

## **Policy Statement:**

Other than student expulsion matters which are heard under Policy 200-6 and in accordance with section 123 of the *School Act*, the Board will hear appeals from (a) the parent of the Division student, and (b) in the case of a student who is 16 years of age or older, the student, or (c) either of them (“Appellant”), of a decision of a Board employee that significantly affects the education of a Board student (“Decision”) within a reasonable time from the date the parent or student was informed of the decision.

The failure of a Board (Division) employee to make a decision is deemed to be a decision that may be appealed under this Policy.

## **Rationale:**

A clearly defined student appeal process is intended to ensure that all parties have fair and equal access to appeal in accordance with the *School Act* Part 5; Sections 123, 124 and 125 and this Policy.

## **Scope:**

Under section 124 of the *School Act*, the only matters on which the Minister of Education will consider reviews are:

- Special education placement;
- Language of instruction (French);
- 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.

## **Appeal of All Student-Related Matters**

1. Prior to a decision being appealed to the Board, it must first have been reviewed by the Superintendent (pursuant to AP 20-03 Parent Inquiries) with a decision rendered by the Superintendent.
2. The notice of appeal to the Board must be made within a reasonable time from the date that the parent or student was informed of the Superintendent’s decision. The notice of 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.
3. 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.

4. 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.
5. 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.
6. The hearing of the appeal must be scheduled so as to ensure the Appellant and the Superintendent, or designate, of a Board employee whose decision is being appealed, has sufficient notice and time to prepare for the presentation.
7. All written materials that administration and/or the Superintendent and the Appellant wish the Board to consider must be submitted to the Secretary Treasurer not less than (5) 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, delegate or Board employee not less than three (3) business days prior to the appeal hearing.
8. 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 Superintendent, Secretary Treasurer, and other Division administrators as required. Legal counsel for the Superintendent may also be present as required.
9. The appeal hearing will be conducted in accordance with the following guidelines:
  - 9.1 The Board Chair will outline the purpose of the appeal hearing, which is to provide:
    - 9.1.1 An opportunity for the Appellant and administration 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;
    - 9.1.2 The Board with the opportunity to receive information and to review the facts of the dispute, including the decision of an employee of a Board that allegedly significantly affects the education of a student;
    - 9.1.3 A process through which the Board can reach a fair and impartial decision.
  - 9.2 The Secretary Treasurer for the Board may take notes of the hearing for the purpose of the Board's records.
  - 9.3 The Superintendent and/or staff will explain the decision that has been challenged and give reasons for the decision.
  - 9.4 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).
  - 9.5 The Superintendent and/or designates will have an opportunity to respond to information presented by the Appellant.
  - 9.6 The Board may ask questions or request clarification from either the Appellant or the Superintendent.
  - 9.7 No cross-examination of the parties, by either of the parties, shall be allowed, unless the Chair deems it advisable under the circumstances.
  - 9.8 The Board will meet In Camera without the respective parties to arrive at a decision regarding the appeal. The Secretary Treasurer will remain in attendance. The Board may have legal counsel in attendance.

- 9.9 If the Board requires additional information or clarification in order to make its decision, both parties to the appeal shall return to the hearing to provide the required additional information.
- 9.10 The Board may provide reasons in support of its decision at the time it issues its decisions or after that.
- 9.11 The Board decision in relation to the appeal will be communicated to the Appellant and confirmed in writing with reasons.
- 9.12 Included in the communication to the Appellant shall be information that the Appellant has the right to seek a review in accordance with Section 124 of the *School Act*.

**Reference:**

Sections 2, 10, 12, 24, 25, 48, 61, 123, 124, 125 [School Act](#)  
[Policy 9 Communication Protocol](#)  
[AP 20-03 Parent Inquiries](#)  
[Guidelines: Appeals to the Board Regarding Student Matters](#)