
Policy 13

APPEALS BYLAW**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 BYLAW

1. A student entitled to an educational program in the District, or a parent or guardian of such student, may appeal a decision of an employee of the Board which significantly affects the education, health or safety of the student.

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

The Board generally encourages complaints and disputes to be dealt with at the point closest to where the dispute first arises.

The Board affirms that 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 Executive Officer.

The failure of an employee to make a decision shall be deemed to be a decision for the purpose of bringing an appeal under this policy.

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 for a period in excess of five days;
 - (b) relates to the student's suspension from an educational program, if no other educational program is provided by the Board;
 - (c) determines that it is not necessary to provide a student with an IEP, or consultation about an IEP;
 - (d) assessment for purposes of obtaining an IEP;
 - (e) suspension or expulsion due to conduct such as bullying, harassment;
 - (f) exclusion due to medical condition that endangers others;
 - (g) 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 initiated by the appellant and submitted to the Secretary-Treasurer 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);
 - (c) the decision which is being appealed and the date the student and/or parent/guardian was informed of the decision;
 - (d) the particulars of the effect on the student's education, health or safety;
 - (e) the name of the Board employee(s) who made the decision being appealed;
 - (f) 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 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 will distribute a copy of the appeal to the Superintendent, the principal of the school in which the student is enrolled, and the employee(s) referred to in Section 3(e) unless the Board receives legal counsel recommending the appeal be withheld.
5. In the case of a unionized employee, a copy shall be provided to the Association or Union, if in accordance with the collective agreement. The employee will be afforded the opportunity to provide the Superintendent with a written response to the appeal prior to the report being prepared for the Board.
6. The Board 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 District policy or where the Board of Education or its designate considers it appropriate.
7. Where discussions directed under Section 6 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.
8. The Board 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.

9. 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. When an oral submission is requested from the student and/or parent or guardian, the employee(s) referred to in Section 3(e) will also be allowed the opportunity to give an oral submission.
10. The Board may make any interim decision it considers necessary pending the disposition of the appeal.
11. 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(e), of its decision within 45 days of receiving the appeal.
12. The Board may refuse to hear an appeal where:
 - (a) the appeal has not been commenced within a reasonable time from the date the decision was communicated to the student and/or parent/guardian (usually 30 school days from the date the decision was communicated); 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 or its designate; or
 - (c) the decision does not significantly affect the education, health or safety of the student.
13. The Board may consider an appeal notwithstanding any defect in form or other technical irregularity.

This Bylaw may be cited for all purposes as School District No. 67 (Okanagan Skaha) Policy 13 Appeals Bylaw.

READ a first time this 25th day of November, 2019.

READ a second time this 25th day of November, 2019.

READ a third time this 25th day of November, 2019.

Chairperson of the Board

Secretary-Treasurer

Legal Reference: Section 6, 11, 11.1, 11.2, 11.3, 11.4, 11.5, 11.6., 11.7, 11.8, 22, 26, 68, 85, 91, School Act
Regulation 24/.08 Appeals Regulation
Administrative Tribunals Act