

SCHOOL DISTRICT NO. 8 (KOOTENAY LAKE)
BY-LAW NO. 1
STUDENT/PARENT APPEAL

The Board of Education of School District No. 8 (Kootenay Lake) endorses and supports the right of a student who is entitled to an educational program and/or the parent or guardian of the student to appeal decisions to the Board that significantly affect the education, health or safety of the student.

The Board of Education enacts the following appeal procedures:

1. Appeal of an Employee's Decision

- 1.1 Appeals must be made first to the employee making the initial decision. This appeal may be oral or in writing.
- 1.2 If the appellant disagrees with the employee's decision, the appellant may appeal, in writing, to the employee's immediate supervisor. Unless there are extenuating circumstances or the appellant agrees, the supervisor must make a decision within two (2) working days of receiving the appeal. The decision shall be accompanied by a copy of this Bylaw, the "Notice of Appeal" form, information about the District Parent Advocacy Council's advocacy support for parents and the District's pamphlet on appeals.
- 1.3 If the appellant is not satisfied, the appellant may appeal to the Superintendent of Schools within thirty (30) calendar days.
- 1.4 Appeals to the Superintendent of Schools must be in writing. The Superintendent will investigate the complaint and render a decision within ten (10) calendar days of receiving the appeal.
- 1.5 Failure of any employee to make a decision shall be deemed to be a decision for the purpose of bringing an appeal to the next level.

2. Appeals to the Board

- 2.1 Appeals to the Board will only be considered by the Board after the Superintendent of Schools has rendered a decision which the appellant finds unacceptable.
- 2.2 Every appeal to the Board must begin by a written Notice of Appeal (attached as Appendix A). This form shall be:
 - 2.2.1 Obtained from any school, the Board Office in Nelson, or from the School District Website.
 - 2.2.2 Completed in full by the appellant or by a person assisting the appellant.
 - 2.2.3 Submitted to the Superintendent of Schools.
 - 2.2.4 Submitted within thirty (30) working days after the decision by the Superintendent of Schools.
 - 2.2.5 The form shall be reviewed by the Board at a closed meeting as soon as practicable, and not more than 45 days following the date of the receipt of the form. A decision will be made and communicated whether or not to hear the appeal within this 45 day time frame.
- 2.3 The Board may refuse to hear an appeal where:
 - 2.3.1 The appeal has not commenced within thirty (30) working days from the date of the decision by the Superintendent of Schools.

- 2.3.2 The decision does not significantly affect the education, health or safety of the student. Significant decisions for appeal might include:
 - 2.3.2.1 Placement in a specialized educational program.
 - 2.3.2.2 Grade promotion/retention and graduation.
 - 2.3.2.3 Long-term suspension over ten (10) school days
 - 2.3.2.4 Refusal to offer an educational program to a student sixteen (16) years of age or older.
 - 2.3.2.5 Refusal to consult with parents regarding a student IEP or placement
 - 2.3.2.6 Complaints respecting intimidation, bullying, harassment and the use of threats

Decisions not applicable for appeal:

 - 2.3.2.5 Which school a student attends.
 - 2.3.2.6 The marks of an elementary student.
 - 2.3.2.7 A short-term suspension of fewer than ten (10) days
 - 2.3.2.8 Consequences for violation of school rules unless there is evidence that the rules have been applied unfairly or the school rule violates the student's right to fair process.
- 2.4 If the Board decides not to hear the appeal, the decision of the Superintendent of Schools stands and the appellant is advised within five (5) calendar days of the decision and the reasons for the decision.
- 2.5 If the Board decides to hear the appeal, the Superintendent of Schools will prepare a report to the Board containing all relevant information and will provide a copy to the appellant and to the Board at least forty-eight (48) hours prior to the hearing.
- 2.6 The Board will invite written submissions from the student and/or parent/guardian bringing the appeal. Written submission must be provided to the Board and Superintendent of Schools at least forty-eight (48) hours prior to the hearing.
- 2.7 The Board of Education will set a time, date and place for the hearing and shall give notice to the student and/or parent/guardian bringing the appeal. The student and/or parent/guardian will be advised that they may bring an advocate of their choice to the hearing.
- 2.8 If the appellant chooses to bring legal counsel, the Board should be notified in advance. The meeting may be delayed or adjourned to enable the Board's counsel to attend the meeting.
- 2.9 The hearing will proceed, as follows:
 - 2.9.1 The Board Chair, or designate, will Chair the meeting.
 - 2.9.2 The Superintendent of Schools will be asked if there are any new recommendations.
 - 2.9.3 The appellant and/or advocate will present their information.
 - 2.9.4 The Superintendent of Schools will present his or her information.
 - 2.9.5 The appellant and Superintendent will then have an opportunity to address or clarify information presented by the other party.
 - 2.9.6 The Chair may encourage discussion between the appellant and the Superintendent of Schools.
 - 2.9.7 The hearing will be adjourned if the Board wishes to investigate further, or if new information is presented at the hearing. The hearing shall be reconvened at the call of the Chair.

- 2.9.8 At the conclusion of the hearing, the Chair will advise the appellant that the Board will reach a decision within three (3) days and that during the decision phase, the Chair will excuse from the meeting everyone except the Board and a staff member appointed by the Board who has not been involved in the original decision or investigation and/or legal counsel for the Board, if required.
- 2.9.9 The Chair shall advise the appellant and the Superintendent of the decision, in writing, within five (5) days after the Board reaches a decision. The Board will also provide reasons for the decision to both the appellant and the Superintendent of Schools.
- 2.10 The Board may reconsider its decision within ten (10) days of the decision by the Board if, and only if, new evidence is discovered by either party which would not reasonably have been available to the Board or appellant at the time of the hearing and is considered to be central to the decision.
- 2.11 The decision may be appealed to a Superintendent of Achievement as per School Act S11.1.
- 2.12 At any stage in the proceedings, after the Superintendent has rendered a decision and before a determination is made, the Board may choose to establish a committee to investigate any aspect of the issue that may be deemed necessary by the Board.
- 2.13 The Board may make any interim decision it considers necessary, pending the disposition of the appeal.
- 2.14 Decisions made on appeals are not precedential and are not binding on future decision-makers.
- 2.15 The Board reserves the right to waive or extend any of the time-lines in this By-law.
- 2.16 Should an appellant experience any reprisals from employees following an appeal, the Superintendent of Schools and/or Board will take steps to immediately address the situation.
- 2.17 Appellants will be provided with information required to contact the Ombudsman's office or the Registrar of Appeals.

READ A FIRST TIME THE 9th day of December, 2008.

READ A SECOND TIME THE 9th day of December, 2008.

READ A THIRD TIME, PASSED AND ADOPTED THE 9th day of December, 2008.

Board Chair

Secretary-Treasurer

SCHOOL DISTRICT NO. 8 (KOOTENAY LAKE)
APPENDIX "A"

NOTICE OF APPEAL

This form is to be used when filing an appeal, as identified through the Kootenay Lake School District Student/Parent Appeal Bylaw.

Name of Appellant: _____

Phone Number of Appellant: _____

Student's Name: _____

Student's School: _____

Please explain below the decision you are appealing.

Please feel free to attach to this form, a more detailed written explanation.

Signature _____

Date: _____

Please return this form either to your child's Principal, if you are appealing the teacher's decision, or to the Superintendent of Schools if you are appealing the Principal's decision.

Please note: if you are appealing a decision by the Superintendent, you must return this form to the Board of School Trustees, at the Nelson Board Office within thirty (30) calendar days of the Superintendent's decision.

570 Johnstone Road, Nelson, BC V1L 6J2
FAX: 250 352 6686