



---

## BYLAW NO. 3 SCHOOL ACT SECTION 11 APPEAL PROCEDURES

This bylaw establishes procedures governing appeals to the Board of Education of School District No. 64 (Gulf Islands) (the “Board”) in accordance with Section 11 of the *School Act*.

### **Preamble:**

In accordance with the Section 11 of the *School Act*, the Board must, by bylaw, determine procedures to consider certain appeals.

The *School Act* provides that a student entitled to an educational program in the School District or the parent/guardian of the student may appeal a decision of an employee of the Board which significantly affects the education, health or safety of the student.

The Board believes that, where appropriate, the resolution of concerns can be most effectively addressed at the point the concern occurred. The Board recommends students, parents, and guardians bring concerns forward to the staff member who made the decision prior to accessing the appeal process.

The Board recognizes that decisions that do not significantly affect the education, health or safety of a student are within the final authority of the Superintendent.

The Board of Education, in an open meeting of the Board, enacts as follows:

### **1. Definitions**

- 1.1. The terms used in this bylaw shall have the meanings assigned by the [School Act](#) and [Regulations](#) made thereunder.
- 1.2. For purposes of this bylaw, a student or parent/guardian filing the appeal can be referred to as the “Appellant”.

### **2. Fairness Principles**

- 2.1. Appellants can expect fairness in the appeals process, including:
  - 2.1.1. the right to be heard;
  - 2.1.2. the right to adequate notice and timely receipt of relevant information;
  - 2.1.3. being provided with reasons for decisions;



- 2.1.4. an impartial decision maker; and
- 2.1.5. a respectful process, free from retaliation.

### **3. Decisions Which May Be Appealed**

- 3.1. The Board recognizes the right of a student or parent/guardian of a student under Section 11 of the *School Act* to appeal a decision of an employee where such decision significantly affects the education, health, or safety of the student.
  - 3.1.1. A “decision” for the purposes of this bylaw includes the failure of an employee to make a decision.
- 3.2. Examples of grounds for appeal include, but are not limited to:
  - 3.2.1. disciplinary suspension from school;
  - 3.2.2. suspension from an educational program, if no other educational program is provided by the Board;
  - 3.2.3. expulsion from an educational program;
  - 3.2.4. refusal to offer an educational program to a student who is sixteen (16) years of age or older;
  - 3.2.5. requirement to complete all or part of an educational program by distributed learning, or in an alternate program, as a disciplinary measure, where space and facilities are available in a school;
  - 3.2.6. exclusion from school for a health condition;
  - 3.2.7. failure to provide an Individual Education Plan to a student with special needs;
  - 3.2.8. failure to offer to consult with a parent/guardian regarding the placement or Individual Education Plan of a student with special needs;
  - 3.2.9. denial of an educational program by failure to take action in respect of a complaint of bullying, intimidation, harassment, racism or threat or use of weapons or violence by one or more students against another student; and
  - 3.2.10. any other decision that, in the opinion of the Board, significantly affects the education, health or safety of a student.

### **4. Prior to Commencing a Formal Appeal**

- 4.1. Before an appeal is filed, the Board recommends that the student and/or parent/guardian discuss (present the concern, verbally or in writing) the issue in dispute, in a constructive manner with those responsible at the school or district level.



---

## 5. Refusal to Hear Appeals

5.1. The Board shall refuse to hear an appeal where:

- 5.1.1. the appeal has not been filed within the time limits set out in paragraph 6.1 below;
- 5.1.2. the Appellant has not first discussed the decision being appealed with any persons identified by the Board; and/or
- 5.1.3. the Board determines that the decision does not significantly affect the student's education, health or safety.

## 6. Starting a Formal Appeal

6.1. If the steps taken in section 4.1 above are unsuccessful, the Appellant may file a formal appeal by preparing a Notice of Appeal and submitting it to the Secretary Treasurer, or designate, within thirty (30) calendar days of the date the Appellant was informed of the final decision in accordance with section 4.1 above.

- 6.1.1. An appeal to the Board commences with receipt, by the Secretary Treasurer, of the written Notice of Appeal.
- 6.1.2. If the Appellant can demonstrate that there are reasonable grounds upon which to extend this time limit, the Board will consider whether to extend the time limit.

6.2. The Notice of Appeal to the Secretary Treasurer, or designate, must include:

- 6.2.1. the name, address, email address (if applicable), phone number of the appellant and, where the parent or guardian is initiating the appeal on behalf of the student, the name of the student;
- 6.2.2. the current placement of the student (i.e. school, grade and/or program);
- 6.2.3. a description of the decision being appealed and its effect on the education, health or safety of the student;
- 6.2.4. the name of the employee who made the decision;
- 6.2.5. the date the Appellant was informed of the decision;
- 6.2.6. the steps that the Appellant has taken to discuss the matter directly with the person who made the decision and any other employees;
- 6.2.7. the grounds for the appeal and the action requested; and
- 6.2.8. if the Notice of Appeal is filed outside the 30 day time limit, the reasons the Notice of Appeal was not filed within the time limit.

6.3. The District may provide assistance with preparing a Notice of Appeal if requested, as follows:



- 
- 6.3.1. A Notice of Appeal Form is available, but not mandatory, provided the information in 6.2 is included in the Notice of Appeal.
  - 6.3.2. Indigenous students or Indigenous parents/guardians are encouraged to access either District Indigenous Education staff for support or the services available to them from local First Nations, Métis Nation BC or other local, regional, or provincial supports.

6.4. The Secretary Treasurer, or designate, will, upon receiving the Notice of Appeal:

- 6.4.1. promptly provide a copy of the Notice of Appeal and any other information the Appellant submits in support of their appeal to: the Board, the Superintendent of Schools (“the Superintendent”), or designate, and, the employee whose decision is being appealed; and
- 6.4.2. confirm with the Appellant, in writing, receipt of the Notice of Appeal.

## **7. Pre-Hearing Procedure**

- 7.1. The Secretary Treasurer, or designate, is responsible for reviewing the Notice of Appeal and for communicating with the Appellant and others on matters related to the appeal.
- 7.2. Where, in the opinion of the Secretary Treasurer, or designate, the appeal does not comply with the requirements for an appeal established under this bylaw or Section 11 of the *School Act*, the Secretary Treasurer, or designate, shall refer the preliminary matter to the Board for a determination.
- 7.3. The Board will make a preliminary decision, if required, within 14 calendar days of receipt of the appeal.
- 7.4. The Board shall inform the Appellant, the Superintendent, or designate, and the employee whose decision is being appealed of the preliminary decision, provide reasons for the decision and where the decision is not favourable to the Appellant, provide information to the Appellant(s) about any applicable level of appeal.
- 7.5. Where there is no preliminary matter to be determined, arrangements will be made for the hearing of the appeal by the Board.
- 7.6. The Board may make any interim or procedural decision it considers necessary pending the disposition of the appeal.



---

## 8. Board Hearing

- 8.1. The Board may decide the appeal based on written submissions, oral submissions or a combination thereof.
- 8.2. Any Board meeting to consider written submissions or hear oral submissions in respect of an appeal will be held in an in-camera session.
- 8.3. The Board shall provide directions to the Appellant and the Superintendent, or designate, concerning:
  - 8.3.1. whether it requires written submissions and if so, the deadlines and any other directions concerning the written submissions; and/or
  - 8.3.2. whether it will hold a meeting for the purpose of hearing oral submissions and if so, the date, place, time and location of the meeting and any time limits or other directions concerning oral submissions to be made at the meeting.
- 8.4. The purpose of the submissions is to:
  - 8.4.1. allow the Superintendent, or designate, an opportunity to explain the decision giving rise to the appeal, the reasons for the decision and to respond to information presented by the appellant; and
  - 8.4.2. allow the Appellant to explain their appeal and respond to the information presented by the Superintendent or designate.
- 8.5. The Board may ask questions of clarification of the parties before deciding the appeal and may adjourn any meeting of the Board held to consider the appeal for the purpose of obtaining further information.
- 8.6. The employee whose decision is being appealed shall have the opportunity to provide a written reply to any allegations contained in the Notice of Appeal and may attend any meeting of the Board held in respect of the appeal where the Appellant is present.
  - 8.6.1. If the employee attends, they are entitled to be accompanied by a representative.
- 8.7. During the appeal process, the Appellant may be represented by an advocate, support person and/or interpreter/translator, who may make submissions on behalf of the Appellant.



---

## 9. Decision

- 9.1. The Board shall make any decision that it considers appropriate in respect of the matter that is being appealed, and any preliminary matters.
- 9.2. The Board shall decide the appeal based only on the submissions presented to it in accordance with this bylaw.
- 9.2.1. The Board must make a decision within 45 calendar days from the date the Notice of Appeal was received. Whenever possible appeal decisions will be made as expeditiously as the circumstances of the appeal dictate.
- 9.3. The Board shall notify: the Appellant; the Superintendent; and the employee whose decision was appealed, of the decision of the Board and shall promptly provide written reasons for the decision.
- 9.4. An Appellant may have a right to appeal a decision of the Board made under this bylaw to the Student Appeals Branch of the Ministry of Education under s. 11.1 of the *School Act*.

Postal Address: Registrar, Student Appeals  
Ministry of Education and Child Care, Student Appeals Branch  
PO Box 9146 Stn Prov Govt,  
Victoria, BC V8W 9H1

Email EDUC.studentappeals@gov.bc.ca  
Telephone 1-877-387-8037 or 250-387-8037  
Website <https://www2.gov.bc.ca/gov/content/education-training/k-12/support/student-disputes-and-appeals>

10. This bylaw may be cited as "School District No. 64 (Gulf Islands) Bylaw No. 3, *School Act* Section 11 Appeal Procedures".



BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 64  
BYLAW NO. 3

---

School District No. 64 Bylaw No. 4, An Appeal Bylaw under Section 11 of the School Act and all amendments, thereto, are hereby repealed. For reference, Bylaw No.4 was previously repealed on June 13, 2018.

Date of first reading: 10 day of May, 2023.

Date of second reading: 14 day of June 2023.

Date of third reading and adoption: 14 day of June 2023.

\_\_\_\_\_  
Board Chairperson

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