

Appeals and Hearings Regarding Student Matters

Policy References	Policy Development Tracking
<p>External: Education Act: Sections 5, 141, 148, 150, , 152, 153, 154, 155, 158 Education Regulations: 48, 49, 50, 50.1, 52 Human Rights Code Canadian Charter of Rights and Freedoms</p> <p>Internal:</p>	<p>Adopted: June 28, 2011</p> <p>Amended: June 26, 2018</p>

Prior to an appeal being heard by the Board the Director must have had an opportunity to resolve the matter. The Director must ensure that Administrative Procedures have been followed.

General Appeals

The Board will hear appeals on administrative decisions that significantly affect the educational welfare of a student.

1. Principles of natural justice shall apply to appeal processes.
 - 1.1 Individuals have the right to know when appeals can be made, the process for appeals and how determination of the appeal can be made.
2. Parent, guardian or independent student appeals must go to the Director. At this stage, the Director will:
 - 2.1 Render a decision regarding the appeal.
 - 2.2 Inform the appellant that they have right of further appeal to the Board.
3. Initiating Board Level Appeal Hearings
 - 3.1 Appeals to the Board must be made within five (5) days from a decision by the Director, in accordance with section 2. This appeal must:
 - 3.1.1 Be dated and filed in writing.
 - 3.1.2 Contain the name of the party filing the appeal.
 - 3.1.3 Outline the central matter under appeal.
 - 3.1.4 Specify the reason for requesting an appeal hearing.
 - 3.2 When appealing a decision to the Board, appellants have the right to be assisted by a resource person(s) of their choosing. Responsibility for engaging and paying for such assistance rests with the appellant.
 - 3.3 Appeal hearings must be scheduled to ensure that the appellant and the Director (or designate) whose decision is being appealed, has sufficient notice and time to prepare.
4. Conducting Board Level Appeal Hearings
 - 4.1 Board level appeals will be heard in closed session, with specified individuals attending.

- 4.2 At the Board level appeal, the Board Chair will review the purpose of the hearing, stating that the appeal process exists:
 - 4.2.1 To provide an opportunity for the parties to make representation in support of their respective positions.
 - 4.2.2 To provide information that may include expert medical, psychological and educational data and may be presented by witnesses
 - 4.2.3 To provide Board with a means to receive information and to review the facts of the dispute.
 - 4.2.4 To provide a process for the committee to reach a fair and impartial decision.
- 4.3 The Director or designate shall provide rationale for the decision rendered in section 2.1.
- 4.4 The appellant shall provide rationale for their appeal and have opportunity to respond to information provided in section 4.3.
- 4.5 The Director or designate shall have opportunity to respond to information presented by the appellant in section 4.4.
- 4.6 Trustees shall have opportunity to ask questions or clarification from both parties.
- 4.7 Cross-examination of parties shall not be allowed unless deemed advisable by the Board Chair.

5. Board Deliberation Regarding Appeal Hearings

- 5.1 The Board will meet without the respective parties present to arrive at a decision regarding the appeal.
- 5.2 The recording secretary will remain in attendance.
- 5.3 The Board may have legal counsel in attendance.
- 5.4 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.
- 5.5 The Board decision and the rationale for that decision will be communicated to the appellant by telephone and by double-registered letter within three (3) days of the hearing.
- 5.6 Notes of all proceedings shall be entered into Board records.

Appeals for Students with Diverse Needs and Intensive Supports

The Board recognizes the right of a student with exceptional needs or the parents/ guardians of that student to request a review of a decision related to designation, placement and program in accordance with provisions outlined in The Education Act and the Regulations applicable thereto.

Specifically

1. Access to Review

An independent student, or the parent(s) or guardian(s) of a student with diverse needs and intensive supports shall have access to a review process in the event he/she disagrees with:

- 1.1 The designation of the student or failure to designate the student as having diverse needs.
- 1.2 The placement of the student.
- 1.3 The program provided to the student.

2. Right to Review

The right to a review is limited to decisions with educational or developmental implications for the student. The right for review does not apply where the disagreement with respect to the placement of the student is based on:

- 2.1 Student or parental preference regarding location of program delivery.
- 2.2 Student or parental convenience.
- 2.3 Other factors unrelated to the impact of program location on education and development of the student.
- 2.4 Any other reason that relates to, or is similar in nature to, those listed in section 2.1 through 2.3.
- 2.5 Location within an educational institution.
- 2.6 An allegation of discrimination pursuant to the Saskatchewan Human Rights Code or the Canadian Charter of Rights and Freedoms.

3. Informal Review Process

- 3.1 At any stage of an informal review, the student or parent(s)/guardian(s) of the student may choose to be accompanied by a person of their choice.
- 3.2 The Director or designate may make any interim decision considered necessary pending the decision of the informal review.
- 3.3 During the informal review period, the parents may exercise the right to have their child exempted from school or in the original placement until the appeal is settled.
- 3.4 The Director and/or designates will attempt to make every effort to resolve a designation, placement and/or program decision in a manner amicable to the student, parent(s) or guardian(s) and the Division.
- 3.5 The following steps outline actions required before requesting a formal review in accordance with section 5:
 - 3.5.1 The student or parent(s)/guardian(s) shall discuss the appeal with the teacher(s) and Principal.
 - 3.5.2 If there is no resolution, the student or parent(s)/guardian(s) shall request that the Director review the designation, placement or program decision.
 - 3.5.3 If there is no resolution, the Director will invite the Student Support Services Supervisor to facilitate a solution.
 - 3.5.4 If there is no resolution, the Director shall inform the student or parent(s)/guardian(s) of the procedures necessary for initiating a formal review.

4. Initiating the Formal Review Process

- 4.1 If informal review processes in section 3 fail to reach a solution, a formal review process may be initiated at the request of the student or parent(s)/guardian(s). The following steps outline the process required to initiate a formal review:
 - 4.1.1 The request for a formal review shall be made in writing to the Director, setting out the reasons for disagreement with a designation, placement or program decision.
 - 4.1.2 Within ten (10) school days of receiving the written request for a formal review, the Director shall respond in writing to the individual(s) outlining:
 - 4.1.2.1 The steps in the formal review process.

4.1.2.2 The procedure used to establish a neutral third party.

4.1.2.3 Expenses covered by the Board.

4.1.2.4 The anticipated timeline of the formal review process.

4.1.3 The Director shall notify Division personnel involved in decisions leading to the request for review, providing them with information concerning review circumstances. This information shall include a copy of the written request for a formal review

5. Formation of the Formal Review Committee

5.1 The Review Committee shall be composed of three (3) members.

5.2 The Director or designate and the student or parent(s)/guardian(s) must name a mutually acceptable Review Committee Chair.

5.3 The student or parent(s)/guardian(s) may choose a member from a list provided by the Director or designate of at least four (4) people who have not been involved in the original decision and who are external to the Division.

5.4 In the event of difficulty arriving at a mutually acceptable individual in accordance with section 5.2, the student or parent(s)/guardian(s) must have opportunity to name an acceptable person.

5.5 The process of bringing forward names will continue until a third person can be mutually agreed upon.

5.6 Review Committee representatives shall have appropriate levels of expertise and experience in educational programming and administration of services for students with diverse needs and intensive supports.

5.7 The appointment of the Formal Review Committee representatives will be made within ten (10) days of the initiation of a formal review by the student or parent(s)/guardian(s).

6. Review Committee Operations

6.1 The Review Committee shall hold their initial meeting within four (4) weeks of the formal review initiation.

6.2 The student or parents/guardians and their representative(s) shall be invited to present their reason(s) for requesting a review.

6.3 Division representatives who participated in the educational planning/decision-making process may be called upon to provide information related to the review.

6.4 The Review Committee may call upon other parties as witnesses or experts.

6.5 The Review Committee may conduct on-site observations and may request written submissions and reports from those individuals involved in the review.

7. Review Committee Outcomes

7.1 The Review Committee will submit a written report to the Board and the student or the parent(s)/guardian(s) requesting the review no later than two (2) weeks of receiving the final submission.

7.2 The report will outline the situation under review and identify related recommendations.

7.3 Recommendations will be based on information provided during the formal review process and must be consistent with The Education Act.

8. Determination of the Board

- 8.1 The Board will ratify, modify or deny the recommendation(s) at the next regular meeting of the Board.
- 8.2 The Board will provide written notification to the student or parent(s)/guardian(s), outlining Board response to recommendations of the Review Committee.
- 8.3 The Board decision is final.

Appeals for Student Suspension or Expulsion

The Board makes provisions for disciplinary proceedings to ensure thorough and expeditious investigation and treatment of problems.

Specifically

1. Where the Director or designate confirms, reduces or removes a student suspension of four (4) to ten (10) school days, the Director shall immediately report the suspension to the Board in writing.
2. The Board may investigate circumstances of reported suspensions through direct involvement or Committee proceedings. The Board delegates investigations to its Student Discipline Committee.
3. Where the Student Discipline Committee does not investigate circumstances of reported suspensions, all other investigations shall conclude before the end of the term of suspension.
4. Throughout all investigations into suspensions or expulsions, the Director and/or designates shall be cognizant of the rights of the student and parent(s) or guardian(s) provided through legislation.
5. Student Discipline Committee
 - 5.1 Student Discipline Committee Investigation

During the investigation phase, the Student Discipline Committee shall:

 - 5.1.1 Investigate the suspension; on the Board's behalf.
 - 5.1.2 Give notice of each investigation to the student and parent(s) or guardian(s).
 - 5.1.3 Provide opportunity for the student and parent(s) or guardian(s) to make representation before committee.
 - 5.2 Student Discipline Committee Decisions

Where the Student Discipline Committee makes a decision to increase the term of suspension beyond ten (10) days or to expel a student, that decision shall be:

 - 5.2.1 Made before the expiration of the suspension.
 - 5.2.2 Deemed as if it was a Board decision, having the same force and effect as if it were made by the Board.
 - 5.2.3 Immediately reported to the Board.
 - 5.3 The Student Discipline Committee is authorized to suspend a student for up to one (1) year.
6. Board Authority to Expel a Student Beyond One Year

Further to Section 4 the Board may, by motion, expel a student from any or all of the schools in the Division for a period greater than one (1) year provided the decision is based on:

- 6.1 An investigation conducted under the provisions of section 4, where the Student Discipline Committee arrives at a unanimous decision to this effect, or;
- 6.2 A majority vote the Board following a direct Board investigation.

7. Appeal of Expulsion

On the request of the student, parent(s) or guardian(s), pursuant to section 4 and at the expiration of one (1) year of expulsion, the Board will review and reconsider the expulsion. In this review, the Board may:

- 7.1 Rescind the expulsion, and/or;
- 7.2 Admit the student to school on Board specified terms and conditions.