

POLICY 13

APPEALS AND HEARINGS REGARDING STUDENT MATTERS

Under the relevant section(s) of the Education Act, the only matters on which the Minister of Education will consider a review are with respect to:

- Provision of specialized supports and services to a student or to a child enrolled in early childhood services program;
- Student expulsion;
- Access to, or the accuracy of completeness of student records; or
- Board responsibility for a specific student.

The Board will hear appeals on administrative decisions on all matters other than expulsion of students, which are submitted in accordance with relevant section(s) of the Education Act, that significantly affect the education of a student.

1. All Matters Other Than Expulsion of a Student

- 1.1 Prior to a decision being appealed to the Board, it must be appealed to the Superintendent, in accordance with Administrative Procedure 152.
- 1.2 Parents of students, and students sixteen (16) years of age or over, have the right to appeal to the Board, a decision of the Superintendent that significantly affects the education of a student. The Superintendent must advise parents and students of this right of appeal.
- 1.3 The appeal to the Board must be made within ten (10) days from the date that the individual was informed of the Superintendent's decision.
 - 1.3.1 The appeal must be filed in writing and must contain the name of the party filing the appeal, the date, the matter at hand and the reason for the appeal.
 - 1.3.2 If an appeal is sent electronically, the burden of proof of delivery is on the appellant.
- 1.4 Parent(s) or student(s), as above, when appealing a decision to the Board, have the right to be assisted by a resource person(s) of their choosing. The responsibility for engaging and paying for such assistance rests with the parent(s) or student(s).
- 1.5 The hearing of the appeal must be scheduled so as to ensure that the person making the appeal and the Superintendent or designate, whose decision is being appealed, have sufficient notice and time to prepare for the presentation. Whenever possible, appeals will be heard by the Board at a regular Board meeting.
- 1.6 The appeal will be heard *in camera*, with specified individuals in attendance.

- 1.7 The parties to the appeal will be advised when the decision will be made. The Board decision must be made in open session.
- 1.8 The appeal hearing will be conducted in accordance with the following guidelines:
 - 1.8.1 The Board Chair will outline the purpose of the hearing, which is to provide:
 - 1.8.1.1. An opportunity for the parties to make representation in support of their respective positions to the Board. This information may include expert medical, psychological and educational data and may be presented by witnesses. The information presented may include both written and verbal communications.
 - 1.8.1.2. The Board with the means to receive information and to review the facts of the dispute.
 - 1.8.1.3. A process through which the Board can reach a decision that is reasonable in the circumstances.
 - 1.8.2 Notes of the proceedings will be recorded for the purpose of the Board's records.
 - 1.8.3 The Superintendent and/or designate(s) will explain the decision under appeal and give reasons for the decision.
 - 1.8.4 The appellant will present the appeal and the reasons for the appeal and will have an opportunity to respond to information provided by the Superintendent and/or designate(s).
 - 1.8.5 The Superintendent and/or designate(s) will have an opportunity to respond to information provided by the appellant.
 - 1.8.6 The members of the Board will have the opportunity to ask questions of clarification from both parties.
 - 1.8.7 No cross-examination of the parties shall be allowed though questions may be directed to the other party through the Board Chair with the permission of the Board Chair.
 - 1.8.8 The Board will meet without the respective parties to the appeal in attendance to arrive at a decision regarding the appeal. The Board may have the recording secretary and legal counsel in attendance.
 - 1.8.9 If the Board requires additional information or clarification in order to make its decision, both parties to the appeal will be requested to return to the hearing for the required additional information.
 - 1.8.10 The Board decision and the reasons for that decision will be communicated to the appellant once a decision has been reached and confirmed in writing following the hearing. Included in the communication to the appellant shall be

information that the appellant has the right to seek a review by the Minister if the appellant is dissatisfied with the decision of the Board, if the matter under appeal is a matter described in section 43 of the Education Act.

2. Expulsion of a Student

It is expected that each student shall comply with their responsibilities as set out in the Education Act, Board policy, Administrative Procedures and school rules.

The Board will hear representations with respect to a recommendation for a student expulsion in accordance with relevant sections of the Education Act.

- 2.1 A student shall be reinstated within five (5) school days of the date of suspension unless the Principal makes a recommendation for expulsion. When the Principal makes a recommendation for expulsion, the Principal shall immediately report in writing all the circumstances to the parent or the student and to the Board through the Office of the Superintendent. The student then remains suspended until the Board has made a decision.
- 2.2 The Board Chair will convene the expulsion hearing upon the call of the Superintendent, but in no event shall the meeting occur later than ten (10) school days from the first day of suspension.
- 2.3 The expulsion hearing will be held *in camera*.
- 2.4 Parent(s) of student(s), or students sixteen (16) years of age or over, have the right to be assisted by a resource person(s) of their choosing. The responsibility for engaging and paying for such assistance rests with the parent(s) or student(s).
- 2.5 The Board may have legal counsel in attendance.
- 2.6 Notes of the proceedings will be recorded for the purpose of the Board's records.
- 2.7 The expulsion hearing will be conducted in accordance with the following guidelines:
 - 2.7.1 The Board Chair will outline the purpose of the hearing, which is to:
 - 2.7.1.1. Provide an opportunity to hear representations relative to the recommendation from the Principal including:
 - 2.7.1.1.1. Any conditions respecting the circumstances in which the student may be enrolled in the same or a different education program.
 - 2.7.1.1.2. The length of any rule or condition and why either is to apply to the student beyond the school year in which the student was expelled.
 - 2.7.1.2. Provide an opportunity for the student and/or the student's parent(s) to make representations in response to the Principal's recommendations.

- 2.7.1.3. Reinstate or expel the student and address the length of any rule or condition which applies to the student.
- 2.7.2 The Board Chair will outline the procedure to be followed, which will be as follows:
- 2.7.2.1. The Principal will present the report documenting the details of the case and the recommendation to expel the student;
 - 2.7.2.2. The student and the student's parent(s) will be given an opportunity to respond to the information presented and to add any additional relevant information;
 - 2.7.2.3. The members of the Board will have the opportunity to ask questions of clarification from both the Principal and the student and the student's parent(s);
 - 2.7.2.4. The Board will meet, without either the administration or the student and the student's parent(s) present, to discuss the case and the recommendation. The recording secretary may remain in attendance. Legal counsel may also remain in attendance;
 - 2.7.2.5. Should the Board require additional information, both parties will be requested to return in order to provide the requested information;
 - 2.7.2.6. The Board will then make a decision to either reinstate or expel the student; and
 - 2.7.2.7. The Board decision shall be communicated in writing to the student and the student's parent(s) within five (5) days of the hearing, with copies being provided to the Principal and the Superintendent.
 - 2.7.2.7.1. The Superintendent's office will attempt to inform the parent(s) and the student of the decision by telephone or personal communication as soon as possible after a decision has been reached.
- 2.7.3 If the Board's decision is to expel the student, the following information must be included in the letter to the student and the student's parent(s):
- 2.7.3.1. The length of the expulsion and any rules or conditions that apply to the student;
 - 2.7.3.2. The educational program to be provided to the student and the name of the individual to be contacted in order to make the necessary arrangements; and
 - 2.7.3.3. The right of the student and the student's parent(s) to request a review of the decision by the Minister of Education within sixty (60) days of the date on which the parent(s) or the student, if the student is sixteen (16) years of age or older, is informed of the decision.

Legal Reference: Section 3, 4, 11, 31, 33, 36, 37, 41, 42, 43, 44, 51, 52, 53, 222 Education Act