



Lester B. Pearson
School Board

Commission scolaire
Lester-B.-Pearson

REGISTER OF OFFICIAL DOCUMENTS

By-Law 9 – A Complaint Examination Procedure

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None of the addenda are an integral part of the present by-law. They are added for information or administrative purposes and are subject to updates without consultation after the adoption of the present by-law.

Note that the masculine gender, when used in this document, refers to any person without discrimination.

1. GENERAL PROVISIONS

1.1 Objective of the By-law

The present by-law outlines the procedure to be followed for the examination of complaints from students of the Lester B. Pearson School Board or their parents, if the students are minors. The procedure will focus on solving problematic situations in a mutually agreeable manner and in the most expeditious approach possible, taking into account the specifics of any matter. It is understood that all individuals involved in this process will interact respectfully at all times and will maintain the confidentiality of the individuals involved.

1.2 Non-applicability of the By-law

The present by-law will not find application in any situation or concern of a disciplinary nature regarding the conduct of any staff member of the School Board. Such complaint will be directed to the Human Resources Director and will be dealt with in accordance with the applicable laws and collective agreements.

1.3 Complaint Examination Procedure for International Students (By-law 9-B)

International Students of any level, or their parents if the students are minors, must refer themselves to the document entitled By-law 9- B: Complaint Examination Procedure for International Students.

1.4 Legal Framework

The present by-law is prescribed by the Education Act, in conformity with the Regulation Respecting the Complaint Examination Procedure Established by a School Board.

1.5 Definitions

In the present by-law, the following words are defined as follows:

1.5.1 Complainant: a student of the Lester B. Pearson School Board, including homeschooled students, or the parent(s) of either, if the student is a minor.

Parent is defined at section 13 of the Education Act as the person having parental authority, or unless that person objects, the person having custody de facto of the student.

1.5.2 Complaint: a notice regarding the dissatisfaction of a complainant relating to the functions of the School Board and the services it provides, in all cases where a decision has been rendered by a School Principal or Centre Director for services provided at the school/centre level.

If the complaint relates to services provided by the School Board other than at school/centre level, it shall be raised at the applicable level of authority (e.g. with the

Director of the department concerned or his delegate). All complaints (other than from International Students or their parents, if the student is a minor) will be dealt with according to the present by-law.

- 1.5.3 Reconsideration of a decision by Council:** the process by which the Council of Commissioners may uphold, reverse or modify a decision made by an officer or an employee of the School Board, the Council of Commissioners, the Executive Committee or a Governing Board. Such decision must concern an individual student (for example, transfer to another class) and the request for reconsideration must follow the requirements of sections 9 to 12 of the Education Act. A decision of general application is not subject to reconsideration.

The present by-law shall not be construed as limiting the right of students or their parent(s), if the student is a minor, to make a complaint nor the rights granted under sections 9 to 12 of the Education Act.

- 1.5.4 Review of a decision:** At any administrative decision-making level, the complainant can request the review of the complaint and, in accordance with the present by-law, the decision may be upheld, reversed or modified. The decision may be rendered verbally at any administrative level, however the complainant may request that the decision be provided in writing.
- 1.5.5 Student Ombudsman:** an independent and neutral individual who must be designated by the Council of Commissioners and mandated to inform student(s) or their parent(s) and direct their inquiries to the appropriate person in accordance with the present by-law as well as to receive, investigate and give an opinion on the merits of a complaint in order to recommend, if required, any appropriate corrective measures.

The Student Ombudsman can only provide an opinion on the merits of a case once the complainant has exhausted all remedies provided for in the present Complaint Examination Procedure. The Student Ombudsman may also make only recommendations to the Council of Commissioners to address case-specific or systemic matters he noticed while handling the complaint.

The Student Ombudsman may take up a complaint at any stage if he considers that an intervention is necessary to prevent harm from being caused to the complainant.

2. COMPLAINT EXAMINATION PROCEDURE

2.1 General Principles

- 2.1.1** Only the student concerned or his parent(s), if the student is a minor, may make a complaint. Anonymous complaints will not be considered. The identity of the complainant will be verified.
- 2.1.2** It is expected that, prior to submitting a complaint, the complainant will have made an attempt, in good faith, to resolve the issue with the person who made the decision.
- 2.1.3** The person who receives the complaint must, at all stages, be provided with all pertinent information relating to the complaint. Interested parties will be given the opportunity to present their observations.
- 2.1.4** The complainant has the right to be accompanied by the person of his choice at any stage of the complaint examination procedure.
- 2.1.5** The complainant may receive assistance from the Secretary General in formulating his complaint or guidance in any step related to the complaint.
- 2.1.6** At any stage once a decision has been rendered, the complainant may request that his complaint be forwarded to the next decision-making level by the Secretary General.
- 2.1.7** Every person involved in the process must ensure that complaints are handled in a confidential manner. Complainants understand that in the analysis of the complaint, information may be requested from any person involved or any person who may provide relevant information.
- 2.1.8** Every person involved in the process must ensure that there is no form of retaliation against a complainant who exercised his rights in accordance with the present by-law.

2.2 Process

Notwithstanding the process provided in the present section, a complainant dissatisfied with the complaint examination or its outcome has the right at any stage to request the intervention of the Student Ombudsman, who will accept or refuse to intervene in accordance with the present by-law and the Regulation Respecting the Complaint Examination Procedure Established by a School Board.

2.2.1 PROCESS SUMMARY (REFER TO APPENDIX C FOR COMPLETE FLOW CHART)

2.2.1.1 In all cases where the complaint concerns the functions of the School Board and the services provided at the school or centre level, the complaint must first be made to the following people in the following order:

- a) To the school Principal or Centre Director;
- b) To the applicable Regional Director of Schools, Regional Director of Continuing Education or Director of the Department which provided the service or his delegate (for example Transportation or Community Services).
- c) To the Director General or his delegate;
- d) As applicable, to the Council of Commissioners for reconsideration if the complaint is subject to such or to the Student Ombudsman in other cases. Refer to the detailed process below.

2.2.2 DETAILED PROCESS

2.2.2.1 Principal or Centre Director level: At the school or centre level, concerns can first be brought verbally or in writing to the Principal or Centre Director in an attempt to resolve any issue in a mutually agreeable manner. However if the complaint concerns said person, the complainant may bring the complaint directly to the next decision-making level.

2.2.2.2 Regional Director of Schools, Regional Director of Continuing Education, or Director of the applicable Department (or his delegate) level: Once a final decision has been rendered within a reasonable delay by the Principal or Centre Director, should the complainant be dissatisfied with this decision, they must complete the Complaint Form (Appendix B) in order to submit a complaint to the review of the Regional Director of Schools or the Regional Director of Continuing Education. However if the complaint concerns said person, the complainant may bring the complaint directly to the next decision-making level.

In the same manner, in any other situation related to functions or to services provided by the School Board, a complaint regarding a final decision rendered by a Board-level member of staff must be directed to the Director of said department or his delegate, who may review the decision.

2.2.2.3 Director General or his delegate level: Once a final decision has been rendered by the Regional Director of Schools, the Regional Director of Continuing Education or the Director of the applicable Department (or his delegate), should the complainant be dissatisfied with the handling of his complaint or its outcome, he may forward his complaint himself to the

review of the Director General or his delegate, or request that it be forwarded by the Secretary General.

2.2.2.4 Should the complainant be dissatisfied with the handling of his complaint or its outcome by the Director General or his delegate, he may forward his written complaint to the Secretary General. It must be noted that the Secretary General does not review the complaint but solely ensures that the process is duly followed.

2.2.2.5 Upon receipt of the written complaint, the Secretary General will ensure that due process was followed and that the complaint pertained to the functions and services of the School Board.

2.2.2.6 Should the complainant wish to pursue the matter further, the next step will be determined as follows:

a) Complaint subject to reconsideration (refer to 1.5.3):

Should the matter be subject to reconsideration as per sections 9 to 12 of the Education Act, the complainant may request that his complaint be submitted to the Council of Commissioners as per section 6 of the present by-law.

OR

b) Complaint not subject to reconsideration (refer to 1.5.3):

Should the complaint not be regarding a matter subject to reconsideration, the complainant who is not satisfied with the handling of his complaint or its outcome will be referred to the Student Ombudsman. In such a case, the Student Ombudsman could then intervene since all remedies provided for in the present by-law will be considered exhausted. The Secretary General will inform the complainant of the procedure to follow to gain rapid access to the Student Ombudsman, who must submit to the Council of Commissioners his opinion on the merits of the case and may submit recommendations to them within 30 days.

2.3 Processing Procedures in the Case of the Reconsideration of a Decision by Council

2.3.1 The Secretary General will acknowledge reception of the complaint and inform the complainant that it will be processed for reconsideration as expeditiously as possible by Council.

2.3.2 The Council of Commissioners may submit the request for examination by a person whom it designates or a committee which it establishes. Such person or committee

shall make a report of their findings and accompany the report, if it seems appropriate, with recommendations.

- 2.3.3** During the examination of the request, the interested parties shall have the opportunity to present their point of view.
- 2.3.4** The complainant shall be advised of the decision of Council within 5 days it has been rendered and shall be informed of the grounds on which it was made in writing. He will also be advised of his right to apply to the Student Ombudsman should he be dissatisfied with the examination of his complaint or its outcome and the procedure to follow to gain rapid access to the Student Ombudsman, who must submit to the Council of Commissioners his opinion on the merits of the case and may submit recommendations to them within 30 days.

3. STUDENT OMBUDSMAN

3.1 Intervention of the Student Ombudsman

- 3.1.1** Once he receives a complaint, the Student Ombudsman will communicate with the Secretary General to verify that the complainant has exhausted the remedies provided for in the present by-law. He will therefore refer the complainant to the appropriate decision-making level until such remedies have been exhausted. The Ombudsman cannot give his opinion on the merits of the complaint or make recommendations until then, unless an intervention is necessary to prevent harm from being caused to the complainant, in which case he will advise the Administration without delay.
- 3.1.2** The Student Ombudsman will look at the facts of a case objectively, with neutrality and impartiality. He has no decision-making role for the institution or for the complainant, no personal stake in a particular outcome and he will not derive any benefit from any conclusion reached or any recommendation made¹.
- 3.1.3** The Student Ombudsman will listen to concerns, provide information on any inquiries he receives regarding the present by-law and refer the complainant to the appropriate person(s).
- 3.1.4** 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.
- 3.1.5** The Student Ombudsman may refuse or cease to examine a complaint if he has reasonable cause to believe that intervening would clearly serve no purpose or if the length of time having elapsed between the events that gave rights to the dissatisfaction of the complainant and the filing of the complaint makes it impossible to examine the complaint.
- 3.1.6** The Student Ombudsman must refuse or cease to examine a complaint upon becoming aware or being informed that the complaint concerns a serious fault committed by a teacher in the exercise of his functions or an act derogatory to the honor or dignity of the teaching profession for which a complaint has been filed with the Minister of Education, Recreation and Sports under section 26 of the Education Act. In such cases, the Student Ombudsman will inform the complainant and the Secretary General.
- 3.1.7** The Student Ombudsman may require the cooperation of any staff member of the School Board whose expertise is considered necessary to the examination of the

¹ Refer to ACCUO/AOUCC standards of practice : http://www.uwo.ca/ombuds/accuo_ouucc/english/SoP.pdf

complaint. He may also, with the authorization of the Council of Commissioners, call on an outside expert.

- 3.1.8** In the case where all remedies concerning a complaint have been confirmed exhausted, the Student Ombudsman must give the Council of Commissioners an opinion on the merits of the complaint within 30 days after he received it, and, if required, recommend any appropriate corrective measures
- 3.1.9** The Council of Commissioners will inform the complainant, without delay, of the Student Ombudsman’s opinion on the merits of his complaint and of any recommendation in relation to his specific case provided by the Student Ombudsman, as well as of any action to be taken with respect to these recommendations (as applicable, by providing a copy of a resolution taken by Council to this effect). The Council of Commissioners may also inform the complainant of any recommendations made by the Student Ombudsman to address systemic matters he noticed while handling the complaint and of any action that the Council of Commissioners has taken, or intends to take, regarding these matters.
- 3.1.10** The Student Ombudsman will not provide legal opinions and may never substitute his decision to the decision made by an employee or an officer of the School Board, or of the Council of Commissioners.
- 3.1.11** The Student Ombudsman may consult documents or obtain the information required to determine if the complaint should be retained. He may meet with School Board employees or officers, as well as with the complainant, and if applicable, with the person(s) accompanying him.
- 3.1.12** The Student Ombudsman will handle all complaints in a confidential manner, notwithstanding information required to refer the complainant to the appropriate decision-making level as per the present by-law, which can be provided to the Secretary General, or information required to prevent an imminent risk of serious harm, which can be provided to the appropriate person or authority.

4. FINAL PROVISIONS

- 4.1** 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.
- 4.2** The Student Ombudsman must declare to the Council of Commissioners if, in any particular case, he has a real or perceived conflict of interest. In particular, any personal or business relationship with a person involved in the complaint, other than a business relationship through the School Board, must be declared.
- 4.3** By October 1, the Student Ombudsman must provide the School Board with an annual report, covering the previous school year, stating the number of complaint referrals received and their nature, the corrective measures recommended, if any, and any action taken. No names of individuals or schools/centres or any other information that may identify a person or a school/centre will be reported publicly. The report from the Student Ombudsman must be part of the School Board's Annual Report.
- 4.4** The School Board must report on the activities resulting from the application of the Complaint Examination Procedure in its Annual Report.
- 4.5** At the beginning of each school year, the students and the parents of minor students shall be informed of the present complaint examination procedure. Note that section 96.14 of the Education Act prescribes that a reference to the present by-law be added to all students' Individualized Education Plans (IEPs). The School Board will make the by-law available on the School Board website along with the contact information for the Student Ombudsman.
- 4.6** The present By-law comes into force the day of the publication of public notice of its adoption by the Council of Commissioners.

ADDENDUM A – LEGISLATION

1 RELEVANT SECTIONS OF THE EDUCATION ACT (AS OF JANUARY 29, 2018)

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.

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.

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.

12. 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.

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.

26. Any natural person may file a complaint with the Minister against a teacher for a serious fault committed in the exercise of his functions or for an act derogatory to the honour or dignity of the teaching profession.

An information stating that a teacher has had a conviction is not considered a complaint for the purposes of this subdivision.

The complaint must be in writing, include reasons and be made under oath. It must briefly state the nature of the fault alleged to have been committed by the teacher and the relevant circumstances, including the time and place. The complaint shall be received by a person designated by the Minister, who shall assist any person so requesting in drawing up the complaint.

The Minister shall send a copy of the complaint to the teacher and ask him to present observations in writing to the Minister within 10 days.

- 96.14.** In the case of a handicapped student or a student with a social maladjustment or a learning disability, the principal, with the assistance of the student's parents, of the staff providing services to the student, and of the student himself, unless the student is unable to do so, shall establish an individualized education plan adapted to the needs of the student. The plan must be consistent with the school board's policy concerning the organization of services for handicapped students and students with social maladjustments or learning disabilities and in keeping with the ability and needs of the student as evaluated by the school board before the student's placement and enrollment at the school.

The principal shall see to the implementation and periodical evaluation of the education plan and inform the student's parents on a regular basis. In addition, the plan must state that recourse to the school board's complaint examination procedure provided for in section 220.2 is an option if the parent or student is not satisfied.

- 220.2.** After consulting with the parents' committee, every school board shall establish, by by-law, a procedure for the examination of complaints related to its functions.

The complaint examination procedure must enable a complainant who is a student, a homeschooled child or a parent of either and who has filed a complaint with regard to the services the school board provides to him under this Act and who is dissatisfied with the handling of the 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.

2 REGULATION RESPECTING THE COMPLAINT EXAMINATION PROCEDURE ESTABLISHED BY A SCHOOL BOARD

DIVISION I

COMPLAINT EXAMINATION PROCEDURE

1. The complaint examination procedure established by a school board pursuant to [section 220.2](#) of the [Education Act \(chapter I-13.3\)](#) must make provision for
 - (1) the manner in which a complaint is to be made, either orally or in writing;
 - (2) the complaint processing procedure;
 - (3) the complainant's right to be accompanied by the person of his or her choice, at any stage of the complaint examination procedure;
 - (4) the opportunity, for interested parties, to submit their observations;
 - (5) the means by which the complainant will be informed of the outcome of the complaint examination, the deadline for so informing the complainant and the applicable measures to ensure the follow-up on any correctives measures that will be proposed;
 - (6) the sending of a notice to the complainant stating the complainant's right, if dissatisfied with the complaint examination or examination outcome, to apply to the Student Ombudsman and informing the complainant of the documents or information allowing rapid access to the services of the Student Ombudsman;
 - (7) the obligation for the council of commissioners to inform the complainant of the action it intends to take in respect of any recommendation of the Student Ombudsman.

The complaint examination procedure established by a school board may not result in limiting the complaints that may be made by students or their parents.
M.O. 2009-01, s. 1.

- 2.A The school board must inform its students and their parents of the complaint examination procedure at the beginning of each school year.

The complaint examination procedure and the contact information of the Student Ombudsman must be broadcast on the website of the school board.

M.O. 2009-01, s. 2.

- 3.A The school board must ensure that a complainant who so requires receives assistance in making the complaint or in any step related to the complaint.

M.O. 2009-01, s. 3.

- 4.A The school board must take the necessary measures to ensure the confidentiality of a complainant and to prevent any form of retaliation against him or her.

M.O. 2009-01, s. 4.

- 5.A** The school board must give an account of the application of the complaint examination procedure in its annual report.

M.O. 2009-01, s. 5.

DIVISION II

STUDENT OMBUDSMAN

- 6.** The Student Ombudsman must be designated by the council of commissioners for a term that may not be less than 3 years.

The Student Ombudsman's term may be revoked only by a vote of not less than two-thirds of the commissioners entitled to vote. The Ombudsman remains in office until re-appointment or replacement.

The Student Ombudsman must be under the responsibility of the council of commissioners.

M.O. 2009-01, s. 6.

- 7.** The council of commissioners must take appropriate measures to preserve the independence of the Student Ombudsman at all times.

To that end, the school board must take up the defence of the Student Ombudsman if the Student Ombudsman issued by a third person for an act that the Student Ombudsman performed or failed to perform in the performance of duties, except in the case of a gross fault.

M.O. 2009-01, s. 7.

- 8.** 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 take up 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.

M.O. 2009-01, s. 8.

- 9.** 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.

M.O. 2009-01, s. 9.

- 10.** 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 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.

M.O. 2009-01, s. 10.

- 11.** (Omitted).

M.O. 2009-01, s. 11.

REFERENCES

M.O. 2009-01, 2010 G.O. 2, 47

ADDENDUM B

COMPLAINT FORM (SIDE 1)



COMPLAINT FORM

IDENTIFICATION

Student Name: _____

Parent/Guardian Name: _____

Address: _____

Telephone Number: _____

E-mail: _____

School/Center: _____

INFORMATION ABOUT YOUR COMPLAINT

Date of Complaint: _____

What is the decision you would like reviewed? _____

Author of Decision: _____

Date of Decision: _____

Please describe the context surrounding this decision. Please also describe the steps taken in good faith to try to resolve this problem. _____

COMPLAINT FORM (SIDE 2)

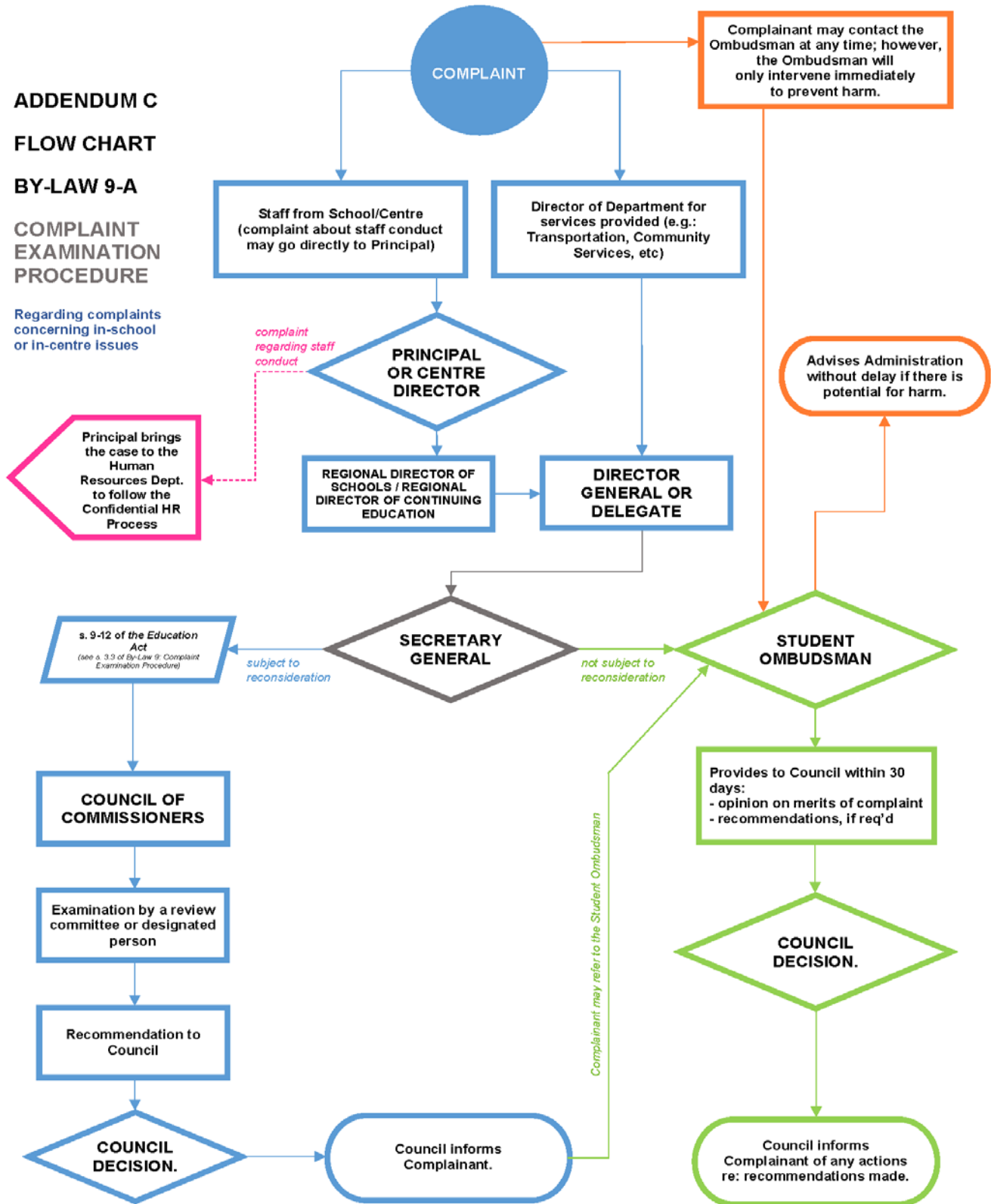
For what reasons are you dissatisfied with the decision and the steps taken to find Resolution? _____

What is your desired outcome? _____

Signature: _____ **Date:** _____

**ADDENDUM C
FLOW CHART
BY-LAW 9-A
COMPLAINT
EXAMINATION
PROCEDURE**

Regarding complaints concerning in-school or in-centre issues



ADDENDUM C

STEP-BY-STEP GUIDE

STEP 1

The student (or parent of the student) makes an attempt, in good faith, to resolve the issue with the person who made the decision.

STEP 2

In schools/centres:

If the Complainant is still not satisfied, he/she may direct his/her complaint to the next level:

- Level 1) Principal, then
- Level 2) Regional Director of Schools or Regional Director of Continuing Education, then
- Level 3) Director General or Delegate

OR

- Level 1) Director of applicable Department, then
- Level 2) Director General or Delegate

STEP 3

If still dissatisfied, the Complainant can forward his or her complaint to the Secretary General.

If subject to reconsideration:

- 1) Council of Commissioners, then
- 2) Student Ombudsman (Steps 4 & 5)

If not subject to reconsideration:

Student Ombudsman (Step 5)

STEP 4

If subject to reconsideration, the Council of Commissioners' decision may uphold, reverse, or modify the original decision.

STEP 5

Student Ombudsman

If the Complainant is not satisfied with the decision of the Council of Commissioners, or if the complaint was not subject to reconsideration, the Complainant may address his/her complaint to the Student Ombudsman by email at:

studentombudsman@lbpsb.qc.ca

Or by phone at:

514-422-3000, x30370

ADDENDUM D

MAIN CONTACT INFORMATION

1 Student Ombudsperson:

Laurence Sarrazin -- Tel: 514-422-3000 Ext: 30370

Email: studentombudsman@lbpsb.qc.ca

Mailing Address:

Laurence Sarrazin C/O Lester B. Pearson School Board

1925 Brookdale Ave., Dorval, Qc, H9P 2Y7

Tel: 514-422-3000 Ext: 30370

2 Substitute Student Ombudspersons:

Caroline Lemay and Isabelle Turgeon

Tel: 514-422-3000 Ext: 30370

Email: studentombudsman@lbpsb.qc.ca

3 Secretary General

Geneviève Dugré-- Tel: 514-422-3000 Ext: 30301

Email: gdugre@lbpsb.qc.ca

4 Reception of the Lester B. Pearson School Board

TEL: 514-422-3000