

## Section 5 – Learners and Their Families



## 502 - Parent-Student Appeal Bylaw – Board Level Process

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#### Purpose

A bylaw is required by Section 11 of the *School Act* (hyperlink) to establish a board's procedure on parent/student appeals under Section 11 of the *School Act*. The Board of Education of School District No. 68 (Nanaimo-Ladysmith) believes that public education needs to be transparent and responsive to the needs of our students. It believes that our families are entitled to advocate for the best interests of their students and this Bylaw is intended to achieve these aims.

#### Objectives

In addition to being compliant with the *School Act* this Bylaw is intended to ensure the Board deliberates appeals in a consistent and transparent manner. The Board is committed to creating an environment grounded in the principles of the Justice, Equity, Diversity and Inclusion Policy and Syeytus Reconciliation Framework.

#### Definitions

*Appellant* – A parent or student challenging the decision or lack of decision of a District employee.

*Complaint* – Is a concern about instruction, processes, discipline, health and/or safety or behaviour within the District. A complaint differs from a decision and is not subject to this Bylaw. The Superintendent maintains an administrative process that addresses complaints by parents.

*Decision* – Is a decision, or lack thereof, by a District employee with respect to a student.

*Mootness* – Refers to a decision that is no longer relevant or has no practical significance.

*Parent* – Means a parent as defined by section 1 of the *School Act*.

*Procedural Fairness* - Is the right of individuals to participate in decision-making processes that affect them.

*Reasonableness* – Is a legal term that applies to how the Board will consider a matter. Reasonableness is standard of review by which a reviewing body reviews a decision and decides whether the decision falls within a range of reasonable outcomes. The reviewer does not need to agree with the decision to determine it is reasonable.

Reprisal – A negative action taken by the District because a parent or student files an Appeal.

*Standard of Review* – Is the level of scrutiny the Board will apply when hearing appeals.

### 1. Basic Principles

- 1.1. A student or the parent of a student entitled to an educational program in the District may appeal a decision by an employee of the Board which significantly affects the education, health or safety of a student.
- 1.2. The Board recognizes that:
  - a. professional staff employed by the District offer professional opinions that are the basis for educational programming that is deemed by staff to be most appropriate for students and are worthy of deference; and
  - b. despite the qualifications and deference provided to its employees and the care taken to ensure that decisions made by them in providing for the students of this district are appropriate, parents or students may wish to exercise their right to appeal a decision which significantly affects the education, health or safety of a student. Further, the Board recognizes that such an appeal may, ultimately, come before the Board for its final decision.
- 1.3. The Board is committed to providing Appellants procedural fairness.
- 1.4. No Appellant will be subject to reprisals because they have engaged the appeal process.
- 1.5. The Board shall not refuse to hear an Appeal due to minor errors by the Appellant during the process.
- 1.6. The following issues 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 ten (10) consecutive days;
  - b. exclusion from school for a health condition, unless ordered by a third party;
  - c. failure to offer to consult a parent on a student's IEP;
  - d. placement in an educational program;
  - e. grade promotion and graduation;
  - f. refusal to offer an educational program to a student from 16 to 19 years of age (pursuant to Section 85 of the *School Act*); and
  - g. any other decision that in the opinion of the Board of Education or the designate significantly affects the education, mental and/or physical health or safety of a student.

1.7. Subject to the determination of the Board, the following decisions will not typically be decisions that significantly affect the education, health or safety of a student:

- a. Class placement (e.g. teacher or grade configuration);
- b. Minor differences in resourcing (e.g. level of EA hours);
- c. Requests for specific interventions (e.g. specific EAs or interventions where alternatives are available);
- d. Policy decisions of the Board of Education;
- e. Choice of educational resources; and
- f. Students missing school due to circumstances outside of the control of the Board.

## 2. Process

### 2.1. *Commencing an Appeal*

2.1.1. The following shall be required to commence an appeal:

- a. the name and address of the student and/or parent bringing the appeal;
- b. the current placement of the student (i.e. school, grade and homeroom teacher);
- c. the decision which is being appealed and the date the student and/or parent bringing the appeal was informed of the decision;
- d. the name of the District employee(s) who made the decision being appealed;
- e. the process taken by the Appellant to date to address the issue;
- f. the grounds for the appeal and the relief sought; and
- g. provided in the the prescribed manner (to be linked to the form) set out in the administrative procedure and submitted to the Secretary-Treasurer's office.

2.1.2. The Secretary-Treasurer's office shall acknowledge receipt of the appeal and outline the process and expected timeline of the appeal process. The Board is committed to an expeditious process as possible but has up to 45 days to hold a hearing from the reception of the appeal by the Secretary-Treasurer laid out in 2.1.1.

### 2.2. *Appeal Steps Prior to Formal Board Consideration*

2.2.1. The Superintendent shall maintain administrative procedure 502.1 and flow chart attached to this Bylaw that will set out steps an Appellant must take prior to the Board considering an appeal.

2.2.2. The Superintendent may make any interim decision considered necessary pending the disposition of the appeal.

### 2.3. *Preliminary Review by the Board*

2.3.1. At the recommendation of the Superintendent or Secretary-Treasurer, the Board may dismiss an appeal on a preliminary basis without a written or verbal hearing where:

- a. the issue is moot;
- b. an Appellant has not commenced their appeal within a reasonable time of the decision;
- c. the Appellant has not followed the procedural requirements as set out in the Appeals Administrative Procedure excluding minor errors; or
- d. the decision clearly does not significantly affect the education, health or safety of a student.

2.3.2. If the Board asserts their discretion to refuse the hearing, it shall provide written reasons for its decision.

### 3. The Hearing

#### 3.1. *Preparing for the Hearing*

3.1.1. The Appellant may request a hearing solely by written submissions;

3.1.2. Where an in-person hearing is scheduled, the Appellant is encouraged to provide an outline of their submissions in advance of the meeting. Where practicable, District staff will provide the Board and the Appellant a written outline of submissions and corresponding documents, if applicable. The Appellant will inform the Board of who they will have present at the hearing.

#### 3.2. *At the Hearing*

3.2.1. The process of hearing is as follows:

- a. the Board will confirm the basis of the appeal and remind the Appellant to limit submissions to the decision subject to review;
- b. the Board will invite the Appellant to make submissions;
- c. the Board will invite District staff to make submissions;
- d. the Board will then recess to determine whether there are any questions;
- e. following questions the Appellant followed by District staff may provide closing comments if applicable; and
- f. the Board shall dismiss the Appellants and appropriate District staff and deliberate.

3.2.2. The Appellant may bring an advocate if they so wish.

#### 3.3. *The Board's Standard of Review*

The Board shall apply a standard of reasonableness. Specifically, they will be asked not whether they agree with the decision but whether the decision falls within a range of reasonable outcomes.

### 3.4. *After the Hearing*

As soon as practicable the Board will provide written reasons for its decision.

### 3.5. *If an Appeal is unsuccessful*

In the event that the Board denies the appeal the Appellant may, in certain circumstances appeal to the Superintendent of Appeals.

#### **Legal References:**

<b>Monitoring Method:</b>	<i>Board of Education / Superintendent</i>
<b>Monitoring Frequency:</b>	<i>Triennial</i>
<b>Adopted:</b>	2025.xx.xx