

Background of the Commission on Special Education Access and Equity and HB1161

During the 2013 General Assembly, Legislation was passed establishing The Commission on Special Education Access and Equity (The Commission). The Commission was established through the enactment of House Bill 1161(Chapter 671) by the Maryland General Assembly and is in effect from June 1, 2013 until June 30, 2014. The text of House Bill 1161(Chapter 671) can be found in Appendix A, page ____.

The Commission is charged with studying:

- (1) the extent to which parents and guardians of students with disabilities are made aware of their rights under the Individuals with Disabilities Education Act (IDEA), State law and regulation relating to children with disabilities, and potential ways to improve the awareness of these rights;
- (2) disparities and potential methods for eliminating any disparities based on race, national origin, and limited English proficiency in:
 - (i) knowledge of and access to special education services;
 - (ii) rights under the IDEA;
 - (iii) access to and participation in Individualized Education Program (IEP) mediation and appeals;
 - (iv) access to and participation in Free and Reduced Meals.
- (3) effects of workload, caseload, and paperwork requirements related to the special education process on the ability of educators to provide a free and appropriate public education as guaranteed under federal law and potential methods for mitigating these factors;
- (4) concerns about equity between the parties in special education due process hearings and potential methods for improving the process;
- (5) the State and local costs of all proposals considered or recommended by The Commission; and
- (6) any other issues related to access and equity in the provision of special education services under federal and State law identified by The Commission.

The Commission is required to report its findings on or before June 30, 2014 to the Governor, the Senate Education, Health, and Environmental Affairs Committee, and the House Ways and Means Committee.

As required by the legislation, 24 Commissioners were appointed. Governor O'Malley appointed 15 members, including one general educator who teaches inclusion classes, one representative of the Maryland Association of Boards of Education, one administrative law judge with experience in special education, one representative of the Maryland Disabilities Law Center, one representative who is a parent of a student with severe and profound disabilities who

has an IEP, one representative who is a parent of a student with a mild to moderate disability and who has an IEP, the Maryland Parent Teacher Association, the Maryland Department of Disabilities, the Public School Superintendents' Association of Maryland, one representative who is a parent of a student with an emotional disability who has an IEP, one parent of a student with autism spectrum disorder who has an IEP, one representative of a nonpublic special education school, one representative of the Maryland Speech-Language Hearing Association, two representatives from the Education Advocacy Coalition, and two representatives who are public school employees who work with and are familiar with the IEP process

Two members each were appointed by the President of the Senate, and the Speaker of the House, and one each by the Maryland School Psychologist's Association and the Maryland State Education Association. The State Superintendent of Schools or the State Superintendent's designee is also a Commissioner.

Marcella Franczkowski, Assistant State Superintendent of Schools, Division of Special Education/Early Intervention Services, was designated by the State School Superintendent as her designee. Subsequently, the Governor designated Ms. Franczkowski as the Chair of the Commission. Donna Riley, Branch Chief at MSDE is staff to The Commission.

The Commissioners names and their attendance at meetings are illustrated in the chart below.

Commission Attendance						
Members	Commission Meeting Dates					
	9/30/13	11/25/13	1/16/14	3/18/14	4/16/14	6/13/14
B. Gigi Ayeh- Robertson	✓	✓	✓	✓	✓	
Carol Beck	✓	✓	✓		✓	
Marie Cordi Brayman	✓	✓	✓	✓	✓	
Ellen A. Callegary	✓	✓	✓	✓		
Harold Joseph Cyr, Jr	✓	✓	✓			
Tomi Fabri	✓	✓	✓	✓	✓	
George Failla, Jr.	✓	✓	✓	✓		
Dorie Flynn		✓	✓	✓	✓	
Marcella E. Franczkowski	✓	✓	✓	✓	✓	
Sandra H. French	✓	✓	✓	✓	✓	
Chabre V. Hall	✓	✓	✓	✓	✓	
Kalman Hettleman		✓	✓	✓	✓	
TaKeshia Latrice Lee						
Stephanie E. Livesay	✓	✓		✓	✓	
Delegate Eric G. Luedtke	✓		✓	✓	✓	
Gwendolyn J. Mason	✓	✓	✓		✓	
Senator Karen S. Montgomery	✓	✓	✓	✓	✓	
Theresa Parham	✓	✓	✓	✓	✓	
Senator Paul J. Pinsky	✓	✓	✓	✓	✓	

Commission Attendance						
Members	Commission Meeting Dates					
	9/30/13	11/25/13	1/16/14	3/18/14	4/16/14	6/13/14
Leslie Seid-Margolis	✓	✓	✓	✓	✓	
Denise O. Shaffer	✓	✓	✓	✓	✓	
Angela Vaughn-Lee		✓				
Delegate Alonzo T. Washington	✓	✓		✓		
Janet Wilson	✓	✓	✓	✓	✓	
Staff						
Rosemary King-Johnston	✓	✓	✓	✓	✓	
Sherea Makle	✓	✓	✓		✓	
Donna R. Riley	✓	✓	✓	✓	✓	
Elizabeth Kameen	✓					
Elliott Schoen				✓	✓	

Commission Actions

The Chair of the Commission scheduled six meetings to conduct the work of the Commission. The meeting dates and locations are:

- September 30, 2013 at The Center for Technology in Education, Columbia, Maryland
- November 25, 2013 at The Center for Technology in Education, Columbia, Maryland
- January 16, 2014 at the Miller Senate Office Building, Annapolis, Maryland
- March 18, 2014 at the Lowe House Office Building, Annapolis, Maryland
- April 16, 2014 at The Center for Technology in Education, Columbia, Maryland
- June 13, 2014 at the Center for Technology in Education, Columbia, Maryland.

For efficient use of the Commissions time, the topics for discussion were grouped into six (6) areas:

1. The extent to which parents and guardians of children with disabilities are made aware of their rights under the IDEA, State law, and regulations, relating to children with disabilities and potential ways to improve awareness of these rights;
2. Disparities and potential methods for eliminating disparities based on race, national origin, and limited English proficiency in:
 - knowledge of and access to special education services
 - rights under the IDEA
 - access to and participation in IEP mediation and appeals
 - access to and participation in Free and Reduced Meals (FARMS);
3. Concerns about equity between parties in special education due process hearings and potential methods for improving the process;

4. The effects of workload, caseload, and paperwork requirements related to the special education process on the ability of educators to provide a free and appropriate public education and potential methods for mitigating these factors;
5. Any other related issues identified by the Commission; and
6. State and local costs of all proposals considered or recommended by the Commission.

Although each topic was initially assigned to a specific meeting date, some topics required more discussion time than others. The topics were discussed in the order listed above. Commissioners were provided with many resources, data, and handouts. There is a significant volume of materials and we have not included them in this report, however, materials from each of the meetings are available at [INSERT MSDE WEBSITE INFO](#)

In the interest of providing opportunities for the public to express opinions and provide information, each meeting agenda includes time that is set aside for public comment. Additionally, the meeting notices that are posted in the Maryland Register and on the MSDE website include the meeting date, time, location, and the procedure for individuals or organizations seeking to address the Commission. The notices for each meeting can be found in Appendices B through G.

MEETING 1: September 30, 2013

The topic for discussion at this meeting was *Procedural Safeguards: The extent to which parents and guardians of children with disabilities are made aware of their rights under the IDEA, State law and regulations, relating to children with disabilities and potential ways to improve awareness of these rights.*

To provide information to the Commissioners, a group of individuals with experience in special education was empanelled. The panel included a parent of a student with a disability who has an IEP, a Parent Coordinator, a local Director of Special Education, an Assistant Principal who chairs IEP meetings at her school, and, from MSDE, the Section Chief for Complaint Investigations and the Section Chief for Family Support Services. The panelists shared their experiences with the special education process, resources available to assist with navigating and influencing the process, and suggestions for improving the process. A robust discussion was generated between the panelists and the Commissioners.

Two recommendations were suggested by the Commission:

1. The Local School System meets with the parent and determines that parent's preferred mode of communication/sharing of procedural safeguards. Make accessible all of these modes of communication.
2. The MSDE should mandate professional development in procedural safeguards at the local level.

It was agreed that MSDE would rewrite these recommendations to include feedback provided by the Commissioners and the recommendations would be discussed and voted on at the November meeting.

Although the panel was helpful to the Commissioners, it was also time consuming. The Commissioners requested that information be provided by email prior to each meeting to allow time to review information. MSDE staff agreed that information for each meeting would be provided a week prior to the meeting.

The meeting notice, agenda, and minutes for this meeting can be found in Appendix B.

Public Comment

No public comments were made.

MEETING 2: November 25, 2013

There were two topics for discussion on the agenda for this meeting:

Topic I. A continuation of the discussion of *Procedural Safeguards: The extent to which parents and guardians of children with disabilities are made aware of their rights under the IDEA, State law and regulations, relating to children with disabilities and potential ways to improve awareness of these rights*, with a focus on recommendations to improve awareness of these rights; and

Topic II. *Disparities based upon race, national origin, and Limited English Proficiency (LEP) in the following areas:*

- *knowledge of and access to special education services*
- *rights under the Individuals with Disabilities Education Act (IDEA)*
- *access to and participation in Individualized Education Program (IEP) mediation and appeals*
- *access to and participation in free and reduced price meals, and*
- *potential methods for eliminating any disparities based on race, national origin, and LEP.*

Prior to this meeting, the Commissioners were provided a summary of the recommendations to improve parents' awareness of their rights under the IDEA that were proposed at the September meeting. Each Commissioner was also provided a printed packet of meeting information including the proposed recommendations.

The following recommendations were discussed, amended (in italics), subsequently voted on, and adopted as amended. For details of the voting, please reference the Minutes of the Commission on Special Education Access and Equity, Monday, November 25, 2013, located in Appendix C of this report.

Recommendation:

Local School Systems (LSS) will *at least annually and at parents' request*, utilize a variety of methods to share procedural safeguards with families/parents/guardians/and students,(as appropriate), including:

- *meeting individually with families/parents/guardians/and students, as appropriate, to identify and utilize their preferred method(s) of receiving/communicating/sharing information about procedural safeguards;*
- *utilizing a video presentation of procedural safeguards;*
- *convening 1 to 1 meetings/presentations to share procedural safeguards;*
- *providing summaries of the procedural safeguards document;*

- providing a reference sheet of procedural safeguards (Cheat Sheet); and
- sharing the procedural safeguards specific to the topic of the IEP team meeting.

This recommendation was voted on and adopted as amended by the Commission.

Recommendation:

Local School Systems (LSS) *shall*:

- ensure that professional development for school system personnel includes/infuses a recognition of the differentiation needed when providing training to personnel for sharing procedural safeguards and the variety of communication methods that can be utilized to meet the individual needs of families/parents/guardians, and students,(as appropriate);
- adopt practices that will ensure the ability of school system personnel to accurately explain the procedural safeguards; and
- provide professional development opportunities jointly to school system personnel and families/parents/guardians, and students, (as appropriate).

This recommendation was voted on and adopted as amended by the Commission.

Recommendation:

The Maryland State Department of Education (MSDE) and Local School Systems (LSS) will mandate the delivery of professional development opportunities for school based personnel, IEP team members, and school based and central office administrators that is designed to ensure the understanding, implementation, and explanation of the procedural safeguards using a variety of presentation methods. (amended to remove *at least annually*. at the end of this sentence)

This recommendation was voted on and adopted as amended by the Commission.

Following the consideration of the above recommendations, the Chair initiated the discussion of Topic II, as written above. As requested by the Commissioners, the Chair provided demographic data relating to disparities for students with disabilities, including Race/Ethnicity, identification of English Language Learners and students eligible for and receiving free and reduced price meals (FARMS), and complaint and dispute resolution. To assist in responding to any questions regarding these data, the Chair invited experts in these areas to attend the Commission meeting as resource to the Commissioners. There was robust discussion of the data and related policies, procedures, and results. The Commissioners requested additional data and moved to continue discussion of this topic at the next meeting.

The meeting notice, agenda, and minutes for this meeting can be found in Appendix C.

Public Comment

Kellie Meissner, Chair, Special Education State Advisory Committee provided oral and written comments. The written comments submitted by this individual can be found in Appendix H.

MEETING 3: January 16, 2014

The January 16 meeting agenda was designed to address recommendations for Topics I and II as well as the beginning of the discussion of Topic III: *Concerns about equity between the parties in special education due process hearings and potential methods for improving the process.*

The Commission asked to reconsider a recommendation for Topic I: Procedural Safeguards that was adopted at the November meeting. For the sake of clarity, there was a request to rework the wording. Since the rewording did not constitute a substantive change to the recommendation, the Commissioners directed Commission staff to reword the recommendation for review and final adoption at the March meeting.

During a discussion on eliminating disparities, the Commissioners requested that a recommendation be developed regarding the training of administrative law judges (ALJs). The proposed recommendation follows.

Recommendation:

At least once a year, the Administrative Law Judges will be trained by trainers selected by MSDE from lists provided by parent and advocacy groups. In the event that the trainers are parents of children with disabilities or attorneys who represent children with disabilities, those trainers will be attorneys who do not practice law in Maryland and/or parents who do not reside in Maryland and whose children do not attend Maryland public schools.

This recommendation was voted on and unanimously adopted by the Commission.

Given the time involved in the discussion of these serious issues and the development of recommendations, the Commissioners acknowledged the need to prioritize its focus in regards to identifying and eliminating disparities in access to the special education process. Accordingly, the Commission recommended the development of a small workgroup of the Commission to meet prior to the next meeting, review the data, suggest a priority for Topic II, draft proposed recommendations, and provide to the Commission for their consideration prior to the March meeting. Eight members volunteered to participate in the workgroup. For specific members names, refer to the minutes of the meeting in Appendix D. Recommendation:

At least once a year, the Administrative Law Judges will be trained by trainers selected by MSDE from lists provided by parent and advocacy groups. In the event that the trainers are parents of children with disabilities or attorneys who represent children with disabilities, those trainers will be attorneys who do not practice law in Maryland and/or parents who do not reside in Maryland and whose children do not attend Maryland public schools.

This recommendation was voted on and unanimously adopted by the Commission.

Recommendation:

At least once a year, the Administrative Law Judges will be trained by trainers selected by MSDE from lists provided by parent and advocacy groups. In the event that the trainers are parents of children with disabilities or attorneys who represent children with disabilities, those trainers will be attorneys who do not practice law in Maryland and/or parents who do not reside in Maryland and whose children do not attend Maryland public schools.

This recommendation was voted on and unanimously adopted by the Commission.

Following the above discussion and action, the Chair introduced the discussion of Topic III: *Concerns about equity between the parties in special education due process hearings and potential methods for improving the process.* MSDE staff presented data on due process hearings and the outcome of mediation requests when local school systems decline to mediate and elect to proceed with due process. A facilitated discussion followed. In deference to the time restraints of the meeting and the magnitude of the issue, the Commission determined to continue the discussion of Topic III at the March meeting.

The meeting notice, agenda, and minutes for this meeting can be found in Appendix D.

Public Comment

There was no public comment.

MEETING 4: March 18, 2014

The agenda for the March 18 meeting of the Commission was designed to provide the Commissioners with the opportunity to discuss and take action on proposed recommendations for Topic I. *Procedural Safeguards: The extent to which parents and guardians of children with disabilities are made aware of their rights under the IDEA, State law and regulations, relating to children with disabilities and potential ways to improve awareness of these rights, with a focus on recommendations to improve awareness of these rights; and*

Topic II. *Disparities based upon race, national origin, and Limited English Proficiency (LEP) in the following areas:*

- *knowledge of and access to special education services*
- *rights under the Individuals with Disabilities Education Act (IDEA)*
- *access to and participation in Individualized Education Program (IEP) mediation and appeals*
- *access to and participation in free and reduced price meals, and*
- *potential methods for eliminating any disparities based on race, national origin, and LEP.*

Additionally, a continued discussion of Topic III: *Concerns about equity between the parties in special education due process hearings and potential methods for improving the process.*

As requested at the previous meeting, a revision of the previously adopted recommendation was provided for the Commission's discussion and review. It reads:

1. *Local School Systems (LSS) will utilize a variety of methods to share procedural safeguards with families/parents/guardians and students, as appropriate. Procedural safeguards will be provided AT LEAST ANNUALLY AND AT THE PARENTS' REQUEST.*

The methods used to share the procedural safeguards may include and are not limited to:

- meeting individually with families/parents/guardians/and students, as appropriate, to identify and utilize their preferred method(s) of receiving/communicating/sharing information about procedural safeguards;
- utilizing a video presentation of procedural safeguards;
- convening 1 to 1 meetings/presentations to share procedural safeguards;
- providing summaries of the procedural safeguards document;
- providing a reference sheet of procedural safeguards (Cheat Sheet); and
- sharing the procedural safeguards specific to the topic of the IEP team meeting.

The recommendation was unanimously adopted as revised.

The small workgroup of the Commission that was approved at the last meeting worked together and, as requested by the Commission, developed a recommendation for review by the full Commission.

The proposed recommendation reads as:

“The Commission recommends that MSDE convene a workgroup comprised of general and special educators, parents, advocates, and experts knowledgeable about racial, ethnic, gender, economic, and disability disproportionality as they affect students with disabilities with respect to the following issues:

- a) Discipline
- b) Achievement
- c) Graduation, including attendance, truancy, and dropout rates
- d) Identification of disability
- e) Placement into special education, including type of special education program
- f) Access to advanced placement and other high-level courses
- g) Other relevant aspects of education.

The workgroup shall review and analyze available data and using that data, shall identify both short-time and longer term priorities to address any identified disparities for students in Maryland, and shall propose recommendations to MSDE to resolve the disparities. The workgroup shall be convened no later than July 1, 2014 and the work shall be completed and the report drafted by December 31, 1024. A copy of the workgroup’s report of priorities and recommendations to MSDE shall be provided to the Maryland General Assembly when the legislature convenes in January 2015.”

A robust discussion was facilitated by the Chair and a number of friendly amendments were suggested. Proposed amendments to the recommendations will be written into the proposed recommendation and placed on the agenda for discussion and adoption.

The Chair shared information and guided the Commissioners through the data provided prior to the meeting to help inform the discussion of Topic III: *Concerns about equity between the parties in special education due process hearings and potential methods for improving the process*. A detailed discussion of this topic yielded comments, insights, and inquiries by the Commissioners. Recent trends regarding mediation, resolution, and due process were discussed as well as the three and four year data for due process and State complaints that is collected, maintained, reported, by MSDE, was provided to the Commissioners, and is available as a resource on the MSDE/DSE/EIS website. For a detailed list of discussion questions and comments, please refer to the minutes of this meeting, located in Appendix E. Due to the

importance of this discussion and the time limits of the meeting, the Chair received agreement from the Commission to move to recommendations at the next meeting.

The legislative members were invited to and provided comments and feedback on the discussion, including additional topics that should be discussed at the next meeting, time allowing. These included professional development, teacher recruitment and retention, teacher preparation, teacher vacancies and shortages, caseload, workload, and paperwork, resources, and increasing per pupil funding.

The meeting notice, agenda, and minutes for this meeting can be found in Appendix E.

Public Comment

Public comment was provided by five individuals:

Julie Reiley, Parent of a student with a disability and co-chair of the Montgomery County SEAC

Barbara Krupiarz, Parent of a student with a disability

Susan D. Carle, Parent of student with a disability

Michael McLaughlin, Parent of a student with a disability, former appointed member of the Maryland Developmental Disabilities Council

Karen Smith

The written comments submitted by these individuals and other written comments sent to Marcella E. Franczkowski, Chair, can be found in Appendix H of this report.

MEETING 5: April 16, 2014

The agenda for the April meeting was designed to elicit recommendations and discussion for Topic III: *Concerns about equity between the parties in special education due process hearings and potential methods for improving the process.* There was a facilitated discussion of proposed recommendations that were submitted by Commissioners in one of two ways: electronically prior to the meeting and provided to Commissioners via email and in hard copy as part of the meeting information packet or provided in paper copy at the beginning of the meeting.

The proposed recommendations for Topic III read as follows:

1. "That the state establish a system of publicly funded special education advocates for low income parents who otherwise could not be able to afford representation at mediation and due process hearings."
2. "That the state consider setting statutory or regulatory caps on the caseload of special educators, school psychologists, and pupil personnel workers."
3. "That the state, in re-evaluating the Thornton funding formulas, consider substantially increasing state special education funding in recognition of the increasing costs of providing special education services in schools."
4. "That the state establish under the Attorney General's Office or another appropriately independent body an Office of the Special Education Ombudsman who could independently evaluate complaints regarding special education services."
5. "Trust is basic to all good relationships. As Maryland is a leader in education, our insistence on improving the school system's response to parents can be another positive step forward for Maryland. The number one predictor of student success is a positive relationship between school and community. This Commission calls for a greater emphasis on the role of parents as a valued and integral part of the IEP team. In our shared efforts to improve education for all students, school systems must view parents as an equal member (partner)."
6. "Proposed Maryland Parental Consent Regulation: COMAR 13A.05.01.13?
 - A. Parental consent.
 1. Required parental consent. Informed parental consent is required before:
 - a. An initial eligibility determination or any changes in categorical identification;
 - b. Any revision to the child's IEP services or placement;
 - c. Any partial or complete termination of special education and related services, except for graduation with a standard or advance studies diploma;
 - d. Inclusion of any provision involving seclusion or restraint in a child's IEP.
 2. The Maryland State Department of Education provides for an impartial special education due process hearing system to resolve disputes between parents and local educational agencies with respect to any matter relating to the:
 1. Identification of a child with a disability;
 2. Evaluation of a child with a disability (including disagreements regarding payment for an independent educational evaluation);
 3. Educational placement and services of the child; and
 4. Provision of a free appropriate public education to the child."

The Commissioners discussed in detail the first recommendation, asked questions, and expressed their opinions and concerns about the content and fiscal impact of the recommendation and the interrelatedness of this recommendation with those previously adopted by the Commissioners for Topics I and II. As the discussion had continued well past its allotted time, the Chair requested and received agreement to move further deliberation of recommendations for Topic III to the end of the meeting.

The Commission is fortunate to have diverse representation, including a number of front line administrators, therapists, and service delivery personnel. For the discussion of Topic IV: *Effects of workload, caseload, and paperwork requirements related to the special education process on the ability of educators to provide a free appropriate public education (FAPE) and potential methods for mitigating these factors* a panel of Commissioners was formed to address the issues concerning workload, caseload, and paperwork and its impact on the constituencies they represent on the Commission. The panel included the Superintendent of a Local School System representing the Public School Superintendents' Association, a Director of Special Education, representing public school administrators and employees, a special educator representing public school employees, a speech and language therapist, representing the Maryland Speech-Language Hearing Association, a school psychologist, representing the Maryland Association of School Psychologists, a special educator, representing the Maryland State Educators Association, and a general educator who teaches inclusion classes, representing general educators. The panelists presented their views, concerns, and possible remedies to address their concerns.

A robust discussion followed and a number of ideas and suggestions for improvements in the process and the work of the Commission were expressed including:

- the need for clerical support for administrative tasks associated with caseload responsibilities
- the development of substitute pools for related service providers to assist in delivering services on a student's IEP missed due to a provider's absence
- the need for additional professional development opportunities and teacher preparation to prepare general educators (who provide approximately 80% of IEP services in an inclusive setting) for educating students with disabilities
- the need for effective school-based case management as a critical factor for engaging families in their child's education
- the need for extensive and ongoing professional development to support the imbedding of Universal Design for Learning (UDL) principles and practices in instruction and assessment for all students
- the need for additional planning time to accommodate the paperwork, case management, and co-planning with other educators that is required for compliance with special education laws and regulation
- the authority of MSDE and the local school systems (LSSs) is clearly defined in COMAR, therefore issues that are clearly within the scope of the LSSs and outside that of the MSDE, may not be appropriate considerations for this Commission
- the legislative requirement that a fiscal note/cost estimate be provided for any recommendation considered by or adopted by the Commission may have a negative impact on its consideration by the General Assembly.

There was no time to return to the consideration of the recommendation for Topic III or propose recommendations for Topic IV. The Chair suggested and the Commission agreed to schedule the next meeting to 12:00 to 3:30 p.m. to allow for additional time for proposal and deliberation of recommendations. The Chair stated that, within the next few business days, the Commissioners would be sent an electronic copy of the draft minutes of today's meeting. The Commissioners requested that the NSDE conduct an electronic request for input on the recommendation shared at this meeting. The input would then be shared with the Commissioners prior to the next meeting. It is also the Chair's intent to provide to the Commissioners a first draft of the Commission report prior to the June meeting.

The meeting notice, agenda, and minutes for this meeting can be found in Appendix F.

Public Comment

Public comment was provided by two individuals:

Jeanne Taylor, Parent of three students with disabilities and MCCPTA Special Education Committee Chair

Wayne Steedman, Attorney and Advocate

Written comments, if provided, can be found in Appendix H.

MEETING 6: June 13, 2014

Summary of Proposed Recommendations and Cost Estimates

Recommendation:

Local School Systems (LSS) will utilize a variety of methods to share procedural safeguards with families/parents/guardians/and students, (as appropriate). Procedural safeguards will be provided at least annually and at the parents' request

The methods used to share the procedural safeguards may include and are not limited to:

- meeting individually with families/parents/guardians/and students, as appropriate, to identify and utilize their preferred method(s) of receiving/communicating/sharing information about procedural safeguards;
- utilizing a video presentation of procedural safeguards;
- convening 1 to 1 meetings/presentations to share procedural safeguards;
- providing summaries of the procedural safeguards document;
- providing a reference sheet of procedural safeguards (Cheat Sheet); and
- sharing the procedural safeguards specific to the topic of the IEP team meeting.

This recommendation was voted on and adopted as amended above by the Commission.

Fiscal Estimate and Impact

There is no cost or fiscal impact for the State. It is expected that any cost will be at the local school system (LSS) and public agency (PA) level. Each time procedural safeguards documents are provided by the LAA/PA to families/parents/guardians/and students, (as appropriate), there is a cost for paper and printing. If the request involves mailing, there would be an additional cost for the document itself, envelopes for mailing, and the cost of postage. An estimate of cost to the LSS or PA would be approximately \$1.83 to print one (1) procedural safeguards document. This cost would be multiplied by the actual number of requested documents to determine the actual cost.

Recommendation:

Local School Systems (LSS) *shall*:

- ensure that professional development for school system personnel includes/infuses a recognition of the differentiation needed when providing training to personnel for sharing procedural safeguards and the variety of communication methods that can be

utilized to meet the individual needs of families/parents/guardians, and students,(as appropriate);

- adopt practices that will ensure the ability of school system personnel to accurately explain the procedural safeguards; and
- provide professional development opportunities jointly to school system personnel and Families/parents/guardians, and students, (as appropriate).

This recommendation was voted on and adopted as amended by the Commission.

Fiscal Estimate and Impact

There will be no fiscal impact for the Local School Systems (LSSs). The provisions of this recommendation could be achieved using existing resources and existing channels of communication.

Recommendation:

The Maryland State Department of Education (MSDE) and Local School Systems (LSS) will mandate the delivery of professional development opportunities for school based personnel, IEP team members, and school based and central office administrators that is designed to ensure the understanding, implementation, and explanation of the procedural safeguards using a variety of presentation methods. (amended to remove *at least annually*. at the end of this sentence)

This recommendation was voted on and adopted as amended by the Commission.

Fiscal Estimate and Impact

There will be no fiscal impact for the State. The provision of this recommendation could be achieved, using existing resources, through the issuance of guidance from the State, using normal communication channels, and the incorporation of this guidance in technical assistance bulletins and visits, State and local staff communications and interaction, and regularly State sponsored conferences and forums.

Recommendation:

At least once a year, the Administrative Law Judges will be trained by trainers selected by MSDE from lists provided by parent and advocacy groups. In the event that the trainers are parents of children with disabilities or attorneys who represent children with disabilities, those trainers will be attorneys who do not practice law in Maryland and/or parents who do not reside in Maryland and whose children do not attend Maryland public schools.

This recommendation was voted on and unanimously adopted by the Commission.

Fiscal Estimate and Impact

If this training is provided as an addition to existing trainings, there would be a cost to MSDE.

If provided in place of the existing similar training requirement, there would be no additional cost to the MSDE. This training will be required at least once, on an annual basis.

MSDE currently provides annual training to the ALJs. The current training is provided for a total of three days. One (1) day of training is provided to the ALJs and a second and third day of training are provided for MSDE and LSS special education staff, nonpublic school staff, parents of children with disabilities, attorneys who represent children with disabilities, and special education advocates.

Based on current expenditures for this training, one (1) day of training is estimated to cost \$9,160; two (2) days at \$18,320; and three (3) days at \$27,480.

At the LSS level, there may be the cost of hiring substitute personnel to allow for employees to attend the training. The average cost per day for a degreed substitute teacher is between \$89 and \$100 per day. The cost can range higher or lower based on the teacher's individual credentials and each local school system's pay scale. The cost to the LSS would be the number of substitute teachers needed times the daily substitute rate.

Recommendation:

The Commission recommends that MSDE convene a workgroup comprised of general and special educators, parents, advocates, and experts knowledgeable about racial, ethnic, gender, economic, and disability disproportionality as they affect students with disabilities with respect to the following issues:

- a) Discipline
- b) Achievement
- c) Graduation, including attendance, truancy, and dropout rates
- d) Identification of disability
- e) Placement into special education, including type of special education program
- f) Access to advanced placement and other high-level courses
- g) Other relevant aspects of education
- h) *Socio-economic factors/status*
- i) *Student mobility rate*
- j) *Overrepresentation and underrepresentation as part of the identification, placement, and access.*

The workgroup shall review and analyze available data and using that data, shall identify both short-time and longer term priorities to address any identified disparities for students in Maryland, and shall propose recommendations to MSDE to resolve the disparities. The workgroup shall be convened no later than July 1, 2014 and the work shall be completed and the report drafted by December 31, 1024. A copy of the workgroup's report of priorities and

recommendations to MSDE shall be provided to the Maryland General Assembly when the legislature convenes in January 2015.

There will be a fiscal impact on the State. Assuming the workgroup will meet at the MSDE and consist of 14 outside members plus a MSDE member to conduct and coordinate the meetings, the additional costs would include: 1) Travel cost reimbursement for outside members, at the 60 miles per day for eight meeting days, for 14 members at a rate of \$0.565 per miles (\$3,796.00), 2) The cost for parking reimbursement for 8 days at \$10 per day will total \$1,120.00, 3) and additional supplies are estimated at \$400 and the cost of printing the report (including the report to the General Assembly) to be \$600. The total additional cost for the MSDE is estimated to be \$5,916.80. There should be no fiscal impact to the LSSs and local government.

Recommendation:

That the state establish a system of publicly funded special education advocates for low income parents who otherwise could not be able to afford representation at mediation and due process hearings.

Fiscal Estimate and Impact

There will be a fiscal cost and impact to the State. A system of special education attorneys, one for each of the 24 Maryland jurisdictions, would be needed. The annual salary for one (1) attorney is estimated to be \$113,550. At least one (1) paralegal specialist at an annual cost of \$46,990 and one (1) administrative specialist at an annual cost of \$35,330 would be needed to assist each of these attorneys. The total annual cost to the State is estimated to be \$198,850 per county or \$4,700,400 for the State in total.

It is reasonable to assume that the cost of attorney and support staffing would vary by jurisdiction based on the need for their services. Without collecting additional data specific to each jurisdiction and the time and staff with which to do that, this is the best estimate we are able to provide.

Recommendation:

That the state consider setting statutory or regulatory caps on the caseload of special educators, school psychologists, and pupil personnel workers.

Fiscal Estimate and Impact

There is no fiscal impact for the State. It is expected that this requirement can be met using existing staff and resources.

However, the proposal would have an impact on LSSs and local governments. If caseloads are limited, LSSs would need additional personnel to case manage the same number of students with disabilities. Each jurisdiction could best determine how they would be impacted in terms of additional personnel if caseloads are capped. The average annual cost of a teacher in Maryland is

estimated to be \$65,306 for salary with benefits being calculated at approximately \$16,326 (based on 25% of salary), for a total cost of \$81,632 per teacher.

It is reasonable to assume that that the teachers' salary and benefits would vary by jurisdiction based on the LSSs pay scale. Without collecting additional data specific to each jurisdiction and the time and staff with which to do that, this is the best estimate we are able to provide.

Recommendation:

That the state, in re-evaluating the Thornton funding formulas, consider substantially increasing state special education funding in recognition of the increasing costs of providing special education services in schools.

Fiscal Estimate and Impact

There will be no fiscal impact on the State or LSSs and local government to re-evaluate the Thornton funding formula. A re-evaluation can be undertaken using existing staff resources in the budget office of MSDE and the legislative analysts at the Department of Budget and Management (DBM). If the Per Pupil Foundation Amount were to be raised for special education, it should be noted that could also raise the level of funding for the Maryland School for the Blind (MSB) through their MSB Minimum Funding Formula.

Should the process extend beyond a re-evaluation of the formula to the actual redistribution of the existing Thornton funding, there would be an impact to LSSs and local government, depending upon the specific changes to the funding formulas.

Recommendation:

That the state establish under the Attorney General's Office or another appropriately independent body an Office of the Special Education Ombudsman who could independently evaluate complaints regarding special education services.

Fiscal Estimate and Impact

There will be a fiscal impact on the State because the recommendation calls for the creation of an "Office of the Special Education Ombudsman" within the Office of the State's Attorney General (OAG). In order to create and maintain such an office within the State, it is estimated that the average annual salary for an attorney specializing in special education law would be approximately \$113,530. A minimum staff to assist the attorney would be one (1) paralegal specialist at an average annual salary of \$46,990 and one (1) administrative specialist at an average annual salary of \$35,330. The total annual cost is estimated to be approximately \$195,850.

The estimated cost would be less if the ombudsman were a professional other than an attorney, perhaps a paralegal with experience in special education law or a special education teacher conversant with State and federal law and regulation.

There should be no fiscal impact on LSSs and local government.

Recommendation:

Trust is basic to all good relationships. As Maryland is a leader in education, our insistence on improving the school system's response to parents can be another positive step forward for Maryland. The number one predictor of student success is a positive relationship between school and community. This Commission calls for a greater emphasis on the role of parents as a valued and integral part of the IEP team. In our shared efforts to improve education for all students, school systems must view parents as an equal member (partner).

Fiscal Estimate and Impact

There will be no fiscal impact for the State, LSS, or local government. The provisions of this recommendation could be achieved, using existing resources, through the issuance of guidance from the State, using already established methods and channels, and the incorporation of this guidance in technical assistance bulletins and visits, State and local staff communications and interactions, and regularly scheduled State sponsored conferences and forums.

Recommendation:

Proposed Maryland Parental Consent Regulation: COMAR 13A.05.01.13?

B. Parental consent.

3. Required parental consent. Informed parental consent is required before:
 - a. An initial eligibility determination or any changes in categorical identification;
 - b. Any revision to the child's IEP services or placement;
 - c. Any partial or complete termination of special education and related services, except for graduation with a standard or advance studies diploma;
 - d. Inclusion of any provision involving seclusion or restraint in a child's IEP.
4. The Maryland State Department of Education provides for an impartial special education due process hearing system to resolve disputes between parents and local educational agencies with respect to any matter relating to the:
 5. Identification of a child with a disability;
 6. Evaluation of a child with a disability (including disagreements regarding payment for an independent educational evaluation);
 7. Educational placement and services of the child; and
 8. Provision of a free appropriate public education to the child.”

Fiscal Estimate and Impact

There will be no fiscal impact for the State, LSS, or local government. The provisions of this recommendation could be achieved using existing legislative channels and resources. The implementation of the regulations could be achieved through the issuance of guidance, technical assistance bulletins and visits, State and local communications and interactions, and regularly scheduled State sponsored conferences and forums.

Recommendation:

The State should develop policies and technical assistance and monitor for standards-based results driven accountability. Such results driven accountability will raise the standards for the amount of progress that students are expected to achieve and the services that are reasonably calculated to enable them to achieve progress.

Fiscal Estimate and Impact:

There will be no fiscal impact for the State. The provision of this recommendation could be achieved, using existing resources, through the implementation of the Division of Special Education/Early Intervention Services Strategic Plan, issuance of guidance from the State, using normal communication channels, and the incorporation of this guidance in technical assistance bulletins and visits, State and local staff communications and interaction, and regularly State sponsored conferences and forums.

Appendix A. HB1161, Chapter 671

Appendix B. September Meeting

Appendix C. November Meeting

Appendix D. January Meeting

Appendix E. March Meeting

Appendix F. April Meeting

Appendix G. June Meeting

Appendix H. Public Comment