



BC Confederation of  
Parent Advisory Councils

# Understanding the Rights of a Student

## How to be an Effective Advocate

## How the Appeals Process Works

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JOHN GAIPTMAN & PAULA FOWLER & RICK MOORE

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# Today's Presenters

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## Rick Moore

- In the Supreme Court of Canada, won a landmark case that found his son was discriminated against due to a severe learning disability

## Paula Fowler, Executive Assistant

- Parent of a student with special needs

## John Gaipman, CEO

- Worked in public education for 37 years, including:
  - 12 years as Superintendent/CEO in Greater Victoria
  - 2 years as Superintendent/CEO in New Westminster

Everything we do, all the documents we have, all the information parents need for K-12 is posted and updated on our website, regularly.

If you can't find it, call us.

“Unless someone like you  
cares a whole awful lot,  
nothing is going to get better.

It’s not.”

*Dr. Seuss*

*You know my name, but not my story.*

*You have heard what I have done,  
but not what I have been through.*

DOCUMENT  
EVERYTHING

&

HAVE EVERYTHING  
DOCUMENTED



## Rights of the Student

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Each student has the right to receive a full-day educational program with the appropriate supports or accommodations in place, regardless of the existence of a designation or IEP.

THE FUNDING MODEL

IS NOT

THE SPENDING MODEL





# Rights of the Custodial Parent

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To examine all student records kept at the board office and/or school pertaining to their child

– School Act, Section 9 (1a)



# Freedom of Information Requests

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Each school district has a Freedom of Information Officer.

Office of the Information and Privacy  
Commissioner for British Columbia

<https://www.oipc.bc.ca/>

Advocacy is speaking up  
in support of  
yourself or others

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Thank you to all  
who act as advocates  
for our children



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# What makes a parent a good Advocate for their child?

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- Must be provided with all the required information
- Never assigns blame or shame to any individual
- Maintains clear and detailed documentation



# BCCPAC Supports Parent Advocates

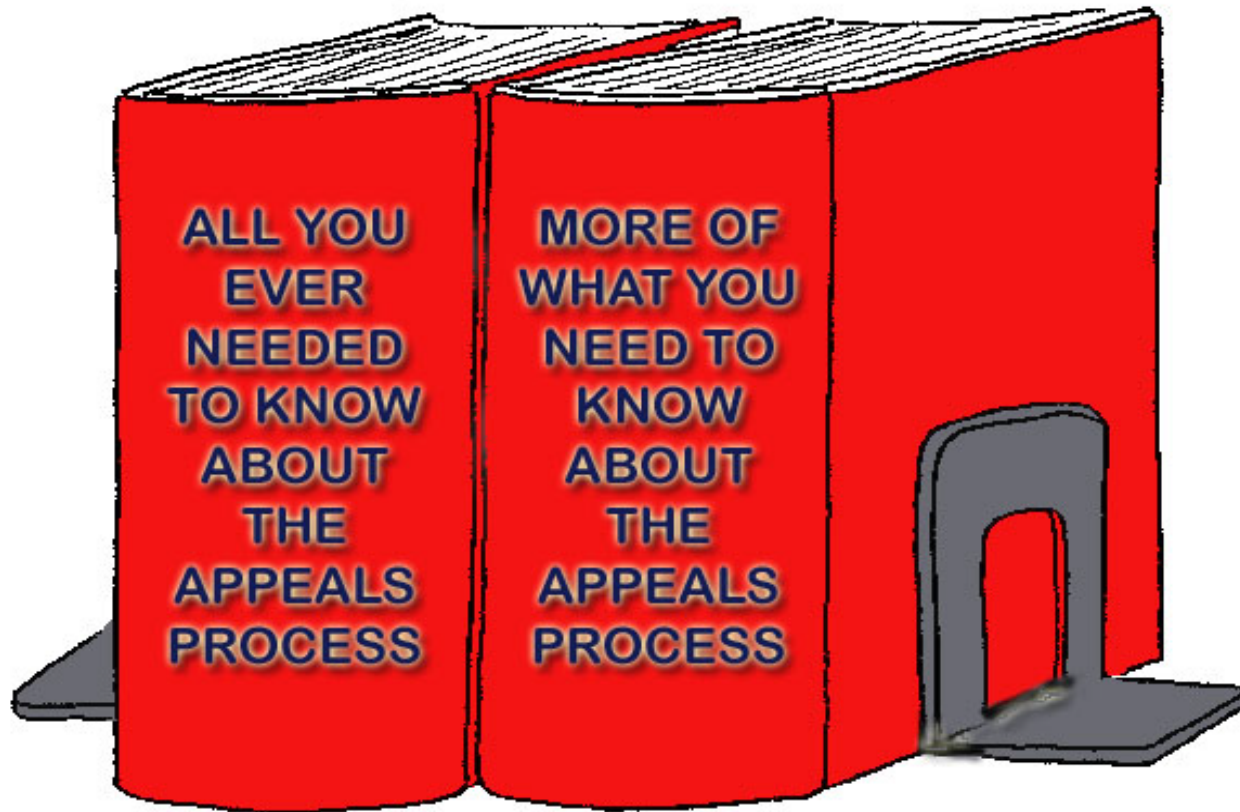
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- Up to date with the current Board-Level Student Appeal Guidelines issued by the Ministry and recent educational methodologies
- Knowledgeable regarding the School Act, Ministry Regulations and Ministerial Orders
- Experienced in filing appeals and making presentations to school district boards of education (trustees)
- Confidential and works directly for the parent



# The Appeals Process

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# School Board Bylaws Governing Appeals

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- Under Section 11 of the School Act, a decision by a board employee that *significantly affects the education, health or safety of the student* may be appealed to the Board of Education with a decision rendered *within 45 days* of submission.
- 60 school districts = 60 different appeal processes.
- If an appeal to the Board is denied, students and/or parents can bring the appeal to the *Superintendent of Appeals*.



# The Appeals Process

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- Definition of a day
- *45 day limit* for Board to provide response to appeal
- Whenever possible, hearings should be in person
- Materials like meeting notes should be shared between parties
- Appeals will be heard by the Board of Education at a duly constituted meeting of the Board
- Appeals Bylaws be reviewed at least every 3 years





# Practices of a Quality Appeal Process

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In considering the development of a new bylaw or revising an existing bylaw, boards may wish to consider these key practices:

- Set up a dispute resolution webpage that gives appellants an overview of the process and set outs what a parent can expect as they navigate the appeal process.
- Make a printable or online-fillable appeal form available.
- Provide pamphlets and/or flowcharts summarizing the process to enhance accessibility (translation where needed).
- Assign appellants a neutral contact person.



# Practices of a Quality Appeal Process

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- Ensure appellants are aware of the process prior to commencement of the hearing.
- Boards must be impartial to the appellant and the issue to be decided. They must approach each decision with an open mind and be open to persuasion. They must not prejudge or form an opinion about the person or case before hearing from the appellant.
- Put in place processes to track issues and complaints regarding appeals processes. Take action to address concerns raised. Boards may wish to develop a system to keep data on appeals to track trends and issues, to enable continuous improvement (while bearing in mind privacy obligations).



# SD #73 Bylaw 1 - Appeals

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

- Disciplinary suspension from school for a period in excess of **fifteen** (15) school days;
- Suspending a student from attendance at school in the District and arranging for a transfer of the student to another school in the District;
- Suspending a student, pending the student entering into a behaviour contract, safety plan or other appropriate program, where the appeal arises from discipline relating to a second or subsequent alcohol or drug abuse offence;
- Placement in a specialized educational program; (grade placements with specific teachers are not considered placement in a specialized program);
- Grade promotion and graduation;
- Refusal to offer an educational program to a student 16 years of age or older; and,
- Any other decision that in the opinion of the Board significantly affects the education, health or safety of a student



# SD #73 Bylaw 1 - Appeals

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## 1. Initial Steps

1.1. The formal appeal process **will apply only after** the following administrative procedures have failed to resolve the issue within a reasonable time:

1.1.1. First, the student and/or parent must either meet with the employee who made the decision in question and the school principal or immediate supervisor of the employee in order to solve the problem. In most cases, the employee who made the decision will be the Director of Secondary Instruction and Learning Services or the Assistant Superintendent of Inclusive Education.

1.1.2. Second, if the matter is still not resolved, the student and/or parent must meet with the Assistant Superintendent, who has jurisdiction to solve the problem.

1.1.3. Third, if the matter is still not resolved, the student and/or parent must meet with the Superintendent to resolve the problem. If the student and/or parent are not satisfied with the outcome, the student and/or parent may appeal the matter to the Board of Education.

The best way  
for School Districts  
to handle the  
Appeal Process  
is to put  
measures in place to  
ensure it is never needed



# When to Use the Appeals Process

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- Anytime you feel your child's education, health or safety is being compromised
- *As soon as* you are not making substantive progress
- NOT just a 'last-resort'
- NOT solely used to reverse a prior, formal decision



## If you have been told...

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- Your child is not allowed to attend school on a full-time basis
- Your child's designation does not fund the extra help needed
- Our district does not have the capacity or resources to meet your child's needs
- We cannot include "this" in the IEP because it will trigger an audit
- It is district policy
- Your child's education program includes *modifications* that might prevent them from receiving a Dogwood diploma

IT IS A  
PROCESS,  
NOT AN EVENT





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## Human Rights Tribunal

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**What does it take to be  
successful at the Human Rights  
Tribunal?**



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## Supreme Court of Canada

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**Why would a parent take their case to the Supreme Court of Canada?**



# Appeals Pathway

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**Level 1:** Address your concerns to the individual(s) directly involved

**Level 2:** File an Appeal with the Board of Education

**Level 3:** File an Appeal with the Superintendent of Appeals

**Level 4:** File a claim with Human Rights Tribunal

YOU HAVE NO  
REASON TO  
APOLOGIZE

ASK A **LOT** OF  
QUESTIONS!



## Conversations / Phone Calls / Meetings

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**Prepare:** Create a list of key points to discuss

**Focus:** Stay on track with the key points

**Collaborate:** Contribute to resolve the issue

**Document:** Request a copy of any notes taken by the school/district and make your own notes as soon as you get home



## Conversations / Phone Calls / Meetings

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**Timelines:** Ensure everyone is clear on timelines for all subsequent steps

**Reflection:** You never have to agree to anything during a conversation/call/meeting

***Follow-up:*** Shortly after every conversation, call or meeting, send an email that includes a ***brief summary of the key points*** and committed timelines



## Superintendent of Appeals

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If an appeal to the board of education does not resolve your concerns, you may appeal to a superintendent of appeal, as long as the matter falls within the scope of the Appeals Regulation.

Website: [Student disputes and appeals](#)

Email: [EDUC.studentappeals@gov.bc.ca](mailto:EDUC.studentappeals@gov.bc.ca)

Phone: (250) 387-8037





# Superintendent of Appeals - Scope

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- Expulsion from an educational program
- Suspension from an educational program
- Suspension from an educational program where no other educational program is made available
- Distributed learning required as part of a disciplinary matter
- A decision not to provide a student with an Individual Education Plan (IEP)
- Consultation about placement of a student with special needs and the provision of an IEP
- Bullying behaviours, including intimidation, harassment or threats of violence by a student against another student
- Exclusion due to a medical condition that endangers others



# Superintendent of Appeals - Decisions

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Under legislation, the Superintendent of Appeals may make the following decisions:

- Summarily dismiss all or part of the appeal
- Refer the matter for mediation
- Refer the matter for adjudication



# Office of the Ombudsperson

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The Ombudsperson's Office has developed a [Complaint Handling Guide](#).

Contact the Ombudsperson if you have any questions or concerns regarding the fairness of the Appeal Process, including:

1. Use of advocate/witnesses
2. Timelines
3. Use of written submissions instead of an oral hearing



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# Office of the Ombudsperson

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<https://bcombudsperson.ca/>

Toll-free: 1-800-567-FAIR (3247)

Victoria: 250-387-5855

Email: [info@bcombudsperson.ca](mailto:info@bcombudsperson.ca)

“Unless someone like you  
cares a whole awful lot,  
nothing is going to get better.  
It’s not.”

*Dr. Seuss*



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# YOU ARE NOT ALONE!

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[@YOURBCCPAC](#)



[bccpac.bc.ca](#)



[info@bccpac.bc.ca](mailto:info@bccpac.bc.ca)



**604-474-0524 or 1-866-529-4397**