

## **SCHOOL DISTRICT NO. 92 (NISGA'A)**

### **BYLAW NO. 3 – APPEAL BYLAW UNDER SECTION 11 OF THE SCHOOL ACT**

**Date Passed:** November 9, 2009

**Dated Amended:** May 21, 2019

#### **Description:**

APPEAL BYLAW UNDER SECTION 11 OF THE SCHOOL ACT

### **BYLAW NO. 3**

#### **Parent or Student May Appeal a Decision**

1. A student entitled to an education program in the School District may appeal a decision of an employee of the School Board which significantly affects the education, health or safety of the student.
2. When an employee of the School District makes a decision which significantly affects the education, health or safety of a student, that student and his/her parents or advocates must be informed of their right to an appeal in the letter that is sent informing them of the above mentioned decision.
3. The failure of an employee to make a decision shall be deemed to be a decision for the purpose of bringing an appeal.
4. There will be no reprisals against student/parents exercising their right to appeal.

#### **Notice of Appeal – Written Notice**

5. Every appeal to the School Board must be commenced by the completion of the Notice of Appeal from (Appendix A)
  - 5.1 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
  - 5.2 The current placement of the student (i.e. school, grade and home-room teacher)
  - 5.3 The decision which is being appealed and the date the student and/or parent or guardian bringing the appeal was informed of the decision
  - 5.4 The name of the School Board employee(s) who made the decision bring appealed

- 5.5 The grounds for the appeal and the relief sought.

### **Appendix A**

#### **Review of Steps Taken**

6. The School Board or its designate may direct the student and/or parent or guardian bringing the appeal to first discuss the decision with the principal of the school in which the student is enrolled and the member of district staff who has responsibility for that school.

#### **Report to Board**

7. Where discussions under Section 6 do not resolve the appeal, the Superintendent or designate will prepare a report for the School Board concerning the matter and will provide a copy to the student and/or parent or guardian bringing the appeal.

#### **Submission of Appellant**

8. The School Board will invite written submissions from the student and/or parent or guardian bringing the appeal and may decide the appeal based on the written submissions. The School Board may also invite oral submissions in which case the School Board will decide the appeal based on the oral and written submissions presented to it.

#### **Meeting**

9. Where the School Board considers it necessary to receive an oral submission, it shall set a time; date and place for this purpose and shall give notice to the student and/or parent or guardian bringing the appeal.

#### **Board Committee**

10. The School Board may establish a committee(s) to investigate matters pertaining to an appeal and the committee shall report to the School Board on such matters and in the manner directed by the School Board. The Board may, in its discretion, appoint trustees, senior officials, administrative officers, teacher or any other person the School Board considers appropriate as members of the committee.

#### **Interim Decision**

11. The School Board may make any interim decision it considers necessary pending the disposition of the appeal.

## **Procedure**

12. The Board Chairperson should ensure that all parties concerned have received information pertinent to the appeal.
- 12.1 Where a decision of an employee is being appealed to the Board of Education, the appellant may be represented by an advocate of her/his choice.
- 12.2 The Board will listen to the appellants as they present their concerns. The presentation should be allowed to proceed uninterrupted to allow the appellants to develop their arguments.
- 12.3 At the end of the presentation, the Board will ask questions for clarification. Questions should be objective and to the point. Leading questions should not be asked
- 12.4 The representatives of the school will then be given an opportunity to present their side of the issue, giving reasons for their decisions.
- 12.5 At the conclusion of this presentation, the Board will once again ask questions for clarification.
- 12.6 The Chairperson of the Board will then invite the parties involved to ask questions of each other for clarification. Questions should be neither personal nor judgmental.
- 12.7 The Board will have one more opportunity to question either party for the purposes of clarification.
- 12.8 The parties involved will then be asked to leave. The Board will meet in camera to rule on the matter. It must be decided whether to uphold the school's decision, to increase or decrease the extent of the school's decision, or to set the decision aside.
- 12.9 The decision of the Board will be communicated to the parties concerned by the Board Chairperson as soon as possible.
- 12.10 Effective March 8, 2008, the decision of the Board may be appealed under Section 11 of the School Act to a Superintendent of Achievement. A Notice of Appeal form to the Student Appeals Branch, Victoria, will be provided to the appellant.

## **Decision in Writing**

13. The decision of the School Board shall be in writing and the School Board shall promptly notify the student and/or parent or guardian bringing the appeal of its decision.

## **Refuse to Hear**

14. The Board of Education may refuse to hear an appeal where:

- 14.1 the appeal has not been commenced within four (4) week period from the date the decision significantly affected the student's education, health or safety was made; or
- 14.2 the student and/or parent or guardian has refused or neglected to discuss the decision under appeal with the person(s) directed by the School Board or its designate; or
- 14.3 the decision does not significantly affect the education, health or safety of the student.

### **Nature of Decision for Appeal**

- 15. The following decisions shall be deemed to significantly affect the education, health or safety of a student:
  - 15.1 disciplinary suspension due to conduct from school for a period in excess of ten (10) consecutive days;
  - 15.2 suspension or expulsion from an educational program;
  - 15.3 suspension from school for a health condition;
  - 15.4 placement in an educational program;
  - 15.5 distributed learning requirement as part of disciplinary matter
  - 15.6 a complaint by a student or parent related to intimidation/bullying/harassment/threat or violence by another student;
  - 15.7 consultation about placement in Individual Education Plan (IEP);
  - 15.8 assessment for the purposes of obtaining an IEP;
  - 15.9 fees and deposits (hardship policy);
  - 15.10 grade promotion and graduation;
  - 15.11 refusal of offer an educational program to a student 16 years of age or older;
  - 15.12 and any other decision that in the opinion of the School Board of the designate significantly affects the education, health or safety of a student.

### **Form or Technical Irregularity**

- 16. The Board of Education may consider an appeal notwithstanding any defect in form or other technical irregularity.

This Bylaw may be cited for all purposes as "School District No. 92 (Nisga'a) Bylaw No. 3". This Bylaw is to provide an appeal procedure under Section 11 of the *School Act* and in all respects in accordance with the provisions of the *School Act*".

Read a first time the \_\_\_\_\_

Read a second time the \_\_\_\_\_

Read a final time the \_\_\_\_\_

Reconsidered, Finally Passed and Adopted the \_\_\_\_\_

\_\_\_\_\_  
Secretary Treasurer

\_\_\_\_\_  
Chairman of the Board

I hereby certify this a true copy of School District No. 92 (Nisga'a) Bylaw No. 3.

\_\_\_\_\_  
Secretary Treasurer

**Appendix A**

Ref. POLICY AND REGULATION 504

**NOTICE OF APPEAL**

Attached is School District 92 (Nisga’a) Policy regarding the appeals procedure. Parents/Guardians/Students should read this information carefully before initiating a formal appeal.

1. Information about the person(s) initiating the appeal

Name of Student: (first)\_\_\_\_\_ (last)\_\_\_\_\_

Name of School:\_\_\_\_\_

Student address:\_\_\_\_\_

Phone:\_\_\_\_\_

Student birth date: (year)\_\_\_\_\_ (month)\_\_\_\_\_ (day)\_\_\_\_\_ Grade:\_\_\_\_\_

Parent/Guardian name: (first)\_\_\_\_\_ (last)\_\_\_\_\_

Parent address:\_\_\_\_\_

Phone:\_\_\_\_\_

Parent/Guardian name: (first)\_\_\_\_\_ (last)\_\_\_\_\_

Parent address:\_\_\_\_\_

Phone:\_\_\_\_\_

2. PLEASE COMPLETE (a) OR (b)

(a) Information about the decision being appealed

Date you were informed of the decision:\_\_\_\_\_

Name of employee whose decision is being appealed:\_\_\_\_\_

Describe the decision (or attach to document where decision may be written):

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

(b) Information about a failure to make a decision

Date you became aware that a decision would not be made: \_\_\_\_\_

Name of employee who is declining to make a decision: \_\_\_\_\_

Describe the circumstances leading up to the failure to make a decision:

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3. Other Information About the Appeal

Give your reasons for appealing the employee's decision or failure to make a decision:

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Comment on how the decision or failure to make a decision significantly affects the education, health, or safety of the student. (See Guiding Principle 4 of Policy 1110 for further clarification regarding appealable decisions)

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Suggest a solution to the problem which would satisfy you:

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4. Levels of Consultation

List the employee(s) with whom you have discussed the decision you are appealing:

Employee name: \_\_\_\_\_

Employee position/job: \_\_\_\_\_

Date of Meeting: \_\_\_\_\_

Name of employee's immediate supervisor: \_\_\_\_\_

Date of meeting: \_\_\_\_\_

Name of District Supervisor: \_\_\_\_\_

5. Signatures

\_\_\_\_\_  
Signature of Student Date of Appeal

\_\_\_\_\_  
Signature of Parent/Guardian Date of Appeal

\_\_\_\_\_  
Signature of Parent/Guardian Date of Appeal

Received by the Chair of the Board:

Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_