



POLICY 8: HEARINGS ON TEACHER TRANSFERS

The Superintendent may transfer a teacher in accordance with section 212 of the Education Act. The teacher may make a written request to the Board to have a hearing before the Board for the purpose of objecting to the transfer.

The Board shall conduct any hearings concerning the transfer of a teacher pursuant to Section 212 of the Education Act, in accordance with these procedures.

A teacher transfer hearing may be heard in an in-camera board meeting, or alternatively at least two trustees may convene a transfer hearing with prior Board approval.

Specifically

1. Transfers

- 1.1 A teacher who has been given a notice of transfer by the Superintendent may make a written request to the Board to have a hearing before the Board for the purpose of objecting to the transfer within seven (7) days of receipt of the transfer notice.
- 1.2 The request for a hearing before the Board shall be submitted by the teacher to the Secretary-Treasurer with a copy being provided by the Superintendent.
- 1.3 The Board may set a date and time for the hearing requested not earlier than fourteen (14) days after the teacher receives the notice of transfer, unless the teacher agrees in writing to an earlier date.
- 1.4 The Secretary-Treasurer shall advise the teacher in writing of the date, time and location of the hearing.

2. Adjournments

- 2.1 Requests for adjournments may be granted by the Board Chair, where determined to be reasonable in the Board Chair's sole discretion. An application for an adjournment shall be made in the following manner.
 - 2.1.1 Where the request for the adjournment is made in advance of the hearing, it shall be made in writing to the Secretary-Treasurer by the teacher or the Superintendent no less than seven (7) days before the originally scheduled date of the hearing.

- 2.1.2 A request for an adjournment, although not submitted in accordance with clause 2.1 if supported with reasons that the Board Chair considers valid, including the reason the request was not submitted within the required time period, may be made in writing through the Secretary-Treasurer.
- 2.2 The Board Chair may seek written submissions from each of the parties about whether to grant the adjournment.
- 2.3 The Board Chair may take into consideration the timing of the request for the adjournment, the stated reasons for the request, the prior history of requests for the adjournment of the matter, and the submissions made by the parties.
- 2.4 Where adjournments are granted in the course of a hearing, members of the Board are prohibited from disclosing the evidence presented or matters raised at the hearing, either amongst themselves or with the parties and their representatives or witnesses until the hearing is reconvened.

3. Pre Hearing processes

- 3.1 Any written materials the teacher or the Superintendent wishes the Board to consider must be submitted to the Secretary-Treasurer, where possible, not less than four (4) days prior to the scheduled date of the meeting. The Secretary-Treasurer will provide copies of all such documentation to the parties prior to the meeting, where possible, and to the trustees at the hearing.
- 3.2 Notwithstanding the above, the Board Chair shall reserve the right to receive such further documentation as is deemed relevant at the Board hearing.
- 3.3 The teacher or the Superintendent may be accompanied by counsel or another representative, and may bring witnesses if, not less than four (4) days prior to the scheduled date of the meeting, the following is provided by the teacher or the Superintendent in writing:
 - 3.3.1 The names of counsel, other representatives, and any witnesses; and
 - 3.3.2 An explanation satisfactory to the Board Chair as to why the witnesses' evidence may not be adequately presented in writing.
- 3.4 The Board Chair shall advise, in writing, the party who has requested permission to bring witnesses to the hearing as to whether or not the request will be granted, as soon as reasonably practical after receiving the application.
- 3.5 Notwithstanding the foregoing, the Board Chair shall reserve the right to allow such witnesses to appear at the hearing as are deemed relevant or necessary to the determination.

4. Procedure at Hearings

- 4.1 The Secretary-Treasurer will keep notes of the proceedings. The Board, in its sole discretion, may record the hearing via electronic means. Where recording will take place, the parties shall be advised by the Board Chair at the commencement of the hearing.
- 4.2 The hearing shall be conducted at an in-camera session of the Board and chaired by the Board Chair, or in the Chair's absence, the Vice Chair or designate.
- 4.3 The Board Chair shall introduce all parties, and the parties and/or their representatives shall introduce all witnesses at the hearing.
- 4.4 The sequence of the hearing shall be as follows:
 - 4.4.1 Consideration of any preliminary objections.
 - 4.4.2 An opening statement to be made by each of the parties with the teacher speaking first and the Superintendent or designate to follow.
 - 4.4.3 Written and oral presentation by the teacher, including any evident by witnesses where appropriate.
 - 4.4.4 Written and oral presentation by the Superintendent or designate, including any evidence by witnesses where appropriate;
 - 4.4.5 Teacher's opportunity for a response to the administration's presentation;
 - 4.4.6 Superintendent's or designates opportunity for a response to the teacher's presentation;
 - 4.4.7 An opportunity for the Board to ask questions of both parties and any questions of clarification of both parties and any of the other witnesses;
 - 4.4.8 An opportunity for the teacher to make final comments;
 - 4.4.9 An opportunity for the Superintendent or designate to make final comments; and
 - 4.4.10 No cross-examination of witnesses shall be allowed unless the Board Chair deems it advisable.
- 4.5 The Board will meet without the respective parties to the appeal in attendance to arrive at a decision regarding the appeal. The Board may have the Secretary-Treasurer or legal counsel in attendance.
- 4.6 If the Board requires additional information or clarification in order to make its decision, both parties will be recalled to appear before the Board and the request for information will be made in the presence of both parties.
 - 4.6.1 If the information is not readily available, the Board Chair may request a recess, or if necessary an adjournment of the hearing to a later date.

- 4.6.2 In the case of an adjournment, members of the Board are prohibited from discussing the evidence presented or matters raised at the hearing, either amongst themselves or with the parties and their representatives or witnesses until the hearing is reconvened.
- 4.7 The Board shall draft a resolution indicating its position. This resolution is to indicate the employee's number so as to maintain confidentiality.
- 4.8 When the Board is ready to make its decision on the matter, both parties, if still present, will be advised that the Board will be reconvening and will consider a motion to move into a regular or special Board meeting in order to consider the resolution. The Chairperson shall ask to have a Trustee present a motion involving the decision reached. The following motion will be read aloud by a Trustee: The appeal in the matter (insert numeric identifier) is hereby accepted or rejected. The Chairperson then says, "All those in favour please raise your hands. Those opposed please raise your hands." If the teacher transfer appeal hearing occurs outside of an in-camera board meeting, the representative Trustees will make their decision and this information will be shared with the teacher and superintendent or designate. This decision will also be communicated to the remaining Trustees at the next regularly scheduled board meeting.
- 4.9 The Board decision will be communicated to the teacher and superintendent by telephone and confirmed in writing, following the hearing.

Legal Reference: Section 33, 52, 53, 212, 222 Education Act