

Yukon Education Appeal Tribunal

“EAT”

Who we are

What we do

Why you need to know

How we manage appeals

Education Appeal Tribunal

The Education Appeal Tribunal (EAT) is a quasi-judicial board established by the Education Act (the “Act”) to hear appeals on issues related to decisions made by the Education Department, School Councils or Boards and/or School officials.

The chair, a maximum of nine other members and a secretary are appointed by the Minister following nominations for membership from groups interested in education in the Yukon, which includes a member nominated by the Central Indian Education Authority or, if the Central Indian Education Authority has not been established, by the Council for Yukon First Nations.

- ▶ When the Education Appeal Tribunal receives an appeal, their process begins with the Chair reviewing the appeal, and setting a date for a prehearing conference meeting to establish:
 - That the EAT has jurisdiction to hear the appeal
 - All who have interest are identified as parties to the appeal
 - Whether the parties wish to engage in “mediation” prior to the appeal being heard
- ▶ If a hearing is necessary, the EAT is composed of the Chair and at least two other members, and, where possible, the qualifications of the members of the Education Appeal Tribunal shall be appropriate to the matter under consideration by the Tribunal.
- ▶ The chair may call on any experts or consultants considered advisable to report to the Education Appeal Tribunal.
- ▶ The chair and the members of the Education Appeal Tribunal shall swear an oath of non-disclosure of any information gained during an appeal.

Quasi-Judicial Board:

Board or Tribunal created by Legislation to perform the judicial role of adjudicating on individual matters that come before them and any other role set out in their enabling Statute.

Before the consideration of an appeal by the Education Appeal Tribunal, the chair may appoint a mediator to attempt to settle the matter under appeal.

Mediation is a process where the parties meet and, with the assistance of an independent third party (the mediator) try to find appropriate solutions and resolution to the issues germane to the appeal.

The Education Appeal Tribunal may make an order confirming or varying the decision that is under appeal which:

- ▶ identifies a student who has special educational needs and/or what the special needs may be
- ▶ directs the implementation of an Individualized Education Plan and/or that an Individualized Education Plan be prepared
- ▶ directs a student be enrolled in a particular school
- ▶ apportions costs of services required for an IEP
- ▶ defines the contents of a student record
- ▶ considers the suspension of a student of more than 14 days
- ▶ considers a proposal for a locally developed course of study

When considering an appeal, the EAT is required to consider not only the facts of the appeal as it pertains to a particular person, but also the impact of a decision on the total population of the student body and any other factor that appears to be relevant to the matter in dispute.

Procedures

The Education Appeal Tribunal may make any investigation it considers necessary in considering the matter being appealed.

The Education Appeal Tribunal sets the time, place and date for a hearing and shall notify the parties of the time, place and date of the hearing, which may be in any place or community.

This is usually done, however, in consultation with the parties since the EAT must give the parties an opportunity to make representations to the EAT.

Each party to the appeal shall pay their own costs unless the Education Appeal Tribunal orders costs.

The decision of the Education Appeal Tribunal is final and binds the parties to any such decision, and may be filed with the clerk of the Supreme Court which means the order has the same force and effect as if it were an order of that Court.

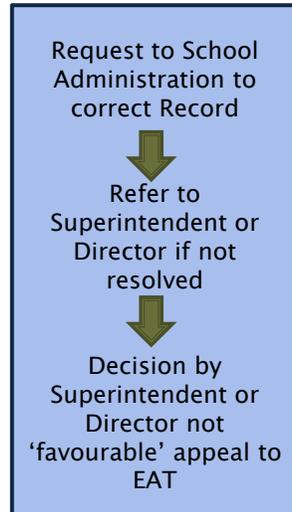
A copy of the decision is also provided to the Minister.

Student Suspensions > 14 days

- ▶ A student or a parent of a student may appeal within 14 days of receipt of a suspension decision by a School Board, Council or superintendent to the Education Appeal Tribunal.
- ▶ **The School Board, Council or superintendent shall inform the student and the parents of the student of their right of appeal.**

Student Record

- ▶ If a person is of the opinion that the student record contains inaccurate or incomplete information, that person may request the school administration to rectify the record.
- ▶ Any dispute arising may be referred to the superintendent or director who shall review the request and provide direction to the school administration.
- ▶ Any dispute that is not resolved may be appealed within 14 days of the direction of the superintendent or director to the Education Appeal Tribunal.



Locally developed course of study

If the Minister rejects a proposal for a locally developed course of study, the School Board, Council or a Local Indian Education Authority may appeal within 30 days of receiving notice to the Education Appeal Tribunal.

- ▶ A locally developed course of study may constitute up to 20 per cent of the educational program offered to any student in a semester or a school year.
- ▶ The Minister shall approve or reject a proposal for the development of a locally developed course of study within 30 days of its receipt and shall provide reasons for any rejection.

Special needs appeals

If a disagreement arises respecting

- ▶ the identification of a student as a student with special educational needs;
- ▶ the Individualized Education Plan established for a student;
- ▶ a request by a parent for decision regarding process for the determination of special need and options;
- ▶ a decision regarding the implementation of the Individualized Education Plan in an environment other than the regular class;
- ▶ a decision not to implement an Individualized Education Plan in a school where the student would normally attend; or
- ▶ the apportionment of costs, including non-educational costs, for the provision of an Individualized Education Plan,

the parent, student, School Board, Council, or deputy minister may, within 14 days of the decision, appeal the matter to the Education Appeal Tribunal.

Students who, because of intellectual, communicative, behavioural, physical, or multiple exceptionalities are in need of special education programs, are **entitled** to receive a program outlined in an Individualized Education Plan.

A student who is entitled to an Individualized Education Plan shall have the program delivered in the ***least restrictive and most enabling environment to the extent that is considered practicable*** by the deputy minister or by a School Board in consultation with professional staff and parents, having due regard for the educational needs and rights of all students.

Determination of special Educational Needs

If a child is attending school, it is the **school administration** who determines Special Educational Needs after consultation with professional staff and parents.

If a child is not in attendance at a school, the **deputy minister**, in consultation with professional staff and parents makes such determination.

The assessments necessary are determined by the department (multi-disciplinary, if appropriate)

- ▶ if psychological and/or other specialized tests that are not routinely used by teachers are deemed necessary, **written informed consent by a parent for the shall be obtained**;
- ▶ Parents **shall** be invited to be members of school based team that is established for their child and the results of any assessment **shall** be provided and explained to the parent

“I.E.P.” – Definition:

“Individualized Education Plan” (IEP) is a document which outlines the educational program for a student as determined by a school based team, containing a description of:

- ▶ the student’s present level of functioning;
- ▶ long term or annual goals;
- ▶ short term goals or specific behavioural objectives;
- ▶ special resources required;
- ▶ suggested instructional materials,
- ▶ methods and strategies;
- ▶ IEP review dates;
- ▶ persons responsible for the implementation of the IEP, including parents;
- ▶ and **parents’ written, informed consent for implementation**

- ▶ A parent (if appropriate, the student) shall be consulted before the establishing and/or implementing an I.E.P.
- ▶ **If the parents are not willing to sign the I.E.P., they shall be provided with information concerning their right of appeal to the Education Appeal Tribunal.**

School Councils – 113

(1) A Council shall:

(a) review, modify if necessary, and approve the school objectives, educational priorities and courses of study by grades, as prepared by the school administration, **and other matters required for the effective functioning of the school**;

(d) in consultation with the superintendent, school administration and teachers, **establish a procedure for resolving disputes between schools, parents and teachers**;

(i) establish an attendance policy for students who are enrolled in its school

(2) A Council may:

(a) propose and offer locally developed courses of study and locally approved instructional materials subject to the approval of the Minister and this Act;

(e) **establish rules and policies on any matter within its jurisdiction**