



## **BYLAW B2706 APPEALS**

The Board of Education of School District No. 27 (Cariboo-Chilcotin) recognizes the right of a student and/or the parent of a student, to appeal decisions of Board employees where such decisions significantly affect the health, education or safety of the student.

The Board of Education encourages concerns and disputes to be dealt with at the point closest to where the dispute first arises.

Subject to the provisions of Section 11 of the School Act, a student and/or a parent or guardian may appeal a decision of a Board employee where such a decision significantly affects the health, education or safety of the student. For the purposes of this bylaw, "decision" includes the failure of an employee to make a decision.

The appeal process is based on the principle of administrative fairness and includes:

- The right to be treated with respect and dignity.
- The right to speak on your own behalf or to have an advocate speak for or with you.
- The right to be heard.
- The right to participate in decisions that affect you.
- The right to receive clear, complete and appropriate reasons for a decision.
- The right to obtain all information that led to the initial decision or is being considered in an appeal.
- The right to an impartial review of a decision that affects you, a review that is accessible, flexible, timely and easy to use.
- The right to an appeal procedure that has a built-in mechanism to protect against retribution.

To be consistent with the Ombudsman Act, no School District No. 27 employee or Trustee shall discharge, suspend, expel, intimidate, coerce, evict, impose any pecuniary or other penalty on or otherwise discriminate against a person because that person files an appeal, gives evidence or otherwise assists in the investigation, inquiry or reporting of an appeal or other proceeding under Section 11 of the School Act.

### **1. PRE-APPEAL DISPUTE RESOLUTION**

**1.1** The Board encourages students and/or parents to utilize the dispute resolution steps outlined in Board Policy to try to resolve the concern before filing an appeal. If the applicable dispute resolution process does not resolve the concern, an appeal is normally from the decision of the highest supervisory officer who dealt with the matter in the dispute resolution process.

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## **2. STARTING AN APPEAL**

**2.1** A parent and/or student begins the Board appeal process by presenting a Notice of Appeal in writing to the Secretary Treasurer within fifteen (15) school days after being informed of the decision that is being appealed, or from the date of completion of the dispute resolution steps referred to in 1.1, whichever is later.

**2.2** The Notice of Appeal must include:

- a.** The name, address, phone number, date of birth and school placement of the student (including, where appropriate, grade level and home room teacher).
- b.** The name and mailing address, phone number of the person(s) making the appeal.
- c.** A description of the decision that is being appealed.
- d.** The date on which the student and/or parent/guardian bringing the appeal were informed of the decision.
- e.** The name of the Board employee(s) who made the decision being appealed.
- f.** Particulars of the effect on the student's education, health or safety.
- g.** The action requested, or relief sought.
- h.** A summary of the steps taken by the student and/or parent/guardian to resolve the matter.
- i.** Whether the person making an appeal requires any special accommodation. In order to proceed with the appeal (such as interpretation services at the hearing of the appeal).

**2.3** The Secretary-Treasurer is responsible on behalf of the Board for:

- a.** Receiving Notices of Appeal.
- b.** Reviewing Notices of Appeal for completeness and timeliness.
- c.** Giving any notices required under collective agreements.
- d.** Receiving and distributing documents relevant to an appeal.
- e.** Communicating with the appellants and others on matters relating to an appeal hearing, including whether the person making an appeal will attend the hearing.
- f.** Arranging for any accommodation required.
- g.** Scheduling hearings.

The Secretary-Treasurer may designate another staff member to carry out these responsibilities. If the Secretary-Treasurer has participated in the dispute resolution steps or is the employee whose decision is being appealed, another staff member shall be designated.

**2.4** If the Secretary Treasurer is of the opinion that:

- a.** An appeal is not timely;
- b.** An appeal is not an appeal of a decision of a Board employee; or



- c. There is any other preliminary matter that should be settled before a hearing of an appeal on its merits,

the Secretary-Treasurer may meet with the appellant to clarify the appeal.

### **3. PRE-HEARING RESPONSIBILITIES**

**3.1** Upon receipt of the Notice of Appeal, the Superintendent shall be notified.

**3.2** Any notices required under relevant collective agreements are given.

**3.3** If the appellant is a student under the age of 19 and no parent is named as an appellant, a parent will be notified.

**3.4** If the appellant has not met with the Superintendent during the dispute resolution process, at the Superintendent's request the appellant may be required to meet with the Superintendent or a person designated by the Superintendent. A report of this meeting shall be included in the report prepared under 3.4. The report may include the Superintendent's recommendations as to whether the dispute should be referred to an outside mediator.

**3.5** The Superintendent or a person designated by the Superintendent to be responsible for investigation and presentation on the appeal will prepare a report for the Board concerning the matter under appeal and is responsible for gathering the information to be presented to the Board, other than the information to be presented by the appellant.

**3.5.1** A copy of the report prepared will be provided to the appellant no later than 48 hours before the time set for hearing.

**3.6** If requested by the appellant, the Board may determine that an appeal will be decided on the basis of written submissions only.

**3.7** The appellant is notified of the date, time and place for hearing of the appeal and of the requirement to provide any documents in advance.

**3.8** The appellant is required to provide copies of any documents on which he or she intends to rely, or copies of written submissions, no later than 24 hours before the date set for hearing.

### **4. HEARING AND DECISION**



**4.1** The Board accepts its responsibility to exercise its independent judgment when hearing appeals. In particular, an employee of the Board who has participated in making the decision being appealed, who has attempted to mediate it or who has investigated it shall not participate in the deliberations of the Board of Education on the appeal.

**4.2** Appeals and decisions on appeals will be held in closed session.

**4.3** The Board may refuse to hear an appeal where

- a. The appeal has not been commenced within the time set out under 2.1
- b. The student and/or parent or guardian has refused or neglected to discuss the decision under appeal with a person specified as directed by the Board; or
- c. The decision does not, in the Board's opinion, significantly affect the education, health or safety of the student.

**4.4** The Board will decide the appeal based on the oral and/or written submissions presented to it and, for an oral hearing, will determine the order of, and time allotted for, submissions.

**4.5** At any time the Board may request further information from the appellant or the Superintendent or designate and may adjourn in order that such information may be obtained.

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

**4.7** The Board may invite submissions from any person whose interests may be affected by the Board's decision on the appeal.

**4.8** The Board may hear an appeal despite any defects in form or technical irregularities and may relieve against time limits.

**4.9** The Board will confirm that each party has received all documentation provided by the other party prior to the hearing.

**4.10** At the end of each party's submission, trustees may ask questions.

**4.11** When questioning by trustees is complete, the parties will leave the proceedings and the Board will meet to decide how it will dispose of the appeal.

**4.12** The Board must make a decision within 45 days from receiving the Notice of Appeal.

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**4.13** The parties will be promptly notified of the Board's decision. Written reasons will be provided as soon as practicable.

**4.14** Appellants who have appeal rights under School Act s.11.1 will be advised of those rights when they are notified of the Board's reasons for decision.

NOW THEREFORE be it resolved that the Board of Education of School District No. 27 (Cariboo-Chilcotin) hereby directs the Administration to implement the bylaw, effective May 28, 2019

This bylaw may be cited as School District No. 27 (Cariboo-Chilcotin) Appeals No. B2706.

Read a first time this 23 day of April 2019.

Read a second time this 28 day of May 2019.

Read a third time and passed this 28 day of May 2019.

Camille Macdonald  
Board Chair

Norine Durban  
Secretary-Treasurer