

APPEALS AND HEARINGS REGARDING STUDENT MATTERS

Under section 43 of the Education Act and regulations made under the Act, the only matters on which the Minister of Education will consider appeals are:

1. Provision of Specialized Supports and Services (section 43);
2. Language of instruction (section 14);
3. Home education programs (opportunity to write provincial assessments, assignment and involvement of designated personnel at schools, evaluations of progress, provision of advice and recommendations to parents, maintenance of student records and termination of programs);
4. Student expulsion;
5. Amount and payment of fees or costs (consultation with parents, types of charges, waiving of fees);
6. Access to, or the accuracy or completeness of student records;
7. Amount of fees payable by a Board to another Board;
8. Board responsibility for a student;
9. Early Childhood Education (age of entry, safety, health protocols evaluation of children, assurance of associated procedures);
10. School Transportation (transportation for specialized supports and services, fees, eligibility for ridership);
11. Student records (accuracy, completeness, retention, disposal, access and disclosure).

The Board will hear appeals on administrative decisions on all matters other than expulsion of students, which are submitted in accordance with section 41 and 42 of the Education Act and that significantly affect the education of a student.

A. All Matters Other Than Expulsion 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 students 16 years of age or over, have the right to appeal to the Board a decision of the Superintendent. The Superintendent must advise parents and students of this right of appeal and provide all relevant information with respect to the appeal process.
3. The appeal to the Board must be made within five 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. The name of the resource person(s) must be provided to the Board five (5) days in advance of the hearing.
 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, has sufficient notice and time to prepare for the presentation. Notification must be given at least four (4) calendar days in advance of the hearing unless unanimous agreement is reached to waive the notification period.
 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 Board members will have the opportunity to ask questions or clarification from both parties.
 - 7.7 No cross-examination of the parties shall be allowed, unless the Chair deems it advisable under the circumstances.
 - 7.8 The Board will meet without the respective parties to the appeal in attendance to arrive at a decision regarding the appeal. The recording

secretary will remain in attendance. 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 by telephone 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 36 and 37 of the Education Act.

B. Expulsion of a Student

The Board will hear representations with respect to a recommendation for a student expulsion in accordance with Sections 36 and 37 of the Education Act.

If a student is not to be reinstated within five 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 Board through the Office of the Superintendent.

The Board will convene in an in-camera session upon the call of the Superintendent, but in no event shall the meeting occur later than ten school days from the first day of suspension.

Parents of students, or students 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 Board 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 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 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 Board will have the opportunity to ask questions of clarification from both the principal and the student and the student's parents;
 - 2.4 The Board 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 Board require additional information, both parties will be requested to return in order to provide the requested information;
 - 2.6 The Board will then make a decision to either reinstate or expel the student; and
 - 2.7 The Board's decision shall be communicated in writing to the student and the student's parents within 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 Board'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 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.
 4. Expulsion is at the discretion of the Board. The Board, in making its decision, shall take into account the circumstances under which the student committed the offence. The following offences may be considered by the Board as justification for expulsion:
 - 4.1 The student has displayed an attitude of willful, blatant and repeated refusal to comply with section 37 of the Education Act;
 - 4.2 Open opposition to the authority of the staff;
 - 4.3 Conduct deemed to be injurious to the general tone and well being of the student population being served by the school and the staff employed by the Division;
 - 4.4 Willful disobedience over a prolonged period or in a single instance where the disobedience endangers the students, teacher, building or general climate of orderly behavior;

- 4.5 Profane or indecent language in the presence of other students or before staff;
 - 4.6 Threats of physical violence or acts of violence against a staff member or a serious unprovoked attack on other students;
 - 4.7 Any act of indecency in a school building, on the school grounds, or on a school bus;
 - 4.8 Failure to observe and to obey any reasonable rule, regulation or procedure established by a staff member for maintaining a climate of behavior conducive to learning;
 - 4.9 Willful or malicious damage to school or Division property or equipment;
 - 4.10 Prohibited use of drugs, alcohol, or tobacco; or
 - 4.11 Use of explicit materials.
5. The term of an expulsion must be for eleven (11) school days or more, up to the end of that school year. The Division reserves the right to direct and re-enroll a student, who has been expelled, to an alternate school setting within the Division, in the following school year, based upon program reasons, or the safety and security of other students.

It is expected that all students will comply with conduct described in the Education Act, Board policy and school policy.

Legal Reference: Sections 14, 36, 37, 41, 42, 43, 45 Education Act

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