant a specific extension of time not to exceed 60 calendar days. An expedited hearing schedule must be set if the disabled student is not enrolled and attending an educational program. In these cases, the hearing must be held within 20 calendar days from the request for the hearing and a written decision must be issued within 15 calendar days of the hearing. Within 180 calendar days of the issuance of the hearing decision, any party to the hearing may file an appeal to the federal District Court for Maryland or to the circuit court for the county in which the disabled student resides.

Background: Currently only 22% of the cases for which hearings are requested result in a hearing decision by OAH. Prior to conducting a hearing, 78% of the cases are settled. This is often the result of informal mediation. In fiscal 2001, 100 educational placement hearings were conducted by OAH. **Exhibit 1** shows the number of hearings by local school system. The requests for due process hearings are significantly higher than the actual number held. In Montgomery County, requests for mediation and due process hearings totaled 370 in fiscal 1999 and 285 in fiscal 2000. In Baltimore City, requests for mediation and due process hearings totaled 154 in fiscal 2000.

Exhibit 1
Administrative Hearings for Educational Placements for Disabled Students
FY 2001

Anne Arundel	4	Montgomery	29
Baltimore City	24	Prince George's	17
Baltimore	8	St. Mary's	1
Charles	1	Somerset	1
Frederick	4	Wicomico	2
Harford	2	Worcester	1
Howard	5	Other	1

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Association of Boards of Education, Maryland State Department of Education, Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2002
lsc/jr

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