



**OMBUDSPERSON**  
BRITISH COLUMBIA

Ms. Gina Niccoli-Moen  
Superintendent of Schools  
School District 41 (Burnaby)  
5325 Kincaid St.  
BURNABY BC V5G 1W2

January 2022

Dear Ms. Niccoli-Moen,

**RE: Quarterly Reports: October 1 – December 31, 2021**

This package of documents details the complaint files the Office of the Ombudsperson closed for **School District 41 (Burnaby)** between October 1 and December 31, 2021. No action is required on your part, however we hope that you will find this information useful and share it within your organization.

These reports provide information about the complaint files we closed regarding your organization within the last quarter, including both files we investigated and files we closed without investigation. Files currently open with the office are not included in these reports.

Enclosed you will find detailed reports containing the following:

- A one-page report listing the number of files closed and the category under which they were closed. The categories we use to close files are based on the sections of the *Ombudsperson Act*, which gives the Ombudsperson the authority to investigate complaints from the public regarding authorities under our jurisdiction. A more detailed description of our closing categories is available on our website at: <https://bcombudsperson.ca/assets/media/QR-Glossary.pdf>.
- *If applicable*: Copies of closing summaries written about the complaint files we investigated. These summaries provide an overview of the complaint received, our investigation and the outcome. Our office produces closing summaries for *investigated* files only, and not for enquiries or those complaints we chose not to investigate.
- *If applicable*: A summary of the topics identified in the complaint files closed during the quarter. We track general complaint topics for all complaints we receive, and when applicable, we include authority-specific and/or sector-specific topics for your organization and/or sector. Our office tracks the topics of complaints we investigate and those we close without investigation, but not for enquiries. Because complaints to our office are confidential, we do not share complaint topic information if we received too few complaints to preserve the complainants' anonymity.

If your organization received too few complaints to produce a summary of complaint topics but you would like further information about the complaints our office received about your organization, our Public Authority Consultation and Training (PACT) Team can provide further details upon request.

Finally, we have been tracking complaints related to the COVID-19 pandemic under the general heading of "COVID-19." If you would like more detailed information about those complaints, please contact our PACT Team.

If you have questions about our quarterly reports, or if you would like to sign up for our mailing list to be notified of educational opportunities provided by our Public Authority Consultation and Training Team, please contact us at 250-508-2950 or [consult@bcombudsperson.ca](mailto:consult@bcombudsperson.ca).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jay Chalke".

Jay Chalke  
Ombudsperson  
Province of British Columbia

Enclosures



Type of complaint closure	# closed
<b>Enquiries</b> – Many people who contact us are not calling to make a complaint, but are seeking information or advice. These contacts are classified as <i>Enquiries</i> to distinguish them from <i>Complaints</i> , which are requests that our office conduct an investigation.	0
<b>Complaints with No Investigation</b> – Our office does not investigate every complaint it receives. First, we determine whether we have authority to investigate the complaint under the <i>Ombudsperson Act</i> . We also have discretion to decline to investigate for other reasons specified in the <i>Ombudsperson Act</i> .	1
<b>Early Resolution Investigations</b> – Early Resolution investigations provide an expedited process for dealing with complaints when it appears that an opportunity exists for the authority to take immediate action to resolve the issue. Typical issues that are addressed through Early Resolution include timeliness, communication, and opportunities for internal review.	0
<b>Complaint Investigations</b> – When we investigate a complaint we may conclude with a determination that a complaint is not substantiated, or with a negotiated settlement of the complaint, or with public findings and recommendations. We may also exercise discretion to cease investigation for a number of other reasons specified in the <i>Ombudsperson Act</i> .	Total: 1
<b>Reason for closing an Investigation:</b>	
Pre-empted by existing statutory right of appeal, objection or review.	0
Investigation ceased with no formal findings under the <i>Ombudsperson Act</i> .	
More than one year between event and complaint	0
Insufficient personal interest	0
Available remedy	0
Frivolous/vexatious/trivial matter	0
Can consider without further investigation	1
No benefit to complainant or person aggrieved	0
Complaint abandoned	0
Complaint withdrawn	0
<b>Complaint settled in consultation with the authority</b> - When an investigation leads us to conclude that action is required to resolve the complaint, we try to achieve that resolution by obtaining the voluntary agreement of the authority to settle the complaint. This allows matters to be resolved fairly for the complainant and authority without requiring a formal finding of maladministration.	0
Complaint substantiated with formal findings under the <i>Ombudsperson Act</i> .	0
Complaint not substantiated under the <i>Ombudsperson Act</i> .	0
<b>Ombudsperson Initiated Investigations</b> – The Ombudsperson has the authority to initiate investigations independently from our process for responding to complaints from the public. These investigations may be ceased at the discretion of the Ombudsperson or concluded with formal findings and recommendations.	0



*Notice: Use of this document as evidence against an individual or institution in a court or tribunal proceeding is prohibited by s. 20(2) of the Ombudsperson Act.*

## Closing Summary Index

Closing summaries are provided for all investigated files closed in each quarter. Identifying information is removed from the closing summary itself to allow for broader distribution within your organization for quality improvement purposes without disclosing personal information. The table below provides an index of these investigated files and lists the complainant's name, file number and authority contact involved. Files closed under our Early Resolution Program are also identified. This identifying information is provided separately to assist you in following up on individual files with involved staff as needed.

File Number	Complainant	Authority	Authority Contact	ER file
		School District 41 (Burnaby)	Mr. Richard Per Assistant Superintendent of Schools	



<b>Authority:</b>	School District 41 (Burnaby)
<b>File Number:</b>	[REDACTED]
<b>Closing Date:</b>	25-Oct-2021
<b>Closing Status:</b>	<i>Closed; Investigation; Ceased (discretion) (s.13); Can consider without further investigation (s.13(e)); No findings</i>
<b>General Complaint Topics:</b>	Process or Procedure
<b>Authority-specific Complaint Topics:</b>	Special Education

Our office received a complaint from a person regarding how School District 41 (Burnaby) responded to issues the person raised with the District about student safety. The person told us that they did not believe that the District provided sufficient consideration to the safety concerns that the person raised and did not allocate appropriate resources to create a safe learning environment for students with special needs. The person told us that as a consequence, staff and students were at risk of experiencing physical harm due. Further, the person told us that they were not provided with the direct response to their concerns from the District that they had requested.

Our office investigated whether the District responded reasonably to the person's concerns about student safety. As part of our investigation, we spoke with the Assistant Superintendent who provided us with a variety of written records held by the District. After reviewing the documentation submitted by both the District and the complainant, we concluded that the District considered the concerns raised by the person and used their discretion to allocate resources to respond to the concerns. Additionally, we reviewed records that confirmed the District provided an opportunity for the person to be heard with respect to the concerns that they raised. We concluded that the District provided a reasonable response to the person's concerns, ended our investigation and closed our file.



**All School Districts**  
**School District 41 (Burnaby)**

*The tables below summarize the complaint topics we are tracking for your sector and/or authority and the number of times this topic was identified in the files (investigated and non-investigated complaints) that were closed in the most recent quarter.*

If you would like more information on the types of complaints we receive, please contact our Public Authority Consultation and Training Team: email us at [consult@bcombudsperson.ca](mailto:consult@bcombudsperson.ca) or call us at 250-508-2950.

**Sector-Specific Complaint Topics - All School Districts**

Special Education	1	7%
Student Suspension or Exclusion	2	13%
Student Safety	1	7%
Other	11	73%

**General Complaint Topics - All School Districts**

COVID-19	1	4%
Disagreement with Decision or Outcome	5	21%
Accessibility	1	4%
Delay	1	4%
Administrative Error	1	4%
Treatment by Staff	1	4%
Communication	1	4%
Process or Procedure	12	50%
Review or Appeal Process	1	4%