
BYLAW 4 APPEAL PROCEDURE

A BYLAW OF THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 33 (Chilliwack) (hereinafter called "the Board") to establish the procedure for appeals under Section 11 of the School Act.

WHEREAS Section 11 of the School Act and School Act Regulation 24/08 provides that a parent/guardian/caregiver and/or student in the School District 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;

WHEREAS the Board wishes to enact the process for the conduct of such appeals;

AND WHEREAS the Board believes that the resolution of concerns is best addressed at the point the concern occurred and appeals will generally not be heard unless the appellants have made efforts to resolve the issue with the decision-maker;

NOW THEREFORE the Board enacts as follows:

This bylaw may be cited as School District No.33 (Chilliwack) Appeal Procedure Bylaw 4.

The definitions contained in the School Act shall apply to this bylaw.

Fairness Principles

1. Students/parents/guardians/caregivers can expect fairness in the appeals process, including:
 - 1.1. the right to be heard,
 - 1.2. the right to adequate notice and timely receipt of relevant information,
 - 1.3. being provided with reasons for decisions,
 - 1.4. an impartial decision maker,
 - 1.5. a respectful process, free from retaliation, and
 - 1.6. confidentiality throughout the process.

Decisions Which May Be Appealed

2. The Board of Education recognizes the right of a student and/or parent/guardian/caregiver of a student under Section 11 of the School Act to appeal a decision of an employee of the Board where such decision significantly affects the education, health or safety of the student.
3. A "decision" for the purposes of this bylaw includes the failure of an employee to make a decision.
4. Examples of grounds for appeal include, but are not limited to:
 - 4.1. disciplinary suspension from school;

- 4.2. suspension from an educational program, if no other educational program is provided by the board;
- 4.3. expulsion from an educational program;
- 4.4. refusal to offer an educational program to a student who is sixteen (16) years of age or older;
- 4.5. requirement to complete all or part of an educational program by distributed learning, or in an alternate program, as a disciplinary measure, where space and facilities are available in a school;
- 4.6. exclusion from school for a health condition;
- 4.7. failure to provide an Individual Education Plan to a student with special needs;
- 4.8. failure to offer to consult with a parent/guardian/caregiver regarding the placement or Individual Education Plan of a student with special needs;
- 4.9. denial of an educational program by failure to take action in respect of a complaint of bullying, intimidation, harassment, racism or threat or use of weapons or violence by one or more students against another student; and
- 4.10. any other decision that, in the opinion of the Board, significantly affects the education, health or safety of a student.

Refusal to Hear Appeals

5. The Board may refuse to hear an appeal where:
 - 5.1. the appeal has not been filed within a reasonable time of the decision being appealed;
 - 5.2. the student or parent/guardian/caregiver appealing the decision has not first discussed the decision being appealed with any persons identified by the Board; or
 - 5.3. the Board determines that the decision does not significantly affect the student's education, health or safety, including school placement.

Before Filing an Appeal

6. Before an appeal is filed, it is the Board's expectation that the student and/or parent/guardian/caregiver will discuss (present the concern verbally) the issue in dispute in a constructive manner with those responsible at the school or district level.
 - 6.1. The Board encourages the use of the following steps before an appeal is filed:
 - Step 1: The student and/or parent/guardian/caregiver will discuss the issue with the teacher/employee who made the decision.
 - a. The teacher/employee will review information and will inform the parent/guardian/caregiver of their decision within one week.
 - Step 2: Should the decision in 7.1.1 be unsatisfactory, the student and/or parent/guardian/caregiver will discuss the issue with the principal where the decision was made at the school level, or the responsible administrator, where the decision was made at the district level; and
 - a. The principal or administrator will review information and will make a decision within one week.
 - Step 3: The student and/or parent/guardian/caregiver will discuss the issue with the Superintendent and/or administrator(s) appointed by the Superintendent.
 - a. The Superintendent or administrator will review information and will make a decision within one week.

- 6.2. The Principal's/Administrator's/ Superintendent's decision at Step 2 or 3, will be provided in writing, with reasons for the decision, along with a copy of the Board Appeal Procedure Bylaw 4.
 - 6.3. Notwithstanding the above, an appellant may file a formal appeal at any point in the process.
7. In order to facilitate resolution of an issue, the district can provide the services of an uninvolved staff member as a navigator and/or provide interpretive services.

Time Limit for Filing an Appeal

8. An appeal must be filed within thirty (30) days of the date the student or parent/guardian/caregiver was informed of the final decision in accordance with section 8 above.
 - 8.1. If the student or parent/guardian/caregiver initiating the appeal (the "appellant") can demonstrate that there are reasonable grounds to extend this time limit, the Board will consider same.
9. Upon receipt of the notice of appeal, it will be immediately forwarded to the Board, and the appellant will be notified of same.

Filing an Appeal

10. An appeal shall be initiated by filing a notice of appeal in writing with the Secretary Treasurer.
 - 10.1. The notice of appeal shall include the following information:
 - 10.2. the name, address, email address (if applicable), and telephone phone number of the appellant, including the student's name, school, grade level;
 - 10.3. a description of the decision that is being appealed and its effect on the education, health or safety of the student;
 - 10.4. the name of the employee who made the decision;
 - 10.5. the date the appellant was informed of the decision being appealed;
 - 10.6. the grounds of the appeal and the action requested; and
 - 10.7. the steps that the appellant has taken to discuss the matter directly with the person who made the decision or with other school or district employees.
11. The district will provide assistance with preparing an appeal if requested
 - 11.1. An Appeal Form is available, but not mandatory, provided the information in 12 is provided.
12. Upon receipt of the appeal, the appellant will be provided with details regarding:
 - 12.1. confidentiality and information-sharing;
 - 12.2. a description of how appeal will be conducted, such as an in-person hearing, through written submissions, or both;
 - 12.3. how and to whom appeal submissions can be made and a main, neutral contact person;
 - 12.4. who (what position(s), name of committee) will conduct the review, and how the district ensures an unbiased decision maker will be assigned; and

- 12.5. any time limits within the appeal process such as when an individual must submit all evidence to be considered on appeal, or time limits for a response to a request for additional information.
13. Where the appellant is a student under the age of nineteen (19) years, the Board shall provide a copy of the notice of appeal to the parent/guardian/caregiver (s) of the student.
14. The Secretary-Treasurer will, upon receiving the notice of appeal, notify the Board, the Superintendent, and the employee whose decision is being appealed.
15. The Superintendent may appoint a person to be responsible for carrying out the responsibilities of the Superintendent under this Bylaw.

Pre-Hearing Procedure

16. The Secretary-Treasurer or their designate is responsible for reviewing the notice of appeal and for communicating with the appellant and others on matters related to the appeal.
17. Where, in the opinion of the Secretary-Treasurer, the appeal does not comply with the requirements for an appeal established under this Bylaw or Section 11 of the School Act (e.g. it is not a decision of an employee which significantly affects the student's education, health or safety; the appeal was not filed in a timely manner), the Secretary-Treasurer shall refer the preliminary matter to the Board for a determination.
 - 17.1. The Board may ask for written submissions from the appellant and/or the Superintendent on the preliminary matter.
18. The Board shall notify the appellant and the Superintendent of any preliminary decision it may make, including a refusal to hear the appeal.
 - 18.1. The Board will make a preliminary decision, if required, within 10 working days of receipt of the appeal.
 - 18.2. The Board's preliminary decision not to hear an appeal is final.
19. The Board shall inform appellants of the preliminary decision, provide reasons for the decision and where the decision is not favourable to the appellant, provide information about the next level of appeal.
20. Where, in the opinion of the Secretary-Treasurer, there is no preliminary matter to be determined, arrangements will be made for the hearing of the appeal by the Board.
21. Prior to the date established for the hearing of the appeal, the Superintendent will provide a report to the Board regarding the matter under appeal. The appellants and the employee whose decision is being appealed shall receive a copy of this report.
22. The Board may, prior to the Board hearing the appeal or at any other time, require the appellant discuss the decision being appealed with persons directed by the Board.
23. The Board may make any interim decision it considers necessary pending the disposition of the appeal.

Board Hearing

24. The Board may hold an oral hearing in respect of the appeal and/or may decide the appeal based upon written submissions. Oral hearings, and sessions to consider written materials will be held in an in-camera session.
 - 24.1. The Board shall advise the appellant, the Superintendent and the employee whose decision is being appealed, whether the appeal will be determined based upon written submissions and/or an oral hearing and on any directions established for the hearing of the appeal, including the time frame for oral and/or written submissions.
25. Where the Board decides to hold an oral hearing, the appellant, the Superintendent and the employee whose decision is being appealed, shall be provided with written notice of the date, time and location of the hearing. The correspondence will outline the purpose of the hearing which is to provide:
 - 25.1. an opportunity for the parties to make representations in support of their respective positions to the Board. This information may include medical, psychological, and educational data and may be presented by witnesses. The information may be both written and verbal;
 - 25.2. the Board with the means to receive information and to review the facts of the dispute; and,
 - 25.3. a process through which the Board can reach a fair and impartial decision.
26. The Superintendent and/or designate(s) will have an opportunity to explain the decision, the reasons for the decision and to respond to information presented by the appellant.
27. The appellant will have an opportunity to respond to the information presented by the Superintendent or designate(s).
28. The Board will have the opportunity to ask questions or request clarification from both parties.
 - 28.1. No cross examination of the parties shall be allowed, however, the Board may ask questions of any person appearing at the appeal hearing.
29. The Board shall consider any requests for adjournments in relation to the hearing of appeals and will notify the parties in writing of their decision regarding the adjournment.
30. The Board may adjourn the hearing at any time to obtain additional information where it considers such information would assist the Board in determining the appeal. If the Board requires additional information or clarification in order to make its decision, both parties to the appeal will be requested to return to the hearing for the required information.
31. During the appeal process, the appellant may be accompanied by an advocate, support person and/or interpreter/translator.
32. Notes of the proceedings, excluding Board deliberations, will be recorded for the purpose of the Board's records.

Decision

33. The Board shall make any decision that it considers appropriate in respect of the matter that is being appealed and any preliminary matters.

34. The Board shall decide the appeal based on the oral and/or written submissions presented to it and any other information obtained by the Board in accordance with this Bylaw.
35. The Board must make a decision within 45 days from the date the notice of appeal was received.
36. The Board shall promptly notify the appellant, the Superintendent and the employee whose decision was appealed of the decision of the Board and shall provide written reasons for the decision within five days of the conclusion of the Board hearing.
37. An appellant may have a right to appeal a decision of the Board made under this Bylaw to the Student Appeals Branch of the Ministry of Education.

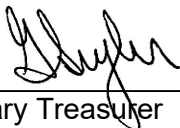
Postal Address: Registrar, Student Appeals
Ministry of Education, Student Appeals Branch
PO Box 9146 Stn Prov Govt,
Victoria, BC V8W 9H1

Email EDUC.studentappeals@gov.bc.ca
Telephone 1-877-387-8037 or 250-387-8037
Website <https://www2.gov.bc.ca/gov/content/education-training/k-12/support/student-disputes-and-appeals>

READ A FIRST TIME THE 7th day of December 2021
READ A SECOND TIME THE 7th day of December 2021
READ A THIRD TIME, RECONSIDERED AND ADOPTED THE 8th day of February 2022



Board Chair



Secretary Treasurer