

## **APPEALS REGARDING STUDENT MATTERS**

Under Section 43 of the Education Act, the only items that may be appealed to the Board are:

- a. Special education placement;
- b. Language of instruction;
- c. Home education programs;
- d. Student expulsion;
- e. Amount and payment of fees or costs;
- f. Access to, or the accuracy or completeness of student records;
- g. Amount of fees payable by a Board to another Board; or
- h. Board responsibility for a student.

In accordance with Section 52 of the Education Act, 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, submitted in accordance with Section 42 of the Education Act, that significantly affect the education of a student.

The principles of natural justice shall apply to the entire appeal process.

### **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.
2. Parents or guardians of students, and students 16 years of age or over, have the right to appeal to the Appeal Committee a decision of the Superintendent. The Superintendent must advise parents and students of this right of appeal.
3. The appeal to the Appeal Committee must be made within 5 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 guardians, 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 guardians, 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.

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:
  - a. The Appeal Committee 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 Appeal Committee. This information may include expert medical, psychological and educational data and may be presented by witnesses;
    - ii. the Committee with the means to receive information and to review the facts of the dispute;
    - iii. a process through which the Committee 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. Committee 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 Appeal Committee Chair deems it advisable under the circumstances.
  - h. The Committee 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 Committee may have legal counsel in attendance.
  - i. If the 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.
  - j. The Committee decision and the rationale for that decision will be communicated to the appellant by telephone and by double-registered letter within three days of the hearing.

#### B. Expulsion of a Student

In accordance with Section 52 of the School Act, the Board delegates to the Discipline Committee the power to make decisions with respect to the expulsion of students.

The Discipline Committee of 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 Discipline Committee of the Board through the Office of the

Superintendent. Each missed school day following a principal's decision to suspend a student counts as a day of suspension.

The Discipline 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.

Parents or guardians 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 guardians, or students.

The Discipline Committee 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 Discipline Committee 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 representations
  - c. Reinstate or expel the student
2. The Discipline Committee 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 or guardians will be given an opportunity to respond to the information presented and to add any additional relevant information;
  - c. The members of the Discipline Committee will have the opportunity to ask questions of clarification from both the Principal and the student and the student's parents, or guardians;
  - d. The Discipline Committee will meet, without either the administration or the student and the student's parents or guardians present, to discuss the case and the recommendation. The recording secretary will remain in attendance. Legal counsel may also remain in attendance;
  - e. Should the Discipline Committee require additional information, both parties will be requested to return in order to provide the requested information;
  - f. The Discipline Committee will then make a decision to either reinstate or expel the student;
  - g. Superintendent's office will inform the parent(s) or guardian(s) and the student of the decision by telephone or personal communication as soon as possible after a decision has been reached. In addition, the decision shall be communicated in writing to the student and the student's parent(s) or guardian(s) within five days of the hearing, with copies being provided to the Principal and Superintendent's office.
  - h. Conditions or circumstances for re-enrolling the expelled student will be addressed in the re-entry transition plan.

If the Discipline 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 or guardians:

- i. The length of the expulsion which must be greater than 10 school days;
- ii. 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
- iii. The right of the student and the student's parents to request a review of the decision by the Minister of Education. Contact information for the Minister of Education will be provided.

Expulsion is at the discretion of the Committee. The Discipline 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:

- ◆ Open opposition to the authority of the staff;
- ◆ 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;
- ◆ 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;
- ◆ Habitual neglect to do work that is assigned to the student and which is within his/her competence to complete;
- ◆ Profane or indecent language in the presence of other students or before staff;
- ◆ Threats of physical violence or acts of violence against a teacher or a serious unprovoked attack on other students;
- ◆ Any act of indecency in a school building or on the school grounds;
- ◆ 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;
- ◆ Willful or malicious damage to property or equipment on school premises; or
- ◆ Prohibited use of drugs, alcohol, or tobacco.

It is expected that all students will comply with Section 31 of the Education Act.

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Legal Reference: Section 31, 36, 37, 52, 42, 43, Education Act

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