



Policy Bylaw No. 110

APPEALS

BYLAW STATEMENT

The Board of Education of School District 87 (Stikine) recognizes that concerns regarding decisions made by District employees may arise from time to time. The Board believes that constructive, respectful dialogue between students, parents, and staff is the most effective way to resolve differences and meet individual student needs.

The Board places deep trust in its professional staff ~~Employee~~ and supports their authority to make operational decisions ~~relating to individual students should be carried out~~ in accordance with principles of administrative fairness. The appeal process should encourage all parties to disputes to understand the concerns of the other parties and make good faith efforts to resolve disputes to mutual satisfaction.

In alignment with *Section 11* of the *School Act*, the Board acknowledges the legal right of students and parents to formally appeal decisions that significantly affect a student's education, health, or safety.

The Board strongly encourages individuals to resolve complaints at the level closest to where the issue originated (see ***Policy No. 205 – Dispute Resolution of Student or Parent Concerns***). The dispute resolution processes outlined in this Bylaw are designed to be accessible, collaborative, and non-confrontational.

No student or parent shall be subjected to any form of reprisal, retribution, or disadvantage for initiating a complaint or pursuing a formal appeal under this Bylaw.

Complaints

Procedures for dealing with complaints concerning personnel, programs, or practices are to be governed by the following principles:

1. Where action/investigation is desired by the complainant, or where it seems appropriate, the matter is to be handled as near the source as possible.
2. Complaints are to both be investigated and, if possible, resolved expeditiously.
3. Complaints are to be dealt with courteously and in a constructive manner.
4. Personnel to whom complaints are made are to have an opportunity to respond.
5. The Board expects that complainants will exhaust all avenues of resolving complaints prior to initiating the appeal of a decision under this Bylaw.

Appeals

If an employee's decision is disputed or a complaint is made about an employee's decision and if the dispute or complaint is not resolved to the satisfaction of the student or the parent of the student affected through the process set out in this Appeals Bylaw, and the decision significantly

affects the education, health or safety of the student, then an appeal can be made to the Board under *Section 11* of the *School Act*.

If a matter remains unresolved after such an appeal process, an appellant may appeal to the Superintendent of Appeals, under *Section 11.1* of the *Act*.

A party seeking to bring forward an appeal must do so in accordance with this Bylaw.

LEGISLATION/REGULATION

- *School Act, Sections 6, 11, 22, 26, 85 and 91*
- *Appeals Regulation, BC 24/2008*
- *Individual Education Plan Order (Ministerial Order 638/95)*

REGULATIONS

Definitions

1. **“Decision”** includes a failure to make a decision.
2. **“Parent”** is as defined in the *School Act* and includes a guardian.
3. **“Appellant”** is the student, parent or guardian initiating the appeal.
4. **“Board”** is a majority of the quorum of the Board.

Procedure

1. Under *Section 11* of the *School Act*, a parent and/or student may appeal a decision of an employee or employees of the Board if that decision significantly affects the education, health or safety of the student.
2. The determination of ~~The Board recognizes that~~ whether a decision significantly affects a student's education, health or safety ~~is a matter for individual consideration will be made on a case-by-case basis.~~ The following will normally be considered to be matters that significantly affect a student's education, health or safety:
 - a. suspension or expulsion ~~from an educational program of a student from a school for a period in excess of 10 days, or that could prevent the student from fulfilling graduation requirements in a timely way.;~~
 - b. a requirement, as a disciplinary measure, to complete all or part of an educational program through distributed or online learning;
 - e. a determination that it is not necessary to provide a student with an individual education plan because the student is not a student with special needs, or a determination respecting an exception under *Section. 2(2)* of the *Individual Education Plan Order* applies to the student; ~~denial of a request for an individual education program.~~
 - d. ~~Decisions regarding whether a student has met the requirements for promotion from one grade or course to the next, or has met the requirements for secondary school graduation.~~

- e. a decision relating to an offer to consult with a parent of a student with special needs regarding the placement of the student in an educational program, other than access to a specific course or class;
 - f. a decision relating to an offer ~~failure~~ to consult with a parent and/or a student with special needs in regard to a student's Individual Education Program (IEP).
3. Where a decision is made by a Board employee which would be appealable under this Bylaw, the affected student and their parent/guardian(s), shall be notified of their right of appeal, and the time limits governing the initiation of an appeal. ~~Appellants who have appeal rights under School Act s.11.1 will be advised of these rights when or before they are notified of the board's reasons for decision.~~
 4. Board policies and District administrative procedures are not appealable under *Section 11 of the School Act*.

Pre-appeal dispute resolution Process

Steps for discussion prior to an Appeal to the Board:

Step 1:

The parent and/or student shall make every effort to meet with the employee(s) involved as per ~~take~~ the dispute resolution steps outlined in the Board's dispute resolution of student or parent concerns (***Policy No. 19-205 – Dispute Resolution of Student or Parent Concerns***) or other applicable policy to try to resolve their concern before filing an appeal to the Board. ~~If the applicable dispute resolution process does not resolve the concern, an appeal is normally from the decision of the highest supervisory officer who dealt with the matter in the dispute resolution process~~ within a reasonable period of time after the decision is made. A record of this meeting will be retained, and a summary will be provided to all parties.

If there is no resolution:

Step 2:

The parent and/or student shall meet with the principal and appropriate staff member(s) to discuss the decision and the desired outcome. The Principal may include in the meeting the employee whose decision is being discussed, the employee's supervisor (if applicable) and others with expertise or who were involved in the decision. A record of this meeting will be retained, and a summary will be provided to all parties.

If there is no resolution:

Step 3:

The concerns shall be provided in writing to the Superintendent. The written documentation shall include an outline of the nature of the concern, and the steps taken to resolve the matter directly with the employee(s) involved. The parent and/or student shall then meet with the Superintendent. ~~If the appellant has not met with the Superintendent during the dispute resolution process, at the Superintendent's request the appellant is required to meet with the Superintendent or a person designated by the Superintendent. A report of this meeting shall be included in the report prepared under~~

~~3.1. Other members of the School District administration and employees may be involved at this time. The student's educational program will be continued in a manner established by the school principal and consistent with the provisions in the *School Act* during this period of review. The disposition of the review shall be confirmed in writing to the parent and/or student and shall be communicated to the employee(s) whose decision led to the review. The report may include the Superintendent may recommend actions as to whether that the dispute should be referred to an outside mediator.~~

~~If there is no resolution If the steps in Section 1 are not successful, and the parent and/or student begins the board appeal process wish to appeal to the Board, they must, within seven days of receiving the Superintendent's written confirmation in Step 3, provide a written Notice of Appeal to the Secretary Treasurer. a parent and/or student by presenting a written Notice of Appeal to the Secretary Treasurer within fifteen (15) school days after being informed of the decision that is being appealed, or from the date of completion of the dispute resolution steps referred to in 1.1, whichever is later.~~

~~[Note: "School days" means that this time period does not run during a school break. Under 4.6 below, the board may waive this 15 day time limit.]~~

Consideration of Appeal

- ~~1. (moved to Bylaw Statement)~~
- ~~2. The Board of Education generally encourages complaints and disputes to be dealt with at the point closest to where the dispute first arises, pursuant to the Board's dispute resolution of student or parent concerns (see Policy No.19).~~
- ~~3. If an employee's decision is disputed or a complaint is made about an employee's decision, the dispute or complaint is not resolved to the satisfaction of the student or the parent of the student affected, and the decision significantly affects the education, health or safety of the student, the Board of Education recognizes the right of a student and/or his or her parents (including guardians and persons acting in place of parents) to appeal to the Board.~~
- ~~4. The Board also recognizes that employee decisions that do not significantly affect the education, health or safety of a student are within the final authority of the Superintendent as the Board's Chief Executive Officer.~~
- ~~5. Appeals to the Board of Education are to be carried out in accordance with principles of fairness, including:
 - ~~a. The appeal process should be accessible to parents and students. Information about the appeal process and relevant policies should be readily accessible to all, including employees, students and parents. Reasonable accommodation should be provided where necessary to allow parents or students to make use of the appeal process.~~
 - ~~b. Appellants are entitled to receive the same written and oral information to be used in the appeal as is provided to the Board by administration and to have an opportunity to respond to it.~~~~

- ~~c. The Board accepts its responsibility to exercise its independent judgment when hearing appeals. In particular, a board officer who has participated in making the decision being appealed, who has attempted to mediate it or who has investigated it shall not assist the Board of Education with its deliberations on the appeal.~~
- ~~d. A student or parent shall not be subjected to retribution by the Board, its officers or employees because an appeal has been made.~~
- 5. (moved to # 26)
- 6. ~~In considering appeals of employee decisions, the Board shall consider:~~
 - ~~a. Whether the decision appealed is in accordance with legislation, board policies and procedures.~~
 - ~~b. Whether the decision appealed was reached through a process that was fair to the student and after consideration of relevant information.~~
 - ~~c. Whether the evidence presented to the Board supports the decision or calls it into question.~~
 - ~~d. Whether the decision is reasonable in the circumstances.~~
 - ~~e. Whether there are special circumstances that would warrant making an exception to a board policy.~~

Process for Starting an Appeal to the Board

1. **Every appeal to the Board must be commenced by a written Notice of Appeal which shall be provided to the Secretary Treasurer and shall state** ~~must include:~~
 - a. the name and address of the student **and/or parent bringing the appeal;**
 - b. the school placement of the student including, where appropriate, grade level and home room teacher;
 - c. ~~The name and address of the person(s) making the appeal~~
 - d. a summary of the decision ~~that is~~ being appealed;
 - e. the date on which the student and/or parent/guardian bringing the appeal were informed of the decision;
 - f. the name of the Board employee(s) who made the decision being appealed;
 - g. the particulars of the effect on the student's education, health or safety;
 - h. a summary of the steps that the student and/or parent/guardian have taken to attempt to resolve the matter **directly with the employee(s) involved;**
 - i. the grounds for the appeal **or the area of difference;** and
 - j. the action requested or relief sought.
 - k. ~~Whether the person making an appeal is requesting an oral hearing~~

- ~~I. Whether the person making an appeal requires any special accommodation in order to proceed with the appeal (such as interpretation services at the hearing of the appeal.)~~
2. Upon receipt of the Notice of Appeal, the Secretary-Treasurer ~~or designate may designate another staff member to carry out these responsibilities~~ **will provide a copy to the Superintendent shall be notified, the Board Chair, the principal of the school in which the student is enrolled, and the employee(s) whose decision is the subject of the appeal. In the case of a unionized employee, a copy shall be provided to the Association or Union, if required by the collective agreement. The employee will be afforded the opportunity to provide the Superintendent with a written response to the appeal.**
3. The Secretary Treasurer is responsible on behalf of the Board for:
 - a. receiving Notices of Appeal
 - b. reviewing Notices of Appeal for completeness and timeliness
 - c. giving any notices required under collective agreements
 - d. receiving and distributing documents relevant to an appeal
 - e. communicating with the appellants and others on matters relating to an appeal hearing; and
 - f. arranging for any accommodation required, and Scheduling hearings.
4. If the Secretary Treasurer has participated in the dispute resolution steps or is the employee whose decision is being appealed, another staff member shall be designated.
5. If, **after initial review of the Notice of Appeal**, the Secretary Treasurer **determines** ~~is of the opinion~~ that:
 - a. an appeal is not timely,
 - b. an appellant has refused to participate in the dispute resolution steps,
 - c. an appeal is not an appeal of a decision of a board employee or the decision does not significantly affect the student's education, health or safety, or
 - d. There is any other preliminary matter that should be settled before a hearing of an appeal on its merits,

the Secretary Treasurer may schedule a preliminary hearing before the Board for purposes of a decision on that matter, ~~without first complying with all requirements of section 3. (Any applicable collective agreement requirements must still be complied with.)~~

Appellants are notified of a preliminary hearing and provided with the opportunity to make written submissions on the preliminary issue to be determined.
6. The Board may refuse to hear the Appeal where:
 - a. the Appeal has not commenced within the timeframe set out in this Bylaw;

- b. the student and/or parent has refused or neglected to engage discuss in the pre-appeal process outlined in this Bylaw; decision under appeal with the person(s) specified in the applicable dispute resolution process or the Superintendent or delegate, or such other person as directed by the Board; or
 - c. the Board concludes that the decision does not, in the opinion of, significantly affect the education, health or safety of the student. Examples include, but are not limited to, those listed in the Appeals Regulation 24/2008 that governs appeals beyond the Board to the Superintendent of Appeals.
7. If the Board refuses to hear an appeal for the reasons set out in Section 6 above, the parent and/or student will be promptly informed of that decision and the reasons for it as well as the opportunity for the student and/or parent to access the appeal process outlined in Section 11.1 of the School Act and the Appeals Regulation, BC Reg 24/08.
 8. If the Board determines it will hear and decide the Appeal, it will determine whether to decide the Appeal based solely on written materials or whether it will decide the appeal after also hearing oral submissions.
 9. By a date and time fixed by the Board the Superintendent, or designate, will prepare a report for the Board, concerning the matter under appeal and is responsible for gathering the information to be presented to the Board, other than the information to be presented by the appellant the student and/or the parent bringing the Appeal, as well as for the employee, and in the case of a unionized employee, to the Association or Union, if required by the collective agreement. The Superintendent's report shall contain:
 - a. the Notice of Appeal;
 - b. a description of the issue(s) raised in the Appeal, any contextual background relevant to the Appeal, the rationale for the Decision and a recommended resolution;
 - c. copies of all previous correspondence in relation to the Discussion Steps prior to Appeal;
 - d. copies of any relevant District, Ministry or other policies or statutory requirements, which pertain to the issues raised in the appeal; and
 - e. by a date and time fixed by the Board, the student and/or the parent bringing the appeal may provide a written response to the Superintendent's report which will be provided to the Board, the Superintendent or designate, as well as to the employee, and in the case of a unionized employee, to the Association or Union, if required by the collective agreement.
 10. If the appellant is a student under the age of 19 and no parent is named as an appellant, a parent will be notified.
 11. The Board, in its discretion, may determine that further written materials may be required and will set a date and time for those to be provided to all parties including any employee affected and, if required by the collective agreement, to the Association or Union. The appellant is notified of the date, time and place for hearing

of the appeal and of the requirement to provide any documents in advance. A copy of the report will be provided to the appellant no later than 48 hours before the time set for hearing.

12. ~~Where the Board has determined that it will decide an Appeal based solely on the oral and/or written materials submissions presented to it and, for an oral hearing, will determine the order of, and time allotted for, submissions. Instead of an oral hearing, the Board may determine that an appeal will be decided on the basis of written submissions only, it will set a date for a closed meeting of the Board at which the Appeal will be decided and will advise the student and/or the parent bringing the Appeal and the Superintendent of the date the Board will decide the Appeal.~~
13. ~~Where the Board invites oral submissions in addition to the written materials, it shall set a time, date and place for a closed meeting. The Board will decide the appeal based on the oral and/or written submissions presented to it and, for an oral hearing, will determine the order of, and time allotted for, submissions. appeals and decisions on appeals will be held in closed session of the Board for this purpose and shall give notice of the meeting to the student and/or Parent bringing the appeal, the Superintendent, or designate, and to the employee(s) concerned and allow each of them to attend and be accompanied by or represented by an advocate. The Board shall also advise those eligible to attend the closed meeting of the order of proceedings for the closed meeting.~~
14. The appellant is required to provide copies of any documents on which he or she intends to rely, or copies of written submissions, no later than 24 hours before the date set for hearing.
15. ~~The Board may hear an appeal despite any defects in form or technical irregularities and may relieve against time limits.~~
16. A parent attending a closed meeting of the Board under this Bylaw may bring with them an interpreter if they have difficulty communicating in English.
17. At any time the Board may request further information from the appellant or the Superintendent or designate and may adjourn in order that such information may be obtained.
18. The Board may invite submissions from any person whose interests may be affected by the Board's decision on the appeal.
19. At the end of each party's submission, trustees may ask questions.
20. When questioning by trustees is complete, ~~the~~ all parties leave and the Board will meet to decide how it will dispose of the appeal.
21. The Board's ~~must make a decision as soon as practicable and~~ must be made within forty-five (45) days of receiving the Notice of Appeal. ~~The Parent and/or student shall be promptly informed of the Board's decision and the reasons for the Decision as well as the opportunity for the student and/or Parent to access the appeal process outlined in Section 11.1 of the School Act and the Appeals Regulation, BC Reg 24/2008. The Board will ensure that each party has received all documentation provided by the other party prior to the hearing.~~

22. The Board may make any interim decision it considers necessary pending the disposition of the appeal.
23. Trustees are expected to exclude themselves from a hearing of an appeal if they have direct first-hand knowledge of the circumstances that led to the appeal, or the trustee believes that by remaining at the hearing there would be a reasonable perception of bias on the part of the trustee.
24. The Board's decision in the appeal is final, subject to **an appeal to the Superintendent of Appeals**. ~~any rights to appeal under the *School Act*. The Board may reconsider its decision only:~~
 - a. ~~If it is satisfied that new evidence or information would have a material effect on the decision and the failure to present that evidence or information at the original hearing is satisfactorily explained;~~
 - b. ~~The decision contravenes law; or~~
 - c. ~~A reconsideration is directed or requested in connection with an appeal of the board's decision under *School Act* s.11.1.~~
25. ~~The parties will be promptly notified of the Board's decision. Written reasons will be provided as soon as practicable~~
26. Decisions made on appeals are not precedential and are not binding on future decision-makers.

Appeal to the Superintendent of Appeals

1. A student and/or Parent may appeal a decision made by the Board under this Bylaw to the Superintendent of Appeals pursuant to *Section. 11.1* of the *School Act*.
2. The opportunity for the student to access the appeal process to the Superintendent of Appeals must be communicated to the Appellant.

Replaces: ~~Bylaw No. 8~~

~~Policy 6170~~

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