



DATE: June 28, 2023

TO: Board of Trustees

FROM: Shawna Warren, Superintendent

ORIGINATOR: Shawna Warren, Superintendent

GOVERNANCE POLICY: [Policy 221 - Role of the Trustee](#)
[Policy 225 - Board Responsibility and Conduct](#)
[Policy 230 - Board Committees, Appendix C Student Discipline Committee](#)
[Policy 701 - Board Delegation of Authority](#)
[Policy 700 - Superintendent of Schools](#)

ADDITIONAL REFERENCE: Education Act
[AP221 – Focused and Effective Communication](#)
[AP720 Appendix A – Hearings on Teacher Transfers](#)
 Assurance Domain – Governance

SUBJECT: Policy 245 – Appeals Regarding Student Matters

PURPOSE:

For approval. Motion required.

RECOMMENDED MOTION:

- a) That the Board of Trustees approve the revised Board *Policy 245 – Appeals Regarding Student Matters, as recommended by the Policy Committee* and presented at the June 28, 2023, Public Board meeting.

BACKGROUND:

The Board of Trustees is responsible to review Board Policies on an ongoing basis in order to adhere to the requirements necessary to provide excellence in public education and comply with the Education Act and provincial, as well as federal, legislation. The following revised policy is in support of this responsibility.

Policy 245 – Appeals Regarding Student Matters has be revised to ensure a more accurate representation of the appeal process for student matters, while also establishing a clear and standardized process for the Board of Trustees to consider appeals.

The Policy Committee reviewed *Policy 245 – Appeals Regarding Student Matters* at their June 7, 2023, committee meeting and has recommended it to the Public Board meeting for approval.

Administration is prepared to respond to questions at the June 28, 2023, Public Board meeting.

ATTACHMENT(S):

- 1. Policy 245 – Appeals Regarding Student Matters – Rewrite
- 2. Policy 245 – Appeals – Current Policy

Policy 245 - Appeals Regarding Student Matters

1.0 Policy

The Board provides clear processes for parents and/or students to appeal administrative decisions that directly affect the student's education.

The Board supports the importance of a fair process of appeal while recognizing the authority of the Superintendent, the Principal or the Teacher as the final authority in legislated or delegated matters.

The Division's appeal process is intended to provide a process to ensure that final decisions are fairly derived. The process is not intended for an individual to appeal a decision out of disagreement with that decision.

The Board will hear appeals of administrative decisions on all matters other than the expulsion of students, which are submitted in accordance with section 42 of the Education Act.

The Student Discipline Committee, consisting of Board members, is responsible for handling student expulsions. Additional details about the committee can be found in Policy 230 – Board Committees - Appendix C - Student Discipline Committee.

2.0 Guidelines

2.1 Prior to a decision being appealed to the Board, a parent and, in the case of a student who is sixteen (16) years of age or older, shall follow the processes identified in Administrative Procedure 221 - Focused and Effective Communication.

2.2 The parent or, where subsection 2.1 applies, the student, has the right to appeal to the Board a decision of the Superintendent that significantly affects the education of a student. The Superintendent must advise the parent or student of their right to appeal to the Board.

2.3 The appeal to the Board shall be made within five (5) days from the date that the individual was informed of the Superintendent's decision.

2.3.1 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.

2.3.2 If the appeal is sent electronically, the burden of proof of delivery is on the appellant.

2.4 The parent, or the student (subsection 2.1), when appealing a decision to the Board, has 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 parent or the student.

2.5 If the Board decides not to hear the appeal, the Board will inform the parent, or the student, in writing the reason for the decision.

2.6 The hearing of the appeal shall be scheduled to ensure that the person making the appeal and the Superintendent, or designate, whose decision is being appealed, has sufficient notice and time to prepare for the presentation.

2.7 The Board Chair shall consider any requests for adjournments of hearings of appeals regarding student matters, and must consider the reason for the request and whether the person making the request has sufficient notice and time to prepare for the presentation.

2.9 The appeal shall be heard at an in-camera meeting of the Board, with specified individuals in attendance.

2.9.1 The Board reserves the right to make its decision at a subsequent meeting. The parties to the appeal will be advised when the decision will be made.

2.10 The appeal hearing shall be conducted in accordance with the following guidelines:

2.10.1 The Board Chair shall outline the purpose of the hearing, including:

2.10.1.1 An opportunity for the parties to make representation in support of their respective positions to the Board. This may include expert medical, psychological and educational data and may be presented by witnesses. The information presented may include both written and verbal communication;

2.10.1.2 A process for the Board to receive information and to review the facts of the dispute; and

2.10.1.3 A process through which the Board can reach a fair and impartial decision.

2.11 Notes of the proceedings shall be recorded for the purpose of the Board's records. Individual trustee notes will not be part of the Board's records and are not subject to production.

2.12 The Superintendent and/or designate(s) shall explain the decision under appeal and give reasons for the decision.

2.13 The appellant shall present the appeal and the reasons for the appeal and shall have an opportunity to respond to information provided by the Superintendent and/or designate(s).

2.14 The Superintendent and/or designate(s) shall have an opportunity to respond to information presented by the appellant.

2.15 Board members shall have the opportunity to ask questions or clarification from both parties.

2.16 No cross-examination of the parties shall be allowed, though questions may be directed to the other party through the Board Chair with the permission of the Board Chair

2.17 The Board shall meet without the respective parties to the appeal in attendance to arrive at a decision regarding the appeal. The recording secretary will remain in attendance but shall not take part in any discussion and the discussion will not be recorded. The Board may have legal counsel in attendance.

2.18 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.

2.19 The Board shall make every effort to make a decision based on the process described above on the same day as the hearing.

2.20 The Board decision and the reasons for that decision shall be communicated to the appellant once a decision has been reached and confirmed 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 matter under appeal is a matter described in section 43 of the Education Act.

References:

[Policy 221 - Role of the Trustee](#)

[Policy 230 - Board Committees, Appendix C - Student Discipline Committee](#)

[Administrative Procedures 221 - Focused and Effective Communication](#)

Education Act: Sections 41, 42, 43, 52



245: Appeals

1.0 POLICY

The Board of Trustees expects staff members to resolve issues with individuals in a proactive, respectful and timely manner. The Board recognizes that a resolution acceptable to both parties cannot always be achieved. The Board respects the rights of individuals to appeal decisions of the Administration to the Board. Therefore, upon written request, the Board may hear appeals when a decision significantly affects the education of a student. In addition, the Board reserves the right to hear or not to hear appeals on other matters.

Appeals shall be heard by the Board or Committee of the Board, depending upon the nature of the appeal as determined by the Board

2.0 GUIDELINES

2.1 **Dispute Resolution**

2.1.1 The individual must be prepared to address his/her concern in person or in writing to the person or persons involved.

2.1.2 Administrators are responsible for encouraging staff to mutually resolve issues with stakeholders. If the issue remains unresolved, it should, then, be referred to the site based administrator.

2.1.3 Administrators are responsible for ensuring that stakeholder concerns are documented. The documentation should include:

2.1.3.1 A description of the concern;

2.1.3.2 A record of the stakeholder/staff interactions, staff decisions and actions, and stakeholder actions; as well as,

2.1.3.3 Related correspondence.

2.1.4 Generally, complaints or concerns regarding school based matters can be resolved with the parties involved. The Superintendent and/or a Trustee may receive a request to intervene in school or administrative affairs. In this event, the complaint/concern will be resolved according to the following:

2.1.4.1 The Superintendent or designate will, as appropriate, refer a complaint/concern to the school or department, engage in mediation, or conduct an inquiry.

2.1.4.2 The Superintendent or designate will ensure, in co-operation with schools and departments, that parents/guardians are provided with the opportunity to express their concerns and be heard by school-based and/or division Administrators.

2.1.4.3 The Trustee, upon receipt of an inquiry/concern, will refer the individual to the Superintendent. The concern will be addressed as outlined above.

2.1.5 Upon receiving an inquiry, the Superintendent or designate will ascertain if all local avenues for resolution have been considered. If not, the individual will be advised to do so as the first means of achieving resolution.

2.1.6 If the individual feels his/her concern has not been addressed by the parties involved, the concerns are to be taken to the immediate supervisor.

2.1.7 When all other steps have been followed, the Superintendent or designate will contact the individual and school-based and/or Division Administrators in an attempt to resolve the issue.

2.1.8 If resolution of the issue is not achieved at the Superintendent level, the individual shall be advised of his/her right to an appeal to the Board if the matter significantly affects the education of a student.

2.2 Appeal Process

2.2.1 If the issue is not resolved at the local administrative level, the administrator will inform the stakeholder that the matter may be directed to the Superintendent of Schools or his/her designate.

2.2.2 The site Administrator shall ensure stakeholders are provided a copy of Policy 245 – Appeals.

2.2.3 If the issue is not resolved by the Superintendent or designate, he/she shall inform the stakeholder of the Board's appeal procedures.

2.2.4 If further action is desired, the next step would be to the Superintendent of Schools and subsequently an appeal in writing to the Board of Trustees.

2.2.5 The Board will decide at its next meeting after receiving the request whether or not to hear the appeal.

2.2.6 If the Board decides not to hear the appeal, the Board will inform the stakeholder in writing of the reason(s) for the decision.

2.2.7 If the Board decides to hear the appeal, the Superintendent will inform the stakeholder, in writing, of the proposed date and location for the appeal hearing. A copy of the Appeal Policy will be provided at the same time.

2.2.8 The Board shall address the appeal in one of two ways, by: 2.2.8.1 The Board as a Committee of the Whole

2.2.8.2 A sub-committee of the Board

2.2.9 The appeal hearing will be conducted in accordance with a pre-set agenda (Appendix A).

2.2.10 The stakeholder making the appeal may be represented by an advocate or legal counsel, at the individual's own initiative and expense.

2.2.11 The Administration may also use an advocate or legal counsel.

2.2.12 The Board will inform both parties of the result of the appeal, in writing, within three days of the appeal hearing. If the Board upholds the Administration's decision, then in the same letter, the individual will be informed of the right of appeal to the Minister under section 44 of the Education Act (where applicable).

2.3 Appeal of Teacher

Transfer In the event of a teacher appeal of a transfer, the process will be as outlined in Section 144 of the Education Act.

References:

Education Act: Sections 41, 42, 44, 212

Policy 220 – Trustee Responsibility and Conduct

History

2019 Mar 27 Initial Approval

2020 Feb 26 Amended

2021 Oct 27 Reviewed



245: APPENDIX A - APPEAL HEARING

EFFECTIVE: March 27, 2019

REVISED: February 28, 2020

REVIEW: 2022-2023

1.0 Call to Order

2.0 Call for any Conflict of Interest Disclosures

3.0 Agenda Consideration and Approval

4.0 Motion to Go-in-Camera

5.0 Introduction by Superintendent

6.0 Outline of Procedure – Chair

7.0 Superintendent's and/or Representative's Presentation

8.0 Trustee Questions of Superintendent and/or Representative

9.0 Applicant's and/or Representative's Presentation 10.0 Trustee Questions of Applicant and/or Representative

11.0 Recess if Desire

12.0 Superintendent's and/or Representative's Rebuttal

13.0 Applicant's and/or Representative's Rebuttal

14.0 Opportunity for Questions by Trustees

15.0 Deliberations by the Board in Closed Session

16.0 Call all Parties back to Meeting

17.0 Motion to Go-Out-of-Camera

18.0 Board Decision by Motion and Vote

19.0 Adjournment

References:

Education Act: Sections 41, 42, 44, 212

Policy 220 – Trustee Responsibility and Conduct

Policy Handbook II. School Board Governance and Operations