



Section Four: Students

“Together We Learn”

460 – APPEALS

Introduction

A student or a parent of a student who is entitled to an educational program in School District No. 23 may appeal a decision of an employee of the Board of Education 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 to disputes to understand the concerns of the other parties and make good faith efforts to resolve disputes to mutual satisfaction.

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

If an employee’s decision is disputed or a complaint is made about an employee’s decision, the dispute or complaint is not resolved to the satisfaction of the student or the parent of the student affected, and the decision significantly affects the education, health or safety of the student, the Board of Education recognizes the right of a student and/or his or her parents (including guardians and persons acting in place of parents) to appeal to the Board.

The Board also recognizes that employee decisions, that the Board has decided, 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 educational officer.

For the purpose of bringing an appeal, the failure of an employee to make a decision shall be considered a decision.

For the purpose of this policy, parent means:

1. the guardian of the person of the student or child,
2. the person legally entitled to custody and control of the student or child, or
3. the person who usually has the care and control of the student or child.

Policy

1. School-based administrators shall inform students/parents/guardians of the existence and availability of this policy at least annually. When a disagreement arises, the employee shall inform the appellant of their rights to appeal under this Appeals Procedure Bylaw. The employee will provide a copy of the Appeals Procedure Bylaw to the appellant.



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2. The process for an appellant to follow is:
 - 2.1 meet with the employee who made the decision to try to reach a solution;
 - 2.2 if the problem is unresolved, meet with the employee's supervisor(s);
 - 2.3 if the problem is unresolved after meeting with the employee's supervisor(s), meet with the area Director of Instruction;
 - 2.4 if the problem is unresolved after meeting with the area Director of Instruction, meet with the Superintendent;
 - 2.5 if the appellant is not satisfied with the response provided in 2.4, an appeal may be submitted to the Board;
 - 2.6 appeals regarding instructional resource and library resource centre materials or student placement shall follow Regulations 460.1 and 460.2 respectively.

If the steps in this section are not successful, a parent and/or student begins the Board appeal process by presenting a written Notice of Appeal 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 above, whichever is later.

3. Every appeal to the Board must be initiated by the appellant submitting Form 460 to the Secretary-Treasurer. Within fifteen school days of the receipt of Form 460, the Secretary-Treasurer must inform the appellant of the date of the hearing or provide reasons for the Board decision to not hear the appeal.
4. Appeals to the Board of Education are to be carried out in accordance with principles of fairness, including:
 - 4.1 The appeal process should be accessible to parents and students. Information about the appeal process and relevant policies should be readily accessible to all, including employees, students and parents. Reasonable accommodation should be provided where necessary to allow parents or students to make use of the appeal process.
 - 4.2 Appellants are entitled to receive the same written and oral information to be used in the appeal as is provided to the Board by administration and to have an opportunity to respond to it.



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- 4.3 The Board accepts its responsibility to exercise its independent judgment when hearing appeals. In particular, a board officer or trustee who has mediate or resolve the decision being appealed, who has attempted to mediate it or who has investigated it shall not assist the Board of Education with its deliberations on the appeal.
- 4.4 A student or parent shall not be subjected to retribution by the Board, its officers or employees because an appeal has been made.
5. If a student under the age of 19 years initiates the appeal, a copy of the appeal will be sent to the parent/guardian.
6. The Board recognizes that whether a decision significantly affects a student’s education, health, or safety is a matter for individual consideration. The following will normally be considered (but not limited to) to be matters that significantly affect a student’s education, health or safety:
 - 6.1 suspension or exclusion of a student from a school for a period in excess of 10 days, or that could prevent the student from fulfilling graduation requirements in a timely way;
 - 6.2 decisions regarding placement in an educational program other than access to a specific course or class;
 - 6.3 decisions regarding whether a student has met the requirements for promotion from one grade or course to the next, or has met the requirements for secondary school graduation;
 - 6.4 denial of a request for an individual education program;
 - 6.5 failure to consult with regard to a student’s individual education program;
 - 6.6 exclusion due to student conduct;
 - 6.7 exclusion due to medical conditions that endangers others;
 - 6.8 exclusion due to inability to pay (fees or deposit).

Decisions made on appeals are not precedential and are not binding on future decision-makers.



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7. The Board may refuse to hear an appeal if:
 - 7.1 the appellant has not followed the correct appeals process;
 - 7.2 the appeal has not been initiated within a reasonable time (usually 15 school days) from the date of the decision being made;
 - 7.3 the Board determines that the decision does not significantly affect the student's education, health or safety.

8. The Board may invite oral or written submissions in relation to the appeal from all concerned parties and:
 - 8.1 the appellant may be accompanied by an advocate; an interpreter/translator may also attend such meetings, if required;
 - 8.2 a copy of all written submissions shall be provided to the appellant and advocate, and to the employee whose decision is being appealed;
 - 8.3 a trustee may not discuss the matter under appeal prior to the meeting of the Board.

9. In considering appeals of employee decisions, the Board shall consider:
 - 9.1 whether the decision appealed is in accordance with legislation, board policies and procedures;
 - 9.2 whether the decision appealed was reached through a process that was fair to the student and after consideration of relevant information;
 - 9.3 whether the evidence presented to the Board supports the decision or calls it into question;
 - 9.4 whether the decision is reasonable in the circumstances; and
 - 9.5 whether there are special circumstances that would warrant making an exception to a board policy.

10. The decision of the Board shall be final, subject to any rights to appeal under the School Act, and will be communicated promptly, in writing, to the appellant and advocate. If the appeal was initiated by a student under the age of 19 years, a copy of the Board's decision will also be sent to the parent/guardian.



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11. Appellants who have appeal rights under the School Act, Section 11.1 will be advised of those rights when they are notified of the Board’s reasons for decision.
12. Employees of the Board are required to manage appeals in a positive manner. If there are any reprisals, the Superintendent of Schools will immediately investigate and take any appropriate action. The Superintendent shall report any such investigation to the Board.

Date Agreed: November 13, 2002

Date Amended: April 9, 2008

School Act Sec. 11

Related Documents: 460.1R, 460.2R, Form 460