



**BYLAW 5.3  
APPEALS**

Adopted: 2001-07-11

Reviewed: 2008-04-21

Revised: 2006-07-17, 2007-11-21, 2007-11-29, 2008-02-18, 2008-04-21

A Bylaw to establish the procedure of appeals under Section 11 of the *School Act*.

WHEREAS the *School Act* provides that the Board of Education of School District No. 20 (Kootenay-Columbia) (the "Board") shall establish, by bylaw, an appeal process for the purpose of appeals made under Section 11 of the *School Act*;

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

NOW THEREFORE, in open meeting assembles, the Board enacts as follows:

1. Any student, parent or guardian of a student, or designated advocate appointed by the parent or student, shall be entitled to appeal a decision, or failure to make a decision, of any employee of the Board which significantly affects the education, health or safety of the student.
2. The following decisions shall be deemed to significantly affect the education, health or safety of a student:
  - a) disciplinary suspension from school for a period in excess of ten (10) consecutive days;
  - b) suspension from school for a health condition;
  - c) placement in an educational program;
  - d) grade promotion and graduation;
  - e) refusal to offer an educational program to a student sixteen (16) years of age or older; andany other decision that in the opinion of the Board or designate significantly affects the education, health or safety of a student.
3. Every appeal to the Board must be commenced by a written **Notice of Appeal** addressed to the Secretary-Treasurer of the Board and shall state:
  - a) the name, address and telephone number of the student and/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;
  - b) the current placement of the student (ie, school, grade and homeroom teachers);
  - c) the decision which is being appealed and the date the student and/or parent or guardian bringing the appeal was informed of the decision;
  - d) the name of the Board employee(s) who made the decision being appealed;
  - e) the grounds for the appeal and the relief sought.

4. The appeal must be commenced within thirty (30) calendar days form the date that the student or parent was informed of the decision in question.
5. The Board may refuse in writing to deal with or hear an appeal where:
  - a) the timelines have been unnecessarily exceeded;
  - b) the Appellant refuses to first discuss the decision with the person(s) as directed by the Superintendent of Schools or designate;
  - c) the Board decides that the decision being appealed does not significantly affect the education, health or safety of the student as defined in clause 2 of this bylaw.
6. The Notice of Appeal shall immediately be delivered to the Board Chairperson, who shall, within seven (7) days of receipt of the appeal, direct the Superintendent of Schools or designate to gather all information pertinent to the appeal and to prepare an Appeal Report setting out such information.
7. The Appeal Report shall be completed and delivered to the Board within thirty (30) calendar days. Copies of the Appeal Report shall be provided to the Appellant and the Employee.
8. After receiving the Appeal Report, the Board shall, within thirty (30) calendar days, do all of the following:
  - a) provide an opportunity for the Appellant and the Employee to meet with the Board to discuss the Appeal and the Appeal Report;
  - b) render a decision of the Appeal.
9. At the hearing the Appellant and the Employee shall have the right to present submissions with respect to the Appeal. The Board shall have the right to question those appearing before it.
10. The Board's decision in the matter shall be promptly reported in writing to the Appellant and the Employee.
11. Time frames found within this Bylaw may be adjusted with the mutual consent of all parties involved
12. A final decision of the Board under Section 11.1(6) of the *School Act* may be appealed to a Superintendent of Achievement under Section 11.1(1) as a new hearing.
  - a) such appeals are restricted to decisions that significantly affect the education, health and safety of a student AND fall within one of the following criteria:
    - expulsions or suspensions from an educational program;
    - disciplinary measures that require a student to complete all or part of an educational program by distributed learning if the program, space and facilities exist in the district in non-distributed learning format;
    - a student is not provided with individual education plan (IEP);
    - a parent or student is not consulted with on the placement of a student with special needs in an educational program, or the preparation of the student's IEP;
    - a complaint by a student or parent related to intimidation/bullying/harassment/threat or violence by another student;
    - the exclusion of a student from school due to risks to the health or welfare of other students.

- b) there is general restriction (applying to all of the above) that an appeal will not be heard respecting allocation of resources to a student's education program (except to the extent that the appeal relates to application of the board's hardship policies).
13. An appeal under Section 11.1(1) to the Superintendent of Achievement does not suspend the operation of a decision under appeal unless the Superintendent of Achievement otherwise orders under Section 11.3, on his or her own initiative, or at the request of a person filing an appeal.
  14. On receipt of an appeal under Section 11.1, a Superintendent of Achievement may refer the matter to a mediator or adjudicator or summarily dismiss all or part of the appeal.
  15. A decision of a Superintendent of Achievement or of an adjudicator is final and binding on the parties.