



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

Students who do not conform to the student code of conduct may negatively affect the school's learning environment. The Education Act grants Divisions and designated Division employees the authority to withdraw a student's privilege of attending a class, school or riding the bus for failure to comply with the rules established by the Division or school. The Division accepts the use of student suspensions as a disciplinary measure designed to encourage students to demonstrate self-discipline and appropriate behaviour. The Board accepts the use of expulsion where the continued presence of a student in a school will seriously affect the safety of staff or students or the quality of the learning environment.

Under Section 43 of the Education Act appeals to the Minister of Education may be made.

#### **A. All Matters Other Than Expulsion of a Student**

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.

1. Prior to a decision being appealed to the Board, it must be appealed to the Superintendent.
2. Parents/guardians 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/guardians 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/guardians 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/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:
  - 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 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 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 Committee 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 Board may have legal counsel in attendance. The recording secretary shall remain 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 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 Board, if the matter under appeal is a matter described in Section 43 of the Education Act.



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

The Board will hear representations with respect to a recommendation for a student expulsion in accordance with Section 42 of the Education 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 Board through the Office of the Superintendent.

The Board will convene in an in-camera session 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.

Parents/guardians 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/guardians or students.

The Board may have legal counsel in attendance.

Notes of the proceedings will be recorded by the recording secretary for the purpose of the Board's records. The expulsion hearing will be conducted in accordance with the following guidelines:

1. The Board 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/guardians to make representations;
  - 1.3 Reinstatement or expel the student.
2. The Board 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/guardians will be given an opportunity to respond to the information presented and to add any additional relevant information;
  - 2.3 The trustees will have the opportunity to ask questions of clarification from both the Principal and the student and the student's parents/guardians;
  - 2.4 The Board will meet, without either the administration or the student and the student's parents/guardians present, to discuss the case and the recommendation. The recording secretary may remain in attendance. Legal counsel may also remain in attendance;



- 2.5 Should the Board require additional information, both parties will be requested to return in order to provide the requested information;
  - 2.6 The Board will then make a decision to either reinstate or expel the student; and
  - 2.7 The Board's decision shall be communicated in writing to the student and the student's parents/guardians/guardian within five (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 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/guardians:
    - 3.1 The length of the expulsion which must be greater than ten (10) school days;
    - 3.2 The education 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/guardians to request a review of the decision by the Minister of Education.
  4. Expulsion is at the discretion of the Board. The Board, 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 Board as justification for expulsion: (this is not to be considered an exhaustive list)
    - 4.1 The student has displayed an attitude of willful, blatant and repeated refusal to comply with section 37 of the Education Act;
    - 4.2 The student demonstrates open opposition to the authority of the staff;
    - 4.3 The student's conduct is deemed to be injurious to the general tone and wellbeing of the student population being served by the school and the staff employed by the Division;
    - 4.4 The student's 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;
    - 4.5 The student habitually neglects to do work that is assigned to the student and which is within his/her competence to complete;



- 4.6 The student habitually uses profane or indecent language in the presence of other students or before staff;
- 4.7 The student threatens use of physical violence or acts of violence against a staff member or a serious unprovoked attack on other students;
- 4.8 The student's act of indecency in a school building, on the school grounds, or on a school bus;
- 4.9 The student's 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;
- 4.10 The student willfully or maliciously causes damage to school or Division property or equipment;
- 4.11 The students use of prohibited drugs, alcohol or tobacco;
- 4.12 Use of explicit materials.

It is expected that all students will comply with Section 37 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