



Policy n° 2000-CA-03:	Reconsideration of a Decision Affecting a Student	
Approved: March 22, 2000	Resolution n°	000322-CA-0177
Revised:	Resolution n°	CC-141112-CA-0065
Origin:	Education Act (R.S.Q., Chapter I-13.3)	

NOTE: The masculine gender, when used in this document, refers to both women and men. No discrimination is intended.

1.0 TITLE

POLICY FOR THE RECONSIDERATION OF A DECISION AFFECTING A STUDENT

2.0 PURPOSE

2.1 To set forth the right of a student or the parents of a student to appeal a decision

As stipulated in section 9 of the Education Act, a student or his/her parents have the right to appeal a decision affecting such student and which was taken by one of the following authorities: council of commissioners, executive committee, governing board, officer or employee of the school board.

A student or parents of a student affected by a decision of the council of commissioners, the executive committee or the governing board, or of an officer or employee of the school board may request the council of commissioners to reconsider such decision. (R.S.Q., s.9)

2.2 To establish the responsibilities of the school board toward a student or the parents of a student appealing a decision.

2.2.1 By virtue of sections 11 and 12 of the Education Act, the school board must dispose of a request to reconsider a decision without delay.

The council of commissioners shall dispose of the request without delay.

It may submit the request for examination by a person whom it designates or by a committee which it establishes; such person or committee shall make a report of his or its findings and accompany the report, if it seems appropriate to do so, with recommendations.

During the examination of the request, the interested parties shall have the opportunity to present their point of view. (R.S.Q., s. 11)

The council of commissioners may, if it considers that the request is founded, overturn, entirely or in part, the decision contemplated by the request and make the decision which, in its opinion, ought to have been made in the first instance.

The person who made the request and the author of the contested decision shall be notified of the council's new decision and informed of the grounds on which it was made. (R.S.Q., s. 12)

2.2.2 It is also the duty of the school board to provide students and their parents as well as the personnel with general information on the content of sections 9 to 12 of the Education Act.

On the one hand, students and their parents must be informed of their right to appeal a decision that affects them.

On the other hand, the personnel must be informed of the possibility to have to account for certain decisions before the council of commissioners.

Such general information is forwarded each year by the school administration at the same time as all other documents pertaining to the start of the new school year.

2.2.3 The school board must transmit specific information to the appellant. Upon receipt of a request to reconsider a decision, submitted by a student or the parent of a student, the Secretary General must explain the policy to the appellant and provide him/her with a form on which the appellant describes the reasons why he wishes the board to reconsider the decision.

2.3 **Obligation to implement sections 9 to 12 of the Education Act.**

The purpose of this policy is:

- to facilitate the implementation of the relevant sections of the Law;
- to insure that every request to reconsider a decision is disposed of within a reasonable period, with rigour and objectivity, in order to render justice to the student or the parents of a student exercising their rights.

* Articles 9 through 12 of the Education Act are intended to safeguard the rights of an individual student. These articles are not intended to dispose of class action requests.

3. **DEFINITIONS**

3.1 **Student:**

A youth enrolled in preschool education services or in elementary or secondary school instructional services, whether in general education or vocational training, or an adult enrolled in adult education services.

3.2 **Parent:**

The person having parental authority or, unless that person objects, the person having custody *de facto* of the student. (R.S.Q., s. 13 (2))

3.3 Interested parties:

- the student or his/her parents and, in some instances, their representative;
- the author or authors of the contested decision.

3.4 Administrative unit:

- each of the following entities: school, centre or service under the authority of a director or a principal.

3.5 Appellant:

- the student affected by a decision or the parents of such student who are requesting the council of commissioners to reconsider a decision which affects them, because they feel their rights have been infringed upon.

4.0 PRINCIPLES

4.1 A student or the parents of a student who believe their rights have been infringed on may appeal a decision that affects them.

4.2 Such student or his/her parents have the right to present their point of view and their comments during the examination of their request by the Appeals Review Committee.

4.3 Any appeal must be disposed of with impartiality.

5.0 OBJECTIVES

5.1 General objective

To specify the provisions provided for in the Education Act concerning the right of a student or his/her parents to appeal a decision.

5.2 Specific objectives

- To entitle a student or his/her parents to appeal a decision and to obtain a fair and impartial decision without delay.
- To encourage the revision of a decision by the authority closest to where the decision was made and to the satisfaction of all interested parties.

6.0 APPEAL PROCEEDINGS

6.1 Appeal to the author of the decision

6.1.1. Before submitting a request to reconsider a decision made by an employee, the student or his/her parents should contact the author of the decision (in person, by phone or in writing) in an attempt to solve the conflict by exchanging points of view.

6.1.2 In order to resolve the problem a second meeting should be held if no resolution was obtained during the initial contact.

6.2 Transmission of the request to the Secretary General

Failing to reach an agreement with the author of the decision, a request is transmitted to the Secretary General.

The request must be made on the form "*Request to reconsider a decision concerning a student* (Annex 1) and transmitted to the Secretary General within 30 days of notification of the decision. *The Secretary General shall assist the student or parents of a student requiring assistance in the formulation of their request. (R.S.Q., s.10)*

6.3 Appeal to the director or principal of the administrative unit

The request to reconsider a decision must be transmitted by the Secretary General to the director or principal of the administrative unit concerned within five (5) working days of receiving the request.

The director or principal of the administrative unit must study the file and make a decision, within five working days of receiving the request, to maintain, overturn, entirely or in part, or revise the initial decision. The director or principal of the administrative unit will advise the Secretary General of his/her decision.

6.4 Appeal to the director general

When a request is not solved to the satisfaction of the appellant by the director or principal of the administrative unit concerned, the Secretary General will submit it to the director general.

The director general will in turn study the file and make a decision, within five (5) working days of receiving the request, to maintain, overturn, entirely or in part, or revise the initial decision.

6.5 Appeal to the Appeals Review Committee

Should the director general decide to maintain the decision, and should the student or the parents of the student wish to pursue the appeal, the request must be transmitted to the Appeals Review Committee.

The Secretary General must advise the appellant and the author of the decision under consideration that the request has been transmitted to the Appeals Review Committee.

7.0 APPEALS REVIEW COMMITTEE

7.1 Functions

- To receive and review all requests to reconsider a decision.
- To give all interested parties the opportunity to present their points of view.
- To hear the points of view of experts, if need be.
- To submit its recommendations in writing to the council of commissioners.

7.2 Composition

- 7.2.1 The Appeals Review Committee is composed of five (5) commissioners and the director general or his delegate. The Secretary General may attend a meeting of the committee as a resource person, but cannot take part in the deliberations. The director general participates in the deliberation but is not entitled to vote.
- 7.2.2 The Chair of the Appeals Review Committee will be elected from among the five (5) commissioners.
- 7.2.3 The Secretary General will convene the members of the committee.
- 7.2.4 The members of the Appeals Review Committee must desist in any matter in which a member is in a conflict of interest and must so inform the director general.

7.3 Quorum

- 7.3.1 The quorum of the Appeals Review Committee is established at three (3) commissioners.

7.4 Hearing

- 7.4.1 The Appeals Review Committee determines the persons who will be called upon to present their points of view (interested parties, experts), as well as the time and the order in which they will be heard.
- 7.4.2 The Secretary General will convene, verbally or in writing if there is sufficient time, the persons to be heard. These persons may be recalled before the committee to provide additional information.
- 7.4.3 Hearings are held "*in camera*" and in the presence of all parties concerned.

7.5 Follow-up

- 7.5.1 After the hearing, the members of the committee debate on the request.
- 7.5.2 As soon as possible after reaching a decision, the chairperson of the committee must present a report to the council of commissioners, which includes the request and the committee's recommendations.
- 7.5.3 The appellant is informed of the date, time, and place at which the council of commissioners will receive the recommendations of the Appeals Review Committee.

8.0 DECISION OF THE COUNCIL OF COMMISSIONERS

- 8.1 *By virtue of the Education Act, the council of commissioners has the power to make the decision which, in its opinion, ought to have been made in the first instance. (R.S.Q., s.11)*

8.2 The council of commissioners will consider the recommendations of the Appeals Review Committee. It may, if it considers that the request is founded, overturn, entirely or in part, the decision contemplated by the request.

8.3 The decision of the council of commissioners is final.

9.0 NOTIFICATION OF DECISION

9.1 Following the meeting of the council of commissioners, the Secretary General must notify both parties verbally of the council's decision. (Refer to 7.5.3.)

9.2 Within five (5) working days of the meeting of the council of commissioners, the Secretary General must transmit the council's decision to the appellant by registered mail and provide the grounds on which it was made. The resolution must also be forwarded to the author of the contested decision and to his/her immediate supervisor. Copy of said resolution is placed in the student's file.

10.0 IMPLEMENTATION AND REVISION OF THE POLICY

10.1 This policy will come into effect the day of its adoption by the council of commissioners.

10.2 The Secretary General will ensure that this policy is revised three years following the date of its coming into force.