

administrative regulation

Administrative
Regulation No.
5008

Classification:
Parents

Effective Date:
November 15, 2014

Appeals

1 | Purpose

The purpose of this Administrative Regulation is:

- To provide a fair and timely process by which parents and students can seek a review of a decision that significantly affects the education of a student.
- To ensure parents and students are aware of their right to appeal a decision made by a CBE employee that significantly affects the education of the student as provided by section 123(2) of the School Act.

2 | Scope

This Administrative Regulation applies to:

- All CBE employees, parents and students.

3 | Compliance

All employees are responsible for knowing, understanding and complying with this Administrative Regulation.

4 | Principles

The following principles apply:

- CBE employees are responsible to make informed decisions with respect to all student matters and to communicate such decision to parents and students 16 years of age and older.
- Disputes are best handled at the school level. The best resolutions to concerns come from staff and parents working together.
- The CBE strongly encourages parents and students to work together with teachers and with school administration and CBE administration to resolve concerns and complaints in an open and constructive manner prior to and during the appeal process.

5 | Definitions

Business Days: means days (Monday to Friday) that the Calgary Board of Education is in operation.

CBE: means The Calgary Board of Education.

Parent: means the parent as defined in Section 1(2) of the School Act of Alberta.

Significantly Affects: Full of import or special meaning. Having or likely to have significant influence or effect.

Student: means, for the purposes of identifying who can appeal, an individual who is enrolled in a Calgary Board of Education school or is eligible to be enrolled in a Calgary Board of Education school and is 16 year of age or older.

6 | Regulation Statement

General

- 1) A parent or a student, who is 16 years of age or older, may appeal a decision made by a CBE employee that significantly affects the education of a student, provided there are sufficient grounds for the appeal, as set out in section 16.
- 2) For the purposes of this Administrative Regulation, a decision includes the failure to make a decision.
- 3) Before filing an appeal, the parent or student must first attempt to resolve the matter under the CBE's Administrative Regulation 5007: Concerns and Complaints.
- 4) Failure by a parent or student to use the dispute resolution process in AR 5007 – Concerns and Complaints may result in the appeal being dismissed.

Significantly Affects

- 5) The determination of whether a decision “significantly affects the education of a student” must be made on a case-by-case basis. In the context of an appeal, an event will be deemed significant if it results in some kind of loss or jeopardy to a student.
- 6) The parent or student asking for an appeal must demonstrate that the decision prejudiced the student or that the action complained of materially influenced the decision.
- 7) Without limiting the right of appeal, the following decisions are deemed to be decisions that significantly affect the education of a student:
 - a) decision that impedes the student's ability to participate in or complete their program of study;
 - b) denial of registration in, or termination of a homeschooling program;
 - c) denial of access to educational resources, services or programs as a result of lack of payment of fees;
 - d) access to or the accuracy or completeness of the student

record;

e) special education programming; and

f) disciplinary suspensions in excess of 5 days or expulsion of a student.

8) Decisions regarding the following matters will be dealt with under the applicable Administrative Regulation:

a) placement of a student in a special education program: AR 3003 – Special Education Programming

b) suspensions in excess of 5 days or expulsions of students through: AR 6001 – Student Discipline

Notification of Right to Appeal

9) Where a decision is made by a CBE employee which would be appealable under this administrative regulation, the affected parent or student shall be notified of:

a) their right of appeal, and

b) the time limits governing the initiation of an appeal.

Time Limits and Notice of Appeal

10) A parent or student who wishes to appeal a decision that significantly affects the education of a student must file his or her appeal in writing within 20 (twenty) business days from the date the decision was made.

11) Appeals must be in writing on the Notice of Appeal Form.

12) The Notice of Appeal must contain the following information:

a) the name and address of the parent or student filing the appeal;

b) the current placement of the student;

c) the decision which is being appealed;

d) the date the parent or student was informed of the decision;

e) where the decision was communicated in writing, a copy of the decision;

f) the grounds for appeal (the policy, procedure, rules, regulation, and/or criteria on which the appeal is being made).

- 13) The Notice of Appeal must be directed to the Office of the Chief Superintendent.
- Decision-Maker on Appeal**
- 14) The Chief Superintendent will hear appeals under this Administrative Regulation.
- 15) In the event of a conflict of interest, the Chief Superintendent may delegate a member of the CBE's senior administration to hear the appeal.
- Grounds for Appeal**
- 16) A decision cannot be appealed on its facts alone. The Notice of Appeal must disclose sufficient grounds for an appeal. In order for an appeal to demonstrate sufficient grounds for appeal, it must claim that the employee:
- a) failed to substantially follow procedures as laid out in CBE policies, administrative regulations, applicable legislation or regulations;
 - b) made a decision that was influenced by bias;
 - c) made a decision where there is no supporting evidence; or
 - d) made a decision that is not reasonable
- 17) The Chief Superintendent may refuse to hear an appeal where:
- a) the appeal has not been commenced within 20 (twenty) business days from the date the parent or student was aware of the decision;
 - b) the parent or student has refused or neglected to discuss the decision in accordance with AR 5007 – Concerns and Complaints; or
 - c) the decision does not significantly affect the education of a student.
- 18) If the Chief Superintendent or delegate determines that a decision of an employee is not appealable, the parent or student will be informed of the decision and the reasons for it.
- Appeal Process**
- 19) Where a Notice of Appeal meets the criteria for an appeal, the Office of the Chief Superintendent shall provide a copy of the Notice of Appeal to CBE administration, which may include , but is not limited to, any of the following persons:
- the Superintendent

- Principal,
- Director
- Manager
- Employee who made the decision

20) The Chief Superintendent or delegate may decide the matter based upon written submissions.

21) The Chief Superintendent or delegate may invite oral submissions, in which case, he or she may decide the matter based on written and/or oral submissions.

**Hearing by
Written
Submission**

22) The Chief Superintendent or delegate shall notify the parent or student if it is necessary for the person to provide documentation and/or to make written submissions on the matter.

23) The Chief Superintendent or delegate will set out timelines for the person to provide documents or written submissions.

24) CBE administration shall prepare a report to be considered on appeal.

25) The report shall be in writing and distributed to the parent or student appealing the decision within the timelines set by the Chief Superintendent or delegate.

26) The parent or student who asked for the appeal shall be provided with an opportunity to respond, in writing, to the administration report. The Chief Superintendent or delegate will set timelines for the response.

Oral Hearing

27) The Chief Superintendent or delegate may set an oral hearing to hear the appeal.

28) The Chief Superintendent or delegate shall notify the parent or student appealing the decision and CBE administration of the date and time of the hearing.

29) The Chief Superintendent or delegate shall notify the parent or student, and CBE administration of the need to provide documentation and written submissions prior to the hearing in a manner and timelines set by the Chief Superintendent or delegate.

30) The Chief Superintendent may set procedural rules to conduct an oral hearing.

**Procedural
Rules**

- 31) The procedural rules for the oral hearing shall be provided to the parent or student and CBE administration in advance of the hearing date and shall include:
- a) that the hearing shall be held within 30 (thirty) business from the date the appeal was received in the Office of the Chief Superintendent;
 - b) that the parent and/or student may be accompanied by a person of their choosing at any meetings held in connection to the appeal;
 - c) that where a parent launches an appeal, the student who is the subject of the appeal may, with consent of the parent(s), attend the hearing;
 - d) that The Chief Superintendent has the right to restrict the number of people attending the appeal hearing;
 - e) the parent and/or student or their representative shall be provided an opportunity to make an oral presentation, which may include other presenters;
 - f) administration shall be provided with an opportunity to provide an oral presentation, which may include other presenters;
 - g) no participant may cross examine another participant at the hearing;
 - h) the Chief Superintendent or delegate may ask questions of the participants, as well as additional presenters;
 - i) the Chief Superintendent or delegate may set time limits on presentations and may limit the number of presenters; and
 - j) any other procedures required to conduct the hearing in a fair manner.
- 32) At any time during the appeal process the Chief Superintendent or delegate may call upon legal advisors for advice and consultation.

Appeal Decision

- 33) Within 20 (twenty) business days from the hearing or close of written submissions, the Chief Superintendent or delegate will make any decision he or she deems appropriate in regards to the appeal, including whether to uphold, alter, or revoke the decision of the matter under appeal.

- 34) The Chief Superintendent or delegate's decision shall be in writing and provide reasons for it.
- 35) The parent and/or student making the appeal shall be provided a copy of the decision.
- 36) The decision of the Chief Superintendent or delegate is the final decision of the Calgary Board of Education.
- 37) Once a final decision is made, the Chief Superintendent shall notify the parent and/or student if the matter is one that may be appealed to the Minister of Education.

7 | History

DATES	
Approval	November 15, 2014
Next Review	November 2019
Revision/Review Dates	

8 | Related Information

- AR 5007: Concerns and Complaints
- Alberta School Act
- Related Governance Policies
- Related Manuals
- Related Forms, FAQ, Matrix