

SECTION 29 APPEALS INFORMATION NOTE FOR PARENTS

Where Do I get further information?

If you would like further information on the Section 29 appeal process you may contact any of the staff working on these appeals at 0906 48360

NEWB

The National Educational Welfare Board (NEWB) is the statutory agency which can assist parents who are experiencing difficulty in securing a school placement for their child and your local Educational Welfare Officer can provide assistance in this regard. The NEWB can be contacted at 01-8738700

The following will also act as a guide to you in completing your application and lodging your appeal.

What can a parent appeal?

Section 29 of the 1998 Education Act allows an appeal to be made to the Secretary General of the Department of Education and Science¹ in respect of a decision by a Board of Management, or by a person acting on behalf of the Board of Management;

- a) to refuse to enrol a student in the school,
- b) to permanently exclude a student from the school, or
- c) to suspend a student from the school for a period which would bring the cumulative period of suspension to 20 school days in any one school year,

What is the Nature of the Appeal?

The High Court has recently issued a number of judgments involving appeals taken under Section 29 of the 1998 Education Act. These rulings have brought greater focus to the scope of an appeal taken under Section 29 of the 1998 Education Act. While this note does not serve to be legal interpretation of these judgments the main scope of section 29 appeals now relate specifically to the following:

- Parents have a right to apply to their school of choice but they do not have an absolute right to have their child enrolled in that school. Hence parental school of choice alone is not a ground on which an appeal may be upheld.
- concluded that whereas parents have a right to apply to their school of choice they do not have an absolute right to have their child enrolled in that school.

Hence parental school of choice alone is not grounds for lodging an appeal

- Schools have published policies on enrolment and codes of behaviour.

Section 29 committees may only review decisions made by school boards of management to consider whether the board reasonably followed its own lawful policies and procedures.

- If the Section 29 appeal committee finds that a school has followed its own procedures, then a committee cannot overturn a decision taken by a Board of Management, on management issues, including for example if the school considers itself to be full.

- Section 29 Committees having reviewed the issues involved in the case, can ask that a school reconsider its original decision. It will in these circumstances be a matter for the school to make a final decision on whether to enrol or remove an expulsion or suspension. Once taken that will conclude the appeal process.

Specifically on enrolment, it is not the function or role of a Section 29 committee to:

- find places for students in local schools, or to judge a school's enrolment policy,
- consider information that was not made available to the Board of Management, unless it is material that should have been before the Board when it was making its decision.

What Do Parents have to Do When Making an Appeal?

The Section 29 appeal application form asks parents to set out their grounds of appeal. Parents are asked to explain the grounds of appeal as to whether the school acted reasonably.

In relation to enrolment appeals, you are asked to state:

(1) Why you believe the school was not reasonable in how it dealt with your application.

(2) Where you consider the school did not correctly and reasonably apply their enrolment policy.

In relation to appeals against a suspension or expulsion of a child, you are asked to state:

(1) Why you consider the school was not reasonable in how it dealt with you and/or your child.

(2) Where you consider the school did not correctly apply its rules on expulsion and suspension contained in its Code of Behaviour.

What Happens After Parents lodge an Appeal?

Parents and schools are encouraged to resolve the issue of the appeal. Failing that a facilitator may contact you to discuss the issues surrounding the appeal. They will also make contact with the school and aim to resolve the issue surrounding the appeal. Where this is not possible the appeal will be heard by a Section 29 committee. This hearing will take place in the Department of Education and Science offices. A member of the Department's staff will be in contact with you to arrange a date and time for this hearing.

Will the Nature of these Appeals Change and When?

The recent High Court judgments are the most authoritative pieces of legal opinion on the nature and scope of Section 29 appeals. In order to secure full legal clarity to the nature of these appeals, the Minister for Education and Science is appealing one of the High Court judgments to the Supreme Court.

Until the Supreme Court hears and makes a ruling on this judgment, or until other legislation in this area is brought forward, the current nature of appeals will remain.