



MEMORANDUM

May 30, 2023
Regular Board Meeting

TO Board of Trustees

FROM Lorraine Stewart, Board Chair
Jill Osborne, Board Vice-Chair

ORIGINATOR Shauna Boyce, Superintendent

RESOURCE Policy Review Committee

GOVERNANCE POLICY Board Policy 2: Role of the Board
Board Policy 11: Board Delegation of Authority
Board Policy 12: Role of the Superintendent
Board Policy 14: Hearings on Teacher Matters

ADDITIONAL REFERENCE BP 2: Governance and Organization
BP 12: Section 5. Policy
Education Act

SUBJECT **REVISED BOARD POLICY 13: APPEALS TO THE BOARD REGARDING STUDENT MATTERS**

PURPOSE

For approval. Recommendation required.

RECOMMENDATION

That the Board of Trustees approves the Revised Board Policy 13: Appeals to the Board Regarding Student Matters, as recommended by the Policy Review Committee and presented at the Regular Meeting of May 30, 2023.

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.

REPORT SUMMARY

On August 24, 2022, the Policy Review Committee met and discussed updates to Board Policy 13, formerly titled: Appeals Regarding Student Matters.

Key Changes to Board Policy 13 include:

- Updates to language to better reflect Alberta Legislation under the *Education Act*;
- Updates to format and language to add additional clarity; and
- Addition of a schedule that highlights the appeal process.

The draft policy was initially reviewed and discussed by the Board at the August 30, 2022, Governance and Planning Session (GPS). Administration also requested a review and feedback from legal counsel on this policy to ensure the language, legislation and appeal process follow the Alberta judicial system and collective agreements.

Once reviewed by legal, the Policy Review Committee reviewed Policy 13 a second time and put it forward for a second review at the January 24, 2023, GPS to ensure all necessary revisions were addressed.

On February 14, 2023, a revised Board Policy 13 was to be presented and voted upon; however, the Board voted to defer the approval of this policy in order to consider and administer further edits for clarity and syntax. The draft changes were presented at the April 18, 2023 GPS Meeting for discussion.

The Policy Committee would be pleased to respond to any questions.

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Parkland School Division Board Policy 13

PARKLAND
SCHOOL DIVISION

APPEALS TO THE BOARD REGARDING STUDENT MATTERS

Through legislation, policy and practice, 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 where legislated or delegated.

This policy exists to ensure that final decisions are derived in consideration of procedural fairness. The Appeal Hearing process is not intended for an individual to appeal a decision solely out of disagreement with that decision.

School Dispute Resolution and Process for Appeal

1. The Superintendent shall maintain administrative procedures for dispute resolution that includes an operational process for prior-level appeal.
2. Procedures used to settle disputes or concerns regarding student matters, and between parents and school staff, shall occur in a manner that supports a cooperative and collaborative learning environment for students.
3. The Board reserves the right to hear an appeal on any matter resolved by the Office of the Superintendent; including:
 - 3.1. The Board reserves the right to hear appeals on decisions regarding matters that significantly affect the education of a student, or of a child enrolled in an early childhood services program (as per the *Education Act* (s. 42(2)); and
 - 3.2. The Board reserves the right to hear appeals on decisions regarding a matter of religion or human sexuality education (as per the *Education Act* (s. 58.2(1))).
4. The Board reserves the right to determine whether an appeal is suitable for any matter.
 - 4.1. For clarity, and prior to a decision being appealed to the Board, and including those matters identified in s. 3.1, and s. 3.2, a matter shall first be appealed to the Superintendent.

Appeal to the Board

5. All Division processes for appeal shall, at a minimum, respect the process for appeal as legislated in *The Education Act* (s. 42).
6. An appeal to the Board shall be requested within seven (7) school days from the date that the individual was informed of the Superintendent's decision.
 - 6.1. In order to be considered as a valid request for appealing a decision, the request for the appeal shall be filed, in writing, and shall contain the name of the party filing the request for appeal, the date of filing, the matter at hand, and the notable rationale to justify the request

- for the appeal, in consideration of section three (3) and section four (4) of this Policy specific to the request.
7. Parents, or an independent student as defined by the *Education Act*, when appealing a decision to the Board, have the right to be assisted by a resource person or by resource persons of their choosing.
 - 7.1. The responsibility for engaging and paying for such assistance rests with the parent(s), guardian(s) or the independent student.
 8. The Board reserves the right to access and/or obtain resources, including the services of legal counsel at any point throughout the appeal process.
 9. The Board Chair shall determine whether or not the appeal request has sufficient merit to proceed formally with an Appeal Hearing.
 10. Should the Board Chair determine sufficient merit exists for an Appeal Hearing to proceed, the Board shall form an Appeal Hearing Panel by resolution:
 - 10.1. The Appeal Hearing Panel shall consist of the following:
 - 10.1.1. The Board Chair and/or the Board Vice Chair, and
 - 10.1.2. A minimum quorum of three (3) Trustees that includes either the Board Chair or the Board Vice Chair, or both, and that consists of sufficient additional Trustees to maintain a quorum of three (3).
 11. Appeal Hearing shall be scheduled so as to ensure that the person making the appeal and the Superintendent, or designate, whose decision is being appealed, has reasonable notice and time to prepare for the presentation.
 - 11.1. The Board Chair reserves the right to adjust timelines, as deemed necessary.
 12. The Appeal Hearing shall be heard *in-camera*, with specified individuals in attendance.
 13. The Appeal Hearing decision, and the justification for that decision, shall be communicated to the appellant (person or party requesting the appeal) once a decision has been reached, and confirmed in writing following the hearing;
 - 13.1. Included in the communication to the appellant shall be information that the appellant has the right to seek a review by the Minister (per s. 43(1) of the Education Act).
 14. In full adherence to this Policy, Appeal Hearings shall proceed according to *Schedule 13.1 Board Appeal Hearing Process*.

Expulsion of a Student

15. In accordance with section 52 of the *Education Act*, and *Board Policy 11 – Board Delegation of Authority*, the Board delegates, to the Superintendent, the power to make decisions with respect to the expulsion of students.

15.1. Appeals regarding the Superintendent’s expulsion of a student shall proceed to the Minister in accordance with the Education Act (s. 43(1)).

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| Reference: Education Act: 33, 41-44, 52, 222, 230-252 | Approved: |
| | Date May 30, 2023 Approved: |
| Cross-Reference: Board Policy: 1, 14, 18 Admin Procedure: 170, 350, 360, 380, 390 | Reviewed or May, 2023 Revised: April, 2020 April, 2019 March, 2017 September 2010 |

REVISED



Parkland School Division Board Policy 13: Schedule 13.1

BOARD APPEAL HEARING PROCESS

This Schedule exists to provide the process for the Board's Appeal Hearing.

1. The Board may make any decision that it considers appropriate in respect of a matter that is appealed to it, as per the *Education Act*, s. 42(7), and Board Policy 13: Appeals to the Board Regarding Student Matters.

Access to Information and Determination to Proceed

2. A parent, guardian or independent student may request, in writing, that the Board consider an appeal of a matter that is determined to be resolved by the Superintendent;
 - 2.1. An appeal to the Board shall be made within seven (7) school days of the rendered decision the appellant.
3. As per Policy 13, s. 11, the Board Chair shall determine if there is sufficient merit to convene an Appeal Hearing Panel; notably, but not limited to:
 - 3.1. Information or legislation alleged to have been omitted during the Superintendent's determination for a decision;
 - 3.2. Perceived and alleged procedural errors that occurred during the determination for the decision; or
 - 3.3. Ensuring procedural fairness when clarity is undetermined by s. 3.1 or 3.2 (above).
4. Should sufficient merit be determined to exist for an Appeal Hearing:
 - 4.1. A resolution shall be made at a Regular Board Meeting to convene an Appeal Hearing Panel; and
 - 4.2. The Panel Chair shall ensure that the matters related to the timely conveyance of an Appeal Hearing are properly communicated to the Appellant, and that the Appeal Hearing shall proceed, as per Board Policy 13 and Schedule 13.1.
5. Should an appeal be refused, the Board Chair shall provide correspondence noting any justification for the summary dismissal of the appeal.
 - 5.1. An appeal to the Minister may be possible as per s. 43 of the *Education Act*.

Pre-Hearing

6. Prior to the Appeal Hearing, the appellant party may request any relevant information that is available, and that may be freely, and justly provided by the Board.

7. Prior to the Appeal Hearing, the appellant party shall provide the Board Chair with all necessary information and documents, such as policies, procedures, and evidence that supports the appellant's appeal.
8. The Appeal Panel Chair (Board Chair or Vice Chair) shall outline the schedule and purpose of the Appeal Hearing; notably:
 - 8.1. That a schedule for the Appeal Hearing shall be determined in consideration of the appellant's schedule, where possible;
 - 8.2. That the appellant party shall have an opportunity to provide representation to the Appeal Hearing in support of their respective position;
 - 8.3. That information provided to the Board may include expert medical, psychological and/or educational data, and may be presented by witnesses;
 - 8.3.1. Information provided may include both written and/or verbal communication;
 - 8.4. That the Appeal Hearing shall provide an opportunity for members of the Appeal Hearing Panel to receive information and review disputed facts; and
 - 8.5. That minutes of the Appeal Hearing shall be recorded for the purpose of the Board's records.
9. For clarity, the Board Chair and/or designate shall identify a time and place for the Appeal Hearing in consideration of, but not solely dependent upon, the appellant's desired schedule.

Appeal Hearing:

10. The Appeal Hearing shall be comprised of the members of the Appeal Hearing Panel:
 - 10.1. For clarity, a Hearing may only proceed with quorum, as established by Board Policy 13, s. 11.
11. The Appeal Hearing shall proceed as follows:
 - 11.1. The Appeal Hearing Chair shall call the Appeal Hearing to order;
 - 11.2. The Appeal Hearing Chair shall clarify the schedule and/or order of events for the Appeal Hearing;
 - 11.3. The Appeal Hearing Chair shall invite the Appellant to present their appeal and include any justification for the appeal;
 - 11.4. The Appeal Hearing Chair shall invite the Superintendent or designate to provide an explanation of the decision provided, and a justification for the decision;
 - 11.5. Members of the Board's Appeal Hearing Panel shall be provided an opportunity to ask questions for clarification from both parties;
 - 11.6. Cross-examination between parties shall not be permitted;

- 11.7. The Appeal Hearing Panel shall convene to meet, without the respective parties present, to discuss the matters brought forth to the Appeal Hearing;
- 11.7.1. The Appeal Hearing Panel may have legal counsel in attendance for this purpose; and
- 11.7.2. The Appeal Hearing Panel may determine that it is necessary to reconvene to receive additional information or clarification from either party and convene privately again at the conclusion of this process for clarification;
- 11.8. The Appeal Hearing Panel shall, by simple majority, determine the Hearing Panel's decision on the matter presented;
- 11.9. The Board shall reconvene with all parties to state the Board's decision on the matter;
- 11.9.1. The Board shall confirm the Board's decision, in writing, to all parties; and
- 11.9.2. Included in the communication to the appellant shall be information that the appellant has a right to appeal to the Minister as per s. 43 of the *Education Act*.
- 11.10. The announcement of the decision shall serve to conclude the Appeal Hearing; and
- 11.11. The decision of the Board's Appeal Hearing Panel shall serve as a summary decision of the Board of Trustees.



Parkland School Division Board Policy 13

APPEALS REGARDING STUDENT MATTERS

Through legislation, policy and practice, 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.

School Dispute Resolution

1. The resolution of disputes or concerns at the school level between parents and school staff shall support a cooperative and collaborative learning environment for students;
 - 1.1. The Superintendent shall ensure that a dispute resolution procedure is established and adhered to by all staff.
 - 1.2. Decisions that significantly affect the education of a student may be appealed to the Board within a reasonable time from the date that the parent or student was informed of the decision.
 - 1.3. Prior to a decision being appealed to the Board, it must be appealed to the Superintendent.

Appeal

2. All Division processes for appeal shall, at a minimum, respect the process for appeal as legislated in *The Education Act* (s. 42).
3. The Board may review specific matters, as requested in accordance with this Policy, to determine whether a decision was reasonable in the circumstances; including:
 - 3.1. A decision regarding a matter that significantly affects the education of a student, or of a child enrolled in an early childhood services program (as per the *Education Act* (s. 42(2))); or
 - 3.2. A decision regarding a matter of religion or human sexuality education (as per the *Education Act* (s. 58.2(1))).
4. An appeal to the Board shall be made within five (5) days from the date that the individual was informed of the Superintendent's decision.
 - 4.1. In order to be considered as a valid request for appeal, the appeal shall be filed in writing and must contain the name of the party filing the appeal, the date, the matter at hand, and the reason, in consideration of section 1. of this policy for the appeal.

5. Parents, or an independent student, when appealing a decision to the Board, have the right to be assisted by a resource person(s) of their choosing.
 - 5.1. The responsibility for engaging and paying for such assistance rests with the parents or student.
6. The hearing of the appeal shall be scheduled so as 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.
7. The appeal shall be heard *in-camera*, with specified individuals in attendance.
8. The appeal hearing shall be conducted in accordance with the following guidelines:
 - 8.1. The Board Chair shall outline the purpose of the hearing, including:
 - 8.1.1. An opportunity for the parties to make representation in support of their respective positions to the Board;
 - 8.1.2. The provision of information, which may include expert medical, psychological and educational data and that may be presented verbally or in written form by witnesses;
 - 8.1.3. A process for the Board to receive information and to review the facts of the dispute; and
 - 8.1.4. A process through which the Board can reach a fair and impartial decision.
 - 8.2. Notes of the proceedings shall be recorded for the purpose of the Board's records.
 - 8.3. The Superintendent and/or staff shall explain the decision and give reasons for the decision.
 - 8.4. 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 staff.
 - 8.5. The Superintendent and/or staff shall have an opportunity to respond to information presented by the appellant.
 - 8.6. Board members shall have the opportunity to ask questions or clarification from both parties.
 - 8.7. No cross-examination of the parties shall be allowed.
 - 8.8. The Board shall meet without the respective parties to the appeal in attendance to arrive at a decision regarding the appeal.
 - 8.8.1. The Board may have legal counsel in attendance to guide the decision-making process appropriately.
 - 8.9. If the Board requires additional information or clarification in order to make its decision, both parties to the appeal shall be requested to return to the hearing for the required additional information.


8.10. 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.

8.10.1. Included in the communication to the appellant shall be information that the appellant has the right to seek a review by the Minister regarding the provision of specialized supports and services to a student, (per s. 43(1) of the Education Act).

Expulsion of a Student

9. In accordance with section 52 of the *Education Act*, and *Board Policy 11 – Board Delegation of Authority*, the Board delegates, to the Superintendent, the power to make decisions with respect to the expulsion of students.

9.1. Appeals regarding the Superintendent’s expulsion of a student shall proceed to the Minister in accordance with the Education Act (s. 43(1)).

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| Reference: Education Act: 41, 42, 43, 52 | Approved:  |
| | Date: UNAPPROVED – Indicate Board Meeting Date |
| Cross-Reference: Board Policy: 1, 18 Admin Procedure: 170, 350, 360, 380 | Reviewed or Revised: April, 2020 April, 2019 March, 2017 September 2010 |