

Part D.
The Identification,
Placement, and
Review Process

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PART D. THE IDENTIFICATION, PLACEMENT, AND REVIEW PROCESS

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INTRODUCTION

This part of the guide outlines the steps taken by an Identification, Placement and Review Committee (IPRC) during the process of identifying a student as exceptional and deciding the student's placement. It also outlines the procedures for appealing decisions, sets out the regulatory requirements for the IPRC, and provides advice that is intended to help school board personnel and parents during the IPRC process.

Where applicable, the relevant sections of Regulation 181/98 have been reproduced in the lefthand margin of this part. The regulation is reproduced in its entirety in Appendix 10 of this guide.

THE IDENTIFICATION AND PLACEMENT OF EXCEPTIONAL PUPILS

Regulation 181/98,* section 10 and subsections 11 (1) and (2)

10. Each board shall, in accordance with section 11, establish one or more committees for the identification and placement of exceptional pupils, determine the jurisdiction of each committee and establish the manner of selecting the chair of each committee.
11. (1) A board shall appoint three or more persons to each committee that it establishes.
- (2) The board shall appoint, as one of the members of each committee,
- (a) a principal employed by the board;
 - (b) a supervisory officer employed by the board under Part XI of the Act; or
 - (c) a supervisory officer whose services are used by the board under Part XI of the Act.

*** Unless otherwise noted, all sections, subsections, and clauses printed in the margins of this part of the guide are from Regulation 181/98 and, where indicated, Regulation 137/01.**

The IPRC

Regulation 181/98 requires that all school boards establish one or more Identification, Placement and Review Committees (IPRCs). The IPRC meets and decides if a student should be identified as an exceptional pupil and, if so, the placement that will best meet the student's needs. An IPRC is composed of at least three persons, one of whom must be a principal or supervisory officer of the board. A school board trustee may not be on the IPRC.

All the details pertaining to the IPRC must be contained in the school board's special education plan (see pages A8 and A14 of this guide).

The Role of the IPRC

The IPRC will:

- invite the parents and the student (if 16 years of age or older) to attend the meeting;
- review relevant information about the student;
- describe the student's strengths and needs;
- decide whether or not the student should be identified as an exceptional pupil;
- identify the area(s) of the student's exceptionality(ies), according to the categories and definitions of exceptionality provided by the Ministry of Education;
- decide an appropriate placement for the student;
- provide reasons for placement if deciding for placement in a special class;
- discuss proposals for special education programs and services if the parent or the student age 16 or over requests it;
- review the identification and placement at least once in each school year, unless the parent gives written notice dispensing with the review.

Any student enrolled at a school has the right to an IPRC, irrespective of the grade the child is in (including Junior Kindergarten and Kindergarten). Once the child is enrolled, the parents have the right to request a meeting with the IPRC.

Subsection 14(1)

14. (1) The principal of the school at which a pupil is enrolled,
- (a) may on written notice to a parent of the pupil; and
 - (b) shall at the written request of a parent of the pupil,
- refer the pupil to a committee established by the board, for a decision as to whether the pupil should be identified as an exceptional pupil and, if so, what the placement of the pupil should be.

Section 4

4. A person or body required by this Regulation to communicate in writing to a parent or pupil shall, at the request of the parent or pupil, use a braille, large print or audio-cassette format for the communication.

Subsection 5(5)

5. (5) At least 10 days in advance of a meeting of a committee or special education appeal board, the chair of the committee or board shall give written notice of the time and place of the meeting to a parent of the pupil and, where the pupil is 16 years of age or older, the pupil.

Requesting an IPRC Meeting

The principal of the student's school:

- must refer the student to an IPRC, upon receiving a written request from the parent;
- may, with written notice to the parent, refer the student to an IPRC (for example, if the principal and the student's teacher[s] believe that the student may have needs that require the provision of a special education program and/or services).

This means that, if a parent makes a written request for an IPRC, the principal must follow the board procedure in arranging for the IPRC meeting. Neither the board nor the principal can deny this request.

The regulation states that within 15 days of receiving a written request, or giving the parent notice, the principal must provide to the parent:

- an acknowledgement of the parent's request (if the IPRC is being convened at parental request);
- a copy of the board's Parents' Guide (see pages D6-7) to special education;
- a written statement indicating approximately when the IPRC will meet.

Communication with the parent or student about the IPRC meeting and its results must be provided through Braille, large print, or audio-cassette formats upon request.

Notice of the IPRC Meeting

Each school board has its own procedures for inviting parents to attend the IPRC meeting. Many boards find it helpful to contact parents by telephone and follow up with a letter of invitation.

At least 10 days before the meeting, the chair of the IPRC must send the parent written notification of the meeting. This letter will provide information about the date, time, and place of the meeting, and should ask the parent to indicate whether he or she will attend. Parents should be encouraged to attend. They should also be informed that they have the right to:

- be present at and participate in all committee discussions about the pupil;
- be present when the committee makes its decision about identification and placement;
- have a representative present to speak on their behalf or otherwise support them.

Subsection 15 (8)

15. (8) As soon as possible after the chair of the committee obtains any information relating to the pupil, the chair shall provide the information to,
- (a) a parent of the pupil; and
 - (b) the pupil, where the pupil is 16 years of age or older.

Subsections 13 (1) and (2)

13. (1) Each board shall prepare a guide for the use and information of parents and pupils that,
- (a) explains the function of a committee on a referral under Part IV and on a review under Part V;
 - (b) outlines the procedures set out in this Regulation or established under section 12 that a committee must follow in identifying a pupil as exceptional and in deciding the pupil's placement;
 - (c) explains the committee's duty to describe the pupil's strengths and needs and to include, in its statement of decision, the categories and definitions of any exceptionalities it identifies;
 - (d) explains the function of a special education appeal board under Part VI and the right of parents to appeal committee decisions to it;
 - (e) lists the parent organizations that are, to the best of the board's knowledge, local associations of the board, within the meaning of Ontario Regulation 464/97;
 - (f) includes the names, addresses and telephone numbers of the provincial and demonstration schools in Ontario;
 - (g) indicates the extent to which the board provides special education programs and special education services and the extent to which it purchases those programs and services from another board;

Every effort should be made to accommodate the parents' schedule. If no reply to the notice of the meeting is received by two or three days before the established date, the principal should contact the parents directly by telephone. At this time, the principal may also wish to verify whether the parents have received, read, and understood the Parents' Guide (see Appendix 7).

The parent (or student 16 years or older) must receive the same information about the student that the chair of the IPRC has received. This is to be sent out as soon as possible after the chair has received it.

The Parents' Guide

Once an IPRC has been requested, parents must be provided with a Parents' Guide so that they are informed about the IPRC and the decision-making process.

Regulation 181/98 requires each school board to prepare a Parents' Guide to special education. This guide will provide information concerning:

- the function of the IPRC and the IPRC review;
- the procedure for identifying a student as exceptional and for deciding the student's placement;
- the IPRC's duty to describe the student's strengths and needs;
- the IPRC's duty to include the student's exceptionality and the category and definition of that exceptionality in its statement of decision;
- the function of a special education appeal board and the parent's right to appeal the decision of the IPRC to such a board;
- the names, addresses, and telephone numbers of the Provincial and Demonstration Schools;
- whether and to what extent the school board purchases special education programs from another school board;
- a list of local parents' organizations eligible to be on a Special Education Advisory Committee (SEAC);
- the information that an IPRC placement decision cannot be implemented unless a parent has consented to the decision or has not filed a notice of appeal within the required time limit.

All parents should be informed by means of an item in the school newsletter, or by other appropriate means, at least once each year, of the availability of the school board's Par-

- (h) explains that no committee placement decision can be implemented unless,
 - (i) a parent has consented to the decision, or
 - (ii) the time limit for filing a notice of appeal in respect of the decision has expired and no such notice has been filed.
- (2) The board shall ensure that copies of the guide are available at each school in the board's jurisdiction and at the board's head office and shall provide a copy to the appropriate district office of the Ministry.

Section 9

- 9. (1) In accordance with requirements under the *Education Act*, no pupil is to be denied an education program pending a meeting or decision under this Regulation.
- (2) Where an education program is provided to a pupil pending a meeting or decision under this Regulation,
 - (a) the program must be appropriate to the pupil's apparent strengths and needs;
 - (b) the placement for the program must be consistent with the principles underlying section 17; and
 - (c) appropriate education services must be provided to meet the pupil's apparent needs.

Subsection 5(1)

- 5. (1) A parent of a pupil and, where the pupil is 16 years of age or older, the pupil, are entitled,
 - (a) to be present at and participate in all committee discussions about the pupil; and
 - (b) to be present when the committee's identification and placement decisions are made.

Subsections 5 (3) and (4)

- 5. (3) A person who has a right under subsection (1) or (2) to participate in a discussion also has the right to have a representative present at the discussion, to speak on behalf of the person or otherwise support the person.

ents' Guide to the IPRC process. At the same time, parents should also be informed of their right to request that their child be referred to an IPRC.

The Parents' Guide must be made available in Braille, large print, or audio-cassette format upon request of the parent or student. Copies of the Parents' Guide must be available at every school, head office of the school board, and local district office of the ministry.

A sample Parents' Guide is provided in Appendix 7.

A Delayed IPRC Meeting

No student is to be denied any special education program pending an IPRC meeting or decision. If there is a delay in holding the IPRC meeting or in determining identification and placement, a special education program and special education services appropriate to the student's apparent strengths and needs must be provided for the student in the interim. For example, where a parent registers a child in the spring for first-time attendance at school in the fall, the IPRC would be held after the student has started school in the fall. Where the parents and board staff agree that the student could benefit from a special education program and/or services, a case conference with the appropriate people present could be held in the spring to discuss the child's programming and service needs. These can be provided to the child in September prior to an IPRC meeting.

Attending the IPRC Meeting

Regulation 181/98 entitles parents and students 16 years of age or older to be present at and participate in all committee discussions about the student and to be present when the committee's identification and placement decision is made.

In addition to the three people that constitute an IPRC, other people may attend the IPRC meeting, including:

- the principal of the student's school (if not already a member of the IPRC);
- resource people such as the student's teacher, special education staff, board support staff, or other professionals who may be needed to provide further information or clarification;
- a representative of the parent or the student 16 years of age or older – that is, a person who may provide support for or speak on behalf of the parent or student;

(4) A person who has a right under clause (1) (b) to be present also has the right to have a representative present to support the person.

- an interpreter (including a sign-language interpreter), if one is required;
- other individuals whose presence is requested by either the parent or the principal of the student's school (subject to the agreement of the IPRC chair).

Recording the IPRC Meeting

The IPRC chair, members, parents, and the student may make notes during the IPRC meeting. The board may want to keep a formal record of the meeting for possible future use at an appeal.

There is no requirement in Regulation 181/98 for a transcript or any other record of an IPRC meeting to be prepared. If anyone wishes to arrange for some form of record of the meeting, this should be discussed at the earliest opportunity with the IPRC chair and the other people attending the meeting.

Prior to the IPRC Meeting

Some time prior to the IPRC meeting, it is advisable that a staff member arrange to meet with the parents for a preliminary discussion in order to:

- make sure parents understand their rights concerning the IPRC, as explained in the Parents' Guide;
- review the results of educational and other assessments that were conducted with the student;
- outline the agenda for the IPRC meeting;
- explain the recommendations that will be made by the school staff;
- discuss the possible decisions the IPRC might make;
- answer any questions.

The IPRC Meeting

It is the responsibility of IPRC members to set an informal and welcoming tone for the meeting. It is good practice for the IPRC chair to:

- introduce all those attending the meeting and explain their reason for being present;
- explain the purpose of the meeting;
- ensure that all participants feel that their contributions are valued.

Teachers are likely to be asked questions about the student's achievement, progress, behaviour, assessment results, and potential response to a change in placement.

Subsections 15 (1) to (7)

15. (1) A committee that has received a referral under section 14 shall obtain and consider an educational assessment of the pupil.

(2) Subject to the *Health Care Consent Act, 1996*, the committee shall also obtain and consider a health assessment of the pupil by a qualified medical practitioner if the committee determines that the assessment is required to enable it to make a correct identification or placement decision.

(3) Subject to the *Health Care Consent Act, 1996*, the committee shall also obtain and consider a psychological assessment of the pupil if the committee determines that the assessment is required to enable it to make a correct identification or placement decision.

(4) Where the committee determines that it would be useful to do so and the pupil is less than 16 years of age, the committee shall, with the consent of a parent, interview the pupil.

(5) A parent of the pupil has a right to be present at the interview.

(6) The committee shall also consider any information about the pupil submitted to it by a parent of the pupil and, where the pupil is 16 years of age or older, the pupil.

(7) In addition to complying with this section, the committee shall consider any information submitted to it that it considers relevant.

Subsections 16 (1) and (2)

16. (1) The committee may discuss any proposal for special education services or special education programs and shall do so at the request of a parent or a pupil who is 16 years of age or older.

(2) The committee may make recommendations regarding special education programs and special education services.

Parents, and students aged 16 or over, must be given the opportunity to have a representative with them if they wish, and to offer information and ask questions.

The IPRC will review all available information about the student. The committee will:

- consider an educational assessment;
- obtain, subject to the provisions of the *Health Care Consent Act, 1996*, and consider a health or psychological assessment, if it is believed that such an assessment is required to make a correct identification or placement decision;
- interview the student, with the parent's permission, if the child is less than 16 years of age and the committee members feel it would be useful to do so;
- consider any information about the student submitted by the parent, or by the student where he or she is 16 years of age or older.

The committee may discuss and make recommendations regarding special education programs and services for the student. Committee members will discuss any such proposal at the parent's request, or at the request of a student who is 16 years of age or older.

Parents and students should be encouraged to ask questions and participate in the discussion.

Section 17

17. (1) When making a placement decision on a referral under section 14, the committee shall, before considering the option of placement in a special education class, consider whether placement in a regular class, with appropriate special education services,
- (a) would meet the pupil's needs; and
 - (b) is consistent with parental preferences.
- (2) If, after considering all of the information obtained by it or submitted to it under section 15 that it considers relevant, the committee is satisfied that placement in a regular class would meet the pupil's needs and is consistent with parental preferences, the committee shall decide in favour of placement in a regular class.

In the Supreme Court of Canada decision *Eaton v Brant County Board of Education* (Oct. 9, 1996), the court concluded as follows:

- Integration is to be considered the norm.
- The existing IPRC process is confirmed.
- There is to be no presumption of integration.
- The test to be used to decide placement is whether the placement is in “the best interests of the child”.
- The child's individual needs must be examined.
- The child's needs must be accommodated.

Other factors to be considered are:

- the child's views
- the parents' views

Clause 18(2)(c)

18. (2) (c) where the committee has decided that the pupil should be placed in a special education class, [it must] state the reasons for that decision.

In a memorandum dated June 9, 1994, to directors of education, superintendents of special education, and principals, the ministry stated that:

The Ministry of Education and Training remains committed to the principle that the integration of exceptional pupils should be the normal practice in Ontario, when such a placement meets the pupil's needs and is in accordance with parental wishes. A range of options including placement in a special class or Provincial or Demonstration School will continue to be available for pupils whose needs cannot be met within the regular classroom.

The IPRC Placement Decision

Before the IPRC considers placement of the student in a special education class, Regulation 181/98 requires it to consider placement in a regular class with appropriate special education services. If, after considering all of the information presented to it, the IPRC is satisfied that placement in a regular class would meet the student's needs and is consistent with parental preferences, the committee will decide in favour of placement in a regular class with appropriate special education services.

If the committee decides that the student should be placed in a special education class, it must give reasons in its written statement of decision.

In making its placement decision, the IPRC may consider a range of options, such as:

- ***A regular class with indirect support.*** The student is placed in a regular class for the entire day, and the teacher receives specialized consultative services.
- ***A regular class with resource assistance.*** The student is placed in the regular class for most or all of the day and receives specialized instruction, individually or in a small group, within the regular classroom from a qualified special education teacher.

- ***A regular class with withdrawal assistance.*** The student is placed in the regular class and receives instruction outside of the classroom for less than 50 per cent of the school day, from a qualified special education teacher.
- ***A special education class with partial integration.*** The student is placed by the IPRC in a special education class where the student-teacher ratio conforms to Regulation 298, section 31, for at least 50 per cent of the school day, but is integrated with a regular class for at least one instructional period daily.
- ***A special education class full time.*** The student is placed by the IPRC in a special education class, where the student-teacher ratio conforms to Regulation 298, section 31, for the entire school day.

Other options than these exist to meet the student's needs, and parents and board staff are encouraged to explore them. For example, there may be a need to apply for admission to:

- a Provincial School for students who are blind, deaf, or deaf-blind or a provincial Demonstration School for students who have severe learning disabilities;
- a facility that provides the necessary care or treatment appropriate to the student's condition.

Applications to Provincial Schools and provincial Demonstration Schools are coordinated and submitted by the school board. Applications to care and treatment facilities are made by the parent directly to the facility, although school board staff may be able to assist in gathering the appropriate documentation.

The IPRC Statement of Decision

After all the information has been presented, considered, and discussed, the committee will make its decision about identification and placement. The committee need not make its determination at the IPRC meeting. It may reserve its decision (for example, pending the receipt of further information). However, parents (and students aged 16 or over) are entitled to be present whenever the IPRC makes its decision.

Subsection 18(2)

18. (2) In the case of a referral by a principal under subsection 14 (1), the statement of decision shall,
- (a) state whether the committee has identified the pupil as an exceptional pupil;
 - (b) where the committee has identified the pupil as an exceptional pupil, include,
 - (i) the committee's description of the pupil's strengths and needs,
 - (ii) the categories and definitions of any exceptionalities identified by the committee,
 - (iii) the committee's placement decision, and
 - (iv) the committee's recommendation under subsection 16 (2), if any; and
 - (c) where the committee has decided that the pupil should be placed in a special education class, state the reasons for that decision.

Section 20

20. (1) A board shall implement a placement decision made by a committee under this Part when one of the following two events occurs:
- 1. A parent of the pupil consents in writing to the placement.
 - 2. The time period provided in subsection 26 (2) for filing a notice of appeal from the decision expires without a notice of appeal being filed.
- (2) The board shall implement a placement decision made by a committee under this Part as soon as possible after an event described in paragraph 1 or 2 of subsection (1) occurs.
- (3) A board that, without the written consent of a parent of the pupil, implements a placement decision made by a committee under this Part shall give written notice of the implementation to a parent of the pupil.

The IPRC's written statement of decision will:

- state whether the IPRC has identified the student as exceptional;
- where the IPRC has identified the student as exceptional, include:
 - the categories and definitions of any exceptionalities identified;
 - the IPRC's description of the student's strengths and needs;
 - the IPRC's placement decision;
 - the IPRC's recommendations regarding a special education program and special education services, if any; and
- give reasons for placing the student in a special education class, where that is the IPRC's decision.

Many boards find it helpful to develop a form to record the decision of the meeting. This form may become the statement of decision, as long as it contains the information listed above. It also usually lists:

- the names of the committee members present;
- the names of other persons present;
- the titles of the documents considered;
- the process available to parents if they do not agree with the IPRC's decision.

Parental Consent

The board will implement the placement decision either after the parent consents to it or, if the parent does not consent but does not wish to appeal the decision, after the time limit for an appeal has expired.

Although the regulation requires that the consent be written, it does not specify the form of consent. Many school boards have a policy of asking the parent to sign his or her name to the statement of decision to indicate agreement with the committee's identification and placement decision. The statement of decision may be signed at the IPRC meeting or taken home and returned. Parents should be encouraged to give serious consideration to their child's identification and placement prior to signing the IPRC form.

Subsection 18(1)

18. (1) As soon as possible after making its decisions on a referral under section 14, the chair of the committee shall send a written statement of decision to,
- (a) a parent of the pupil;
 - (b) the pupil, where the pupil is 16 years of age or older;
 - (c) the principal who made the referral, where the referral was made by a principal; and
 - (d) the designated representative of the board that established the committee.

Section 19

19. (1) A parent who receives a statement of decision under section 18 may, by written notice delivered to the person specified in subsection (2) within 15 days of receipt of the statement of decision, request a meeting with the committee.
- (2) The notice under subsection (1) shall be delivered to the principal in the case of a referral under subsection 14 (1) and to the designated representative in the case of a referral under subsection 14 (3).
- (3) On receiving the request, the principal or designated representative, as the case may be, shall arrange for the committee to meet as soon as possible with the parent and, where the pupil is 16 years of age or older and wishes to attend, the pupil, to discuss the statement of decision.
- (4) As soon as possible following a meeting under this section, the chair of the committee shall send a written notice to each of the persons described in subsection 18 (1), stating whether any changes in its decisions were made as a result of the meeting.
- (5) If changes in the committee's decisions were made as a result of the meeting, the notice under subsection (4) shall be accompanied by a revised statement of decision, together with written reasons for the changes.

In any case, the chair of the IPRC must send a copy of the decision to:

- the parent;
- the student, if over the age of 16;
- the school principal;
- the director of the school board.

If the student's parent did not attend the IPRC meeting, the statement of decision and a consent form should be mailed to the home to be signed and returned to the school principal.

If the parent does not sign the consent form and does not appeal the decision within the time limit, the board will implement the IPRC decision and give written notice to the parent.

After the IPRC Decision

A follow-up meeting of the IPRC may be held at the parent's request whether or not the parent agrees with the IPRC decision. The parent has 15 days after receiving the statement of decision to make a written request to the student's current school principal for a follow-up meeting with the IPRC. The principal will arrange for the meeting to be held as soon as possible. As soon as possible after the meeting, the IPRC chair will inform the necessary people if any changes were made to the IPRC decision and, if so, will provide a revised statement of decision and written reasons for the changes. The parent will be asked to consent to the revised identification or placement decision.

Subsection 6(2)

6. (2) The board shall promptly notify the principal of the school at which the special education program is to be provided of the need to develop an individual education plan for the pupil in consultation with the parent and, where the pupil is 16 years of age or older, the pupil.

Subsections 14 (2), (3), and (4)

14. (2) Where a decision is made that a pupil is to leave a demonstration school and enter a school of a board, the superintendent of the demonstration school shall so notify the designated representative of the board.
(3) On receiving the notice under subsection (2), the designated representative of the board shall ensure that the pupil is referred to a committee established by the board, for a decision as to what the placement of the pupil should be.
(4) The superintendent of the demonstration school acting under subsection (2) and the designated representative of the board acting under subsection (3) shall use their best efforts to ensure that the committee meets as soon as possible after the decision is made to move the pupil from the demonstration school to the school of the board.

Agreement With the IPRC Decision

Once the IPRC has identified the student as an exceptional pupil and the parent has agreed with the IPRC identification and placement decision, the board will promptly notify the principal of the school at which the special education program is to be provided of the need to develop an IEP for the student. See Part E of this guide for more information about the IEP.

Disagreement With the IPRC Decision

If the parent disagrees with the revised decision, he or she may:

- within 30 days of receipt of the initial IPRC decision, file a notice of appeal with the secretary of the board;
- within 15 days of the receipt of the decision of the second meeting, file a notice of appeal with the secretary of the board.

(See "The IPRC Appeal", page D19, for more information.)

Note that if the parent does not supply written consent to the IPRC decision and also does not appeal the decision within the time limit for appealing, the board will instruct the principal to implement the IPRC decision.

Students Moving From a Provincial Demonstration School to a School of a Board

The superintendent of the Demonstration School must notify the school board that the student is leaving the Demonstration School and coming to a school in the school board. The IPRC should meet as soon as possible after the decision is made to move the student from the Demonstration School to a school of the board.

THE IPRC TIMELINE

IPRC MEETING REQUESTED

(within 15 days of request)

- principal sends parent:
 - acknowledgement of request (if appropriate)
 - Parents' Guide
 - approximate date for IPRC meeting

(at least 10 days before meeting)

- IPRC chair sends parent (and student if 16 or over):
 - notification of IPRC meeting
 - details of the meeting (date, time, place)

(before the meeting and as soon as possible after receipt of information)

- IPRC chair sends parent (and student if 16 or over) information about student received by IPRC

IPRC MEETING

- student's strengths and needs documented
- decision about identification and placement made
- categories and definitions of exceptionalities identified
- recommendations made about program and services
- as soon as possible after decision, statement of decision sent to relevant parties

AFTER IPRC DECISION

Parent may:

- agree and sign consent form
- make no response
- request further discussion, or
- disagree and file appeal with special education appeal board

If parent agrees or makes no response:

(within 30 school days of placement being implemented)

- school completes IEP; parents get copy

If parent wishes further discussion:

(within 15 days of receipt of decision)

- request for second meeting

If parent disagrees:

(within 30 days of receipt of initial IPRC decision)

- parent files notice of appeal with secretary of board

SECOND IPRC MEETING

- as soon as possible after the meeting, notice of results sent to relevant persons, along with reasons for changes if there is a revised decision

AFTER SECOND IPRC MEETING

Parent may:

- sign consent form, or
- make no response (board then implements placement; develops IEP)

If parent disagrees:

(within 15 days of receipt of decision of second meeting)

- parent files notice of appeal with secretary of board

THE IPRC REVIEW

Regulation 181/98, Section 21

21. (1) The principal of the school at which a pupil's special education program is being provided,
- (a) may on written notice to a parent of the pupil;
 - (b) shall at the written request of a parent of the pupil; and
 - (c) shall, at the written request of the designated representative of the board that is providing the special education program to the pupil,
- refer the pupil to a committee established by the board that is providing the special education program to the pupil, for a review of the identification or placement of the pupil.
- (2) A request by a parent under clause (1) (b) may be made at any time after a placement has been in effect for three months but may not be made more often than once in every three month period.
- (3) Subject to subsection (4), the designated representative shall make a request under clause (1) (c) when in his or her opinion it is necessary to do so in order to ensure that a review in respect of the pupil is held under this Part at least once in each school year.
- (4) Subsection (3) does not apply where,
- (a) a committee proceeding with respect to the pupil was held under Part IV during the school year; or
 - (b) a parent of the pupil gives a written notice dispensing with the annual review to the principal of the school at which the special education program is being provided.
- (5) Within 15 days of giving a notice under clause (1) (a) or receiving a request under clause (1) (b) or (c), the principal shall provide the parent with a written statement of the approximate time when the review meeting will take place.

Request for a Review

At any time *after* a placement has been in effect for three months, a request for an IPRC review may be made by:

- the school principal with written notice to the parent;
- the parent in a written request to the principal; or
- the director of education of the educating board (in purchase-of-service situations).

A request by a person for an IPRC review cannot be made more often than once in every three-month period. An IPRC review meeting must be held once within each school year, unless the principal of the school at which the special education program is being provided receives written notice from the parent dispensing with the annual review.

Timelines for the IPRC Review

The IPRC review operates under the same timelines as the original IPRC process. Within 15 days of notice of the parent's request for a review, the school principal must let the parent know, in writing, approximately when the IPRC review will take place.

Subsections 23 (2) and (3)

23. (2) With the written permission of a parent of the pupil, a committee conducting a review under this Part shall consider the pupil's progress with reference to the pupil's individual education plan.
- (3) As soon as possible after a committee engaged in a review under this Part decides that it is satisfied with the identification and placement of a pupil, the chair of the committee shall send a written statement of decision confirming the identification and placement to,
- (a) a parent of the pupil;
 - (b) the pupil, where the pupil is 16 years of age or older;
 - (c) the principal of the school at which the pupil's special education program is being provided;
 - (d) the designated representative of the board that is providing the special education program to the pupil; and
 - (e) in the circumstances described in subsection 22 (2), the designated representative of the board that is purchasing the special education program.

Attendance at the IPRC Review

The same people may attend the IPRC review as attended the original IPRC. If a special education program and/or service has been purchased from another school board, a representative of the purchasing board may be present.

The IPRC Review Decision

The IPRC will review the placement and identification decisions and decide whether they should be continued or whether a different decision should now be made. The IPRC review considers the same type of information that was originally considered at the initial IPRC. With the parent's written permission, the IPRC conducting the review will consider the progress the student has made in relation to the IEP.

After the IPRC Review Decision

As soon as possible after the review, a written statement confirming or changing the student's placement should be sent by the chair of the committee to:

- the parent;
- the student, where the student is 16 years of age or older;
- the school principal;
- the director of the school board;
- the representative of the purchasing board (if appropriate).

Subsections 23 (4) and (5)

23. (4) As soon as possible after a committee engaged in a review under this Part decides that the identification or placement or both should be changed, the chair of the committee shall send a written statement of decision to the persons described in subsection (3).
- (5) A statement of decision under subsection (4) shall state,
- (a) the reasons for the committee's decision that the pupil's identification or placement or both should be changed;
 - (b) whether the committee considers that the pupil should continue to be identified as an exceptional pupil;
 - (c) where the committee considers that the pupil should continue to be identified as an exceptional pupil,
 - (i) the committee's placement decision,
 - (ii) the committee's description of the pupil's strengths and needs, and
 - (iii) the categories and definitions of any exceptionalities identified by the committee; and
 - (d) where the committee considers that the pupil should be placed in a special education class, the reasons for that decision.

Section 25

25. (1) A board shall implement a change in placement as a result of a decision made by a committee under this Part when one of the following two events occurs:
- 1. A parent of the pupil consents in writing to the placement.
 - 2. The time period provided in subsection 26 (3) for filing a notice of appeal from the decision expires without a notice of appeal being filed.
- (2) The board shall implement a change in placement as a result of a decision made by a committee under this Part as soon as possible after an event described in paragraph 1 or 2 of subsection (1) occurs.
- (3) A board that, without the written consent of a parent of the pupil, implements a change in placement as a result of a decision made by a committee under this Part shall give written notice of the implementation to a parent of the pupil.

This written statement will be similar to the written statement of the original IPRC, but will note any changes that have been made to the identification or placement. As in an initial IPRC, the committee must consider placement in a regular class with appropriate special education services before it considers placement in a special education class. If the committee decides that the student should be placed, or should continue to be placed, in a special education class, it must provide the reason(s) for that decision in its statement of decision. After receiving the statement of decision resulting from a review, the parent may request a follow-up meeting, as discussed on page D13.

If the parent disagrees with the decision, he or she may:

- within 30 days of receipt of the IPRC decision, file a notice of appeal with the secretary of the board;
- within 15 days of the receipt of decision of the second meeting, file a notice of appeal with the secretary of the board.

If the parent does not supply written consent to the identification or placement, but also does not appeal, the school board may implement the placement decision. In this case, the school board notifies the parent of the action taken and the school principal is notified to review the IEP and to add a transition plan, if necessary.

THE IPRC APPEAL

Regulation 181/98, subsections 26 (1) and (4)

26. (1) A parent of a pupil may, by filing a notice of appeal in accordance with subsection (2) or (3), require a hearing by a special education appeal board in respect of,
- (a) a committee decision under Part IV or V that the pupil is an exceptional pupil;
 - (b) a committee decision under Part IV or V that the pupil is not an exceptional pupil; or
 - (c) a committee decision under Part IV or V on placement of the pupil.
- (4) A notice of appeal shall indicate which of the decisions referred to in subsection (1) the parent disagrees with and shall include a statement that sets out the nature of the disagreement.

Subsection 26(5)

26. (5) The special education appeal board shall not reject or refuse to deal with an appeal by reason of any actual or alleged deficiency in the statement referred to in subsection (4) or by reason of the failure of the parent, in the opinion of the special education appeal board, to accurately indicate in the notice of appeal the subject of the disagreement.

The IPRC Appeal Process

A parent who disagrees with the original or the review IPRC decision may appeal:

- the decision that the student is an exceptional pupil;
- the decision that the student is not an exceptional pupil; and/or
- the placement decision.

The notice of appeal must be sent to the secretary of the board (who is usually the director of education) and must:

- indicate the decision with which the parent disagrees;
- include a statement that sets out the nature of the disagreement.

No parent will lose the right to appeal an IPRC or review decision because the notice of appeal is incorrectly written or does not accurately describe the area of disagreement. In most cases, it will likely be sufficient for parents to indicate their reasons for disagreeing and the result they would prefer.

Appeal Timelines

The request for an appeal must be filed with the secretary of the board within the following specific time limits:

- within 30 days of receiving the IPRC's statement of decision; or
- within 15 days of receiving the IPRC's statement of decision arising out of a follow-up meeting with the IPRC.

The same timelines apply to appeals from an IPRC review.

Subsections 26 (2) and (3)

26. (2) A notice of appeal in respect of a committee decision under Part IV shall be filed with the secretary of the board,
- (a) if no meeting is held under section 19, within 30 days of receipt of the statement of decision under section 18 by the parent who is seeking to appeal; or
 - (b) if a meeting is held under section 19, within 15 days of receipt of the notice under subsection 19 (4) by the parent who is seeking to appeal.
- (3) A notice of appeal in respect of a committee decision under Part V shall be filed with the secretary of the board,
- (a) if no meeting is held under section 24, within 30 days of receipt of the confirmation under subsection 23 (3) or the statement of decision under subsection 23 (4) by the parent who is seeking to appeal; or
 - (b) if a meeting is held under section 24, within 15 days of receipt of the notice under subsection 24 (3) by the parent who is seeking to appeal.

Subsections 27 (1), (4), and (5)

27. (1) The special education appeal board shall be composed of,
- (a) one member selected by the board in which the pupil is placed;
 - (b) one member selected by a parent of the pupil; and
 - (c) a chair, selected jointly by the members selected under clauses (a) and (b) or, where those members cannot agree, by the appropriate district manager of the Ministry.
- (4) No member or employee of the board providing or purchasing the special education program and no employee of the Ministry may be selected under subsection (1).
- (5) No person who has had any prior involvement with the matter under appeal may be selected under subsection (1).

Where a parent files a notice of appeal, the IPRC placement being appealed is not implemented, pending the results of the appeal. However, there is nothing to prevent the parents and the board from agreeing to the terms of a temporary placement pending the results of the appeal.

The School Board Response to Receiving a Notice of Appeal

After receiving the request for an appeal, the school board sets the appeal process in motion. It is suggested that the board assign one or more staff members who are not involved in the appeal to handle the arrangements for setting up the appeal board.

Selection of Appeal Board Members

Within 15 days of the board's receiving the notice of appeal:

- the board selects one person to be a member of the appeal board; and
- the parent selects one person to be a member of the appeal board.

Though parents will often request that a local association recommend one of its members as their selection for the appeal board, they are not limited to this choice. Where the parent is unfamiliar with the local associations operating within the jurisdiction of the board, the school board should be prepared to provide the parent with the list of SEAC members and/or the list of local associations eligible for membership on SEAC.

Within 15 days of the selections of the parent and school board representatives, the two appeal board members will select a chair. It may be helpful for a school board, in advance of any requests for appeal board meetings, to compile a list of people who they believe are suitable and willing to act as chair. The list may include people from other boards, retired educators, or SEAC members from other boards. A prepared list, with résumés, may help the two members to select the chair.

If the appeal board members cannot agree on an appeal board chair, the manager of the district office of the ministry may be asked to select the chair.

No appeal board member should have had any prior involvement with the matter under appeal, and should not be a member or employee of the school board or an employee of the Ministry of Education.

Subsection 27(7)

27. (7) The board shall provide the special education appeal board with the secretarial and administrative services it requires and shall, in accordance with the rules and policies that apply to members of the board under section 191.2 of the Act, pay the travelling and other expenses incurred by the members of the special education appeal board while engaged in their duties.

Before the Meeting of the Appeal Board

The school board will:

- provide the appeal board with secretarial and administrative services for such activities as making telephone calls, typing correspondence, photocopying and distributing material, and typing the appeal board's recommendations;
- in accordance with board policy with respect to board members, pay the travelling and other expenses of the members of the appeal board while they are engaged in their duties.

The school board contact person should, as soon as possible after receiving the request for the appeal, contact the parties to identify when they will be available for the appeal board meeting and whom they have selected as their appeal board member.

In addition, the contact person should:

- inform all parties to the appeal how he or she may be contacted. Questions or concerns about the process should be directed to the contact person rather than to the appeal board members;
- make preparations for the meeting, including finding a facility in which to hold the meeting. The meeting should be held in a neutral location, preferably reasonably close to the parent's home, such as a school that is not involved in the matter, a government office, or a hotel;
- inform both the parent and the board that any information regarding the student's needs and strengths that was brought up at the IPRC meeting(s) may be submitted to the appeal board for consideration. Although the regulation does not indicate when this information should be sent to the appeal board members, it would be a good idea to ensure that it is submitted in sufficient time to permit the members and the other party to read it carefully. Good practice suggests that the parties be asked to send their information to the school board contact person 10 calendar days prior to the appeal board meeting. The contact person should have copies made of the information for the appeal board members and the other party and distribute them at least 5 calendar days before the meeting;
- ensure that the parent is aware of his/her right, and the student's right if the student is 16 years of age or older, to have a representative present at the meeting;
- send a notice to the parent, the student who is 16 years of age or older, the board, and presenters within a reasonable period of time (but at least 10 days before the meeting) to inform them of the date, time, and location of the appeal board meeting. These factors should have been worked out in consultation with both

Subsection 27(6)

27. (6) The chair of the committee the decision of which is being appealed shall provide the special education appeal board with the record of the committee proceedings, including the statement of decision and any reports, assessments or other documents considered by the committee.

Subsections 28 (1), (2), and (3)

28. (1) The chair of the special education appeal board shall arrange for a meeting of the members of the special education appeal board to discuss the matters under appeal and shall give notice of the meeting, in accordance with subsection 5 (5), to a parent of the pupil and, where the pupil is 16 years of age or older, the pupil.
- (2) The meeting shall be arranged to take place at a convenient place and at a time that is no more than 30 days after the day on which the chair is selected and shall be conducted in an informal manner.
- (3) Despite subsection (2), with the written consent of the parents of the pupil and the designated representative of the board, the meeting may be scheduled for a time that is more than 30 days after the day on which the chair is selected.

parties and the appeal board members. Although appeal boards tend to be scheduled for one day, there may be circumstances in which everyone agrees that more time is necessary;

- request that the parent and board each submit a list of the persons whom they wish to bring to the meeting, with an approximate indication of how long they expect these persons to speak. If time permits, this list should be distributed to the parties. If the lists are extensive or the appeal board members believe that certain persons are missing and should be invited, then the chair may convene a conference call with the parties to try to work out any difficulties. There may be a need for flexibility in scheduling to accommodate the schedules of the persons invited to provide information to the appeal board. If the appeal board members intend to request material that has not already been submitted by either of the parties, then a request to this effect should be made in writing by the school board contact person.

The school board provides the appeal board with the record of the IPRC proceedings, including the statement of decision and any reports, assessments, or other documents considered by the IPRC.

The chair of the appeal board will arrange a meeting to take place at a convenient time and place, but no later than 30 days after he or she has been selected, unless the parent and the board both provide written consent to a later date.

Subsection 5(3)

5. (3) A person who has the right under subsection (1) or (2) to participate in a discussion also has the right to have a representative present at the discussion, to speak on behalf of the person or otherwise support the person.

Subsection 28(4)

28. (4) Any person who in the opinion of the chair of the special education appeal board may be able to contribute information with respect to the matters under appeal shall be invited to attend the meeting.

The Appeal Board Meeting

In addition to the committee members, the following people are entitled to be present:

- the parent, and student, where the student is 16 years of age or older, are entitled to be present at, and to participate in, all discussions;
- the parent and student are permitted to have representatives present to speak on their behalf or otherwise support them. If the parent and/or the board representative wish to have additional persons with them to assist with note taking, they should raise the matter with the chair of the appeal board either at or in advance of the meeting;
- any person who in the opinion of the appeal board chair may be able to contribute information with respect to the matters under appeal may be invited to attend;
- the parent and the board may, with the agreement of the appeal board, bring other persons to the meeting to speak about various matters relevant to the appeal;
- if a special education program and/or service has been purchased from another school board, the representative of the board offering the service may be present.

The appeal board chair may prepare an agenda for the meeting that provides an overview of the scheduled proceedings. If possible, this agenda should be mailed to the parties in advance of the meeting.

The agenda might include:

1. A call to order;
2. An introductory statement by the chair of the appeal board, including:
 - introduction of the appeal board members;
 - introduction of the participants;
 - a statement of the purpose of the meeting;
 - a description of the procedures to be followed (e.g., order of presentations);
3. The presentations, including:
 - an opening statement by the parent;
 - an opening statement by the school board;
 - presentation of information by persons invited by the parent;
 - presentation of information by persons invited by the school board;
 - presentation of written information, if any, by parent and school board;
 - a summary by the parent;
 - a summary by the school board;

Subsection 28(6)

28. (6) Where the special education appeal board is satisfied that the opinions, views, and information that bear on the appeal have been sufficiently presented to it, the special education appeal board shall end the meeting and, within three days of ending the meeting, shall,
- (a) agree with the committee and recommend that its decisions be implemented; or
 - (b) disagree with the committee and make a recommendation to the board about the student's identification or placement or both.

Section 29

29. (1) The special education appeal board shall send a written statement of its recommendations under section 28 to,
- (a) a parent of the pupil;
 - (b) where the pupil is 16 years of age or older, the pupil;
 - (c) the chair of the committee;
 - (d) the principal of the school in which the pupil is placed;
 - (e) the designated representative of the board in which the pupil is placed; and
 - (f) in the circumstances described in subsection 28 (5), the designated representative of the board that is purchasing the special education program.
- (2) The written statement shall be accompanied by written reasons for recommendations.

4. A closing statement by the appeal board chair. This statement should provide information about:
- the decision date;
 - the powers of the appeal board;
 - the role of the school board following the decision.

The appeal board meeting is to be conducted "in an informal manner". The goal of the meeting is to provide the appeal board members with the information they require in order to make their recommendations.

After the Appeal Board Meeting

The appeal board must make its recommendations to the school board within 3 days of the end of the meeting.

The appeal board recommendations may:

- agree with the IPRC and recommend that its decisions be implemented; or
- disagree with the IPRC and make a recommendation to the board regarding the student's identification or placement or both.

The appeal board will report its recommendations in writing, providing the reasons for its recommendations. This written statement will be sent to:

- the parent;
- the student, if 16 years of age or older;
- the chair of the IPRC being appealed;
- the principal of the school;
- the director of the school board;
- the representative of the purchasing board, if appropriate.

The appeal board may report its decision in whatever written form it finds appropriate. The following elements might be included:

- identifying personal information (e.g., the student's name and age; the parent's name and address; the name and address of the school);
- the date, time, and place of the meeting;
- the issue and purpose of the meeting;
- the names of the parties and the guests whom they brought;
- a summary of the facts of the case;

The record of the Appeal Board is in the custody or under the control of the board, and therefore it is subject to the privacy and access requirements of the Municipal Freedom of Information and Protection of Privacy Act.

Section 30

30. (1) Within 30 days of receiving the special education appeal board's written statement, the board shall consider the special education appeal board's recommendations, shall decide what action to take with respect to the pupil and shall give notice in writing of the decision to each of the persons described in subsection 29 (1).

(2) In deciding what action to take with respect to a pupil, the board is not limited to the action that the special education appeal board recommended or could have recommended.

(3) Notice to a parent under subsection (1) shall include an explanation of the further right of appeal provided by section 57 of the Act.

- a summary of the positions of the parties;
- a list of the factors that played a role in the formulation of the recommendations;
- the recommendation of the appeal board on the issue.

Although the regulation does not require it, it is good practice for the board contact person to prepare an official file including:

- the written communications between the appeal board and the parties;
- the information submitted to the appeal board, including documents, assessments, videos, or other material (unless the parent requests that some of these be returned);
- the appeal board recommendations;
- the school board decision.

This record should be preserved for future reference, and for forwarding to a tribunal if required.

After the Appeal Board Decision

Within 30 days of receiving the appeal board's written statement, the school board will:

- consider the appeal board's recommendations;
- decide what action it will take with respect to the student;
- send a written statement of decision to everyone who received the written recommendations from the appeal board and include an explanation of the parent's right to appeal to a Special Education Tribunal (SET).

In deciding what action to take, the school board is not limited to the actions recommended by the appeal board.

If the parent is not satisfied with the school board decision, the parent has a further right to appeal to a Special Education Tribunal (SET) (see page D37).

Section 31

31. (1) The board shall implement a decision under subsection 30 (1) when one of the following events occurs:

1. A parent of the pupil consents in writing to the decision.
2. Thirty days have elapsed from receipt of the notice under subsection 30 (1) by a parent of the pupil and no appeal has been commenced in respect of the decision under section 57 of the Act.
3. An appeal under section 57 of the Act from the decision is dismissed or abandoned.

(2) In accordance with an agreement between the board and a parent of the pupil, the board may change a decision made by it under section 30,

(a) while an appeal under section 57 of the Act is pending; or

(b) before the end of the period referred to in paragraph 2 of subsection (1).

(3) Where the board changes a decision under subsection (2), the board shall give notice in writing of the change in decision to each of the persons described in subsection 29 (1).

(4) Subsections 30 (2) and (3) apply with necessary modifications in respect of a change in decision under subsection (2).

The board decision may be implemented when:

- the parent consents in writing;
- there is no appeal to the SET within 30 days of the parent's receiving notice of the decision; or
- the appeal to the SET has been dismissed or abandoned.

Nothing prevents the school board and the parent from coming to an agreement that differs from the original school board decision. If so, the school board must give notice of the new decision to the same people to whom it sent the original statement of decision.

THE IPRC APPEAL TIMELINE

NOTICE OF APPEAL

(within 15 days of notice being received by secretary of board)

- school board and parent each select one member of appeal board

(within 15 days of the selections being made)

- the two members select a chair

(within 30 days of selection of chair)

- appeal board meeting (unless parents and board consent in writing to a later date)

MEETING

(within 3 days)

- appeal board recommendations sent to relevant parties

(within 30 days of receipt of recommendations)

- school board considers recommendations; sends statement of decision to relevant parties

BOARD'S DECISION

(within 30 days of receipt)

- parents appeal to Special Education Tribunal

OR

(after 30 days and without an appeal by parents)

- board implements its decision

Figure D.1: The Identification, Placement, and Review Process

STEPS IN IPRC PROCESS	IMPLICATIONS FOR PARENTS AND STUDENTS	IMPLICATIONS FOR SCHOOL PRINCIPAL
<ul style="list-style-type: none"> Principal refers student to IPRC, either at the request of parent or on own initiative. 	<ul style="list-style-type: none"> Parent may request in writing to principal that student be referred to IPRC. Parent may request communication in Braille, large print, or audio-cassette format. 	<p>The school principal:</p> <ul style="list-style-type: none"> ensures parental request is honoured provides communication in alternative format, if requested ensures all timelines are met
<ul style="list-style-type: none"> Within 15 days of making the referral, principal notifies parent that student has been referred to IPRC. 	<ul style="list-style-type: none"> Parent receives: <ul style="list-style-type: none"> written notification of referral; estimate of when IPRC is likely to meet; Parents' Guide in appropriate format. Parent may be requested to give permission for a psychological and/or health assessment in accordance with the Health Care Consent Act, 1996. 	<ul style="list-style-type: none"> sends out required information and Parents' Guide ensures completion of educational assessment obtains consent for psychological and/or health assessment, if needed where an intelligence or personality test is to be administered, informs the student and parent and secures appropriate consents
<ul style="list-style-type: none"> At least 10 days in advance of IPRC meeting, principal must notify parent and student (if 16 years of age or over), in writing, of the date of IPRC. 	<ul style="list-style-type: none"> Parent and student (if 16 years of age or over) are entitled to receive all information which is provided to members of IPRC. 	<ul style="list-style-type: none"> informs parent and student (16+) of student's entitlement to participate ensures parent and (16+) student receive all information provided to members of IPRC
<ul style="list-style-type: none"> The IPRC meets and: <ul style="list-style-type: none"> considers assessment reports (educational, psychological, and/or health); may interview student; may discuss and make recommendations (not decisions) for special education programs and services; may include these recommendations in the decision. 	<ul style="list-style-type: none"> Parent and student (16+) are entitled to have a representative present who may speak on their behalf. Parental consent is required before interview with student may take place if student is under 16. Parent is entitled to be present for the interview. 	<ul style="list-style-type: none"> understands the role of the parent representative and, where appropriate, clarifies the role for parent, student, and representative explains role of IPRC to parent and representative prior to IPRC meeting

STEPS IN IPRC PROCESS	IMPLICATIONS FOR PARENTS AND STUDENTS	IMPLICATIONS FOR SCHOOL PRINCIPAL
<ul style="list-style-type: none"> • The IPRC: <ul style="list-style-type: none"> - decides whether student is exceptional or not; - applies, for exceptional pupils, the category and definition of the identified exceptionalities in accordance with the ministry list of categories and definitions of exceptionality; - describes the strengths and needs of student; - decides the placement of student and must recommend placement in a regular class if satisfied that such a placement meets student's needs and is consistent with parental preferences. If recommending placement in a special education class, IPRC must set out the reasons for this recommendation in its decision. 	<ul style="list-style-type: none"> • Parent or student (16+) may request a discussion about special education programs and services and be present for and participate in the discussion. • Chair of IPRC sends a written statement of decision to: <ul style="list-style-type: none"> - parent; - student (if 16+); - principal who made the referral; - director. 	<p>The school principal:</p> <ul style="list-style-type: none"> • understands the elements of the statement of decision • appreciates the difference between recommendations and decisions made by IPRC • may begin work on IEP • may review decision with parent and student (16+)
<ul style="list-style-type: none"> • A second meeting of IPRC is convened as soon as possible if parent so requests. • Following the second meeting of IPRC, IPRC may: <ul style="list-style-type: none"> - uphold its original decision and notify all relevant parties of this decision; or - change its original decision and notify all relevant parties of this decision and the reasons for the revised decision. 	<ul style="list-style-type: none"> • Parents may, within 15 days of receiving the statement of decision, request a second meeting with IPRC to discuss the decision further; or, within 30 days of receiving the statement of decision, file a notice of appeal with the board. • Parent who does not agree with the upheld or revised decisions of the follow-up meeting may request to have the matter referred to a special education appeal board within 15 days of receipt of the statement of decision of the second meeting of IPRC. 	<ul style="list-style-type: none"> • arranges for a follow-up meeting with IPRC as soon as possible, on request

(continued)

Figure D.1 (continued)

STEPS IN IPRC PROCESS	IMPLICATIONS FOR PARENTS AND STUDENTS	IMPLICATIONS FOR SCHOOL PRINCIPAL
<ul style="list-style-type: none"> School board will implement IPRC decision as soon as possible and notify school principal of the decision. 	<ul style="list-style-type: none"> When parent receives IPRC final decision in writing, he/she should provide written consent for the placement, or file a notice of appeal with the board. If parent neither consents nor appeals, the board may implement the IPRC decision. 	<p>The school principal:</p> <ul style="list-style-type: none"> ensures parent and student understand process for appealing
<ul style="list-style-type: none"> Student is placed in accordance with IPRC decision if: <ul style="list-style-type: none"> parent consents; or parent has not consented but has not begun an appeal before end of appeal period. 	<ul style="list-style-type: none"> If parent doesn't consent to placement and doesn't appeal, parent is notified in writing that student has been placed. 	
<ul style="list-style-type: none"> Within 30 school days of the placement starting, an IEP must be developed for student and provided to parent and student (if 16+). 	<ul style="list-style-type: none"> Parent and student (16+) will be consulted on the contents of the IEP. 	<ul style="list-style-type: none"> ensures that parent and student (16+) are consulted on development of IEP and that IEP is completed and copy given to parent and student (if 16+)
<ul style="list-style-type: none"> For students who are age 14 or over, the IEP must include a transition plan for postsecondary activities (except for gifted students). 		
<ul style="list-style-type: none"> At least once every school year, IPRC is reconvened to review student's identification and/or placement. 	<ul style="list-style-type: none"> Parent may request a review three months after the placement has begun. A review cannot be requested more than once every three months. Parent may agree in writing to dispense with the annual review. 	<ul style="list-style-type: none"> may initiate IPRC review with notice to parent if review is held, follows procedure similar to that for IPRC initial meeting

The Education Act, subsection 57(3)

57. (3) Right of appeal. –

Where a parent or guardian of a pupil has exhausted all rights of appeal under the regulations in respect of the identification or placement of the pupil as an exceptional pupil and is dissatisfied with the decision in respect of the identification or placement, the parent or guardian may appeal to a Special Education Tribunal for a hearing in respect of the identification or placement.

Introduction

Under subsection 57(3) of the Education Act, a parent who has exhausted all rights of appeal under the regulations with respect to the identification or placement of the pupil may appeal to a Special Education Tribunal for a hearing. However, *prior to* a hearing before the Ontario Special Education Tribunal, mediation may be used as an alternative means of resolving disputes between parents and a school board about the identification and/or placement of a student. The process described here has evolved over a number of years and is now current practice in Ontario.

Note: While mediation is discussed here in a very specific context, it is by no means limited to resolving identification/placement disputes at the tribunal stage. Parents and school boards may use mediation at any time to help resolve disputes about any issue, as long as both the parent and the board wish it and can agree on a person who will serve as mediator. Where such agreement is difficult, a third party such as a parent association, community agency, or another school board may be able to assist the parent and school board in selecting a mediator and initiating the mediation process. Usually, the board agrees to pay the mediator's expenses and any fees charged by the mediator.

Definition

Mediation is a cooperative dispute resolution process in which an impartial third party (the mediator) assists parents and school board personnel to achieve a solution that they jointly believe best meets the needs of the student.

Initiating the Mediation Process

Parents who disagree with the decision about the identification and/or placement of their child by the school board following a hearing before an Identification, Placement and Review Committee (IPRC) and a subsequent meeting with an appeal board have the right to request a hearing by the Ontario Special Education Tribunal. A request for a tribunal hearing is made in writing to the secretary of the tribunal at the Ministry of Education (see address, page D37).

Before a tribunal hearing is requested, parents and school board officials may wish to discuss the possibility of mediation as an alternative method of dispute resolution.

Alternatively, when a parent writes to the ministry to request a hearing before the Ontario Special Education Tribunal, the secretary to the tribunal will ask the parent and school board officials if they have considered mediation. The secretary will explain the mediation process and, if requested, will send the parent and the board a copy of this explanation of the procedure.

If both parties agree to mediation, the secretary may be able to assist them in identifying possible mediators. The parent and school board may agree on any person to act as mediator.

Once the parent and school board have identified a mediator acceptable to both parties, the secretary of the tribunal may (at their request) contact the mediator to ask that he or she participate and to make arrangements for a mediation session. Alternatively, these arrangements may be made by the school board and/or the parent.

Mediation is **not** mandatory. If either the parent or the school board rejects mediation, the secretary will proceed to arrange a tribunal hearing. Furthermore, if the mediation is unsuccessful at resolving the dispute, the parent retains the right to proceed with the tribunal hearing. In addition, in cases in which both parties agree to mediation, the secretary will make every effort to ensure that the tribunal hearing is not unduly delayed by a mediation session.

Mediation Versus a Tribunal Hearing

In considering whether to attempt mediation or to proceed directly to a tribunal hearing, parents and school board officials may wish to consider the following comparison of the two processes.

MEDIATION	TRIBUNAL
<ul style="list-style-type: none"> • A cooperative method designed to encourage mutual problem solving. • The structure and conditions of the process are agreed between the parties and the mediator before mediation starts, and the parties may or may not be represented by a lawyer or advocate. 	<ul style="list-style-type: none"> • An adversarial method where an impartial panel makes the decision. • A formal legal process, governed by the Statutory Powers Procedure Act (see Appendix 8). In such a process: <ul style="list-style-type: none"> – the parties are often represented by a lawyer or advocate; – rules of evidence are followed; – evidence is given under oath; – witnesses are called and cross-examined; – a court transcript is kept; – the tribunal has the power to subpoena witnesses.
<ul style="list-style-type: none"> • A private process. • A mutually agreed-upon resolution. 	<ul style="list-style-type: none"> • Normally a public process. • The decision of the tribunal is final and binding on the parties.
<ul style="list-style-type: none"> • Usually proceeds more quickly than a tribunal. • The board pays the cost of the mediator (fee plus expenses). 	<ul style="list-style-type: none"> • Depending upon the complexity of the issues, the full process may take from three months to a year. • The province pays the cost of tribunal members, secretary, and their expenses. • The board and parents pay their own expenses, including the cost of a lawyer or advocate, the expenses of witnesses, and the cost of copies of documents submitted in evidence.

The tribunal secretary will advise parents and school board officials that he or she can assist them with arranging for mediation *or* with preparation for a tribunal hearing but not with both tasks at the same time.

Choosing mediation will likely cause a delay of a few weeks to a month in the scheduling of a tribunal hearing. However, the delay may be worthwhile because of the potential benefits of resolving the dispute. Even if the dispute is not resolved, the mediation may assist the parties to clarify the issues in dispute.

Participants

The parent or guardian participates on behalf of the child. Board staff participate on behalf of the school board. The participants must have the authority to make decisions on behalf of the people they represent. Although children rarely attend the mediation, where a parent believes that it would be in the child's interest to be present, such a request may be discussed with the mediator.

The parties and the mediator may agree to have other persons present as well. For example, each party may have someone to assist or represent him or her. No witnesses are examined, however, and, in the interests of comfort and openness, the number of additional individuals present is normally kept to a minimum.

Selection of a Mediator

Either the parent or the school board or both may suggest persons who could mediate the dispute, or they may seek names from someone else. The mediator should be knowledgeable in the field of special education and acceptable to both sides. A nominee's prior involvement on one side or the other of the dispute would usually (though not necessarily) eliminate him or her from consideration. Any such involvement should be disclosed to the parties before they make a final decision on the choice of mediator.

In deciding on the suitability of a person as mediator, parents and school board officials may wish to speak with the person by telephone and to obtain and contact references provided by the potential mediator.

There is no single standard approach or style for mediation. Individual mediators have individual approaches. If parents or the school board have concerns about the mediation process or some particular requirements (for example, relating to the structure of the mediation session or the number of persons who will be present), it would be appropriate to raise these with the potential mediators before making a final selection.

Who Pays?

In past mediations organized by the secretary of the tribunal, the school board has paid for the mediation. The fact that the mediator is selected by both parties guards against the possibility of a bias in favour of the board.

Preparation for Mediation

The amount and type of material that the mediator wishes to receive prior to the hearing will depend upon the mediator. Submission of materials will be subject to agreement among the mediator and the parties.

In some cases, the mediator may ask the parties to enter into a written contract with him or her before the start of mediation. This agreement may contain the parties' statements of the issues. The agreement may also require the parties not to use the results of the mediation in any future litigation, and not to call the mediator as a witness in any future litigation.

The following suggestions are offered as a guide to help parents and school board officials to prepare for the mediation session:

- Recognize that mediation is not a win/lose situation. Its success requires both parties to attempt in good faith to reach a mutually satisfactory conclusion. A willingness to consider other points of view, to compromise, and to focus on the critical issues are the hallmarks of successful mediation. Even if the mediation does not achieve agreement on the critical issues, it may have succeeded in clarifying the outstanding problems and the parties' positions on those problems.
- Focus on the child's needs, not on finding fault, blaming, making accusations, or dwelling on past conflicts.
- Clearly outline your position or view of the issues in dispute. Where possible, try to isolate the various issues and determine which of those issues are most important to you and in which areas you can be somewhat flexible.
- Determine what you want to propose to the other party. Develop a list of alternatives or options that could be offered to settle the dispute. Decide the order of importance of these alternatives or options.
- Be willing to consider both short-term and long-term solutions. Some matters may be addressed on a short-term or even experimental basis. An agreement to meet at a later date to evaluate and modify the results may be necessary.
- Prepare for the mediation by asking others to review your position, objectives, and possible solutions. Consider whether it would be easier for you to undertake mediation if you have an adviser or representative with you.

The Mediation Session

The parties, together with the mediator, work out the process. However, in general, a session will proceed as follows:

- The parties meet the mediator at a designated time and place. After the brief introduction and statement about the purpose of the mediation, the mediator gives each party the opportunity to explain, without interruption, his or her position and desired outcome. When both parties have finished, the mediator usually meets with each party separately, engaging in a form of "shuttle diplomacy" between the parties. When appropriate, the mediator will bring the parties together again.
- If the parties reach an agreement, they meet and the mediator writes up an account of their agreement. The wording of the agreement should be sufficiently clear and unambiguous to ensure that both sides have similar perceptions of the nature of the agreement. However, there should also be sufficient flexibility to accommodate the types of changes that normally occur over time in the operation of schools (e.g., changes in personnel, student enrolment, and facilities).
- Both parties will be asked to sign the agreement, and both will either be given copies of it, with the mediator keeping the original, or everyone will receive originals. It is suggested that the school board approve the result of the mediation so that the agreement becomes the school board's decision.
- There is no recorder at the mediation and no transcript is made. The mediator may take notes but will keep the substance and results of the mediation confidential.

Normally, the mediation process described above will take place in a single day. For some complex matters, a second day may be necessary. In circumstances where critical information is missing or where the involvement or agreement of other parties is discovered to be necessary to the successful implementation of the mediation agreement, it may be necessary to schedule a second follow-up meeting to ensure that all pieces of the agreement come together successfully.

There is nothing to prevent the parties from agreeing to a temporary solution to be reviewed at a later date, with or without the mediator.

If mediation is successful, written confirmation of this fact will be requested by the secretary, and the parent's request for a hearing will be considered to have been withdrawn.

If Mediation Fails

If mediation fails to resolve the dispute, the tribunal hearing may still go ahead. In this case the tribunal secretary should be notified as soon as possible. It should be remembered that, even though no mutually acceptable resolution has been reached, the process is not necessarily a complete failure. Certain issues may have been resolved so that the tribunal hearing is more focused. In fact, some mediations are held for the purpose of resolving only some of the outstanding issues, while leaving the remainder for litigation. In addition, there might have been some trust built between the parties if the lines of communication were re-established and the parties could both focus on the needs of the child.

A TRIBUNAL HEARING

The Education Act, subsections 57 (3), (4), and (5)

57. (3) **Right of appeal.** – Where a parent or guardian of a pupil has exhausted all rights of appeal under the regulations in respect of the identification or placement of the pupil as an exceptional pupil and is dissatisfied with the decision in respect of the identification or placement, the parent or guardian may appeal to a Special Education Tribunal for a hearing in respect of the identification or placement.

(4) **Hearing by Special Education Tribunal.** – The Special Education Tribunal shall hear the appeal and may,

- (a) dismiss the appeal; or
- (b) grant the appeal and make such order as it considers necessary with respect to the identification or placement.

(5) **Decision final.** – The decision of the Special Education Tribunal is final and binding on the parties to the decision.

Regulation 181/98, section 31(1)

31. (1) The board shall implement a decision under subsection 30 (1) when one of the following events occurs:

- 1. A parent of the pupil consents in writing to the decision.
- 2. Thirty days have elapsed from receipt of the notice under subsection 30 (1) by a parent of the pupil and no appeal has been commenced in respect of the decision under section 57 of the Act.
- 3. An appeal under section 57 of the Act from the decision is dismissed or abandoned.

Written Request for a Tribunal Hearing

Parents who disagree with the identification and/or placement decision made by the school board following a meeting of an Identification, Placement and Review Committee (IPRC), and a subsequent meeting with an appeal board, have the right to request a hearing by the Ontario Special Education Tribunal. A request for a tribunal hearing is made in writing to the secretary of the tribunal at the Ministry of Education. The request should include the name of the parent and the name and age of the child, the child's school board, and a very brief description of the nature of the appeal (e.g., appeal of an identification that a child is or is not exceptional; appeal of a placement). The letter should include information about the parent's mailing address, telephone numbers (day and evening), and fax number and/or e-mail address, if available.

In addition, the letter may name an advocate, agent, or lawyer who will act on behalf of the parent. In this case, the tribunal secretary will communicate with this person rather than with the parent. The letter should also give information on how the agent, advocate, or lawyer may be contacted. There is no obligation to have a lawyer or advocate, and in many tribunals, parents have acted on their own behalf.

Correspondence should be addressed to:

Secretary, Ontario Special Education Tribunal
Ministry of Education
Special Education Policy and Program Unit
2 Carlton Street, Suite 710
Toronto, Ontario
M5B 1J3

Preliminary Discussion With Tribunal Secretary

Upon receipt of a written request from the parent, the tribunal secretary will forward a copy of it to the school board, informing the board of the request for the tribunal and requesting the name of a contact person.

The secretary will contact both the parent and the designated school board official by telephone or in writing to determine whether they have considered and/or attempted any alternative means, such as mediation, for resolving the dispute. If either the parent or the board is interested in pursuing mediation, the secretary may provide information about the mediation process and/or assistance in initiating mediation. If the parent and school board agree to mediation, the tribunal preparations are suspended by the secretary, pending the outcome of the mediation. If mediation fails, the tribunal request will be reactivated. The mediation process is described in the preceding section.

Once it is determined that the parties will be proceeding to a tribunal hearing, the secretary will contact the tribunal members to determine a number of possible dates. The parent and the school board will then be contacted to determine which dates are most convenient. For the convenience of the participants, the hearing is usually held within the geographic jurisdiction of the school board. Generally, a site that is not on school board property is selected – for example, a government office or a hotel. Depending on the complexity of the case, two, three, or more days are reserved for the hearing. At least one month's advance notice is required to allow for the preparation and exchange of documents, as described below. Preparation time of more than one month may be required if there are difficulties in finding suitable dates or the parent and/or the school board require extra time to prepare their cases.

Both the parent and the school board may decide to present the case themselves or to be represented by an agent, advocate, or lawyer. Because a tribunal hearing is a quasi-judicial process in which the formal rules of evidence apply and in which witnesses are called and cross-examined, representation by a lawyer or by an experienced agent or advocate can be of assistance to the parties. Also, experience has shown that professional representation at the hearing increases the likelihood that all material aspects of the case will be presented clearly to the tribunal and helps the hearing to proceed in an orderly fashion.

On the other hand, the cost of a lawyer or advocate can be a deterrent to a parent or a school board. Parent associations (many of which are represented on the school board's SEAC) may be able to provide some assistance for their members and for parents whose children's disabilities fall within their mandate. They may also be able to recommend lawyers or advocates to assist parents in preparing for the hearing.

Exchange or Disclosure of Information

In order to ensure an effective and efficient hearing, both parent and school board are requested to disclose certain information concerning their cases in advance of the hearing. **To ensure the impartiality of the tribunal members, all communication in preparation for the tribunal hearing must be through the tribunal secretary.**

Once the dates and place for the hearing have been set, the secretary will advise both the parent (or his or her representative) and the board (or its representative), at the same time and in writing, of the times, dates, and place of the hearing. The following information will be requested from the parent:

- a statement of the grounds for the appeal (i.e., What aspects of the school board's decision on identification and/or placement is the parent objecting to?);
- a statement of the remedy sought (i.e., What does the parent want the tribunal to order the school board to do?);
- notice of whether the parent intends to call witnesses and, if so, how many;
- an estimate of how long it will take to present the parent's case;
- a list of any preliminary issues the parent intends to raise at the start of the hearing.

The tribunal secretary's letter will also give the parent a date (not later than two weeks before the commencement of the hearing) by which this information should be received by the tribunal secretary.

Upon receipt of the requested information from the parent, the tribunal secretary will forward copies to the school board or its representative and to the tribunal members. The covering letter to the school board will request the following material in response to the parent's disclosure information:

- a response to the parent's statement of grounds;
- a response to the parent's remedy sought and the remedy offered by the board;
- notice of whether the board intends to call witnesses and, if so, how many;
- an estimate of how long it will take to present the board's case;
- a list of any preliminary issues the board intends to raise at the start of the hearing.

The letter will also give the board a date (not later than one week before the commencement of the hearing) by which this information should be received by the tribunal secretary. On receipt of this information from the board, the secretary will forward a copy to the parent or his/her representative, and to the tribunal members.

If a party has reason to believe that a chosen witness might not appear, he or she may ask the chair of the tribunal (preferably before the hearing, through the tribunal secretary) to summon the person to appear as a witness, and/or to produce documents or other materials needed in evidence.

The Hearing Panel

Each tribunal panel is made up of three members. Usually, the chair of the tribunal selects two other members to sit with him or her to hear the dispute. All tribunal members are appointed by Order-in-Council and generally serve three-year terms. The composition of the panels may vary, as the chair may select different tribunal members for each hearing.

The Hearing Procedure

The following briefly outlines the order of business at a tribunal hearing. The tribunal follows the rules of the Statutory Powers Procedure Act (SPPA), a copy of which is sent to each party. In addition, the tribunal has discretion to alter the process somewhat to meet the needs of the parties.

1) Introductory Statement by Chair of Tribunal

- Call to order.
- Introduction of tribunal members, secretary, and court reporter.
- Introduction of participants.
- Procedural matters. The chair of the tribunal reviews the times scheduled for recesses and adjournment.
- The chair briefly outlines the procedures to be used to present evidence and testimony, and the role of the tribunal members.

2) Preliminary Issues

The chair will ask whether there are any preliminary matters to be dealt with before the hearing begins. Examples of preliminary issues are:

- request for disclosure of additional material;
- request that the hearing be closed to the public.

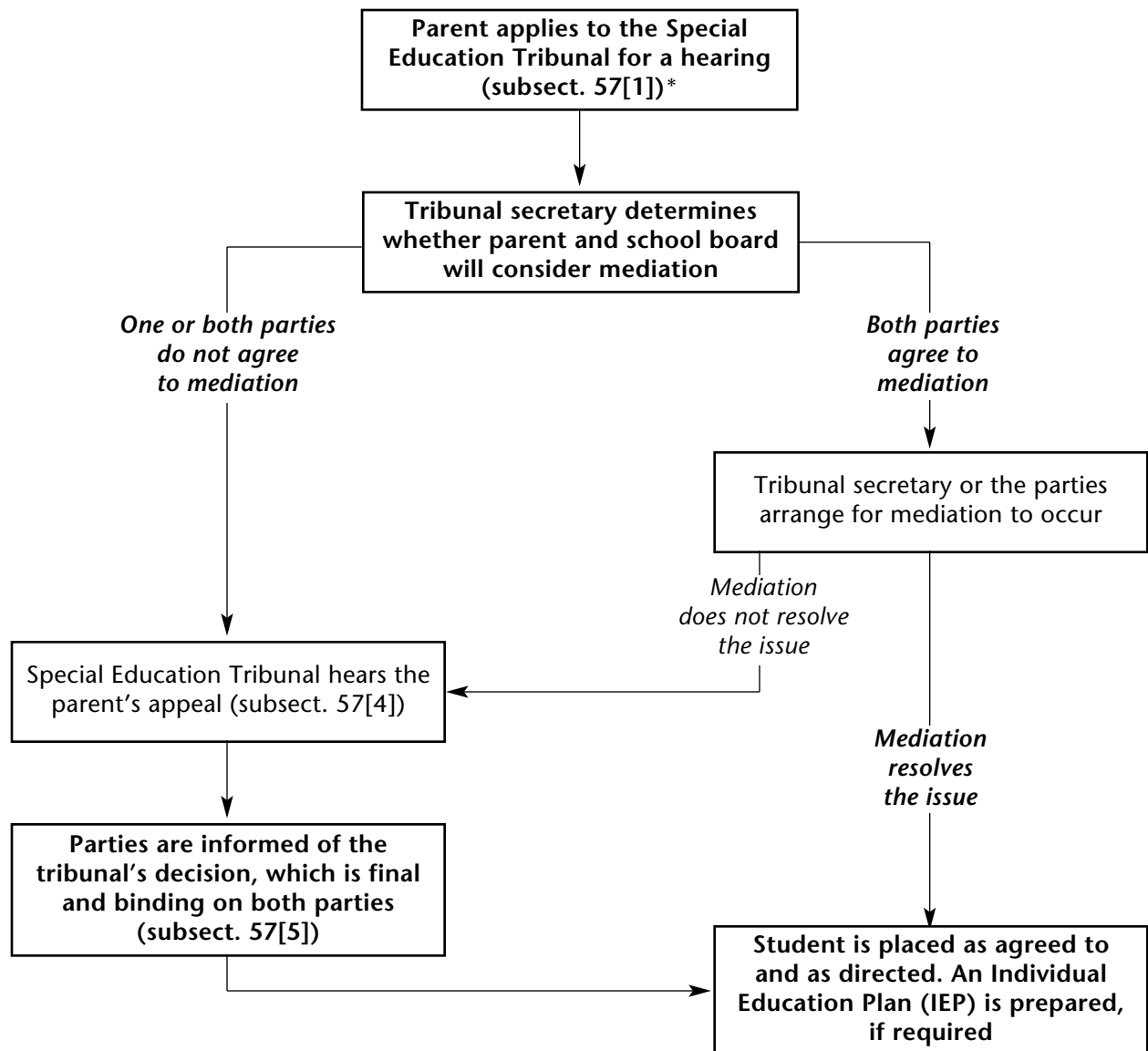
If a preliminary issue is raised, the tribunal will hear the party raising the issue, the response of the other party, and the requester's reply to the response, if any. The chair may then call a recess for the tribunal members to confer and come to a decision regarding the preliminary matter.

3) Participants' Opening Statements

The chair asks the parent and the school board for opening statements to summarize the issues as each sees them.

After the opening statement, the parties begin the process of introducing evidence to support their arguments. Generally, the evidence is introduced through witnesses whose testimony supports the position of the

Figure D.2: Special Education Tribunal Process



* Legal references are to the Education Act.

party presenting the witness. There is no set number of witnesses that a party must bring to the hearing. However, if the number is large, and the other party objects, the tribunal may limit the number of witnesses.

4) Testimony of Witnesses

The parent begins.

- a) Testimony by witnesses for the parent. As each witness is called, the chair indicates where the witness is to sit and the witness is sworn in. The chair asks the witness to state his or her name and occupation.
 - (i) The chair then requests the parent or his or her representative to proceed with the examination (i.e., questioning) of the witness.
 - (ii) At the completion of questioning, the chair asks if the school board representative wishes to cross-examine the witness.
 - (iii) The chair asks the parent if he or she wishes to re-examine the witness in light of the cross-examination.
 - (iv) The members of the tribunal may ask the witness questions for clarification.
- b) Testimony by witnesses for the board.

Steps (i) to (iv) under (a) above are repeated, with the roles of parent and board reversed.

5) Documentary (Written) Evidence

Documents and other items submitted in evidence are usually introduced through the testimony of a witness who establishes the authenticity of the document or item and who may be asked questions about it. If parties wish to introduce documentary evidence directly, without a witness, it is up to the tribunal to decide whether such evidence should be included. Copies of documents should be provided to the other party, the tribunal members, the secretary, and the court reporter. When accepted in evidence, a document is given an exhibit number by the secretary, who keeps a list of all the exhibits submitted by each party. The exhibits become part of the permanent tribunal record.

6) Summary Statements

The chair asks the parents and the school board to summarize their positions. The parent may reply to the board's summary. (Note that no new evidence or testimony may be introduced at this time.)

7) Closing Statement by the Chair

The chair will indicate whether additional written information is to be submitted and, if so, when. The chair will also inform the parties when the decision is likely to be released.