

**Policy Statement:**

The *School Act* provides authority to the Superintendent to transfer teachers from one school operated by the Board to another of its schools. The *School Act* also makes provision for the teacher to make a written request to have a hearing before the Board for the purpose of objecting to the transfer.

The *School Act* also makes provision for the termination of continuous teacher employment contracts. The Superintendent may make a recommendation to the Board to terminate a contract of employment with a teacher or to terminate a designation of a teacher. In terminating a contract of employment or a designation, the Board shall act reasonably. The teacher may make a written request to the Board for a hearing in accordance with the *School Act*.

The Board or the Superintendent may suspend a teacher from the performance of the teacher's duties in accordance with Section 105 of the *School Act*.

**Rationale:**

A clearly defined process regarding appeals to the Board for teachers, as provided for in the *School Act*, is intended to ensure fairness in the process (See Part 4; Sections 104, 107, and 109 of the *School Act*).

**Scope:**

This Policy covers teacher hearings pursuant to the *School Act*, in particular teacher transfer hearings, teacher suspension hearings and teacher termination hearings.

Where an issue arises which is not covered by this Policy, it shall be resolved at the sole discretion of the Board.

The Board may waive application of or vary any of the provisions set out in this Policy at any time, subject to the mandatory limitations or restrictions in the *School Act*.

**I. NOTIFICATION**

**A. Teacher Transfers**

1. A teacher who wishes to appeal the notice of transfer by the Superintendent must 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) calendar days of receipt of the transfer written notice as per section 104(3) of the *School Act*.
2. The Board may set a date and time for the hearing that is not earlier than 14 calendar days after the teacher receives notice of the transfer unless the teacher agrees in writing to an earlier date.

3. The Secretary Treasurer shall advise the teacher in writing, of the date, time and location of the hearing.

#### **B. Teacher Terminations**

1. When the Superintendent has decided to make a recommendation to the Board to terminate a teacher's contract, or terminate a designation, the Superintendent shall forward that recommendation:
  - 1.1 To the teacher, not less than fourteen (14) calendar days before the scheduled date of the meeting at which the recommendation shall be considered; and
  - 1.2 To the Board, through the Secretary Treasurer, in accordance with the procedures set out below for regular Board meetings.

#### **C. Teacher Suspensions**

1. Should the Board or Superintendent determine that it is necessary to suspend the services of a teacher pursuant to the *School Act*, the Board shall provide the teacher with written notice of the suspension specifying the reasons for the action.
2. A teacher wishing to appeal the suspension to the Board must submit a request in writing to the Secretary Treasurer, with a copy being provided to the Superintendent, within seven (7) calendar days of receipt of the notice of suspension.
3. The Board shall meet to hear the appeal within three weeks of having received the written request from the teacher.
4. The Secretary Treasurer shall advise the teacher in writing of the date, time and location of the Board meeting at which the appeal will be heard.

### **II. TEACHER HEARINGS**

#### **A. Procedure Prior to a Teacher Hearing**

1. The Board controls its own processes, including the communication process it may decide to follow, if any, regarding the Board process in relation to a teacher hearing.
2. The objective of the hearing process and requirements for conducting teacher transfer hearings are intended to be accessible and fair.
3. If the teacher or the Superintendent would like to present evidence through a witness(es), the teacher/Superintendent must, not less than seven (7) calendar days prior to the scheduled date of the hearing, provide the Board and the other party with:
  - 3.1 the names of any witnesses;
  - 3.2 an explanation satisfactory to the Board Chair as to why the witnesses' evidence may not be adequately presented in writing; and

- 3.3 the Board Chair will decide whether it will hear the testimony of any witnesses, if at all.
4. Not less than five (5) calendar days prior to the scheduled hearing date:
  - 4.1 any written materials the teacher and/or the Superintendent wishes to rely on for the purpose of the hearing must be submitted to the Secretary Treasurer. The Secretary Treasurer will provide sufficient copies of the same to the Board, the Superintendent, and the teacher;
  - 4.2 the teacher or the Superintendent must also provide the Board and the other party the name(s) of counsel and/or representatives.
5. The teacher and/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.

**B. Procedure at the Hearing**

At the hearing, the following procedural rules shall apply.

1. The Board hearing will be held in-camera at either 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 delegates.
2. The Secretary Treasurer or delegate may take notes of the proceedings for the purposes of the Board's records.
3. The Superintendent and the teacher shall be given an opportunity to make introductory and closing statements.
4. At the hearing, the Board may reasonably limit the number of witnesses, where it is satisfied that the evidence presented has been sufficient to disclose all matters relevant to the issues in the hearing.
5. The Board may exclude any evidence it believes to be unduly repetitious or which is not relevant and/or material to the issues before the Board at the hearing.
6. The Board will meet without the respective parties to the appeal in attendance to arrive at a decision regarding the appeal. The Secretary Treasurer shall remain in attendance, at the discretion of the Board for the purpose of providing assistance to the Board. The Board may have legal counsel in attendance.
7. The Board has the power to reserve its decision.
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.

9. If the Board requires additional information or clarification in order to make its decision, both parties to the appeal may be requested to return to the hearing for the required additional information.
10. The Board decision will be communicated to the teacher or to the teacher's representative if the teacher's representative partakes in the hearing, and the Superintendent of Schools and confirmed in writing following the hearing.
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.
12. A member of the Board who has not been present through the whole of the hearing shall not take part in the deliberations, the decision or the reasons.
13. If a teacher fails to attend the hearing, she/he will not be entitled to any further notice except under extraordinary circumstances as provided in writing by the teacher to the Board Chair in a timely fashion. In this event the Board shall hold the hearing in the absence of the teacher.
14. The Board may communicate in relation to process-related matters only.

**Reference:**

Sections 104, 107, 109 [School Act](#)  
[Policy 11 Delegation of Authority](#)  
[AP 40-07 Assignment and Transfer of Personnel](#)  
[AP 40-13 Discipline, Suspension and Termination of Staff](#)  
[AP 40-19 Termination of Contracts – Staff Reduction – Certificated](#)