

## **HEARINGS ON TEACHER TRANSFERS**

The Superintendent may transfer a teacher in accordance with section 212 of the *Education Act*. The teacher may make a written request to the Board to have a hearing before the Board for the purpose of objecting to the transfer.

The Board will conduct any hearings concerning the transfer of a teacher pursuant to section 212 (4) of the *Education Act*, in accordance with these procedures.

### **Specifically**

- 212(1) A superintendent may, at any time during a school year, transfer a teacher from one school operated by the board to another of its schools.*
- (2) Subject to this section, if a teacher is transferred, that transfer becomes effective not less than 7 days from the day on which the notice of transfer and reasons for the transfer are received by the teacher.*
- (3) When a teacher is given a notice of transfer, the teacher may, within 7 days from the day on which the teacher receives the notice of transfer, make a written request to the board to have a hearing before the board for the purpose of objecting to the transfer.*
- (4) The board may set a date and time for the hearing requested under subsection (3) that is not earlier than 14 days after the teacher receives notice of the transfer unless the teacher agrees in writing to an earlier date.*
- (5) Where a teacher makes a request to have a hearing before a board under subsection (3), that teacher must not be transferred until after the hearing is held.*
- (6) Notwithstanding section 217, if a teacher has been given*
- (a) a notice of transfer and does not wish to transfer in accordance with the notice, or*
  - (b) a hearing before the board under this section and does not wish to comply with the decision of the board, that teacher may resign from the teacher's employment with the board on giving the board 30 days' written notice of the teacher's resignation.*
- (7) Notwithstanding that 30 days has not passed from the date that a teacher gave notice of the teacher's resignation under subsection (6), the contract of employment between that teacher and the board terminates on the board paying to the teacher the salary that the teacher would have been entitled to if the teacher had remained in the employ of the board for 30 days from the date of the giving of notice of the teacher's resignation.*

### **1. Request for a Hearing:**

- 1.1 A teacher who has been given a notice of transfer by the Superintendent may make a written request to the Board to have a hearing before the Board for the purpose of objecting to the transfer within seven (7) days of receipt of the transfer notice.
- 1.2 The request for a hearing before the Board will be submitted by the teacher to the Director of Human Resources with a copy being provided to the Superintendent.
- 1.3 The Board may set a date and time for the hearing requested not earlier than fourteen (14) days after the teacher receives the notice of transfer, unless the teacher agrees in writing to an earlier date.
- 1.4 The Director of Human Resources will advise the teacher in writing of the date, time, and location of the hearing before the Board.

## 1.5 Requests for Adjournment

1.5.1 The Board Chair will consider reasonable requests for adjournment at any time before or during the hearing process.

1.5.2 If an adjournment is granted, Trustees shall not disclose or discuss the evidence presented or other matters related to the hearing, either among themselves or with the parties and their representative and witnesses until the hearing is reconvened.

## 2. Pre-Hearing Processes

2.1 Any written materials the teacher or the Superintendent wishes the Board to consider must be submitted to the Assistant Superintendent, Board Relations, where possible, not less than four (4) days prior to the scheduled date of the meeting. The Director of Human Resources will provide copies of all such documentation to the parties prior to the meeting, where possible, and to the trustees at the hearing.

2.2 Notwithstanding the above, the Board Chair will reserve the right to receive such further documentation as is deemed relevant at the Board hearing.

2.3 The teacher or the Superintendent may be accompanied by counsel or another representative, and may bring witnesses if, not less than four (4) days prior to the scheduled date of the meeting, the following is provided to the Board Chair by the teacher or the Superintendent in writing:

2.3.1 The names of counsel, other representatives, and any witnesses; and

2.3.2 An explanation satisfactory as to why the witnesses' evidence may not be adequately presented in writing.

2.4 The Board Chair will advise, in writing, the party who has requested permission to bring witnesses to the hearing as to whether or not the request will be granted, as soon as reasonably practical after receiving the application.

2.5 Notwithstanding the foregoing, the Board Chair reserves the right to allow such witnesses to appear at the hearing as are deemed relevant or necessary to the determination.

## 3. Procedure at Hearings

3.1 The Director of Human Resources will keep notes of the proceedings. The Board, in its sole discretion, may record the hearing via electronic means. Where recording will take place, the parties will be advised by the Board Chair at the commencement of the hearing.

3.2 The hearing will be conducted at a closed session of the Board and chaired by the Board Chair, or in the Chair's absence, the Vice Chair or designate.

3.3 The Board Chair will introduce all parties, and the parties and/or their representatives will introduce all witnesses at the hearing.

3.4 The sequence of the hearing will be as follows:

3.4.1 Consideration of any preliminary objections.

3.4.2 An opening statement to be made by each of the parties;

3.4.3 Written and oral presentation by the Superintendent or designate, including any evidence by witnesses where appropriate;

- 3.4.4 Written and oral presentation by the teacher, including any evidence by witnesses where appropriate;
  - 3.4.5 Superintendent's or designates opportunity for a response to the teacher's presentation;
  - 3.4.6 Teacher's opportunity for a response to the administration's presentation;
  - 3.4.7 An opportunity for the Board to ask questions of both parties and any questions of clarification of both parties and any of the other witnesses;
  - 3.4.8 An opportunity for the Superintendent or designate to make final comments;
  - 3.4.9 An opportunity for the teacher to make final comments; and
  - 3.4.10 No cross-examination of witnesses will be allowed unless the Board Chair deems it advisable.
- 3.5 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 the Secretary Treasurer or legal counsel in attendance.
- 3.6 If the Board requires additional information or clarification in order to make its decision, both parties will be recalled to appear before the Board and the request for information will be made in the presence of both parties.
- 3.6.1 If the information is not readily available, the Board Chair may request a recess, or if necessary an adjournment of the hearing to a later date.
  - 3.6.2 In the case of an adjournment, members of the Board are prohibited from disclosing the evidence presented or matters raised at the hearing, either amongst themselves or with the parties and their representatives or witnesses until the hearing is reconvened.
- 3.7 The Board will draft a resolution indicating its position. This resolution is to indicate the employee's number so as to maintain confidentiality.
- 3.8 When the Board is ready to make its decision on the matter, both parties, if still present, will be advised that the Board will be reconvening and will consider a motion to move into a regular or special Board meeting in order to consider the resolution.
- 3.9 The Board decision will be communicated to the teacher by telephone and confirmed in writing, following the hearing.

Legal Reference: Section 33, 52, 53, 212, 222 Education Act

Approved: November 2005

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