

Administrative Procedures Manual	Administrative Procedure 390
	Student Appeals
	APPROVED: September 2013
Page 1 of 1	AMENDED/REVIEWED: September 2019, May 2021
LEGAL REFERENCE:	Education Act Student Records Regulation

Background

In accordance with Section 42 of the *Education Act*, the parent(s)/guardian(s) of a student or a student who is sixteen (16) years of age or older, have the right to appeal to the Board a decision of a Division employee that significantly affects the education of the student.

Students who are sixteen (16) years of age or older, for the purposes of this Procedure, have the same rights and responsibilities as parents/guardians.

Definitions

In this Procedure the following terms shall have the following meaning when capitalized:

Appellant means the parent or guardian(s) of a student, or a student who is 16 years of age or older, who is appealing the decision of a Division employee;

Board means the Board of Trustees of the Grande Prairie School Division;

Complainant means the name of the person submitting the appeal

Hearing Committee means the *Ad Hoc* committee made up of a majority of trustees of the Board who will hear and decide appeals pursuant to s. 42 of the *Education Act*;

Division means the Grande Prairie School Division;

Respondent means the employee(s) of the Division whose decision has been appealed pursuant to this Procedure;

School Dispute Resolution Policy means the policy created by the Board pursuant to s.41 of the *Education Act*; and

Procedure shall mean this Administrative Procedure 390: Student Appeals.

Procedures

Decisions that may be Appealed

In accordance with s. 42 of the *Education Act*, only decisions that significantly affect the education of a student may be appealed to the Board.

Conditions Precedent to Appeal

Prior to appealing a decision made by a Division employee at the school level to the Board, the Appellant must first have followed and completed the school dispute resolution process set out in *Administrative Procedure 395: School Level Complaint and*

Dispute Resolution Process. An appeal will not be accepted and will not be heard unless the dispute resolution process set out in the School Dispute Resolution Policy has been followed and completed. Appellants who have not completed the school dispute resolution process will be referred to that process.

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Initiating an Appeal

1. Appeals of any decision made by an employee of the Division must be made in writing. The Appellant must submit a written notice of their intent to appeal to the Board of Trustees to the Secretary of the Board, at the Division office. The request for appeal should contain all relevant details and identify the reason for the request. To be given consideration, appeals must be submitted within 14 calendar days following the date of the original decision being appealed.
2. The written notice of appeal will be referred to the Board. The Board will decide whether the decision that is the subject of the appeal is a decision that could significantly affect the education of the student. If the decision could significantly affect the education of the student, the Board will schedule the matter for a hearing before the Hearing Committee, as per the process identified in [Board Policy 12: Student Appeals](#). If the Board decides that decision could not significantly affect the education of the student, the Board will inform the Appellant that the appeal is rejected.
3. The parents of a student over the age of 16 and the student cannot both independently appeal the same decision. If the parents of a student and the student commence an appeal of the same decision the appeals shall be merged.

The Appeal Process

4. The appeal process shall provide a full opportunity for the Appellant and Respondent to present information, evidence, and argument relevant to the decision that is being appealed.
5. Appellants, have the right to be assisted by counsel, an advocate or resource person of their choosing to help in the preparation and presentation of their appeal. The responsibility for engaging and paying for such assistance rests solely with the Appellant.
6. Appeals to the Board will be heard by an ad hoc Hearing Committee. A hearing will be held within a reasonable time after the Board has accepted a written notice of appeal.
7. The Hearing Committee may direct that the hearing be heard in person or by way of video conference, whichever better suits the needs of the Hearing Committee.
8. The purpose of the hearing before the Hearing Committee is to provide:
 - 8.1 an opportunity for the parties to make representations in support of their respective positions;
 - 8.2 the Hearing Committee with the means to receive information and to review the facts of the appeal; and
 - 8.3 a process through which the Hearing Committee can weigh the evidence relevant to the appeal and consider the parties respective positions in order to reach a fair and impartial decision.
9. The hearing of the appeal must be scheduled so as to ensure that the Appellant and the Respondent, have sufficient notice and time to prepare for the hearing.

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10. The appeal hearing will be heard in camera, with the Appellant, Respondent, counsel/advocates/resource persons, recording secretary, witnesses (if any), and members of the Hearing Committee in attendance.
11. Notes of the hearing proceedings will be recorded by each member of the Hearing Committee for his or her own use. A recording secretary will take notes of the proceedings for the purpose of the Board's records but will not create a verbatim record or transcript.
12. The Hearing Committee may have legal counsel in attendance during the hearing and any deliberations and may consult with legal counsel for clarification on points of law.
13. The Hearing Committee reserves the right to adjourn the hearing and to make its decision at a subsequent meeting. The parties to the appeal will be advised when the Hearing Committee's decision will be made and how the decision will be delivered.
14. The appeal hearing before the Hearing Committee will be conducted in accordance with the following procedural guidelines:
 - 14.1 the chair of the Hearing Committee will outline the purpose of the hearing and the steps in the hearing process;
 - 14.2 the Respondent will explain the basis for the decision that has been appealed and will present any information and evidence relevant to the reason for the decision;
 - 14.3 the Appellant will present the reasons for the appeal, any information and evidence relevant to the appeal and the Appellant's response to information, evidence and reasons provided by the Respondent;
 - 14.4 the Respondent will have an opportunity to respond to the reasons, information, and evidence presented by the Appellant that were not addressed by the Respondent at first instance;
 - 14.5 if anything is raised in the Respondent's response that was not addressed by the Appellant in his or her initial submissions, the Appellant will have a final opportunity to address the additional reasons, information and evidence raised by the Respondent;
 - 14.6 the Hearing Committee members will have the opportunity to ask clarifying questions of both parties;
 - 14.7 the chair of the Hearing Committee will confirm with the Appellant that they have had a full opportunity to present their position;
 - 14.8 no cross-examination of the parties or any other person giving evidence or information at the hearing shall be allowed, unless the chair of the Hearing Committee deems that cross examination is appropriate under the circumstances;
 - 14.9 the Hearing Committee will adjourn the hearing and meet without the respective

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parties to the appeal in attendance to deliberate and arrive at a decision regarding the appeal. The recording secretary will remain in attendance for any deliberations of the Hearing Committee;

- 14.10 if, after the parties have completed the presentations their positions, the Hearing Committee requires additional information or clarification in order to make its decision, the hearing will be reconvened and both parties to the appeal will be requested to return to the hearing to provide additional information; and
 - 14.11 the Hearing Committee's decision and the reasons for that decision will be communicated to the parties in writing following the appeal hearing.
15. If in the opinion of the Hearing Committee it is necessary or appropriate to derogate from the hearing process guidelines set out in section 14 this Procedure, the Hearing Committee may, in its sole discretion, make any modifications to the hearing process it deems necessary or desirable to allow for an efficient and fair hearing of the appeal.
 16. A departure from the process set out in section 14 of this Procedure will not invalidate the hearing or the Hearing Committee's decision provided that the parties were provided with a reasonable opportunity to present evidence and information in support of their positions.
 17. Appellants whose appeal is refused by the Hearing Committee shall be advised of their right to request a review by the Minister of Education pursuant to s. 43 of the *Education Act* where the appeal relates to the provision of specialized supports and services to a student or the expulsion of a student.