

## **PART V** (Feb/08)

### **Application to Appeal a School Board Expulsion Decision under section 311.7 of the *Education Act*.**

#### **Timelines**

83. "Holiday" includes school holiday, as well as the general definition of holiday set out in these Rules, when calculating the timelines for applications to appeal school board expulsion decisions and serving documents in those applications.

#### **Parties**

84. The following persons may appeal a school board's expulsion decision, whether the pupil is expelled from his or her school only or from all schools of the school board:
- a) the pupil's parent or guardian, unless the pupil is at least 18 years old or is 16 or 17 years old and has withdrawn from parental control;
  - b) the pupil, if he or she is at least 18 years old,
  - c) the pupil, if he or she is 16 or 17 years old and has withdrawn from parental control;
  - d) such other person as may be designated by the Board.
85. The following persons are parties to an expulsion appeal before the Board:
- a) the school board;
  - b) the pupil, if the pupil is at least 18 years old or is 16 or 17 years old and has withdrawn from parental control;
  - c) the pupil's parent or guardian, if the parent or guardian appealed the school board expulsion decision;
  - d) the person who appealed the school board expulsion decision, if the decision was appealed by a person other than the pupil or the pupil's parent or guardian.

#### **Application**

86. The application to appeal must be filed with the Board, by mail or facsimile within 30 days after receiving notice of the school board's decision, by completing the Application to Appeal School Board Expulsion Decision (See Appendix Form 5). The application must include the school board expulsion decision and the response to the principal's report recommending expulsion, if any.

87. Notice of the school board's decision is deemed to have been received by the applicant pursuant to the following rules:
- a) if it is sent by mail or another method in which the original notice of decision is sent, it is deemed have been received by the person to whom it was sent on the fifth school day after the day on which it was sent;
  - b) if it is sent by fax or another method of electronic transmission, the notice of decision shall be considered to have been received by the person to whom it was sent on the first school day after the day on which it was sent.
88. The Board may extend the time period for filing the Application to Appeal a School Board Expulsion Decision, before or after the expiry of the 30 day period, if it is satisfied that there are reasonable grounds for the extension, as required under the regulations.
89. Upon receipt of the Application to Appeal a School Board Expulsion Decision, the Board shall send a copy of the application to the school board whose decision is being appealed. The school board shall promptly send to the Board a copy of the principal's report recommending expulsion.

### **Hearing**

90. The Board shall commence a hearing within 30 days after receiving the Application to Appeal a School Board Expulsion Decision.
91. The Board may extend the period of time for commencing the hearing, before or after the expiry of the thirty day time period, at the request of any party to the appeal.
92. The proceeding before the Board is a new (*de novo*) hearing where the Board must decide whether to:
- a) confirm the school board's expulsion decision;
  - b) if the school board's decision was to expel the pupil from his or her school only, quash the expulsion decision and reinstate the pupil to the school;
  - c) if the school board's decision was to expel the pupil from all schools of the school board:
    - (i) change the expulsion decision to an expulsion from the pupil's school only; or
    - (ii) quash the expulsion and reinstate the pupil to his or her school; or
  - d) order any record of the expulsion be expunged or amended.

In making this decision, the Board will consider mitigating and other factors.

93. At the hearing before the Board, the school board will present its case first.
94. A pupil whose expulsion is being appealed has the right to be present at the hearing and to make a statement on his or her behalf, whether or not the pupil is a party to the appeal.

### **Decision**

95. The Board shall provide each party and their representatives with its decision on the appeal within 10 days after completing the hearing.
96. The Board shall provide each party and their representatives with written reasons for its decision within 30 days after completing the hearing.