



BYLAW NO. 1

APPEALS TO THE BOARD OF EDUCATION

Definitions

“Decision” includes a failure to make a decision.

“Parent” is defined in the School Act, and includes a guardian

Statement of Principles

Employee decisions relating to individual students should be carried out in accordance with principles of fairness. The appeal process should encourage all parties to disputes to understand the concerns of the other parties and make good faith efforts to resolve disputes to mutual satisfaction in a timely manner.

The Board of Education generally encourages complaints and disputes to be dealt with at the point closest to where the dispute first arises, pursuant to the Superintendent’s Operational Procedure 108 (Process for Addressing Parent and Public Concerns).

If:

1. An employee’s decision is disputed or a complaint is made about an employee’s decision;
2. The dispute or complaint is not resolved to the satisfaction of the student, or the parent of the student affected; and
3. The decision significantly affects the education, health or safety of the student, the board of Education recognizes the right of a student and/or his or her parents to appeal to the Board.

The board also recognizes that employee decisions that do not significantly affect the education, health or safety of a student are within the final authority of the superintendent as the board’s chief educational officer.

Appeals to the Board of Education are to be carried out in accordance with principles of fairness, including:

1. The appeal process should be accessible to parents and students. Information about the appeal process and relevant policies should be readily accessible to all, including employees, students and parents. Reasonable accommodation should be provided where necessary to allow parents or students to make use of the appeal process;



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2. Appellants and the employee whose decision is being appealed are entitled to receive the same written and oral information to be used in the appeal as is provided to the board by administration and to have an opportunity to respond to it;
3. The board accepts its responsibility to exercise its independent judgment when hearing appeals. In particular, a board officer who has participated in making the decision being appealed, who has attempted to mediate it or who has investigated it shall not assist the Board of Education with its deliberations on the appeal; and
4. A student or parent shall not be subjected to retribution by the board, its officers or employees because an appeal has been made. The board recognizes that whether a decision significantly affects a student's education, health, or safety is a matter to be determined 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:
 - 4.1 The student's expulsion from an educational program;
 - 4.2 The student's suspension from an educational program;
 - 4.3 The student's suspension from an educational program, if no other educational program is provided by the board;
 - 4.4 The student, as a disciplinary measure, being required to complete all or part of an educational program by distributed learning, despite the fact that all or part of the educational program and space and facilities for the student are available in a school, other than a distributed learning school, in School District 72;
 - 4.5 The determination it is not necessary to provide a student with an individual education plan because
 - a) the student is not a student with special needs, or
 - b) an exception under section 2 (2) of the Individual Education Plan Order applies to the student;
 - 4.6 Relating to either of the following requirements
 - a) under the Special Needs Student's Order, to offer to consult with a parent of a student with special needs regarding the placement of the student in an educational program or
 - b) under the Individual Education Plan Order, to offer to consult with a parent of the student, and if appropriate, with the student, about the preparation of the student's individual education plan;



- 4.7 A complaint by the student or the parent of the student, against another student, respecting intimidation, bullying, harassment of or use or threat of use of weapons or other forms of violence against the student by that other student; and
- 4.8 A removal or exclusion of the student under School Act section 91 (5) (b).

Decisions made on appeals are not precedential and are not binding on future decision-makers.

5. In considering appeals of employee decisions, the board shall consider:
 - 5.1 Whether the decision appealed is in accordance with legislation, board policies and procedures;
 - 5.2 Whether the decision appealed was reached through a process that was fair to the student and after consideration of relevant information;
 - 5.3 Whether the evidence presented to the board supports the decision or calls it into question;
 - 5.4 Whether the decision is reasonable in the circumstances; and
 - 5.5 Whether there are special circumstances that would warrant making an exception to a board policy.

Procedures

Procedures for hearing appeals shall be applied in accordance with the guiding principles contained in this bylaw.

1. Pre-Appeal – Process for Addressing Concerns

- 1.1 The student and/or parent shall take the resolution steps outlined in Operational Procedure 108 (Process for Addressing Parent and Public Concerns) or other applicable procedure to try to resolve the concern before filing an appeal to the board. If the applicable dispute resolution process does not resolve the concern, an appeal is normally from the decision of the highest supervisory officer who dealt with the matter in the resolution process.

2. Initiating an Appeal

- 2.1 If the steps in section 1 are not successful, a parent and/or student begins the board appeal process by presenting a completed Notice of Appeal form to the



secretary treasurer within fifteen (15) working days of completion of the process for addressing concerns referred to in Operational Procedure 108.

- 2.2 The secretary-treasurer is responsible on behalf of the board for:
- a) receiving Notices of Appeal;
 - b) reviewing Notices of Appeal for completeness and timeliness;
 - c) giving any notices required under collective agreements;
 - d) receiving and distributing documents relevant to an appeal;
 - e) communicating with the appellants and others on matters relating to an appeal hearing;
 - f) arranging for any accommodation required; and
 - g) scheduling hearings.

The secretary-treasurer may designate another staff member to carry out these responsibilities. If the secretary-treasurer has participated in the dispute resolution steps or is the employee whose decision is being appealed, another staff member shall be designated.

- 2.3 If the secretary-treasurer is of the opinion that:
- a) an appeal is not timely;
 - b) an appellant has refused to participate in the process for addressing concerns Operational Procedure 108 steps;
 - c) an appeal is not an appeal of a decision of a board employee or the decision does not significantly affect the student's education, health or safety; or
 - d) the board for purposes of a decision on that matter, without first complying with all requirements of section 3. (Any applicable collective agreement requirements must still be complied with).
- 2.4 Appellants are notified of a preliminary hearing and provided with the opportunity to make written submissions on the preliminary issue to be determined.

3. Pre-Hearing Responsibilities

- 3.1 Upon receipt of the Notice of Appeal, the superintendent shall be notified. The superintendent or a person designated by the superintendent to be responsible for investigation and presentation on the appeal will prepare a report for the board concerning the matter under appeal and is responsible for gathering the information to be presented to the board, other than the information to be presented by the appellant.
- 3.2 If the appellant is a student under the age of 19 and no parent is named as an appellant, a parent will be notified.



- 3.3 If the appellant has not met with the superintendent during the dispute resolution process, at the superintendent's request the appellant is required to meet with the superintendent or a person designated by the superintendent. A report of this meeting shall be included in the report prepared under 3.1.

The report may include the superintendent's recommendations as to whether the dispute should be referred to an outside mediator.

- 3.4 Any notices required under relevant collective agreements will be given.
- 3.5 Instead of an oral hearing, the board may determine that an appeal will be decided on the basis of written submissions only.
- 3.6 The appellant and the employee whose decision is being appealed is notified of the date, time and place for hearing of the appeal and of the requirement to provide any documents in advance.
- 3.7 A copy of the report prepared under 3.1 will be provided to the appellant and to the employee no later than 48 hours before the time set for the hearing.
- 3.8 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 the hearing.

4. **Hearing and Decision**

- 4.1 The board may refuse to hear an appeal where:
- (a) the appeal has not been commenced within the time set out under 2.1;
 - (b) the student and/or parent has refused or neglected to discuss the decision under appeal with the person(s) specified in the process for addressing concerns Operational Procedure 108 or the superintendent or delegate, or such other person as directed by the board; or
 - (c) the decision does not in the Board's opinion significantly affect the education, health or safety of the student.
- 4.2 The board will decide the appeal based on the oral and/or written submissions presented to it and, for an oral hearing, will determine the order of, and time allotted for, submissions.



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- 4.3 At any time the board may request further information from the appellant or the superintendent or designate and may adjourn in order that such information may be obtained.
- 4.4 The board may make any interim decision it considers necessary pending the disposition of the appeal.
- 4.5 The board may invite submissions from any person whose interests may be affected by the board's decision on the appeal.
- 4.6 The board may require the student to be in attendance at the hearing.
- 4.7 The board may hear an appeal despite any defects in form or technical irregularities and may alter time limits.
- 4.8 Appeals and decisions on appeals will be held in closed session.
- 4.9 The board will ensure that each party has received all documentation provided by the other party prior to the hearing.
- 4.10 At the end of each party's submission, trustees may ask questions.
- 4.11 When questioning by trustees is complete, the parties to the appeal leave and the board meets in closed session to deliberate and make its decision.
- 4.12 The board must make a decision within 45 working days from receiving the Notice of Appeal.
- 4.13 The board's decision is final, subject to any rights to appeal under the School Act. The board may reconsider its decision only:
 - (a) if it is satisfied that new evidence or information would have a material effect on the decision and the failure to present that evidence or information at the original hearing is satisfactorily explained;
 - (b) the decision contravenes law; or
 - (c) a reconsideration is directed or requested in connection with an appeal of the board's decision under School Act section.11.1.
- 4.14 The parties will be promptly notified of the board's decision. Written reasons for decision will be provided within 10 working days.
- 4.15 Appellants who have appeal rights under School Act section 11.1 will be advised in writing of those rights when or before they are notified of the board's reasons for decision.



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Amendments and Repeals

Appeals to the Board of Education Bylaw #2 dated June 24, 2008 was repealed on June 24, 2013

Read a First Time this 14th day of November 2017

Read a Second Time this 14th day of November 2017

Read a Third Time, Finally Passed and Adopted this 14th day of November 2017

Seal

Chairperson of the Board

Secretary-Treasurer

Notice of Appeal
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The Board of Education hears appeals of decisions that significantly affect the education, health or safety of a student. What decision are you appealing?

Name of the person(s) whose decision you are appealing: _____

What is the significant effect of the decision on the student's education, health or safety?

(Please attach any document(s) you might have if the decision was presented in writing.)

When were you informed of the decision? _____

Who informed you of the decision? _____

Please give your grounds for appealing the decision.

Please provide a brief summary of the steps taken by the student and/or parent to resolve the matter: _____

Please suggest a solution to the problem which would satisfy you.

Are you requesting an oral hearing with the Board to address your appeal?
(Please circle)

Yes

No

Does the person making the appeal require any special accommodation in order to proceed with the appeal (e.g., interpretation services at the hearing)? If so, please list the special accommodations required: _____

Signature of Student

Date

Signature of Parent

Date

Appeal Form Received By: _____

Signature of Employee Receiving
the Appeal Form

Date

Please attach a separate sheet if you need more space to comment on any of the questions.