

APPEALS AND HEARINGS REGARDING STUDENT MATTERS

Under section 44(1) of the Education Act, “the Minister may review a matter as requested in accordance with the [*Education Act*] or the *Regulations* and may review the matter in any manner that the Minister considers appropriate in order to determine whether the decision of the Board was reasonable in the circumstances.” Matters the Minister may consider are as specified in Section 43 of the Education Act:

- Provision of specialized supports and services to a student or to a child enrolled in early childhood services program;
- Student expulsion
- Access to, or the accuracy of completeness of student records; or
- Board responsibility for a specific student.

In accordance with section 42 of the Education 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 42 of the Education 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.

1. All Matters Other Than Expulsion of a Student

- 1.1. Prior to a decision being appealed to the Appeals Committee, it must be appealed to the Superintendent in accordance with Administrative Procedure 152.
- 1.2. Parent(s) of student(s), and students sixteen (16) years of age or over, have the right to appeal to the Appeals Committee a decision of the Superintendent that significantly affects the education of a student. The Superintendent must advise parent(s) and student(s) of this right of appeal.
- 1.3. The appeal to the Appeals Committee must be made within five (5) school days from the date that the individual was informed of the Superintendent’s decision.
 - 1.3.1. 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.
 - 1.3.2. If an appeal is sent in electronically, the burden of proof of delivery is on the appellant.
- 1.4. Parent(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) or student(s).

- 1.5. 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, have sufficient notice and time to prepare for the presentation. Where possible, the Appeals Committee will meet on regular Board meeting dates.
- 1.6. The appeal will be heard in-camera, with specified individuals in attendance. These individuals are the parent(s), student(s), resource person(s), Appeals Committee and appropriate Division personnel or supports.
- 1.7. The parties to the appeal will be advised when the decision will be made. The Board decision must be made in the public board meeting.
- 1.8. The appeal hearing will be conducted in accordance with the following guidelines:
 - 1.8.1. The Chair will outline the purpose of the hearing, which is to provide:
 - 1.8.1.1. 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;
 - 1.8.1.2. The Appeals Committee with the means to receive information and to review the facts of the matter being appealed;
 - 1.8.1.3. A process through which the Appeals Committee can reach a fair and impartial decision.
 - 1.8.2. 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.
 - 1.8.3. The Superintendent will explain the decision and give reasons for the decision.
 - 1.8.4. 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.
 - 1.8.5. The Superintendent will have an opportunity to respond to information presented by the appellant.
 - 1.8.6. Appeals Committee members will have the opportunity to ask question of clarification from both parties.
 - 1.8.7. No cross-examination of the parties will be allowed, though questions may be directed to the other party through the Chair with the permission of the Chair.
 - 1.8.8. 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 legal counsel may be in attendance.
 - 1.8.9. 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.
 - 1.8.10. The Appeals Committee will make every effort to make a decision based on the process described above on the same day as the hear.

- 1.8.11. 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 (5) school days following the hearing. Included in the communication to the appellant will 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 Appeals Committee, if the matter under appeal is a matter described in Section 43 of the Education Act.

2. Expulsion of a Student

In accordance with section 52(1) of the Education 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 section 37(3) of the Education Act.

- 2.1. A student will be reinstated within five (5) school days of the date of suspension unless the Principal makes a recommendation for expulsion. When the Principal makes a recommendation for expulsion, the Principal will immediately report in writing all the circumstances to the parent or the student and to the Board through the Office of the Superintendent. The student then remains suspended until the Board has made a decision.
- 2.2. The Expulsion Committee Chair will convene the expulsion hearing upon the call of the Superintendent, but in no event will the meeting occur later than ten (10) school days from the first day of suspension.
- 2.3. The expulsion hearing will be held in-camera
- 2.4. Parent(s) of student(s), 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.
- 2.5. The Expulsion Committee may have legal counsel in attendance.
- 2.6. Notes of the proceedings will be recorded for the purpose of the Board's records.
- 2.7. The expulsion hearing will be conducted in accordance with the following guidelines:
 - 2.7.1. The Chair will outline the purpose of the hearing, which is to:
 - 2.7.1.1. Provide an opportunity to hear representations relative to the recommendation from the Principal;
 - 2.7.1.2. Any conditions respecting the circumstances in which the student may be enrolled in the same or a different education program;
 - 2.7.1.3. The length of any rule or condition and why either is to apply to the student beyond the school year in which the student was expelled.
 - 2.7.1.4. Provide an opportunity for the student and/or the student's parent(s) to make representations;
 - 2.7.1.5. Reinstate or expel the student and address the length of any rule or condition which applies to the student.
 - 2.7.2. The Chair will outline the procedure to be followed, which will be as follows:

- 2.7.2.1. The Principal will present the report documenting the details of the case and the recommendation to expel the student;
- 2.7.2.2. The student and the student's parent(s) will be given an opportunity to respond to the information presented and to add any additional relevant information;
- 2.7.2.3. 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;
- 2.7.2.4. The Expulsion Committee will meet, without either the administration or the student and the student's parents 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.
- 2.7.2.5. Should the Expulsion Committee require additional information, both parties will be requested to return in order to provide the requested information;
- 2.7.2.6. The Expulsion Committee will then make a decision to either reinstate or expel the student; and
- 2.7.2.7. The Expulsion Committee decision will be communicated in writing to the student and the student's parent(s) within five (5) school days of the hearing, with copies being provided to the Principal and the Superintendent.
 - 2.7.2.7.1. The Superintendent's office will attempt to inform the parent(s) and the student, if sixteen (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):
 - 3.1. The length of the expulsion which must be greater than ten (10) school days and any roles or conditions that apply to the student;
 - 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 parent(s) to request a review of the decision by the Minister of Education within sixty (60) days of the date on which the parent or the student, if the student is sixteen (16) years of age or older, is informed of the decision.
- 4. Expulsion is at the discretion of the Committee. The Expulsion Committee, in making its decision, will 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 behaviour;
 - 4.4. Habitual neglect to do work that is assigned to the student and which is within their 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 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 behaviour 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 Expulsion Committee considers appropriate.
 6. If the student returns after the term of expulsion without having met the conditions recommended by the Expulsion Committee, the Expulsion Committee may direct the student to another education program.

Legal Reference: Section 3, 4, 11, 31, 32, 33, 36, 37, 41, 42, 43, 44, 52, 53, 222 Education Act
Alberta Human Rights Act

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