



Draft Special Education Identification, Placement and Appeal Procedure

Special Education Advisory Committee
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Louise Sirisko

Associate Director, Instructional Innovation and Equitable Outcomes

Nandy Palmer

System Superintendent, Special Education and Inclusion

Krish Chakraborty

System Officer – Performance Strategy & Senior Legal Counsel

Vitaliy Plotnikov

Policy Coordinator

Purpose of Tonight's Discussion

SEAC is being asked to provide thoughts on the new (recommended) procedure for making decisions on recommendations made by the Special Education Appeal Board (SEAB) when a parent appeals an IPRC decision

Considerations:

- SEAB can make recommendations, not binding decisions
- School boards are not required to follow the recommendations of the SEAB
- Parents/guardians/caregivers can still appeal the IPRC decision after this step (to the Ontario Special Education Tribunal - OSET)

Legislative Background

- TDSB is required to follow Reg 181/98 for identification and placement of exceptional pupils
- IPRC (Identification, Placement, Review Committee) is established to determine identification and placement for exceptional pupils
- Reg 181/98 sets out appeal process for parents/guardians/caregivers if they disagree with the IPRC decision
- Legislation is unclear on whether it is the Board of Trustees or Director/designate who have the decision-making authority re: appeal of identification and placement recommendations by Special Education Appeal Board (SEAB)

IPRC and Appeal Procedure

Step 1

- IPRC convened at the request of Parent/Guardian/ Caregiver or Principal and decision made on identification/placement

Step 2

- If Parent/Guardian/Caregiver disagree with the decision, they can:
 - (a) within 15 days of the decision request an IPRC reconvene to revisit the decision; or
 - (b) file a notice of appeal with TDSB

Step 3

- If parent files Notice of Appeal, TDSB must convene a Special Education Appeal Board (SEAB) to hear the appeal
- Within 15 days of Notice of Appeal, TDSB and parent will select one member each. Within 15 days of TDSB/parent selection, the 2 members will select a third member who will act as the Chair of SEAB
- Within 30 day of being selected, Chair will arrange a SEAB meeting to take place

Step 4

- Within 3 days of the meeting, SEAB will make recommendation, which can include an agreement with IPRC decision or a disagreement with the IPRC decision and recommendation that a different decision be made

Step 5

- Within 30 days of receiving SEAB's report, TDSB will decide on what action to take with respect to SEAB's recommendations*
 - **(Under the draft Procedure, TDSB noted above means a staff committee)**

Step 6

- Parents/Guardians/Caregivers may accept TDSB's decision or, in the case of disagreement, may appeal the decision to the Special Education Tribunal within 30 days of receiving TDSB's decision

*Importantly, SEAB can only make *recommendations* and not binding *decisions* – TDSB may consider SEAB's recommendations but is not required to follow them

Sources of Appeal

- IPRC appeals in TDSB are quite rare (1 appeal/year)
- In the last 5 years, we have only have only had 2 IPRC appeals (both involved the same student)
- The basis of both appeals was the provision of programs and services, which is not determined at the IPRC, but at the school level
- TDSB rejected the recommendations of the SEAB (which we are not obligated to accept)
- Both IPRC appeals were appealed to the Ontario Special Education Tribunal (OSET) by the parent and dismissed as having no merit

Historical Practice and Challenges at TDSB

- Historically, the entire Board of Trustees had final decision making authority on the recommendation(s) of the SEAB
- During the last IPRC appeal, the Board of Trustees expressed their discomfort with the process, given their lack of expertise and understanding of special education practices and processes
- This posed the following challenges:
 - Requirement of specialized knowledge and subject matter expertise in special education and governing legislation
 - Risk of personal student information being widely disseminated due to the nature of the appeal
 - Appeals quite rare (1 case per year) and therefore limited opportunity for Trustees to build capacity in the process
 - Decisions could result in significant financial consequences for the Board in provision of specific placements

Practice in other Ontario School Boards

- No consistent practice across school boards
- In some smaller school boards, the Director has decision-making authority
- In other small school boards, one staff member (in one case the Manager of Student Services) has decision-making authority
- In some school boards smaller than TDSB, the Board of Trustees have decision-making authority
- Some school boards have never gone through a SEAB process given the rarity of IPRC appeals

Recommendations

- Due to unclear legislative intent as to decision-making authority in IPRC appeals and rationale for staff with specialized expertise to determine IPRC appeals, TDSB recommends delegating decision-making authority of IPRC appeals to TDSB staff committee
- TDSB staff committee will comprise the System Superintendent of Special Education and Inclusion, the Superintendent of the Learning Network of the student, and an Associate Director or Executive Superintendent of a different Learning Network (or designate)
- Parents still have the option of appealing to the Ontario Special Education Tribunal (OSET) if they do not agree with the TDSB appeal decision

GPC Feedback

- On January 17th, staff presented the draft Procedure to GPC for receipt ([webcast](#) - 39:55 to 1:41:15)
- Feedback:
 1. trustees recognized/appreciated challenges of appeal process/practices as they currently exist;
 2. supported the need for specialized knowledge through Special Education and Inclusion staff on the committee;
 3. expressed concern/desire to maintain impartiality;
 4. suggested to:
 - a) clarify language around staff representative from another learning center **having no prior knowledge of the case**
 - b) include a Trustee on the committee

Next Steps

- The report seeking GPC approval will be provided at a subsequent GPC meeting. The report will include a recommended action for the Board to delegate authority to TDSB staff committee to make decisions related to special education appeals.
- It is expected that the Special Education Identification, Placement and Appeal operational procedure would come into effect in September 2024.



Thank you!



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