

## **Step 5 Appeal against a school for refusal to enrol a student due to school being oversubscribed.**

### **Reason to make a Section 29 Appeal**

Under Section 29 of the Education Act 1998 -

A parent, or a student where they have reached the age of 18, **may** appeal a decision of a Board of Management to refuse to admit a student to a school due to the school being oversubscribed.

### **The Section 29 Appeal Process**

Appeals against a school for refusal to enrol a student are made under Section 29 of the Education Act 1998. As of November 2020, Section 29 of the 1998 Act was significantly revised and changed. The revised system of appeal, with important timelines, is set out below.

### **Key Stages**

- Where making a Section 29 Appeal (refusal due to oversubscription) you **must** first request a review by the School Board of Management (BOM) of their decision to refuse a place at the school.
- You can appeal the decision of the Board of Management to refuse a place at the school to the Department of Education

**Important to Know:** You cannot use information in this review or appeal process (school oversubscribed) that was not made available with your initial application for a place in the school. When applying for a school place make sure the application form is fully complete and that you include all relevant and needed information with your application. Before applying for a school place you can find out about the school enrolment process from the school principal or from the school's website. Your local SENO can also provide advice and guidance.

## How the Review or Appeal is Decided

A review or appeal process will consider:

- If the request for review or appeal is valid. Where the request for review or appeal **is valid** the review or appeal proceeds.
- if there was a **failure or mistake** in making the decision to refuse admission and
- If the failure or mistake had **an effect on the outcome** of the application for a school place.

The review or appeal decides:

- Where the review or appeal finds a failure or mistake in relation to admission, that had an impact on the application, the failure or mistake must be corrected by admitting the student to the school or special class concerned.
- Where the failure or mistake had an impact on the student's ranking on the waiting list the failure or mistake must be corrected by adjusting the ranking of the student on the waiting list.

There are 5 stages to the process, starting with the **requirement** to request a review by the Board of Management of the school's decision to refuse. The process and timeline is set out below. In the case of an appeal of refusal to enrol due to oversubscription the appeal to the Department is examined and determined **without** an oral hearing.

## Further information

[Department of Education and Skills](#)

## **Step 5 Appeals against refusal to admit for exclusion, suspension or a reason other than the school being oversubscribed.**

### **Reasons to Make a Section 29 Appeal (other than oversubscribed)**

Under Section 29 of the Education Act 1998 -

A parent, or a student where they have reached the age of 18, **may** appeal a decision of a Board of Management to

Permanently exclude a student from a school

Suspend a student from attendance at a school, for a period or periods totalling more than 20 school days in a school year

Refuse to admit a student to the school for a reason other than the school being oversubscribed.

### **Section 29 of the Education Act 1998**

The process for appeals against a school for exclusion, suspension, or refusal to enrol a student are made under section 29 of the Education Act 1998. As of November 2020, Section 29 of the 1998 Act was significantly revised and changed. The revised system of appeal, including timelines, is set out below.

### **Key Stages**

- You can request a review by the School Board of Management (BOM) of the decision to refuse a place at the school. (optional)
- You can appeal the decision of the Board of Management to refuse a place at the school to the Department of Education.

## **Important to Know - if appealing for reasons other than school oversubscribed:**

When applying for a review or appeal the grounds for the review or appeal must be set out.

The review or appeal must be based on the implementation of the school's admission policy and school's annual admissions notice. Did the school follow its own admission policy and rules?

You can find out about the school's admission policy from the school principal or from the school's website. Your local SENO can also provide advice and guidance.

## **How the Review or Appeal is Decided**

Each stage of the review or appeal process will consider:

- If the request for review or appeal is valid. Where the request for review or appeal **is valid** the review or appeal can continue.
- If there was a **failure or mistake** in making the decision to refuse admission and
- If the failure or mistake had **an effect on the outcome** of the application.

The review or appeal then decides:

- Where the review or appeal finds a failure or mistake in relation to admission that had an impact on the application, the failure or mistake must be corrected by admitting the student to the school or special class concerned.

## **The Appeal Process**

There are 5 stages to the process, starting with a request for a review by the Board of Management of the school's decision to refuse. The request for review by the school board of management is optional. The appeal to the Department of Education includes an in-person or oral hearing.

### 1. Option to Request Review by Board of Management

Within 21 days of the decision to refuse admission

- Parent **may** request in writing a review by the Board of Management of the decision to refuse admission.
- The grounds for the request must be set out
- It must be based on the implementation of the school's admission policy and school's annual admissions notice.

### 2. Board of Management Decision

Within **42 days** of the decision to refuse admission

- The Board of Management must notify that it did not proceed with review as it found the request was not made in the required 21 days **or**
- where the request proceeds, the Board of Management must issue a statement of outcome and its review decision.

### 3. Appeal to Department

Following the issuing of the School Board of Management notification or statement

**or**

after **42 days** from the date of the BOM decision to refuse admission

(whichever is the earliest)

and **not later than 63 days** from the date of the BOM decision to refuse admission

- The parent or guardian can make a Section 29 Appeal of the decision of the Board of Management to refuse admission.
- The appeal must be made in writing, on the Section 29 Appeal form, and submitted to the Section 29 Appeals Administration Unit, Department of Education.

### 4. Oral Appeals Hearing by the Department Appeals Committee

Where possible -

- within **21 days** of receipt of the fully completed Section 29 appeals form and all required information (from school, NCSE etc.)

- with a further **7 days** between preliminary and final decision for all parties to comment on preliminary decision

#### •The Department Appeals Committee will:

- examine and make a decision to proceed or to refuse to proceed with the appeal process. Refusal to proceed can be appealed to the Minister.
- if appeal proceeds - arrange and hold an oral hearing attended by both parties to the appeal (parent and school board)
- make a decision to allow or disallow the appeal.
- by notice in writing inform the Minister, the Applicant, the Board of Management and any other agencies involved of its **preliminary decision**, the reasons for the decision and where the appeal is allowed (successful for applicant) its proposed direction to the Board of Management.
- allow all parties and agencies 7 days to make observations about the preliminary decision, the appeal committee considers these and makes its final decision.
- by notice in writing informs the minister of the **final decision**, the reasons for the final decision and, if the appeal allowed, the directions for the school board of management.

### 5. Minister Issues Decision

**As soon as practicable** after receiving notice of decision from the Appeals Committee

- The Minister will forward to the applicant, the Board of Management of the school and any other agencies engaged -
- a copy of the decision of the appeals committee
- and where an appeal is allowed, a copy of the direction of the appeals committee

## **The Appeal Hearing**

An Appeals Committee is made up of 3 people. The Appeal hearing is kept as informal as possible. A parent is allowed to submit any information or reports to support their case. The school may also submit evidence to support their case. The National Council for Special Education or an Education Welfare Officer may submit a report. The Appeals Committee may invite any relevant expert to attend the hearing if necessary. The parent and the school board may be accompanied at the hearing by one or two other people nominated by them to attend. People accompanying will not be allowed to make statements at the hearing except in exceptional circumstances. If you cannot attend the appeal hearing, inform the DES immediately or the appeal could be held in your absence.

At the appeal hearing both the parent and the school state their case. The parent and the school then have the chance to respond to the other and ask questions. The Appeals Committee can also ask questions of either side or any invited person. Where practicable the Appeal Committee may support both parties to reach an agreement.

## **The Appeal Hearing Determination (or Decision)**

The Appeal Committee makes a preliminary decision or determination. The parent, the school and agencies involved have 7 days to make observations to the Appeals Committee in relation to the preliminary decision. The Appeals Committee then makes a final decision, to uphold the appeal or not. This determination is decided on whether or not the school has followed their own stated policies (on enrolment or discipline) and whether fair procedures were followed. If the appeal is successful, the DES will direct the school to enrol your child or take them back into school or clear any suspension or expulsion from their record. Either side can appeal the determination in the courts. If you are unhappy about the committee decision you may also contact the Office of the Children's Ombudsman.

## **Further information**

[Department of Education and Skills](#)