

## A Parent's Guide to Effective Advocacy

**Your rights and your child's rights in the BC School System.** More information can be found on the Manual of School Law: [www.bced.gov.bc.ca/legislation/schoollaw](http://www.bced.gov.bc.ca/legislation/schoollaw)

### **THE BC SCHOOL ACT**

- Part II, Section 4: *A student is entitled to consult with a teacher, principal, vice principal or director of instruction with regard to that student's educational program.*  
[http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20S%20--/05\\_School%20Act%20\[RSBC%201996\]%20c.%20412/00\\_Act/96412\\_02.xml#section4](http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20S%20--/05_School%20Act%20[RSBC%201996]%20c.%20412/00_Act/96412_02.xml#section4)

Part II, Section 7(1): A parent of a student of school age attending a school is entitled

- a) to be informed, in accordance with the orders of the minister, of the student's attendance, behaviour and progress in school,
- b) [Repealed 2015-24-5.]
- c) to belong to a parents' advisory council established under section 8.  
[http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20S%20--/05\\_School%20Act%20\[RSBC%201996\]%20c.%20412/00\\_Act/96412\\_02.xml#section4](http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20S%20--/05_School%20Act%20[RSBC%201996]%20c.%20412/00_Act/96412_02.xml#section4)

Part II, Section 7(2) A parent of a student of school age attending a school may, and at the request of a teacher, principal, vice principal or director of instruction must, **consult with** the teacher, principal, vice principal or director of instruction with respect to the student's educational program. [http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20S%20--/05\\_School%20Act%20\[RSBC%201996\]%20c.%20412/00\\_Act/96412\\_02.xml#section4](http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20S%20--/05_School%20Act%20[RSBC%201996]%20c.%20412/00_Act/96412_02.xml#section4)

Part II, Section 11: 11 (1) In subsections (2) and (4), "**decision**" includes the failure of an employee to make a decision.

(2) If a decision of an employee of a board significantly affects the education, health or safety of a student, the parent of the student or the student may, within a reasonable time from the date that the parent or student was informed of the decision, appeal that decision to the board.

(7) A board must: (a) make a decision under this section within 45 days of the date on which the board receives the appeal, and (b) promptly report that decision to the person making the appeal.

### **Removal of Student from School**

British Columbia's School Act makes the following provision for the removal of a student from school:

91 (4) If a teacher, principal, vice-principal or director of instruction suspects a student is suffering from a communicable disease or other physical, mental or emotional condition that would **endanger the health or welfare of the other students, the teacher, principal, vice-principal or director of instruction**, must report the matter to the school medical officer, to the school principal and to the superintendent of schools for the district and may exclude the student from school until a certificate is obtained for the student from the school medical officer or a private medical practitioner permitting the student to return to school.

Local policies and procedures should focus on proactive preventative measures rather than giving sole attention to reactive processes. Local agreements with employee groups may determine or influence the procedures adopted. The board must continue to make available an educational program for any student removed or excluded from school for health or safety reasons. It is therefore recommended that boards establish policies and procedures related to the provision of educational programs to excluded students.

**SPECIAL EDUCATION POLICY :** [http://www.bced.gov.bc.ca/specialed/special\\_ed\\_policy\\_manual.pdf](http://www.bced.gov.bc.ca/specialed/special_ed_policy_manual.pdf)

- Download the Special Education Services: A Manual of Policies, Procedures, and Guidelines
- Review the Glossary to familiarize yourself with the terminology
- Review the manual closely to learn about the rights you and your child have with respect to their access to an education and policies and procedures schools must abide by in order to ensure your child maintains their access.

## Legislation and Policies:

- Special Education Policy (in the manual): *All students should have equitable access to learning, opportunities for achievement, and the pursuit of excellence in all aspects of their educational programs*
- Rationale (in the manual): *Special education programs and services enable students with special needs to have equitable access to learning and opportunities to pursue and achieve the goals of their educational programs.*
- **Legislation/regulations**
- **Special Needs Students Order M150/89:** defines students with special needs, describes the obligation of school boards to consult with parents in the placement of students with special needs and describes policy regarding integration.
- **Individual Education Plan Order M638/95:** sets out the requirements for school boards to design and implement individual education plans for students with special needs.
- **Student Progress Report Order M191/94:** describes reporting requirements for students who have special needs.
- **Support Services for Schools Order M282/89.**
- **Section 11 School Act.**

## INCLUSION: (from the manual)

Inclusion British Columbia promotes an inclusive education system in which students with special needs are fully participating members of a community of learners. Inclusion describes the principle that all students are entitled to equitable access to learning, achievement and the pursuit of excellence in all aspects of their educational programs. The practice of inclusion is not necessarily synonymous with full integration in regular classrooms, and goes beyond placement to include meaningful participation and the promotion of interaction with others.

**Placement** (from the manual): A school board must ensure that a principal offers to consult with a parent of a child who has special needs regarding the student's placement in an educational program. A school board must provide a student who has special needs with an educational program in a classroom where the student is integrated with other students who do not have special needs, unless the educational needs of the student with special needs or other students indicate that the educational program for the student with special needs should be provided otherwise.

## **CASE LAW:**

1. Hewko v. B.C., 2006 BCSC 1638 <http://www.canlii.org/en/bc/bcsc/doc/2006/2006bcsc1638/2006bcsc1638.html> In November 2006 Madam Justice Koenigsberg ruled that the Abbotsford School District breached its **duty to consult and accommodate** when it repeatedly failed to provide a classroom aide who was capable of demonstrating instructional control of a student with autism, Darren Hewko.

## **Key Issues:**

- Duty to consult and meaningful consultation (throughout Hewko decision and Section 7 of the BC School Act)
- Instructional Contro :means “enabling the child to maintain focus on whatever subject is to be learned”: para. 298 of Hewko.
- Need for consistency (Paragraph 58)

Download the full interpretation of Hewko and how it applies to your child:

<https://testasdfunding.files.wordpress.com/2012/02/asbc-feat-hewko-interpretation.pdf>

2. Moore v. B.C. 2012 SCC 61, [2012] 3 S.C.R. 360 <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/12680/index.do> On November 9, 2012, the Supreme Court of Canada (SCC) handed down a landmark decision on disability rights. The Moore case establishes that students with disabilities are entitled to receive the accommodation measures they need to access and benefit from the service of public education. The Court said that adequate special education is not “a dispensable luxury” and further acknowledged that such measures serve as “the ramp that provides access to the statutory commitment to education made to all children in British Columbia.”