



XXXX: APPEAL OF DECISION BY AN EMPLOYEE (A/P)

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BACKGROUND

Per Policy 115: Appeal of Decision By An Employee, the Board of Education (“Board”) recognizes and respects the fact that students and/or parents/guardians may sometimes disagree with actions and/or decisions of its employees that significantly affect the health, education or safety of a student.

The Board believes that students and parents/guardians (“appellant”) should have a process for filing formal complaints.

The information in this administrative procedure provides the Board’s procedure for handling formal appeals. However, before initiating a formal appeal, parents/guardians and students are strongly encouraged to try to resolve their concerns with those involved at the school level. The process used to address complaints and appeals follows a standard meeting, reporting, and follow-up process.

Parents/guardians and students are further advised and assured that there will be no reprisals and where there is evidence of retribution against persons who have exercised their right to complain or appeal, the school Principal and/or the Board will take steps immediately to remedy the situation.

DEFINITION

The following decisions shall be deemed to significantly affect the health, education or safety of a student:

- Disciplinary suspension from school for a period in excess of ten (10) consecutive days;
- Suspension from school for a health condition;
- Significant decisions regarding placement in an educational program (this does not include classroom or teacher preference issues, except in exceptional circumstances)
- Grade promotion and graduation;
- Refusal to offer an educational program to a student from 16 to 19 years of age;
- Any other decision that, in the opinion of the Board of Education or the designate, significantly affects the health, education or safety of a student.

PRINCIPLES OF APPEAL

- An appellant has the right to be heard.
- An appellant has the right to obtain all relevant information, in accordance with the *Freedom of Information and Protection of Privacy Act*, that has led to the appeal.
- An appellant has the right to be accompanied by a parent, advocate, support person, or



interpreter/translator.

- Appeal proceedings shall respect the privacy of individuals.
- There shall be no reprisals for the appellants as a result of appealing a decision of an employee.
- The employee whose decision is being appealed shall, other than providing information to the appeal meeting, disassociate themselves from the decision-making process.

COMMUNICATION

This Administrative Procedure shall be posted to the District website, as well, parents/guardians will be informed of this Administrative Procedure in writing when a student is suspended or when a decision is made that significantly impacts the health, safety or education of a student.

PROCEDURE

To initiate an appeal, the individual must complete the formal Appeal of Decision By An Employee form, stating their reasons for the appeal. This form is available at the school office, district office, or at the end of this administrative procedure (see Appendix I). An appeal should be initiated within 30 days of the parent/guardian or student being notified of the decision which is the subject of the appeal.

Should assistance be required at any stage of the appeal process, the student or parent/guardian may contact either their school Principal or a Director of Instruction by contacting the School Board Office at 250-720-2750. If either or both people have already been involved in the decision-making process, or are a party to the appeal, then a designate will be appointed.

Once the Formal Appeal of Decision By An Employee form has been completed, it must be mailed, emailed, or delivered to the person specified at that particular step of the formal process.

The Board advises that the proper channelling of complaints or appeals involving instruction, discipline, safety, and health is as follows:

- Employee (teacher or staff) - informal process
- School Principal - informal process or formal process outlined below
- Director of Instruction - formal process outlined below
- Superintendent/CEO - formal process outlined below
- Board of Education - formal process outlined below

Where a student's interests may be jeopardized while awaiting the hearing of an appeal (such as in a suspension), the Superintendent, after consultation with the Board Chair, may postpone the suspension until the appeal process is completed.



Informal Process:

It is strongly encouraged that any appeal first be brought informally to the source. If the parent/guardian or student is unable to do so, then an appeal involving school personnel must first be brought to the attention of the school administrator. An appeal about a school administrator's decision should be brought to that administrator's attention before pursuing a formal process. In the event that the informal process does not provide a satisfactory outcome, the steps outlined below will constitute the Board's formal process for the resolution of an appeal.

Formal Appeal Process – Four Steps:

The purpose of each individual step is to try and resolve the complaint or appeal in an open and constructive manner that is solution focused.

Errors and Omissions – In the event of an error or omission by the individual in the process, the staff member receiving the correspondence shall inform the appellant of the error and inform the appellant of the appropriate step that must be followed.

Where a matter may not be appealable (see Definition section on page 1) – Where a matter is determined by a staff member to not be subject to appeal, the appellant may proceed to the next step of the process up to and including Step 4.

Step 1

After receiving the Formal Appeal of Decision By An Employee form, the Principal will meet with the appellant and possibly other employees who have been involved in the decision being appealed, to gather relevant information.

The Principal will advise parties of the following:

- confidentiality of information, which will cover information collection, storage, duplication, access to the information, persons to be involved, and retention of documents/information; and
- the process for the appeal.

As soon as possible before the meeting, the appellant should inform the Principal if a support person(s) will be accompanying them at the meeting.

Within a reasonable period of time after the meeting(s) has taken place, the appellant will receive a letter summarizing the outcome of the meeting(s), any follow-up actions to be taken, rationale for the decision and next steps available to the individual under this AP.



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The appellant may respond to the decision in writing if they believe the decision is unfair or unacceptable by emailing, mailing, or delivering the decision to the decision-maker (the Principal) with their written response attached.

Step 2

If the Step 1 meeting was not successful, the appellant can refer the formal appeal to the Director of Instruction. To initiate this process, contact the office of the Director of Instruction by contacting the School Board Office at 250-720-2750.

The Director of Instruction will then request that the appellant forward all documentation from Step 1 directly to them.

After receiving the appeal and all documentation from Step 1, the Director of Instruction will meet with the appellant and possibly other employees who have been involved in the decision being appealed, to gather relevant information.

The Director of Instruction will advise parties of the following:

- confidentiality of information, which will cover information collection, storage, duplication, access to the information, persons to be involved, and retention of documents/information; and
- the process for the appeal.

As soon as possible before the meeting, the individual filing the formal appeal should inform the Director of Instruction if a support person(s) will be accompanying them at the meeting.

Within a reasonable period of time after the meeting has taken place, the appellant will receive a letter summarizing the outcome of the meeting, any follow-up actions to be taken, rationale for the decision and next steps available to the individual under this AP.

The appellant may respond to the decision in writing if they believe the decision is unfair or unacceptable by emailing, mailing, or delivering the decision to the decision-maker (the Director of Instruction) with their written response attached.

Step 3

If the Step 2 meeting was not successful, the appellant can refer the formal appeal to the Superintendent's Office. To refer a matter to Step 3, contact is made with the Office of the Superintendent to advise them of their wish to pursue a formal an appeal to Step 3. This can be done through regular mail, email, or a phone call to the Superintendent's Office. To initiate this process, contact the Office of the Superintendent by contacting the School Board Office at 250-720-2770.



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The Superintendent's office will then request that the appellant forward all documentation from steps 1 and 2 directly to the Superintendent's Office. After the Superintendent has received this documentation, the Superintendent or their designate will meet with the appellant and possibly other employees who have been involved in the decision being appealed, to gather relevant information.

The Superintendent, or their designate, will advise parties of the following:

- confidentiality of information, which will cover information collection, storage, duplication, access to the information, persons to be involved, and retention of documents/information; and
- the process for the appeal.

As soon as possible before the meeting, the appellant should inform the Superintendent or their designate if a support person(s) will be accompanying them at the meeting.

Within a reasonable period of time after the meeting has taken place, the Superintendent or their designate will make their decision in private, and the appellant will be notified of the decision in writing, any follow-up actions to be taken, rationale for the decision and next steps available to the individual under this AP.

The appellant may respond to the decision in writing if they believe the decision is unfair or unacceptable by emailing, mailing, or delivering the decision to the decision-maker (the Superintendent or their designate) with their written response attached.

Step 4

If the Step 3 meeting was not successful, the appellant may refer the formal appeal to the Appeal Committee of the Board ("Appeal Committee"). The Appeal Committee shall be made up of a minimum of four Trustees. At Step 4 the Appeal Committee may choose to either proceed with an appeal hearing or deem the Superintendent's decision final.

Whether The Appeal Committee Will Hear The Appeal Or Refuse To Hear The Appeal.

The Appeal Committee may refuse to hear an appeal where:

- the formal appeal has not been commenced within a reasonable time from the date the decision significantly affecting the student's health, education or safety was made; or,
- the appellant has refused or neglected to discuss the decision under appeal with the person(s) directed by the Board or its designate; or,
- the decision being appealed is deemed to not significantly affect the health, education, or safety of a student.



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If the Appeal Committee decides not to hear the appeal, they shall forward their written recommendation to the Board of Education. Should the Board disagree with the Appeal Committee's decision not to hear the appeal, they may refer the matter back to the Appeal Committee for reconsideration, with or without directions to review specific issues in its reconsideration and/or directing that a Hearing be held.

When A Hearing Is Warranted

Should a hearing be warranted, the Appeal Committee will convene a meeting within 14 instructional days of receiving the formal appeal. The Appeal Committee will then request that the appellant forward all documentation from Steps 1-3 directly to the Committee. A Hearing will then commence where the employees making the decision shall present rationale for the decision and the appellant may present (in person or in writing) their perspective as to why the employee(s) decision was incorrect.

Following the hearing of all information, the Appeal Committee shall determine:

- Whether the Superintendent's decision should be upheld, or
- Whether the Superintendent's decision should be overturned

Once the Appeal Committee has determined whether the decision should be upheld or overturned, they shall forward their written recommendation to the Board.

The Board shall review the recommendation of the Appeal Committee and, at an In-Camera Board meeting, make a formal decision based on said recommendations.

A decision with respect to the appeal shall be communicated to the appellant in writing, within 45 days of the Appeal Committee receiving the formal appeal. Upon delivering its decision, the Board of Education will also inform the appellant(s) of the ability to appeal the decision to a Superintendent of

Appeals in the Ministry of Education and Child Care per Section 11 of the *School Act*. The appellant should be informed that should they wish to appeal the Board's decision; they should contact the Secretary Treasurer at 250-720-2758 for support in filing this final step of appeal.

CONFIDENTIAL INFORMATION DISCLAIMER

The Board is committed to ensuring the protection and security of all personal information that it collects, uses, maintains and discloses in the course of carrying out its responsibilities, in accordance with the *Freedom of Information and Protection of Privacy Act*.



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The Board may disclose personal information collected during an appeal with its employees, but only to the extent necessary for the Board to perform its duties under this policy. Any decisions reached as a result of an appeal will be disclosed to the extent necessary to implement an appeal decision.

At the School Level

Principals must include information regarding AP XXXX – Formal Complaints and Appeals in all letters of suspension. Principals must include the information regarding AP XXXX – Formal Complaints and Appeals in parent/guardian and teacher handbooks.

RESOURCES AND REFERENCES

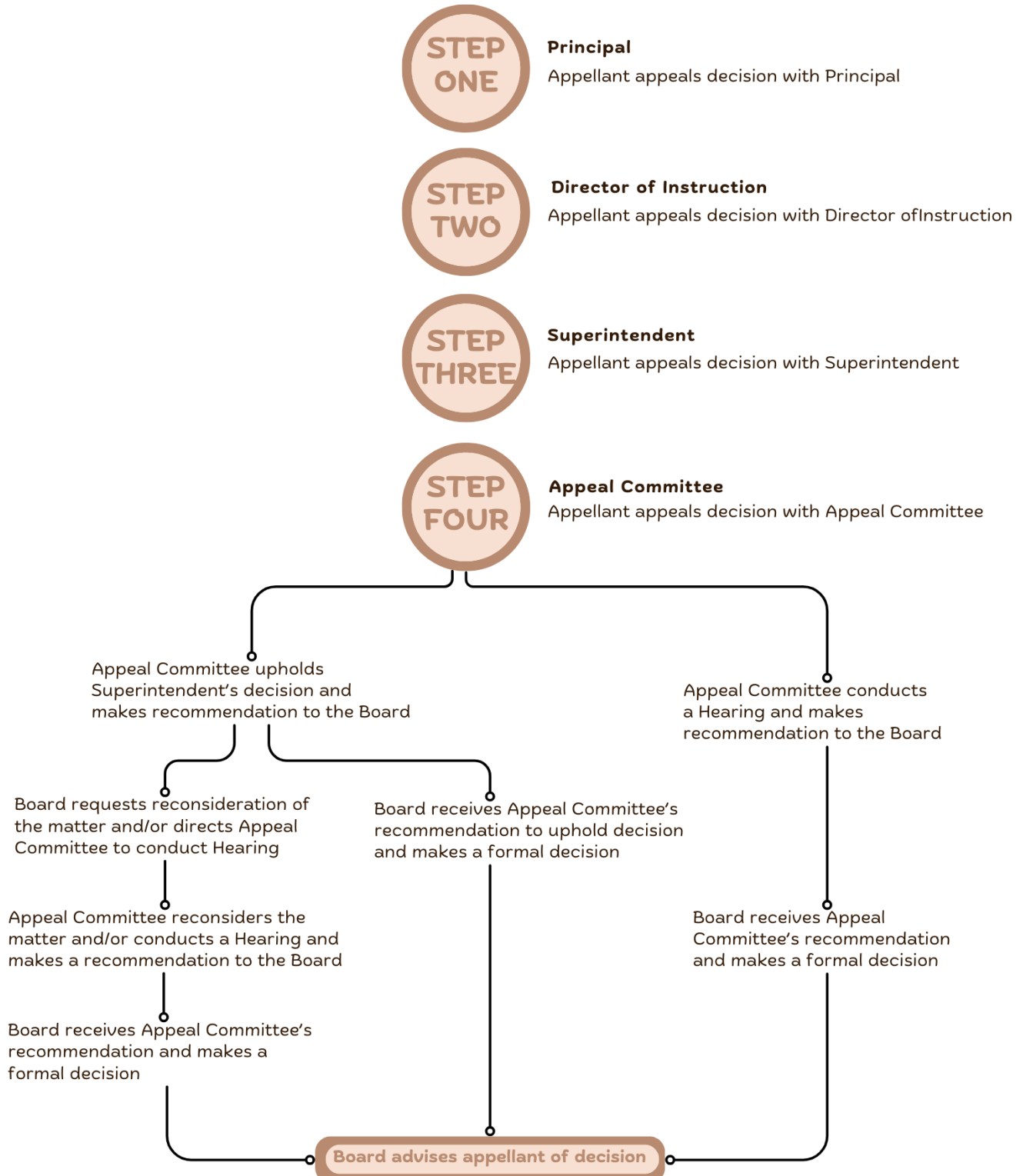
BC *School Act* Reference – Section 11

Freedom of Information and Protection of Privacy Act

Acknowledgement to Nanaimo Ladysmith Public Schools AP 325 Formal Complaints and Appeals



Formal Appeal Process





**APPENDIX I
APPEAL OF DECISION BY AN EMPLOYEE FORM**

1. If the appeal is by a student:

NAME: _____

SCHOOL: _____

HOME PHONE NO. _____

2. If the appeal is by a parent/guardian on behalf of a student:

NAME: _____

ADDRESS: _____

PHONE (residence) _____ PHONE (Other) _____

NAME OF STUDENT _____

SCHOOL: _____

3. Nature of the Appeal (Please Check)

_____ Disciplinary suspension from school

_____ Suspension from school for health condition

_____ Placement in an educational program

_____ Grade promotion and/or graduation

_____ Refusal to offer an education program

_____ Other decision that significantly affects the health, education or safety of the student.

4. What stage of the Formal Appeal Process is this (Please Check)

_____ School Principal

_____ Director of Instruction

_____ Superintendent/CEO

_____ Board of Education Appeals Committee



Please provide a brief description of the problem.

Date: _____ Signature: _____

Note:

This form MUST BE E-MAILED, MAILED, OR DELIVERED TO THE OFFICE OF THE PERSON NOTED IN SECTION 4. (School Principal / Director of Instruction / Superintendent / Appeal Committee)

NOTICE TO STUDENTS AND PARENTS/GUARDIANS

Students and/or parents/guardians of students have the right to appeal the decision of any employee of the School District provided that the employee's decision SIGNIFICANTLY AFFECTS THE HEALTH, EDUCATION OR SAFETY OF A STUDENT (see DEFINITION on page 1).

Students and parents/guardians who wish to appeal a decision as described above should contact their school Principal to be advised of the appropriate procedures.

Students and parents/guardians should be assured that the "appealing of a decision of an employee" will be dealt with in an honest and forthright manner and will not constitute any risk or reprisal to the person making the appeal.