

EASTERN TOWNSHIPS SCHOOL BOARD	<i>Title:</i> PROCEDURE FOR THE RECONSIDERATION OF A DECISION	
<i>Source:</i> Communications Adv. Comm Secretary General	<i>Adopted:</i> October 28, 2002 Resolution ETSB02-10-15 Effective October 28, 2002	<i>Reference Number:</i> P023-1

1. PURPOSE

- 1.1 The present procedure is adopted in order to clarify the modalities of application of the right to request the reconsideration of a decision, granted to a student, or his parents, by virtue of sections 9 to 12 and 242 of the *Education Act* (the "*Act*").
- 1.2 Employees, suppliers and contractors cannot request the reconsideration of a decision through the present procedure.

2. OBJECTIVES

- 2.1 Ensure an effective, rapid and discreet treatment of reconsideration requests.
- 2.2 Allow the Council of Commissioners (the "Council") to fully assume the role entrusted by the legislator as it pertains to the reconsideration of decisions.
- 2.3 Favour conciliation between the interested parties.

3. DEFINITIONS

<u>Reconsideration:</u>	A request, to the Council, made by a student, or his parents, to have a decision altered or revoked.
<u>Student:</u>	A person entitled, under the <i>Act</i> , to receive instructional services provided by the Eastern Townships School Board (the "Board").
<u>Parent:</u>	A person having parental authority or, unless that person objects, the person having custody <i>de facto</i> of the student.
<u>Interested Parties:</u>	The student, or his parents, and the author of the contested decision.

4. PRINCIPLES

- 4.1 Every student, or his parents, has the right, by virtue of section 9 of the *Act*, to request the reconsideration of a decision that personally affects him.
- 4.2 During the examination of the reconsideration request, the interested parties will have the opportunity to present their points of view.
- 4.3 Every reconsideration request will be treated confidentially and with impartiality.

- 4.4 The Appeal Committee will proceed with the review of the reconsideration request without delay. The Council will dispose of the request without delay. If the lateness of the date of the regular Council meeting would render the decision without effect, the Director General is mandated to implement the recommendations of the Appeal Committee.
- 4.5 The Council is the only body entitled to overturn the contested decision, unless the Director General implements the recommendation of the Appeal Committee as stipulated in clause 4.4 above.

5. CONCILIATION PROCESS

- 5.1 It is understood that a student, or his parents, has the right to immediately request the reconsideration of a decision and forego the conciliation process.
- 5.2 However, before requesting the reconsideration of a decision, it is recommended that the student and/or his parents discuss the decision with the following personnel, in the following order:
1. the author of the contested decision;
 2. the Principal or Centre Director;
 3. the Director General or his delegate.
- 5.3 It is recognized that parents and students may not be aware of this procedure and may approach a member of the administrative staff of the Board prior to discussing the problem with the author of the decision, as suggested by this procedure. In the event that this occurs, the member of the administrative staff should ensure that the individual is made aware of the process that should be followed.
- 5.4 To ensure the appearance of impartiality, members of the Council and of the Appeal Committee must not participate in the conciliation process.

6. REQUEST FOR RECONSIDERATION

- 6.1 The request should be presented in writing on the *Request for Reconsideration* form annexed to this procedure.
- 6.2 The request is transmitted to the Secretary General of the Board, who must, without delay, assist the student, or his parents, requiring assistance in the wording of the request.
- 6.3 The request must briefly set forth the reasons. When appropriate, supporting documentation may be joined to the form.
- 6.4 The Secretary General ensures that the student, or his parents, has followed the conciliation process, unless he prefers to file a reconsideration request immediately.

- 6.5 The Secretary General ensures that the author of the contested decision maintains his decision.
- 6.6 The Secretary General forwards, without delay, a copy of the request for reconsideration to the author of the contested decision, to his immediate supervisor, and to the Director General. A copy is also sent to the Chairman of the Council. All copies will be identified as being confidential and must be treated as such.

7. APPEAL COMMITTEE

7.1 By virtue of section 11 of the *Act*, the Council establishes an Appeal Committee composed of five members and substitutes it appoints annually.

7.2 Composition

7.2.1 Three commissioners elected or appointed pursuant to the *Act respecting school elections* (R.S.Q., c. E-2.3).

7.2.2 One parent commissioner.

7.2.3 One administrator of the Board (school, centre or central office administrator), not affiliated with the school/centre concerned.

7.3 Mandate

The Appeal Committee:

7.3.1 Appoints its chairman and determines its rules of internal procedure.

7.3.2 Considers only the facts relevant to the request for reconsideration.

7.3.3 Disposes of the request without delay.

7.3.4 Hears, at its discretion, other persons likely to assist in the review of the request.

7.3.5 Requests any information it deems necessary to assist in the review of the request.

7.3.6 If it holds a hearing, takes minutes describing the main findings and arguments and, if need be, presents its recommendations to the Council.

7.4 Quorum

7.4.1 Three members constitute the quorum of the Appeal Committee.

7.5 Secretariat

- 7.5.1 The Secretary General acts as the recording secretary of the Appeal Committee. He is not a member of the Committee.
- 7.5.2 The Secretary General is charged with destroying all copies of notes and documentation, five (5) years after a decision has been rendered by the Council. Until then, he must ensure that these documents are kept in a safe location.

7.6 Rules of procedure

- 7.6.1 The Secretary General sets the date of the session of the Appeal Committee no later than 10 days following the receipt of the request for reconsideration. If the request is received by the Secretary General between June 20 and August 20 of a given year, the session of the Appeal committee must be held no later than August 30 of the same calendar year.
- 7.6.2 The Secretary General, in consultation with the Chairman of the Council, appoints and convenes the members of the Appeal Committee and the interested parties, as well as the persons likely to assist the Committee in the review of the request.
- 7.6.3 The hearing and the deliberations of the members of the Appeal Committee are done *in camera*.
- 7.6.4 The interested parties are heard in the following order:
a) the student and/or his parents;
b) the author of the contested decision and, if deemed necessary, his immediate supervisor;
c) other persons likely to assist in the review of the request.
- 7.6.5 The interested parties may not be represented by a third party; they must represent themselves.
- 7.6.6 The interested parties remain available and may be recalled to provide additional information.
- 7.6.7 The chair of the Appeal Committee must ensure order during the session of the committee.

7.7 Conflict of interest

7.7.1 A member of the Appeal Committee, (Commissioner or administrator), convened to a session of the committee must denounce, as soon as possible, any conflict of interest he may have with one of the parties. He must withdraw from the session and the Appeal Committee sees to his replacement.

7.7.2 Is presumed in conflict of interest with one of the interested parties, a member of the Appeal Committee who :

- a) has a family or conjugal relationship (directly or by marriage) with one of the interested parties;
- b) has a contractual relationship with one of the interested parties;
- c) is the employer or the employee of one of the interested parties;
- d) is involved in legal proceedings with one of the interested parties.

8. RECONSIDERATION OF A DECISION

8.1 The Secretary General enters the request for reconsideration on the agenda of the meeting of the Council immediately following the session of the Appeal Committee.

8.2 The Council disposes of the request for reconsideration *in camera*.

8.3 The Council, in the public meeting, if it considers that the request is founded, may overturn, entirely or in part, the contested decision and render the decision that, in its opinion, ought to have been made in the first instance.

8.4 The resolution of the Council must state the reasons for its decision.

8.5 The Secretary General verbally notifies the interested parties of the decision of the Council without delay.

8.6 The Secretary General sends an official copy of the resolution of the Council to the interested parties no later than 10 days following the meeting of the Council.

8.7 The decision of the Council is for immediate implementation.

9. ROLES AND RESPONSIBILITIES

9.1 Under the authority of the Director General, the Secretary General is responsible for the application and interpretation of this procedure within the Board.

He sends a copy of the procedure to each Principal and Centre Director, as well as to the chair of the Parents' Committee, to the chairs of the governing boards and to the presidents of the unions and associations. He publishes a notice of adoption of this procedure in a local newspaper. He ensures that this procedure appears on the ETSB website.

9.2 Each Principal and Centre Director is responsible for the application of this procedure in his establishment. He ensures that a summary of this procedure is distributed annually to his staff, to the governing board and to the students of the school or center and their parents or guardians.

10. FINAL PROVISIONS

10.1 The present procedure takes effect as of the date of its adoption by the Council and will apply to any request for reconsideration that has not yet been disposed of.

10.2 This procedure must not limit the student's, or his parents', rights pursuant to sections 9 to 12 and 242 of the *Act*.

(For the purpose of this procedure, the masculine form is used without discrimination and refers also to the feminine form.)

LIST OF FORMS AND GUIDELINES (to come)

FORMS

1. Conciliation
2. Request for Reconsideration
3. Report from the Author of the Decision
4. Hearing and Recommendation Form

GUIDELINES

1. Rules of Internal Procedures for the Appeal Committee