

LEGAL VIEW

The 2015 Pupil Accommodation Review Guideline Explained

The new guideline aims to streamline the process

BY MICHAEL HINES

THE SUMMER 2015 ISSUE OF *Education Today* carried “School Closures: Some Common Questions Answered” (p. 12), regarding legal challenges to school closure decisions.

Shortly after that article was written, the Ministry of Education released its new 2015 Pupil Accommodation Review Guideline (PARG). This article will identify the key changes between the 2015 PARG and the previous Guideline, issued in 2009. The 2015 PARG involves a number of changes in emphasis and reflects as well a clear desire to streamline accommodation review processes.

Reduced Role of the Accommodation Review Committee

Under the 2009 Guideline, boards were required to solicit community input on accommodation planning decisions. A key step in this endeavour was the appointment of an ad hoc accommodation review committee, or ARC. Although a board was to provide the ARC with its reference criteria, each accommodation review was expressly, under the 2009 Guideline, to be “led” by the ARC. This

was arguably a rather significant incursion on typical school board decision-making processes. The ARC was to be composed of parents, board officials, teachers, administrators and community members. The inclusion of trustees was optional. The ARC was to receive extensive support from board staff. The final content of the school information profiles (SIPs) about the schools under review, expressly referred to by the Guideline as the “foundation” of the ARC’s analysis, was to be determined by the ARC after consultations with the public. Those consultations were to take place through a minimum of four public ARC meetings, at which minutes would be taken that were then to be posted on the board’s website.

All of this led up to the production of the ARC’s much-anticipated accommodation report, which was to be “delivered” to the director of education, posted on the board’s website and “presented” to the trustees. Although the Guideline stated clearly that the role of the ARC was to make “recommendations,” the trappings surrounding the ARC’s process and role invited



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the public expectation that boards would be hard-pressed to do anything other than agree with those recommendations.

This perception often turned ARCs into highly polarized, political entities. Given the “foundational” role of the SIPs, much time and energy was spent describing each school in the best light possible rather than coming to grips with the board’s broader objectives. At times, ARCs looked more like royal commissions than ad hoc advisory committees.

The 2015 PARG effects a fundamental shift away from the ARC as the “leader” of the accommodation review. The structure and role of the new ARCs will be largely determined by individual boards rather than being set by the Guideline. ARCs will receive SIPs prepared by board staff and will be expected to accept them at face value. The ARC need only conduct two public meetings to solicit community input. Most fundamentally, rather than “presenting” a formal report to the board, the ARC will be expected to provide “feedback” to the board on the initial report created by senior staff (see below). The manner through which this “feedback” is to be communicated (through a report, through a presentation or merely through discussion) is for the board to determine.

Increased Role of Staff

The process under the 2015 PARG begins with the creation of an initial staff report that the board will consider in deciding whether to conduct an accommodation review. This report must set out either one proposed course of action or, if options are identified, a recommended option. The report is then the focus of “feedback” from the ARC as well as commentary from community partners (see below). Staff also creates the SIP(s) that describe the school(s) under review. The SIPs will no longer involve qualitative statements about the school(s) but will simply convey quantitative data.

Staff then manages the various components of the public consultation process: the operation of the ARC, contact with community partners and the solicitation of public input at a minimum of two board meetings. This leads to the development of a final staff report, again including a recommended course of action. This report is then the subject of a further public meeting of the board at which “delegations” are to be received, and it then provides the focal point for the board’s subsequent deliberations. As before, the final decision rests with the board.

Increased Role of Municipal and Community Partners

Even before a board elects to initiate an accommodation review, it must have undertaken “long-term capital and accommodation planning, informed by any relevant information obtained from local municipal governments and other community partners.” This emphasis on continued dialogue with “affected single and upper-tier municipalities” and “other community partners that expressed an interest prior to the accommodation review” continues throughout the review process. Having had input before the process commences, these partners are to be formally invited to comment on the initial staff report before the final public meeting held by the board. The 2015 PARG contemplates a meeting between board staff and these various partners, although no report or other document from such partners is required. Rather, staff is expected to provide “any relevant information from this meeting” as part of its final staff report.

Decreased Emphasis on the Local Economy

Under the 2009 Guideline, schools under review were to be evaluated in respect of their value to students, to the board, to the community and “to the local economy.” While value to the community is likely to be reflected through the input of the municipal and community partners noted above, the 2015 PARG no longer refers to the local economy as a relevant criterion in accommodation planning.

More Streamlined Processes

Accommodation reviews under the 2009 Guideline often involved what were perceived to be inordinately long and involved processes. This

was likely due in part to a factor noted above: the Guideline's emphasis on the role of the ARC. In some cases, these protracted processes coupled with the emotional and divisive nature of the debates created unfortunate rifts between and within communities. The 2015 PARG reflects an effort on the Ministry's part to compress the process as a whole, and even offers the option of a "modified process" in certain cases where the outcome of the review appears at the outset to be uncontroversial.

In the regular review process, the number of mandatory ARC meetings has been decreased from four to two, and the number of mandatory board meetings at which public input is to be sought has been reduced from four to three. Both the 2009 and 2015

processes set out minimum periods of time that must elapse before the next step of the process might be undertaken. However, under the time limits in the 2009 Guideline, the process necessarily lasted a minimum of 180 days. Under the 2015 PARG, the regular review process can be completed in as little as 100 days.

As stated, the 2015 PARG also permits boards, following public consultation, to establish criteria that, if satisfied, can lead to the adoption of a predetermined accelerated process. The key differences between such an accelerated process and the regular accommodation review are the elimination of the ARC and the reduction of the number of board meetings for public

consultation from three to two. In this scenario, the initial staff report will be distributed to municipal and community partners for discussion and will be the subject of one public board meeting to seek public input. Staff may then revise its initial report in light of this feedback. The final staff report will again be the subject of public delegations at a public board meeting, following which the trustees may make their decision. The entire process can be completed in a minimum of 60 days. ▲

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