

EDUCATION APPEAL TRIBUNAL

HEARING PROCEDURES

1. Formal call to order by Chair
2. Introductory Statement by Chair
 - a. Introduction of Education Appeal Tribunal members and Secretary
 - b. Preliminary matters
 - i. introduction of participants (refer to party making the appeal as “party appealing” and party whose decision is under appeal as “party whose decision has been appealed”)
 - ii. notice of hearing from Secretary
 - iii. tape recording for hearing
 - iv. identification of type of appeal (student suspension, special needs, etc.)
 - v. Chair may explain that no smoking or eating will be allowed, and may give the time schedule for recesses and adjournment.
 - c. Open meeting. The Chair shall advise that the hearing is an open hearing unless:
 - i. both parties agree that it shall be a closed hearing;
 - ii. one party requests a closed hearing and the Education Appeal Tribunal agrees with the request after having considered the request in private; or
 - iii. the Education Appeal Tribunal decides in its discretion that the hearing shall be a closed hearing.
 - d. Witnesses. The Chair shall advise whether the witnesses shall be permitted to stay during the hearing or whether they will be excluded from the hearing until they give their evidence. Both parties shall be entitled to have one spokesperson and one additional person remain in the hearing.
3. Opening of formal hearing

a. Format

- i. The Chair shall ask the parties if either has any objection based on a conflict of interest to any member of the Education Appeal Tribunal participating in the Appeal. The Chair is required by the Education Act to hear the Appeal. If either or both has an objection, the Chair shall request that party to provide reason(s) for the objection. After the reason(s) for the objection are given, the Education Appeal Tribunal shall make a ruling on the eligibility of the member of the Education Appeal Tribunal to participate in the Appeal. If necessary, the deliberation of the Education Appeal Tribunal shall be in private.
- ii. The Chair shall briefly outline the format to be followed, the procedures to be followed, the procedures to be used to present evidence and testimony, and the responsibility of the Chair to elicit further information, as necessary. It is suggested that all statements made during the hearing be addressed to the Chair. (An obvious exception would be discussions between parties and their own counsel).

b. Opening Statement

The Chair asks for opening statements from each party to summarize the issues as each sees it.

c. Presentation of evidence

i. Written evidence

The Secretary shall distribute copies of written materials to the members of the Education Appeal Tribunal that have been received from the parties. Any written evidence that is presented at the hearing either by the Secretary or by the parties shall:

- A) be checked by the Chair
- B) determined to be authentic

- C) stamped and given and identity number
- D) initialed by Chair
- E) filed with Secretary with copies for Education
Appeal Tribunal members and the parties.

- ii. The Chair requests the party appealing to proceed with the appeal. This may be done by the party appealing providing information or by the party appealing and a representative providing information personally and/or through witnesses.
- iii. When a witness is called the Chair indicates where the witness is to sit in swears the witness. Chair asks witness to state name and address.
- iv. At the completion of questioning of each witness by or on behalf of the party appealing, the Chair asks if the party whose decision is under appeal wishes to question the witness. There shall be an opportunity for the witness to clarify what he or she said if the witness wishes to do so.
- v. The Chair asks the party whose decision is under appeal to proceed with any response. This may be done by the party personally or by the party and/or a representative and/or through witnesses.
- vi. At the completion of questioning of each witness by the party whose decision is under appeal, the Chair asks if the party appealing wishes to question the witnesses. There shall be an opportunity for the witness to clarify what he or she has said if the witness wishes to do so.
- vii. The Chair provides opportunity for a reply by the party appealing or its representative. This is limited to new information concerning matters brought forward by the party whose decision is under appeal.
- viii. The members of the Education Appeal Tribunal may ask any person questions of clarification. However, members should

permit each party to develop line of reasoning with undue interference. Questions for additional information should occur after questioning by both parties.

- ix. The Chair asks if there will be further need of each person at the conclusion of the questioning of that person. If so, the person is asked to remain to be called at a later time. Otherwise, the Chair thanks the person for the information and the person may leave.

4. Summary Statements

- a) The Chair asks for a Summary Statement of the appealing party's position.
 - b) The Chair asks for a Summary Statement of the party whose decision is under appeal's position.
 - c) The party appealing shall have an opportunity to reply to the Summary Statement of the party whose decision is under appeal. This reply is limited to matters raised by the party whose decision is under appeal that were not covered by the party appealing in the initial statement.
5. Closing statement by the Chair that will include when the decision of the Education Appeal Tribunal is expected to be made.
 6. The Education Appeal Tribunal may change these hearing procedures at any time provided either party does not have its position adversely affected by the change.
 7. The Education Appeal Tribunal may adjourn any hearing on the request of either party or on its own initiative.
 8. The rules of evidence shall not apply to a hearing by the Education Appeal Tribunal.
 9. Either party of Education Appeal Tribunal may obtain legal assistance for a hearing.
 10. The Education Appeal Tribunal may expel any person from a hearing if that person refuses to abide by the rulings of the Education Appeal Tribunal.

11. At the end of a hearing, the Education Appeal Tribunal shall decide if any costs of either party shall be paid for out of the budget of the Education Appeal Tribunal.
12. The party appealing may withdraw an appeal at any time before or during a hearing.
13. At the commencement of a hearing, the Chair shall advise if any person or entity in addition to the parties has been given notice of the hearing and is in attendance at the hearing. If that person or entity wishes to participate in the hearing, the Education Appeal Tribunal shall determine what the participation may be after having heard from the parties on the participation of that person or entity.
14. At any time during the hearing, the Education Appeal Tribunal may decide to obtain assistance from experts or consultants. Any information from experts or consultants shall be shared with the parties and an opportunity shall be provided to the parties to respond to the information.