



# The Commonwealth of Massachusetts Bureau of Special Education Appeals

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## MEMO

To: Interested Parties  
From: Jackie Belf-Becker, Esq.,  
Director, Bureau of Special Education Appeals  
Date: December 18, 2003  
Subject: Special Education Appeals – FY03 2003 Data Summary

The Bureau of Special Education Appeal (BSEA), physically located within the Department of Education, is responsible for conducting impartial, due process hearings and for providing mediation services when school districts and parents disagree on the provision of special education or Section 504 services. The Bureau consists of a coordinator of mediation, seven mediators, eight hearing officers, support staff, a scheduler, an assistant director, and a director.

This memorandum is intended to summarize Special Education Appeals data for fiscal year 2003, covering the period from July 1, 2002 through June 30, 2003.

### Mediation

During fiscal year 2003, there were approximately 650 mediations conducted by the seven BSEA mediators concerning special education and Section 504 matters. This reflects a 9% increase from the prior year. Mediations are scheduled within 30 days when both parties indicate a desire to resolve disputed issues through mediation. A mediation session lasts an average of two to four hours with some cases requiring more than one session. At the end of the mediation, if an agreement is reached, the mediator writes an agreement reflecting the terms reached by the participants. 85% of the mediations conducted resulted in written agreements.

### Hearings

There were 647 requests for hearings during the 2003 fiscal year. The Bureau of Special Education Appeals conducted full hearings resulting in 27 decisions with extensive written rulings in at least 32 cases. The other cases were resolved prior to proceeding through the formal hearing process, or subsequent to the onset of the hearing. It should be noted that hearing officer involvement was significant in the vast majority of the cases, even if a decision was not rendered.

### **Total Decisions: 27**

Prevailing Party:

<u>Parents/Student</u>	<u>School Districts</u>	<u>Mixed Relief</u>	<u>Other</u>
7	13 <sup>1</sup>	5	2

<sup>1</sup> This number includes one case in which Parent requested a hearing but, despite proper notification, did not appear. As Parent's absence was unjustified, the hearing proceeded and School prevailed.

## **Total Rulings: 32**

Prevailing Party:

<u>Parents/Student</u>	<u>School Districts</u>	<u>Mixed Relief</u>	<u>Other</u>
7	11	1	13

The “Other” category reflects decisions in which a state agency may be involved or a dispute exists between two school districts. In either situation, both parties may have received some relief.

### **Hearing Issues:**

Although each case is unique to the needs of the specific child, most of the cases that resulted in a decision or a ruling involved the following issues:

- Appropriateness of the Individualized Education Program or proposed program;
- Entitlement to compensatory services and/or reimbursement;
- Out of district or private placement;
- Eligibility for special education services;
- Evaluation issues;
- Extended year programs;
- Residential placement;
- Discipline;
- Joinder of state agencies and/or private schools;
- Programmatic, fiscal and transportation responsibility;
- “Stay Put” determinations;
- Procedural Violations;
- Non-compliance with previous settlement agreements.

### **Representation and Prevailing Party:**

Of the 27 cases that resulted in decisions, the breakdown of the parties’ representation is as follows:

- Where both parties were represented by an attorney, Parents prevailed in 7 cases, schools prevailed in 7 cases, 3 cases resulted in mixed relief between Parents and Schools, and another agency prevailed in 2 cases (both of these cases involved a dispute between Schools and other agencies, Parents were not involved) (Total: 19 cases)
- Where Parent appeared pro se (not represented) while an attorney represented the School, the School prevailed in 5 cases and 1 case resulted in mixed relief. (Total: 6 cases)
- In the 1 case where an advocate represented the Parents and an attorney represented the School, mixed relief was granted. (Total: 1 case)
- In 1 case, Parent did not appear at the Hearing and School prevailed. (Total: 1 case)

### **Length of Hearing:**

The average length of a hearing resulting in a decision was 3.09 days (83.5 days/27 hearings). Hearings ranged in length from one day to ten days during fiscal year 2003.