

## Policy 14

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### 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 controls its own processes, including the communication process it may decide to follow, if any, regarding the Board process in relation to a teacher hearing. The objective of the hearing process and requirements for conducting teacher transfer hearings are intended to be accessible and fair. Teacher transfer hearings are special Board meetings held in-camera.

Where an issue arises, which is not covered by the Policy, it shall be resolved at the sole discretion of the Board. The Board may waive application of or vary any of the provisions set out in this Policy *at any time*, subject to the mandatory limitations or restrictions in the Education Act.

Specifically

1. A hearing may include an electronic hearing through teleconferencing or video conferencing, if the circumstances warrant an electronic hearing as decided by the Chair of the Board further to the application for such a request from a party.
2. A party wishing the hearing to be in the form of an electronic hearing, in full or in part, shall make an application in writing in this regard to the Board Chair seven (7) days prior to the hearing date.
3. A teacher who has been given a written notice of transfer by the Superintendent must 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 written notice as per section 212(3) of the Education Act.
4. The written request for a hearing before the Board shall be submitted by the teacher to the Secretary-Treasurer with a copy being provided to the Superintendent.
5. 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 as per section 212(4) of the Education Act.
6. The Secretary-Treasurer shall advise the teacher in writing of the date, time, and location of the hearing.
7. Any written materials the teacher or the Superintendent wishes to rely on for the purpose of the hearing must be submitted to the Secretary-Treasurer not less than five (5) days prior to the scheduled date of the hearing. The Secretary-Treasurer will provide sufficient copies of the same to the Board, the Superintendent, and the teacher.

8. The teacher or Superintendent may be represented by counsel or a representative. In the event that a teacher retains either counsel or a representative, the cost of such services, if any, will be incurred at the teacher's own expense.
9. If the teacher or the Superintendent intends to present evidence through a witness(es), the teacher/Superintendent must, not less than four (4) days prior to the scheduled date of the hearing, provide the Board and the other party with:
  - 9.1 the names of any witnesses; and
  - 9.2 an explanation satisfactory to the Board Chair as to why the witnesses' evidence may not be adequately presented in writing.
10. The teacher or the Superintendent must, not less than five (5) days prior to the scheduled date of the hearing, also provide the Board and the other party the name(s) of counsel and/or representatives.
11. At the teacher transfer appeal hearing, the following procedural rules will apply: The Superintendent and the teacher shall be given an opportunity to make introductory and closing statements.
  - 11.1 If the Superintendent considers it necessary to have witnesses appear with respect to the transfer decision, they shall be called to appear prior to the teacher making any representations.
  - 11.2 Trustees shall ask questions of a witness only after the party calling the witness has completed its presentation.
  - 11.3 The presentation of the teacher's case shall commence after the Superintendent has presented his/her case.
  - 11.4 After the teacher's closing statement, the Superintendent shall have an opportunity to respond to information presented by the teacher.
  - 11.5 The Board may ask questions to seek clarification from both parties at any time during the hearing.
  - 11.6 Subject to any limitation determined by the Board, a party to a hearing may:
    - 11.6.1 call and examine witnesses and present evidence and submissions;
    - 11.6.2 conduct cross-examinations of witnesses at the hearing reasonably; required for a full and fair disclosure of all matters relevant to the issues in the hearing.
    - 11.6.3 subject to any limitations determined by the Board, a party is entitled to question a witness in redirect after cross-examination.
  - 11.7 The Board may reasonably limit the number of witnesses, and further examination or cross-examination of a witness, where it is satisfied that the examination or cross-examination has been sufficient to disclose all matters relevant to the issues in the hearing.
  - 11.8 The Board may exclude any evidence which it believes to be unduly repetitious or which is not relevant and/or material to the issues before the Board at the hearing.

- 11.9 The Board will meet without the respective parties to the appeal in attendance to arrive at a decision regarding the appeal. The Secretary-Treasurer may remain in attendance, at the discretion of the Board for the purpose of providing assistance to the Board. The Board may have legal counsel in attendance.
- 11.10 The Board has the power to reserve its decision.
- 11.11 In reaching a decision, the Board shall have regard only to the evidence, argument and submissions made at the hearing and the debate during the deliberations, and not to any information that may have come into its possession prior to or outside the course of the hearing itself, unless it notifies the parties of this information and gives the parties an opportunity to make submission in this regard.
- 11.12 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. 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. In the case of an adjournment, trustees 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.
- 11.13 The Board decision will be communicated to the teacher or to the teacher's representative if the teacher's representative partakes in the hearing, and the Superintendent of Schools and confirmed in writing following the hearing.
12. If a member of the Board who has participated in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision, the remaining Trustees may complete the hearing and give a decision.
13. A Member of the Board who has not been present through the whole of the hearing shall not take part in the deliberations, the decision or the reasons.
14. If a teacher fails to attend the hearing, she/he will not be entitled to any further notice except under extraordinary circumstances as provided in writing by the teacher to the Board Chair in a timely fashion. In this event the Board shall hold the hearing in the absence of the teacher.
15. The Board may communicate in relation to process-related matters only.

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