



# *Christ the Teacher Catholic Schools*

## **Board Policy**

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**Policy Title:** Appeals for Students with Intensive Needs

**Code:** BP 15

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### **Preamble**

The Board recognizes the right of a student with intensive needs or the parents/guardians of that student to request a review of a decision related to designation, placement and program in accordance with provisions outlined in The Education Act, 1995 and The Education Regulations, 2015.

### **Policy**

#### **1. Access to Review**

- 1.1 An independent student, or the parents/guardians of a student with a disability shall have access to a review process in the event he/she disagrees with:
  - 1.1.1 The designation of the student or the failure to designate the student as having a disability;
  - 1.1.2 The placement of the student;
  - 1.1.3 The program provided to the student.

#### **2. Right to Review**

- 2.1 The right to a review is limited to decisions with educational or developmental implications for the student. The right for review does not apply where the disagreement with respect to the placement of the student is based on:
  - 2.1.1 Parental preference as to the location of the delivery of the program;
  - 2.1.2 Parental convenience;
  - 2.1.3 Other factors unrelated to the impact of the location of the educational instruction on the student's education and development;
  - 2.1.4 Location within an educational institution;
  - 2.1.5 Any other reason that relates to or is similar in nature to those listed in sections 2.1.1 to 2.1.4;
  - 2.1.6 An allegation of discrimination pursuant to the Human Rights Code or the Canadian Charter of Rights and Freedoms.

### **3. Informal Review Process**

- 3.1 At any stage of the review the student or the parents/guardians of the student may choose to be accompanied by a friend, or other person of their choice.
- 3.2 The Director or designate may make any interim decision considered necessary pending the decision of the informal review.
- 3.3 During the informal review period, the parents/guardians have the right to either have their child exempted from school or remain in the original placement until the dispute is settled.
- 3.4 The Director and/or designate will attempt to make every effort to resolve a designation, placement and/or program decision in a manner amicable to the student, parents/guardians, and the school division.
- 3.5 The following steps outline actions required prior to requesting a formal review in accordance with section 5:
  - 3.5.1 The student or parents/guardians shall discuss the appeal with the teacher(s) and principal.
  - 3.5.2 If there is no resolution, the student or parent(s)/guardian shall request that the Director review the designation, placement or program decision.
  - 3.5.3 If there is no resolution, the Director will contact the Ministry of Education Student Supports Branch to determine an appropriate pathway towards a resolution.
  - 3.5.4 If there is no resolution, the Director shall inform the student or parents/guardians of the procedures necessary for initiating a formal review process.

### **4. Initiating the Formal Review Process**

- 4.1 If informal review processes in Section 3 fail to reach a solution, a formal review process may be initiated at the request of the student or parents/guardians. The following steps outline the process required to initiate a formal review:
  - 4.1.1 The request for a formal review shall be in writing directed to the Director, setting out the reasons for disagreement with a designation, placement or program decision.
  - 4.1.2 Within ten (10) school days of receiving the request for a formal review of a decision, the Director shall respond in writing to the individual(s) outlining:
    - 4.1.2.1. The steps in the formal review process;
    - 4.1.2.2. The procedure used to establish the neutral third party;

- 4.1.2.3. The expenses the Board will cover; and
- 4.1.2.4. The anticipated timeline of the formal review process.

4.2 The Director shall notify the Division personnel involved in decisions leading to the request for review, providing them with information concerning the circumstances, including a copy of the written request for review.

## 5. **Selection of Neutral Third Party**

5.1 A review of the original decision will be conducted by a person not involved in that decision. i.e., a neutral third party. The neutral third party precludes the appointment of student or parents/guardians or an employee/trustee of the Division to that position.

5.2 Within ten (10) school days of receiving the request for a review, the Director will arrange a meeting date with the individual requesting the review to determine the neutral third party. The neutral third party must be a person acceptable to both parties.

5.3 To select a neutral third party, the following process will be used:

5.3.1 The Director will nominate the three persons to the student or parents/guardians. The student or parents/guardians will review the listing and determine if one of the persons from the Director's list is a suitable choice as a third party representative;

5.3.2 If none of the three persons selected by the Director is acceptable to the student or parents/guardians, the student or parents/guardians will suggest three different candidates to the Director. The Director will review the suggested list and determine if a selection can be made;

5.3.3 In the event that no agreement on the selection of the third party can be reached, the review process is deemed to be frustrated and the student or parents/guardians will be heard by the Board.

5.4 The neutral third party shall have appropriate levels of expertise and experience in educational programming and administration of services for students with intensive needs.

6. Within thirty (30) days of the appointment, the neutral third party will conduct the review and submit a report.

## 6.1 Conducting the Review

- 6.1.1 The neutral third party will receive submissions from the student or parents/guardians and Division officials. These submissions may be supplemented by representations from other individuals called to the process by either the parents/guardians or the Director and/or designate.
- 6.1.2 All written information gathered will be shared with all parties.
- 6.1.3 As part of the procedure, the neutral third party may call upon any person who has participated in the educational planning/decision-making process to clarify the issues around the original decision.

## 6.2 Submitting a Report

- 6.2.1 The neutral third party will submit a written report to the Board, the Director, and the student or the parents/guardians requesting the review.
- 6.2.2 The report will include an analysis of the information under review and will identify related recommendations.

## 6.3 Submitting Counter Views

- 6.3.1 Either interested party upon receiving the neutral third party's report may submit a written response to that report to the Board prior to the next regular meeting of the Board.

## 6.4 Determination of the Board

- 6.4.1 The Board will receive the neutral third party's report and any counter view written by either of the interested parties at the next regular meeting of the Board;
- 6.4.2 After due consideration of all information presented, the Board will render its decision;
- 6.4.3 The decision, with reasons, will be forwarded in writing to the individual requesting the review, with copies to the Director and designate.
- 6.4.4 The Board decision is final.

## 7. Other Considerations

### 7.1 Costs

- 7.1.1 The Division will assume the costs of the neutral third party, for costs associated with persons appearing on behalf of the Division, and for research and presentations on its behalf.
- 7.1.2 Parents/guardians will pay for costs associated with persons appearing at their request and for research and presentations they gather or commission.

### 7.2 Board Hearing

- 7.2.1 In the event the third party review process is frustrated, the following procedure will follow:
  - 7.2.1.1. Within thirty (30) days of the process being frustrated, the Board will make provisions for both interested parties to present, in closed session, written and/or oral briefs to the Board at a regular meeting. The student or parents/guardians may present their case first with clarifying questions being asked by board members. Division personnel will present their case second with clarifying questions being asked by board members. Although not intended to be a debate, the student or parents/guardians may have the last word prior to the Board deliberating in isolation from both interested parties. If the Board requires further clarification or elaboration from either interested parties, such undertakings will take place with both interested parties in attendance.
  - 7.2.1.2. After duly considering all information presented, the Board will communicate its decision and supporting reasons to both interested parties. This may occur orally, if possible, followed with a written response to both parties outlining the decision with reasons. The Board decision is final.

Reference: The Education Act 1995, Sections 109, 178  
The Education Regulations, 2015, Section 54-55  
The Saskatchewan Human Rights Code  
The Canadian Charter of Rights and Freedoms

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