

APPEALS AND HEARINGS REGARDING STUDENT MATTERS

Background

The Board of Trustees supports the right of parents and guardians to make inquiries or bring forward concerns regarding student matters.

Guidelines

1. Appeals

The Board shall hear appeals on administrative decisions that significantly impact the education of the student, which are submitted in accordance with Section 42 of the *Education Act*. The Board shall not hear appeals on suspensions or expulsions of students.

- 1.1. Prior to a decision being appealed to the Board, [Board Policy 26: School Dispute Resolution](#) shall be followed.
- 1.2. Parents or guardians of a student, and in the case of a student 16 years of age or older, either a parent or guardian of the student or the student, has the right to appeal to the Board, a decision of the Superintendent. The Superintendent must advise the parents, guardians or students of this right of appeal.
- 1.3. The appeal to the Board must be made in writing within five business days from the date that the individual was informed of the Superintendent's decision. The appeal must be filed and must contain the name of the party filing the appeal, the date, the matter at hand and the reason for the appeal.
- 1.4. Parents, guardians 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, guardians or students.
- 1.5. The hearing of the appeal must be scheduled so as to ensure 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.
- 1.6. The appeal shall be heard at a Special Board meeting.
- 1.7. The hearing shall be conducted in accordance with the following guidelines.
 - 1.7.1. The Board Chair shall outline the purpose of the hearing, which is to provide:
 - 1.7.1.1. an opportunity for the parties to make representation in support of their respective positions to the Board. The information may include expert medical, psychological, and educational data and may be presented by witnesses. The information presented may include both written and verbal communication.
 - 1.7.1.2. the Board with the means to receive information and review the facts of the dispute.

- 1.7.2. Notes of the proceedings shall be recorded for the purpose of the Board's records.
- 1.7.3. The appellant shall present the appeal and the reasons for the appeal and shall have an opportunity to respond to information provided by the Superintendent or staff.
- 1.7.4. The Superintendent or staff shall explain the decision and give reasons for the decision.
- 1.7.5. The Superintendent or staff shall have an opportunity to respond to information presented by the appellant.
- 1.7.6. Board members shall have the opportunity to ask questions for clarification from both parties.
- 1.7.7. No cross-examination of the parties shall be allowed.
- 1.7.8. The Board shall 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.
- 1.7.9. If the Board requires additional information or clarification to make its decision, both parties to the appeal shall be requested to return to the hearing for the required additional information.
 - 1.7.9.1. The Board's decision and the reasons for that decision shall be communicated to the appellant once a decision has been reached and confirmed in writing, within five business days, 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 Education 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*.
 - 1.7.9.2. Under Section 43 of the *Education Act*, the only matters on which the Education Minister may consider appeals are:
 - 1.7.9.2.1. provision of specialized supports and services to a student or a child enrolled in an Early Childhood Services program;
 - 1.7.9.2.2. the expulsion of a student;
 - 1.7.9.2.3. Board responsibility for a specific student; and
 - 1.7.9.2.4. access to or the accuracy or completeness of the student records.

2. Expulsion hearings

- 2.1. It is expected that all students shall comply with Section 31 of the *Education Act*, Board policies, administrative procedures and school regulations.
- 2.2. In accordance with Section 52 of the *Education Act*, the Board delegates to the Student Expulsion Committee the power to make decisions with respect to the expulsion of students.

- 2.3. The Student Expulsion Committee of the Board shall hear representations with respect to a recommendation for a student expulsion in accordance with Sections 36 and 37 of the *Education Act*.
- 2.4. 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 Student Expulsion Committee of the Board through the Office of the Superintendent.
- 2.5. The Student Expulsion Committee shall convene an in-camera session within 10 school days after the initial date of suspension and make a decision.
- 2.6. Parents or guardians of students, or students 16 years of age or older, 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, guardians or students.
- 2.7. The Student Expulsion Committee may have legal counsel in attendance.
- 2.8. Notes of the proceedings shall be recorded for the purpose of the Board's records.
- 2.9. The expulsion hearing shall be conducted in accordance with the following guidelines.
 - 2.9.1. The Student Expulsion Committee Chair shall outline the purpose of the hearing, which is to:
 - 2.9.1.1. provide an opportunity to hear representations relative to the recommendation from the Principal;
 - 2.9.1.2. provide an opportunity for the student or the student's parents or guardians to make representations; and
 - 2.9.1.3. reinstate or expel the student.
- 2.10. The Student Expulsion Committee Chair shall outline the procedure to be followed, which shall be as follows:
 - 2.10.1. The Principal shall present the report documenting the details of the case and the recommendation to expel the student.
 - 2.10.2. The student and the student's parents or guardians shall be given an opportunity to respond to the information presented and to add any additional relevant information.
 - 2.10.3. The members of the Student Expulsion Committee shall have the opportunity to ask questions of clarification of the Principal, the student and the student's parents or guardians.
 - 2.10.4. The Student Expulsion Committee shall then meet, without the administration, the student, or the student's parents or guardians present, to discuss the case and provide the recommendation.
 - 2.10.4.1. The recording secretary may remain in attendance.
 - 2.10.4.2. Legal counsel for the Board may also remain in attendance.
 - 2.10.5. Should the Student Expulsion Committee require additional information, both parties shall be requested to return to provide the requested information.
 - 2.10.6. The Student Expulsion Committee shall then make one of the following decision(s):

- 2.10.6.1. reinstatement;
- 2.10.6.2. single-school expulsion; or
- 2.10.6.3. expulsion from the school division.
- 2.10.7. If the expulsion is from a single school, the Student Expulsion Committee shall direct the placement of the student to another school or alternative educational program.
 - 2.10.7.1. If the expulsion is from the Division, alternative educational programming shall be offered by the Division.
- 2.10.8. The Student Expulsion Committee decision shall be communicated in writing to the student and the student's parents or guardians within five business days of the hearing, with copies being provided to the Principal and the Superintendent or designate.
- 2.11. If the Student Expulsion Committee's decision is to expel the student, the following information shall be included in the letter to the student and the student's parents or guardians:
 - 2.11.1. any rules and conditions of the expulsion;
 - 2.11.2. the educational programming to be provided to the student; and
 - 2.11.3. the right of the student and the student's parents or guardians to request a review of the Board's decision by the Minister of Education.

References

Sections 3, 4, 11, 31, 32, 33, 36, 37, 41, 42, 43, 44, 52, 53, 222 *Education Act*

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| Last reviewed: | Last updated: |
| Nov. 5, 2015 | Nov. 26, 2015 |
| Jan. 7, 2016 | Jan. 21, 2016 |
| April 11, 2016 | May 30, 2016 |
| March 19, 2018 | |
| Dec. 18, 2018 | Jan. 24, 2019 |
| Oct. 15, 2019 | Nov. 21, 2019 |
| Dec. 19, 2019 | Dec. 19, 2019 |
| Aug. 27, 2020 | Aug. 27, 2020 |
| Jan. 11, 2022 | Feb. 17, 2022 |
| April 12, 2022 | May 25, 2022 |

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| Jan. 10, 2023 | Feb. 16, 2023 |
| Jan. 10, 2024 | Jan. 25, 2024 |
| Feb. 7, 2024 | |
| April 3, 2024 | April 18, 2024 |