

## Policy 13

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### APPEALS AND HEARINGS REGARDING STUDENT MATTERS

Where an employee of the Board has made a decision that significantly affects the education of a student, the parent of the student or in the case of a student who is 16 years of age or older, either a parent of the student or the student, may appeal the decision. The appeal to the Board must be within a reasonable time from the date the parent was informed of the decision.

The Board will hear appeals on administrative decisions on all matters other than expulsion of students, which are submitted in accordance with section 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, the parent of the student or in the case of a student who is 16 years of age or older, either a parent of the student or the student must have adhered to procedures and processes outlined in Administrative Procedure 152 – School Dispute.
2. The appeal to the Board must be made within a reasonable time 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.
3. 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.
4. 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.
5. The appeal will be heard in-camera, with specified individuals in attendance.
6. 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 prior to conveying the appeal hearing 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 Written notes of the proceedings will be recorded by a recording secretary 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 verbally and confirmed in writing forthwith. 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 44 of the Education Act.

## **B. Expulsion of a Student**

1. In accordance with section 52 of the Education Act, the Board delegates to the Student Review Committee the power to make decisions with respect to the expulsion of students.
2. The Student Review Committee of the Board will hear representations with respect to a recommendation for a student expulsion in accordance with sections 37 of the Education Act.
3. 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 Review Committee of the Board through the Office of the Superintendent.

4. The Student Review 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 school days from the first day of suspension.
5. 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.
6. The Student Review Committee may have legal counsel in attendance.
7. Written notes of the proceedings will be recorded for the purpose of the Board's records.
8. The expulsion hearing will be conducted in accordance with the following guidelines:
  - 8.1 The Chair will outline the purpose of the hearing, which is to:
    - 8.1.1 Provide an opportunity to hear representations relative to the recommendation from the principal;
    - 8.1.2 Provide an opportunity for the student and/or the student's parents to make representations;
    - 8.1.3 Reinstate or expel the student.
  - 8.2 The Chair will outline the procedure to be followed, which will be as follows:
    - 8.2.1 The principal will present the report documenting the details of the case and the recommendation to expel the student;
    - 8.2.2 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;
    - 8.2.3 The members of the Student Review Committee will have the opportunity to ask questions of clarification from both the principal and the student and the student's parents;
    - 8.2.4 The Student Review 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.
    - 8.2.5 Should the Student Review Committee require additional information, both parties will be requested to return in order to provide the requested information;
    - 8.2.6 The Student Review Committee will then make a decision to either reinstate or expel the student; and

- 8.2.7 The Student Review Committee 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.)
9. If the Student Review 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:
- 9.1 The length of the expulsion which must be greater than 10 school days;
- 9.2 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
- 9.3 The right of the student and the student's parents to request a review of the decision by the Minister of Education.
10. Expulsion is at the discretion of the Committee. The Student Review Committee, 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 Committee as justification for expulsion:
- 10.1 Open opposition to the authority of the staff;
- 10.2 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;
- 10.3 Wilful disobedience over a prolonged period or in a single instance where the disobedience endangers the students, staff, school volunteers, parents, building or general climate of orderly behaviour;
- 10.4 Habitual neglect to do work that is assigned to the student and which is within his/her competence to complete;
- 10.5 Profane or indecent language in the presence of other students or before staff and/or volunteers;
- 10.6 Threats of physical violence or acts of violence against a staff member and/or volunteer or a serious unprovoked attack on other students;
- 10.7 Cyber threats against a staff member, student or volunteer.

- 10.8 Any act of indecency in a school building, on the school grounds, or on a school bus;
- 10.9 Failure to observe and to obey any reasonable rule, regulation or procedure established by a staff member for maintaining a climate of behaviour conducive to learning;
- 10.10 Wilful or malicious damage to school or Division property or equipment;
- 10.11 Prohibited use of drugs, alcohol, or tobacco; or
- 10.12 Use of explicit materials.

It is expected that all students will comply with section 31 of the Education Act, Board policy and school policy.

The following matters may be appealed to the Minister of Education:

1. The provision of specialized supports and services to a student in accordance with section 11(4) or to a child enrolled in an early childhood services program.
2. The expulsion of a student
3. Appeals to the Minister in 1 and 2 must be done so within 60 days of the date on which the parent or the student, if the student is 16 year of age or older, is informed of the decision.
4. Where a dispute arises as to which board is responsible for a student or child referred to in this section, a board or other person that is a party to the dispute may request in writing that the Minister review the matter.
5. A person who may review a student record under section 56 may request in writing that the Minister review a decision of the board, made on an appeal to it or otherwise, respecting access to or the accuracy or completeness of the student record.

Legal Reference: 3, 4, 11, 31, 32, 33, 36, 37, 41, 42, 43, 44, 52, 53, 222 Education Act