

## Good Governance for School Boards: Trustee Professional Development Program

### Module 11: Legal Aspects of School Board Governance

#### **Module 11: Part A – Some Legal Requirements of Trustees**

##### **[Welcome]**

Welcome. This is Bob Williams.

The Centre for Governance Excellence is pleased to introduce you to our expert presenters for this module on legal aspects of school board governance.

The module explores the legal responsibilities of trustees including their role in quasi-judicial hearings and implications of conflict of interest legislation.

##### **[Our Presenters]**

Our presenters are Bob Keel and Nadia Tymochenko, partners in the law firm of Keel Cottrelle. Both Bob and Nadia bring a wealth of experience grounded in many years of legal practice in the education sector. They are highly respected in the sector and provide expert legal services to many Ontario school boards. We thank Nadia and Bob, and Keel Cottrelle for working with us to develop a module which sets out the legal concepts so clearly and effectively.

##### ***[Quasi-Judicial Decision Making]***

After completing this module, you will be able to understand the quasi-judicial decision making responsibilities of trustees required by the *Education Act* with respect to student discipline. You'll be able to understand the application of the *Municipal Conflict of Interest Act* with respect to discussing and voting on matters brought before the board. And you'll understand the application and requirements of access and privacy legislation.

The topics covered under the quasi-judicial decision making responsibilities of trustees include:

- Procedural fairness
- Discipline committee functions
- Exclusion appeals
- Appeals of the promotion of students
- Termination of teachers

School board trustees are required by the *Education Act* to make certain decisions in a quasi-judicial manner. These include the functions of two committees - the discipline committee which hears suspension appeals and recommendations for expulsions; and

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an ad hoc committee that hears appeals from students who have been refused access to secondary school.

The board of trustees as a whole decide on recommendations for termination of teachers, which includes principals and supervisory officers; as well as appeals of exclusions from a class or a school.

#### ***[Principle of Procedural Fairness]***

The principle of procedural fairness applies to quasi-judicial decisions made by the trustees regarding:

- Student discipline
- Exclusion appeals
- Appeals of promotion to secondary school
- Teacher terminations

Procedural fairness is a common law principle that governs the way in which certain decisions by certain people must be made. It governs the process to be utilized when making the decision, rather than the substance of the decision.

Procedural fairness includes the following four elements:

- The right to know
- The right to be heard
- The right to a decision free from bias and a conflict of interest
- The right to a decision free from discrimination

#### ***[The Right to Know]***

The right to know – the parties to the process must know what is at issue:

- What is the allegation?
- What is the potential outcome of the process?
- What is the process that will be used to decide the outcome?

If there is a decision to be made that might impact a person's rights, procedural fairness requires that the person be informed about how their rights will be impacted as well as the information that is going to be relied upon to make the decision.

For example, in a teacher termination, procedural fairness states that the teacher has a right to know that they might lose their job. And that if the basis for the recommendation that they be terminated is that they have been unsuccessful in three teacher

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performance appraisals, they have a right to see the performance appraisals that will be relied upon by the administration when making the recommendation for termination.

#### ***[The Right to Be Heard]***

The right to be heard – the parties to the process must have an opportunity to be heard by the decision maker. They must have an opportunity to comment on the process being used to decide the outcome. They must have an opportunity to respond to all of the issues regarding the matter. They must have an opportunity to respond to the potential outcomes of the process.

The principle of procedural fairness also provides that the individual who might be impacted with the right to be heard by the decision maker. The right to be heard includes the right to comment on the process that is going to be utilized. For example, the length of time that will be dedicated to the process. It also includes the right to respond to all of the allegations or issues raised during the process and the ability to raise other issues that might relate to the matter.

For example, in a recommendation for expulsion, an adult student and/or his/her parent or guardian has the right to respond to each of the alleged acts of behaviour being considered, and to deny or to provide an explanation for the behaviour, as well as to raise other issues, such as a disability that might have influenced the behaviour.

Finally, the individual who might be impacted has the right to comment on the appropriateness of the potential outcomes of the process. For example, in a recommendation for expulsion, the adult student, or his/her guardian has a right to indicate that the recommendation for expulsion in the circumstances and given the information that has been provided is too harsh.

#### ***[The Right to a Decision Free from Bias and Conflict of Interest]***

The right to a decision free from bias and conflict of interest – the decision maker cannot be biased or appear to be biased when making his/her decision. The decision maker should not hold a view about the specific outcome before they hear from the parties. The decision maker should have no prior involvement with the parties regarding the matter at issue.

Bias with respect to quasi-judicial decision making is considered and evaluated with respect to the specific circumstances of the decision to be made. Most committee members will hold views about whether or not students should be disciplined for swearing. This is a form of bias that is permissible because it is not specific to the incident.

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However, in a specific incident of a student swearing at a teacher, if the member knows the teacher involved and heard about the incident from the teacher before the suspension appeal is heard, there would be a concern or fear of bias specific to the situation. This would require the member to absent himself or herself from making a decision about the suspension being appealed.

Having a child attending the secondary school and in the same class where an expulsion is being considered for a student who violently assaulted another student also creates a fear of possible bias and the committee member would be required to absent himself or herself from any discussion and decision.

A potential conflict of interest when making quasi-judicial decisions is broader than the conflict of interest outlined in the *Municipal Conflict of Interest Act* which includes conflict of interest of a financial or economic nature.

Conflicts of interest in quasi-judicial matters include not only economic interests, but also interests that might bias an individual toward a decision. For example, in a discipline matter, knowing the victim personally might bias or cause a conflict of interest for the member when deciding a suspension appeal or a recommendation for expulsion.

An apparent conflict of interest must also be avoided. Therefore, even if the member believes he or she can make an impartial discipline decision, despite knowing the victim, most people would believe that he or she could not be neutral as a result of their relationship. In such a situation, the member should abstain from being involved in the decision making because it would appear to others and most importantly, to the parties, that he or she is not neutral.

#### ***[The Right to a Decision Free from Discrimination]***

The right to a decision free from discrimination – the decision maker should not be influenced by personal pre-existing ideas regarding race, colour, ethnicity, country of origin, creed, gender, gender identity, sexual orientation, disability or any other ground protected by the Ontario Human Rights Code.

Bias can also be related to grounds protected by the Ontario Human Rights Code – they might include prior held beliefs or views about individuals based on Code factors, such as a disability. For example, a committee member might believe that children diagnosed with autism cannot control their behaviour and are often dangerous. This would be a bias that might influence him or her when making a decision regarding a suspension appeal involving a student with autism.

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#### **[Terms and Definitions]**

Bias is defined as an opinion, preference, prejudice, or inclination that limits an individual's or a group's ability to make fair, objective or accurate judgments.

Discrimination is defined as unfair or prejudicial treatment of individuals or groups on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, or disability, as set out in the Ontario Human Rights Code, or on the basis of other similar factors.

Discrimination, whether intentional or unintentional, has the effect of preventing or limiting access to opportunities, benefits, or advantages that are available to other members of society. Discrimination may be evident in organizational and institutional structures, policies, procedures and programs, as well as in the attitudes and behaviours of individuals.

Diversity is the presence of wide range of human qualities and attributes with a group, organization or society. The dimensions of diversity include, but are not limited to, ancestry, culture, ethnicity, gender identity, language, physical and intellectual ability, race, religion, sex, sexual orientation, and socio-economic status.

Equity is a condition or state of fair, inclusive and respectful treatment of all people. Equity does not mean treating people the same without regard for individual differences.

Systemic discrimination is a pattern of discrimination that arises out of apparently neutral institutional policies or practices, that is reinforced by institutional structures and power dynamics, and that results in the differential and unequal treatment of members of certain groups. According to the OHRC Reports, disability and race outnumbered complaints based on any other prohibited grounds.

Be aware:

- Discrimination doesn't have to be intentional.
- Equity doesn't mean the same treatment; it means equality of outcome.
- Sometimes neutral rules can have an adverse impact on certain groups.
- Discrimination is often embedded in unconscious attitudes, stereotypes, structures and systems.

These statements from the Equity and Inclusive Branch of the Ministry of Education provide some insights to guide us in our hearings. We encourage trustees to have an in depth conversation with the appropriate board official on strategies to ensure that discrimination is avoided in your decision making processes.

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#### ***[Part XIII of the Education Act]***

Part thirteen of the *Education Act* requires trustees to make decision regarding expulsions and suspension appeals. Both expulsions and suspension appeal decisions must take into consideration whether or not progressive discipline was applied and whether or not mitigating or other factors were considered.

Suspension appeals must be heard within 15 school days of receipt. A discipline committee of no fewer than 3 trustees can be created by the Board of Trustees to make these decisions. The four principles of procedural fairness apply to these decisions of the Discipline Committee.

The Board of Trustees determines the number of trustees on the discipline committee that will form a quorum, but that number cannot be fewer than 3. The committee can be a regular standing committee that meets on a specific day at a specific time, unless there are no discipline matters that need to be heard. Or, the committee can be an ad hoc committee called to meet when there is a discipline matter to be decided. The committee can have the same ongoing members and a specific chair or have rotating panels and a chair for the specific discipline matter. When determining how to structure the committee, school boards may determine what best meets their needs and the needs of their community. A decision made by the committee does not need to be approved by the Board of Trustees.

#### ***[The Statutory Power Procedures Act]***

The *Statutory Power Procedures Act* (SPPA) outlines the process to be used by the Discipline Committee when hearing recommendations for expulsion. The SPPA outlines in detail how procedural fairness is to be ensured when making expulsion decisions. The details are outlined the Discipline Committee's rules.

The parties to an expulsion are an adult student or parent/guardian where the student is not an adult and the principal who is making the recommendation for expulsion. An adult student is one that is 18 years of age or older or a student who is 16 or 17 years of age and has removed him or herself from parents control and care. A student who is not an adult student has a right to be present and make a statement, which is different than giving evidence under oath.

The alleged victims of the incident are not parties to the expulsion unless explicitly added as parties according to board policy. The specifics of the process that is utilized may vary depending upon the incident and whether or not the student being recommended for expulsion admits or denies his or her participation in the incident. In

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most school boards, the superintendent of education with responsibility for student discipline will assist in determining the process for the particular matter to be heard.

#### ***[Grounds for Expulsion]***

Section 310(1) of the *Education Act* outlines seven infractions for which expulsion must be considered. An eighth infraction includes any infractions identified by the board in the school board's discipline policy or code of conduct for which expulsion must be considered.

There are grounds leading to a recommendation for expulsion that are prescribed by the *Education Act*. They are:

- Possessing a weapon, including possessing a firearm.
- Using a weapon to cause or threaten bodily harm to another person
- Committing physical assault on another person that causes bodily harm requiring treatment by a medical practitioner
- Committing sexual assault
- Trafficking in weapons or in illegal drugs
- Committing robbery
- Giving alcohol to a minor

The final ground identified by the *Education Act* is in sub 8 – “any other activity that under a policy of a board is an activity for which a principal must suspend a pupil. Therefore, in accordance with this part, conduct an investigation to determine whether to recommend to the board that the pupil be expelled.”

This provision enables school boards to identify specific or generic grounds that might lead to a recommendation for expulsion. Many school boards have included a statement that incorporates serious breaches of the school board's code of conduct.

#### ***[Consequences of expulsion]***

Students may be expelled from the school they were attending when the incident occurred or from all schools under the jurisdiction of the school board. If the student is expelled from the school they were attending, they must be assigned to a new school. If a student is expelled from all schools, the student must have the opportunity to attend an expulsion program.

Discipline committees are responsible for making decisions regarding the possible consequences when a student has been recommended for expulsion. The committee must first decide whether or not the infraction occurred, and then determine the consequences.

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The committee can decide to expel the student from all schools of the school board and assign that student to a program for expelled students, or to expel the student from the school he or she was attending at the time of the incident – in which case, he or she must be assigned to another school with programming appropriate to meet his or her needs. Or, the committee can determine that no expulsion is warranted – in which case, the committee must consider whether or not the suspension imposed was appropriate in the circumstances. In most cases, the suspension imposed will be for 20 school days and the committee can decide to uphold the suspension, reduce the number of days imposed or expunge the suspension.

In making its decision, the discipline committee must also consider whether or not the principles of progressive discipline, if applicable, were applied and whether or not mitigating or other factors were considered.

Once the discipline committee makes its decision, the decision becomes a decision of the school board. The decision must be communicated to the adult student or the student's parent/guardian in writing. A detailed explanation of the rationale for the decision must be provided in writing if requested.

The *Education Act* outlines the contents to be included in written confirmation of expulsion. The Act requires:

- The reason for the expulsion
- A statement indicating whether the student was expelled from one school only or all schools
- Information about the school or program to which they will be assigned
- Information about the right of appeal to the Child and Family Services Review Board.

#### ***[Appeal of the discipline committee's decision to expel a student]***

The parent or guardian or adult student may appeal the decision of the discipline committee to expel the student from the school they were attending or from all schools of the school board. The appeal is heard by the Child and Family Services Review Board, soon to be merged with other administrative tribunals to create a social justice tribunal.

Appeals are heard by the Child and Family Services Review Board fresh, from the beginning, as though there was no process of the discipline committee. They are heard by a panel of three adjudicators. In most cases, the school board is represented by legal counsel. In some cases, the adult student, or his or her parent/guardian may be



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represented by legal counsel. The adult student, or his or her parent/guardian, does not need to be represented by legal counsel in order to bring an appeal.

#### ***[Suspension Appeal]***

A suspension appeal may be initiated by a parent or guardian or adult student. Many school boards have a process of review by a Superintendent of Education to attempt to resolve the issues of concern to the parent/guardian or adult student before the suspension appeal is heard.

Appeals must be heard and determined within 15 days of receipt. Section 301(1) of the *Education Act* outlines six infractions for which a suspension may be imposed by a principal. A seventh infraction includes any infractions identified by the board of trustees in the school board's discipline policy or code of conduct for which a suspension may be imposed.

The grounds for a suspension include those prescribed by the *Education Act*:

- Uttering a threat to inflict serious bodily harm on another person
- Possessing alcohol or illegal drugs
- Swearing at a teacher or at another person in a position of authority
- Committing an act of vandalism that causes extensive damage to a school property at the pupil's school or to property located on the premises of the pupil's school
- Bullying
- And any other act which is an activity for which a principal may suspend a pupil under a policy of the board

The school board may identify specific infractions or may create one or more generic infractions. Many school boards incorporate infractions by reference to the board's code of conduct.

Some boards use a process for suspension appeals similar to the process for expulsion while other boards use a more streamlined process for suspension appeals. The details of the process for suspension appeals are outlined in the discipline procedures.

#### ***[Suspension Appeal Process]***

The suspension appeal process must include the four elements of procedural fairness. Parents must be informed in advance of the process to be used. In making its decision, the Committee must take into consideration whether or not progressive discipline was applied and whether or not mitigating or other factors were considered.

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The discipline committee must consider whether the suspension was appropriate given the circumstances. The committee can decide to uphold, alter or expunge the suspension.

#### ***[Progressive Discipline]***

Both Bill 212 and Bill 157 amended the *Education Act* discipline provisions and expectations. A progressive discipline approach is required to be used by administrators. The discipline committee must consider what, if any, progressive discipline was applied when they consider a recommendation for expulsion or suspension appeal.

Progressive discipline is an approach to discipline which attempts to identify the underlying causes of behaviour and attempts to teach the student with positive practices why his or her behaviour was inappropriate. When positive practices are ineffective, or inappropriate in the circumstances, a progressive discipline approach imposes consequences for the behaviour in a progressive manner. A progressive discipline approach attempts to make the consequences as natural as possible. For example, if a student writes graffiti on his or her locker, rather than imposing a suspension, the student might be required to wash the graffiti off of their locker.

Was a progressive discipline approach utilized? When deciding a recommendation for expulsion or suspension appeal, the discipline committee must consider whether or not the principal utilized a progressive discipline approach. The use of a progressive discipline approach is required for all students. However, progressive discipline recognizes that different incidents will require different responses. In some cases, where there has been no history of inappropriate behaviour but a very serious incident has occurred, the progressive discipline imposed may be a recommendation for expulsion.

#### ***[Mitigating and Other Factors]***

The discipline committee must also consider the application of the mitigating and other factors when deciding a recommendation for expulsion or suspension appeal. The mitigating and other factors are outlined in O. Reg 472/07 – Behaviour, Discipline and Safety of Pupils.

The mitigating factors have been part of the process for suspension or expulsion since the *Safe Schools Act* came into force. The other factors were added to the regulation following the Ministry of Education's settlement of a human rights complaint brought by the Ontario Human Rights Commission.

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It is important to note that the mitigating and other factors do not justify and in most cases, do not excuse the behaviour. Rather, they are factors that are taken into account and the consequences of the behaviour are modified or made less severe than would normally occur.

School administrators are required to consider mitigating and other factors when deciding on the course of progressive discipline to be followed. In the previous example, the student's history and the particular circumstances with respect to the gang might cause the committee to consider expulsion from the school and place him in another school, rather than expulsion from all schools because the peers who were influencing his behaviour are no longer present.

In another case, if a student with autism forcefully struck another student who accidentally bumped into her and a developmental assessment of the student with autism has found that she is hypersensitive to touch or physical contact with others, and that she will strike out with no awareness of her actions to remove the unpleasant contact, this is manifestation behaviour.

The mitigating factors outlined in Ontario Regulation 472/07 – Behaviour, Discipline and Safety of Pupils are:

- The pupil does not have the ability to control his or her behaviour
- The pupil does not have the ability to understand the consequences of his or her behaviour
- The pupil's continuing presence in the school does not create an unacceptable risk to the safety of any person

If one or more of the mitigating factors applies to the student being disciplined, the discipline committee must determine whether any discipline is appropriate, and if any discipline is appropriate, the extent to which the discipline imposed should be mitigated.

The requirement to examine mitigating factors is for all students, not just those with Special Education programs. A common reason to mitigate discipline is due to a disability that impacts the pupil's ability to understand foreseeable consequences and/or control his or her behaviour. In such cases, consideration of the student's IEP and/or safety plan might be required. Inability to understand consequences of behaviour is not only related to disability, it is also frequently related to the age of the student. A five year old kindergarten student might believe that hitting a person the way he or she sees on television does not hurt the person.

Whether or not the student's continuing presence in school creates an unacceptable risk is also a factor that must be considered. For example, if a sixteen year old girl with

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no history of inappropriate or aggressive behaviour unexpectedly lost control and directed considerable profanity towards her math teacher, and pushed her teacher away from her desk when she was given a detention to complete homework not done, and the teacher fell to the floor and injured his shoulder, the student might receive a ten day suspension due to the verbal and physical aggression toward the teacher.

The principal might have suspended the student for more than ten days or even recommended expulsion, but could have decided against these options after considering the student's previous exemplary history. If the student's mother were to appeal the suspension and disclose that on the night before the incident she and the student's father had separated, giving rise to considerable stress and embarrassment for the student, the discipline committee might determine that while the behaviour was unacceptable, the student's continuing presence in the school does not present an unacceptable safety risk and that the student's personal circumstances warranted a reduction to the number of days of the suspension. The committee could choose to reduce the suspension to 3 days and order that the suspension letter be amended accordingly.

The other factors outlined in Ontario Regulation 472/10 include:

- The pupil's history
- Whether a progressive discipline approach has been used
- Whether the activity for which the pupil may be or is being suspended or expelled was related to any harassment on Code related grounds or any other harassment
- How the suspension or expulsion would affect the pupil's ongoing education
- The age of the pupil
- In the case of a pupil with an IEP:
  - o whether the behaviour was a manifestation of a disability identified in the pupil's IEP
  - o whether appropriate individual accommodation has been provided
  - o whether the suspension or expulsion is likely to aggravate or worsen the pupil's behaviour or conduct

#### **[Exclusion]**

According to section 265(1)(m) of the *Education Act*, a principal has a duty to exclude from a classroom or school any person detrimental to the physical or mental well-being of students. The excluded person or his or her parent/guardian may appeal his or her exclusion. A person may be excluded from a school or from the school by a school principal. In circumstances where a person's presence is detrimental to physical or

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mental well-being of students, the school principal may exclude a stranger, a parent or a student.

The excluded person or where the person is a minor, his or her parent/guardian, may appeal the decision to exclude them to the board of trustees. It is an expectation of the Ministry of Education that exclusion not be used as a form of discipline for students.

The appeal of an exclusion from a class or school is heard by the board of trustees. The appeal is heard by the board sitting as a committee of the whole in-camera according to section 207(2)(b). Most school boards do not hold a hearing according to the *Statutory Power Procedures Act*. The appeal is to the whole board, in-camera as it deals with the personal information of the individual who has been excluded. The appeal is not a formal hearing and is usually not conducted according to the *Statutory Power Procedures Act*. In most cases, it is generally conducted according to the process set out by the school board.

The duty of procedural fairness applies to the appeal of an exclusion. That includes the right to know, the right to be heard, the right to a decision free from bias and a conflict of interest, and the right to a decision free from discrimination.

As with discipline committee processes and teacher terminations, there is a duty of procedural fairness owed by the board of trustees when hearing an exclusion appeal. Generally, the principal, supported by senior administration will present the reasons for exclusion, and the individual being excluded or his/her parent/guardian will explain why they do not believe they should be excluded. The trustees have an opportunity to ask questions of both parties and deliberate without the presence of the parties to make a decision about whether to uphold the exclusion or quash the exclusion and allow the individual to be admitted to the class or school. The decision of the trustees is usually confirmed in writing.

As an example, a kindergarten pupil's parents are in the process of divorcing with an interim separation agreement providing for joint custody of the child. Usually one parent or the other picks up the child after school, however, on a certain day it was obvious to the teacher and to the principal that the parent meeting the child after school is under the influence of alcohol or drugs. Staff refuse to let the child go with the parent and call the other parent. The parent already at the school becomes verbally abusive and refuses to leave, stating that he or she has a right to be there. Under Ontario Regulation 474/00, the principal orders the parent to leave and calls the police. Before the police arrive, the parent leaves. The following day, that parent contacts the school principal and apologizes for his or her behaviour. For the next two weeks there are no problems. Both parents take turns picking up the child without incident, but a month later the same

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incident is repeated by the same parent on two more occasions. This time, the principal decides to exclude the parent for the remainder of the term pursuant to section 265(1)(m). The parent appeals the decision to the board of trustees. After hearing both the principal and the parent, the board of trustees upholds the principal's decision to exclude.

Another example – a fourteen year old grade nine student meets his six year old sibling at the nearby elementary school at 3:35pm each day to walk him home. Since the secondary school dismisses at 3pm, the older student usually arrives at the elementary school at about 3:10pm. He comes right into the school, frequently fools around and disrupts classes and students. The principal has spoken to him several times but the behaviour continues. The principal decides to exclude the student from the school premises and property pursuant to section 265(1)(m). The parents of the two appeal the exclusion on the grounds that this is the only way the younger student can get home safely. The board of trustees upholds the exclusion but limits it to the building only. The student must wait outside at a specific door.

#### ***[Transfer or Promotion to Secondary School]***

The *Education Act*, section 41(1) provides for the promotion of elementary school students to secondary school. Section 41(3) provides an applicant who has been denied admission to secondary school by the principal the right to appeal the denial to the board of trustees. If students successfully complete elementary school, they are promoted to secondary school. In some cases, students will not be capable of completing the elementary school requirements before they turn 15 years of age. In such circumstances, they might be transferred to secondary school. In cases where the student is neither promoted nor transferred, his or her parent/guardian or the student if an adult, may appeal to the board of trustees, the decision of the secondary school principal to refuse admission of him/her to secondary school.

A hearing is required if there is an appeal according to section 41(3) of the *Education Act*. The hearing must be conducted according to the *Statutory Powers Procedure Act*. The hearing must comply with the duty of procedural fairness and be free of bias. The *Education Act* requires that the hearing take place if the refusal to admit the student to secondary school is appealed.

A committee of the board of trustees, rather than the whole board, may hear the appeal. The committee must be no fewer than three trustees. The committee members may either be named by resolution or designated from time to time.

This form of appeal is not common as most students are either promoted or transferred to the secondary school and admitted in either case. Therefore, most school boards

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would strike an ad hoc committee to hear the appeal. The appeal would be heard in camera according to section 207(2)(b) [of the *Education Act*] as it deals with an intimate student matter.

#### ***[Teacher Termination for Cause]***

Teacher terminations may occur following unsatisfactory performance appraisals according to section 277.39 of the *Education Act* or for cause. A recommendation for termination of a teacher according to section 277.39 or for cause must be decided by the board of trustees. For example, a teacher may be charged or convicted of sexual assault. In such a circumstance, it is likely that it would not be appropriate for him or her to continue teaching children, and therefore, a recommendation for termination would come from the administration of the board to the board of trustees for consideration.

The duty of procedural fairness applies to the process of termination. The right to know, the right to be heard, the right to a decision free from bias and a conflict of interest, and the right to a decision free from discrimination. The process of termination does not require a hearing according to the SPPA. The recommendation for termination is presented to the whole board in camera according to section 207(2)(b) [of the *Education Act*] as it deals with an intimate personnel matter.

The process utilized by most school boards includes a report from administration to trustees regarding the reasons for the recommendation for termination, as well as an opportunity for the teacher to make submissions regarding the recommendation for termination. Both the administration representative as well as the teacher or federation representative are provided with an opportunity to be asked and to answer questions that the trustees might have regarding the recommendations and reasons for the recommendation.

#### ***[End of Module 11 Part A]***