

PROPOSED AMENDMENTS TO SPECIAL EDUCATION LEGISLATION

PART 2: ONTARIO REGULATION 554/81

NOVEMBER 26, 1985

CURRENT LEGISLATION

## 1. In this Regulation,

(a) "Appeal Board" means a Special Education Appeal Board established by a board under section 4;

(b) "committee" means a Special Education Identification, Placement and Review Committee established under this Regulation and includes a Special Education Program Placement and Review Committee heretofore established under the regulations that meets the requirements of this Regulation for a Special Education Identification, Placement and Review Committee;

(c) "parent" includes a guardian of a pupil.  
O. Reg. 554/81, s. 1.

2.—(1) Where a board has established or establishes special education programs or provides special education services for its exceptional pupils it shall establish in accordance with section 3 one or more Special Education Identification, Placement and Review Committees and shall determine the jurisdiction that each such committee shall have.

## (2) A principal,

(a) may upon written notification to a parent of a pupil; or

(b) shall at the written request of a parent of a pupil,

refer the pupil to the committee or, having regard to the jurisdiction of the committees where more than one committee has been established, refer the pupil to the committee that the principal considers to be the most appropriate in respect of the pupil.

ISSUES AND COMMENTS

• Appeal Board is viewed as being too legalistic a term when informality is desired.

*no placement board*

Parents are concerned about the length of process.

PROPOSED AMENDMENTS

1.

## 1. In this Regulation,

(a) "Appeal <sup>Board</sup> Committee" means a Special Education Appeal ~~Committee~~ established by a board under Section 4.

(b) "committee" means a Special Education Identification, ~~Placement~~ and Review Committee established under Part 1 of this Regulation.

*Ident'n, Program Review Comm*  
*[Appeal Board - put back into Act]*

(c) "parent" includes a guardian of a pupil.

2. (1) Every board shall establish in accordance with section 3 one or more Special Education Identification Placement and Review Committees and shall determine the jurisdiction that each such committee shall have.

## (2) A principal,

(a) may upon written notification to a parent of a pupil, or

(b) shall at the written request of a parent of a pupil,

refer the pupil to the committee or, having regard to the jurisdiction of the committees where more than one committee has been established, refer the pupil to the committee that the principal considers to be the most appropriate in respect of the pupil and within 20 school days of the written notification or the written request of the parent forward to the parent the written determination of the committee with respect to the identification and/or placement of the pupil.



## CURRENT LEGISLATION

## ISSUES AND COMMENTS

## PROPOSED AMENDMENTS

2.

(3) Where a committee is engaged in identifying a pupil as an exceptional pupil or in determining the recommended placement of such a pupil, the committee shall obtain and consider an educational assessment of the pupil and,

- (a) where the committee determines that a health assessment or a psychological assessment or both of the pupil are required to enable the committee to make a correct identification or determination in respect of the pupil and with the written permission of the parent, obtain and consider a health assessment of the pupil by a legally qualified medical practitioner and obtain and consider a psychological assessment of the pupil;
- (b) where, in the opinion of the committee, it is practicable so to do, the committee shall, with the consent of a parent of the pupil, interview the pupil;
- (c) unless the parent waives or refuses to participate in an interview, the committee shall interview a parent of the pupil; and
- (d) the committee shall cause to be sent to a parent of the pupil and to the principal who has made the referral, as soon as possible after the making of its determination, a written statement of,
  - (i) the identification it has made of the needs of the pupil,

Boards have established a hierarchy of I.P.R.C.'s and a provision is therefore required to permit referrals between committees.

It is difficult for an I.P.R.C. to make an appropriate determination when there is not full disclosure of assessment information or when consent is withheld.

(3) (NEW) Subject to subsection (2) where a committee believes that it does not have jurisdiction to make a determination, it may with the consent of the appropriate supervisory officer make a referral to another committee of the board for a determination.

*Parent can also request referral. But may have to see more than 1 case comm.*

(4) When a committee is engaged in identifying a pupil as an exceptional pupil or in determining the recommended placement of such a pupil, the committee shall obtain and consider an educational assessment of the pupil and *additional assessments, or documentation, or witness, the parent wishes to provide.*

(a) where the committee determines that a health assessment or a psychological assessment or both of the pupil are required to enable the committee to make a correct identification or determination in respect of the pupil and with the written permission of the parent, obtain and consider a health assessment of the pupil by a legally qualified medical practitioner and obtain and consider a psychological assessment of the pupil.

(b) (NEW) Notwithstanding subsection (2) a committee may upon written notification to a parent defer a determination when a parent refuses to give written permission to a committee to obtain a psychological assessment or a health assessment.

(c) Where, in the opinion of the committee, it is practicable so to do, the committee shall, with the consent of a parent of the pupil, interview the pupil.

(d) Unless the parent waives or refuses to participate in an interview, the committee shall interview a parent of the pupil, and discuss the matter.

*What about full disclosure on part of committee?*

*Should need assess't - we put assessment?*

CURRENT LEGISLATION

- (ii) where, in the opinion of the committee the pupil is an exceptional pupil, the recommendation made in respect of the placement of the pupil, and
- (iii) the date the committee proposes to notify the board of its determination.

ISSUES AND COMMENTS

This proposed amendment is designed to prevent undue delays.

This proposed amendment is required because of the 10 day timeline proposed in clause 2 (4)(e).

PROPOSED AMENDMENTS

3.

- (e) (NEW) Subject to the written permission of a parent, the determination of a committee under clause 2 (f) becomes effective within 10 school days of the date of the determination.
- (f) The committee shall cause to be sent to a parent of the pupil and to the principal who has made the referral, in accordance with subsection 2 (2) after the making of its determination, a written statement of,
  - (i) the identification it has made of the learning needs of the pupil,
  - (ii) where, in the opinion of the committee, the pupil is an exceptional pupil,
  - (iii) the recommendation made in respect of the placement of the pupil, and  
*program, placement, review*
- (g) (NEW) Notwithstanding clause 2(4)(e) where a committee is engaged in a review of a placement of an exceptional pupil for the next school year, the determination of the committee shall become effective on the 1st school day of September next following.

*iii) the recommendation re provision of specialized programming & services to child in reg classroom setting.*

CURRENT LEGISLATION	ISSUES AND COMMENTS	PROPOSED AMENDMENTS	4.
<p>(4) A parent of a pupil may, prior to the date set out in a statement under subclause (3) (d) (iii) in respect of the pupil, upon written notice to the principal, request in writing a meeting with the committee to discuss the statement and the committee shall arrange to meet with the parent and the principal for such purpose.</p>		<p>(5) subsection 4 becomes subsection 5</p> <p>(6) subsection 5 becomes subsection 6</p> <p>(7) subsection 6 becomes subsection 7.</p>	
<p>(5) Each committee shall notify the director of education of the board, or the secretary of the board where the board does not have a director of education,</p>			
<p>(a) on or after the date set by the committee as set out in the statement; or</p>			
<p>(b) after the discussion of the statement held under subsection (4),</p>			
<p>of the determination made by the committee as set out in the statement and the change, if any, made in the determination as a consequence of such discussion and shall send a copy of such notice to the parent and the principal.</p>			
<p>(6) A board may establish procedures in addition to the requirements set out in subsection (3) that shall be followed by a committee.</p>			

## CURRENT LEGISLATION

(7) Each board that has established one or more committees shall prepare a guide for the use and information of parents that,

- (a) describes the circumstances in which and the procedures under which a pupil may be referred to a committee;
- (b) outlines the procedures referred to in subsection (3) and any additional procedures required by the board under subsection (6) that are required to be followed by a committee in identifying a pupil as an exceptional pupil and determining the recommended placement of the pupil;
- (c) explains the function of and the right to appeal determinations of a committee to the Appeal Board; and
- (d) sets out the provisions of section 6 of this Regulation,

and shall ensure that copies thereof are available at each school within the jurisdiction of the board and at the head office of the board and shall provide copies for the appropriate Regional Director of Education of the Ministry.

(8) Where a board provides schools or classes under Part XI of the Act, the board shall ensure that the guide referred to in subsection (7) is available in the English or French language as the case may be. O. Reg. 554/81, s. 2.

## ISSUES AND COMMENTS

Some parents appear to be unaware of board procedures.

*Bd. do not make clear  
parent rights or give open  
access to info. &  
procedures!*

## PROPOSED AMENDMENTS

5.

(8) Each board that has established one or more committees shall prepare a guide for the use and information of parents that,

- (a) describes the circumstances in which and the procedures under which a pupil may be referred to a committee.
- (b) outlines the procedures referred to in subsection (4) and any additional procedures required by the board under subsection (7) that are required to be followed by a committee in identifying a pupil as an exceptional pupil and determining the recommended placement of the pupil,
- (c) explains the function of and the right to appeal determinations of a committee to the Appeal Committee and,
- (d) sets out the provisions of section 6 of this Regulation,

and shall ensure that copies thereof are available at each school within the jurisdiction of the board and at the head office of the board and shall be provided to parents upon referral of a pupil to a Committee and shall provide copies for the appropriate Regional Director of Education of the Ministry.

(NEW)

(9) Where a board provides schools or classes under Part XI of the Act, the board shall ensure that the guide referred to in subsection (8) is available in the English or French Language as the case may be.

*How do parent become aware of  
IPRC*



CURRENT LEGISLATION

3.—(1) A committee shall consist of such number of members, not fewer than three, as the board that establishes the committee may determine, all of whom, subject to subsection (2), shall be appointed by the board and one of whom shall be a supervisory officer or a principal employed by the board, except that where the board does not employ a supervisory officer and employs only one principal, one of such members shall be a person approved by the appropriate Regional Director of Education.

(2) A supervisory officer referred to in subsection (1) may designate a person to act in his or her place as a member of the committee without the approval of the board.

(3) A member or trustee of the board is not eligible to be appointed as a member of a committee.

(4) Where an identification, placement or review of a placement under consideration by a committee is in respect of a secondary school pupil admitted to secondary school from a separate school, or in respect of a trainable retarded pupil of a divisional board whose parent is a separate school supporter where no separate school board having jurisdiction in the school division has been designated under subsection 72 (4) of the Act, the board that operates the secondary school, or the divisional board, as the case may be, shall advise the separate school board of the identification, placement or review under consideration and when requested so to do by the separate school board shall appoint as an additional member of the committee for the purpose only of such consideration,

ISSUES AND COMMENTS

This proposal provides for increased flexibility of membership and allows I.P.R.C.'s to meet when one or more members are absent.

This proposal eliminates any perception of bias.

*bias is real, not perceived*

PROPOSED AMENDMENTS

6.

- I P R C*
3. (1) A committee shall consist of such number of members, not fewer than three, as the board that establishes the committee may determine all of whom, shall be appointed by the board,
- (2) Three members of a committee constitute a quorum.
- (3) A member or trustee of the board is not eligible to be appointed as a member of a committee.
- (4) A principal making a referral under subsection 2(2) is not eligible to chair the committee that receives the referral.

*5) A parent may name a member of one person to the commit. from an org. which can make meaningful contribution to learning*

CURRENT LEGISLATION

ISSUES AND COMMENTS

PROPOSED AMENDMENTS

7.

(a) a supervisory officer or a principal of the separate school board from among the supervisory officers and principals designated for such purpose by the separate school board; or

(b) a provincial supervisory officer or other person designated by the Regional Director of Education for the region in which the head office of the secondary school or divisional board, as the case may be, is situate where the separate school board has appointed only one principal and does not employ a supervisory officer.

(5) Where a board provides a school or class under Part XI of the Act and is required to establish one or more committees under section 2 of this Regulation, it shall establish one or more additional committees,

(a) comprised of members who are French-speaking where French is the language of instruction in such school or class; or

(b) comprised of members who are English-speaking where English is the language of instruction in such school or class,

and where a pupil who is enrolled in such school or class is referred to a committee and a parent of the pupil so requests, the committee whose members are French-speaking or English-speaking, as the case may be, shall consider the identification, the placement and any review of the placement of the pupil. O. Reg. 554/81, s. 3.

It appears that some parents are not requesting a French Language I.P.R.C. because they are not aware of their rights.

(5) Where a board provides a school or class under Part XI of the Act and is required to establish one or more committees under section 2 of this Regulation, it shall establish one or more additional committees,

(a) comprised of members who are French-speaking where French is the language of instruction in such school or class; or

(b) comprised of members who are English-speaking where English is the language of instruction in such school or class,

and where a pupil who is enrolled in such school or class is referred to a committee, the committee whose members are French-speaking or English-speaking, as the case may be, shall consider the identification, the placement and any review of the placement of the pupil.



CURRENT LEGISLATION

4.—(1) A parent of a pupil who disagrees with,

- (a) the identification of the pupil as an exceptional pupil;
- (b) the decision that the pupil is not an exceptional pupil; or
- (c) the placement of the pupil as an exceptional pupil,

as determined by a committee, may give to the secretary of the board within fifteen days of the discussion referred to in subsection 2 (4), or in subsection 10 (3), as the case may be, a written notice of appeal of the determination of the committee and the board shall within thirty days of the receipt of the notice of appeal by the secretary establish and, subject to subsections 7 (1) to (5), appoint the members of an Appeal Board.

(2) Where the parent of a pupil gives notice of appeal under subsection (1), the notice shall indicate whether the disagreement with the decision of the committee is in respect of the matter referred to in clause (1) (a), (b) or (c) or in respect of both of the matters referred to in clauses (a) and (c), as the case may be, and shall include a statement that sets out the parent's disagreement with the decision. O. Reg. 554/81, s. 4.

ISSUES AND COMMENTS

Title change only.

PROPOSED AMENDMENTS

8.

4. (1) A parent of a pupil who disagrees with,

- (a) the identification of the pupil as an exceptional pupil,
- (b) the decision that the pupil is not an exceptional pupil
- (c) the placement of the pupil as an exceptional pupil,

as determined by a committee, may give to the secretary of the board within fifteen days of the discussion referred to in subsection 2(4), or in subsection 10 (3), as the case may be, a written notice of appeal of the determination of the committee and the board shall within thirty days of the receipt of the notice of appeal by the secretary establish and, subject to subsections 7 (1) to (5), appoint the members of an Appeal Committee. *Board*

(2) Where the parent of a pupil gives notice of appeal under subsection (1), the notice shall indicate whether the disagreement with the determination of the committee is in respect of the matter referred to in clause (1) (a), (b) or ~~(c)~~ or in respect of both of the matters referred to in clauses (a) and (c), as the case may be, and shall include a statement that sets out the parent's disagreement with the determination.

CURRENT LEGISLATION

5. An 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 (2) or in the failure of the parent, in the opinion of the Appeal Board, to accurately indicate in the notice of appeal the subject of the disagreement, and where, during the meeting referred to in subsection 7 (7), the true nature of the disagreement and the reasons therefor are ascertained, the notice of appeal shall be deemed to be amended accordingly and shall be so reported to the secretary of the board under subsection 7 (10). O. Reg. 554/81, s. 5.

6.—(1) An exceptional pupil shall not be placed in a special education program without the written consent of a parent of the pupil.

(2) Where a parent of an exceptional pupil,

(a) refuses or fails to consent to the placement recommended by a committee and to give notice of appeal under section 4; and

(b) has not instituted proceedings in respect of the determinations of the committee within thirty days of the date of the written statement prepared by the committee,

the board may direct the appropriate principal to place the exceptional pupil as recommended by the committee and to notify a parent of the pupil of the action that has been taken. O. Reg. 554/81, s. 6.

ISSUES AND COMMENTS

Title change only.

This section has been reworded to include exceptional pupils who are placed in 'regular classes'.

PROPOSED AMENDMENTS

9.

5. An Appeal ~~Committee~~<sup>Board</sup> 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(2) or in the failure of the parent, in the opinion of the Appeal Committee, to accurately indicate in the notice of appeal the subject of the disagreement, and where, during the meeting referred to in subsection 7 (7), the true nature of the disagreement and the reasons therefore are ascertained, the notice of appeal shall be deemed to be amended accordingly and shall be so reported to the secretary of the board under subsection 7(10), O. Reg. 554/81, s. 5.

6. (1) An exceptional pupil's placement<sup>program, place in</sup> shall not be made or changed without the written consent of a parent of the pupil.

(2) Where a parent of an exceptional pupil,

(a) refuses or fails to consent to the placement recommended by a committee and to give notice of review under section 4; and

(b) has not instituted proceedings in respect of the determinations of the committee within thirty days of the date of the written statement prepared by the committee,

the board may direct the appropriate principal to place the exceptional pupil as recommended by the committee and to notify a parent of the pupil of the action that has been taken.

No!  
No change can be made without  
written consent of parent. If  
no written consent within 30 days, offer  
is automatic



CURRENT LEGISLATION

7.—(1) A Special Education Appeal Board shall consist of three members none of whom shall have had any prior involvement with the matter under appeal.

(2) Where a pupil in respect of whom an appeal is brought under section 4 is enrolled in a school or class established under Part XI of the Act, a parent of the pupil may request that the appeal be conducted before an Appeal Board comprised of members who are French-speaking or English-speaking, as the case may be, and the board shall ensure that the request is complied with by appointing where necessary, a chairman and members of the Appeal Board who are French-speaking or English-speaking as required, and this subsection applies notwithstanding that the parent may not have requested that the identification, the placement or review of the placement of the pupil have been conducted by members of a committee who were French-speaking or English-speaking, as the case may be.

(3) The chairman of the Appeal Board, who shall be designated as such by the board, shall not be, or have been,

(a) a member or a trustee of the board; or

(b) an employee or former employee of the board.

(4) One member of the Appeal Board shall hold qualifications as a supervisory officer.

ISSUES AND COMMENTS

Title change only.

Some parents have expressed concern that there are too many educators on Appeal Boards. It is proposed that a practising educator not act as chairperson.

PROPOSED AMENDMENTS

10.

7. (1) An Appeal Committee shall consist of three members none of whom shall have had any prior involvement with the matter under appeal.

(2) Where a pupil in respect of whom an appeal is brought under section 4 is enrolled in a school or class established under Part XI of the Act, a parent of the pupil may request that the appeal be conducted before an Appeal Committee comprised of members who are French-speaking or English-speaking, as the case may be, and the board shall ensure that the request is complied with by appointing where necessary, a chairman and members of the Appeal Committee who are French-speaking or English-speaking as required, and this subsection applies notwithstanding that the parent may not have requested that the identification, the placement or review of the placement of the pupil have been conducted by members of a committee who were French-speaking or English-speaking, as the case may be.

(3) The chairman of the Appeal Committee, who shall be designated as such by the board, shall not be, or have been,

(a) a member or a trustee of the board, or

(b) an employee or former <sup>or released</sup> employee of the board and

(NEW) (c) an employee of a board.

(4) One member of the Appeal <sup>Committee</sup> ~~Committee~~ shall hold qualifications as a supervisory officer.



CURRENT LEGISLATIONISSUES AND COMMENTSPROPOSED AMENDMENTS

11.

(5) Where an appeal is brought in respect of a pupil, one member of the Appeal Board shall be,

(a) a member of a local association as defined in clause 182 (1) (c) of the Act that is designated by a parent of the pupil;

(b) a representative of the local association referred to in clause (a) who is resident in the area of jurisdiction of the board and nominated by the local association; or

(c) where no local association referred to in clause (a) has been established in the area of jurisdiction of the board, a member of the local community nominated by a parent of the pupil.

(6) Each board shall provide each Appeal Board with secretarial and administrative services required by the Appeal Board.

(7) A chairman of an Appeal Board shall forthwith arrange with a parent of the pupil where an appeal is brought in respect of a pupil, for a meeting with the Appeal Board at a convenient time and place for a discussion of the disagreement of the parent with the determination of the committee and the relevant issues under appeal.

(8) Any person who in the opinion of an Appeal Board may be able to contribute information with respect to the matters before the Appeal Board shall be invited to attend the discussion and the discussion shall be conducted in an informal manner.

The previous wording was confusing to parents and school board officials.

The proposed amendment clarifies that the parent nominates a person who is a member of a local association.

appealing  
parent

(5) Where an appeal is brought in respect of a pupil, one member of the Appeal Committee shall be,

(a) a member of a local association as defined in clause 182 (1)(c) of the Act who is nominated by a parent of a pupil;

(b) where no local association referred to in clause (a) has been established in the area of jurisdiction of the board, a member of the local community nominated by a parent of the pupil.

(6) Each board shall provide each Appeal Committee with secretarial and administrative services required by the Appeal Committee. + the parent

(7) A chairman of an Appeal Committee shall forthwith arrange with a parent of the pupil where an Appeal Committee is brought in respect of a pupil, for a meeting with the Appeal Committee at a convenient time and place for a discussion of the disagreement of the parent with the determination of the committee and the relevant issues under appeal.

(8) Any person, who in the opinion of an Appeal Committee may be able to contribute information with respect to the matters before the Appeal Committee shall be invited to attend the discussion and the discussion shall be conducted in an informal manner.

accordance to Statutory Powers + Act.

CURRENT LEGISLATION

(9) Where in the opinion of an Appeal Board all the opinions, views and information that bear upon the matters under appeal have been presented to the Appeal Board, the Appeal Board shall adjourn the discussion and within three days thereafter may,

- (a) agree with the committee and dismiss the appeal;
- (b) disagree with the committee and refer the matter back to the committee stating the reasons for the disagreement; or
- (c) where the Appeal Board is satisfied that a pupil in respect of whom an appeal is brought is not in need of a special education program or special education services, set aside the determination of the committee that the pupil is an exceptional pupil.

ISSUES AND COMMENTS

*Level of procedure - points need more time*  
*where is binding decision*

Although the formality of the procedures of the Statutory Powers Procedure Act are not required, there is a need to ensure in this regulation that the principles of natural justice and procedural fairness apply. The proposed procedural rules stop short of calling oral evidence and cross examination of witnesses but ensure that parents have a right to prepare and fully present their case. If there is to be an appeal, there must be a record prepared and retained. It is proposed that these procedural rules would apply to both an I.P.R.C. and an Appeal Committee.

PROPOSED AMENDMENTS

12.

(9) Where in the opinion of an Appeal Committee all the opinions, views and information that bear upon the matters under appeal have been presented to the Appeal Committee, the Appeal Committee shall adjourn the discussion and within three days thereafter may,

*Not less than 2*  
(a) agree with the committee and dismiss the appeal,

← (b) disagree with the committee and refer the matter back to the committee stating the reasons for the disagreement, or

(c) where the Appeal Committee is satisfied that a pupil in respect of whom an appeal is brought is not in need of a special education program or special education services, set aside the determination of the committee that the pupil is an exceptional pupil.

00.

00. Procedural Rules

1. Minimum notice three days in advance of meeting to include

- (a) time, place and purpose of meeting
- (b) outline of procedures that apply at meeting
- (c) outline of information or position of the party that has requested the committee (reasons for referral)
- (d) names of proposed attendees at meeting, *including names of parent*

2. Public not entitled to be present.

3. Minutes of meeting to be made by board and copied to parent.

CURRENT LEGISLATIONISSUES AND COMMENTSPROPOSED AMENDMENTS

13.

4. Particulars of documentary evidence sufficient to identify the evidence relied upon by a party shall be included in the minutes except where copies are provided for the record.
5. Reasons shall be given in writing for each decision made at or as a result of meeting.
6. Committee and appellate body shall each prepare record consisting of
  - (a) notice of meeting
  - (b) minutes of meeting including particulars or copies of documentary evidence (see 4 above)
  - (c) remedial action prepared by each party at the meeting
  - (d) decision and reasons.
7. Record from committee to go to appellate body and record from committee and appellate body to go to board.
8. Procedures 1 to 7 to apply to reviews.
9. Records prepared to be retained by board in accordance with board policy in documentation file or other secure place where it is available to parent, so long as record is relevant for purposes of instruction of pupil and prior to destruction to be offered to parent.



CURRENT LEGISLATION

(10) An Appeal Board shall report its decision in writing to a parent of a pupil in respect of whom an appeal is brought, the committee and the secretary of the board, with reasons therefor where demanded.

(11) The board within thirty days after receiving the report referred to in subsection (10) shall accept or reject such decision and the secretary of the board shall notify in writing a parent of the pupil and the committee of the decision of the board and in such notice shall inform the parent of the provisions of section 36 of the Act.

(12) Each board shall, in accordance with its own policies, pay the travelling and living expenses and other costs of the members of the Appeal Board incurred while engaged on their duties as members of the Appeal Board. O. Reg. 554/81, s. 7.

ISSUES AND COMMENTS

*board - school board?*

*What the  
point of an appeal,  
if board can review  
its findings?*

*Appeal board  
decides boundary -  
then what is  
next step?  
Tribunal? Hearing? Court Proceedings?*

PROPOSED AMENDMENTS

14.

(10) An Appeal Committee shall report its determination in writing to a parent of a pupil in respect of whom a review is brought, the committee and the secretary of the board, with reasons therefore where demanded.

(11) The board within thirty days after receiving the report referred to in subsection (10) shall accept or reject such determination and the secretary of the board shall notify in writing a parent of the pupil and the committee of the decision of the board and in such notice shall inform the parent of the provisions of section 36 of the Act.

(12) Where a board accepts the determination of an Appeal Committee under clause 7(9)(b), the board shall make such order as it considers necessary with respect to the identification or placement of the pupil.

(13) Each board shall, in accordance with its own policies, pay the travelling and living expenses and other costs of the members of the Appeal Committee incurred while engaged on their duties as members of the Appeal Committee. O. Reg. 554/81, s. 7.

CURRENT LEGISLATION

8.—(1) Where an exceptional pupil is placed by a committee,

- (a) a committee shall review the placement of the pupil at least once every twelve months or pursuant to an application made under clause (b), whichever first occurs;
- (b) a parent of the pupil or the principal of the school at which the special education program is provided may, at any time after the placement has been in effect for three months, apply in writing to the chief executive officer of the board, or to the secretary of the board where the board has no chief executive officer, for a review by a committee of the placement of the pupil; and
- (c) the placement of the pupil shall not be changed by a committee without,
  - (i) prior notification in writing of the proposed change in placement to a parent of the pupil,
  - (ii) a discussion of the proposed change in placement between the committee and a parent of the pupil, and
  - (iii) the consent in writing of a parent of the pupil.

ISSUES AND COMMENTS

This section has proved to be confusing. A review of identification has been added. Also, boards require power to remove label of 'exceptional' in some cases.

The 3 month waiting period is too long in some cases. This change has been recommended by a number of parent and professional organizations.

PROPOSED AMENDMENTS

15.

- all placement regular class*
8. (1) Where an exceptional pupil is placed by a committee,
- (a) a committee shall review the identification and placement of the pupil at least once every twelve months or pursuant to an application made under clause (b), whichever first occurs,
  - (b) a parent of the pupil or the principal of the school at which the special education program is provided may, at any time after the placement has been in effect for three months, apply in writing to the chief executive officer of the board, or to the secretary of the board where the board has no chief executive officer, for a review by a committee of the identification, and placement of the pupil, and
  - (c) where a parent of an exceptional pupil and the board agree a review of the identification or placement of the pupil may be conducted at any time,
  - (d) the identification or the placement of the pupil shall not be changed by a committee without,
    - (i) prior notification in writing of the proposed change in identification or placement to a parent of the pupil, *and*
    - (ii) a discussion of the proposed change in the identification or placement between the committee and a parent of the pupil, *and*
    - (iii) the consent in writing of a parent of the pupil

CURRENT LEGISLATION

(2) The provisions of subsection 6 (2) apply with necessary modifications to the refusal or failure of a parent to consent to a recommended change in placement under clause (1) (c). O. Reg. 554/81, s. 8.

9. A board that provides an exceptional pupil with a special education program or services shall cause a parent or guardian of the pupil to be advised in writing of the reviews, notices and discussions referred to in section 8 that are to be provided in accordance with this Regulation and the provisions of subsection 8 (2). O. Reg. 554/81, s. 9.

10.—(1) Where a committee is engaged in the review of a placement of an exceptional pupil it shall,

(a) obtain and consider an educational assessment of the exceptional pupil; and

(b) consider on the basis of written reports, and other evidence including the evidence of a parent of the exceptional pupil whether the placement of the pupil appears to meet the needs of the pupil.

(2) Where the committee is satisfied with the suitability of the placement of an exceptional pupil it shall in writing confirm the placement and so report to a parent of the exceptional pupil and to the principal of the school where the exceptional pupil attends.

(3) If a parent of an exceptional pupil who is the subject of a review so requests in writing, the committee shall within fifteen days of the receipt of the request by the board meet with the parent to discuss the report. O. Reg. 554/81, s. 10.

ISSUES AND COMMENTS

No change.

Parental involvement in review is desirable.

*Special Placement at request  
of parent or school principal  
into segregated class shall  
be brought to IPRC*

*all place* PROPOSED AMENDMENTS

16.

(2) The provisions of subsection 6 (2) apply with necessary modifications to the refusal or failure of a parent to consent to a recommended change in identification or placement under clause (1)(d).

10. (1) Where a committee is engaged in the review of the identification or the placement of an exceptional pupil, it shall

(a) obtain and consider an educational assessment of the exceptional pupil, and

(b) consider on the basis of written reports and other information including the information of a parent of the exceptional pupil whether the identification or placement of the pupil appears to meet the needs of the pupil.

(2) The committee ~~shall~~ <sup>cannot</sup> have a discussion in respect of the identification or placement of the pupil with the parent ~~unless~~ the parent waives or refuses to discuss the matter with the committee.

(3) Where the committee is satisfied with the suitability of the identification or placement of an exceptional pupil it shall in writing confirm the placement and so report to a parent of the exceptional pupil and to the principal of the school where the pupil attends.

(4) If a parent of an exceptional pupil who is the subject of a review so requests in writing, the committee shall within fifteen days of the receipt of the request by the board meet with the parent to discuss the report.



CURRENT LEGISLATIONISSUES AND COMMENTSPROPOSED AMENDMENTS

17.

11. A parent of an exceptional pupil who disagrees with a placement or the refusal to change a placement recommended by a committee as a result of a review referred to in clause 8 (1) (a) may appeal to an Appeal Board in accordance with section 4. O. Reg. 554/81, s. 11.

12.—(1) A notice of appeal under section 4 acts as a stay of proceedings of a committee in relation to the placement of a pupil.

(2) For the purposes of this Regulation, where a statement, report or notice is sent by mail it shall be sent by first class mail and it shall be deemed to have been received by the person to whom it was sent on the fifth day next following the date on which it was mailed.

(3) Where a parent of an exceptional pupil refuses in writing to discuss the statement or report of a committee with the committee and wishes to appeal to the Appeal Board, the discussion shall for the purposes of section 4 be deemed to have been held on the day such written refusal is received by the committee. O. Reg. 554/81, s. 12.

Stay of proceedings is confusing to both parents and board officials and may not be in the best interest of the pupil in some cases.

11. A parent of an exceptional pupil who disagrees with an identification or placement or the refusal to change an identification or placement recommended by a committee as a result of a review referred to in clause 8 (1)(a) may appeal to an Appeal Committee in accordance with section 4. O. Reg. 554/81, s. 11.

12. (1) For the purposes of this Regulation, where a statement, report or notice is sent by mail it shall be sent by first class mail and it shall be deemed to have been received by the person to whom it was sent on the fifth day next following the date on which it was mailed.

(2) Where a parent of an exceptional pupil refuses in writing to discuss the statement or report of a committee with the committee and wishes to apply to the Appeal Committee, the discussion shall for the purposes of section 4 be deemed to have been held on the day such written refusal is received by the committee. O. Reg. 554/81, s. 12.

. original 12 (1) will be revoked.

CURRENT LEGISLATIONISSUES AND COMMENTSPROPOSED AMENDMENTS

18.

It was proposed in Part 1: the Education Act to revoke Section 34 and include it as a new section in this regulation.

*we revoke*

Part -- Hard to Serve Pupils

00. (1) In this part, "committee" means a Hard to Serve Pupil Committee established under this regulation.
- (2) Where a principal considers that an exceptional pupil who attends his/her school is a hard to serve pupil and is able to show due cause or where the parent or guardian of an exceptional pupil considers that the exceptional pupil is a hard to serve pupil, the principal shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer nominated by the Minister, a supervisory officer nominated by the board and a legally qualified medical practitioner who has expertise in respect of the mental incompetency of the exceptional pupil, none of whom is a person to whom the matter has been previously referred.
- (3) The committee shall,
- (a) inquire into the alleged inability of the exceptional pupil to profit by instruction;
  - (b) inquire into the mental incompetency of the exceptional pupil; and
  - (c) determine whether the exceptional pupil can profit by instruction or determine that the exceptional pupil is a hard to serve pupil and the committee shall make a written report of its findings and of its determination to the board, to the parent or guardian of the exceptional pupil and to the Minister.

CURRENT LEGISLATIONISSUES AND COMMENTSPROPOSED AMENDMENTS

19.

*ACLD loophole**revoke*

(4) The committee shall, for the purpose of its inquiry, study all existing reports in respect of the exceptional pupil, hear the teachers, the parent or guardian of the exceptional pupil, where reasonably possible the exceptional pupil, and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parent or guardian of the exceptional pupil, and of the exceptional pupil where he is an adult and capable of giving such consent, obtain and consider in respect of the exceptional pupil, the report of an assessment conducted by a person considered by the committee to be competent for the purpose.

(5) Any costs incurred in respect of an assessment or examination under this section, or in respect of the obtaining of other evidence required by the committee under subsection 3 or under subsection 6 shall be paid by the board referred to in subsection 2.

(6) Where the parent or guardian of a person in respect of whom a determination has been made under clause (3)(c), or the person, where he is an adult,

(a) believes that by reason of improvement in the condition of the person or other cause the person has become able to profit by instruction; and

(b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides, evidence or information to establish such belief,

the board shall appoint a committee constituted in accordance with subsection (2)



CURRENT LEGISLATIONISSUES AND COMMENTSPROPOSED AMENDMENTS

20.

that shall review the determination in respect of the person last made under this section and confirm or alter such determination and for such purpose the committee has the powers and duties of a committee under subsection (3), which subsection applies with necessary modifications to such a review.

- (7) Where a committee under subsection (3) or subsection (6) determines that an exceptional pupil is a hard to serve pupil, the committee shall so notify the board and the board shall consider the recommendation and determine that the exceptional pupil is a hard to serve pupil or that the exceptional pupil is considered to need a special education program, as the case may be, and shall notify the parent or guardian of the exceptional pupil in writing of its determination.
- (8) Where the board determines that the exceptional pupil is considered to need a special education program, the board shall refer the matter to the appropriate I.P.R.C. established under subparagraph iii of paragraph 5 of subsection 10 (1).
- (9) Where the board determines that the exceptional pupil is a hard to serve pupil and the parent or guardian of the exceptional pupil agrees with the said determination, the board shall refer the matter to the Minister.

CURRENT LEGISLATIONISSUES AND COMMENTSPROPOSED AMENDMENTS

21.

- (10) Where the Minister, after an inquiry into the matter, disagrees with the board that the exceptional pupil is a hard to serve pupil, the Minister shall refer the matter to the Special Education (English) Tribunal or the Special Education (French) Tribunal as the case may be for a hearing.
- (11) Where the Minister agrees with the board that the exceptional pupil is a hard to serve pupil, the Minister shall in consultation with the parent or guardian of the hard to serve pupil locate a placement suited to the needs of the hard to serve pupil.
- (12) Where the board determines that an exceptional pupil is a hard to serve pupil and the parent or guardian of the pupil disagrees with such determination and believes that the exceptional pupil is able to profit by instruction, the parent or guardian of the exceptional pupil may, within fifteen days of the receipt of the notice under subsection (7), notify the board in writing of the disagreement and the board shall forthwith refer the matter to the secretary of a Special Education Tribunal established under subsection 35 (1), by forwarding all the documentation outlining the special education programs and special education services that have been provided to the exceptional pupil and all existing reports and relevant material in respect of the exceptional pupil.

P 11

⑤ how can they call it fund - where can parent go - cont  
H. Ct. Comm-  
Don't

P 12

- ⑥ is the way to give parent integration + avoid creating precedent
- ⑦ ident., plan't, program + services

P 13

47 - what does that mean?  
no TMR label

P 14

71 1

60 (1) ~~The~~ <sup>Each</sup> school boards ~~of~~ <sup>its</sup> serving Metro Tor. shall  
~~take~~ <sup>assume</sup> responsibility for all pupils <sup>presently</sup> served by the MTSB  
shall ~~provide~~ <sup>provide</sup> special ed. programs + services in the reg.  
age appropriate classroom in the local school by ~~Sept~~  
Sept 1, 1987. The Minister shall setup a committee  
to implement this.

(20)

CURRENT LEGISLATIONISSUES AND COMMENTSPROPOSED AMENDMENTS

22.

- (13) The board shall reimburse the parent or guardian for any expenses he incurs in connection with the referral to and subsequent hearing by the Tribunal referred to in subsection (10), provided that such expenses are approved by the Tribunal.
- (14) The Special Education Tribunal shall consider the referral and, after a hearing and review of the report of the committee referred to in subsection (3) and the determination of the board, shall find that,
- (a) the exceptional pupil is a hard to serve pupil; or
- (b) the pupil is considered to need a special education program
- and so notify in writing the parent or guardian of the pupil, the board and the Minister.
- (15) Where the Tribunal finds that the exceptional pupil is considered to need a special education program, the board shall provide a special education program and special education services for the exceptional pupil and the board shall, within sixty days of receipt of the notice under subsection (12), inform the Minister of the special education services that have been provided for the exceptional pupil.



P.3

10.5.

11 Committees to identify & review the idea's of except. pupils  
& recommend & review the program & service provided to  
excepted students.

offer ~~to~~

11.1 review the identification, program, services, placement

P.4

For the purpose of ensuring that the st. of the student are  
protected

6a minimum procedural rules (Memorandum of Understanding)

What are they now & what should they be

(related to  
Discipline  
& conduct)

26. governing the operation of schools.

(closed all TMR schools)

(5) ~~Revoke. The minutes shall require the ~~TK~~ ~~statutes~~~~

~~Delete~~ (5), (6), Revoke (5), (6) & 5 @ (6)

no need to  
re-approve  
minutes  
yearly

(6) Revoke 34

(1) <sup>36(1)</sup> Identification program, services  
placement

36(2) iden'y shall provided with copy of official transcript  
(relates back to committee procedures)

app of  
pay

(3) Revoke

(4) shall admit

CURRENT LEGISLATIONISSUES AND COMMENTSPROPOSED AMENDMENTS

23.

(16) Where, under subsection (12), the Tribunal finds that the pupil is a hard to serve pupil, the Minister shall in consultation with the parent or guardian locate a placement suited to the needs of the hard to serve pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

(17) The Statutory Powers Procedure Act does not apply to a committee established under this part.

→ what does this mean



1<sup>st</sup> D.S. brief recommendations

Section 21 ... need to be identified as exceptional

21 + special ed. programming + curriculum details by  
a district + provided with reg. age appropriate  
classroom setting.

63. "an ed'l. program, provided to the  
pupil w/ low reg. age appropriate classroom  
in low local school. The program is  
based...."

64. "provided to the pupil in low reg. age app. reg.  
classroom setting in low local school."

65. Placement means the reg. chronological age appropriate  
classroom in the pupil local school.

68. ... What about funding.

Pool funding rather than attend to ind'l child  
across certain per school.

... by means of the Act.

8(2) ... + shall provide for parent or guardians to  
appeal the appropriateness of the program or the  
services or the placement.

in respect of  
School boards are prohibited from defining  
or category of exceptional pupils.  
100% of exceptional pupils.

9a(1) Day to Delay Day - in line with due process

- Appeal  
(2<sup>nd</sup> procedure after IPK)
- impartial chairman - school to choose
  - H. to bring people with you (rt. to public hearing)
  - cross-examine - can't (no one can)
  - no guarantee of proper verbal record
  - if go to Tribunal have to start from scratch because  
no record
  - school board can reject decision - school board has final  
say

Statutory Powers that should apply