

**JAMES BAY LOWLANDS
SECONDARY SCHOOL BOARD**

**BOARD GOVERNANCE POLICY
NO. GOV-29**

Date Adopted	October 24, 2018
Last Revised	
Board Motion	5598-10-18

HEARINGS ON TERMINATION OF TEACHER EMPLOYMENT

1. PURPOSE

The teacher performance appraisal system is described in the *Education Act, Part X.2* and in Administrative Procedure 451 Teacher Performance Appraisal. When a teacher's performance is on review status under the terms of *Part X.2*, and the principal's feedback and recommendations to help the teacher improve his or her performance do not result in a satisfactory rating, the following steps shall be taken.

The James Bay Lowlands Secondary School Board has developed this policy to set out the steps for hearings on the termination of teacher employment.

2. DEFINITIONS

New Teacher: New teacher means a teacher who is employed as a teacher by a board and whose new teaching period has not elapsed.

New Teaching Period: The new teaching period is the 24 month period that follows the day on which the teacher first begins to teach for a board, other than as an occasional teacher. [*Education Act, Part X.01.1*]

3. GUIDING PRINCIPLES

- 3.1 The James Bay Lowlands Secondary School Board is responsible for student achievement and well-being, for ensuring effective stewardship of the Board's resources, and for delivering effective and appropriate education programs for its students. [Board Policy GOV-01 Values, Vision, and Mission]
- 3.2 The James Bay Lowlands Secondary School Board has developed this policy to ensure that students receive the benefit of an education system staffed by teachers who are performing their duties satisfactorily.

4. POLICY

RECOMMENDATION TO THE BOARD

- 4.1 Where a performance appraisal results in an unsatisfactory rating after the teacher has been placed on review status as set out in sections 277.37 and 277.38 of the *Education Act*, or in subsections 277.40.2 and 277.40.3 in the case of a new teacher,

the principal, in consultation with the supervisory officer, shall promptly transmit a recommendation in writing to the Board that the teacher's employment with the Board should be terminated.

- 4.2 If, at any time during the 120 school days starting with the day on which the teacher is advised that he or she is on review status, the principal and supervisory officer jointly determine that the delay necessitated by conducting an additional performance appraisal during the review process is inconsistent with the protection of the best interests of students, they shall refrain from conducting the appraisal and shall promptly transmit a joint recommendation in writing to the Board that the teacher's employment with the board should be terminated.
- 4.3 While the Board is in the process of considering terminating the employment of the teacher as a result of unsatisfactory performance, the teacher will be suspended with pay or reassigned until the decision is made.
- 4.4 In accordance with the *Education Act*, subsection 277.15 (5), nothing in *Part X.2* or any regulation, guideline, policy or rule under it shall be interpreted to limit the right of the Board to terminate the employment of a teacher for disciplinary reasons, whether or not a performance appraisal process relating to the teacher is being conducted under *Part X.2* of the *Education Act*.

5. INFORMATION SHARING

- 5.1 The recommendation to the Board for termination of employment shall be accompanied by the following:
 - a) written reasons for the recommendation;
 - b) a copy of the performance appraisal document; and
 - c) copies of all documents relied upon in making the recommendation.
- 5.2 The principal shall promptly provide the teacher with:
 - a) a copy of the recommendation to the Board;
 - b) a copy of the written reasons for the recommendation; and
 - c) copies of all documents relied upon in making the recommendation.

BOARD EXPECTATIONS

6. THE BOARD HEARING

- 6.1 The Board hearing shall demonstrate procedural fairness. The teacher must be aware of the reasons for the recommendation and must have a fair chance to respond. The teacher has the right to have federation representation.
- 6.2 Notes of the Board hearing shall be recorded for the purpose of the Board's records.
- 6.3 The Board shall rule on any matter of procedure that may arise during the course of the hearing.

- 6.4 The supervisory officer or designate and the teacher or teacher's representative shall be given an opportunity to make introductory statements.
- 6.5 The supervisory officer or designate shall make the first presentation. If the supervisory officer considers it necessary to have witnesses appear on behalf of the recommendation, they shall be called to appear prior to the teacher or the teacher's representative making any presentations or calling witnesses.
- 6.6 The presentation of the teacher's case shall commence after the supervisory officer or designate has presented his or her evidence.
- 6.7 Trustees shall ask questions of a witness only after the party calling the witness has completed his or her presentation.
- 6.8 After the teacher or the teacher's representative has made a closing statement, the supervisory officer or designate shall have an opportunity to respond.
- 6.9 Board members will have the opportunity to ask questions of clarification from both parties.
- 6.10 The Board will meet without the respective parties to the hearing in attendance to arrive at a decision regarding the recommendation. The secretary of the Board and recording secretary will remain in attendance. The Board may have legal counsel in attendance.
- 6.11 If the Board requires additional information or clarification in order to make its decision, both parties will be requested to return to the hearing to provide the additional information.

7. BOARD DECISION

- 7.1 The Board, upon receiving a recommendation to terminate a teacher's employment under *Part X.2 of the Education Act*, shall determine, based on the competencies provided for in Ontario Regulation 99/02 whether or not the teacher is performing satisfactorily in the position to which he or she was assigned immediately before any action of the supervisory officer to suspend or reassign the teacher, pending the Board's decision.
- 7.2 The determination of the Board shall be by majority vote of the members of the Board present at a meeting of the Board at which there is a quorum, within sixty (60) days of receiving the recommendation.
- 7.3 Where the Board determines that the teacher is not performing satisfactorily in the position to which he or she was assigned immediately before any action of the supervisory officer, or determines the need to terminate employment for other reasons, the Board shall terminate the teacher's employment with the Board.
- 7.4 Where the Board does not make the determination described in subsection 7.3, the teacher's suspension or reassignment, as the case may be, shall cease and, except

where the teacher and the Board agree otherwise, the teacher shall resume his or her former position.

8. COMMUNICATION OF DECISION

- 8.1 The Board decision will be communicated to the teacher and confirmed in writing following the hearing.
- 8.2 Where the Board terminates a teacher's employment for unsatisfactory performance, the secretary of the Board shall promptly file a complaint under section 26 of the *Ontario College of Teachers Act*, regarding the reasons for the termination.
- 8.3 Where a teacher employed by the Board resigns while he or she is on review status, the secretary of the Board shall promptly file a complaint under section 26 of the *Ontario College of Teachers Act*, regarding the reasons for the teacher having been placed on review status.
- 8.4 The Board shall promptly provide to any other school board requesting teacher performance appraisal documents all documents relating to termination of the employment of a teacher.

REFERENCE DOCUMENTS

Legal:

Education Act: Section 169.1 (1) Duties and Powers of Boards: Responsibility for student achievement and well-being

Education Act, paragraph 171(1) 3 Powers of Boards to Remove Teachers

Education Act, subsection 277.15 (5) No limit on power of board to terminate employment for disciplinary cause

Education Act Part X.2 Teacher Performance Appraisal

Ontario College of Teachers Act, section 26 Duties of Investigation Committee

Ontario Regulation 298 Operation of Schools-General, paragraph 11(3) (j) Principal's Recommendation to Demote or Dismiss Teachers

Ontario Regulation 99/02 Teacher Performance Appraisal

Municipal Freedom of Information and Protection of Privacy Act

Board:

Board Policy GOV-01 Vision, Mission, and Values

Board Policy GOV-02 Role of the Corporate Board

Board Policy GOV-03 Role of the Supervisory Officer

Administrative Procedure 451 Teacher Performance Appraisal