

**NANAIMO LADYSMITH PUBLIC SCHOOLS
STRATEGIC DIRECTIONS COMMITTEE
PUBLIC MEETING
ACTION SHEET**

DATE: March 5, 2025
TO: Strategic Directions Committee
FROM: Mark Walsh, Secretary-Treasurer
SUBJECT: Policy Recommendations

Recommendation:

The Strategic Directions Committee recommends that the Board of Education of School District No. 68 (Nanaimo-Ladysmith) receive the Draft Policy 403 – Board Recognition and circulate as a notice of motion for 30 days, utilizing the consultation process as per Board Governance, Section 1, 2.7 – Policy Development.

The Strategic Directions Committee recommends that the Board of Education of School District No. 68 (Nanaimo-Ladysmith) receive the Draft Policy 505 – School Catchment and Student Enrolment and circulate as a notice of motion for 30 days, utilizing the consultation process as per Board Governance, Section 1, 2.7 – Policy Development.

The Strategic Directions Committee recommends that the Board of Education of School District No. 68 (Nanaimo-Ladysmith) read the Draft Bylaw 502 Parent-Student Appeals for a first and second time and then circulate a notice of third reading for 30 days, utilizing the consultation process as per Board Governance, Section 1, 2.7 – Policy Development.

Background:

This action sheet outlines 2 draft policies and one draft Bylaw and the rationale for the Board's consideration. Two of the Policies are new policies in alignment with the Board's approved new Policy Framework. The Bylaw is an edit of an existing Bylaw.

The intention of providing 3 policies at the same time is an attempt to prevent consultation fatigue by the public. Note that the Policies are numbered in the new format.

Discussion:

Policy 403 - Board Recognition

As part of the Policy Committee's work plan and the Board's Policy Framework a new Policy titled "Board Recognition" was envisioned. In addition, the Board is interested in formalizing a structure to ensure that employees are recognized in a meaningful, transparent and inclusive manner to align with the Board's Strategic Plan associated with employer wellness. This action sheet outlines the draft policy and rationale.

The Policy is intended to address three main areas of recognition by the Board:

1. Employee Recognition;
2. Recognition of Trustees; and
3. Recognition of third parties.

Employee Recognition:

This section is intended to ensure that the Superintendent maintains an Administrative Procedure that includes recognition for employees focused on length of service. The intention is to ensure consistency in practice and transparency.

The Policy does leave room for other recognition (e.g. Premier's awards, extraordinary service or heroism etc.) however it is not intended to be for general performance creating risk of omitting deserving employees.

In addition, AP 412 – Employee's Retirement will be deleted as it has been incorporated in the Policy. The Superintendent's office maintains the practices with respect to the retirement and no AP will be required. It should be noted that the shift from AP to Policy suggest a clear role for trustees in the proceedings.

Recognition of Trustees:

This aspect of the policy is merely transposing the current AP 108 – Board Recognition and putting it in the purview of the Board. AP 108 would be deleted. The new language ensures recognition while also providing some flexibility and alignment with District staff.

Recognition of Third Parties:

The intention of this section is to provide an avenue to recognize a third-party individual or organization. Note that the Policy is intended to limit such recognition to "extraordinary" circumstances. Further, it places the recommendation process in the purview of the Chair and the Superintendent. The intent of the language is to limit the ability of individual trustees to recognize third parties on an *ad hoc* basis with motions directly to the Board.

The language is not intended to limit individual trustees but rather to create consistency in practice.

Policy 505 – School Catchment and Student Enrolment

Similarly, as part of the Board's Policy Framework, a policy on enrolment and catchment was envisioned.

Notably, this Policy does not make major changes to currently existing APs, rather, it enables them and ensures the Superintendent maintains administrative procedures.

There are two issues to be aware of. First, the Policy indicates that the Board's preference is to support enrolment in neighborhood schools. Second, the Policy provides guidance to the Superintendent when drafting the APs to ensure that transfer requests take into account the main policies of the Board. Note that this is not required but is helpful to ensure the APs align with the Policy.

If the Policy is adopted, then the APs will be revised to ensure alignment.

Bylaw 502 - Student-Parent Appeals Bylaw and the Board

The Board directed staff to review the Parent-Student Appeal Bylaw to ensure clarity, currency and consistency of process.

Note that the *School Act* requires that the Board has a bylaw. Besides the requirements for three readings there is no difference between a bylaw and a policy in the circumstances.

Introduction

At the outset, it should be made clear that the Board can ultimately determine to hear essentially any matter that it wishes to subject to the requirements of the Bylaw. The Board is not statutorily limited from hearing a student related appeal. That is why all Step 4 appeals are brought to the Board, even where they are obviously not appropriately filed. Note that this does not apply where a matter is clearly unrelated to a student.

Given that the Board is the ultimate decision maker, it is important to understand that the Board acts through bylaw and policy. These documents – in this case a bylaw- guide both what the Board will hear as well as how the Board will hear a matter. This action sheet outlines recommended changes to the Parent Student Appeal Bylaw.

The draft was previously presented to the Strategic Directions Committee but brought back to the policy committee for further review. Additions from the initial presentation are underlined in the Bylaw and in this action sheet.

Complaints

Note that the Bylaw does not currently reference the ability of a parent or student to use the process for a complaint. However, the AP currently contains a reference to a complaint. This reference will be removed from the AP.

Additional Objective

The following was added to the objective:

The Board is committed to creating an environment grounded in the principles of the Justice, Equity, Diversity and Inclusion Policy and Syeytus Reconciliation Framework.

What is Appealable

The draft contains examples of what is not typically subject to appeal. The Bylaw makes it clear that the Board is ultimately the authority to determine if a matter is subject to appeal. However, there are a number of examples provided in the body of the Bylaw.

Additional examples of issues that are not appealable have been added including the selection of learning resources and Board policy decisions.

Definitions and Procedural Issues

Over the last number of years, the Board has been asked to hear appeals based on decisions that have already been overturned or cannot be overturned as the actions have occurred. The basis for the Bylaw is an appeal process. Therefore, if there is nothing to appeal the process is not the correct avenue to pursue an issue.

Definitions of Appellant, Procedural Fairness and Reprisal were added. Further, clarity on the issue of procedural defects has been added. Finally, the title of the Bylaw has provided clarity that it related to process at the Board level.

The Outline of What to Expect at the Hearing

The Bylaw draft includes an outline of process so that the Board and appellants understand the scope and the limits of the process. The intent is to allow appellants the ability to understand the case that they must meet and provide a transparent process. In addition, it provides that the Board shall respond “as soon as practicable” and aligns with the language of the *School Act*.

The Standard of Review

One of the most difficult questions that recent appeals have brought to light is the issue of what exactly the Board is being asked to do in the circumstances. For instance, are they hearing a matter *de novo* (putting them in the role of initial decision maker) or reviewing the matter to determine if the decision is reasonable in the circumstances.

The Bylaw highlights that the Board’s role is to review the matter on the basis of reasonableness. Therefore, the trustees are not being asked whether the decision is correct or even the one that they would have made individually but rather is the decision reasonable – does it fall within the range of reasonable outcomes in the circumstances.

This distinction is important as in some appeals the Board would be required to review thousands of pages of documents to ensure they are aware of the entirety of a file rather than more general submissions on the part of District staff and appellants. Recent jurisprudence support this level of oversight.

Next Steps

If the draft is read a first and second time and put to the public for consultation, District staff will also begin the process of creating a graphic flow chart to assist appellants and make appropriate adjustments to AP 325 prior to the third reading.

Conclusion

The Bylaw draft is intended to address a number of issues that have been identified in recent appeals. Specifically, it outlines a transparent process about the process but also the scope of the Board’s standard of review in an attempt to create reasonable access to parents to challenge District decisions without creating an onerous and unrealistic hearing process.

Appendices:

Appendix A: Draft Policy 403 - Board Recognition

Appendix B: AP 412 – Employee’s Retirement

Appendix C: AP 108 – Board Recognition

Appendix D: Draft Policy 505 – School Catchment and Student Enrolment

Appendix E: Bylaw 502 - Student-Parent Appeals Bylaw and the Board

Appendix F: Current Parent/Student Appeals Bylaw No. 2