

# COMPLAINTS AND APPEALS

## Background

The Board recognizes that from time-to-time concerns regarding decisions made by employees of the District may arise. The Board further believes that constructive dialogue can assist in improving the quality of the program, and in meeting individual student needs more effectively. The Board also places trust in its employees, and desires to support their actions in a manner which frees them from unnecessary or unwarranted criticism and complaints.

The Board believes that employee decisions relating to individual students should be carried out in accordance with principles of fairness. The Board 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 below. This process is designed to be non-confrontational and easy to follow.

## Complaints

Procedures for dealing with complaints concerning personnel, programs, or practices are to be governed by the following principles:

- Where action/investigation is desired by the complainant, or where it seems appropriate, the matter is to be handled as near the source as possible.
- Complaints are to both be investigated and, if possible, resolved expeditiously.
- Complaints are to be dealt with courteously and in a constructive manner.
- Personnel against whom complaints are made are to have an opportunity to respond.
- The Board expects that complainants will exhaust all avenues of resolving complaints prior to initiating the appeal of a decision under this Policy.

## Appeals

If an employee's decision is disputed or a complaint is made about an employee's decision and if the dispute or complaint is not resolved to the satisfaction of the student or the parent of the student affected through the process set out in the Appeals Bylaw, and the decision significantly affects the education, health or safety of the student, then an appeal can be made to the Board under s. 11 of the School Act.

If a matter remains unresolved after such an appeal process, an appellant may appeal to the Superintendent of Appeals, under Section 11.1 of the Act.

A party seeking to bring forward an appeal must do so in accordance with Policy 13 Appendix – Appeals Bylaw.

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

## **APPEALS BYLAW**

(This Bylaw establishes the procedure for appeals under Section 11 of the School Act)

### **1. Decisions that can be appealed to the Board under Section 11**

- 1.1 Definitions:
  - "Decision" includes a failure to make a decision.
  - "Parent" is as defined in the *School Act* and includes a guardian.
  - "Appellant" is the student, parent or guardian initiating the appeal.
  - "Board" is a majority of the quorum of the Board
- 1.2 A Parent and/or student 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.
- 1.3 The determination of whether a decision significantly affects a student's education, health or safety will be made on a case-by-case basis. The following will normally be considered to be matters that significantly affect a student's education, health or safety:
  - 1.3.1 suspension or expulsion from an educational program
  - 1.3.2 a requirement, as a disciplinary measure, to complete all or part of an educational program through distributed or online learning.
  - 1.3.3 a determination that it is not necessary to provide a student with an individual education plan because the student is not a student with special needs, or a determination respecting an exception under s. 2(2) of the Individual Education Plan Order applies to the student
  - 1.3.4 a decision relating to an offer to consult with a parent of a student with special needs regarding the placement of the student in an educational program;
  - 1.3.5 a decision relating to an offer to consult with a parent of a student with special needs or the student about the preparation of the student's individual education plan
  - 1.3.6 a decision respecting a complaint by the student against another student relating to intimidation, bullying, harassment or the use or threat of use of weapons or other forms of violence against the student. This does not include a parent or student's view of whether discipline of another student was appropriate.
  - 1.3.7 removal or exclusion of the student under s. 91(5)(b) of the *School Act*.
- 1.4 Where a decision is made by a Board employee which would be appealable under this Bylaw, the affected student and their

parent/guardian(s), shall be notified of their right of appeal, and the time limits governing the initiation of an appeal.

- 1.5 Board policies and District administrative procedures are not appealable under Section 11.

## **2. Discussion Before Appeal to the Board**

### **2.1 Steps for Discussion Prior to Appeal to the Board**

**Step 1:** The Parent and/or student shall make every effort to meet with the employee(s) involved with the Decision within a reasonable period of time after the Decision is made to discuss the decision and the Parent and or student's desired outcome. A record of this meeting will be kept and a summary will be provided to all parties. If there is no resolution:

**Step 2:** The Parent and/or student shall meet with the principal and appropriate staff member(s) to discuss the Decision and the desired outcome. The Principal may include in the meeting the employee whose Decision is being discussed, the employee's supervisor (if applicable) and others with expertise or who were involved in the decision. A record of this meeting will be kept and a summary will be provided to all parties. If there is no resolution:

**Step 3:** The concerns shall be provided in writing to the Zone Assistant Superintendent. 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 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 the provisions in the School Act during this period of review. The disposition of the review shall be confirmed in writing to the Parent 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 and/or student shall meet with the Superintendent. other members of the School District administration and employees may be involved at this time. The written documentation and written confirmation of the disposition in Step 3 will be provided to the Superintendent. The disposition of the review shall be confirmed in writing to the Parent 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, and the Parent and/or student wish to appeal to the Board, they must, within seven days of receiving the Superintendent's written confirmation in Step 4, provide a written Notice of Appeal (See Form at end of policy) to the Secretary-Treasurer.

## **3. Process for Appeal to the Board**

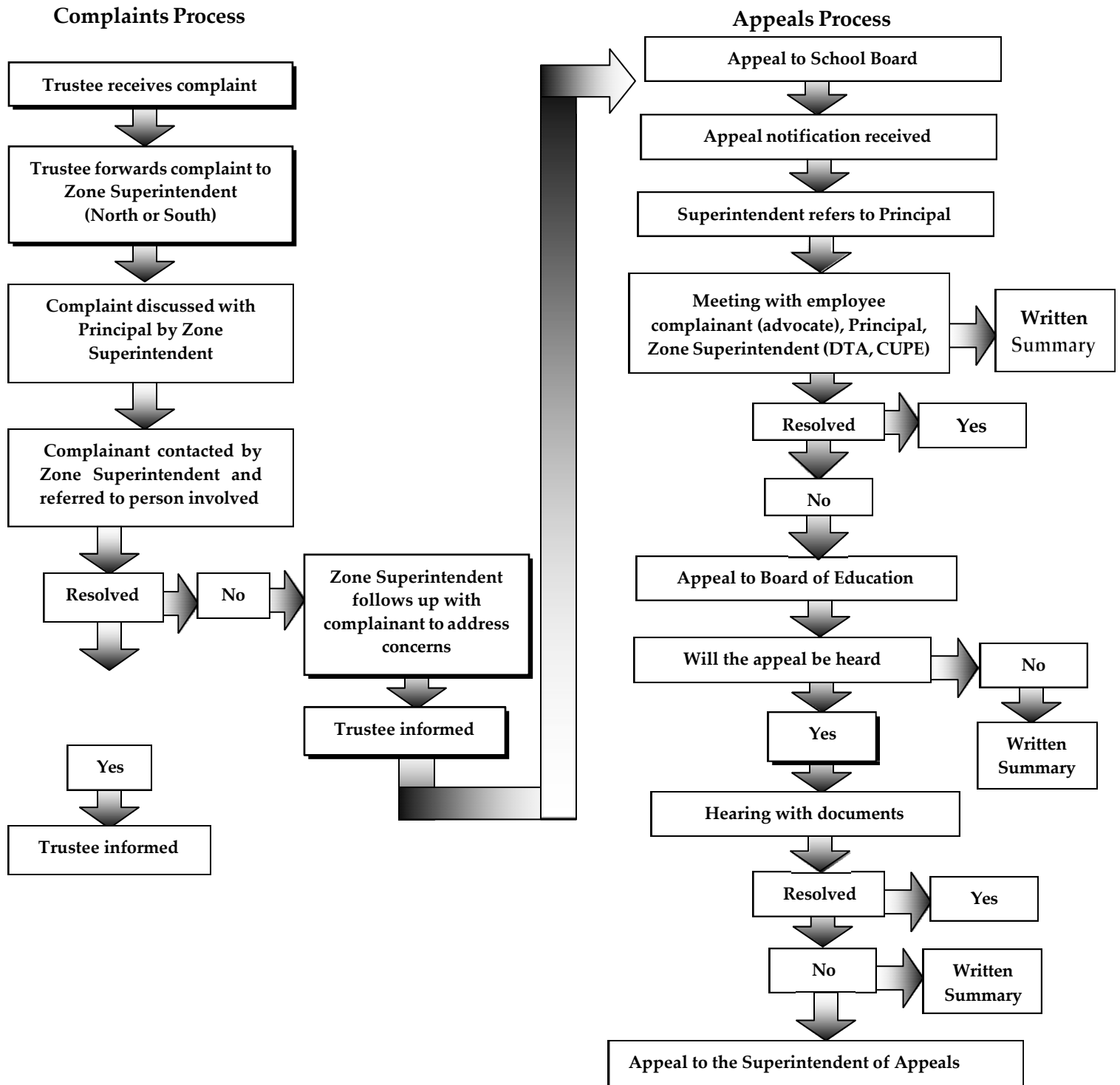
- 3.1 Every appeal to the Board must be commenced by a written Notice of Appeal to the Board which shall be provided to the Secretary Treasurer and shall state:
  - 3.1.1 The name and address of the student and/or Parent bringing the appeal;
  - 3.1.2 The current placement of the student – the school and homeroom teacher;
  - 3.1.3 The Decision which is being appealed and the date the student and/or Parent was informed of the Decision;
  - 3.1.4 The name of the Board employee(s) who made the Decision being appealed;
  - 3.1.5 The particulars of the effect of the Decision on the student's education, health or safety;

- 3.1.6 The steps that the student and/or Parent have taken to attempt to resolve the matter directly with the employee(s) involved;
- 3.1.7 The grounds for the appeal or the area of difference;
- 3.1.8 The solution or relief sought.
- 3.2 Upon receipt of the Notice of Appeal, the Secretary-Treasurer will provide a copy to the Superintendent, the Board Chair, 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 required by the collective agreement. The employee will be afforded the opportunity to provide the Superintendent with a written response to the appeal.
- 3.3 The Board may refuse to hear the Appeal where:
  - 3.3.1 The Appeal has not been commenced within the timeframe set out in this Bylaw;
  - 3.3.2 The student and/or Parent has refused to engage in the discussion process outlined in this Bylaw; or
  - 3.3.3 The Decision does not, in the opinion of the Board, significantly affect the education, health or safety of the student. Examples include, but are not limited to, those listed in the Appeals Regulation 24/08 that governs appeals beyond the Board to the Superintendent of Appeals.
- 3.4 If the Board refuses to hear an appeal for the reasons set out in paragraph 3.3, the Parent and/or student will be promptly informed of that Decision and the reasons for it as well as the opportunity for the student and/or Parent to access the appeal process outlined in section 11.1 of the *School Act* and the Appeals Regulation, BC Reg 24/08.
- 3.5 If the Board determines it will hear and decide the Appeal, it will determine whether to decide the Appeal based solely on written materials or whether it will decide the appeal after also hearing oral submissions.
- 3.6 By a date and time fixed by the Board the Superintendent, or designate, will prepare a report to be provided to the Board, 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 required by the collective agreement. The Superintendent's report shall contain:
  - 3.6.1 The Notice of Appeal
  - 3.6.2 A description of the issue(s) raised in the Appeal, any contextual background relevant to the Appeal, the rationale for the Decision and a recommended resolution.
  - 3.6.3 Copies of all previous correspondence in relation to the Discussion Steps prior to Appeal.
  - 3.6.4 Copies of any relevant District, Ministry or other policies or statutory requirements, which pertain to the issues raised in the appeal.
- 3.7 By a date and time fixed by the Board, the student and/or the Parent bringing the appeal may provide a written response to the Superintendent's report which will be provided to the Board, the Superintendent or designate, as well as to the employee, and in the case of a unionized employee, to the Association or Union, if required by the collective agreement.

- 3.8 The Board, in its discretion, may determine that further written materials may be required and will set a date and time for those to be provided to all parties including any employee affected and, if required by the collective agreement, to the Association or Union.
- 3.9 Where the Board has determined that it will decide an Appeal based solely on written materials, it will set a date for a closed meeting of the Board at which the Appeal will be decided and will advise the student and/or the Parent bringing the Appeal and the Superintendent of the date the Board will decide the Appeal.
- 3.10 Where the Board invites oral submissions in addition to the written materials, it shall set a time, date and place for a closed meeting of the Board for this purpose and shall give notice of the meeting to the student and/or Parent bringing the appeal, the Superintendent, or designate, and to the employee(s) concerned and allow each of them to attend and be accompanied by or represented by an advocate. The Board shall also advise those eligible to attend the closed meeting of the order of proceedings for the closed meeting.
- 3.11 A Parent attending a closed meeting of the Board under this Bylaw may bring with them an interpreter if they have difficulty communicating in English.
- 3.12 The Board's decision must be made within forty-five (45) days of receiving the Notice of Appeal. The Parent and/or student shall be promptly informed of the Board's decision and the reasons for the Decision as well as the opportunity for the student and/or Parent to access the appeal process outlined in section 11.1 of the *School Act* and the Appeals Regulation, BC Reg 24/08.
- 3.13 Trustees are expected to exclude themselves from a hearing of an appeal if they have direct first-hand knowledge of the circumstances that led to the appeal, or the trustee believes that by remaining at the hearing there would be a reasonable perception of bias on the part of the trustee.
- 3.14 The Board's decision in the appeal is final, subject to Section 4 of this Bylaw.
4. Appeal to the Superintendent of Appeals
- 4.1 A student and/or Parent may appeal a decision made by the Board under this Bylaw to the Superintendent of Appeals pursuant to s. 11.1 of the *School Act*
- 4.2 The opportunity for the student to access the appeal process to the Superintendent of Appeals must be communicated to the Appellant.

Legal Reference: Sections 6, 11, 11.1, 11.2, 11.3, 11.4, 11.5, 11.6, 11.7, 11.8, 22, 26, 85, 91 School Act  
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## COMPLAINTS AND APPEALS



## Policy 13 – Appendix C

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THE BOARD OF EDUCATION OF  
SCHOOL DISTRICT NO. 37 (DELTA)

### NOTICE OF APPEAL

Date: \_\_\_\_\_

This document is to be completed by the **Parent/Guardian & Student** and delivered to the School Principal.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_

#### INFORMATION REGARDING THE STUDENT

Name: \_\_\_\_\_

Birth Date: \_\_\_\_\_

Address: \_\_\_\_\_

Name of School: \_\_\_\_\_

#### DELTA SCHOOL DISTRICT EMPLOYEE WHOSE DECISION (OR FAILURE TO MAKE A DECISION) IS BEING APPEALED.

Name: \_\_\_\_\_

School/Worksite: \_\_\_\_\_

Position: \_\_\_\_\_

**DECISION BEING APPEALED:** Please state the decision that was made (or was not made) that significantly affects the education, health or safety of the student in question.

#### DATE YOU WERE INFORMED OF DECISION UNDER APPEAL:

**REMEDY:** Please explain the remedy/solution you are seeking: \_\_\_\_\_