

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 Achievement, 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 Disciplinary suspension from an educational program of a period in excess of five (5) consecutive instructional days.
 - 1.3.2 Transfer of a student from one school to another for disciplinary reasons.
 - 1.3.3 The exclusion of a student from an educational program for a health condition.
 - 1.3.4 Significant decisions regarding placement in an educational program. Classroom or teacher preference issues would be included in this category only in exceptional circumstances.
 - 1.3.5 Grade promotion or graduation.
 - 1.3.6 Refusal to offer an educational program to a non-graduated student sixteen (16) years of age or older.
- 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 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 Decision's effect 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.

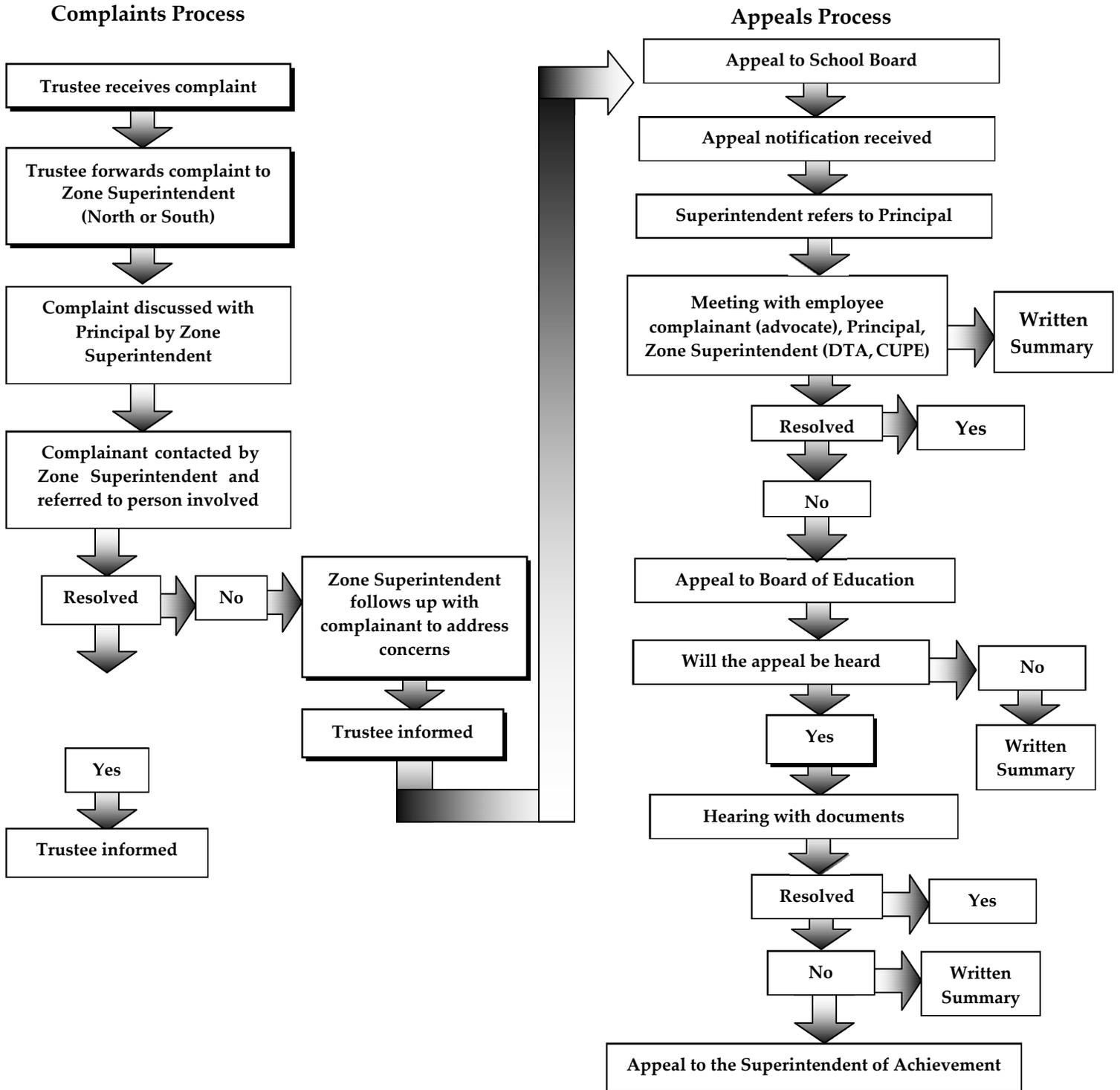
- 3.2 Upon receipt of the Notice of Appeal, the Secretary-Treasurer will provide a copy to the Superintendent, the principal of the school in which the student is enrolled, the member of management responsible for the school program or service and the employee(s) whose decision is the subject of the 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.
- 3.3 Notice of the Appeal will be brought before the Board together with a report on the matter of the appeal prepared by or for the Superintendent. The Superintendent's report will include the following materials:
 - 3.3.1 The Notice of Appeal
 - 3.3.2 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.
 - 3.3.3 Copies of all previous correspondence in relation to the Discussion Steps prior to Appeal.
 - 3.3.4 Copies of any relevant District, Ministry or other policies or statutory requirements, which pertain to the issues raised in the appeal.
 - 3.3.5 A joint statement of agreed upon facts may be provided.
- 3.4 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.
- 3.5 The Board may decide the appeal based on the written submissions. The Board may also invite oral submissions at a closed meeting of the Board in which case the Board may decide the appeal based on the oral and/or written submissions presented to it.
- 3.6 Where the Board considers it necessary to receive oral submissions, it shall set a time, date and place for a closed meeting for this purpose and shall give notice to the student and/or Parent bringing the appeal, the Superintendent, and to the employee(s) concerned. The Parent and/or student with at least 72 hours to review the Superintendent's report prior to the closed meeting.
- 3.7 The appellant is required to provide copies of any documents on which they intend to rely, or copies of written submissions, no later than 24 hours before the date set for hearing.
- 3.8 Either party in the appeal may be accompanied by, or represented by, an advocate.
- 3.9 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.
- 3.10 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.
- 3.11 The Board may refuse to hear an appeal where:
 - 3.11.1 The appeal has not been commenced within the timeframe set out in this

Bylaw;

- 3.11.2 The student and/or Parent has refused to engage in the discussion process outlined in this Bylaw; or
 - 3.11.3 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 Achievement.
 - 3.12 If the Board refuses to hear an appeal for the reasons set out in 3.11, 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.
 - 3.13 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 Achievement
- 4.1 A student and/or parent (guardian) may appeal a decision made by the Board under this Bylaw to a Superintendent of Achievement who has responsibility for receiving such appeals on behalf of the Ministry of Education.
 - 4.2 Such notice of appeal must be made within fifteen days (15) from the time the parent or guardian is made aware of the decision.
 - 4.3 The opportunity for the student to access the appeal process to the Superintendent 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
Appeals Regulation 24/08
Administrative Tribunals Act
Collective Agreement

COMPLAINTS AND APPEALS



Policy 13 – Appendix C



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: _____

