
POLICY 13

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:

- ◆ Special education placement;
- ◆ Language of instruction;
- ◆ Home education programs;
- ◆ Student expulsion;
- ◆ Amount and payment of fees or costs;
- ◆ Access to, or the accuracy or completeness of student records;
- ◆ Amount of fees payable by a Board to another Board; or
- ◆ Board responsibility for a specific student.

In accordance with section 61 of the School Act, the Board delegates to the Appeals Committee the power to make decisions with respect to appeals on student matters other than the expulsion of students.

The Appeals Committee of 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.

The Appeals Committee of the Board will hear appeals on administrative decisions submitted in accordance with requirements established in the Alberta Human Rights Act.

All Matters Other Than Expulsion of a Student

1. Prior to a decision being appealed to the Appeals Committee, it must be appealed to the Superintendent.
2. Parent(s)/guardian(s) of student(s), and students 16 years of age or over, have the right to appeal to the Appeals Committee a decision of the Superintendent. The Superintendent must advise parent(s)/guardian(s) and student(s) of this right of appeal.

3. The appeal to the Appeals Committee must be made within five school 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. If an appeal is sent in electronically, the burden of proof of delivery is on the appellant.
4. Parent(s)/guardian(s), or student(s) as above, when appealing a decision to the Appeals 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 parent(s)/guardian(s) or student(s).
5. The hearing of the appeal must be scheduled so as to ensure that the person making the appeal and the Superintendent, whose decision is being appealed, has sufficient notice and time to prepare for the presentation. Where possible, the Appeals Committee will meet on Public Board Meeting Dates.
6. The appeal will be heard in-camera, with specified individuals in attendance. These individuals are the parent(s)/guardian(s), student(s), resource person(s), Appeals Committee and appropriate Board personnel or supports.
7. The appeal hearing will be conducted in accordance with the following guidelines:
 - 7.1 The 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 Appeals Committee. 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 Appeals Committee with the means to receive information and to review the facts of the matter being appealed;
 - 7.1.3 A process through which the Appeals Committee can reach a fair and impartial decision.
 - 7.2 No official record of the proceedings will be taken for the purpose of the Board's records. All information and notes are transitory records and are destroyed on June 30 of the school year following the decision.
 - 7.3 The Superintendent 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.
 - 7.5 The Superintendent will have an opportunity to respond to information presented by the appellant.
 - 7.6 Appeals 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 Appeals Committee will meet without the respective parties to the appeal in attendance to arrive at a decision regarding the appeal. The recording secretary and appropriate Board personnel or supports including legal counsel may be in attendance.
- 7.9 If the Appeals 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.
- 7.10 The Appeals Committee will make every effort to make a decision based on the process described above on the same day as the hearing.
- 7.11 The Appeals Committee decision and the reasons for that decision will be communicated to the appellant by telephone as soon as possible following the decision and in writing within five school days 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 Appeal Committee, 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 an ad hoc Expulsion Committee the power to make decisions with respect to the expulsion of students.

The Expulsion Committee of the Board 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 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 Expulsion Committee of the Board through the Office of the Superintendent.

The Expulsion 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.

Parent(s)/guardian(s) of student(s), 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 students.

The Expulsion Committee may have legal counsel in attendance.

Minutes 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 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 parent(s)/guardian(s) to make representations;
 - 1.3 Reinstate or expel the student.
2. The 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 parent(s)/guardian(s) will be given an opportunity to respond to the information presented and to add any additional relevant information;
 - 2.3 The members of the Expulsion Committee 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 Expulsion Committee 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 will remain in attendance. The Board's legal counsel may also remain in attendance.
 - 2.5 Should the Expulsion Committee require additional information, both parties will be requested to return in order to provide the requested information;
 - 2.6 The Expulsion Committee will then make a decision to either reinstate or expel the student; and
 - 2.7 The Expulsion Committee decision shall be communicated in writing to the student and the student's parents/guardians within 5 school 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)/guardian(s) and the student (if 16 years of age or over) of the decision by telephone or personal communication as soon as possible after a decision has been reached).
3. If the Expulsion Committee's decision is to expel the student, the following information must be included in the letter to the student and the student's parent(s)/guardian(s):
 - 3.1 The length of the expulsion which must be greater than 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 Committee. The Expulsion 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:
 - 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, on the school grounds, or on a school bus;
 - 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 school or Division property or equipment;
 - 4.10 Prohibited use of drugs, alcohol, or tobacco;
 - 4.11 Use of explicit materials; or
 - 4.12 Activities related to hazing or initiating activities.
5. The Student Expulsion Committee reserves the right to recommend such conditions as it deems reasonable respecting the re-enrollment of the student, including, but not limited to:
 - 5.1 Medical consultation or medical assessment;
 - 5.2 Enrolment by the student or the student's family in a treatment or counseling program designed to address the behavior for which the student was expelled;
 - 5.3 Alternative interventions such as community conference and other restorative practices;

- 5.4 Completion of a professional risk assessment concluding that the return of the expelled student to school is a minimal risk to the safety and well-being of students and staff; or
 - 5.5 Any other action which the Student Expulsion Committee considers appropriate.
6. If the student returns after the term of expulsion without having met the conditions recommended by the Student Expulsion Committee, the Expulsion Committee may direct the student to another education program.

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, 60, 61, 123, 124, 125 School Act

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