

CHALLENGES TO DETERMINATION LEVELS AND WITHHOLDING OF FUNDS

REQUEST FOR RECONSIDERATION OF DETERMINATION LEVEL: If a School Administrative Unit (SAU) believes that a specific data element in the profile it received is inaccurate, it may request reconsideration of the assigned Determination Level. **Only an SAU with a Determination Level of *Needs Intervention* or *Needs Substantial Intervention* may request reconsideration.** Reconsideration is not available for an assigned Determination Level of *Needs Assistance*. The SAU must request reconsideration within **30 calendar days** of the date of its receipt of the profile sent to it by certified mail return receipt requested, and the request for reconsideration (see form @ http://www.state.me.us/education/speced/spp/documents/drt_recon_form.doc) must be sent by certified mail return receipt requested and accompanied by all the information necessary for the DOE to reconsider the original Determination Level assignment. Reconsideration will be based solely on the information provided with the request form; DOE staff will not contact an SAU for additional information if what is provided is insufficient. Late requests will not be considered.

Reconsideration requests must be based on the accuracy of specific data elements only; reconsideration requests based on information other than the accuracy of a specific data element will not be considered.

The DOE shall conduct its reconsideration and notify the SAU of the result within 60 calendar days from its receipt of the request. In the event that reconsideration results in modification to one or more data elements in the SAU's profile, the DOE shall also recalculate the determination level.

APPEAL OF WITHHOLDING OF FUNDS: A School Administrative Unit (SAU) may **only appeal the decision to withhold funds if it previously requested reconsideration of its Determination Level.** An SAU with a Determination Level of *Needs Intervention* (*3rd Year*) or *Needs Substantial Intervention* shall be subject to partial or complete withholding of subsidy payments and/or federal grant funds pursuant to MUSER §§XIII.4.B(3) and (4). No final decision to withhold payments or funds shall be made until the Commissioner issues to the SAU, by certified mail return receipt requested, written notice of the intention to withhold payments or funds, stating the basis for that action. The decision to withhold funds shall become final in 30 calendar days from the date of the SAU's receipt of the written notice, unless within that time the SAU submits, by certified mail return receipt requested, a request for a hearing before an impartial hearing officer, or requests the opportunity to submit to the impartial hearing officer written testimony in lieu of a hearing (see form @ http://www.state.me.us/education/speced/spp/documents/drt_hrg_req.doc).

A request for hearing or for review of written testimony shall state the basis upon which the SAU is challenging the Commissioner's decision to withhold payments or funds, and shall be accompanied by all available, applicable documents supporting the SAU's position. The hearing or review shall take place within 90 calendar days from the DOE's

receipt of the request for hearing or review, with an additional 30 calendar days for the issuance of the hearing officer's decision following hearing or review, and it shall be the SAU's burden to show that the withholding of funds is based on an incorrect determination. The DOE shall have the opportunity to submit testimony and documentation in support of its position.