

Bylaw 3-08 Student Appeals

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STATUS: APPROVED

STUDENT APPEAL PROCEDURE

Board Approved: March 26, 2008

Last Reviewed: June 19, 2013

Description:

The Board of Education believes that employee decisions relating to individual students should be carried out in accordance with principles of fairness and progressive discipline. The appeal process encourages all parties to resolve disputes through an understanding of the other party's circumstances followed by good faith efforts to resolve the dispute.

The Board of Education also encourages complaints and disputes to be dealt with at the point closest to where the dispute arises. When a dispute that significantly impacts the education, health or safety of a student cannot be resolved, the parents and students will be referred to the appeals procedure.

The Board may deem that the employee and appellant have not participated in required preliminary discussions to resolve the dispute, and may refuse to hear an appeal, until the appellant meets with the employee, supervisor to the employee and/or the superintendent, to facilitate resolution to the dispute.

Roles and Procedures:

(A) The Appellant (student or parent making the appeal):

1. Should an employee's decision be disputed or a complaint is made about an employee's decision, and there can be no resolution to the satisfaction of the student or parent, The Board of Education recognizes the right of a student and/or parent (including guardians) to appeal to the Board for the decision to be reviewed and changed.
2. Appeals to the Board will only be heard where the employee's decision (or failure to make a decision) significantly affects the education, health or safety of the student (hereafter referred to as "EHS")*. Where an appeal does not affect the EHS of a student, the Board has no jurisdiction to hear the appeal, and therefore no capacity to overturn the employee's decision. These disputes will be referred to the Superintendent. *(see Grounds for Appeal at the end of this by law.)
3. The Appellant will draft a written Notice of Appeal. It must be received within 20 days from the date the student's program was changed. The appellant will include the following information in their Notice of Appeal:
 - the name and address of the student and/or parent or guardian initiating the appeal;

- the grade and/or educational program of the student, and the school he or she is attending;
 - the decision that is being appealed, and the date the student and/or parent or guardian was informed of the decision;
 - the name of the Board of Education employee(s) who made the decision;
 - a description of meetings, conversations, and communications and the names of persons the appellant has been in contact with to resolve the decision;
 - a description of the resolution or desired outcome the appellant is seeking from their appeal.
4. When an employee's decision does not significantly impact the EHS of the student, the superintendent's decision on the matter will be final. However, where there is dispute with the superintendent's decision about whether the EHS of the student is significantly impacted, that question should be scheduled for a decision by the Board of Education. In this case the Board would receive written submissions only from the employee and appellant(s).
 5. When a dispute meets the EHS criteria for appeal, the appellant will be afforded the opportunity to submit both oral and written information to the Board of Education.
 6. All information to be submitted by the employee or appellant shall be made available to the Board in advance of the hearing;
 7. All information to be submitted by the employ and his/her supervisor(s) will be made available to the appellant in advance of the hearing to provide an opportunity to respond to it.
 8. To achieve procedural fairness, an appellant is entitled to representation. This may be a lawyer, parent-advocate (through contact with the PAC chair) and/or may request that the superintendent appoint a senior officer, familiar with the appeal procedures, to support the appellant in making their submission to the Board.
 9. When the Board hears an appeal, they must render a decision within 45 days from the date the appeal was filed.
 10. Should the Board decide in favor of the employee in their hearing, the appellant shall be informed of their right to appeal the Board's decision to a Superintendent of Achievement (hereafter referred to as "SoA").
 11. Where the superintendent has been directly involved in the school appeal process, he/she will assign a senior officer to support the appellant in making their submission to the SoA by providing the following:
 - procedural information on the filing of appeals with the SoA;
 - coordination of information between the appellant, District, and SoA;
 - Where the SoA agrees to hear the appeal, the establishment of a date, time and location for the appeal to be heard;
 - As may be required following the hearing, the implementation of the judgment rendered by the SoA.

(B) The Superintendent (or designate):

1. The superintendent may be part of the process leading up to the appeal, and may act as mediator to the dispute before it becomes an appeal.
2. The superintendent will inform the Board of Education within 7 school days that he has received a Notice of Appeal.
3. A written submission will be received from the employee whose decision is the subject of the appeal, from the principal, and/or immediate supervisor of the employee. Copies of these reports will be provided to the appellant.
4. The superintendent will review the decision by the employee, and will interview the appellant with respect to the openness of the communication, the conversational conduct, the procedural fairness applied, the progressive nature of the actions taken, and will be satisfied that all attempts made at the school level to resolve the dispute, with the appellant directly involved, have failed.
5. The superintendent will provide the written reports to the Board describe the nature of the dispute, and the actions that have been undertaken to find resolution.
6. If requested by the appellant, the superintendent may assign a senior officer to assist the appellant in moving forward with the appeal procedure and assist in communicating the appellant's position to the Board.
7. The superintendent or senior officer will coordinate the transfer of information between the school, appellant and Board, including the time, date and location of the hearing.
8. The superintendent may not act as advisor to the Board where it is the decision of the superintendent that is the subject of the appeal.
9. The superintendent will work with the Student Appeal Committee, to ensure the hearing is conducted in a fair manner to facilitate a clear understanding of the views of the appellant and the employee.

(C) The Board of Education:

1. Upon being informed by the superintendent that a Notice of Appeal has been filed, the Board will review the information contained in the Notice of Appeal.
2. The Board will appoint a sub-committee of no less than 3 trustees to be the Student Appeals Committee (hereafter referred to as the "SAC").
3. The SAC may refuse to hear an appeal where:
 - the Notice of Appeal is filed outside of the 20 day limit for making an appeal, starting from the date the decision affecting the student was made; or
 - the appellant has refused or neglected to discuss, in good faith, the decision under appeal with person(s) as directed by the Board; or
 - the Board determines that the employee's decision does not significantly affect the student's education, health or safety; or
 - the Board is informed by the appellant in writing that there has been a resolution to the dispute, and the Notice of Appeal is withdrawn. A decision made under the above circumstances is final. Decisions that do not meet SAC criteria may be appealed to the provincial Ombudsman.
4. The SAC is charged with hearing the views of the appellant, employee, and/or the

5. employee's supervisor, and the superintendent. Where additional expertise is required to understand the circumstance, the SAC may request informed persons to attend.
6. The SAC will conduct the hearing with the following guidelines:
 - The appellant may make written or verbal submissions or both;
 - the employee may make written or verbal submissions or both;
 - the meeting will be considered a "Special Meeting" and will not be open to the public;
 - the agenda will deal exclusively with the Notice of Appeal;
 - the appellant has the right of legal representation and will notify the Board in advance of the hearing of their intent to be represented by legal council;
 - the board has the right of legal representation and will notify the appellant in advance of the hearing of their intent to be represented by legal council;
 - the appellant will deliver their submission first;
 - the employee will deliver their submission second;
 - the superintendent will deliver their report;
 - other information will be received;
 - a question period will occur for trustees to clarify the information;
 - the floor will be opened for additional comments or discussions;
 - the chairperson will excuse all contributors to the hearing;
 - the SAC will deliberate on the information provided and will draft a recommendations to be brought to the Board as a whole;
 - at the earliest possible time, the chairperson of the SAC will bring forward a report of the hearing, together with the recommendations of the SAC regarding the appeal;
 - the Board as a whole may ask questions of the SAC as needed, and will vote on the recommendations;
 - the decision of the Board will be presented in writing to the appellant, employee, principal and immediate supervisor;
 - appeal procedures must be concluded and a decision rendered within 45 days of the date the student's program was affected.
7. Where the decision of the Board is not in favor of the appellant, he or she will be informed of the option to make their appeal to the Superintendent of Achievement.
8. Upon request, a senior officer may be assigned to assist the appellant work through the procedures necessary to bring forward their appeal.

(D) Appeals to the Superintendent of Achievement:

1. Notice of Appeal forms to the Superintendent of Achievement are available online at:
2. http://www.studentappeals.gov.bc.ca/forms/sab_101.pdf or hard copies are available from the School District #59 Board Office. A copy of the Board of Education decision must be attached to this appeal.
3. The appeal information will be sent to the "Office of the Registrar" using one of the following methods:
 - mail: PO Box 9141, Stn. Prov. Govt., Victoria, BC. V8W 9H1

- email: educ.studentappeals@gov.bc.ca
 - FAX: 250-356-1883
 - Courier: same as mail address above
 - The toll free information number is 1-877-387-5643
4. Information on Student Appeals is available at:
 5. <http://www.studentappeals.gov.bc.ca> or hard copies are available from the School District #59 Board Office.
 6. Upon receipt of the Notice of Appeal, The Office of the Registrar will open an appeal file and notify the Appellant that his/her appeal has been received.
 7. The Superintendent of Achievement has the authority to:
 - temporarily suspend the Board of Education decision at the request of either party;
 - summarily dismiss the appeal, in whole or in part
 - refer the appeal to mediation; or
 - refer the appeal to adjudication.
 8. The cost of mediation or adjudication will be paid by the Ministry of Education, while travel costs and legal fees will be the responsibility of the parties.

APPENDICES:

1. Grounds for Appeal (School Act)
2. Notice of Appeal application to the Superintendent of Achievement
3. Brochure on Student Appeals