



1305 BOARD APPEALS & ARBITRATION

Policy Type: Board Policy Manual

Applies To: Board Directors, All Staff, Students, Visitors

Approved By: LCS Board

Policy Reviewed: every 2 years

Adopted: 2008

Revisions: 06 2021

1. PURPOSE

- (a) This policy is an extension of Policy 1301 (Procedures for Conflict, Disputes & Appeals) and 1302 (Relational Conflict). This policy also addresses appeals for special dispensation and appeals regarding extraordinary matters not covered in current policies or procedures. This policy elucidates protocols for dealing with appeals and arbitration. The process for dealing with appeals will follow Biblical principles and guided by procedures established by the B.C. Ministry of Education, *FISA's Procedural Fairness: Best Practice Guidelines for Independent Schools* <https://fisabc.ca/wp-content/uploads/2016/09/Procedural-Fairness-Best-Practice-Guidelines.pdf> and the employment contract with staff.
- (b) The appeal process is available to those who do not feel that due process was followed in the resolution of their dispute. It is not there to provide disputants who are unhappy with the outcome to challenge the earlier decision or resolution.

2. PROCEDURES FOR APPEALS

- (a) Appeals may be submitted by staff, administration, students or parents regarding actions or inactions in applying Core Values, policies and operational procedures. The Board has the final authority in these matters.
- (b) Appeal letters are addressed to the Board. The Board Executive Committee determines the nature of the appeal, the appropriate appeal process and the level of authority required to render a final decision. The Board has five options, or combinations of options, for addressing appeals:
 - Return the appeal to the Head of Schools for final decision making.
 - Respond to the appeal in writing after Board deliberation.
 - Hear the appeal in person at a Board meeting.
 - Appoint an Appeal Panel to hear the appeal.
 - Appoint an externally trained mediator and/or arbitrator to assist in resolving the matter.

- *Note: Trained third party arbitrators may be mediators specializing in dispute resolution or Alternative Dispute Resolution (ADR) lawyers who are licensed to do mediation and out-of-court arbitration.*

(c) Conflict of interest concerning Board Directors

- Directors who *have* a perceived conflict of interest in hearing the appeal or rendering a decision will be required to declare their conflict of interest and voluntarily withdraw from involvement in the case.

3. DISABLING CRITERIA FOR BOARD APPEALS

If one or more of the following 'disabling criteria' are present at the time of application for mediation, the dispute or conflict will not proceed to mediation:

- Issues that solely relate to policy 1304 (Policy Review Process)
- Issues that relate solely to fact finding;
- Where the dispute relates to a labour dispute and there is already a procedure available to the member participant;
- Where the LCS Board believes that the mediation process would amount to an abuse of process or result in unfairness to one of the member participants;
- Where conduct between one or more member participants has resulted in criminal charges or the police or Crown are considering criminal charges and the criminal charges have not been finally disposed of by trial, plea or by other means or resolution outside of trial.
- Where a dispute or conflict that may involve or result in litigation or where litigation has commenced unless all participants and or parties to the litigation are member participants and each member participant agrees to be bound by the LCS Dispute Resolution Process;
- A matter that the LCS Board determines will, for whatever reason, not be mediated.
- Where the dispute or conflict takes place between one or more member participants outside of Langley Christian School property and which incident or conduct is unrelated to or not connected with ongoing member participant relationships of a personal or educational nature.
- Teachers may not appeal the decisions of employee investigations that find a breach of the Professional Standards for BC Educators.

4. GOALS OF THE APPEAL AND ARBITRATION PROTOCOL

- The goal is to expeditiously bring conclusion to conflicts and disputes and other appeals addressed to the Board in the spirit of discernment, wisdom and grace. The application of the protocol should:
 - provide for a fair hearing,
 - provide opportunity for representation,
 - provide adequate information based on investigation.
 - define the issues,

- resolve concerns.

(b) The Board hearing an appeal will endeavour to test the following conditions to meet the goal:

- That the appeal is well founded based on submitted documentation.
- That due process has been consistently applied throughout.
- That communication has been clear, consistent and timely throughout.

5. INITIATING AN APPEAL HEARING

- A formal letter, dated and signed by the party(s) involved requesting an appeal initiates the appeal. The letter will provide details about the purpose, the matter(s) to be considered, a rationale for the appeal, links to the relevant policy(s) and/or operational procedure(s) and the desired outcome of the appeal. Letters not meeting these criteria will be returned to complete the required information.
- The letter will be addressed to the Board and submitted to the Chair, with a copy to the Head of Schools. The Head of Schools will inform the relevant Principal of the pending appeal.
- Within ten working days of receiving the letter, after consultation with the Board and Head of Schools, the Chair will inform the appellant how the appeal will be heard, the date, time and the place.
- Five working days before the scheduled hearing, the appellant will be required to submit additional documentation, if appropriate, in support of his/her appeal. The Head of Schools will also submit his/her recommendation(s) and reasons thereto, and any additional relevant documentation. These documents will be submitted to the Chair for appropriate distribution.
- Under extenuating circumstances, additional written submissions may be accepted up to 48 hours prior to the scheduled hearing date.

6. THE APPEAL PANEL PROTOCOL

The Board may appoint an Appeal Panel to hear appeals that require extensive discernment. When the Board determines that an Appeal Panel will hear the appeal, the following protocol will be followed:

- The Board shall appoint an Appeal Panel consisting of a minimum of three Board Directors—of which one will be the Chair and one will be the chair of the committee relevant to the appeal plus a recording secretary. An external facilitator may be engaged to assist. The Board will determine the level of decision making authority the Appeal Panel has to render the decision and/or make recommendations to the Board.
- The Chair shall invite the Head of Schools, the relevant Principal, and the parties named in the appeal and their advocates/ representatives to the hearing. The Chair shall give at least 5 working days notice of the meeting.
- The Chair or designate will chair the hearing.
- The hearing will be conducted as follows:
 - 6.d.1. Presentation and review of written documentation by the Head of Schools.
 - 6.d.2. Presentation and review of written documentation by the other party. Opportunity for each party to respond.

- 6.d.3. Opportunity for the Appeal Panel to ask questions.
- 6.d.4. Each party is given the opportunity to provide their closing comments.
- (e) The Appeal Panel will then deliberate in camera
 - 6.e.1. If further clarification is required, the hearing may be reconvened.
 - 6.e.2. If further information needs to be gathered, the hearing may be adjourned until a later date. The postponed appeal hearing should be reconvened within ten working days.
- (f) If the Appeal Panel recommends that the final decision is to be made by the Board, the Board will advise the appellant as to the date, time and place that the final decision will be rendered by the Board.
- (g) The Appeal Panel will draft its decision and/or recommendation(s) and reasons in writing and submit it to the Board, with a copy to the Head of Schools and the parties within five working days of the hearing.
- (h) Follow-up
 - The Head of Schools will report to the Board the results of implementing the appeal decision/recommendation(s) within one month of the hearing (i.e., was the outcome satisfactory to the parties involved?). This will formally bring closure to the dispute and close the file.