

Under the relevant section(s) of the *Education Act*, the only matters on which the Minister of Education will consider a review are with respect to:

- 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.

The Board will hear appeals on administrative decisions on all matters other than expulsion of students, which are submitted in accordance with relevant section(s) of the *Education Act*, that significantly affect the education of a student.

1. All Matters Other Than Expulsion of a Student

- 1.1 Prior to a decision being appealed to the Board, it must be appealed to the Superintendent, in accordance with Administrative Procedure (AP) 20-03 School Dispute Resolution (External Communication Protocol)
- 1.2 Parents of students, and students sixteen years of age or over, have the right to appeal to the Board, a decision of the Superintendent that significantly affects the education of a student. The Superintendent must advise parents and students of this right of appeal.
- 1.3 The appeal to the Board must be made within ten 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, including information as to how the matter significantly affects the education of a student.
 - 1.3.2 If an appeal is sent electronically, the burden of proof of delivery is on the Appellant (the person making the appeal).
- 1.4 Parents or students, as above, when appealing a decision to the 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.
- 1.5 Matters that do not significantly affect the education of a student are not appealable to the Board. The Board may make a preliminary ruling to determine whether a matter significantly affects the education of a student, and subsequently notify the Appellant in writing as to whether a hearing will be scheduled.
- 1.6 For the purpose of a hearing under this policy, the Board will determine whether the hearing will be a written submission that is heard in person or only a written

submission.

- 1.7 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, have sufficient notice and time to prepare for the presentation.
- 1.8 All written materials that the Superintendent and the Appellant wish the Board to consider must be submitted to the Secretary Treasurer not less than five business days prior to the scheduled date of the meeting. The Board may only consider the submitted materials in making their decision on the appeal. The Secretary Treasurer will provide copies to the Appellant and the Superintendent not less than three business days prior to the appeal hearing.
- 1.9 The appeal will be heard in-camera by the Board, at either a Regular Board Meeting or a Special Board Meeting, with specified individuals in attendance, including but not limited to the legal counsel for the Board, Superintendent, Secretary Treasurer, and other Division administrators as required. Legal counsel for the Superintendent may also be present as required.
- 1.10 The appeal hearing will be conducted in accordance with the following guidelines:
 - 1.10.1 The Board Chair will outline the purpose of the hearing, which is to provide:
 - 1.10.1.1 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;
 - 1.10.1.2 The Board with the means to receive information and to review the facts of the dispute, including the decision of the Division employee that allegedly significantly affects the education of a student;
 - 1.10.1.3 A process through which the Board can reach a decision that is reasonable in the circumstances.
 - 1.10.2 Notes of the proceedings will be recorded for the purpose of the Board's records.
 - 1.10.3 The Superintendent and/or designate(s) will explain the decision under appeal and give reasons for the decision.
 - 1.10.4 The Appellant will present their reasons for the appeal and their submitted evidence, and will have an opportunity to respond to information provided by the Superintendent and/or designate(s).
 - 1.10.5 The Superintendent and/or designate(s) will have an opportunity to respond to information provided by the Appellant.
 - 1.10.6 The members of the Board will have the opportunity to ask questions of

clarification from both parties.

- 1.10.7 No cross-examination of the parties, by either of the parties, shall be allowed unless the Chair deems it advisable.
- 1.10.8 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 recording secretary and legal counsel in attendance.
- 1.10.9 If the Board requires additional information or clarification in order to make its decision, both parties to the appeal will be requested to return to the hearing for the required additional information.
- 1.10.10 The Board decision will be made in an open session of the Board meeting. The decision and reasons for that decision will be communicated to the Appellant 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, if the matter under appeal is a matter described in Section 43 of the *Education Act*.

2. **Expulsion of a Student**

It is expected that each student shall comply with their responsibilities as set out in the *Education Act*, Board policy, administrative procedures and school rules.

In accordance with Section 52 of the *Education Act*, the Board delegates to the Student Expulsion Committee (Committee) the power to do any act or thing or exercise any power that the Board may or is required to do or exercise with respect to the expulsion of a student pursuant to the *Education Act*.

A decision made on a student expulsion by the Committee is considered a decision of the Board, including for the purposes of a review by the Minister under Section 43(1)(b) of the *Education Act*.

Expulsion is at the discretion of the Committee. In making its decision, the Committee shall take into account the circumstances under which the student committed the alleged offense(s) and/or misconduct and any other circumstances it deems relevant and/or material.

Before the Committee makes a decision under Section 37(4)(b) of the *Education Act*, the student and the student's parent may make representations to the Committee with respect to the principal's recommendation to expel the student.

The Committee will hear representations with respect to a recommendation for a student expulsion in accordance with relevant sections of the *Education Act*.

- 2.1 A student shall be reinstated within five 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 shall immediately report in writing all the circumstances to the parent or the student (if the student is the age of majority or an

- independent 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 Committee will convene the expulsion hearing upon the call of the Superintendent or designate, but in no event shall the meeting occur later than ten school days from the first day of suspension.
 - 2.3 The expulsion hearing will be held in-camera.
 - 2.4 Parents of students, or students sixteen years of age or over, have the right to be assisted by a resource person(s) of their choosing, for the purpose of the representations referenced in Section 37(3) of the *Education Act*. The responsibility for engaging and paying for such assistance rests with the parents or students.
 - 2.5 The Committee may have legal counsel in attendance.
 - 2.6 The Superintendent or designate(s) will also be in attendance in an advisory capacity.
 - 2.7 Notes of the proceedings will be recorded for the purpose of the Board's records.
 - 2.8 The expulsion hearing will be conducted in accordance with the following guidelines:
 - 2.8.1 The Chair of the Committee will outline the purpose of the hearing, which is to:
 - 2.8.1.1 Provide an opportunity to review the recommendation from the principal including:
 - 2.8.1.1.1 Any conditions respecting the circumstances in which the student may be enrolled in the same or a different education program;
 - 2.8.1.1.2 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.
 - 2.8.1.2 Provide an opportunity for the student and/or the student's parents to respond to the principal's recommendation(s);
 - 2.8.1.3 Reinstate or expel the student.
 - 2.8.2 The Chair of the Committee will outline the procedure to be followed, which will be as follows:
 - 2.8.2.1 The principal will present the report documenting the details of the case and the recommendation to expel the student;
 - 2.8.2.2 The student and the student's parents will be given an opportunity to respond to the information presented and to add any additional relevant information;

- 2.8.2.3 The members of the Committee will have the opportunity to ask questions of clarification from both the principal and the student and the student's parents;
- 2.8.2.4 The Committee will meet, without the principal or the student and the student's parents present, to discuss the case and the recommendation. The Superintendent or designate(s) may remain in attendance to provide assistance to the Committee. The recording secretary and/or legal counsel for the Committee may also remain in attendance;
- 2.8.2.5 Should the Committee require additional information, both parties will be requested to return in order to provide the requested information;
- 2.8.2.6 The Committee will then make a decision to either reinstate, reinstate with conditions, or expel the student; and
- 2.8.2.7 The Committee's decision shall be communicated in writing to the student's parents and student (if the student is 16 years of age or over) within five days of the hearing, with copies being provided to the principal and the Superintendent.
 - 2.8.2.7.1 The Superintendent's office will attempt to inform the parent(s) and the student of the decision by telephone or personal communication as soon as possible after a decision has been reached.
- 2.8.3 If the Committee's decision is to expel the student, the following information must be included in the letter to the student and the student's parents:
 - 2.8.3.1 The length of the expulsion and any rules or conditions that apply to the student;
 - 2.8.3.2 The educational program to be provided to the student, consistent with the *Education Act* and its Regulations, and the name of the individual to be contacted in order to make the necessary arrangements;
 - 2.8.3.3 The right of the student and the student's parents to request a review of the decision by the Minister of Education within sixty days of the date on which the parent or the student, if the student is sixteen years of age or older, is informed of the decision.

Reference:

[Education Act](#)
[AP 20-03 School Dispute Resolution \(External Communication Protocol\)](#)
[Guidelines: Appeals to the Board Regarding Student Matters](#)
[Policy 08 Committees of the Board](#)

[AP 50-09 Student Code of Conduct](#)
[AP 50-10 Student Suspension and Expulsion](#)
[Guidelines: Expulsion Review](#)