

1994 No. 13**EDUCATION****Schools (Expulsion of Pupils) (Appeal Tribunals)
Regulations (Northern Ireland) 1994**

Made 17th January 1994

Coming into operation 17th February 1994

The Department of Education, in exercise of the powers conferred on it by Articles 49(10)(a) and 134(1)(b) of the Education and Libraries (Northern Ireland) Order 1986(c) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Schools (Expulsion of Pupils) (Appeal Tribunals) Regulations (Northern Ireland) 1994 and shall come into operation on 17th February 1994.

Interpretation

2. In these Regulations—

“appeal” means an appeal by virtue of Article 49(6) of the 1986 Order and “appellant” shall be construed accordingly;

“board” means the education and library board for the area in which the school from which the pupil was expelled is situated;

“school” means a grant-aided school.

Constitution of appeal tribunals

3. An appeal tribunal shall be constituted in accordance with Schedule 1.

Procedure of appeal tribunals

4. Schedule 2 shall have effect in relation to the procedure on appeals.

Sealed with the Official Seal of the Department of Education on 17th January 1994.

(L.S.)

J. S. Smith

Assistant Secretary

(a) As substituted by S.I. 1993/2810 (N.I. 12) Article 39

(b) As amended by S.I. 1993/2810 (N.I. 12) Article 50(1) and Schedule 4 Part II

(c) S.I. 1986/594 (N.I. 3)

1. Subject to the provisions of this Schedule, an appeal tribunal shall consist of three or five members selected by the board or, on behalf of the board, by the Chief Executive of the board or his nominee from a panel of persons appointed by the board under paragraph 2; and sufficient persons may be appointed to enable two or more appeal tribunals to sit at the same time.

2. The panel of persons appointed by the board to act as members of appeal tribunals shall comprise—

- (a) persons appearing to the board to represent the interests of controlled schools in the area of the board;
- (b) persons appearing to the board, after consultation with the Council for Catholic Maintained Schools and such other bodies as the board considers appropriate, to represent the interests of voluntary schools in the area of the board and persons appearing to the board to represent the interests of grant-maintained integrated schools in the area of the board;
- (c) persons who have experience in education, are acquainted with the educational arrangements in the area of the board or are parents of registered pupils at a school,

but shall not include any person employed by the board otherwise than as a full-time teacher.

3. The membership of an appeal tribunal shall comprise—

- (a) at least one person falling within the category of persons mentioned in paragraph 2(a);
- (b) at least one person falling within the category of persons mentioned in paragraph 2(b);
- (c) at least one person falling within the category of persons mentioned in paragraph 2(c).

4. The members of an appeal tribunal shall elect one of their number to be chairman of the tribunal.

5. A person shall not be a member of an appeal tribunal for the consideration of an appeal against a decision if he was among those who made the decision or took part in discussions as to whether the decision should be made.

6. A person who is a teacher at a school shall not be a member of an appeal tribunal for the consideration of an appeal involving a question as to whether or not a pupil should be re-admitted to that school.

1. An appeal shall be by notice in writing setting out the grounds on which it is made.
2. Two or more appeal tribunals may sit at the same time.
3. Where the issues raised by two or more appeals are substantially similar or connected the board may determine that those appeals be combined and dealt with in the same proceedings.
4. An appeal tribunal shall give to the appellant an opportunity to make written representations and an opportunity of appearing and making oral representations and may allow the appellant to be accompanied by a friend or to be represented.
5. An appeal tribunal shall give to the expelling authority an opportunity to make written representations and shall give a representative of the expelling authority an opportunity of appearing and of making oral representations.
6. An appeal tribunal may request the expelling authority to supply it with relevant information including information about the procedures followed in relation to the expulsion of pupils from the school.
7. In considering the appeal, the appeal tribunal shall have regard in particular to any representations made to it under paragraph 4 or 5 and to whether the procedures in relation to the expulsion of pupils from the school were properly followed.
8. The board shall set time limits for the hearing and determination of appeals and in setting those limits shall have regard to the need to secure that appeals are disposed of without delay.
9. An appeal shall be heard in private except where the board determines otherwise.
10. In the event of disagreement among the members of an appeal tribunal the appeal under consideration shall be decided by a simple majority of the votes cast.
11. The decision of an appeal tribunal and the grounds on which that decision was made shall be communicated by the tribunal in writing to the appellant and to the expelling authority.
12. Subject to paragraphs 1 to 11, all matters relating to the procedure on appeals, including the time within which they are to be brought, shall be determined by the board.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

Under Article 49(6) of the Education and Libraries (Northern Ireland) Order 1986, as substituted by Article 39 of the Education and Libraries (Northern Ireland) Order 1993, the parent of a pupil or the pupil himself, if he has attained the age of eighteen, may appeal to an appeal tribunal against a decision to expel him from a grant-aided school. These Regulations provide for the constitution and procedure of such appeal tribunals.

Regulation 2 contains definitions.

Regulation 3 provides that an appeal tribunal shall be constituted in accordance with Schedule 1 and regulation 4 provides for the procedure on appeals to be in accordance with Schedule 2.

Paragraphs 1 to 3 of Schedule 1 relate to the selection, appointment, size and membership of appeal tribunals. Paragraph 4 provides for the election of a chairman of an appeal tribunal. Paragraphs 2, 5 and 6 disqualify certain persons or descriptions of persons from membership of an appeal tribunal.

Paragraph 1 of Schedule 2 deals with the initiation of appeals. Paragraph 2 provides for two or more appeal tribunals to sit at the same time. Paragraph 3 prescribes the circumstances in which two or more appeals may be combined. Paragraph 4 provides for the appellant to make written representations and to appear before an appeal tribunal to make oral representations, and to be accompanied at the hearing or to be represented. Paragraph 5 provides for the education and library board ("the board"), in the case of a pupil expelled from a controlled school in the area of that board, or the Board of Governors, in the case of a pupil expelled from any other grant-aided school, by or on whose behalf the decision under appeal was taken, to make written representations and to nominate a representative to appear before an appeal tribunal to make oral representations. Paragraph 6 allows the tribunal to request information from the board or from the Board of Governors by or on whose behalf the decision under appeal was taken. Paragraph 7 requires the tribunal, when considering the appeal, to take into account the representations made by or on behalf of the appellant and the board or the Board of Governors and to have regard to whether the correct procedures were followed when expelling the pupil from the school. Paragraph 8 provides for time limits to be set on the hearing and determination of appeals. Paragraph 9 provides for appeals to be heard in private except where the board determines otherwise. Paragraph 10 states how a decision is to be reached in the event of disagreement among the members of an appeal tribunal. Paragraph 11 prescribes how and to whom the decision of an appeal tribunal is to be communicated. Paragraph 12 provides for all other matters relating to the procedure on appeals, including the time within which they are to be brought, to be determined by the board.