

## **APPEALS AND HEARINGS ON STUDENT MATTERS**

The principles of natural justice support the provision of a mechanism for parents, students, and members of the public and staff to appeal decisions made, or not made, by employees of the Board. The legislation also requires the Board to establish an appeal process.

Under Section 43 and 44 of the *Education Act*, the only matters on which the Minister of Education will consider appeals are:

- Specialized supports and services to a student in accordance with Section 11(4) of the *Education Act* or to a child enrolled in an early childhood services program;
  - Student expulsion;
  - Access to, or the accuracy of completeness of student records; or
  - Board responsibility for a specific student.
1. The Board will hear appeals on administrative decisions on all matters, which are submitted in accordance with Section 42 of the *Education Act*. Prior to a decision being appealed to the Board, it must be appealed to the Superintendent.
  2. The expulsion of a student will be dealt with in accordance with *Administrative Procedure 319: Suspension and Expulsion of Students*.
  3. Parents of students, and students sixteen (16) years of age or older, have the right to appeal to the Board, a decision of the Superintendent. The Superintendent must advise parents and students of this right to appeal.
  4. The appeal to the Board must be made within ten (10) 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.
  5. Parents of students, as above, when appealing a decision to a 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. The names of such individuals who will be in attendance and the role of the resource person(s) must be provided to the Board at the time of filing the appeal.
  6. The Board may arrange to have legal counsel present for any matter being appealed.
  7. 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.
  8. The appeal will be heard in-camera, with specified individuals in attendance.
  9. The appeal hearing will be conducted in accordance with the following guidelines:
    - 9.1 The Board 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; and
  - 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. No external electronic recordings will be permitted.
- 9.3 The Superintendent and/or staff 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 staff.
- 9.5 The Superintendent and/or staff will have an opportunity to respond to information presented by the appellant.
- 9.6 Committee members will have the opportunity to ask questions or clarification from both parties.
- 9.7 No cross-examination of the parties shall be allowed.
- 9.8 The Board will meet without the respective parties in attendance to discuss the appeal and reach a decision.
- 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 in order to provide its information.
- 9.10 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 and if the matter under appeal is a matter described in Sections 43 and 44 of the *Education Act*.

## References

**Sections 3, 4, 11, 14, 31, 33, 36, 37, 40, 42, 43, 44, 52, 53 *Education Act***