

PART I

General

1. These Rules are made pursuant to s. 25.1 of the *SPPA*, except for proceedings under sections 68(5) and 68.1(1) of the *CFSA*, for which the *SPPA* does not apply.
2. These Rules apply to applications for:
 - a) review of a proposed removal of a Crown Ward under section 61(7.1) of the *CFSA*;
 - b) review or hearing of a complaint against a Society under sections 68(5) and 68.1(1) of the *CFSA*;
 - c) review of a decision to refuse to place a child for adoption or to remove a child after placement for adoption under section 144 (3) of the *CFSA*;
 - d) an appeal of a school board decision to expel a pupil under section 311.7 of the *Education Act*.
 - e) an application for an order releasing a child from a secure treatment program under section 124 (9) of the *CFSA* (“ESTA”). (May/09)

The Rules in Part I apply to all proceedings before the Board unless a specific Rule provides otherwise. Because of the expedited nature of ESTA hearings, the timelines set out in this Part do not apply to those hearings. (May/09)

3. Members of the Board, sitting alone or in a panel of up to three members, may exercise the powers provided under the *CFSA*, the *Education Act*, and Regulations, in accordance with these Rules.
4. The Board may exercise any of its powers under these Rules on its own initiative or at the request of a party.
5. The Board controls its own processes and may issue practice directions as it sees fit.
6. The Board may waive application of or vary any of the Rules at any time, subject to considerations of procedural fairness.
7. The Rules may be amended by the Board from time to time.
8. No proceeding is invalid by reason only of a defect or other irregularity in form. Substantial compliance with a form, notice or document required under the *CFSA*, the *Education Act*, the Regulations and these Rules is sufficient to establish the validity of the form, notice or document.

Timelines

9. Where a Rule or an order of the Board refers to a period of time, it will be calculated as follows:
 - a) when calculating the number of days between two events, the day on which the first event happens is not counted. The day on which the second event happens is counted;
 - b) when the time period is less than seven days, holidays are not counted;
 - c) when time expires on a holiday, the act may be done on the next day that is not a holiday;
 - d) where a document is received or served on a holiday, it shall be deemed to have been received or served on the next day that is not a holiday;
 - e) a document received by the Board after 5:00 pm shall be deemed to have been received on the next day which is not a holiday.

Filing of Applications and Documents

10. The filing of an application or of a document is done by mail or by facsimile.
11. The Board may, upon request, extend the time for filing an application or a document in exceptional circumstances. A motion for an extension of time must provide reasons for such a request.

Service of Documents

12. Documents may be served:
 - a) by personal delivery to a person or the person's lawyer or agent in the proceedings;
 - b) by regular or registered mail to the person's last known address;
 - c) by facsimile to the last fax number or to the person's lawyer or agent in the proceeding; or
 - d) by courier to the last known address of the person or to the person's lawyer or agent in the proceeding.
13. Service of a document is deemed to occur:
 - a) if delivered personally, on the day that it is delivered;
 - b) if sent by regular or registered mail, on the fifth day after it is mailed;
 - c) if sent by facsimile, on the next day after it is faxed, unless that day is a holiday, in which case, it is deemed to have been received on the next day that is not a holiday; or
 - d) if sent by courier, on the day after the courier picks it up for delivery;

A party filing a document with the Board shall provide a written statement of how and when the party provided a copy of the document to all other parties.

Motions

14. A motion may be made by a party to the proceeding or by a person with an interest in the proceeding.
15. A motion must be filed at the earliest possible date with the Board, but no later than two days before the hearing. The motion must be served on all parties before being filed with the Board.
16. A motion may be made at the commencement of the hearing with an explanation as to why it was not done prior to the hearing.
17. The motion may be brought in any form, but it must adequately set out the facts and the grounds relevant to the motion and the relief requested.
18. The Board may direct the procedure to be followed for dealing with a motion and set applicable time limits. The Board may direct that the motion will be dealt with in writing or by any other means.

Disclosure

19. Unless otherwise decided at a pre-hearing conference, any evidence a party wishes to submit during the hearing shall be disclosed to the parties and the Board no later than ten days prior to the hearing.
20. A party that does not provide evidence as required by Rule 19 may not use the evidence at the hearing unless allowed by the Board.

Pre-Hearing Conference

21. The purpose of a pre-hearing conference is to:
 - a) identify and simplify some or all of the issues;
 - b) identify facts or evidence that may be agreed upon by the parties;
 - c) estimate the duration of the hearing;
 - d) identify the witnesses to be called at the hearing;
 - e) identify the form of the hearing;
 - f) identify the evidence to be adduced at the hearing;
 - g) consider any other matter that may assist in the just and most expeditious disposition of the proceeding.
22. At the conclusion of a pre-hearing conference, the member of the Board who presides at a pre-hearing conference may make such orders as are considered

necessary or advisable with respect to the conduct of the proceeding.

23. Any rulings made by the member at a pre-hearing conference shall be recorded in writing on the Pre-Hearing Report, which becomes part of the record.
24. Evidence or argument heard at a pre-hearing conference is not considered part of the hearing unless it is recorded on the Pre-Hearing Report.

Hearings

25. The Board may conduct hearings orally, in writing, electronically by teleconference or video-conference. In deciding the format of a hearing, the Board will consider:
 - a) whether it is a fair and accessible process for the parties;
 - b) the costs and efficiency of the process;
 - c) the potential for a more expeditious resolution;
 - d) the convenience of the parties;
 - e) the consistency with the Board's mandate;
 - f) whether facts or evidence may be agreed upon;
 - g) the estimated duration of the hearing;
 - h) whether the issues for hearing are predominantly legal issues;
 - i) whether oral testimony is likely to be needed;
 - j) any objections to the format of the hearing.
26. The Board may conduct a combination of written, oral or electronic hearings in a proceeding.

Withdrawal of Application

27. An applicant who does not want to continue with the application may withdraw the application by filing a Withdrawal of Application form with the Board. (See Appendix Form 1 and Form 7 for ESTA). (May/09)
28. The Board shall notify all the parties that the application has been withdrawn.

Hearings to be Conducted in Private

29. Due to the nature of the proceedings, hearings and pre-hearings are to be held in private.
30. A party or a member of the public may bring a motion to have a hearing held in public. This rule does not apply to ESTA. (May/09)

Interpreters

31. If a party or a party's witness requires an interpreter in a language other than the language of the hearing, the party shall notify the Board. This notification shall occur at the time an application is made or at the earliest possible opportunity thereafter.
32. The Board, at its expense, will provide for an interpreter to ensure the proper conduct of the hearing.
33. Any documents filed are to be in the language of the hearing or accompanied by a certified translation.

Jurisdiction over Implementation

34. The Board may, in appropriate cases, remain seized over the implementation of its decision.

Notice of Constitutional Question

35. A party who wants to challenge the constitutional validity, applicability or operability of a legislative provision must complete a notice of constitutional question which includes:
 - a) the name of the parties;
 - b) the file number;
 - c) the date, time and place of the scheduled hearing;
 - d) the specific legislative provision that is being challenged;
 - e) the relevant facts relied on to support the constitutional challenge;
 - f) a summary of the legal argument to be made in support of the constitutional challenge.
36. The party must serve a copy of the notice to the parties, to the Attorneys General of Canada and Ontario and deliver the notice to the Board at least 15 days before the question is to be argued.
37. The party must provide the original notice to the Board, together with a written statement of how and when a copy of the notice was served to the parties and to the Attorneys General.