

# APPEALS BYLAW

## BYLAW 401

Effective Date, March 31, 2008

### BOARD OF EDUCATION SCHOOL DISTRICT NO. 73 (KAMLOOPS/THOMPSON)

(the "Board")

A Bylaw as required by *Section 11* of the *School Act, R.S.B.C. 1996, c.412*,  
to provide procedures  
for the Board of Education to hear appeals by parents and students.

A student entitled to participation in an educational program in the District, or his/her parent/guardian, may appeal a decision of an employee of the Board if such decision significantly affects the education, health or safety of the student. If a student under the age of 19 years initiates the appeal, a copy of the appeal will be sent to his/her parent/guardian.

"Decision" includes the failure or refusal of an employee to make a decision.

The following decisions are deemed to significantly affect the education, health or safety of a student:

- disciplinary suspension from school for a period in excess of fifteen (15) school days;
- other discipline imposed pursuant to ss. 2(b) and (c) of Policy No. 240;
- suspension from school for a health condition;
- placement in a specialized educational program; (grade placements with specific teachers are not considered placement in a specialized program)
- grade promotion and graduation;
- refusal to offer an educational program to a student 16 years of age or older;

and, any other decision that in the opinion of the Board significantly affects the education, health or safety of a student.

#### 1. Initial Steps

The formal appeal process will apply only after the following administrative procedures have failed to resolve the issue within a reasonable time:

- a) First, the student and/or parent must either meet with the employee who made the decision in question or with the school principal or immediate supervisor of the employee in order to solve the problem.
- b) Second, if the matter is still not resolved, the student and/or parent must meet with the Assistant Superintendent or designate having jurisdiction in order to solve the problem.

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c) Appeals Procedure

Every appeal to the Board pursuant to this policy must be initiated by a written Notice of Appeal directed to the Board through the Superintendent (with copies to the employee whose decision is the subject of the appeal and the school principal or immediate supervisor of the employee). An employee of the Board may assist a student/parent/guardian in completing the Notice of Appeal where the parent/guardian is unable to do so.

The Notice of Appeal shall state:

- a) the name, address, and school placement of the student (including, where appropriate, grade level and homeroom teacher);
- b) the name and address of the person(s) making the appeal;
- c) the decision which is being appealed;
- d) the date on which the student and/or parent or guardian bringing the appeal were informed of the decision;
- e) the name of the Board employee(s) who made the decision being appealed;
- f) the grounds for the appeal and the relief sought;
- g) summary of the steps taken by the student and/or parent or guardian to resolve the matter.

d) District Action

- a) Upon receipt of a Notice of Appeal, the Assistant Superintendent or designate must provide a copy of the Notice of Appeal to the employee whose decision is the subject of the appeal and must invite a written response from the employee and from the school principal or immediate supervisor of the employee. The Assistant Superintendent or designate, must prepare a report for the Board concerning the matter and must provide a copy of this report to the student and/or parent or guardian bringing the appeal, the employee(s) whose decision is the subject of the appeal, the school principal or immediate supervisor of the employee and the Superintendent. The Board must consider an appeal only after the Superintendent has determined that bonafide efforts have been made to resolve the matter in question through the consultation process as outlined in Section 1.

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- b) The Notice of Appeal must be initiated in a timely manner. The Board will invite written submissions from the student and/or parent or guardian bringing the appeal and may decide the appeal based on the written submissions. The Board may invite oral submissions from the appellant, the employee whose decision is the subject of the appeal and the school principal or immediate supervisor of the employee; or take any other steps deemed desirable or necessary. Where the Board considers it desirable to receive oral submissions, it shall set a time, date and place for this purpose and shall give notice to all parties concerned. At any time during the appeal process, the appellant is entitled to be accompanied by a parent, advocate, support person or interpreter/translator. Appellants must inform the Board at least two days prior to the appeal being heard who will be appearing to participate in the appeal.
- c) Appellants may choose to make their appeal in writing only. In such instances the appellants must be given copies of any written information considered by the Board in reaching a decision, and must be given an opportunity to reply to any such written information.
- d) The Board must decide the appeal based on the oral and/or written submissions and reports presented to it.
- e) The Board may make any interim decision it considers necessary pending the disposition of the appeal.
- f) The Board may request the Superintendent to instruct the Assistant Superintendent to investigate matters pertaining to appeals and to make recommendations on whether an appeal should be heard. In such circumstances, the Assistant Superintendent must prepare a written report to the Board and must provide a copy to the appellant and to the employee involved.
- g) The Board must make a decision within forty-five (45) days of the date on which the Board receives the appeal, and shall make the award as soon as practicable after all the information is gathered and shall promptly notify, in writing, the appellant, the employee involved, and the school principal or the immediate supervisor of the employee of their decision.
- h) The decision of the Board may be appealed to a Superintendent of Achievement in accordance with the provisions of the *School Act*.
- i) The Board may refuse to hear an appeal where:
  - i) the appeal has not been initiated within a reasonable time from the date the decision affecting the student's education, health or safety was made; or
  - ii) the appellant has refused or neglected to take the initial steps set out in Section 1. above; or

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- iii) the Board determines that the decision does not significantly affect the student's education, health or safety.
  - j) Appeals and decisions on appeals will usually be In-Camera. All appeals will be heard individually. The Board may decide to hear an appeal in public, at the request of the appellant, provided the Board is satisfied that the public interest favours hearing or deciding the appeal in public and that this would not breach the privacy of an individual or release confidential information or disclose any other information that under the *Freedom of Information and Protection of Privacy Act* should not be disclosed.
  - k) The Board may consider an appeal notwithstanding any defect in form or other technical irregularity.
  - l) No decision of the Board under this policy shall be interpreted as abrogating any right, benefit or process contained in the employment contract of the employee whose decision is the subject of the appeal, or depriving the employee of any right or process under law.
- i. Procedure for Hearing Appeals**
- a) The Vice-Chairperson will ensure that all parties concerned have received written information pertinent to the appeal prior to the appeal being heard.
  - b) The Board will listen to the appellant without interruption as the appellant makes submissions.
  - c) At the end of the appellant's submissions, the Board members may ask questions to clarify the appellant's position.
  - d) The Board will then listen to the Assistant Superintendent or designate without interruption as he/she presents his/her submissions.
  - e) At the end of the Assistant Superintendent's or designate's submissions, the Board members may ask questions to clarify the Assistant Superintendent's or designate's position.
  - f) Once all questioning by the Board is complete the parties involved will be asked to leave. The Board will then decide whether to uphold or set aside the decision of the staff. The Assistant Superintendent or his/her designate must not participate in the Board deliberations.

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- g) The decision must be communicated in writing by the Board member chairing the appeal to the appellant, his/her parent/guardian, the employee, the school principal or immediate supervisor of the employee, the Assistant Superintendent and the Superintendent. The decision must be communicated forthwith after the Board has made its decision.

Title

This Bylaw may be cited as School District No. 73 (Kamloops/Thompson) Appeals Bylaw.

Read a first time the March 31, 2008

Read a second time the March 31, 2008

Read a third time, passed and adopted the March 31, 2008

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Board Chairperson

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Secretary-Treasurer