

POLICY 13

APPEALS AND HEARINGS REGARDING STUDENT MATTERS

Under section 124 of the School Act, the Minister of Education may be asked to review the matters set out in that section (Appendix A).

The Board of Education for Wolf Creek Public Schools will hear appeals on administrative decisions, submitted in accordance with section 123 of the School Act, that significantly affect the education of a student. As well, the Board will hear appeals under section 50.2 (2) (Appendix B).

A. All Matters Other Than Expulsion of a Student

1. Prior to a decision being appealed to the Board, it must be appealed to the Superintendent.
2. Parents of students, and students 16 years of age or over, have the right to appeal to the Board a decision of the Superintendent. The Superintendent must advise parents and students of this right of appeal to the Board and provide a copy of this Policy.
3. The appeal to the Board must be made within five days from the date that the individual was informed of the Superintendent's decision. 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.
4. Parents, or students as above, when appealing a decision to the Board, have 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 parents or students.
5. Appeals will be heard by the Board at a regular Board meeting, whenever possible. The hearing of the appeal must 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.
6. The Board Chair will 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.
7. The appeal will be heard at an in-camera meeting of the Board.
8. The Board reserves the right to make its decision at a subsequent Board meeting. The parties to the appeal will be advised when the decision will be made. The Board decision will be made in open session.
9. The appeal hearing will be conducted in accordance with the following guidelines:
 - 9.1. The Chair will outline the purpose of the hearing, which is to provide:

- 9.1.1. An opportunity for the parties to make representation in support of their respective positions to the Board. This information may include expert medical, psychological and educational data and may be presented by witnesses;
 - 9.1.2. The Board with the means to receive information and to review the facts of the dispute;
 - 9.1.3. A process through which the Board can reach a fair and impartial decision.
- 9.2. Notes of the proceedings will 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.
- 9.3. The Superintendent and/or staff will explain the decision under appeal and give reasons for the decision.
- 9.4. The appellant will present the appeal and the reasons for the appeal and will have an opportunity to respond to information provided by the Superintendent and/or staff.
- 9.5. The Superintendent and/or staff will have an opportunity to respond to information presented by the appellant.
- 9.6. Board members will have the opportunity to ask questions or clarification from both parties.
- 9.7. No cross-examination of the parties shall be allowed, unless the Chair deems it advisable under the circumstances.
- 9.8. The Board will 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.
- 9.9. 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.
- 9.10. The Board will make every effort to make a decision based on the process described above on the same day as the hearing.
- 9.11. The Board decision and the reasons for that decision will be communicated to the appellant as soon as possible following the decision. The Board decision will be communicated in writing within five days 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 appellant is dissatisfied with the decision of the Board, if the matter under appeal is a matter described in section 124 of the School Act.

B. Expulsion of a Student

It is expected that all students will comply with section 12 of the School Act, all School Board Policies, School Division Administrative Procedures, and individual policies.

In accordance with section 61 of the School Act, the Board delegates to the Student Review Committee the power to make decisions with respect to the expulsion of students.

The Student Review Committee of the Board will hear representations with respect to a recommendation for a student expulsion in accordance with sections 24 and 25 of the School Act.

If a student is not to be reinstated within five school days of the date of suspension, the Principal shall immediately report in writing all the circumstances of the suspension and provide a recommendation to the Student Review Committee of the Board through the Office of the Superintendent.

The Student Review Committee will convene in an in-camera session upon the call of the Superintendent, but in no event shall the meeting occur later than ten school days from the first day of suspension.

Parents of students, or students 16 years of age or over, have 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 parents or students.

The Student Review Committee may have the Board's legal counsel in attendance.

Notes of the proceedings will be recorded for the purpose of the Board's records.

The expulsion hearing will be conducted in accordance with the following guidelines:

1. The Chair will outline the purpose of the hearing, which is to:
 - 1.1. Provide an opportunity to hear representations relative to the recommendation from the Principal
 - 1.2. Provide an opportunity for the student and/or the student's parents to make representations
 - 1.3. Reinstatement or expulsion of the student
2. The Chair will outline the procedure to be followed, which will be as follows:
 - 2.1. The Principal will present the report documenting the details of the case and the recommendation to expel the student. This report should be prepared within the following guidelines:
 - 2.1.1. The report to the Board must state in writing all the circumstances respecting the suspension and recommendations for expulsion;
 - 2.1.2. The report must state clearly the reasons for the principal's recommendation to expel;
 - 2.1.3. The report may make recommendations about another education program or other conditions that the Board may consider for re-enrolment;

- 2.2. The student and the student's parents will be given an opportunity to respond to the information presented and to add any additional relevant information;
- 2.3. The members of the Student Review Committee will have the opportunity to ask questions of clarification from both the Principal and the student and the student's parents;
- 2.4. The Student Review Committee may request from the Superintendent a list of alternatives to guide their deliberations;
- 2.5. The Student Review Committee will meet, without either the administration or the student and the student's parents present, to discuss the case and the recommendation. The recording secretary will remain in attendance but shall not take part in any discussion but shall not take part in any discussion and the discussion will not be recorded. The Board's Legal counsel, if present, may also remain in attendance.
- 2.6. Should the Student Review Committee require additional information, both parties will be requested to return in order to provide the requested information;
- 2.7. The Student Review Committee will then make a decision to either reinstate or expel the student and reconvene the meeting to announce their decision. Should the committee require a significantly longer period of time for their deliberations, they may make alternative arrangements regarding the dissemination of their decision. (i.e. The Superintendent's office will attempt to inform the parent(s) and the student of the decision by telephone or personal communication as soon as possible after a decision has been reached). In this event, during their deliberations, no new information affecting the outcome of the proceedings shall be brought before the committee.
- 2.8. The Student Review Committee decision shall be communicated in writing to the student and the student's parents within 5 days of the hearing, with copies being provided to the Principal and the Superintendent.

(The Superintendent's office will attempt to inform the parent(s) and the student of the decision by telephone or personal communication as soon as possible after a decision has been reached.)

3. If the Student Review Committee's decision is to expel the student, the following information must be included in the letter to the student and the student's parents:
 - 3.1. The length of the expulsion which must be greater than 10 school days;
 - 3.2. The educational program to be provided to the student and the name of the individual to be contacted in order to make the necessary arrangements;
 - 3.3. The right of the student and the student's parents to request a review of the decision by the Minister of Education, including contact information for the Minister's office;

- 3.4. In most cases, an expulsion shall end June 30 of the school year in which it occurred;
 - 3.5. The Student Review Committee may impose reasonable and relevant conditions on re-enrolment for a student who is expelled. These conditions must be included in the letter to the student and the student's parents and must be fulfilled by the student before re-enrolment at the school from where the student is expelled (even if beyond the June 30th date). The Superintendent/designate shall be responsible for ensuring that the conditions are met; and
 - 3.6. Reasonable effort shall be made to ensure that students who are subject to an expulsion procedure be given an opportunity to write their final exams.
4. Expulsion is at the discretion of the Committee. The Student Review Committee, in making its decision, shall take into account the circumstances under which the student committed the offence. The following offences, which is not an exhaustive list, may be considered by the Committee as justification for expulsion:
 - 4.1. Open opposition to the authority of the staff;
 - 4.2. Conduct, whether or not the conduct occurs within the school building or during the school days, is injurious to the physical or mental well-being of others in the school;
 - 4.3. Displaying an attitude of wilful, blatant and repeated refusal to comply with the code of conduct established in the school;
 - 4.4. Habitual neglect to do work that is assigned to the student and which is within his/her competence to complete;
 - 4.5. Profane or indecent language in the presence of other students or before staff;
 - 4.6. Threats of physical violence or acts of violence against staff or a serious unprovoked attack on other students;
 - 4.7. Any act of indecency in a school building or on the school grounds;
 - 4.8. Failure to observe and to obey any reasonable rule, regulation or procedure established by the teacher or by the Principal for maintaining a climate of behavior conducive to learning;
 - 4.9. Willful or malicious damage to property or equipment on school premises;
 - 4.10. Prohibited use of drugs, alcohol, or tobacco; or
 - 4.11. Any conduct that endangers the ability of the school to provide a safe, caring and secure environment that fosters and maintains respectful and responsible behaviors.

Adopted: August 2004

Reviewed: May 2014

**Revised: October 2008
November 2010
June 2016
October 2016**

REVIEW BY THE MINISTER

- 124 (1) If a board makes a decision on an appeal to it or otherwise with respect to
- a) the placement of a student in a special education program,
 - b) a matter referred to in section 10,
 - c) a home education program,
 - d) the expulsion of a student, or
 - e) the amount and payment of fees or costs,
- the parent of a student affected by the decision or the student if the student is 16 years of age or older may request in writing that the Minister review the decision of the board.
- (2) Where a dispute arises
- a) as to the amount of fees that are payable by a board to another board under Part 3, or
 - b) as to which board is responsible for a student, a board or other person that is a party to the dispute may request in writing that the Minister review the matter.
- (3) A person who may review a student record under section 23 may request in writing that the Minister review a decision of the board, whether made on an appeal to it or otherwise, respecting access to or the accuracy or completeness of the student record.

RELIGIOUS AND PATRIOTIC INSTRUCTION

- 50 **(1)** A board may
- a) prescribe religious instruction to be offered to its students;
 - b) prescribe religious exercises for its students;
 - c) prescribe patriotic instruction to be offered to its students;
 - d) prescribe patriotic exercises for its students;
 - e) permit persons other than teachers to provide religious instruction to its students.
- (2)** Where a teacher or other person providing religious or patriotic instruction receives a written request signed by a parent of a student that the student be excluded from religious or patriotic instruction or exercises, or both, the teacher or other person shall permit the student
- a) to leave the classroom or place where the instruction or exercises are taking place for the duration of the instruction or exercises, or
 - b) to remain in the classroom or place without taking part in the instruction or exercises.

1988 cS-3.1 s33;1990 c36 s16

Notice to parent

- 50.1 **(1)** A board shall provide notice to a parent of a student where courses of study, educational programs or instructional materials, or instruction or exercises, include subject-matter that deals primarily and explicitly with religion or human sexuality.
- (2)** Where a teacher or other person providing instruction, teaching a course of study or educational program or using the instructional materials referred to in subsection (1) receives a written request signed by a parent of a student that the student be excluded from the instruction, course of study, educational program or use of instructional materials, the teacher or other person shall in accordance with the request of the parent permit the student, without academic penalty,
- a) to leave the classroom or place where the instruction, course of study or educational program is taking place or the instructional materials are being used for the duration of the part of the instruction, course of study or educational program, or the use of the instructional materials, that includes the subject-matter referred to in subsection (1), or

- b) to remain in the classroom or place without taking part in the instruction, course of study or educational program or using the instructional materials.
- (3) This section does not apply to incidental or indirect references to religion, religious themes or human sexuality in a course of study, educational program, instruction or exercises or in the use of instructional materials.

2015 c1 s3

Complaint process

- 50.2 (1) If a board, teacher or other person fails to comply with section 50 or 50.1, that failure to comply is deemed to be a decision that may be appealed in accordance with section 123.
- (2) A decision of the board under section 123 with respect to an appeal relating to subsection (1) is final.