



## **SECTION 5000: GOVERNANCE**

### **POLICY 5080: APPEAL BYLAW**

- *Date Adopted: June 13, 2012*
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#### **POLICY STATEMENT**

1. A student entitled to an educational program or his/her parent(s) or guardian(s) may appeal a decision of an employee of the Board 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. **Except in unusual circumstances, appeals shall be filed within ten working days of the significant decision under appeal.**
2. Appeals may include, but not be limited to, decisions by employees in the following areas:
  - a. placement in an educational program;
  - b. recognition of an educational activity not provided by the Board;
  - c. placement of a special needs student in an educational program;
  - d. attendance of a child registered under Section (13)(1)(a) or (b) of the *School Act* in an educational program offered by the Board;
  - e. concerns regarding learning materials used in a school;
  - f. disciplinary suspension from school for a period in excess of 10 consecutive days;
  - g. exclusion from school for a health condition;
  - h. provision of an educational program to a person older than school age;
  - i. grade promotion and graduation;
  - j. refusal to offer an educational program to a student who has attained 16 years of age.

and any other decision that in the opinion of the Board or the parent/guardian and/or student significantly affects the education, health or safety of a student.



**POLICY STATEMENT** *(continued)*

3. The Board may refuse to hear an appeal until the student and/or parent or guardian has discussed the decision under appeal with the person(s) directed by the Board or its designate, as stated in the attached regulations, or when the decision does not significantly affect the education, health, or safety of the student.

**REGULATIONS**

1. If a concern by a parent or guardian is not resolved through the *Concerns by Parents Procedures*, the parent may choose to formally appeal the decision.

**2. Appeals to the District Staff**

- a. The parent or guardian shall appeal the decision in writing to the Superintendent of Schools within 10 working days.
- b. Every appeal must be commenced by a written *Student and/or Parent Appeal Form* which shall state:
  - i. the name and address of the student and/or parent or guardian bringing the appeal and, where the parent or guardian is initiating the appeal on behalf of the student, the name of the student
  - ii. the current placement of the student (i.e., school, grade, and homeroom teacher)
  - iii. the decision which is being appealed and the date the student and/or parent or guardian bringing the appeal was informed of the decision
  - iv. the name of the Board employee(s) who made the decision being appealed
  - v. the grounds for the appeal and the relief sought
- c. The Superintendent may hear the appeal or may designate one or more members of the district staff to hear the appeal during one or more meetings at the discretion of the Superintendent.
- d. Appeal meetings will normally be held in the student's community.
- e. Appeals to the district staff may include up to two meetings.



## **REGULATIONS**

### **2. Appeals to the District Staff** *(continued)*

- f. The individual making an appeal may have, where applicable, parents and one advocate, not an employee of the school district, present at the meetings.
- g. The Superintendent or designate may make any interim decision he/she deems necessary, pending the outcome of the appeal.
- h. The decision of the district staff shall be communicated in writing.

### **3. Appeals to the Board**

- a. Where the parent or legal guardian feels that the decision by the district staff significantly adversely affects his/her child then he/she shall within 10 working days of receiving the written decision appeal the decision to the Board.
- b. The Superintendent or designate will prepare a report for the Board.
- c. The Superintendent or designate will provide the parent or guardian with a copy of any documentation which is to be considered by the Board, except where there are compelling reasons for not doing so (e.g., student safety).
- d. The Board shall consider the following questions when reviewing an appeal:
  - i. Was there fair treatment and, if unfair, did it have an impact on the decision being appealed?
  - ii. Was there any relevant information available that was not considered or did any irrelevant information influence the decision?
  - iii. Is there persuasive evidence which indicates that the decision being appealed was not appropriate?
- e. The Board will invite written and oral submissions from the student and/or parent or guardian bringing the appeal and may decide the appeal based on the submissions.
- f. The parent/guardian and/or the student will be invited to attend the meeting in order to clarify information. The Board investigation will be limited to the issue identified in the written notice of appeal submitted to the Board.



## **REGULATIONS**

### **3. Appeals to the Board** *(continued)*

- g. The Board may consider the appeal notwithstanding any defect in form or other technical irregularity.
- h. The Board may make any interim decision it considers necessary pending the disposition of the appeal.
- i. The decision of the Board shall be in writing and the Board shall promptly notify the student and/or parent or guardian bringing the appeal of the Board's decision regarding the appeal.
- j. In accordance with Section 11(7), *School Act*, the Board will make a decision within 45 working days of the date on which the Board received the appeal, and promptly report that decision to the person making the appeal.

### **4. Appeals to the Superintendent of Achievement**

- a. A decision of the Board may be appealed to a Superintendent of Achievement, Ministry of Education.
- b. An appeal to a Superintendent of Achievement is a new hearing.
- c. An appeal to a Superintendent of Achievement does not suspend the operation of a decision under appeal unless the Superintendent of Achievement otherwise orders.
- d. On receipt of an appeal, a Superintendent of Achievement may:
  - i. refer the matter for mediation or adjudication, to a mediator or adjudicator under contract with the Minister or a person designated by the Minister, or
  - ii. summarily dismiss all or part of the appeal.
- e. A Superintendent of Achievement must exercise discretion in accordance with guidelines established by the Minister.



## **REGULATIONS**

### **4. Appeals to the Superintendent of Achievement** *(continued)*

- f. If a Superintendent of Achievement has referred a matter for mediation, the Superintendent of Achievement may refer the matter to an adjudicator for determination if:
  - i. mediation was unsuccessful in bringing about agreement between the parties,  
or
  - ii. a party so requests.
- g. A person who files an appeal to a Superintendent of Achievement may request the Superintendent of Achievement to suspend the operation of the decision under appeal.
- h. The Superintendent of Achievement may, on his or her own initiative or at the request of the person filing the appeal, suspend the decision for the period and on the conditions the Superintendent of Achievement considers to be appropriate.
- i. A decision of a Superintendent of Achievement or of an adjudicator is final and binding on the parties.