



POLICY 14: APPEALS AND HEARINGS REGARDING STUDENT MATTERS

Under the relevant section(s) of the Education Act, the only matters on which the Minister of Education will consider a review are with respect to:

- Student expulsion;
- Access to, or the accuracy or completeness of student records;
- Board responsibility for a specific student; or
- Provision of specialized supports and services to a student or to a child enrolled in early childhood services programs

The Board delegates to the Appeal Committee the power to make decisions with respect to appeals on student matters other than the expulsion of students.

The Appeal Committee of the Board will hear appeals on administrative decisions 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 Appeal Committee, it must be appealed to the Superintendent, in accordance with Administrative Procedure 360.
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 that significantly affects the education of a student. The Superintendent must advise parents and students of this right of appeal.
3. The appeal to the Appeal Committee must be made within ten 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 and sent to the Secretary-Treasurer. If an appeal is sent electronically, the burden of proof of delivery is on the appellant.
4. Parents or students, as above, when appealing a decision to the Appeal Committee 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 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. However, in no event shall this meeting occur later than ten days from the date of receiving the appeal notification.
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 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 Appeal Committee. 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 Appeal Committee with the means to receive information and to review the facts of the dispute;
 - 7.1.3 A process through which the Appeal Committee can reach a decision that is reasonable in the circumstances.
 - 7.2 Notes of the proceedings will be recorded for the purpose of the Board's records.
 - 7.3 The appellant will present the appeal and the reasons for the appeal.
 - 7.4 The Superintendent and/or designate(s) will explain the decision under appeal and give reasons for the decision.
 - 7.5 The appellant will have an opportunity to respond to information provided by the Superintendent and/or designate(s).
 - 7.6 The Superintendent and/or designate(s) will have an opportunity to respond to information provided by the appellant.
 - 7.7 The Appeal Committee members will have the opportunity to ask questions or clarification from both parties.
 - 7.8 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 Chair.
 - 7.9 The Appeal Committee will meet without the respective parties to the appeal in attendance to arrive at a decision regarding the appeal. The Appeal Committee may have a recording secretary and legal counsel in attendance.
 - 7.10 If the Appeal Committee 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.
 - 7.11 The Appeal Committee decision and the reasons for that decision will be communicated to the appellant by the Secretary-Treasurer 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 Appeal Committee, if the matter under appeal is a matter described in Section 43 of the Education Act.

B. Expulsion of a Student

It is expected that each student shall comply with their responsibilities as set out in the Education Act, Board policy, administrative procedures and school rules.

In accordance with section 37 of the Education Act, the Board delegates to an ad hoc Expulsion Committee the power to make decisions with respect to the expulsion of students.

The Expulsion Committee of the Board will hear representations with respect to a recommendation for a student expulsion in accordance with relevant sections of the Education Act and in accordance with Administrative Procedure No. 312.

A student shall be reinstated within five (5) school days of the date of suspension unless the Principal makes a recommendation for expulsion. When the Principal makes a recommendation for expulsion, the Principal shall immediately report in writing all the circumstances to the parent or the student and to the Board through the Office of the Superintendent. The student then remains suspended until the Board has made a decision.

The Expulsion Committee Chair will convene the expulsion hearing 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.

The expulsion hearing will be held in-camera.

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 Expulsion Committee and/or parents may have legal counsel in attendance.

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 in response to the Principal's recommendation;
 - 1.3 Reinstatement or expulsion of the student and address the length of any rule or condition which applies to 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 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 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 Division's legal counsel may also be in attendance.
 - 2.5 Should the Expulsion Committee require additional information, both parties will be requested to return in order to provide the requested information;
 - 2.6 The Expulsion Committee will then make a decision to either reinstate or expel the student; and
 - 2.7 The Expulsion Committee'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 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 and any rules or conditions that apply to the student;
 - 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 within sixty (60) days of the date on which the parent or the student, if the student is sixteen (16) years of age or older, is informed of the decision.
4. Expulsion is at the discretion of the Expulsion Committee. The Expulsion 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:
 - 4.1 Open opposition to the authority of the staff;
 - 4.2 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;
 - 4.3 Willful disobedience over a prolonged period or in a single instance where the disobedience endangers the students, teacher, building or general climate of orderly behaviour;
 - 4.4 Habitual neglect to do work that is assigned to the student and which is within his/her competence to complete;
 - 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 the Division, a school or a staff member for maintaining a climate of behaviour conducive to learning;
- 4.9 Willful or malicious damage to school or Division property or equipment;
- 4.10 Prohibited use or possession of drugs, alcohol, tobacco, or weapons; or
- 4.11 Use of explicit materials.

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

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