

Overview

The Board of Education recognizes the right of a student and/or parent of a student under Section 11 of the School Act to appeal a decision of an employee where such a decision significantly affects the education, health, or safety of the student. The Act also provides for decisions made by Boards under Section 11 to be appealed to a Superintendent of Appeals at the Ministry of Education.

Before the filing of an appeal, it is the Board's expectation that, in most cases, the student and/or parent will discuss the matter in dispute in a constructive manner with those responsible at the school or district level, as per Policy 301 Navigating District Concerns. These procedures in no way constitute a barrier to an appeal to the Board.

For the purposes of this Bylaw, 'parent' is as defined in Section 1 of the School Act.

1. Decisions That Can Be Appealed

The following decisions shall be deemed to significantly affect the education, health or safety of a student:

- 1.1 Suspension from school for a period in excess of five (5) consecutive days;
- 1.2 Exclusion from school for a health condition;
- 1.3 Requirement to complete all or part of an educational program by distributed learning as a disciplinary measure
- 1.4 Failure to provide an IEP to a student with special needs;
- 1.5 Failure to offer to consult with a parent regarding the placement or IEP of a student with special needs;
- 1.6 Refusal to offer an educational program to a student who is sixteen (16) years of age or older;
- 1.7 Denial of an educational program by failure to take action in respect of a complaint of bullying, intimidation, harassment, or threat or use of weapons or violence by one or more students against another student;
- 1.8 Failure to make a decision, for the purposes of this Bylaw, constitutes a decision; and,
- 1.9 Any other decision that, in the opinion of the Board, significantly affects the education, health or safety of a student.

2. Refusal to Hear Appeals

The Board may refuse to hear an appeal where:

- 2.1 The appeal has not been initiated within a reasonable time from the date of the decision being appealed;
- 2.2 The student/parent or guardian appealing the decision has not first discussed the decision being appealed with any persons identified by the Board; or,
- 2.3 The Board determines that the decision does not significantly affect the student's education, health or safety.

3. Time Limit for Filing Appeal

An appeal must commence within thirty (30) days of the date the student or parent/guardian was informed of the decision being appealed, unless the student or parent initiating the appeal (the "Appellant") can demonstrate that there are reasonable grounds to extend this time limit.

4. Filing an Appeal

An appeal shall be initiated by providing to the Superintendent or designate a complete written Notice of Appeal ([Form 500.1-A](#)).

- 4.1 The Notice of Appeal shall include the following information:
 - a. The name of the student on whose behalf the appeal is being filed;
 - b. The name of the school and the grade in which the student is enrolled;
 - c. The name, telephone number, and address where the person filing the appeal may be contacted;
 - d. A description of the decision that is being appealed and its effect on the education, health or safety of the student;
 - e. The name of the employee who made the decision;
 - f. The date the person bringing the appeal learned of the decision being appealed;
 - g. The grounds of the appeal and the suggested resolution; and,
 - h. The steps that the student and/or their parents have taken to attempt to discuss the matter directly with the employee(s) who made the decision or with other school or district employees.

- 4.2 Where the Appellant is a student under the age of nineteen (19) years, the Board shall provide a copy of the Notice of Appeal to the parent(s) of the student;
- 4.3 Upon receiving the Notice of Appeal, the Superintendent shall notify the Board and the employee whose decision is being appealed;
- 4.4 The Superintendent may appoint a person to be responsible for carrying out the responsibilities of the Superintendent under this Bylaw.

5. Pre-Hearing Procedure

The Superintendent is responsible for reviewing the Notice of Appeal and for communicating with the Appellants and others on matters relating to the appeal.

- 5.1 Where, in the opinion of the Superintendent, the appeal does not comply with the requirements for an appeal established under this Bylaw or Section 11 of the School Act (e.g. it does not appear to be timely or the appeal is not an appeal of a decision that significantly effects the student's education, health or safety), the Superintendent or designate shall refer this matter to the Board for a determination of the eligibility of the appeal;
 - 5.1.1 The Board may ask for written submissions from the Appellant and/or Superintendent on the matter;
 - 5.1.2 The Board shall notify the Appellant and the Superintendent of any decision it may make, including a refusal to hear the appeal;
 - 5.1.3 The Board may consider an appeal notwithstanding any defect in form or other technical irregularity.
- 5.2 Where, in the opinion of the Superintendent, there is no preliminary eligibility matter to be determined, arrangements will be made for the hearing of the appeal by the Board;
- 5.3 The Superintendent shall notify the employee whose decision is being appealed that an appeal has been filed. Employees will be given the opportunity to exercise any rights provided to them in their Collective Agreement with respect to a Section 11 appeal;
- 5.4 Prior to the date established for the hearing of the appeal, the Superintendent or designate shall prepare a report to the Board regarding the matter under appeal. The Appellants and the employee whose decision is being appealed shall be entitled to a copy of this report;
- 5.5 The Board may provide directions for the hearing of the appeal;
 - 5.5.1 The Board may, prior to the Board hearing the appeal or at any other time, require the Appellant to discuss the decision being

appealed with persons directed by the Board;

- 5.5.2 The Board may establish one or more committees of persons who have not been involved in the decision under appeal, for the purpose of investigating an appeal under this Bylaw. The committee(s) shall report to the Board as directed.

6. Board Hearing

The Board shall advise the Appellant, the Superintendent, and the employee whose decision is being appealed, whether the appeal will be determined based upon written submissions and/or an oral hearing and on any directions established for the hearing of the appeal, including the time frame for oral and/or written submissions.

- 6.1 Where the Board decides to hold an oral hearing, the Appellant, the Superintendent and the employee whose decision is being appealed, shall be provided with written notice of the date, time and location of the hearing;
- 6.2 Oral hearings will be held in a closed session;
- 6.3 The Board may ask questions of any person appearing at the appeal hearing;
- 6.4 The Board may adjourn the hearing at any time to obtain additional information where it considers such information would assist the Board in determining the appeal. The Board may make any interim decision it considers necessary pending the disposition of the appeal;
- 6.5 During the appeal hearing process, the Appellant may be accompanied by an informal support person and/or interpreter/translator.

7. Decision

- 7.1 The Board of Education shall make a decision and that decision shall be deemed the final decision of the Board;
- 7.2 The Board of Education must confine its deliberations to the decision being appealed;
- 7.3 In considering appeals of employee decisions, the Board shall consider:
- 7.3.1 Whether the decision appealed is in accordance with legislation, Board policies and procedures;
- 7.3.2 Whether the decision appealed was reached through a process that was fair to the student and after consideration of relevant information;

- 7.3.3 Whether the decision is reasonable in the circumstances in that the evidence presented is capable of supporting the decision; and,
- 7.3.4 Whether there are special circumstances that would warrant making an exception to a Board policy.
- 7.4 The Board shall promptly notify the Appellant, the Superintendent and the employee whose decision was appealed of the decision of the Board and shall provide written reasons for the decision as soon as practicable;
- 7.5 The Board must hear and decide an appeal within 45 days from the date the Notice of Appeal was received in an acceptable form.

8. Protection from Reprisals

The Board of Education will not tolerate any direct or indirect form of reprisal due to the initiation or outcome of an appeal. Where there is evidence of reprisal, the Superintendent shall take immediate steps to remedy the situation.

9. Appeals of the Board's Decision

Any appellant wishing to appeal the Board's decision may contact a Superintendent of Appeals under Section 11.1 of the School Act: Appeals to the Superintendent of Appeals. This information may be found at <https://www2.gov.bc.ca/gov/content/education-training/k-12/support/student-disputes-and-appeals>

*Legal Reference: School Act Sections 6, 11, 11.1, 11.2, 11.3, 11.4, 11.5, 11.6, 11.7, 11.8, 22, 26, 68, 85, 91
Regulation 24/08 – Appeals Regulation
Administrative Tribunals Act
Collective Agreement*

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