



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 and supports their authority to make operational decisions 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 whether a decision significantly affects a student's education, health or safety 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;
 - b. a requirement, as a disciplinary measure, to complete all or part of an educational program through distributed or online learning;
 - c. 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;
 - d. 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;
 - e. a decision relating to an offer 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;
4. Board policies and District administrative procedures are not appealable under *Section 11 of the School Act*.

Pre-appeal 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 the dispute resolution steps outlined in the Board's dispute resolution of student or parent concerns (***Policy No. 205 – Dispute Resolution of Student or Parent Concerns***) 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. 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 Superintendent may recommend that the dispute be referred to an outside mediator.

If there is no resolution and the parent and/or student 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.

Process for 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:
 - 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. a summary of the decision being appealed;
 - d. the date on which the student and/or parent/guardian bringing the appeal were informed of the decision;
 - e. the name of the Board employee(s) who made the decision being appealed;
 - f. the particulars of the effect on the student's education, health or safety;
 - g. 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;
 - h. the grounds for the appeal or the area of difference; and
 - i. the action requested or relief sought.
2. Upon receipt of the Notice of Appeal, the Secretary-Treasurer or designate will provide a copy to the Superintendent, 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 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.

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 to engage in the pre-appeal process outlined in this Bylaw; or
 - c. the Board concludes that the decision does not 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 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.
12. Where the Board has determined that it will decide an Appeal based solely on the written materials, 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 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. 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.
16. 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.
17. The Board may invite submissions from any person whose interests may be affected by the Board's decision on the appeal.
18. At the end of each party's submission, trustees may ask questions.
19. When questioning by trustees is complete, all parties leave and the Board will meet to decide how it will dispose of the appeal.
20. The Board's decision 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*.
21. The Board may make any interim decision it considers necessary pending the disposition of the appeal.
22. 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.

23. The Board's decision in the appeal is final, subject to an appeal to the Superintendent of Appeals.
24. 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.

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