

**MEMO**

**To: Interested Parties**  
**From: Jackie Belf-Becker, Esq., Director, Bureau of Special Education Appeals**  
**Date: September 9, 2004**  
**Re: Special Education Appeals –FY 2004 Data Summary**

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The Bureau of Special Education Appeals (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 services or Section 504 services. The Bureau consists of eight hearing officers, eight mediators, support staff, a scheduler, a receptionist, a coordinator of mediation, an assistant director and a director.

This memorandum is intended to summarize our analysis of Special Education Appeals data for fiscal year 2004, covering the period from July 1, 2003 through June 30, 2004. Many thanks to Kirsten Dovenberg, a legal intern within the Bureau, for her invaluable assistance with this data summary.

### **Mediation**

During fiscal year 2004, there were 601 mediations conducted by the eight BSEA mediators concerning special education and Section 504 matters. This reflects approximately an 8% decrease 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. 84% of the mediations conducted resulted in written agreements.

### **Rejected Individualized Educational Plans**

During fiscal year 2004, the Bureau of Special Education Appeals received 5,515 rejected Individualized Educational Plans, an increase of 502 over fiscal year 2003.

### **Hearings**

There were 648 requests for hearings during the 2004 fiscal year. The Bureau of Special Education Appeals conducted full hearings resulting in 53 decisions with extensive written rulings in at least 17 cases. This represents a 48% increase in the number of decisions issued from the prior year. 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: 53**

#### **Prevailing Party:**

<b><u>Parents/Student</u></b>	<b><u>School District</u></b>	<b><u>Mixed Relief</u></b>	<b><u>Other</u></b>
<b>20</b>	<b>20</b>	<b>7</b>	<b>6</b>

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.

### **Representation and Prevailing Party**

Of the 53 cases that resulted in decisions, the breakdown of the parties' representation was as follows:

- Where both parties were represented by an attorney, parents prevailed in 18 cases, schools prevailed in 15 cases, 4 cases resulted in mixed relief between parents and schools. (Total: 37 cases)
- Where parent appeared pro se (not represented) while an attorney represented the school, the school prevailed in 5 cases, the parent prevailed in 2 cases and 2 cases resulted in mixed relief. (Total: 9)
- Where parent appeared with an advocate (not an attorney) while an attorney represented the school, 1 case resulted in mixed relief. (Total: 1)
- In 6 cases, parents were not involved in the dispute (LEA assignment matters). (Total: 6)

### **Length of Hearing**

The average length of hearing resulting in a decision was 2.64 days, down from 3.09 days in the past fiscal year. Hearings ranged in length from one day to nine days during fiscal year 2004.

**SPECIAL EDUCATION APPEALS  
DECISION HISTORY**

SCHOOL YEAR	NUMBER OF HEARING REQUESTS	TOTAL NUMBER OF DECISIONS*	DECISIONS FAVORING					
			Parents		School		Other**	
1986-87	359	55	28	(50.9%)	18	(32.7%)	9	(16.4%)
1987-88	372	54	27	(41.7%)	22	(40.7%)	5	(9.2%)
1988-89	344	48	20	(41.7%)	18	(37.5%)	10	(20.8%)
1989-90	385	47	26	(55.32%)	16	(34.3%)	5	(10.64%)
1990-91	398	44	15	(31.83%)	22	(50.0%)	7	(18.18%)
1991-92	408	41	15	(36.59%)	16	(39.02%)	10	(24.39%)
1992-93	426	36	14	(38.89%)	15	(41.67%)	7	(19.44%)
1993-94	580	40	13	(32.5%)	20	(50%)	7	(17.5%)
1994-95	581	32	9	(28%)	15	(47%)	8	(25%)
1995-96	632	36	8	(22%)	25	(70%)	3	(8%)
1996-97	558	50	12	(24%)	30	(60%)	8	(16%)
1997-98	603	36	9	(25%)	21	(58%)	6	(17%)
1998-99	620	27	7	(26%)	14	(52%)	6	(22%)
1999-00	671	33	12	(36.3%)	14	(42.4%)	7	(21.2%)
2000-01	583	30	8	(26.5%)	14	(47%)	8	(26.5%)
2001-02	566	30	11	(37%)	18	(60%)	1	(3%)
2002-03	647	27	7	(26%)	13	(48%)	7	(26%)
2003-04	648	53	20	(38%)	20	(38%)	13	(24%)

\*Please note that the low number of decisions, as compared to the number of hearing requests, reflects the very high percentage of cases which settle prior to a decision, either through mediation, advisory opinion, assistance of the hearing officer, or by action of the parties without BSEA involvement.

\*\* Includes situations where there is no dispute between parents and public school districts, but relief is sought against the Department of Education, or another state agency; an order which favors neither party; and also includes situations where the hearing officer orders a placement which is significantly different from the one offered by the school or requested by the parent.

**(Date of Decision History Table – September 15, 2004)**