

BOARD OF EDUCATION OF SCHOOL DISTRICT NO.58 (NICOLA-SIMILKAMEEN)

BYLAW NO. 5-23

SCHOOL ACT APPEALS

A Bylaw of the Board of Education of School District No. 58 (Nicola-Similkameen), hereinafter called "the Board", to establish procedures governing *School Act* Section 11 appeals to the Board.

WHEREAS Section 11 of the *School Act* provides that a parent/guardian and/or student in the School District may appeal a decision of an employee or employees of the Board if that decision significantly affects the education, health or safety of the student;

AND WHEREAS the Board wishes to enact the process for the conduct of such appeals;

AND WHEREAS the Board believes that the resolution of concerns is best addressed at the point the concern occurred and encourages students or parents/guardians to bring concerns forward with the staff member who made the decision prior to accessing the appeal process.

AND WHEREAS the Board recognizes that decisions that do not significantly affect the education, health or safety of a student are within the final authority of the Superintendent.

NOW THEREFORE the Board of Education of School District No.58 (Nicola-Similkameen) in an open meeting, hereby **ENACTS AS FOLLOWS**:

1. CITATION

This bylaw may be cited as School District No. 58 (Nicola-Similkameen) ***School Act*** Appeals Procedure 5-23

2. DEFINITIONS

- 2.1 The terms used in this Bylaw have the meanings assigned by *the School Act* and Regulations made thereunder, except as when the context indicates otherwise.
 - 2.1.1 For greater clarity, a parent is defined as one who usually has the care and control of the student or child.
- 2.2 For purposes of this Bylaw, the student or parent/guardian filing the appeal can be referred to as the "Appellant".

3. FAIRNESS PRINCIPLES

- 3.1 Students/parents/guardians can expect fairness in the appeals process, including:
 - 3.1.1 the right to be heard,
 - 3.1.2 the right to adequate notice and timely receipt of relevant information,
 - 3.1.3 being provided with reasons for decisions,
 - 3.1.4 an impartial decision maker, and
 - 3.1.5 a respectful process, free from retaliation.

4. DECISIONS WHICH MAY BE APPEALED

- 4.1 The Board of Education recognizes the right of a student and/or parent/guardian of a student under Section 11 of the *School Act* to appeal a decision of an employee of the Board where such decision significantly affects the education, health or safety of the student.
- 4.2 A decision for the purposes of this Bylaw includes the failure of an employee to make a decision.
- 4.3 Examples of grounds for appeal include, but are not limited to:
 - 4.3.1 disciplinary suspension from school;
 - 4.3.2 suspension from an educational program, if no other educational program is provided by the Board;
 - 4.3.3 expulsion from an educational program;
 - 4.3.4 refusal to offer an educational program to a student who is sixteen (16) years of age or older;
 - 4.3.5 requirement to complete all or part of an educational program by distributed learning, or in an alternate program, as a disciplinary measure, where space and facilities are available in a school;
 - 4.3.6 exclusion from school for a health condition;
 - 4.3.7 failure to provide an Individual Education Plan to a student with special needs;
 - 4.3.8 failure to offer to consult with a parent/guardian regarding the placement or Individual Education Plan of a student with special needs;
 - 4.3.9 denial of an educational program by failure to take action in respect of a complaint of bullying, intimidation, harassment, racism or threat or use of weapons or violence by one or more students against another student; and
 - 4.3.10 any other decision that, in the opinion of the Board, significantly affects the education, health or safety of a student.

5. BEFORE FILING AN APPEAL

- 5.1 Before an appeal is filed, the Board encourages the Appellant to discuss (present the concern verbally or in writing) the issue in dispute in a constructive manner with those responsible at the school or district level. In this regard, the Board suggests, the following steps before an appeal is filed:
 - 5.1.1 Step 1: The Appellant discuss the issue with the principal where the decision was made at the school level, or the responsible administrator, where the decision was made at the district level; or
 - 5.1.2 Step 2: The Appellant discuss the issue with a district administrator

6. REFUSAL TO HEAR APPEALS

- 6.1 The Board may refuse to hear an appeal where:
 - 6.1.1 the appeal has not been filed within the time limits set out in paragraph 7.1 below;
 - 6.1.2 the Appellant has not first discussed the decision being appealed with any persons identified by the Board; and/or
 - 6.1.3 the Board determines that the decision does not significantly affect the student's education, health or safety.

7. FILING AN APPEAL

- 7.1 If the steps taken in section 5.1 above are unsuccessful, the Appellant may file a formal appeal by preparing a Notice of Appeal and submitting it to the Secretary Treasurer, or designate, within thirty (30) calendar days of the date the Appellant was informed of the final decision.
- 7.1.1 If the Appellant can demonstrate that there are reasonable grounds to extend this time limit, the Board will consider whether to extend the time limit.
- 7.2 An appeal to the Board commences with submission of a written Notice of Appeal to the Secretary Treasurer.
- 7.3 The Notice of Appeal must include the following information:
- 7.3.1 the name, address, email address (if applicable), and phone number of the Appellant, including the student's name, school, grade level
 - 7.3.2 a description of the decision that is being appealed and its effect on the education, health or safety of the student;
 - 7.3.3 the name of the employee who made the decision;
 - 7.3.4 the date the Appellant was informed of the decision being appealed;
 - 7.3.5 the grounds of the appeal and the action requested;
 - 7.3.6 the steps that the Appellant has taken to discuss the matter directly with the person who made the decision or with other school or district employees; and
 - 7.3.7 if the Notice of Appeal is filed outside the 30 day time limit, the reasons the Notice of Appeal were not filed within the time limit.
- 7.4 The District will offer assistance in preparing an appeal.
- 7.4.1 An Appeal form is available, but not mandatory, provided the information in 7.3 is provided.
 - 7.4.2 The services of an uninvolved staff member as a navigator.
 - 7.4.3 Accommodations, such as interpretive services or visual aids, when needed.
- 7.5 The District encourages Appellants to receive the support of other local, regional, or provincial organizations to prepare an appeal.
- 7.5.1 Indigenous students and/or parents/guardians are encouraged to access supports that may include: district Indigenous Education staff or advocacy services available to them from the local First Nations, Métis Associations or other local, regional, or provincial supports.
- 7.6 The Secretary Treasurer, or designate, will, upon receiving the Notice of Appeal:
- 7.6.1 promptly provide a copy of the Notice of Appeal and any other information the Appellant submits in support of their appeal to: the Board, the Superintendent or designate, and, the employee whose decision is being appealed.
 - 7.6.2 confirm with the Appellant, in writing, receipt of the Notice of Appeal. In accordance with section 10.3, the Board shall make a decision within 45 days from the date the Notice of Appeal was received.
- 7.7 The Appellant may withdraw their appeal at any time.

8. PRE-HEARING

- 8.1 The Secretary Treasurer or their designate is responsible for reviewing the Notice of Appeal and for communicating with the Appellant and others on matters related to the appeal.
- 8.2 Where, in the opinion of the Secretary Treasurer, the appeal does not comply with the requirements for an appeal established under this Bylaw or Section 11 of the *School Act*, the Secretary Treasurer shall refer the preliminary matter to the Board for a determination.
- 8.3 The Board shall make a preliminary decision, if required, within 10 working days of receipt of the appeal.
 - 8.3.1 The Board shall inform the Appellant and the Superintendent or designate in writing, of the preliminary decision and provide reasons for the decision, including a refusal to hear the appeal.
- 8.4 Where there is no preliminary matter to be determined, arrangements will be made for hearing of the appeal by the Board.
- 8.5 The Board may make any interim or procedural decision it considers necessary pending the disposition of the appeal.

9. BOARD HEARING

- 9.1 The Board shall provide directions to the Appellant and the Superintendent or designate, concerning:
 - 9.1.1 whether it requires written submissions and if so, the deadlines and any other directions concerning the written submissions; and/or
 - 9.1.1.1 Where a written submission is provided by the Superintendent or designate, the Appellants and the employee whose decision is being appealed shall receive a copy of the submission.
 - 9.1.1.2 Where a written submission is provided by the Appellant, the Superintendent or designate and the employee whose decision is being appealed shall receive a copy of the submission.
 - 9.1.2 whether it will hold a meeting for the purpose of hearing oral submissions and if so, the date, place, time and location of the meeting and any time limits or other directions concerning oral submissions to be made at the meeting.
 - 9.1.2.1 Consideration will be given regarding the location of the hearing.
- 9.2 The purpose of the submissions is to:
 - 9.2.1 allow the Superintendent or designate an opportunity to explain the decision giving rise to the Appeal, the reasons for the decision and to respond to information presented by the Appellant; and
 - 9.2.2 allow the Appellant to explain their appeal and respond to the information presented by the Superintendent or designate.
- 9.3 The Board may ask questions of clarification of the parties before deciding the appeal and may adjourn any meeting of the Board held to consider the appeal for the purpose of obtaining further information.

- 9.4 An Employee shall have the opportunity to provide a written reply to any allegations contained in the Notice of Appeal and may attend any meeting of the Board held in respect of the appeal where the Appellant is present.
- 9.5 During the appeal process, the Appellant may be represented by an advocate, support person of their choosing and/or interpreter/translator, who may make submissions on behalf of the Appellant.

10. DECISION

- 10.1 The Board shall make any decision that it considers appropriate in respect of the matter that is being appealed and any preliminary matters.
- 10.2 The Board shall decide the appeal based only on the submissions presented to it in accordance with this Bylaw.
- 10.2.1 As a fairness principle, decision maker(s) for an appeal must be impartial to the parties to the appeal and the issue to be decided. Therefore, those involved making a decision will have had no prior involvement with the original decision. Any staff involved in the original decision shall not attend or participate in appeal deliberations.
- 10.3 The Board shall make a decision within 45 days from the date the Notice of Appeal was received in an acceptable form.
- 10.3.1 Whenever possible appeal decisions will be made as expeditiously as the circumstances of the appeal dictate.
- 10.4 The Board shall promptly notify the Appellant, the Superintendent or designate and the employee whose decision was appealed of the decision of the Board and shall provide written reasons for the decision.
- 10.5 An Appellant may have a right to appeal a decision of the Board made under this Bylaw to the Student Appeals Branch of the Ministry of Education and Child Care.

Postal Address: Registrar, Student Appeals
Ministry of Education and Child Care, Student Appeals Branch
620 Superior St
PO Box 9146 Stn Prov Govt Victoria BC V8W 9H1

Email EDUC.studentappeals@gov.bc.ca
Telephone 1-877-387-8037 or 250-387-8037
Website <https://www2.gov.bc.ca/gov/content/education-training/k-12/support/student-disputes-and-appeals#appeals>

11. REPEAL

- 11.1 School District No. 58 (Nicola-Similkameen) Appeal Procedure Bylaw 500.0 dated February 13, 2013 and any previous Appeal Procedure Bylaws, including and amendments thereto, are hereby repealed.

Read a First Time	this	xx th	day of	xxx 2023
Read a Second Time	this	xx th	day of	xxx 2023

Read a Third Time	this	day of	2023
ADOPTED	this	day of	2023

Chair

Secretary Treasurer