

BYLAW NUMBER 2 – APPEALS BYLAW

A student entitled to an educational program in the School District may appeal a decision of an employee of the Board of Education which significantly affects the education, health or safety of the student within ten school days of being informed of the decision. The failure of an employee to make a decision shall be deemed to be a decision for the purpose of bringing an appeal.

When a School District employee makes a decision which significantly affects the education, health or safety of a student, that student and her/his parents or advocates must be informed of their right to an appeal in the letter that is sent informing them of the above mentioned decision.

Section 85(2) (d) of the School Act provides that a student is entitled to continue to receive an educational program during a period of suspension.

The Board of Education expects that:

- The Appeals Bylaw be accessible to all persons.
- Employees make every effort to review decisions at the classroom level with those most involved.
- There be no reprisals against student/parents exercising their right to appeal.

1. NOTICE OF APPEAL

Every appeal to the Board of Education must be commenced by a written Notice of Appeal which shall state:

- 1.1 The name and address of the student and/or parent or guardian bringing the appeal and, where the parent or guardian is initiating the appeal on behalf of the student, the name of the student.
- 1.2 The current placement of the student (i.e. school, grade and homeroom teacher).
- 1.3 The decision which is being appealed and the date the student and/or parent or guardian bringing the appeal was informed of the decision.
- 1.4 The name of the Board employee(s) who made the decision being appealed.
- 1.5 The grounds for the appeal and the relief sought.

2. PROTOCOL

- 2.1 The Board or its designate may direct the student and/or parent or guardian bringing the appeal to first discuss the decision with the Principal of the school in which the student is enrolled and the member of district staff who has responsibility for that school.

2.2 Where discussions directed under Section 2.1 do not resolve the appeal, the Superintendent or designate will prepare a report for the Board concerning the matter and will provide a copy to the student and/or parent or guardian bringing the appeal.

3. SUBMISSIONS TO THE BOARD OF EDUCATION

3.1 The Board of Education will invite written submissions from the student and/or parent or guardian bringing the appeal and may decide the appeal based on the written submissions. The Board may also invite oral submissions in which case the Board will decide the appeal based on the oral and written submissions presented to it.

3.2 Where the Board considers it necessary to receive oral submissions, it shall set a time, date and place for this purpose and shall give notice to the student and/or parent or guardian bringing the appeal.

4. APPEALS COMMITTEE

The Board of Education may establish a committee to investigate matters pertaining to an appeal and the committee shall report to the Board of Education on such matters and in the manner directed by the Board of Education. The Board of Education may, in its discretion, appoint trustees, senior officials, principals and/or vice-principals, teachers or any other person the Board of Education considers appropriate as members of the committee. For purposes of dealing with appeals of student suspensions (refer to policy 2-330 – Student Suspension), there will be a Student Suspension Hearing Committee.

5. DECISION BY THE BOARD OF EDUCATION

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

5.2 In attempting to resolve disputes the Board will consider the merits and demerits of early intervention and/or mediation in every case and make recommendations to this end if they so decide.

5.3 The decision of the Board shall be in writing and the Board shall promptly notify the student and/or parent or guardian bringing the appeal of its decision.

5.4 The decision of the Board shall be made and communicated within 45 days from receipt of the appeal.

6. SPECIFIC REQUIREMENTS OF THE APPEAL

6.1 The Board of Education may refuse to hear an appeal where:

6.1.1 The student and/or parent or guardian has refused or neglected to discuss the decision under appeal with the person(s) directed by the Board of Education or its designate; or

6.1.2 The decision does not significantly affect the education, health or safety of the student.

6.2 The Board of Education may consider an appeal notwithstanding any defect in form or other technical irregularity.

7. MAIN CONCERNS

The following decisions shall be deemed to significantly affect the education, health or safety of a student:

- 7.1 Disciplinary suspension from school for a period in excess of 10 consecutive days;
- 7.2 Exclusion of a student from school due to risks to the health or welfare of others;
- 7.3 Placement in an educational program;
- 7.4 Grade promotion and graduation;
- 7.5 Refusal to offer an educational program to a student 16 years of age or older;
- 7.6 Denial of a request for an individual education program;
- 7.7 Failure to consult with regard to a student's individual education program;

and any other decision that in the opinion of the Board of Education or the designate significantly affects the education, health or safety of a student.

8. RECOMMENDED PROCEDURE

- 8.1 The Board Chairperson should ensure that all parties concerned have received information pertinent to the appeal.
- 8.2 Where a decision of an employee is being appealed to the Board of Education, the appellant may be represented by an advocate of her/his choice.
- 8.3 The Board will listen to the appellants as they present their concerns. The presentation should be allowed to proceed uninterrupted to allow the appellants to develop their arguments.
- 8.4 At the end of the presentation, the Board will ask questions for clarification. Questions should be objective and to the point. Leading questions should not be asked.
- 8.5 The representatives of the school will then be given an opportunity to present their side of the issue, giving reasons for their decision.
- 8.6 At the conclusion of this presentation, the Board will once again ask questions for clarification.
- 8.7 The Chairperson of the Board will then invite the parties involved to ask questions of each other for clarification. Questions should be neither personal nor judgmental.

- 8.8 The Board will have one more opportunity to question either party for the purposes of clarification.
- 8.9 The parties involved will then be asked to leave. The Board will meet in camera to rule on the matter. It must decide whether to uphold the school's decision, to increase or decrease the extent of the school's decision, or to set the decision aside.
- 8.10 The decision of the Board will be communicated to the parties concerned by the Board Chairperson as soon as possible.
- 8.11 The decision of the Board may be appealed under Section 11 of the School Act to a Superintendent of Appeals. A Notice of Appeal form to the Student Appeals Branch, Victoria will be provided to the appellant.



APPEALS FORM

School District 85 (Vancouver Island North)
PO Box 90, Port Hardy, B.C. V0N 2P0
Tel: 250/949-6618 Fax: 250/949-7849

Parents/Guardian/Students should read School District 85's "Bylaw #2 – Appeals Bylaw" carefully before initiating a formal appeal. The District's "Bylaw #2 – Appeals Bylaw" can be found in all school and worksites' District policy manuals and on line at www.sd85.bc.ca .

1. Information about the person initiating the appeal:

Parent/Guardian Name(s) _____

OR – **Student Name (if bringing the appeal)** _____

Address: _____

_____ Postal Code: _____

Telephone No.: _____ E-mail address: _____

Name of Student: _____

School Attending: _____

Grade: _____ Home Room Teacher (if applicable) _____

Student Date of Birth: _____ year _____ month _____ date

Address of Student (if different from parent)

_____ Postal Code: _____

2. Information about the decision being appealed. Please complete 2.a. or 2.b.

A: Date you were informed of the decision: _____

Name of the employee whose decision is being appealed: _____

Describe the decision (or attach document where decision may be written)

B: Date you became aware that a decision would not be made: _____

Name of the employee who is declining to make a decision: _____

Describe the circumstances leading up to the failure to make a decision:

3. Other Information About the Appeal:

Give your reasons for appealing the decision or the failure to make a decision:

Comment on how the decision or failure to make a decision significantly affects the education, health or safety of the student.

Suggest a solution or remedy to the situation which would satisfy you.

4. Levels of Consultation

List the employee(s) with whom you have discussed the decision you are appealing:

Employee name: _____

Date of meeting: _____

Employee name: _____

Date of meeting: _____

Employee name: _____

Date of meeting: _____

5. Signature:

(signature of Parent/Guardian or Student)

Date: _____

Received by the School Board Office:

Date: _____ initials _____

Received by the Chair, Board of Education:

Date: _____ initials _____