

906 School Act Appeals Bylaw

Adopted: Effective March 3, 2008

Bylaw

Employee decisions relating to individual students should be carried out in accordance with principles of 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.

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 complaint process (*Board Policy 406: Complaints Concerning Personnel, Programs or Procedures*).

The Board 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 educational officer.

A decision of an employee or employees of the Board that significantly affects the education, health or safety of the student may be appealed by a parent/guardian and/or student in the School District.

Bylaw to Permit Appeals of Employee Decisions by Parents and/or Students

1. A parent/guardian and/or student in the School District 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. The failure of an employee or employees to make a decision shall be deemed to be a decision for the purpose of bringing an appeal.
2. The following decisions shall be deemed to significantly affect the education, health or safety of a student:
 - a. Disciplinary suspension from school for a period in excess of five (5) consecutive days;
 - b. Suspension from school for a health condition;
 - c. Placement in an educational program other than access to a specific course or class;
 - d. Grade promotion and graduation;
 - e. Refusal to offer an education program to a student 16 years of age or older;

and any other decision that, in the opinion of the Board or the Superintendent, significantly affects the education, health or safety of a student.

Discussion Before Appeal

Before an appeal is brought to the Board, the parent/guardian and/or student shall discuss the decision under appeal with Board employees, in accordance with *Policy 406: Complaints Concerning Personnel, Programs or Procedures*. These discussions should be focused on ways to resolve conflict, or to allow both parties to reach an agreement. Where practicable there shall be an expectation that each step in the sequence of discussions will take no more than three working days. The discussions would normally occur in the following sequence:

Step 1: The parent/guardian and/or student shall make every effort to meet with the employee(s) involved with the decision. If there is no resolution;

Step 2: The parent/guardian and/or student shall make every effort to meet with the principal and appropriate staff member(s). If there is no resolution;

Step 3: The concerns shall be provided in writing to the Assistant Superintendent responsible for that school or program. 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/guardian and/or student shall then meet with the Assistant Superintendent. Other members of the School District administration and employees may be involved at that time. The student's educational program will be continued in a manner established by the school principal and consistent with provisions in the *School Act* during this period of review. The disposition of the review shall be confirmed in writing to the parent/guardian and/or student. At the same time, the disposition shall be communicated to the employee(s) whose decision led to the review. If there is no resolution;

Step 4: The parent/guardian and/or student shall meet with the Superintendent. Other members of the School District administration and employees may be involved at this time. The disposition of the review shall be confirmed in writing to the parent/guardian and/or student. At the same time the disposition shall be communicated to the employee(s) whose decision led to the review.

If there is no resolution, the parent/guardian and/or student may give written *Notice of Appeal* to the Board.

Process of Appeal

1. Every appeal to the Board must be commenced by a written *Notice of Appeal* which shall state:
 - a. The name and address of the student and/or parent/guardian bringing the appeal;
 - b. The current placement of the student – the school and homeroom teacher;
 - c. The decision which is being appealed and the date the student and/or parent/guardian was informed of the decision;
 - d. The name of the Board employee(s) who made the decision being appealed;
 - e. The particulars of the effect on the student's education, health or safety;
 - f. The steps that the student and/or parent/guardian have taken to attempt to resolve the matter directly with the employee(s) involved;
 - g. The grounds for the appeal or the area of difference;
 - h. The solution or relief sought.
2. Upon receipt of a *Notice of Appeal*, the Secretary-Treasurer will provide a copy to the Superintendent, the principal of the school in which the student is enrolled, the member of management responsible for the school program or service 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 in accordance with the collective agreement. The employee will be afforded the opportunity to provide the Superintendent with a written response to the appeal.

3. The *Notice of Appeal* will be brought before the Board together with a report on the matter of the appeal prepared by or for the Superintendent. A copy of the Superintendent's report will be provided to the student and/or the parent bringing the appeal, as well as to the employee, and in the case of a unionized employee, to the Association or Union, if in accordance with the collective agreement.
4. The Board may decide the appeal based on the written submission. The Board may also invite oral submissions in which case the Board may decide the appeal based on the oral and/or written submissions presented to it.
5. The Board may refuse to hear an appeal where:
 - a. The appeal has not been commenced within a reasonable time from the date on which the student/parent/guardian became aware of the decision; or
 - b. The student and/or parent/guardian has refused or neglected to discuss the decision under appeal with person(s) directed by the Board or its designate; or the decision does not in the Board's opinion significantly affect the education, health or safety of the student.
6. Where the Board considers it necessary to receive oral submissions, it shall set a time, date and place for this purpose and shall give notice to the student and/or parent/guardian bringing the appeal, and to the employee(s) concerned. Either party in the appeal may be accompanied by, or represented by, an advocate.
7. The Board may establish a committee(s) to investigate matters pertaining to appeals and the committee(s) shall report to the Board on such matters in the manner directed by the Board. The Board may, in its discretion, appoint Trustees, senior officials, administrative officers, teachers or any other person the Board considers appropriate as members of the committee(s).
8. The Board may make any interim decision it considers necessary pending the disposition of the appeal.
9. The Board must make a decision within 45 days from receiving the *Notice of Appeal*.
10. The decision of the Board shall be promptly conveyed, in writing, by the Secretary-Treasurer, to the student and/or parent/guardian bringing the appeal as well as to the employee whose decision was appealed. In the case of a unionized employee, a copy shall be provided to the Association or Union, if in accordance with the collective agreement. Written reasons will be provided as soon as practicable.
11. The Board's decision is final, subject to any rights to appeal under the *School Act*. The Board may reconsider its decision only if:
 - a. 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.
12. Appellants who have appeal rights under *School Act* s.11.1 will be advised of those rights when or before they are notified of the Board's reasons for decision.