



Commission scolaire English-Montréal

English Montreal School Board

BY-LAW NO. 8 (2010)

BY-LAW ESTABLISHING THE COMPLAINT EXAMINATION PROCEDURE FOR STUDENTS OR THEIR PARENTS OR GUARDIANS

NOTE: The masculine gender, when used in this document, refers to both women and men. No discrimination intended.

1. Preamble

The present By-Law determines the complaint examination procedure to be followed by the school board, students and parents or guardians for examination of complaints from students or their parents or guardians, in order to protect students' rights. It is designed to try to resolve the issue at the level closest to where the situation has occurred. The complaint examination procedure enables a complainant who is dissatisfied with the handling of a complaint or with the outcome to refer the complaint to a person designated by the school board as the Student Ombudsman.

2. Objectives

By this By-Law, the School Board wishes to introduce an efficient and effective management process of complaints with the following objectives:

- To ensure that all complaints are treated with equity, impartiality and transparency;
- To ensure that all complaints are treated diligently and expediently;
- To ensure that the rights of anyone involved in a complaint will be respected;
- To ensure that anyone making a complaint receives a clear and detailed explanation of all decisions rendered.

3. References

The present By-Law is established in accordance with Section 220.2 of the Education Act (R.S.Q., c. I-13.3), and in conformity with the Regulation respecting the complaint examination procedure established by a school board (c. I-13.3, r.7.1).

4. Definitions

In the present By-Law, the following words or phrases are defined as follows:

- 4.1 **Complainant:** a student of the School Board or his parents or guardians;
- 4.2 **Complaint:** a written notice served to the School Board regarding the dissatisfaction of one or several students or their parents or guardians with the services offered or received;
- 4.3 **Review Committee:** a committee composed of three neutral and impartial people appointed by the Director General to examine a complaint, the whole as provided under Section 6.2 of the present By-Law;
- 4.4 **Student Ombudsman:** a person designated by the Council of Commissioners and mandated to give the Council of Commissioners an opinion on the merits of a complaint and recommend any appropriate corrective measures, if necessary.

5. General Provisions

- 5.1 The complaint process provided in the present By-Law is an administrative process and not a judicial or quasi-judicial process. Consequently, the Complainant cannot summon and examine witnesses or request a hearing.
- 5.2 Only the concerned student or his parents or guardians may make a complaint.
- 5.3 Before any complaint is to be examined, it is expected that the Complainant has consulted and has attempted in good faith to resolve the issue with the person who made the decision.
- 5.4 The recipient of the complaint must have sufficient information to deal with the complaint.
- 5.5 The Complainant has the right to be accompanied by the person of his choice at any stage of the complaint examination procedure.
- 5.6 The Complainant may receive assistance from the Secretary General in making his complaint or in any step related to the complaint.
- 5.7 Only written complaints will receive a response in writing.
- 5.8 All complaints will be handled in accordance with the *Act respecting access to documents held by public bodies and the protection of personal information*.

6. Complaint Process

- 6.1 All complaints must first be made to the following people in the following order:

- a) To the school Principal or centre Principal when the complaint concerns a decision made by the staff of a school or centre;
 - b) To the Regional Director and/or the Director of the service concerned by the decision, if applicable;
 - c) To the Deputy Director General or Director General.
- 6.2 Under Section 6.1 c), the Director General may decide to establish a Review Committee composed of three people to examine the complaint. The Review Committee shall give to all interested parties the opportunity to present their point of view. The Review Committee will report in writing its decision to the Director General who will forward the decision to the Complainant with copies to the employee(s) whose decision was under examination.
- 6.3 The complaint process defined under Section 6.1 a), b) and c) shall not exceed 30 school days.
- 6.4 If the Complainant is dissatisfied with the manner in which the complaint was handled or its outcome, he must address a written complaint to the Secretary General by completing Addendum A – Student Complaint Form.
- 6.5 Upon receipt of the written complaint, the Secretary General will ensure that:
- a) due process as defined in Section 6.1 has been followed;
 - b) concerned parties are informed in writing that a complaint has been received.
- 6.6 The Secretary General shall determine if the complaint meets the criteria of Sections 9 to 12 of the Education Act to request the reconsideration of the decision.
- 6.7 If the complaint does not meet the criteria of Sections 9 to 12 of the Education Act, the Secretary General will forward the complaint within 5 workdays to the Student Ombudsman and inform the Complainant accordingly in writing.
- 6.8 If the complaint meets the criteria of Sections 9 to 12 of the Education Act, the Secretary General will inform the Complainant, in writing within 5 workdays, of his right to either request the reconsideration of the decision by the Council of Commissioners or to request that his complaint be directly forwarded to the Student Ombudsman. The Secretary General will inform the Complainant within the same delay of the relevant procedure to be followed in each case.
- 6.9 In the event that the Complainant chooses the recourse provided under Sections 9 to 12 of the Education Act and is still dissatisfied, he may forward his complaint directly to the Student Ombudsman or request, in writing, to the Secretary General that his complaint be forwarded immediately to the Student Ombudsman.

6.10 Notwithstanding the process provided in the present Section 6, the Complainant has the right at any stage of the process to request the intervention of the Student Ombudsman. The Student Ombudsman will determine if he should accept or refuse to intervene according to the dispositions provided in Section 7 of this By-Law.

7. Intervention of the Student Ombudsman

7.1 A Complainant who is dissatisfied with the way a complaint has been handled or with its outcome must refer the complaint to the Student Ombudsman, in writing, within 90 days from the date initiating the complaint process (section 6.1).

7.2 When the Student Ombudsman receives a complaint, he must verify that the Complainant has exhausted the remedies provided for by the present By-Law by contacting the Secretary General prior to examining the complaint.

7.3 Notwithstanding the above, the Student Ombudsman may take up a complaint at any stage if he considers that intervention is necessary to prevent harm from being caused to the Complainant.

7.4 The Student Ombudsman may upon summary examination of the complaint dismiss it, if in his opinion it is frivolous, vexatious or made in bad faith.

7.5 The Student Ombudsman may also refuse or cease to examine a complaint if he has reasonable cause to believe that intervening would clearly serve no purpose.

7.6 The Student Ombudsman will refuse or cease to examine the complaint upon becoming aware or being informed that it concerns a fault or an act for which a complaint has been filed with the Minister under Section 26 of the Education Act. In such a case, he will inform the Complainant and the Secretary General.

7.7 The Student Ombudsman may require the cooperation of any staff member of the school board whose expertise is considered necessary. The Student Ombudsman will contact the Secretary General, in order to facilitate such cooperation. He may also, with the authorization of the Council of Commissioners, call on an outside expert, if deemed necessary.

7.8 Within 30 days after the complaint is referred to him, the Student Ombudsman must give the Council of Commissioners and the Secretary General an opinion on the merits of the complaint and recommend any appropriate and/or any necessary corrective measures (Section 220.2 Education Act). He will also give to the Complainant a copy of his recommendations with the reasons behind them.

7.9 The Council of Commissioners, at its next sitting or as soon as possible thereafter, will inform the Complainant in writing of any follow-up or action to be taken in respect to the recommendations of the Student Ombudsman.

8. Final Provisions

- 8.1 The School Board must take the necessary measures to ensure the confidentiality of a Complainant.
- 8.2 The School Board must prevent any form of retaliation against a Complainant who exercised his rights in accordance with the present By-Law.
- 8.3 The recourse under Sections 9 to 12 of the Education Act and the procedure in the present By-Law are two distinct recourses and shall not be used by a student or his parents or guardians more than once for the same incident. Except as provided in Section 7.3, a student or his parents or guardians cannot exercise both recourses concurrently.
- 8.4 On September 15th at the latest, the Student Ombudsman must send the School Board a report stating the number of complaint referrals received and their nature, the measures recommended and any action taken during the previous school year. It is understood that no names of individuals and schools or incidents that may identify a person or a school shall be reported publicly.
- 8.5 The present By-Law comes into force on the day of the publication of a public notice of its adoption by the Council of Commissioners and will be reviewed if required.

Angela Mancini
CHAIRMAN

Joanne Bisbikos
SECRETARY GENERAL