



OMBUDSPERSON
BRITISH COLUMBIA

August 31, 2023

Scott Saywell
Superintendent
School District 68 (Nanaimo-Ladysmith)
395 Wakesiah Avenue
NANAIMO BC V9R 3K6

Dear Scott Saywell,

RE: Office of the Ombudsperson Quarterly Report: April 1 - June 30, 2023

This package of documents details the complaint files the Office of the Ombudsperson closed for School District 68 (Nanaimo-Ladysmith) between April 1 and June 30, 2023. Though no action is required on your part, we hope that you will find this information useful and share it within your organization.

These reports provide information about the complaint files we closed regarding your organization within the last quarter, including both files we investigated and files we closed without investigation. Files currently open with the office are not included in these reports.

Enclosed you will find detailed reports containing the following:

- A one-page report listing the number of files closed and the category under which they were closed. The categories we use to close files are based on the sections of the Ombudsperson Act, which gives the Ombudsperson the authority to investigate complaints from the public regarding authorities under our jurisdiction. A more detailed description of our closing categories is available on our website at: <https://bcombudsperson.ca/assets/media/QR-Glossary.pdf>.
- If applicable: Copies of closing summaries written about the complaint files we investigated. These summaries provide an overview of the complaint received, our investigation and the outcome. Our office produces closing summaries for investigated files only, and not for enquiries or those complaints we chose not to investigate.
- If applicable: A summary of the topics identified in the complaint files closed during the quarter. We track general complaint topics for all complaints we receive, and when applicable, we include authority-specific and/or sector-specific topics for your organization and/or sector. Our office tracks the topics of complaints we investigate and those we close without investigation, but not for enquiries. Because complaints to our office are confidential, we do not share complaint topic information if we received too few complaints to preserve the complainants' anonymity.



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If your organization received too few complaints to produce a summary of complaint topics but you would like further information about the complaints our office received about your organization, our Public Authority Consultation and Training (PACT) Team can provide further details upon request.

If you have questions about our quarterly reports or notice any inaccuracies in the data provided, or if you would like to sign up for our mailing list to be notified of educational opportunities provided by our Public Authority Consultation and Training Team, please contact us at 250-508-2950 or consult@bcombudsperson.ca.

Yours sincerely,

Jay Chalke
Ombudsperson
Province of British Columbia

Enclosures



Type of complaint closure for Authority: School District 68 (Nanaimo-Ladysmith)	# closed
<p>Enquiries – Many people who contact us are not calling to make a complaint, but are seeking information or advice. These contacts are classified as <i>Enquiries</i> to distinguish them from <i>Complaints</i>, which are requests that our office conduct an investigation.</p>	0
<p>Complaints with No Investigation – Our office does not investigate every complaint it receives. First, we determine whether we have authority to investigate the complaint under the <i>Ombudsperson Act</i>. We also have discretion to decline to investigate for other reasons specified in the <i>Ombudsperson Act</i>.</p>	1
<p>Early Resolution Investigations – Early Resolution investigations provide an expedited process for dealing with complaints when it appears that an opportunity exists for the authority to take immediate action to resolve the issue. Typical issues that are addressed through Early Resolution include timeliness, communication, and opportunities for internal review.</p>	0
<p>Complaint Investigations – When we investigate a complaint we may conclude with a determination that a complaint is not substantiated, or with a negotiated settlement of the complaint, or with public findings and recommendations. We may also exercise discretion to cease investigation for a number of other reasons specified in the <i>Ombudsperson Act</i>.</p>	1
<p>Reason for closing an Investigation</p>	
<p>Pre-empted by existing statutory right of appeal, objection or review.</p>	0
<p>Investigation ceased with no formal findings under the <i>Ombudsperson Act</i>.</p>	
<p>More than one year between event and complaint</p>	0
<p>Insufficient personal interest</p>	0
<p>Available remedy</p>	0
<p>Frivolous/vexatious/trivial matter</p>	0
<p>Can consider without further investigation</p>	1
<p>No benefit to complainant or person aggrieved</p>	0
<p>Complaint abandoned</p>	0
<p>Complaint withdrawn</p>	0



Complaint settled in consultation with the authority – When an investigation leads us to conclude that action is required to resolve the complaint, we try to achieve that resolution by obtaining the voluntary agreement of the authority to settle the complaint. This allows matters to be resolved fairly for the complainant and authority without requiring a formal finding of maladministration.	0
Complaint substantiated with formal findings under the <i>Ombudsperson Act</i> .	0
Complaint not substantiated under the <i>Ombudsperson Act</i> .	0
Ombudsperson Initiated Investigations – The Ombudsperson has the authority to initiate investigations independently from our process for responding to complaints from the public. These investigations may be ceased at the discretion of the Ombudsperson or concluded with formal findings and recommendations.	0



Closing Summary

Authority:	School District 68 (Nanaimo-Ladysmith)
File Number:	21-0187044 / 001
Closing Date:	29-May-2023
Closing Status:	<i>Can consider without further investigation (s.13(e))</i>
General Complaint Topics:	Disagreement with Decision or Outcome
Authority-specific Complaint Topics:	All School Districts / Student Suspension or Exclusion
Closing Summary:	<p>A person contacted our office with a complaint about SD68. They expressed concerns about the process the district followed when it restricted their child's attendance at school in the fall of 2020. They explained that from September – November 2020 their child was excluded on various occasions related to behavioural issues. The person believed their child had been formally suspended on those occasions but were informed by district staff that no suspension had occurred. At the end of November the person was informed that a partial-day program was being implemented with the stated goal of gradually increasing time spent at school. The person did not agree with this education plan and took several steps in response including an appeal to the Board of Education. The person continued to have concerns and contacted our office.</p>

Based on the information provided our office investigated whether the district had followed a reasonable process when restricting their child's attendance at school. As part of our investigation we reviewed relevant policy and legislation, including the School Act and district policies related to suspensions and other exclusions from school. We also contacted district staff to obtain specific information and records.

Through our investigation we learned that the person had pursued their complaints directly with district staff as contemplated under district Administrative Procedure 325. The person had received responses from various staff including the Assistant Superintendent of Learning Services, the Superintendent of Schools, and the Board of Education. Taken together, the responses provided by the district appeared to provide a comprehensive response to the person's concerns.

The December 10, 2020 letter from the Assistant Superintendent makes clear that the district appeared to have considered a number of factors and



The *Ombudsperson Act* requires that investigations be conducted in private. Ombudsperson investigation documents are not available through the *Freedom of Information and Protection of Privacy Act*, and may be subject to rules preventing their use in court and tribunal proceedings. **Please contact the Office of the Ombudsperson before disclosing this document, or any responses, to any third parties.**

Closing Summary Index

Closing summaries are provided for all investigated files closed in each quarter. Identifying information is removed from the closing summary itself to allow for broader distribution within your organization for quality improvement purposes without disclosing personal information. The table below provides an index of these investigated files and lists the file number, closing date and authority contact involved. Files closed under our Early Resolution Program are also identified. This identifying information is provided separately to assist you in following up on individual files with involved staff as needed.

File Number	Authority	Authority Contact	ER file
21-0187044 / 001	School District 68 (Nanaimo-Ladysmith)	Scott Saywell	



engaged in considerable planning when assessing how best to support the child's education before making the decision to implement an IEP which would include partial-day programming. The letter outlines the exclusions from school as pursuant to a Special Needs Order as opposed to a suspension under the School Act. Likewise, the December 23, 2020 letter from the Superintendent provided a further response and proposed regular meetings with involved parties to discuss the child's progress and to assess whether the IEP continues to meet their needs.

The person also applied to the Board who made a determination on January 15, 2021. The Board directed staff to develop a plan to work towards the child's return to full time education. It appears that the Board arrived at this determination through a comprehensive review of the available information.

In the circumstances it did not appear that further investigation was necessary. This is because it appeared that the district complied with the relevant sections of the School Act and related ministerial orders regarding Special Needs orders and IEP's when making decisions around how best to meet the educational needs of the child. Although the person continued to disagree with the decisions, it did not appear that the decisions were the result of an administratively unfair process as they appear to have been made in a manner consistent with the relevant legal authority after a fulsome consideration of the available information. The records show that district staff were in regular communication with the person and, although some of the information may not have initially been communicated in a clear way, the various letters that resulted from the person's engagement with the district's complaints process appear to clearly communicate the relevant information.

Based on the information obtained we discontinued investigation under s.13(e) of the Ombudsperson Act

The tables below summarize the complaint topics we are tracking for your sector and/or authority and the number of times this topic was identified in the files (investigated and non-investigated complaints) that were closed in the most recent quarter.

If you would like more information on the types of complaints we receive, please contact our Public Authority Consultation and Training Team: email us at consult@bcombudsperson.ca or call us at 250-508-2950.

Sector-Specific Complaint Topics – All School Districts

Other	7	32%
Special Education	3	14%
Student Safety	6	27%
Student Suspension or Exclusion	6	27%

General Complaint Topics – All School Districts

Administrative Error	1	3%
Communication	6	17%
Delay	3	9%
Disagreement with Decision or Outcome	12	34%
Discrimination	1	3%
Other	4	11%
Process or Procedure	5	14%
Review or Appeal Process	1	3%
Treatment by Staff	2	6%