



**COMMISSION SCOLAIRE EASTERN SHORES
EASTERN SHORES SCHOOL BOARD**

BY-LAW 11

STUDENT OMBUDSMAN
COMPLAINT PROCEDURE

Adopted on: June 18, 2014

Resolution C14-06-414

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 its outcome to refer the complaint to a person designated by the school board as the Student Ombudsman.

2. LEGAL REFERENCES

- Sections 9 to 12 of the Education Act and 220.2 (R.S.Q. ch.I-13.3)
- Regulations respecting the complaint examination procedure established by a school board (c. I-13.3, r.7.1)
- The Act respecting access to documents held by public bodies and the protection of personal information (R.S.Q. ch.A.-2.1)

3. OBJECTIVES

By means of this By-Law, the school board wishes to ensure that all complaints are managed quickly and efficiently. More specifically, the objectives are the following:

- Ensure that all complaints are processed with fairness, impartiality and transparency;
- Ensure that all complaints are processed conscientiously and as quickly as possible;
- Ensure that the rights of a complainant are treated with respect;
- Ensure that any person who has lodged a complaint receives clear and precise explanations.

4. DEFINITIONS

4.1 Complainant: A student of the school board and / or his parents and / or guardians;

4.2 Complaint: A notice served to the school board regarding the dissatisfaction of one or several students or their parents with the services and/or decision offered or received;

4.3 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 to recommend any appropriate corrective measures, if any.

5. APPLICATION OF THE BY-LAW

This by-law applies to all students, and parents of students of minor age enrolled in a school or center under the jurisdiction of the School Board.

6. CONFIDENTIALITY

The School Board must take the necessary measures to ensure the confidentiality of a complainant and to prevent any form of retaliation against the complainant.

7. PROCEDURES TO FOLLOW FOR MEMBERS OF THE COUNCIL OF COMMISSIONERS

A commissioner who receives a concern or complaint from a parent or a student will refer that parent or student to the Secretary General of the School Board.

8. COMPLAINT PROCESS

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

- a) To the author of the decision
- b) To the school principal or centre principal;
- c) To the director of the service concerned by the decision, if applicable;
- d) To the assistant director general or the director general.

8.2 The complainant has the right to be accompanied by the person of his/her choice, at any stage of the complaint examination procedure. However, interventions may only be made by the complainant.

8.3 Under Section 8.1 c) the Director General may decide to establish a Review Committee composed of 3 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 whose decision was under examination.

8.4 The complaint process defined under section 8.1. a) b) and c) shall not exceed 30 calendar days.

8.5 If the complainant is dissatisfied with the manner in which the complaint was handled or its outcome, the complainant must address a complaint to the Secretary General either orally or written and by completing Addendum A: Student Complaint Form.

8.6 Upon receipt of the written complaint, the Secretary General will ensure that:

- a) Due process as defined in section 8.1 has been followed;
- b) Concerned parties are informed in writing that a complaint has been received.

8.7 The Secretary General shall determine if the complaint meets the criteria of Sections 9-12 of the Ed. Act to request the reconsideration of the decision.

8.8 If the complaint does not meet the criteria of sections 9-12 of the Ed Act the Secretary General will refer the complaint within 5 workdays to the Student Ombudsman and inform the Complainant accordingly in writing.

- 8.9** If the complaint meets the criteria of sections 9-12 of the Ed Act, the Secretary General will inform the complainant, in writing within 5 workdays, of the right to request the reconsideration of the decision by the Council of Commissioners. The Secretary General will inform the Complainant within the same delay of the relevant procedure to be followed.
- 8.10** If the complainant is dissatisfied with the outcome of the decision of the Council of Commissioners, the complainant may forward the complaint directly to the Student Ombudsman or request, in writing, to the Secretary General that the complaint be forwarded immediately to the Student Ombudsman.
- 8.11** Notwithstanding the process provided in the present section, 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 8 of the *Regulation respecting the complaint examination procedure established by a school board*.

9. REVISION OF A DECISION BY THE COUNCIL OF COMMISSIONERS

Verbal complaints, written complaints that are not signed, and complaints received by electronic means, will not be treated.

- 9.1** The request of the student or the parents shall be made in writing and shall briefly set forth the grounds on which it is made. It shall be transmitted to the secretary general of the school board.
- 9.2** The secretary general shall assist every student or parent of a student requiring assistance in the formulation of their request.
- 9.3** The Council of Commissioners shall dispose of the request without delay.
- 9.4** The Council of Commissioners may submit the request for examination by a person whom it designates or by a committee which it establishes; the committee will be made of up three members. Such person or committee shall make a report of his or its findings and accompany the report, if it seems appropriate to do so, with recommendations
- 9.5** During the examination of the request, the interested parties shall have the opportunity to present their points of view.
- 9.6** The recommendations of the Revision Committee or the designated person are submitted to the Council of Commissioners.
- The Council of Commissioners may, if it considers that the request is founded, overturn, entirely or in part, the decision contemplated by the request and make the decision which, in its opinion, ought to have been made in the first instance.
- 9.7** The person who made the request and the author of the contested decision shall be notified of the council's new decision and informed of the grounds on which it was made.

10. INTERVENTION OF THE STUDENT OMBUDSMAN

10.1 Duties of the Student Ombudsman

If the student or the parents are dissatisfied with the handling of a complaint or the outcome, they may refer the matter to the Student Ombudsman. The Student Ombudsman will determine whether or not the complaint has merit and if so, will recommend the corrective measures deemed appropriate to the Council of Commissioners.

10.2 Admissibility of the Complaint

The Student Ombudsman examines the complaint and ensures that it has been made by a student and/or the parents and that it concerns services offered by the school board's administration or by one of the schools or centers.

10.3 Conflict of Interest

The Student Ombudsman must declare any conflict of interest, real or apparent. In particular if the Student Ombudsman or one of his/her close relations, has a personal or business link with the person(s) concerned by the complaint.

In the event of such conflict of interest, the School Board will enter into an ad hoc contract for the services of the ombudsman of another school board.

10.4 Intervention

The Student Ombudsman intervenes after the complainant has exhausted the other remedies provided for in the complaint examination procedure.

Despite the foregoing, the Student Ombudsman may receive a complaint at any stage of the complaint examination procedure if the Student Ombudsman considers that intervention is necessary to prevent harm from being caused to the complainant.

10.5 Transfer of Information

Once the Student Ombudsman intervenes, the Director General or the Secretary General will transfer all available information to the Student Ombudsman.

10.6 Right to be Accompanied

The Student Ombudsman informs the complainant of his/her right to be accompanied by the person of his/her choice at any stage of the complaint examination procedure, and that the person accompanying the complainant may submit his/her observations.

Given that the examination of a complaint is treated in a purely administrative manner and therefore has no judicial or quasi-judicial nature, the complainant and the person accompanying them, may neither summon nor interrogate witnesses.

10.7 Evaluation of the Complaint

The Student Ombudsman analyzes the information received in order to determine if the complaint has merit.

10.8 Communication of the Student Ombudsman's Opinion

Within 30 days after the complaint is referred, the Student Ombudsman must give to the Council of Commissioners an opinion on the merits of the complaint and recommend any appropriate measures. Within the same time period, the Student Ombudsman transmits, in writing, the same information to the complainant and the Secretary General.

10.9 Application of the Recommendations

Without delay, the Council of Commissioners will inform, in writing, the complainant, the Student Ombudsman, the service or person concerned by the complaint of any actions to be taken with respect to the recommendations of the Student Ombudsman.

10.10 Dismissal of a Complaint

The Student Ombudsman may, upon summary examination, dismiss a complaint if, in the Student Ombudsman's opinion, it is frivolous, vexatious or made in bad faith. The Student Ombudsman will inform the complainant and the Secretary General of this decision in writing.

10.11 Interruption of the Treatment of a Complaint

The Student Ombudsman may also refuse or cease to examine a complaint if the Student Ombudsman has reasonable cause to believe that intervening would clearly serve no purpose or the length of time having elapsed between the events that gave rise to the dissatisfaction of the user and the filing of the complaint makes it impossible to examine the complaint.

In addition, the Student Ombudsman must refuse or cease to examine a complaint upon becoming aware or being informed that the complaint concerns a fault or an act for which a complaint has been filed with the Minister of Education under, section 26 of the Education Act (R.S.Q.c.I-13.3).

The Student Ombudsman will inform the complainant and the Secretary General of this decision in writing.

10.12 Administrative Services

The Student Ombudsman may require the cooperation of any staff member of the school board whose expertise is considered necessary by the Student Ombudsman and may, with the authorization of the Council of Commissioners, call on an outside expert.

10.13 Reprisals

The school board must ensure that the complainant does not become a victim of reprisals as the result of having filed a complaint.

10.14 Final Recourse

There are two procedures for the examination of a complaint. The first is defined in sections 9 to 12 of the Education Act and in 8.0 of this by-law. The second is defined in sections 220.2 of the Education Act and 10.0 of this by-law.

Once a complaint filed by a student and/or the parents has been examined according to the complaint examination procedure, the complainant has no further recourse for the same complaint under this by-law.

10.15 Annual Report

The Student Ombudsman must send the school board an annual report stating the number of complaint referrals received and their nature, the corrective measures recommended and any action taken by September 1. The report must separately list complaint referrals concerning acts of bullying or violence. It may include any recommendation the Student Ombudsman considers appropriate with respect to measures required to prevent and stop bullying and violence. The report must be attached to the school board's annual report.

11. Independence of the Student Ombudsman

The Council of Commissioners must take appropriate measures to preserve the independence of the Student Ombudsman at all times.

12. Confidentiality

All complaints will be handled by the school board in accordance with *The Act respecting access to documents held by public bodies and the protection of personal information* (R.S.Q. ch.A.-2.1)

13. BY-LAW IN FORCE

This by-law-enters into force on the day of the public notice of its adoption by the Council of Commissioners.



**Commission scolaire Eastern Shores
Eastern Shores School Board
ADDENDUM A
STUDENT COMPLAINT FORM**

YOUR DETAILS

Student's Name:

Parent's/Guardian's Name:

Address:

Postal Code:

Home phone :

Work phone:

Cell Phone:

E-mail:

NAME OF SCHOOL OR CENTER

School/Center:

INFORMATION ABOUT YOUR COMPLAINT (ATTACH ADDITIONAL PAGES IF NECESSARY)

Date of complaint:

Author of decision:

Date of decision:

Brief description of your complaint:

**HAVE YOU GONE THROUGH THE COMPLAINT PROCESS PROVIDED IN THE BY-LAW?
WHAT STEPS HAVE YOU TAKEN TO RESOLVE YOUR COMPLAINT?**

WHAT IS YOUR DESIRED OUTCOME?

Signature:

Date

Student/Parents/Guardians

Please send the completed form and other relevant
information to:

Secretary General
Eastern Shores School Board
40 Mountsorrel, C.P. 500
New Carlisle (QC) G0C 1Z0
[Tel:418-752-2247](tel:418-752-2247) Fax:418-752-6447

ADDENDUM B

SECTIONS OF THE EDUCATION ACT

- 9.** A student or parents of a student affected by a decision of the Council of Commissioners, the executive committee or the governing board, or of an officer or employee of the school board may request the Council of Commissioners to reconsider such decision.

1988, c. 84, s. 9; 1977, c.96, s. 8

- 10.** The request of the student or his parents shall be made in writing and shall briefly set forth the grounds on which it is made. It shall be transmitted to the Secretary General of the school board.

The Secretary General shall assist every student or parent of a student requiring assistance in the formulation of his request.

1988, c. 84, s. 10

- 11.** The Council of Commissioners shall dispose of the request without delay.

It may submit the request for examination by a person whom it designates or by a committee which it establishes; such person or committee shall make a report of his or its findings and accompany the report, if it seems appropriate to do so, with recommendations.

During the examination of the request, the interested parties shall have the opportunity to present their points of view.

1988, c. 84, s. 11

- 12.** The Council of Commissioners may, if it considers that the request is founded, overturn, entirely or in part, the decisions contemplated by the request and make the decision which, in its opinion, ought to have been made in the first instance.

The person who made the request and the author of the contested decision shall be notified of the council's new decision and informed of the grounds on which it was made.

1988, c. 84, s. 12

EXAMINATION OF COMPLAINTS

220.2 After consulting with the parents' committee, every school board shall establish, by by-law, a procedure for the examination of complaints from students or their parents.

The complaint examination procedure must enable 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. The Student Ombudsman is designated after consultation with the parents' committee and on the recommendation of the governance and ethics committee. Neither a member of the Council of Commissioners nor a member of the personnel of the school board may act as Student Ombudsman.

In addition to the measures the Minister may establish by regulation, the complaint examination procedure must provide that the Student Ombudsman must refuse or cease to examine a complaint upon becoming aware or being informed that the complaint concerns a fault or an act for which a complaint has been filed with the Minister under section 26. The procedure must also provide that, within 30 days after the complaint is referred, the Student Ombudsman must give the Council of Commissioners an opinion on the merits of the complaint and recommend any appropriate corrective measures.

The Student Ombudsman must send the school board an annual report stating the number of complaint referrals received and their nature, the corrective measures recommended and any action taken. The report must separately list complaint referrals concerning acts of bullying or violence. It may include any recommendation the student ombudsman considers appropriate with respect to measures required to prevent and stop bullying and violence. The report must be attached to the school board's annual report.

The school board may enter into an agreement with another school board to designate the same person as Student Ombudsman and determine how to share the expenses incurred.

2008, c.29, s. 29