

## **APPEALS AND HEARINGS REGARDING STUDENT MATTERS**

Under section 124 of the School Act, the only matters on which the Minister of Education will consider appeals are:

1. Special education placement;
2. Language of instruction;
3. Home education programs;
4. Student expulsion;
5. Amount and payment of fees or costs;
6. Access to, or the accuracy or completeness of student records;
7. Amount of fees payable by a Board to another Board; or
8. Board responsibility for a specific student.

The Board will hear appeals on administrative decisions, submitted in accordance with section 123 of the School Act, that significantly affect the education of a student.

### 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.
2. Parents of students, and students sixteen (16) years of age or over, have the right to appeal to the Board a decision of the Superintendent. The Superintendent must advise parents and students of this right of appeal.
3. The appeal to the Board must be made within five (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 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:
  - 9.1 The Chair will outline the purpose of the hearing, which is to provide:
    - 9.1.1 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;
    - 9.1.2 The Board with the means to receive information and to review the facts of the dispute;
    - 9.1.3 A process through which the Board can reach a fair and impartial decision.
  - 9.2 Notes of the proceedings will be recorded for the purpose of the Board's records.
  - 9.3 The Superintendent and/or designate(s) will explain the decision and give reasons for the decision.
  - 9.4 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 designate(s).
  - 9.5 The Superintendent and/or designate(s) will have an opportunity to respond to information presented by the appellant.
  - 9.6 Board members will have the opportunity to ask questions or clarification from both parties.
  - 9.7 No cross-examination of the parties shall be allowed, unless the Chair deems it advisable under the circumstances.
  - 9.8 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.
  - 9.9 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.
  - 9.10 The Board decision and the reasons for that decision will be communicated to the appellant by telephone 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 Board, if the matter under appeal is a matter described in Section 124 of the School Act.

### Expulsion of a Student

In accordance with section 61 of the School Act, the Board delegates to the Superintendent the power to make decisions with respect to the expulsion of students.

The Superintendent will hear representations with respect to a recommendation for a student expulsion in accordance with sections 24 and 25 of the School Act.

If a student is not to be reinstated within five (5) 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 Superintendent.

The Superintendent will convene an in-camera hearing in the local community of the student and/or parent, but in no event shall the hearing occur later than ten (10) school days from the first day of suspension.

Parents of students, or students sixteen (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 Superintendent 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 Superintendent 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 parent to make representations;
  - 1.3 Reinstatement or expulsion of the student.
2. The Superintendent 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 Superintendent will have the opportunity to ask questions of clarification from both the Principal and the student and the student's parents;

- 2.4 The Superintendent will review the case and the recommendation, without either the administration or the student and the student's parents present. Legal counsel may remain in attendance.
  - 2.5 Should the Superintendent require additional information, both parties will be requested to return in order to provide the requested information;
  - 2.6 The Superintendent will make a decision to either reinstate or expel the student; and
  - 2.7 The Superintendent's decision shall be communicated in writing to the student and the student's parents within five (5) days of the hearing, with a copy being provided to the Principal. (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 Superintendent'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 which must be greater than ten (10) school days;
    - 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.
  4. Expulsion is at the discretion of the Superintendent. The Superintendent, in making his decision, shall take into account the circumstances under which the student committed the offence. The following offences may be considered by the Superintendent 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 behavior;
    - 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 or on the school grounds;
    - 4.8 Failure to observe and to obey any reasonable rule, regulation or procedure established by a staff member for maintaining a climate of behavior conducive to learning;

- 4.9 Willful or malicious damage to property or equipment on school premises; or
- 4.10 Prohibited use of drugs, alcohol, or tobacco.

It is expected that all students will comply with section 12 of the School Act, Board policy and school policy.

Legal Reference: Section 10, 12, 24, 25, 48, 61, 123, 124, 125 School Act

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