

## PROCEDURAL BY-LAW

### PROCEDURAL BY-LAW #3 APPEALS

#### RATIONALE

The Board of Education accepts that certain decisions made by employees may be appealed by parents or students. At the same time, the Board wants to ensure fairness in its procedures and respects the professionalism of its employees.

#### PROCEDURAL BY-LAW

1. A student entitled to an educational program in the school district, or a parent or guardian of such student, may appeal a decision of an employee of the board of education which significantly affects the education, health or safety of the student. The failure of an employee to make a decision shall be deemed to be a decision for the purpose of bringing an appeal.
2. The following decisions shall be deemed to significantly affect the education, health or safety of the student:
  - (a) relates to the student's expulsion or suspension from an educational program;
  - (b) relates to the student's suspension from an educational program, if no other educational program is provided by the board;
  - (c) requires the student, as a disciplinary measure, to complete all or part of an educational program by distributed learning;
  - (d) determines that it is not necessary to provide a student with an IEP, or consultation about an IEP;
  - (e) assessment for purposes of obtaining an IEP;
  - (f) suspension or expulsion due to conduct such as bullying, harassment;
  - (g) exclusion due to medical condition that endangers others;
  - (h) exclusion due to hardship;

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

3. Every appeal to the board must be commenced by a written Notice of Appeal which shall state:
  - (a) the name and address of the student and/or parent or guardian bringing the appeal. Where the parent or guardian is initiating the appeal on behalf of the student, the name of the student;
  - (b) the current placement of the student (i.e. school, grade, division, and student timetable);

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Statutory Reference: School Act

- (c) the decision which is being appealed;
- (d) the name of the board employee(s) who made the decision being appealed;
- (e) the reason for the appeal and the desired solution.

Parents or students may have difficulty with the preparation of a Notice of Appeal. When requested, the school district will assist in the preparation of the appeal. If students of school age bring an appeal, their parents or guardian will be notified.

4. Upon receipt of a Notice of Appeal, the board of education or its designate may direct the student and/or parent or guardian bringing the appeal to discuss the decision under appeal with one or more persons where provided by school district policy or where the board of education or its designate considers it appropriate. The Board of Education will distribute a copy of an appeal to the employee(s) referred to in Section 3(d) unless the Board receives legal counsel recommending the appeal be withheld.
5. Where discussions directed under Section 4 do not resolve the appeal, the superintendent, secretary-treasurer, or designate will prepare a report for the Board concerning the matter and will provide a copy to the student and/or parent/guardian bringing the appeal and to the employee(s) referred to in Section 3(d). Prior to the report being prepared by the superintendent or secretary-treasurer, the employee(s) will be provided the opportunity to submit a response to the Notice of Appeal.
6. The Board of Education may invite oral or written submissions from the student and/or parent or guardian bringing the appeal and may decide the appeal based on oral or written submissions or both.
7. Where the Board of Education 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. When an oral submission is requested from the student and/or parent or guardian, the employee(s) referred to in Section 3(d) will also be allowed the opportunity to give an oral submission.
8. The Board of Education may establish a committee(s) to investigate matters pertaining to an appeal and the committee shall report to the board. The board may, in its discretion, appoint trustees, senior officials, principals, vice principals, teachers or any other persons the board considers appropriate as members of the committee, ensuring there is no conflict or perceived conflict of interest for appointed members.
9. The Board of Education may make any interim decision it considers necessary pending the disposition of the appeal.
10. The decision of the board shall be in writing and the board shall notify the student and/or parent or guardian bringing the appeal, and the employee(s) referred to in Section 3(d), of its decision within 45 days of receiving the appeal.
11. The Board of Education may refuse to hear an appeal where:
  - (a) the appeal has not been commenced within a reasonable time from the date the decision significantly affecting the student's education, health or safety was made; or
  - (b) 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

- (c) the decision does not significantly affect the education, health or safety of the student.
- 12. The board of education may consider an appeal notwithstanding any defect in form or other technical irregularity.
- 13. This By-Law may be cited for all purposes as “School District No. 67 Procedural By-Law No. 3” and is in all respects in accordance with the provisions of the *School Act*.