Cape Breton Victoria Regional School Board
Guidelines

School Board Appeal Process

Opening Statement

In accordance with Nova Scotia’s Department of Education policies and guidelines, the Cape Breton-Victoria Regional School Board promotes open constructive communication between school staff and parents, which can resolve most disputes involving the Individual Program Planning process. Using a collaborative, consultative approach throughout the Program Planning process will enhance opportunities to address concerns as they arise.

Purpose

The purpose of this policy is to clarify the process of School Board Appeal for parents/guardians, students and educators. The process is in accordance with the Nova Scotia Education Act, the Ministerial Education Act Regulations and the Department of Education Special Education Policy.

Guidelines

1. The appeal process must be accessible, straightforward, and fair.

2. A parent makes the appeal for a student under 19 years of age. A student who is under 19 years of age, and lives independently, may initiate an appeal. Students who are 19 years or older may appeal on their own behalf.

3. Upon receipt of a request for an appeal that is based on a dispute concerning outcomes or placement or both, a school board appeal committee must be established, as per Special Education Policy 1.8, when the superintendent determines that the appeal will proceed. All members of the appeal committee must participate fully throughout the appeal hearing process.

4. The composition of the school board appeal committee should include three members, none of whom is an employee of the school board or has provided contracted services to the school board or parent within three years of the appeal date. One member is recommended by the parent, one member is chosen by the school board, and the third member, who will be the chair, is appointed by the superintendent. The chair must be acceptable to the parent and the board. Should there be no agreement on the naming of the chair, the Director of Student Services, Department of Education, will appoint a chair.

5. All persons involved in the appeal process are expected to abide by the appeal procedures.

6. All persons involved in the appeal process should be open to a reasonable settlement of the appeal before and during the hearing.
As per policies 1.8 and 2.6 in the *Special Education Policy*, the school board is required to establish a school board appeal process.

The Program Planning Team is responsible for ensuring that the program planning process has taken place as outlined in Policies 2.2 and 2.6 (see Appendix II for applicable policies).

In cases where parents or the school board do not agree with the proposed or existing outcomes for the student, or the proposed or existing placement in which the individualized program is implemented, or both, an appeal procedure may be initiated as outlined in Step 1 below. However, all efforts should be made to resolve the dispute through discussions and mediation before an appeal is requested.

The following steps outline the school board appeal process (See Appendix IV, Board and Ministerial Appeal Process).

**STEP 1** – The parent, or the school board, writes a letter to the superintendent of the school board to request an appeal. This must be received by the superintendent within 30 working days of the date of the decision by the Program Planning Team at Stage 4 (see Appendix III, Identification, Assessment and Program Planning). The reasons for the appeal and supporting documentation should accompany the request.

**STEP 2** – Upon receipt of a request for an appeal, the superintendent will forward all relevant provincial and school board policies and procedures to the parents/guardians or school board requesting the appeal within 10 working days. This includes the Nova Scotia Department of Education’s *Special Education Policy*, *The Program Planning Process: A Guide for Parents, School Board and Ministerial Appeal Board Procedures*, and the school board’s special education policy.

**STEP 3** – The superintendent reviews the request within 15 working days to determine whether the appeal is based on a dispute regarding:

a) the school board’s decision not to proceed with the development of an individual program plan for the student.

b) the proposed or existing individual program plan outcomes for the student.

c) the proposed or existing placement of the student in respect of the education programs provided by the school board.

If the appeal is based on one or more of these dispute concerns, the superintendent establishes an appeal committee that must meet with 40 working days. If not, the superintendent may refer the matter to school board staff to review and attempt to resolve the dispute. The superintendent’s decision whether or not to allow the appeal must be communicated in writing to the parent/guardian and school board staff involved.

**STEP 4** – The school board appeal committee hears the appeal within 40 working days. All parties to the appeal should be informed in writing of the committee’s decision within 10 working days of the appeal hearing. The chair will notify the appellant of his/her right to request a ministerial appeal, which must be submitted to the Minister of Education no later than 30 days after the date of the decision of the school board appeal committee.

**Responsibilities and Related Guidelines**
Responsibilities of the Chair – The chair of the school board appeal committee is responsible for ensuring that the committee hears the appeal. The chair must also ensure that proper procedures are followed that will allow members to make a prompt, fair and unbiased decision. The chair writes the report for the school board appeal committee and provides copies to the superintendent, parents, and members of the appeal committee within 10 working days of the date of hearing.

Before the Hearing

Responsibilities
- Determine who should attend the hearing.
- Promptly inform all parties of the place, date, time and duration of the hearing.
- Provide those involved in the hearing with all relevant records and documentation and the process to be followed. (7 working days prior to the appeal is recommended).

Guidelines
- The chair sets a recommended maximum time limit of two hours, with no more than 30 minutes allotted for each party’s presentation.
- The second hour should be used by the members of the appeal committee to further clarify the information that has been presented.
- Assign a person to record attendance and the proceedings of the hearing.

At the Hearing

Responsibilities
- Outline the nature of the unresolved dispute, the issue(s) to be decided, and the parameters that form basis of the appeal.
- Set the rules of order to be followed during the school board appeal committee hearing.
- Collect from participants, other than parents, all records and documents used in the hearing and return them to the school board to be stored in accordance with the Student Records Policy.

Guidelines
- The chair welcomes and introduces all participants.
- The chair explains his/her role and the roles of other participants in the school board appeal hearing.
- The chair will rule on any procedural questions or issues that may arise during the hearing.
- The chair informs committee members that after the hearing they must not communicate with anyone other than appeal committee members regarding the appeal.

After the Hearing

Responsibilities
- Present, in writing, the decision of the appeal committee outlining the facts of the case and the relevant legislation or policy.
- Advise the appellant of the regulations regarding the Ministerial Appeal Process (sections 53-61) should the appeal be unsuccessful.
- Forward the written decision of the school board appeal committee to all parties. A copy of the decision should also be forwarded to the Director of Student Services, Department
of Education. These copies should be sent within 10 working days of the school board appeal hearing.

**Responsibilities of the Respondent and Appellant**

**Before the Hearing**

- Gather pertinent records and documents and send them to the chair of the appeal committee not less than 10 days before the appeal hearing.
- Request from the chair permission for others to attend and/or participate in the hearing. Submit the names, telephone numbers and email addresses of those whom you wish to attend.
- Information provided to the chair of the appeal committee will be kept confidential.

**At the Hearing**

Responsibilities

- Arrive in time for the hearing.
- Observe rules of order and time limits as outlined by the chair.
- Be respectful of others during the hearing.

Guidelines

- The person who requested the appeal (appellant) presents his/her case, within the allotted 30 minute time, clearly stating their specific concerns related to section 53(3).
- The person responding to the appeal (respondent) presents his/her case within the allotted 30 minute time.
- Following presentations, school board appeal committee members may ask questions to clarify information for 40-50 minutes. This is not the time for a discussion between the parent/guardians and the school board. Any discussions should have already occurred prior to the school board appeal, at Program Planning Team meetings or other meetings involving the two parties.
- The appellant may briefly summarize (5-10 minutes) why the appeal should succeed.
- The respondent may briefly summarize (5-10 minutes) why the outcomes or placement should be as proposed or existing.

**Cross Reference**

- Education Act (1995)
- Special Education Policy (2008)

**Forms**

Page 11 & 12 (School Board and Ministerial Appeal Guide)