

## APPEALS BYLAW

### 1. Preamble

In the spirit of procedural fairness, School District No. 71 (Comox Valley) has established processes for parents to express their questions or concerns to the appropriate authority. As described in Section 11 of the *School Act*, School District No. 71 (Comox Valley) supports and recognizes the right of the student, parent or guardian to appeal an employee decision that significantly affects the education, health or safety of the student. The failure of an employee to make a decision shall be deemed a decision for the purpose of initiating an appeal under this bylaw.

Notwithstanding the above, School District No. 71 (Comox Valley) expects that prior to appeal, appropriate consultative and problem-solving discussions have taken place in accordance with established policy or procedures. It is also an expectation that the appeal has commenced within a reasonable amount of time from the date of the decision, and that it is free from malicious or veracious intent.

### 2. Examples of Issues that May Significantly Affect the Education, Health or Safety of Students

The following list is intended as a guide for parents/students/guardians and the board.

- 2.1 disciplinary suspension from school for a period in excess of ten (10) consecutive days;
- 2.2 disciplinary suspension that prohibits student opportunity to write government examinations or attend school commencement exercises;
- 2.3 placement or failure to place a student in a full-program alternative school setting;
- 2.4 full grade retention or promotion of a student;
- 2.5 refusal to provide an educational program for a student under sixteen (16) years of age;
- 2.6 suspension from school due to a health condition;
- 2.7 a substantive issue that affects the education, health or safety of the student.

### 3. Notice of Request for a Hearing

- 3.1 The person making the appeal shall complete *the Notice of Appeal* form (attached). Upon request or need, the superintendent or designate will provide assistance to the applicant or cause such assistance to be available.

- 3.2 Upon receipt of a request, the chairperson of the board, after consultation with the vice-chair and/or the superintendent of schools when appropriate, will cause a meeting to be organized to hear the appeal in a timely manner.

#### **4. Appeal Hearing**

- 4.1 The board shall call a special confidential meeting to hear any appeals and shall confine the deliberation to the decision being appealed. The applicant and the respondent (employee making the decision) may each have a support person present.

The board requires that the applicant and/or respondent provide, in writing, at least three (3) days before the meeting, the name and occupation of the support person who will be present and what role that person will play in the meeting. Any written documentation or other material to be provided at the hearing must be made available to the applicant and the respondent at least three (3) working days prior to the hearing.

- 4.2 The chairperson of the board shall begin the meeting by introducing all present, emphasizing the confidentiality of the meeting, reviewing the process to date on the issue, and explaining the process for the hearing. However, it is acknowledged that the board cannot require confidentiality of a member of the public appealing a decision.

The person making the appeal shall speak first, followed by the respondent. The respondent shall give the reasons for the decision, and may include contextual factors such as classroom, program, school or district, including impact on other children (although others shall not be named). The applicant and the respondent shall each have an opportunity to speak to what has been said by the other.

- 4.3 In most cases, the superintendent or designate shall be present to act as an advisor to the board. Should the decision being appealed be a decision made by the superintendent, the board shall appoint a member from the management staff indicating that, for the purposes of that meeting, they be the senior advisor to the board.

#### **5. Determination of Appeal**

The board shall include, but not limit itself to, the following when making a decision:

- 5.1 Was the employee decision within the scope of his/her mandate?
- 5.2 Did the employee follow board policy in making the decision?
- 5.3 Did the employee follow school, site or program policies and/or procedures when making the decision?
- 5.4 Was there a review of the original decision with a reasonable attempt at resolution?
- 5.5 Did the employee give fair and reasonable consideration of the information

available?

5.6 Was due consideration given for attempting to achieve a balance between the needs and rights of the individual student and the needs and rights of other students in the school and/or program?

5.7 Was there any new information or new perspectives arising from the hearing?

5.8 Is there any other information that, in the board's view, is relevant to the issue?

The board, through the senior staff advisor, shall provide a written determination to the applicant and the employee in a timely manner. The senior advisor shall advise the applicant that they have a right to appeal the board's decision through the Office of the Ombudsman.

Legal Reference: Section 11 *School Act*

Adopted: September 2019

## Policy 13 -Appendix

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### NOTICE OF APPEAL—SCHOOL ACT APPEALS

#### COMOX VALLEY SCHOOL DISTRICT No. 71

Pursuant to Section 11 of the *School Act* and Board Bylaw, the applicant (parent/student/guardian) is requested to complete this Notice of Appeal form.

NAME (Student) \_\_\_\_\_

NAME (Parent/Guardian) \_\_\_\_\_

Telephone \_\_\_\_\_

ADDRESS \_\_\_\_\_

Postal Code \_\_\_\_\_

SCHOOL \_\_\_\_\_

Grade \_\_\_\_\_

Description of decision being appealed \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date that the applicant was advised of decision \_\_\_\_\_

Name of employee who made the decision \_\_\_\_\_

Grounds for appeal and change(s) or remedy sought (attach additional pages if required)

\_\_\_\_\_  
\_\_\_\_\_

#### *Steps Taken to Date to Resolve the Issue:*

Step 1: Parent/student/guardian contact(s) with employee

\_\_\_\_\_  
Date

Step 2: Parent/student/guardian meeting with school administration

\_\_\_\_\_  
Date

Step 3: Parent/student/guardian meeting with district administration

\_\_\_\_\_  
Date

\_\_\_\_\_  
Student's Signature

\_\_\_\_\_  
Parent/Guardian Signature

Copy to: Superintendent  
Employee

NoticeofAppeal.0903

Adopted: September 2019