



MEMORANDUM

March 5, 2024
Regular Board Meeting

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| TO | Board of Trustees |
| FROM | Lorraine Stewart, Board Chair Aileen Wagner, 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 <i>Education Act</i> |
| 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 March 5, 2024.

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 May 30, 2023, the Policy Review Committee recommended updates to Board Policy 13, formerly titled: Appeals Regarding Student Matters, and the Board of Trustees approved the following key changes to create Board Policy 13: Appeals to the Board Regarding Student Matters:

- 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.

Prior to approval, 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.

In October 2023, the Board requested further details be added for additional clarification to the appeal process.

On December 14, 2023, and February 9, 2024, the Policy Review Committee met and discussed additional details to further clarify the appeal process making further revisions to the Board Policy 13: and Schedule 13.1 Board Appeal Hearing Process.

The Board reviewed and clarified additional details, within Schedule 13.1, during the February 27, 2024, Governance and Planning Session (GPS).

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

LS:kz



Parkland School Division Board Policy 13

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(s) 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:
 - 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. The 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.
 - 11.2. The Board Chair shall ensure that the matters related to the timely conveyance of an Appeal Hearing are communicated to the appellant and Superintendent, and that the Appeal Hearing shall proceed, as per *Board Policy 13* and *Schedule 13.1*.
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 Appeal 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 (as per the *Education Act* (s. 43(1))).
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 section 43(1) of the *Education Act*.

| | | | |
|------------------|---|----------------|---|
| Reference: | Education Act: 33, 41-44, 52, 222, 230-252 | Approved: |  |
| | | Date Approved: | March 5, 2024 |
| Cross-Reference: | Board Policy: 1, 14, 18 Admin Procedure: 170, 350, 360, 380, 390 | Reviewed or | March, 2024 |
| | | Revised: | May, 2023 April, 2020 April, 2019 March, 2017 |



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 section 42(7) of the *Education Act*, 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; notably,
 - 2.1. The request may be made by email to the Board to: board@psd.ca; and
 - 2.2. The request to the Board shall be made within seven (7) school days of the date the decision was communicated by the Superintendent or designate, as per section 6 of *Board Policy 13*.
3. As per section 9 of *Board Policy 13*, the Board Chair shall determine if there is sufficient merit to convene an Appeal Hearing Panel [herein referred to as the 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. Responding to a requirement for 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. The matters related to the timely conveyance of the Appeal Hearing shall be communicated to the appellant and Superintendent; and
 - 4.2. 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, in writing, any justification for the dismissal of the appeal.
 - 5.1. A review by the Minister may be requested as per section 43 of the *Education Act*.

Pre-Hearing

6. The Appeal Hearing, as a fair, open and transparent process, shall ensure a reasonable and appropriate amount of time exists for all parties (the Panel, the appellant, and the Superintendent) to review supporting documents in advance of the Appeal Hearing; notably:
 - 6.1. Prior to the Appeal Hearing, the parties may request any relevant information that is available, and related to the appeal request, and that may be freely and justly provided;

- 6.2. Prior to the Appeal Hearing, the parties shall provide the Board Chair with all necessary information and documents, such as policies, procedures, and evidence related to the appeal request. This information will be shared with the parties. And
- 6.3. In consideration of the scope of material presented, the Panel Chair shall determine, and declare, the appropriate amount of time that shall be required by the Panel to review the evidentiary materials presented.
7. In consideration of s. 6, the Appeal Hearing Chair (Board Chair or Vice Chair) shall outline the date, agenda and purpose of the Appeal Hearing; notably:
 - 7.1. That the scheduled time for the Appeal Hearing shall be determined in consideration of all parties' schedules, where possible;
 - 7.2. That the parties shall have an opportunity to provide representation to the Panel in support of their respective position;
 - 7.3. That information provided to the Panel may include expert medical, psychological and/or educational data, and may be presented by witnesses;
 - 7.3.1. Information provided may include both written and/or verbal communication;
 - 7.4. That the Appeal Hearing shall provide a reasonable opportunity for the Panel to receive and review information from all parties;
 - 7.5. That the time, available to both parties to present their case, is clearly understood; and
 - 7.6. That minutes of the Appeal Hearing shall be recorded for the purpose of the Board's records.

Appeal Hearing Schedule of Events:

8. The Appeal Hearing [hereinafter referred to as the Hearing] shall be comprised of the members of the Panel:
 - 8.1. For clarity, a Hearing may only proceed with quorum, as established by section 10(1.2.) of *Board Policy 13*.
9. The Appeal Hearing Chair [hereinafter referred to as the Chair] shall convene the Hearing.
10. The Chair shall welcome all parties and provide for introductions.
11. The Chair shall provide a reference number for the appeal.
12. The Chair shall confirm that the members of the Panel were provided with proper notice of the Hearing, in accordance with *Board Policy 13*.
13. The Chair shall clarify the schedule and/or order of events for the Hearing and that Appeal Hearings specifically are held, by motion, to be *in-camera*;
 - 13.1. The Chair shall call for a motion to move *in-camera*.
14. The Chair shall call the Hearing to order, noting the time.
15. The Chair shall identify that the Hearing is held as per the *Education Act*, *Board Policy 13*, and *Board Policy Schedule 13.1*.

16. The Chair shall identify representation of legal counsel or other attendees acting as resources for the Panel, if in attendance.
17. The Chair shall provide a step-by-step overview of the process for the Hearing (as outlined in this schedule).
18. As invited by the Chair, the presentation by the appellant shall happen first, and shall not exceed thirty (30) minutes;
19. The presentation by the Superintendent, or designate, shall follow, and shall not exceed thirty (30) minutes;
20. Questions for clarity shall follow, as procedurally directed by the Chair; notably
 - 20.1. Both parties shall be provided an opportunity to ask questions through the Chair;
 - 20.1.1. The appellant shall be provided with the first opportunity for questions, or to seek clarification on matters presented;
 - 20.1.2. The Panel shall then be provided with an opportunity for questions or to seek clarification on matters presented;
 - 20.1.3. In determining the scope of the questions asked, the Chair may set a time limit for responding to questions, with a maximum time for response limited to five (5) minutes per individual question;
 - 20.1.4. Both parties shall ask questions and seek clarification, prior to receiving a response, to ensure that cross-examination does not occur; and
 - 20.1.5. The order of responses to questions shall follow, with the Panel responding first, and the Appellant responding second.
21. The appellant, or their resource person(s), shall be afforded two (2) additional minutes for summary comments; and
22. The Superintendent, or designate, shall be afforded two (2) additional minutes for summary comments;
23. Following the presentation of the information, all persons other than Panel members, legal counsel and/or resource person(s) to the Panel shall be asked to leave the room, and the Panel shall deliberate in private;
24. The Panel may invite legal counsel and/or resource person(s) to assist them on points of law or procedure;
 - 24.1. If the Panel requires further information or clarification, the parties shall be reconvened and the request shall be made in the presence of both parties, and the Panel shall then ask all parties to vacate the room so that the Panel may continue to deliberate in private;
 - 24.2. If the information required is not readily available, the Chair may request a recess, or, if necessary, an adjournment of the Hearing to a later date.
25. The Panel shall, by simple majority, determine the Panel's decision on the matter presented; notably:
 - 25.1. The decision shall be either to uphold the Superintendent's decision, or overturn the Superintendent's decision.
26. The Board shall confirm the Panel's decision, in writing, to all parties.

- 26.1. Included in the communication to the appellant shall be information that the appellant has a right to request a review of the decision by the Minister as per section 43 of the *Education Act*.
27. The announcement of the decision shall serve to conclude the Hearing; and
28. The decision of the Appeal Hearing Panel shall serve as a decision of the Board of Trustees.



Parkland School Division Board Policy 13

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 (s) ~~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. The 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.
 - ~~11.1.~~11.2. The Board Chair shall ensure that the matters related to the timely conveyance of an Appeal Hearing are communicated to the appellant and Superintendent, and that the Appeal Hearing shall proceed, as per Board Policy 13 and Schedule 13.1.
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 Appeal 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 (as per the *Education Act* (s. 43(1))).
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 section 43(1) of the *Education Act*.

BP 13 - Tracked Version

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|------------------|---|----------------------|---|
| Reference: | Education Act: 33, 41-44, 52, 222, 230-252 | Approved: |  |
| | | Date Approved: | May 30, 2023 <u>March 5, 2024</u> |
| Cross-Reference: | Board Policy: 1, 14, 18 Admin Procedure: 170, 350, 360, 380, 390 | Reviewed or Revised: | <u>March, 2024</u> May, 2023 April, 2020 April, 2019 March, 2017 September 2010 |



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 section 42(7) of the *Education Act*, 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; notably,
 - 2.1. The request may be made by email to the Board to: board@psd.ca; and
~~2.1.2.2. An appeal~~The request to the Board shall be made within seven (7) school days of the ~~rendered date~~the decision ~~the appellant was communicated by the Superintendent or designate, as per~~ section 6 of Board Policy 13.
3. As per section 9 of *Board Policy 13*, the Board Chair shall determine if there is sufficient merit to convene an Appeal Hearing Panel; [herein referred to as the 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. EnsuringResponding to a requirement for 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~~
4.1. The Panel Chair shall ensure that theThe matters related to the timely conveyance of ~~an~~the Appeal Hearing ~~are properly~~shall be communicated to the appellant ~~and Superintendent;~~ and ~~that the~~
 - 4.2. 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, in writing,~~ any justification for the ~~summary~~ dismissal of the appeal.
 - 5.1. ~~An appeal to review by~~ the Minister may be ~~possible requested~~ as per section 43 of the *Education Act*.

Pre-Hearing

6. The Appeal Hearing, as a fair, open and transparent process, shall ensure a reasonable and appropriate amount of time exists for all parties (the Panel, the appellant, and the Superintendent) to review supporting documents in advance of the Appeal Hearing; notably:

~~5-2-6.1.~~ Prior to the Appeal Hearing, the ~~appellant parties party~~ may request any relevant information that is available, ~~and related to the appeal request,~~ and that may be freely, and justly provided ~~by the Board, in support of the Appellant's appeal;~~

~~5-3-6.2.~~ Prior to the Appeal Hearing, the ~~appellant parties party~~ shall provide the Board Chair with all necessary information and documents, such as policies, procedures, and evidence ~~that supports the appellant's appeal, related to the appeal request. This information will be shared with the parties.; And~~

~~6.3.~~ The Appeal In consideration of the scope of material presented, the ~~Appeal Hearing~~ Panel Chair shall determine, and declare, the appropriate amount of time that shall be required by the Panel to review the evidentiary materials presented.

~~6-7.~~ In consideration of s. 6 ~~(above),~~ the Appeal Hearing ~~Panel~~ Chair (Board Chair or Vice Chair) shall outline the ~~scheduled~~ date, agenda and purpose of the Appeal Hearing; notably:

~~6-1-7.1.~~ That ~~a schedule~~ the scheduled time for the Appeal Hearing shall be determined in consideration of ~~the appellant's schedule~~ all parties' schedules, where possible;

~~6-2-7.2.~~ That the ~~appellant party parties~~ shall have an opportunity to provide representation to the ~~Appeal Hearing~~ Panel in support of their respective position;

~~6-3-7.3.~~ That information provided to the ~~Board Panel~~ may include expert medical, psychological and/or educational data, and may be presented by witnesses;

~~6-3-1-7.3.1.~~ Information provided may include both written and/or verbal communication;

~~6-4-7.4.~~ That the Appeal Hearing shall provide ~~ana~~ a reasonable opportunity for ~~members of the Appeal Hearing~~ Panel to receive and review information ~~and review disputed facts; and from all parties;~~

7.5. That the time, available to both parties to present their case, is clearly understood; and

~~6-5-7.6.~~ That minutes of the Appeal Hearing shall be recorded for the purpose of the Board's records.

~~7. 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 parties' desired schedule.~~

Appeal Hearing Schedule of Events:

8. The Appeal Hearing [hereinafter referred to as the Hearing] shall be comprised of the members of the ~~Appeal Hearing~~ Panel:

8.1. For clarity, a Hearing may only proceed with quorum, as established by section 10(1.2.) of *Board Policy 13*.

~~9. The Appeal Hearing shall proceed as follows:~~

9. The Appeal Hearing Chair shall call [hereinafter referred to as the Appeal Chair] shall convene the Hearing.

10. The Chair shall welcome all parties and provide for introductions.

11. The Chair shall provide a reference number for the appeal.
- ~~10-12.~~ The Chair shall confirm that the members of the Panel were provided with proper notice of the Hearing to order, in accordance with *Board Policy 13*.
13. The ~~Appeal Hearing~~ Chair shall clarify the schedule and/or order of events for the ~~Appeal Hearing~~ and that Appeal Hearings specifically are held, by motion, to be *in-camera*;
~~—The Chair shall call for a motion to move *in-camera*; and~~
- ~~13.1. The Panel shall approve the motion.~~
- ~~11-14.~~ The Chair shall call the Hearing; to order, noting the time.
15. The ~~Appeal~~Chair shall identify that the Hearing is held as per the *Education Act, Board Policy 13, and Board Policy Schedule 13.1*.
16. The Chair shall ~~invite~~ identify representation of legal counsel or other attendees acting as resources for the Panel, if in attendance.
17. ~~For clarity, t~~The Chair shall provide a step-by-step overview of the process for the Hearing (as outlined in this schedule).
- ~~12-18.~~ As invited by the Chair, the presentation by the appellant to present their appeal and include any justification for the appeal shall happen first, and shall not exceed thirty (30) minutes;
- ~~13-19.~~ The ~~Appeal Hearing~~ Chair shall ~~invite~~The presentation by the Superintendent, or designate to provide an explanation of the decision provided, and a justification for the decision, shall follow, and shall not exceed thirty (30) minutes;
20. ~~Members of~~Questions for clarity shall follow, as procedurally directed by the Chair; notably
 - ~~20.1. the Board's Appeal Hearing~~Both parties shall be provided an opportunity to ask questions through the Chair;
 - 20.1.1. The appellant shall be provided with the first opportunity for questions, or to seek clarification on matters presented;
 - 20.1.2. The Panel shall then be provided with an opportunity for questions or to seek clarification on matters presented;
 - 20.1.3. In determining the scope of the questions asked, the Chair may set a time limit for responding to questions, with a maximum time for response limited to five (5) minutes per individual question;
 - 20.1.4. Both parties shall ask questions and seek clarification, prior to receiving a response, to ensure that cross-examination does not occur; and
 - 20.1.5. The order of responses to questions shall follow, with the Panel responding first, and the Appellant responding second.
21. ~~Panel shall be provided an opportunity to ask questions for clarification from~~The aAppellant, or their resource person(s), shall be afforded two (2) additional minutes for summary comments; and
22. The Superintendent, or designate, shall be afforded two (2) additional minutes for summary comments;

23. Following the presentation of the information, all persons other than Panel members, legal counsel and/or resource person(s) to the Panel~~the Corporate Secretary for the Board~~ shall be asked to leave the room, and the Panel shall deliberate in private;
24. The Panel may invite legal counsel and/or resource person(s) to assist them on points of law or procedure;
- ~~13.1.~~24.1. If the Panel requires further information or clarification, the parties shall be reconvened and the request shall be made in the presence of both parties; and the Panel shall then ask all parties to vacate the room so that the Panel may continue to deliberate in private;
- ~~13.2.~~ Cross-examination between parties shall not be permitted;
- ~~13.3.~~ The Appeal Hearing Panel shall convene to meet, without~~lf~~ the respective parties present, to discuss~~information required is not readily available~~, the matters brought forth to the Appeal Hearing;
- ~~13.3.1.~~ The Appeal Hearing Panel~~Chair~~ may have legal counsel in attendance for this purpose; and
- ~~13.4.~~24.2. The Appeal Hearing Panel may determine that it is~~request a recess, or, if necessary to reconvene to receive additional information or clarification from either party and convene privately again at the conclusion, an adjournment of this process for clarification; the H~~earing to a later date.
- 14.25. The ~~Appeal Hearing~~ Panel shall, by simple majority, determine the ~~Hearing~~ Panel's decision on the matter presented; notably:
- ~~— The Board~~The decision shall be either to maintain~~uphold~~ the Superintendent's decision, or overturn the Superintendent's decision.
- ~~15.25.1.~~ ~~The Panel shall reconvene with all parties to state the Board's decision on the matter;~~
- ~~15.1.~~26. The Board shall confirm the ~~Board's Panel's~~ decision, in writing, to all parties; ~~and~~
- ~~15.2.~~26.1. Included in the communication to the appellant shall be information that the appellant has a right to ~~appeal to~~request a review of the decision by the Minister as per section 43 of the Education Act.
- ~~16.~~27. The announcement of the decision shall serve to conclude the ~~Appeal~~ Hearing; and
- ~~17.~~28. 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 TO THE BOARD REGARDING STUDENT MATTERS

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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
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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).
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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)).

BP 13 - Original Version

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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. 9, 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. 10.1.2.
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.