

DISTRICT PHILOSOPHY

Policy 103 BYLAW

BYLAW: Complaints and Appeals by Students, Parents/Guardians, and the Public

This Bylaw describes procedures to be used by students, parents/guardians, and members of the public to make a complaint, or appeal an employee decision in accordance with [Section 11 of the School Act](#). Policy and procedures designed to hear complaints or appeals of employee decisions will be communicated annually to staff, students, and parents/guardians at each school and published on the district website.

The Board of Education believes that employees are committed to providing safe and welcoming learning environments for all students and parents/guardians.

The Board of Education believes that employee decisions relating to individual students must be guided by a student centered approach, incorporating the principles of fairness, confidentiality, and acting in a timely manner.

Notwithstanding genuine best efforts to communicate openly and seek collaboration in all aspects of school and district life, disagreements will arise from time to time.

Definitions

Complaint

An expression of dissatisfaction with an aspect of the organization's programs, services, employees, decisions, and/or responsiveness.

Appeal

A review of a decision administered by a higher authority. Individuals or groups who receive a decision they believe is unfair, unreasonable, or incorrect may wish to appeal the decision. The right to appeal a decision will vary depending on the organization's governing statutes and the nature of the decision.

Complaints

The board believes that complaints are best dealt with by engaging directly with the person where the concern first arises and encourages all parties involved to make good faith efforts to resolve complaints to mutual satisfaction.

Complaints resolution should be guided by Policy 103: Collaboration and Community, and Policy 105: District Code of Conduct, which reinforce the board's expectations for open, respectful, caring, courteous, and collaborative interactions at all times with a focus on maintaining positive relationships.

Students and/or parents/guardians may be supported by an advocate, support person, or interpreter/translator throughout the resolution processes outlined in this Bylaw.

Staff will only respond to anonymous complaints in exceptional circumstances and then only

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when it can establish firsthand evidence that will permit due and fair process.

Complaints Procedure

When no procedure is provided in legislation, collective agreement, or elsewhere in board policy, the steps outlined below should be followed to resolve a complaint:

Step 1: Employee

Concerned parties should discuss the matter with the employee directly involved. If the employee is the principal, proceed to Step 2. Employees are committed to communicating with parents/guardians about their children. Concerns are often resolved at this step. The board believes issues are most effectively dealt with in a timely manner between the individuals involved. Thus, to resolve a difference, the concerned individual(s) should first contact the employee who is most closely connected with the issue of concern.

In circumstances where a resolution has not been achieved between the parties, or where the individual(s) feel unable to safely approach the other, proceed to *Step 2: Principal or Designate*.

Employees against whom a complaint is made will be informed of the complaint when appropriate and will have the opportunity to respond and to participate in attempts to resolve the concern.

Step 2: Principal or Designate

Discuss the complaint with the school principal or designate. Principals are committed to providing a safe and welcoming learning environment for all students, parents/guardians, staff, and community members. The principal or designate will work toward a resolution by participating in the discussion to mediate and advise both parties. The principal will ensure that concerned parties are made aware of Policy 103 Bylaw.

In circumstances where a resolution has not been achieved between the parties, or where one individual feels unable to safely approach the other, proceed to Step 3: Assistant Superintendent.

Step 3: Assistant Superintendent

Provide your complaint, in writing, to the assistant superintendent responsible for your school (contact information can be found on the district website). The student and/or parent(s)/guardian(s) may meet with the assistant superintendent. The assistant superintendent will work towards a resolution and provide a written response of their review of the matter. Best efforts will be made to respond to a written complaint within 5 school days.

In circumstances where a resolution has not been achieved between the parties, or where one individual feels unable to safely approach the other, proceed to Step 4: Superintendent of Schools.

Step 4: Superintendent of Schools

Provide your complaint, in writing, to the superintendent (contact information can be found on the district website). The student and/or parent(s)/guardian(s) may meet with the superintendent. The superintendent will review the matter and provide a written final decision to the complaint. Best efforts will be made to respond to a written complaint within 5 school days.

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Appeals

Where there is no successful complaints resolution, and in cases where a decision (or failure to make a decision) of an employee of the board may significantly affect the education, health or safety of a student, the student and/or parent(s)/guardian(s) may give written Notice of Appeal to the Board of Education as outlined in this Bylaw and in accordance with Section 11 of the School Act.

Procedures for hearing an appeal will be applied as outlined in this Bylaw. The board may, in its absolute discretion, refuse to hear an appeal where the student and/or parent(s)/guardian(s) did not first follow the Complaints Procedure.

Notice of Appeal and Time Limits

An appeal must be started within fifteen (15) business days of the completion of the Complaints Procedure, unless good reasons are shown why the time should be extended.

An appeal is started by completing a Notice of Appeal form and by delivering it by mail, email or personal delivery to the Office of the Secretary Treasurer.

The Notice of Appeal must include:

- a) the name, home address, and school placement of any student(s) involved (including, where appropriate, grade level, and homeroom teacher);
- b) the name and address of the individual(s) making the appeal - if a student under 19 years of age initiates the appeal, the parent(s)/guardian(s) will receive a copy of the appeal;
- c) the complaint decision that is being appealed;
- d) the date on which the student and/or parent(s)/guardian(s) were informed of the decision;
- e) the name of the employee(s) who made the decision being appealed;
- f) the grounds for the appeal and the action requested or relief sought;
- g) a statement, if applicable, of the effect the decision being appealed has on the student's education, health, or safety;
- h) a summary of the steps taken by the student and/or parent(s)/guardian(s) to resolve the matter;
- i) whether the individual(s) making the appeal wishes to present at an appeal hearing in person; and
- j) whether the individual(s) making the appeal require any special accommodation(s) in order to proceed with an appeal.

An employee may assist the individual(s) making the appeal in completing the Notice of Appeal form if requested.

The secretary treasurer (or designate) will:

- 1) Receive and review the Notice of Appeal for timeliness and completeness.
- 2) Review the Notice of Appeal with the superintendent for a preliminary determination of the matter of significance, specifically a decision (or failure to make a decision) that significantly affects the education, health or safety of a student.

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- 3) Communicate with the individual(s) making the appeal and others on matters related to the Notice of Appeal as needed.
- 4) Provide copies of the Notice of Appeal to the employee(s) whose decision is being questioned and to other individuals involved in the Complaints Procedure as appropriate and invite their written responses.
- 5) Receive and distribute relevant documents.
- 6) Ensure that other pertinent policies are considered and that complaints related to employees are dealt with in accordance with any relevant legislation, collective agreement, or elsewhere in board policy.
- 7) Prepare a report outlining the issue(s) and the steps taken to resolve the complaint for the board's consideration and distribute the report and supporting documents to the individual(s) making the appeal, the superintendent, and employee(s) involved as appropriate.
- 8) Schedule necessary meetings.

The board will normally consider the secretary treasurer's report at its next board meeting and determine if the concerns outlined meet the criteria necessary to be considered in the Appeal Procedure.

The board recognizes that whether a decision (or failure to make a decision) significantly affects a student's education, health, or safety is a matter for individual consideration. The following examples will typically be grounds for appeal:

- exclusion from school due to a medical condition that endangers others
- suspension from an educational program for more than five (5) school days where resolution has not been achieved by the parties
- transfer of a student from one school to another for disciplinary reasons
- suspension from an educational program where no other program is made available
- requirement to complete a program by distributed learning if there is space in the school or district as part of a disciplinary matter
- placement in an educational program (but not a specific class or course)
- grade promotion or graduation
- failure to provide or consult regarding a student's individual education plan under certain circumstances
- being the recipient of threats of violence, bullying, intimidation, harassment or acts of racism and/or hate by another student
- any other decision the board determines should be considered as an appeal

If the Board of Education in its absolute discretion, is concerned that a decision (or failure to make a decision) of an employee of the board may be significantly affecting the education, health or safety of a student, then the issue will be considered an appeal and dealt with under the terms of this Appeal Procedure.

Appeal Procedure

School Act Section 11 appeals are confidential. Appeals and decisions on appeals will be held in-camera. Information and documents about an appeal may only be disclosed in accordance with the School Act, Freedom of Information and Protection of Privacy Act, and applicable board policy.

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1. The board will initiate the Appeal Procedure in a timely manner and decide the appeal within 45 days of first receipt of the Notice of Appeal. The individual(s) and any employee(s) whose decision is being appealed will be notified of all meetings.
2. The board will consider the matter at one or more meetings based on written presentations and/or it may hear in person presentations.

The board may invite additional written submissions from the individual(s) making the appeal and any of the other participant(s) as deemed necessary. It may establish a committee to investigate the matter further and may call any witness or follow any other line of inquiry it feels appropriate.

No employee who was involved in making the decision being appealed or has investigated or mediated the issue will assist the board with its deliberations on the appeal.

No trustee will decide on an appeal unless they have attended all meetings called to consider or hear the appeal.

3. Where the board considers it desirable to receive in person submissions, the board will set a mutually convenient time, date, and place for this purpose and will invite the individual(s) making the appeal, and superintendent to present their evidence. If either the board or individual(s) making the appeal wishes to have legal representation or have an audio record of the hearing, they must notify the other party at least 7 days prior to the hearing date.

The secretary treasurer will provide all relevant district reports and supporting documents to the individual(s) making the appeal no later than 96 hours before the meeting. All documents that the individual(s) making the appeal intends to rely on must be provided to the Office of the Secretary Treasurer no later than 48 hours before the hearing date.

The unwillingness of one party to attend or present at a hearing will not negate the right of other parties to attend or present.

In person appeal hearings will be held as outlined in this Bylaw.

4. Where the board decides to consider written presentations only, all parties will be informed of the meeting date and asked to submit their documents with the same timeline as for an in person hearing. The secretary treasurer will assemble documents and assist the board.
5. The board may make any interim decision it considers necessary pending the final decision of the appeal.
6. The board will make a decision as soon as possible after all the information is gathered and will promptly notify the individual(s) making the appeal and the employee(s) involved of the board's decision.

As soon as possible thereafter, the board will approve a written communication to the individual(s) making the appeal confirming the process followed, noting applicable policies, the evidence considered, and confirming the board's decision and the reasons for

the decision.

Included in the communication to the individual(s) making the appeal will be notification of the right to appeal to the Ministry of Education and Child Care - Superintendent of Appeals under [Section 11.1 of the School Act](#).

7. A board may make any decision that it considers appropriate in respect of the matter that is appealed under Section 11 of the School Act and, subject to Section 11.1 (1), the decision of the board is final.
8. If, after a Section 11.1 Appeal, the Superintendent of Appeals refers the matter back to the board for reconsideration, with or without direction, the board will begin the process of reconsideration as set out in this Bylaw (Appeal Procedure).

HEARING PROCESS FOR AN APPEAL

The agenda for an appeal hearing will be conducted by the Board Chairperson at an in-camera meeting and will be organized as follows:

- Introductions
- Confirmation of the purpose of the meeting and timelines
- Confirmation that each party has all documents submitted
- Presentation by the individual(s) making the appeal
- Presentation by the superintendent
- Recess: All but trustees and the secretary treasurer leave the hearing room, and trustees formulate questions
- Reconvene: The chairperson asks questions of the parties; parties respond
- Recess and reconvene as needed to formulate additional questions
- Response and summation by the superintendent
- Response and summation by the individual(s) making the appeal
- Participants are informed of the next steps, thanked and excused
- Trustees deliberate as a committee of the whole

All participants will be informed that each is expected to behave respectfully and that retaliation in any form will not be tolerated.

Each party invited to present evidence at the appeal hearing will be provided up to 20 minutes to do so, and up to an additional 10 minutes for summation.

At any time, the board may request further information from the individual(s) making the appeal or the superintendent and may adjourn in order that such information may be obtained.

If the board is satisfied with the information provided, a vote to uphold, deny, or alter the employee decision will be conducted. The secretary treasurer records the minutes of the appeal hearing.

Trustees in a committee of the whole contribute to notes to be used to prepare a letter to the individual(s) making the appeal.

Recess to another date. The chairperson notifies the individual(s) making the appeal of the decision and prepares, with the secretary treasurer, a draft letter to the individual(s) making

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the appeal.

Reconvene, vote on resolutions to accept or amend the letter to the individual(s) making the appeal.

As soon as possible, the parties to the complaint will be issued written notification of the board's decision regarding the appeal.

Adjourn.

Complaints and Appeals Procedure Flowchart

