



## Appeals in relation to refusal to admit a student for a reason other than the school being oversubscribed

### Frequently asked questions

#### 1. Can I appeal if my child has been refused admission and the school has places available?

Yes, section 29 of the Education Act, 1998 provides for an appeal where a board of management, or a person acting on behalf of the board of management (normally the school Principal) refuses to admit a student to a school where the decision to refuse admission is due to a reason other than the school being oversubscribed.

Before making an appeal you **may, but are not required to**, to request a review of the decision by the board of management after which you can make an appeal to an independent appeals committee.

Alternatively you can proceed directly to an independent appeal without requesting a review by the board of management.

#### 2. When do I request a review by the board of management and when do I make an appeal?

If seeking a review by the board of management the request must be made in writing to the school's board of management within 21 calendar days from the date of the decision to refuse admission to the school. This date of decision is the date shown on the correspondence from the school containing the decision to refuse admission.

The board of management must notify you of the outcome of your application for a review within 42 calendar days from the date of the decision to refuse admission to the school.

If proceeding directly to an appeal to an independent appeals committee this application must be made in writing on a **Section 29 Appeal Form** available to download [here](#), no later than 63 days from the date of decision to refuse admission.

#### 3. How do I seek a review by the board of management?

A review can be requested in writing or by fully completing and submitting a **Review by Board of Management Request Form (BOMR1)**, available to download [here](#), to commence this stage of the process. **Note** – this form must be sent to the school's board of management.

Your review request to the board of management must:



- (i) be based on the implementation of the school's admission policy and the content of its annual admission notice, and
- (ii) set out the grounds of the request for the review.

#### **4. What happens at a review by the board of management?**

The board of management will conduct a review of your admission application and no later than 42 calendar days from the date of the decision to refuse admission the board of management will issue you with either:

- (a) a statement confirming that there was no error or failure in its decision to refuse admission, or
- (b) a statement confirming that there was an error or failure in its decision and if that error had a material effect on the outcome of your application.

In instances where the board of management issues a statement under (b) above and the failure or error concerned had a material effect on the outcome of the application for admission, the board must correct its error or failure by admitting the student to the school or, where applicable, special class.

#### **5. What happens after I receive the outcome of the review by the board of management?**

Following from the review by the board of management you can make an appeal to an independent appeals committee appointed by the Minister for Education & Skills. This appeal must be made no later than 63 calendar days from the date of the decision to refuse admission to the school. **Note** – this refers to the date of the decision to refuse admission and not the date of the issuing of the review outcome.

You must complete the **Section 29 Appeal Form** available to download here and send it to the address on the form.

The following must be submitted with your Section 29 Appeal Form:

- (i) a copy of your original application for admission to the school and any documents you submitted with your application,
- (ii) a copy of the decision you originally received from the school,
- (iii) a copy of any board of management response to your request for a review of its decision if you opted for such a review.

#### **6. What is the process for an appeal?**

Following receipt of your Section 29 Appeal Form and associated documents, the Section 29 Appeals Administration Unit will contact you with a date for an oral hearing of your



appeal. This will normally be within 21 calendar days from the date of receipt of the fully completed Section 29 Appeal Form. A notification will issue also to the school in question advising them of the appeal and the date for the hearing. Both parties to the appeal (the appellant and the school) will be asked to submit any additional information that may be relevant to the appeal, including the names of those who will attend the appeal, by a specified date, normally 12 days prior to the hearing.

All information received will be shared with both parties to the appeal and the appeals committee, at least 3 days prior to the hearing.

A three person appeals committee, appointed by the Minister, will consider the appeal, with one of the members being appointed as Chairperson of the appeals committee.

### **7. Who will be hearing my appeal?**

Appeal committee members are appointed by the Minister for Education & Skills but the appeal committee is independent of the Department of Education & Skills.

The panel of appointees include people with experience and knowledge of the education sector.

### **8. Who can attend an appeal hearing?**

The parents and the student, where the student is aged over 18, can attend the hearing. Two members of the board of management may attend on behalf of the school, or one member of the board of management and the school principal. In addition each party can be accompanied at the hearing by two other people. The Educational Welfare Officer and the Special Educational Needs Organiser may also attend. Anyone accompanying either party to the appeal cannot make statements at the hearing unless the appeals committee gives them consent to do so.

In addition the appeals committee may invite persons with relevant expertise to attend and make statements at the hearing.

The names of all the attendees at the hearing will be notified to all parties prior to the hearing.

### **9. What is the format for the appeal hearing?**

The chairperson of the appeal committee will open the appeal hearing by introducing the attendees and outlining the order in which each party to the appeal can present their case.



Both parties to the appeal will be permitted to present their case and will have the right of reply in relation to the matter under appeal.

The members of the appeals committee may question both parties to the appeal and any other attendees at the hearing.

The Educational Welfare Officer and/or the Special Educational Needs Organiser may also make submissions at the hearing.

Hearings are conducted with the minimum of formality consistent with giving all parties to the appeal a fair hearing.

Following the hearing, the appeals committee will consider and determine the appeal and inform the Minister of its preliminary decision on the appeal and its reasons for that decision. This preliminary decision and reasons will be notified to both parties to the appeal, and to the Child and Family Agency and the National Council for Special Education, where these agencies attended the hearing.

You will have an opportunity to make observations on the preliminary decision and must do so in writing within 7 calendar days of the date that the preliminary decision is issued to you.

Any observations received within the 7 day period will be forwarded to the appeals committee and the appeals committee will then make its final decision on the appeal.

The final decision will be notified to the Minister and will then issue to both parties to the appeal.

#### **10. What are the possible outcomes of an appeal?**

The appeals committee will make a decision to:

- (a) allow the appeal, or
- (b) disallow the appeal.

Where an appeals committee allows the appeal they will direct the board of management to admit the student.

The outcome of the appeal, including the reasons for the appeals committee's decision, will be notified to both parties to appeal, as soon as possible following the appeal hearing. A copy of the decision will also issue to the Child and Family Agency.

#### **11. What happens if my appeal is not allowed?**

Tusla Education Support Services (TESS) is the legal body which can assist parents who are experiencing difficulty in securing a school placement for their child. Contact details for TESS in your region can be found at: <https://www.tusla.ie/tess/get-in-touch/>.



## **General questions regarding admission and the appeals process**

### **12. How can I find out about a school's admission policy and processes?**

Section 63 of the Education Act 1998 requires all boards of management to prepare and publish an Admission Notice each year. This notice must be published on the school's website at least one week prior to the school commencing its annual admission process.

The notice must provide details about how to obtain a copy of the school's admission policy and the application form for admission.

The notice must also provide the following information regarding the admission process for the intake group of the school for the school year concerned:

- the date on which the school shall commence and cease accepting application for admission to the school for the school year concerned (there must be a minimum period of 3 weeks),
- the date by which the applicant shall be notified of the decision in relation to the application (this must be within 3 weeks of the closing date, or within 3 weeks of the application date, for late applications),
- the date/period by which the applicant shall confirm acceptance of the offer of admission,
- that the offer may be withdrawn if the applicant does not accept the offer of admission within the timeframe set out,
- in relation to the school year concerned-
  - the number of school places available in the intake group,
  - in the case of a boarding school, the number of residential and the number of non-residential places available
  - in the case of a school with a special class the number of school places available in the special class concerned
- in the case of a school where the intake group or special class was oversubscribed in the year prior to the year for which admission is sought, the admission notice must include a statement setting out the number of applications received and the number and order of offers made in that school year in respect of each of the school's selection criteria
- in the case of a school, where offers have been made and accepted for the school year concerned, prior to the commencement of section 62 of the Education (Admissions to Schools) Act 2018 (that is prior to 1<sup>st</sup> February 2020), that the school should include the number of such school places offered and accepted.

The Departments website provides additional Frequently Asked Questions in relation to the Education (Admission to Schools) Act 2018 at the following link:



<https://www.education.ie/en/Parents/Information/School-Enrolment/admissions-faq.pdf>

**13. Can I withdraw my appeal?**

- Yes you can withdraw your appeal at any time during the process by emailing [section29@education.gov.ie](mailto:section29@education.gov.ie)