

APPEALS AND HEARINGS REGARDING STUDENT MATTERS

Background

Under relevant sections of the School Act, the only matters on which the Minister of Education will consider appeals are:

- Special education placement;
- Language of instruction;
- Home education programs;
- Student expulsion;
- Amount and payment of fees or costs;
- Access to, or the accuracy or completeness of student records;
- Amount of fees payable by a Board to another Board; or
- Board responsibility for a specific student.

Generally, the Board will hear appeals on matters appealable to the Minister.

All Matters Other Than Expulsion of a Student

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

1. Prior to a decision being appealed to the Board, it must be appealed to the Superintendent.
2. Parents of students, and independent 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 the student. The Superintendent must advise parents and students of this right of appeal.
3. The appeal to the Board must be made within five (5) days from the date that the individual was informed of the Superintendent's decision. 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.
4. Parents or students, 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 parents or students.
5. The hearing of the appeal must be scheduled within thirty (30) days so as to ensure that the person making the appeal and the Superintendent or designate, whose decision is being appealed, has sufficient notice and time to prepare for the presentation.

6. The appeal will be heard in-camera, with specified individuals in attendance.
7. The appeal hearing will be conducted in accordance with the following guidelines:
 - 7.1 The Board Chair will outline the purpose of the hearing, which is to provide:
 - 7.1.1 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;
 - 7.1.2 The Board with the means to receive information and to review the facts of the dispute;
 - 7.1.3 A process through which the Board can reach a fair and impartial decision.
 - 7.2 Notes of the proceedings will be recorded for the purpose of the Board's records.
 - 7.3 The Superintendent and/or staff will explain the decision and give reasons for the decision.
 - 7.4 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 staff.
 - 7.5 The Superintendent and/or staff will have an opportunity to respond to information presented by the appellant.
 - 7.6 Committee members will have the opportunity to ask questions or clarification from both parties.
 - 7.7 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.
 - 7.8 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 legal counsel in attendance.
 - 7.9 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.
 - 7.10 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 Student Appeals Committee, if the matter under appeal is a matter described in section 124 of the School Act.

Expulsion of a Student

It is expected that all students will comply with relevant section(s) of the School Act, Board policy and school policy.

In accordance with section 61 of the School Act, the Board delegates to the Student Expulsion Committee the power to make decisions with respect to the expulsion of students.

The Student Expulsion Committee will hear representations with respect to a recommendation for a student expulsion in accordance with relevant sections of the School Act.

If a student is not to be reinstated within five (5) school days of the date of suspension, the Principal shall immediately report in writing all the circumstances of the suspension and provide a recommendation to the Student Expulsion Committee through the Office of the Superintendent.

The Student Expulsion Committee will convene in an in-camera session 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.

Parents of students, or independent 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 parents or students.

The Student Expulsion Committee may have legal counsel in attendance.

Notes of the proceedings will be recorded for the purpose of the Board's records.

The expulsion hearing will be conducted in accordance with the following guidelines:

1. The Committee Chair will outline the purpose of the hearing, which is to:
 - 1.1 Provide an opportunity to hear representations relative to the recommendation from the Principal;
 - 1.2 Provide an opportunity for the student and/or the student's parents to make representations;
 - 1.3 Reinstatement or expulsion of the student.
2. The Committee Chair will outline the procedure to be followed, which will be as follows:
 - 2.1 The Principal will present the report documenting the details of the case and the recommendation to expel the student;
 - 2.2 The student and the student's parents will be given an opportunity to respond to the information presented and to add any additional relevant information;
 - 2.3 The members of the Student Expulsion Committee will have the opportunity to ask questions of clarification from both the Principal and the student and the student's parents;
 - 2.4 The Student Expulsion Committee will meet, without either the administration or the student and the student's parents present, to discuss the case and the recommendation. The recording secretary may remain in attendance. Legal counsel may also remain in attendance;
 - 2.5 Should the Student Expulsion Committee require additional information, both parties will be requested to return in order to provide the requested information;
 - 2.6 The Student Expulsion Committee will then make a decision to either reinstate or expel the student; and
 - 2.7 The Student Expulsion Committee decision shall be communicated in writing to the student and the student's parents within five (5) days of the hearing, with copies being

provided to the Principal and the Superintendent. 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.

3. If the Student Expulsion Committee's decision is to expel the student, the following information must be included in the letter to the student and the student's parents:
 - 3.1 The length of the expulsion which must be greater than ten (10) school days;
 - 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
 - 3.3 The right of the student and the student's parents to request a review of the decision by the Minister of Education.

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