



202.3AP Appeals Concerning Student Matters

ADOPTED: 2012.02.15
APPROVED: 2021.05.19 (2020.05.13) (2017.06.21) (2012.02.15) (1995.09.20)
AMENDED: 2021.05.12 (2020.05.04) (2017.06.20) (2008.12.17)
REVIEWED: 2021.05.12 (2020.01.21)

LEGAL REFERENCE:

- *Education Act* Sections; 36 (1-5), 37 (1-10), 42 (1-8), 43 (1-4), 44 (1-3), 52 (1-4)
- Alberta Education Policy Manual 3.5.1, 3.5.2
- Child, Youth and Family Enhancement Act 57 (2)
- *Family Law Act* Part 2

CROSS REFERENCE:

- [302.4AP Inclusive Learning Program](#)
 - [302.5AP Out-of-Jurisdiction Program Placement Agreements](#)
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PROCEDURES:

1. Any decisions made by a staff member which significantly affects the education of a student must be communicated verbally and in written form to the parents/guardians, or in the case of an independent student, the student. Barring unforeseen circumstances, first verbal contact should be made within 24 hours.
2. Decisions made at any administrative level are subject to appeal to the next level of administration. The levels shall be:
 - 2.1 Teacher;
 - 2.2 Principal;
 - 2.3 Assistant Superintendent of Learning;
 - 2.4 Superintendent;
 - 2.5 Board.
3. It shall be the responsibility of the party making a decision to notify the parents/guardians or the independent student of the right of appeal to the next administrative level. Independent student definition: any student 18 years of age or older; or 16 years of age or older and living

independently of his/her parents; who is party to an agreement under section 57(2) of the Child, Youth and Family Enhancement Act; or receives income support under Income Employment Supports Act (IESA) section 6(2)(b) and/or Income Support Training Health Benefit (ISTHB) Regulation section 11(b).

- 3.1 Any appeal must be filed in writing with the next level of administration.
 - 3.2 The party receiving the appeal shall be certain that the decision has been mutually discussed and understood by both parties before initiating the formal appeal.
 - 3.3 The party receiving the appeal shall make every reasonable effort to interview both parties in the dispute before rendering a decision
 - 3.4 This process may continue until a decision is pronounced by the Board, whose decision is final except for those items in Procedure No. 6.
4. The Board may establish one or more committees to carry out its responsibilities under this policy.
- 4.1 An Appeal Committee of the Board shall consist of:
 - 4.1.1 at least three trustees including the Board Chairperson or designate; and,
 - 4.1.2 the Chairperson shall name the other two trustees to serve on the Committee. Where possible, the trustees selected shall reside outside the ward where the student resides and will have no conflict of interest
 - 4.2 Appeals to the Board are to be addressed in writing to the Board Chair.
 - 4.2.1 A statement of appeal shall include the date of the letter, matter under appeal, the individual(s) affected, including age and grade, as well as the name of the person or persons launching the action.
 - 4.2.2 The Appeal Committee may be functional for a single case or a group of cases relating to the same incident or matter. A new Committee may be formed for each different, new, or subsequent appeal.
 - 4.2.3 Upon receiving a written appeal, the Board Chairperson shall contact the Superintendent to determine the existence or applicability of otherwise prevailing appeal processes.
 - 4.2.4 Should this specific procedure be determined to be the appropriate mechanism for appeal, the Chairperson after naming two trustees to the Committee, shall establish a time and place to hear the appeal and will advise or cause to be advised those launching the appeal, of the time and place of the appeal and will inform also of the student's rights to be represented at the appeal hearing by a responsible adult, guardian, care provider or lawyer. The Board may request a person (psychologist or other professional) to be in attendance to provide expert opinion.
 - 4.2.5 Documentation to be presented to the Appeal Committee must be in the Board Office five (5) school days in advance of the Hearing and must identify the individuals who will attend the Hearing and their role.
 - 4.2.6 The decision of the Appeal Committee shall be communicated in writing to the person or persons who initiated the appeal.

- 4.2.7 The decision rendered by the Appeal Committee shall be considered to be of the same status as a decision by the Board, and is not subject to further local appeal.
5. Parents/guardians will be provided with:
 - 5.1 the opportunity to receive and examine all of the student's school records within reasonable time prior to the appeal;
 - 5.2 the opportunity to attend the hearing and have an interpreter, an advocate, or a lawyer present if so desired;
 - 5.3 the opportunity to present evidence, including expert medical, psychological and educational testimony, and to call witnesses;
 - 5.4 the opportunity to decide whether or not the student will be present at the appeal during the presentation of evidence by the parents;
 - 5.5 the opportunity to record the appeal hearing.
 6. The Board shall inform those submitting an appeal that they may appeal the following matters to the Minister of Education pursuant to the *Education Act*:
 - 6.1 Inclusive Learning placement;
 - 6.2 Language of instruction;
 - 6.3 Home Education program
 - 6.4 Student expulsion;
 - 6.5 Access to and accuracy or completeness of student records; and
 - 6.6 Amount and payment of fees and costs.
 7. Every decision must be directed towards the educational interests of the student.
 8. In the school system, decisions made about the education of any student or a group of students must consider the impact of these decisions on the total population of students served and the availability of resources.

SPECIFIC APPEALS:

1. Student Expulsion-or Suspension
 - 1.1 Consistent with Section 36 (1-5) Suspension or 37 (1-10) Expulsion of the *Education Act*, a student and/or parent(s) will be informed by the Superintendent or designate of their right to appeal the principal's decision and/or recommendation(s). The Committee - shall, within ten (10) school days from the date of the expulsion or suspension, hold a hearing and reinstate or expel the student.
 - 1.2 The decision of the Committee shall be communicated to the student and/or parent(s) verbally within one (1) school day of the hearing, and in writing within five (5) school days of the hearing.
2. Transportation
 - 2.1 For transportation appeals, the "General" process shall be adhered to.
 - 2.1.1 The decision of the Board shall be communicated to the parties involved within ten (10) school days of the hearing.

3. Student Evaluation

- 3.1 For appeals regarding student marks, the appeal shall be filed within five (5) school days of receipt of final mark. The Board of Trustee's level of involvement in such an appeal shall be restricted to a review of process and procedure.
- 3.2 The decision of the Board shall be communicated to the parties involved within ten (10) school days of the hearing.

4. Inclusive Learning (In-jurisdiction placements)

- 4.1 A parent who expresses dissatisfaction with a placement decision made by the Principal in the case of an Inclusive Learning Placement; is to be provided with the written associated appeal procedures within five (5) school days of the decision.
- 4.2 Time frame references within this procedure are expressed in terms of school operating days. This reference is made because an adequate review of student needs cannot be undertaken when school-based staff, and other professional staff, is on regularly scheduled holiday and summer recess breaks. Inclusive Learning Placement Appeals shall not be heard during the summer vacation period.
- 4.3 Disagreement regarding the placement of a student in an Inclusive Learning Program is to be resolved in accordance with the following appeal process:
 - 4.3.1 Upon receipt of the written placement recommendation, the parents will have five (5) school days in which to provide a written notice of appeal to the Director of Inclusive Learning setting out their wish to appeal the decision of the Principal.
 - 4.3.2 Within ten (10) school days of receipt of the notice of appeal of the placement recommendation, the Director of Inclusive Learning shall meet with the student's parents to hear the submission from the parents as to why the placement recommendation is inappropriate. The Director of Inclusive Learning may meet with the Principal, or such other person(s) as, in the opinion of the Director of Inclusive Learning, may be useful for the purpose of considering the appropriateness of the placement recommendation. Within the ten (10) school day limit, the Director of Inclusive Learning shall provide the parents with a brief, written decision, with reasons, either confirming the placement recommendation or proposing an alternative placement with the Board or beyond.
 - 4.3.3 Upon receipt of the decision of the Director of Inclusive Learning, the parents may appeal to the Superintendent of Schools by filing a written notice of appeal within five (5) school days of the receipt of the decision of the Director of Inclusive Learning. The Superintendent may schedule a meeting with the parents, Director of Inclusive Learning, or such other person(s) as may be useful for the purpose of considering the appeal within ten (10) school days of receipt of the written notice of appeal. Parents will be advised of the Superintendent's decision, in writing, within ten (10) school days.

- 4.3.4 Upon receipt of the decision of the Superintendent, the parents may appeal to the Board by filing a written notice of appeal with the Chair of the Board within five (5) school days of the receipt of the decision of the Superintendent. The appeal shall be heard by the Student Appeals Committee within ten (10) school days of receipt of the written notice of appeal. The date of the appeal shall be scheduled by the Board Chairman. The decision of the Committee shall be deemed to be a decision of the Board. Parents will be advised that the Committee's decision may be a matter reviewable by the Minister under Section 44 (1-3) of the *Education Act*.
- 4.3.5 The Committee shall communicate their decision to the parties involved in writing, within thirty (30) days of the Hearing.
- 4.4 Disagreement regarding the amount and payment of fees or costs associated with an alternative placement external to the Division is also to be resolved in accordance with the appeal process outlined above for the placement of a student in an Inclusive Learning Program. Any appeal regarding the amount and payment of fees or costs associated with external student placements must be conjoined with the basic obligation of the Board's need to provide each of its resident students with an education program consistent with the requirements of the *Education Act* and Alberta Education Regulations. Appeals for fees and costs (funding) must be based upon a specific placement recommendation that the parent deems as being inappropriate to the needs of their child (student) as the Board has no obligation to simply pay a bill to a private school or other educational authority.
- 4.5 Parents who express dissatisfaction with placement decisions/or decisions respecting the amount and payment of fees or costs are to be informed of their right to appeal and of the appeal procedures.
- 5. Fees/Charges/Reimbursable Deposits
 - 5.1 Should a request to waive a fee, charge or reimbursable deposit be denied by the principal, a parent/guardian can appeal in writing as outlined in Section 2 above. This must occur within 30 days of the date of denial.

HEARING PROCESS:

- 1. When the need to hear an appeal arises, the Board or a Committee established by the Board to hear the appeal shall establish:
 - 1.1 a hearing date, time, and place, and
 - 1.2 a date for submission of information from both parties which will then be distributed to both parties. This will allow the person making the appeal and the employee, whose decision is being appealed, sufficient notice and time to prepare for presentation. This may include arrangements to be represented by legal counsel.

2. The appeal shall be heard by the Board or a Committee established by the Board. The Secretary Treasurer and Superintendent and/or their designates shall be present to assist the Board or Committee, except in cases where it is their decision that is being appealed. In that circumstance, they shall attend to make representation to support their position.
3. The Chair of the Board or Committee established by the Board shall be guided by the following:
 - 3.1 Introduction of participants to the hearing.
 - 3.2 Explain the purpose of the hearing.
 - 3.2.1 To provide the opportunity for parties to make representation to support their position before the decision on the appeal is made.
 - 3.2.2 To ensure that the person making the appeal understands the decision and the reasons for the same.
 - 3.2.3 To permit each party to hear the other party and to respond to statements as presented by the other party.
 - 3.2.4 To allow trustees to know the facts and to hear any evidence they deem fit and proper prior to making the decision in respect of the appeal.
 - 3.4 The person who made the decision under appeal explains the decision and gives reasons for the decision.
 - 3.5 The person making the appeal may respond to the presentation made by the person who made the decision under appeal.
 - 3.6 The person who made the decision under appeal may respond to the presentation of the person making the appeal.
 - 3.7 Board members and executive staff may question the parties to clarify the facts.
 - 3.8 The Board or Committee established by the Board discusses the matter in the absence of the parties and executive staff.
 - 3.9 The Board or Committee established by the Board makes a decision in respect of the appeal and advises the parties in writing regarding the decision and reasons for that decision within 30 days.