

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 shall conduct any hearings concerning the transfer of a teacher pursuant to section 212 of the *Education Act*, in accordance with these procedures.

Specifically

1. Transfers

- 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 calendar days of receipt of the transfer notice.
- 1.2 The request for a hearing before the Board shall be submitted by the teacher to the Secretary Treasurer with a copy being provided by the Superintendent.
- 1.3 The Board may set a date and time for the hearing requested not earlier than fourteen calendar days after the teacher receives the notice of transfer, unless the teacher agrees in writing to an earlier date.
- 1.4 The Secretary Treasurer shall advise the teacher in writing of the date, time and location of the hearing.

2. Adjournments

- 2.1 Requests for adjournments may be granted by the Board Chair, where determined to be reasonable in the Board Chair's sole discretion. An application for an adjournment shall be made in the following manner.
  - 2.1.1 Where the request for the adjournment is made in advance of the hearing, it shall be made in writing to the Secretary Treasurer by the teacher or the Superintendent no less than seven days before the originally scheduled date of the hearing.
  - 2.1.2 A request for an adjournment, although not submitted in accordance with clause 2.1.1, if supported with reasons that the Board Chair considers valid, including the reason the request was not submitted within the required time period, may be made in writing through the Secretary Treasurer.
- 2.2 The Board Chair may seek written submissions from each of the parties about whether to grant the adjournment.

- 2.3 The Board Chair may take into consideration the timing of the request for the adjournment, the stated reasons for the request, the prior history of requests for the adjournment of the matter, and the submissions made by the parties.
  - 2.4 Where adjournments are granted in the course of a hearing, 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. Pre- Hearing Processes
    - 3.1 Any written materials the teacher or the Superintendent wishes the Board to consider must be submitted to the Secretary Treasurer, not less than four working days prior to the scheduled date of the meeting. The Secretary Treasurer will provide copies of all such documentation to the parties, including the trustees, prior to the meeting, where possible.
    - 3.2 Notwithstanding the above, the Board Chair shall reserve the right to receive such further documentation as is deemed relevant at the Board hearing.
    - 3.3 The teacher or the Superintendent may be accompanied by counsel or other representatives, and may bring witnesses if, not less than four working days prior to the scheduled date of the meeting, the following is provided by the teacher or the Superintendent in writing to the Secretary Treasurer:
      - 3.3.1 The names of counsel, other representatives, and any witnesses; and
      - 3.3.2 An explanation satisfactory to the Board Chair as to why the witnesses' evidence may not be adequately presented in writing.
    - 3.4 The Board Chair shall 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.
    - 3.5 Notwithstanding the foregoing, the Board Chair shall reserve the right to allow such witnesses to appear at the hearing as are deemed relevant or necessary to the determination.
    - 3.6 The teacher or Superintendent may be represented by counsel or a representative. In the event a teacher retains either counsel or a representative, the cost of such services, if any, will be incurred at the teacher's own expense.
  4. Procedure at Hearings
    - 4.1 If a teacher fails to attend the hearing, they will not be entitled to any further notice and the Board shall hold the hearing in the absence of the teacher.
    - 4.2 The Secretary Treasurer 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 shall be advised by the Board Chair at the commencement of the hearing.

- 4.3 The hearing shall be conducted at an in-camera session of the Board, either at a Regular Board Meeting or a Special Board Meeting, with specified individuals in attendance, including but not limited to the Superintendent, and the Secretary Treasurer or designates.
- 4.4 The Board Chair shall introduce all parties, and the parties and/or their representatives shall introduce all witnesses at the hearing.
- 4.5 The sequence of the hearing shall be as follows:
  - 4.5.1 Consideration of any preliminary objections.
  - 4.5.2 An opening statement to be made by each of the parties;
  - 4.5.3 Written and oral presentation by the Superintendent, including any evidence by witnesses where appropriate;
  - 4.5.4 Written and oral presentation by the teacher, including any evidence by witnesses where appropriate.
  - 4.5.5 Superintendent's opportunity for a response to the teacher's presentation;
  - 4.5.6 Teacher's opportunity for a response to the Superintendent's presentation;
  - 4.5.7 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;
  - 4.5.8 An opportunity for the Superintendent to make final comments;
  - 4.5.9 An opportunity for the teacher to make final comments; and
  - 4.5.10 No cross-examination of witnesses shall be allowed unless the Board Chair deems it advisable.
- 4.6 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 and/or legal counsel in attendance.
- 4.7 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.
  - 4.7.1 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.
  - 4.7.2 In the case of an adjournment, members of the Board are prohibited from discussing 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.

- 4.8 In reaching a decision, the Board shall have regard only to the evidence, argument and submissions made at the hearing and the debate during the deliberations, and not to any information that may have come into its possession prior to or outside the course of the hearing itself, unless it notifies the parties of this information and gives the parties an opportunity to make submission in this regard.
- 4.9 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 into a regular meeting in order to consider the motion.
- 4.10 The Board decision will be communicated to the teacher in writing, following the hearing.
- 4.11 If a member of the Board who has participated in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision, the remaining trustees may complete the hearing and give a decision.
- 4.12 A member of the Board who has not been present through the whole of the hearing shall not take part in the deliberations or the decision.

**Reference:**

[Education Act](#)

[Policy 11 Delegation of Authority](#)

[AP 40-07 Employee Assignment and Transfer](#)

[AP 40-13 Employee Discipline](#)

[AP 40-19 Staff Reduction](#)