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PRIVATE EDUCATION ACT 2009 (ACT 21 OF 2009)

PRIVATE EDUCATION (APPEALS) RULES 2010

ARRANGEMENT OF RULES

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In exercise of the powers conferred by section 55 of the Private Education Act 2009, the Minister for Education hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Private Education (Appeals) Rules 2010 and shall come into operation on 18th January 2010.

Definitions

2. In these Rules, unless the context otherwise requires —
“appeal” means an appeal under section 26(1) of Act;

[S 977/2022 wef 31/12/2021]

“appealable decision” or “decision” means any decision, direction or requisition of the Agency referred to in section 26(1) of the Act;

[S 488/2016 wef 03/10/2016]

[S 977/2022 wef 31/12/2021]

“appellant” means any person who is aggrieved by, and lodges an appeal against, an appealable decision to the Appeals Board under section 26(1) of the Act;

[S 977/2022 wef 31/12/2021]

“chairman” means the chairperson of the Appeals Board appointed by the Minister under section 24(1) of the Act;

[S 977/2022 wef 31/12/2021]

“member”, in relation to the Appeals Board, means any member of the Appeals Board appointed by the Minister under section 24(1) of the Act and includes the chairman;

[S 977/2022 wef 31/12/2021]

“party” means an appellant or the Agency;

[S 488/2016 wef 03/10/2016]

“secretary” means the secretary to the Appeals Board appointed by the Minister under section 24(2) of the Act.

[S 977/2022 wef 31/12/2021]

Secretary to Appeals Board

3.—(1) The secretary shall provide administrative and secretarial support to the Appeals Board in the discharge of its duty under the Act.

(2) The secretary shall act in accordance with such instructions as may be given by the chairman from time to time and shall, in particular, be responsible for —

- (a) the acceptance, transmission, service and custody of documents in accordance with these Rules;
- (b) the establishment and maintenance of a list of all notices of appeal lodged with the Appeals Board; and

(c) the keeping of a record of the proceedings of the Appeals Board in such form as the chairman may direct.

(3) The secretary shall attend every meeting and every hearing of the Appeals Board.

Procedure for appeals to Appeals Board

4.—(1) Any person who is aggrieved by, and wishes to appeal against, an appealable decision shall appeal to the Appeals Board by lodging with the secretary —

- (a) within a period of 14 days after being notified of the appealable decision, a notice of appeal containing a brief description of the decision appealed against, in Form 1 in the Schedule; and
- (b) within a period of 21 days after the date on which such notice of appeal is lodged, the following documents:
 - (i) a petition of appeal containing particulars of the decision appealed against, the issues arising in the appeal and the grounds of appeal, in Form 2 in the Schedule; and
 - (ii) any supporting document referred to in the petition of appeal or relied on in support of the appeal.

(2) The Appeals Board may, subject to such conditions as it may impose, accept any document referred to in sub-paragraph (a) or (b) of paragraph (1) which is lodged by the appellant after the expiration of the period specified in that sub-paragraph, if the Appeals Board is satisfied that the appellant was unable to lodge that document within that period —

- (a) due to the appellant's absence from Singapore or illness; or
- (b) due to any other reason which is not caused by any unreasonable delay on the part of the appellant.

(3) The secretary shall, as soon as practicable after receipt of a notice of appeal under paragraph (1)(a) and a petition of appeal and any document referred to in paragraph (1)(b), serve a copy of that

notice of appeal and that petition of appeal and other document on the Agency.

[S 488/2016 wef 03/10/2016]

(4) The Agency shall, within a period of 21 days after the date of receipt of a copy of the petition of appeal and other document referred to in paragraph (1)(b), unless earlier withdrawn or deemed withdrawn, provide the Appeals Board and the appellant with a succinct presentation of the arguments of fact or law upon which the Agency will rely in responding to each ground of appeal, together with the supporting documents, if any.

[S 488/2016 wef 03/10/2016]

Summary disposal of appeal

5.—(1) The Appeals Board may, after giving the appellant and the Agency an opportunity to be heard, at any stage in the appeal proceedings and without calling for the Agency's representation, determine the appeal by confirming the appealable decision of the Agency if —

- (a) the Appeals Board considers that the petition of appeal discloses no valid ground of appeal;
- (b) the Appeals Board considers that the appellant is not a person entitled to appeal under section 26(1) of the Act;
[S 977/2022 wef 31/12/2021]
- (c) the Appeals Board is satisfied that the appellant has habitually and persistently, and without reasonable ground —
 - (i) made vexatious appeals to the Appeals Board; or
 - (ii) made vexatious applications in the appeal proceedings before the Appeals Board; or
- (d) the appellant has, without reasonable excuse, failed to comply with the time delimited by any provision of these Rules for the submission of any notice, document or other information in the appeal proceedings, or with any direction of the Appeals Board.

[S 488/2016 wef 03/10/2016]

(2) Where the Appeals Board determines an appeal under paragraph (1), it may make such consequential order as it considers appropriate.

Amendment of petition of appeal

6.—(1) An appellant shall not raise or rely on any ground of appeal that is not stated in the appellant's petition of appeal unless the Appeals Board grants its permission for the appellant to amend the appellant's petition of appeal to include that ground.

(2) No permission to amend a petition of appeal in order to add a new ground of appeal shall be granted to the appellant unless the Appeals Board is satisfied that —

- (a) such ground is based on any matter of fact or law which came to light after the petition of appeal was lodged;
- (b) it was not practicable to include such ground in the petition of appeal at the time the petition of appeal was lodged; or
- (c) there are exceptional circumstances to do so.

Withdrawal of appeal

7.—(1) An appellant may, at any time before the Appeals Board makes its decision on the appellant's appeal under section 26(3) of the Act, withdraw the appeal by serving on the secretary a written notice to that effect.

[S 977/2022 wef 31/12/2021]

(2) The secretary shall, as soon as practicable, notify the Agency of any appeal that is withdrawn under paragraph (1) or deemed withdrawn under rule 11(2).

[S 488/2016 wef 03/10/2016]

Postponements

8. The Appeals Board may postpone or adjourn any of its meetings or hearings at any time.

Requests for confidential treatment

9.—(1) A request for the confidential treatment of a document or part of a document lodged or provided in connection with any appeal proceedings before the Appeals Board —

- (a) shall be made in writing by the party who lodged or provided the document when submitting or providing such document;
- (b) shall, where the request relates to part of a document, state the relevant words, figures or passages for which confidentiality is claimed; and
- (c) shall contain the reasons for the request for withholding the document from the other party and, where the request relates to part of a document, the reasons specific to each part thereof.

(2) The party making the request for the confidential treatment of a document or part of a document shall also lodge with the Appeals Board, if the party considers it possible to summarise or redact the material in the document, a non-confidential version of the document in a form which can be served on the other party.

(3) No request for confidential treatment will be considered if the request does not comply with paragraph (1), unless the Appeals Board considers that the circumstances are exceptional.

(4) The Appeals Board may grant confidential treatment in relation to any document or part thereof, on such terms and conditions as it thinks fit (including changes to the summary or redacting of material in any non-confidential version lodged under paragraph (2)), if it is satisfied that the document or part thereof contains —

- (a) information the disclosure of which would, in its opinion, be contrary to the public interest;
- (b) commercial information the disclosure of which, in its opinion, would or may significantly harm the legitimate business interests of the undertaking to which it relates; or

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- (c) information relating to the private affairs of an individual the disclosure of which, in its opinion, would or may significantly harm the interests of that individual.

(5) In the event of a dispute as to whether confidential treatment should be granted, the Appeals Board shall decide the matter after hearing the parties, taking into account the matters referred to in paragraph (4).

(6) The Appeals Board shall not rely on any document or part thereof to which confidential treatment has been granted, for the purposes of considering the appeal and making a determination for resolving it, but may rely on the non-confidential version lodged (if any) under paragraph (2) or (7)(a), as the case may be.

(7) When the Appeals Board grants confidential treatment in relation to any document or part thereof under this rule in connection with any appeal, the party making the request for the confidential treatment shall, no later than 5 days after the Appeals Board's decision —

- (a) in the case where the grant is subject to changes to the summary or redacting of material in any non-confidential version of that document lodged under paragraph (2), accordingly change the non-confidential version of that document lodged and lodge the revised non-confidential version with the Appeals Board, and send to the other party the revised non-confidential version, notifying the other party that it has been redacted or summarised; or
- (b) in any other case, send to the other party the non-confidential version lodged under paragraph (2) (if any), notifying the other party that it has been redacted or summarised.

Confidentiality

10.—(1) Subject to paragraph (2), no person shall, unless authorised by the Appeals Board, disclose any information, document or evidence (whether oral or documentary) tendered or produced to any other person, except to the secretary, a member of the

Appeals Board, the Agency or the appellant (or his advocate and solicitor).

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(2) Paragraph (1) shall not apply to the disclosure of any information, document or evidence, or any part thereof —

(a) by the person who tendered or produced such information, document or evidence; or

(b) which is in the public domain.

(3) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Fee for appeals

11.—(1) Unless otherwise directed by the Minister, a non-refundable fee of \$500 shall be paid by an appellant to the secretary at the time that each petition of appeal is lodged by the appellant.

(2) Where the cheque or authorisation for the payment of the fee referred to in paragraph (1) is subsequently dishonoured and payment is not received by the secretary within 7 days thereafter, the petition of appeal to which that fee relates (and the notice of appeal connected therewith) shall be deemed withdrawn.

Irregularities

12.—(1) Any irregularity resulting from a failure to comply with any provision of these Rules before the Appeals Board has reached its decision shall not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Appeals Board, it may give such directions as it thinks just to cure or waive the irregularity before reaching its decision if it considers that any person may have been prejudiced by the irregularity.

(3) The following may be corrected at any time by the chairman by certificate under his hand:

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- (a) clerical mistakes in any document recording any proceedings under these Rules before the Appeals Board; or
- (b) errors arising in such a document from an accidental slip or omission.

THE SCHEDULE

Rule 4(1)(a)

FORM 1

PRIVATE EDUCATION ACT 2009
PRIVATE EDUCATION (APPEALS)
RULES
NOTICE OF APPEAL

Date of Service of Notice on Secretary:

Name of Appellant:

NRIC or passport No./ Unique Entity No.*:

Address(es):

Telephone Number(s):

The appeal is against the Agency's decision of:

(state date and brief description of decision appealed against)

Signature of Appellant/Advocate and Solicitor
acting for the Appellant*

THE SCHEDULE — *continued*

*Delete whichever is inapplicable.

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FORM 2

Rule 4(1)(b)(i)

PRIVATE EDUCATION ACT 2009
PRIVATE EDUCATION (APPEALS)
RULES

PETITION OF APPEAL

Date of Service of Petition on Secretary:

Name of Appellant:

NRIC or passport No./Unique Entity No.*:

Address(es):

Telephone Number(s):

The appeal is against the Agency's decision of:

(state date and brief description of decision appealed against, and any further circumstances out of which the appeal arises)

The issue/issues* arising in the appeal:

(state the issues)

The reason/reasons* for the appeal:

THE SCHEDULE — *continued*

(state the substance of the decision appealed against and particulars of the grounds of appeal)

Signature of Appellant/Advocate and Solicitor
acting for the Appellant*

* Delete whichever is inapplicable.

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[S 488/2016 wef 03/10/2016]

Made this 15th day of January 2010.

TAN CHING YEE
*Permanent Secretary,
Ministry of Education,
Singapore.*

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