

School District No. 42 (Maple Ridge -Pitt Meadows)  
BOARD OF EDUCATION APPEAL POLICY AND PROCEDURES BYLAW  
(Section 11 of the School Act)

**Policy:**

The Board believes that 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.

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 Board's dispute resolution process. This process is designed to be non-confrontational and parent friendly.

If an employee's decision is disputed or a complaint is made about an employee's decision, if the dispute or complaint is not resolved to the satisfaction of the student or the parent of the student affected, and 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 (including guardians and persons acting in place of parents) to appeal to the Board.

**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.

**Guiding Principles:**

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.
2. Appellants 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 be present for the Board of Education's deliberations on the appeal.
4. A student or parent shall not be subjected to retribution by the Board, its officers or employees because an appeal has been made.

Appeal procedures shall be established by bylaw and shall be applied in accordance with the above principles.

The Board recognizes that whether a decision significantly affects a student's education, health, or safety is a matter for individual consideration. The following will normally be considered to be matters that significantly affect a student's education, health or safety:

- Expulsion from an educational program;
- Suspension from an educational program for more than five (5) school days;
- Suspension from an educational program where no other educational program is made available;
- Distributed learning required as part of a disciplinary matter;
- A decision not to provide a student with an Individual Education Plan (IEP);
- Consultation about placement of a student with special needs and the provision of an IEP
- Bullying behaviours, including intimidation, harassment or threats of violence by a student against another student;
- Exclusion due to a medical condition that endangers others.

Decisions made on appeals are not precedential, and are not binding on future decision-makers.

In considering appeals of employee decisions, the Board shall consider, but shall not be limited to:

- whether the decision appealed is in accordance with legislation, board policies and procedures;
- whether the decision appealed was reached through a process that was fair to the student and after consideration of relevant information;
- whether the evidence presented to the Board supports the decision or calls it into question;
- whether the decision is reasonable in the circumstances; and
- whether there are special circumstances that would warrant making an exception to a board policy.

## **Appeal Procedures (Bylaw):**

Procedures for hearing appeals shall be applied in accordance with the guiding principles in the board's appeal policy.

### **1 PRE-APPEAL DISPUTE RESOLUTION PROCESS**

1.1 The student and/or parent shall take the dispute resolution steps outlined in the board's dispute resolution process or other applicable policy 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 dispute resolution process.

### **2 STARTING 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 written Notice of Appeal to the Secretary Treasurer within fifteen (15) school days after being informed of the decision that is being appealed, or from the date of completion of the dispute resolution steps referred to in 1.1, whichever is later.

2.2 The Notice of Appeal must include:

- a) The name, address and school placement of the student (including, where appropriate, grade level and home room teacher)
- b) The name and address of the person(s) making the appeal
- c) The decision that is being appealed
- d) The date on which the student and/or parent/guardian bringing the appeal were informed of the decision
- e) The name of the Board employee(s) who made the decision being appealed
- f) Particulars of the effect on the student's education, health or safety
- g) The grounds for the appeal and the action requested or relief sought
- h) A summary of the steps taken by the student and/or parent/guardian to resolve the matter
- i) Whether the person making an appeal is requesting an oral hearing
- j) Whether the person making an appeal requires any special accommodation in order to proceed with the appeal (such as interpretation services at the hearing of the appeal.)

2.3 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, the Board, 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.

2.4 If the Secretary Treasurer is of the opinion that:

- a) an appeal is not timely;
- b) an appellant has refused to participate in the dispute resolution steps; or
- 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;

the Secretary Treasurer may refer the appeal to the Superintendent of Schools or a person designated by the Superintendent for a preliminary determination of that issue.

Prior to making a determination on that issue, the Superintendent or a person designated by the Superintendent may request a meeting with the person bringing the appeal, who must attend the meeting or the appeal will be dismissed. If the Superintendent or a person designated by the Superintendent determines the appeal not to be of a decision that significantly affects the education, health or safety of a student, was commenced out of time without reasonable excuse, or the person bringing the appeal has refused or neglected to discuss the decision under appeal as directed by the school district, the person bringing the appeal shall be advised by the Superintendent or a person designated by the Superintendent to follow the conflict resolution steps outlined in the Board's Dispute Resolution Process.

Where, in the opinion of the Superintendent or a person designated by the Superintendent, the decision does significantly affect the education, health or safety of a student, the appeal shall proceed.

In the event the person bringing the appeal disagrees with the determination of the Superintendent or a person designated by the Superintendent, that person may request the matter be referred to a quorum of the Board for a determination of that preliminary issue. The person requesting the Board determine this preliminary issue shall make that request in writing, delivered to the office of the Secretary Treasurer within 10 days of being advised of the decision of the Superintendent or a person designated by the Superintendent.

Appellants shall be notified of the preliminary hearing and provided with the opportunity to make written submissions on the preliminary issue to be determined.

Where the majority of a quorum of the Board determines that the decision in issue does not significantly affect the education, health or safety of a student, that the appeal was commenced out of time without reasonable excuse, or that the student and/or parent or guardian has refused or neglected to discuss the decision under appeal as directed by the District the appeal will be dismissed. That decision is final and may not be appealed

Where the quorum of the Board determines the appeal does involve a decision that significantly affects the education, health or safety of a student, was filed in time or with reasonable excuse, or that the person bringing the appeal did not fail to consult as directed by the District, the matter will be set down for hearing.

### **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 are given by the Secretary Treasurer or designate.

3.5 The appellant is notified of the date, time and place for hearing of the appeal and of the requirement to provide any documents in advance.

### **4 HEARING PROCEDURE**

4.1 The Board may, in its absolute discretion, determine whether an appeal shall be considered on the basis of written submissions or an oral hearing. The Board may determine rules of procedure, including imposing limits on time for presentations, the ability to call or question witnesses, and the receipt of evidence, whether sworn or unsworn, to facilitate the disposition of the appeal, and may adjourn the proceeding at the request of any party where there are reasonable grounds to do so.

4.2 The Board may establish a schedule for the exchange of documents or written submissions. At least seven (7) days prior to the date scheduled for the hearing of the appeal, or the exchange of initial written submissions in the cases of a written appeal, school district staff and the appellant must provide each other with any documents or information they intend to rely on for the appeal.

4.3 The Board may be advised in camera by legal counsel and by the Secretary Treasurer or designates in relation to the appeal provided they have not had prior involvement in the matter under appeal.

4.4 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.

4.5 The Board may make any interim decision it considers necessary pending the disposition of the appeal.

4.6 The Board may invite submissions from any person whose interests may be affected by the Board's decision on the appeal.

4.7 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 or guardian has refused or neglected to discuss the decision under appeal with the person(s) specified in the applicable dispute resolution process 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.

4.8 The Board may hear an appeal despite any defects in form or technical irregularities and may relieve against time limits.

4.9 Section 11 appeals are confidential. Appeals and decisions on appeals will be held in closed session. Information and documents about appeals may only be disclosed in accordance with the School Act, Freedom of Information and Protection of Privacy Act, and applicable Board policy

4.10 The Board will ensure that each party has received all documentation provided by the other party prior to the hearing.

4.11 At the end of each party's submission, trustees may ask questions.

4.12 When questioning by trustees is complete, the parties leave and the Board meets to decide how it will dispose of the appeal.

4.13 The Board must make a decision within 45 days or, as soon as practicable and within 45 days from receiving the Notice of Appeal.

4.14 The Board's decision is final, subject to any rights to appeal under the School Act.

The Board may reconsider its decision only

- 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;
- the decision contravenes law; or
- a reconsideration is directed or requested in connection with an appeal of the board's decision under School Act s.11.1.

4.15 The parties will be promptly notified of the Board's decision. Written reasons will be provided as soon as practicable.

4.16 Appellants who have appeal rights under School Act s.11.1 will be advised of those rights when or before they are notified of the board's reasons for decision.

## **REPEAL**

School District No. 42 (Maple Ridge - Pitt Meadows) Board of Education Appeals Policy and Procedures Bylaw dated 11th June, 2008 is repealed.