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## **REGULATION #9902.1 APPEAL PROCEDURES**

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Procedures for hearing appeals shall be applied in accordance with the guiding principles in Surrey Board of Education [Policy #9902 – Appeal Procedures](#).

### **1. PRE-APPEAL DISPUTE RESOLUTION PROCESS**

- 1.1. The student and/or parent(s) shall take the dispute resolution steps outlined in the board's complaint resolution board [Policy #10500 – Public Requests and/or Complaints](#) and its [Regulation #10500.1](#) or other applicable policy to try to resolve the concern before filing an appeal to the board. If the applicable dispute resolution process does not resolve the concern, an appeal is normally from the decision of the highest supervisory officer who dealt with the matter in the dispute resolution process.

### **2. STARTING AN APPEAL**

- 2.1. If the steps in Section 1 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 in 1.1, whichever is later.
- 2.2. The Notice of Appeal form is attached to this regulation, is available on the district's website ([www.sd36.bc.ca](http://www.sd36.bc.ca)) and is available at all schools and district offices in their policies and regulations manual.
- 2.3. The Notice of Appeal must include:
  - a) The name, address and school placement of the student (including, where appropriate, grade level and home room teacher).
  - b) The name and address of the person(s) making the appeal.
  - c) The decision being appealed.
  - d) The date on which the student and/or parent/guardian bringing the appeal were informed of the decision.
  - e) The name of the board employee(s) who made the decision being appealed.
  - f) Particulars of the effect on the student's education, health or safety.
  - g) The grounds for the appeal and the action requested or relief sought.

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- h) A summary of the steps taken by the student and/or parent/guardian to resolve the matter.
- i) Whether the person making an appeal is requesting an oral hearing.
- j) Whether the person making an appeal requires any special accommodation in order to proceed with the appeal (such as interpretation services at the hearing of the appeal).

2.4. The secretary-treasurer is responsible on behalf of the board for:

- a) Receiving Notices of Appeal.
- b) Reviewing Notices of Appeal for completeness and timeliness.
- c) Giving any notices required under collective agreements.
- d) Receiving and distributing documents relevant to an appeal.
- e) Communicating with the appellants and others on matters relating to an appeal hearing.
- f) Arranging for any accommodation required; and
- g) Scheduling hearings.

The secretary-treasurer may designate another staff member to carry out these responsibilities. If the secretary-treasurer has participated in the dispute resolution steps or is the employee whose decision is being appealed, another staff member shall be designated.

2.5. If the secretary-treasurer is of the opinion that:

- a) An appeal is not timely.
- b) An appellant has refused to participate in the dispute resolution steps.
- c) An appeal is not an appeal of a decision of a board employee or the decision does not significantly affect the student's education, health or safety; or
- d) There is any other preliminary matter that should be settled before a hearing of an appeal on its merits.

The secretary-treasurer may schedule a preliminary hearing before the board for purposes of a decision on that matter, without first complying with all requirements of Section 3.

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- 2.6. Appellants are notified of a preliminary hearing and provided with the opportunity to make written submissions on the preliminary issue to be determined.

### **3. PRE-HEARING RESPONSIBILITIES**

- 3.1. Upon receipt of the Notice of Appeal, the superintendent shall be notified. The superintendent or a person designated by the superintendent to be responsible for investigation and presentation on the appeal will prepare a report for the board concerning the matter under appeal and is responsible for gathering the information to be presented to the board, other than the information to be presented by the appellant.
- 3.2. If the appellant is a student under the age of 19 and no parent is named as an appellant, a parent will be notified.
- 3.3. If the appellant has not met with the superintendent during the dispute resolution process, at the superintendent's request the appellant is required to meet with the superintendent or a person designated by the superintendent. A report of this meeting shall be included in the report prepared under section 3.1. The report may include the superintendent's recommendations as to whether the dispute should be referred to an outside mediator.
- 3.4. Any notices required under relevant collective agreements are given.
- 3.5. Instead of an oral hearing, the board may determine that an appeal will be decided on the basis of written submissions only.
- 3.6. The appellant is notified of the date, time and place for hearing of the appeal and of the requirement to provide any documents in advance.
- 3.7. A copy of the report prepared under Section 3.1 will be provided to the appellant no later than 48 hours before the time set for the hearing.
- 3.8. The appellant is required to provide copies of any documents on which he or she intends to rely, or copies of written submissions, no later than 24 hours before the date set for the hearing.

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### **4. HEARING AND DECISION**

- 4.1. The board will decide the appeal based on the oral and/or written submissions presented to it and, for an oral hearing, will determine the order of, and time allotted for, submissions.
- 4.2. At any time the board may request further information from the appellant or the superintendent or designate and may adjourn in order that such information may be obtained.
- 4.3. The board may make any interim decision it considers necessary pending the disposition of the appeal.
- 4.4. The board may invite submissions from any person whose interests may be affected by the board's decision on the appeal.
- 4.5. The board may refuse to hear an appeal where:
  - a) The appeal has not been commenced within the time set out under Section 2.1.
  - b) The student and/or parent or guardian has refused or neglected to discuss the decision under appeal with the person(s) specified in the applicable dispute resolution process or the superintendent or delegate, or such other person as directed by the board; or
  - c) The decision does not in the board's opinion significantly affect the education, health or safety of the student.
- 4.6. The board may hear an appeal despite any defects in form or technical irregularities and may relieve against time limits.
- 4.7. Appeals and decisions on appeals will be held in a closed session.
- 4.8. The secretary-treasurer will ensure that official meeting notes or minutes of the appeal hearing are taken.
- 4.9. The board will ensure that each party has received all documentation provided by the other party prior to the hearing.
- 4.10. At the end of each party's submission, trustees may ask questions.

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- 4.11. When questioning by trustees is complete, the parties leave and the board meets to decide how it will dispose of the appeal.
- 4.12. The board must make a decision within 45 days from receiving the Notice of Appeal.
- 4.13. The board's decision is final, subject to any rights to appeal under the *School Act*. The board may reconsider its decision only:
- a) If it is satisfied that new evidence or information would have a material effect on the decision and the failure to present that evidence or information at the original hearing is satisfactorily explained.
  - b) The decision contravenes law; or
  - c) A reconsideration is directed or requested in connection with an appeal of the board's decision under the *School Act*, Section 11.1.
- 4.14. The parties will be promptly notified of the board's decision. Written reasons will be provided as soon as practicable.
- 4.15. Appellants who have appeal rights under School Act, Section 11.1 will be advised of those rights when or before they are notified of the board's reasons for decision.

### **5. WITHDRAWN APPEAL**

If an appeal is withdrawn, written confirmation of such withdrawal is to be filed with the secretary-treasurer's office and communicated to all affected parties.

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