

## **POLICY 13: APPEALS REGARDING STUDENT MATTERS**

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### **APPEALS REGARDING STUDENT MATTERS**

#### **Background**

Under section 42 of the Education Act, a decision made by an employee of the Board that significantly affects the education of a student or a child authorized to do so under section 52(1) of the Act may be appealed to the Board.

Prior to appealing to the Board the student or parent must have followed the school dispute resolution policy established by the Board under section 41 of the Education Act.

#### **Procedures**

The Board will hear appeals on administrative decisions, submitted in accordance with section 42 of the Education Act, that have a significant effect on the education of a student or child.

#### **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 and follow the procedures under Administrative Procedure 155: School Dispute Resolution.
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.
3. The appeal to the Board must be made within 30 days from the date that the individual was informed of the Superintendent's decision.
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. Appeals will be heard by the Board at a Regular Board Meeting, whenever possible. 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.
6. The Board Chair will consider any requests for adjournments of hearings of appeals regarding student matters, and must consider the reason for the request and whether the person making the request has sufficient notice and time to prepare for the presentation.
7. The appeal will be heard at an in camera meeting of the Board.
8. The Board reserves the right to make its decision at a subsequent Board meeting. The parties to the appeal will be advised when the decision will be made. The Board decision will be made in open session.
9. The appeal hearing will be conducted in accordance with the following guidelines:

- a. The Chair will outline the purpose of the hearing, which is to provide:
    - i. 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;
    - ii. the Board with the means to receive information and to review the facts of the dispute;
    - iii. a process through which the Board can reach a fair and impartial decision.
  - b. Notes of the proceedings will be recorded for the purpose of the Board's records.
  - c. The Superintendent and/or staff will explain the decision and give reasons for the decision.
  - d. 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.
  - e. The Superintendent and/or staff will have an opportunity to respond to information presented by the appellant.
  - f. Board members will have the opportunity to ask questions or clarification from both parties.
  - g. No cross-examination of the parties shall be allowed, unless the Board Chair deems it advisable under the circumstances.
  - h. 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.
  - i. 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.
  - j. The Board decision and the reasons for that decision will be communicated to the appellant by telephone and confirmed in writing following the hearing.
10. If the decision of the Board reflects the provision of specialized supports or services in accordance with section 11(4) of the Act or the decision is about access or accuracy of a student record, a parent or student (16 years of age or older) may request, in writing, the Minister review the decision of the Board.
11. Under section 44 of the Education Act the Minister may also review a matter regarding language of instruction, board responsibility for a specific student, home education programs and amount of fees payable by a Board to another Board.

## **Expulsion of a Student**

The Board will hear representations with respect to a recommendation for a student expulsion in accordance with section 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 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.

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:
  - a. provide an opportunity to hear representations relative to the recommendation from the Principal;
  - b. provide an opportunity for the student and/or the student's parent or guardian to make representation;
  - c. reinstate or expel the student.
2. The Chair will outline the procedure to be followed, which will be as follows:
  - a. the Principal will present the report documenting the details of the case and the recommendation to expel the student;
  - b. the student and the student's parents will be given an opportunity to respond to the information presented and to add any additional information that they feel is relevant;
  - c. 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;
  - d. the Board will meet, without either the administration or the student and the student's parents present, to discuss the case and the recommendation;
  - e. should the Board require additional information, both parties will be requested to return in order to provide the requested information;
  - f. the Board will then make a decision in open session to either reinstate or expel the student; and
  - g. the Board's decision shall be communicated in writing to the student and the student's parents with copies being provided to the Principal and the Superintendent. The Board shall provide reasons for its decision.
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:
  - a. the length of the expulsion which must be greater than 10 school days;

- b. 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
  - c. 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 Trustees, in making their 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:
- a. open opposition to the authority of a teacher, Principal, school or Board;
  - b. 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;
  - c. habitual neglect to do work that is assigned to the student and which is within their competence to complete;
  - d. profane or indecent language in the presence of other students or before staff;
  - e. threats of physical violence or acts of violence against a teacher or a serious unprovoked attack on other students;
  - f. any act of indecency in a school building or on the school grounds;
  - g. failure to observe and to obey any reasonable rule, regulation or procedure established by the teacher or by the Principal for maintaining a climate of behavior conducive to learning;
  - h. willful or malicious damage to property or equipment on school premises;  
or
  - i. prohibited use of drugs, alcohol, or tobacco.

It is expected that all students will comply with Education Act section 31: Student Responsibilities

5. A parent or the student (if 16 years of age or older) may request, in writing, that the Minister review the Board's decision.

#### **Legal Reference**

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

#### **History**

Prepared: September 2003

Amended: January 2011

Amended: March 2020