



Province of Alberta

## **EDUCATION ACT**

Statutes of Alberta, 2012  
Chapter E-0.3

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### **Office Consolidation**

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## Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

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# **EDUCATION ACT**

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**Preamble**

WHEREAS the following visions, principles and values are the foundation of the education system in Alberta;

WHEREAS education is the foundation of a democratic and civil society;

WHEREAS education inspires students to discover and pursue their aspirations and interests and cultivates a love of learning and the desire to be lifelong learners;

WHEREAS the role of education is to develop engaged thinkers who think critically and creatively and ethical citizens who demonstrate respect, teamwork and democratic ideals and who work with an entrepreneurial spirit to face challenges with resiliency, adaptability, risk-taking and bold decision-making;

WHEREAS students are entitled to welcoming, caring, respectful and safe learning environments that respect diversity and nurture a sense of belonging and a positive sense of self;

WHEREAS education is a shared responsibility and requires collaboration, engagement and empowerment of all partners in the education system to ensure that all students achieve their potential;

WHEREAS the educational best interest of the child is the paramount consideration in making decisions about a child's education;

WHEREAS parents have the right and the responsibility to make informed decisions respecting the education of their children;

WHEREAS parents have a prior right to choose the kind of education that may be provided to their children;

WHEREAS the Government of Alberta recognizes the importance of an inclusive education system that provides each student with the relevant learning opportunities and supports necessary to achieve success;

WHEREAS the Government of Alberta recognizes the importance of teaching essential knowledge to help students develop foundational competencies;

WHEREAS the Government of Alberta recognizes the need to smooth the transition for students between secondary education and post-secondary education or entry into the workforce;

WHEREAS the Government of Alberta recognizes the importance of enabling high quality and socially engaging learning

opportunities with flexible timing and pacing through a range of learning environments to meet diverse student needs and to maximize student success;

WHEREAS the Government of Alberta recognizes public schools, separate schools, Francophone schools, private schools, charter schools, early childhood services programs and home education programs as being valued and integral in providing choice in education to students and parents;

WHEREAS the Government of Alberta believes in and is committed to one publicly funded education system that provides a choice of educational opportunities to students and that honours the rights guaranteed under the Constitution of Canada in respect of minority language and minority denominational education through the dimensions of public, separate and Francophone schools;

WHEREAS the Government of Alberta is committed to providing choice to students in education programs and methods of learning; and

WHEREAS the Government of Alberta is committed to encouraging the collaboration of all partners in the education system to ensure the educational success of Alberta's First Nations, Metis and Inuit students;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

### **Interpretation**

**1(1)** In this Act,

- (a) "Attendance Board" means the Attendance Board established under section 45;
- (b) "attendance officer" means the superintendent or any other individual designated by a board as an attendance officer;
- (c) "board" means a board of trustees of a school division;
- (d) "bullying" means repeated and hostile or demeaning behaviour by an individual in the school community where the behaviour is intended to cause harm, fear or distress to one or more other individuals in the school community, including psychological harm or harm to an individual's reputation;
- (e) "charter school" means a school established under section 25;



- (f) “early childhood services program” means an education program provided pursuant to section 21;
- (g) “elector” means an elector as defined in the *Local Authorities Election Act*;
- (h) “expel” means to expel a student in accordance with section 37;
- (i) “Francophone” means an individual who has rights under section 23 of the *Canadian Charter of Rights and Freedoms*;
- (j) “Francophone education program” means an education program offered by a Francophone regional authority that is intended for the children of Francophones, but does not include an alternative program established under section 19;
- (k) “Francophone education region” means a Francophone education region established under section 126;
- (l) “Francophone regional authority” means a composite Francophone regional authority established under section 129 or a public Francophone regional authority or separate Francophone regional authority established under section 131;
- (m) “home education program” means an education program provided pursuant to section 20;
- (n) “independent student” means a student who is
  - (i) 18 years of age or older, or
  - (ii) 16 years of age or older and
    - (A) living independently as determined by a board in accordance with section 6, or
    - (B) a party to an agreement under section 57.2 of the *Child, Youth and Family Enhancement Act*;
- (n.1) “intimate image” means an intimate image as defined in the *Protecting Victims of Non-consensual Distribution of Intimate Images Act*;
- (n.2) “joint use and planning agreement” means an agreement referred to in section 53.1;

- (o) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (p) “municipality” means a municipality as defined in the *Municipal Government Act*;
- (q) “non-school building” means a building other than a school building owned or occupied, in whole or in part, by
  - (i) a school jurisdiction,
  - (ii) a school jurisdiction and a municipality, or
  - (iii) a school jurisdiction and another person;
- (r) “parent”, unless otherwise specified, means, in respect of a student or a child enrolled in an early childhood services program, the relevant individual referred to in subsection (2);
- (s) “principal” means a teacher designated as a principal or acting principal under this Act;
- (t) “private school” means a school registered under section 29;
- (u) “public school district” means an area of land established as a public school district pursuant to this Act or any predecessor Act or Ordinance;
- (v) “public school division” means a public school division established under section 112;
- (w) “resident student” means an individual who is entitled to have access to an education program under section 3 and who is a resident student as determined under section 4;
- (x) “school” means a structured learning environment through which an education program is offered to a student by
  - (i) a board,
  - (ii) a person responsible for the operation of a private school,
  - (iii) either a society incorporated under the *Societies Act*, or a company registered under Part 9 of the *Companies Act*, that is responsible for the operation of a charter school,
  - (iv) a person providing an early childhood services program,

- (v) a parent providing a home education program, or
- (vi) the Minister;
- (y) “school building” means a building used for the instruction or accommodation of students that is owned or occupied, in whole or in part, by
  - (i) a school jurisdiction,
  - (ii) a school jurisdiction and a municipality, or
  - (iii) a school jurisdiction and another person;
- (z) “school building project” means
  - (i) the purchase, erection, relocation or renovation of,
  - (ii) the making of structural changes in,
  - (iii) the addition to or extension of, or
  - (iv) the building of access roads or site preparation for, a school building;
- (aa) “school council” means a school council established under section 55;
- (bb) “school division” means a school division established under section 112;
- (cc) “school jurisdiction” means a board, the Lloydminster Public School Division or the Lloydminster Roman Catholic Separate School District;
- (dd) “separate school district” means an area of land established as a separate school district pursuant to this Act or any predecessor Act or Ordinance;
- (ee) “separate school division” means a separate school division established under section 112;
- (ff) “separate school region” means a separate school region established under section 123;
- (gg) “special school tax levy” means a tax that is authorized pursuant to Part 6, Division 5;
- (hh) “student” means a person who is

- (i) enrolled in a school, or
- (ii) required under section 7 to attend school,  
but does not include a child younger than 6 years of age who is enrolled in an early childhood services program;
- (ii) “superintendent” means a person appointed as a superintendent of schools under section 222;
- (jj) “suspend”, with respect to a student, means to suspend a student in accordance with section 36;
- (kk) “teacher” means a person who holds a certificate of qualification as a teacher issued under this Act;
- (ll) “trustee” means a member of a board;
- (mm) “unorganized territory” means any area in Alberta that is not included within a public or separate school district or a school division.

**(1.1)** Without limiting the generality of the definition of “bullying” in subsection (1)(d), bullying includes the distribution of an intimate image of another person knowing that the person depicted in the image did not consent to the distribution, or being reckless as to whether or not that person consented to the distribution.

**(2)** For the purposes of subsection (1)(r), the parent is

- (a) subject to subsection (3),
  - (i) the guardian as set out in section 20 of the *Family Law Act*,
  - (ii) the guardian appointed under Part 1, Division 5 of the *Child, Youth and Family Enhancement Act*, if the guardian notifies the board in writing of the guardian’s appointment, or
  - (iii) the guardian appointed under section 22 or 23 of the *Family Law Act*, if the guardian notifies the board in writing of the guardian’s appointment,
- (b) notwithstanding clause (a), the guardian of a student appointed under a temporary or permanent guardianship order under section 31 or 34 of the *Child, Youth and Family Enhancement Act*, a permanent guardianship agreement under section 11 of the *Child, Youth and Family Enhancement Act* or a private guardianship order under

section 56 of the *Child, Youth and Family Enhancement Act*, if the guardian notifies the board in writing of the guardian's appointment, or

- (c) notwithstanding clauses (a) and (b), the Minister of Justice and Solicitor General, if the student is in custody under the *Corrections Act*, the *Corrections and Conditional Release Act* (Canada) or the *Youth Criminal Justice Act* (Canada).

(3) The authority of a guardian to act under this Act is subject to any limitation imposed by law on the authority of the guardian, and where a person claims to be a parent or guardian or claims the existence of any limitation on the authority of a parent or guardian, the onus is on that person to provide proof of the claim.

(4) For the purposes of this Act,

- (a) "resident of Alberta" means a person
  - (i) who is lawfully entitled to be or to remain in Canada, and
  - (ii) who is living and ordinarily present in Alberta, but does not include a tourist or visitor to Alberta;
- (b) "resident of Canada" means a person
  - (i) who is lawfully entitled to be or to remain in Canada, and
  - (ii) who is living and ordinarily present in Canada, but does not include a tourist or visitor to Canada.

2012 cE-0.3 s1; 2015 c6 s2; 2017 cP-26.9 s11; 2019 c7 s3;  
2019 c22 s2

#### **Limitations**

**2** The exercise of any right or the receipt of any benefit under this Act is subject to the limitations that are reasonable in the circumstances under which the right is being exercised or the benefit is being received.

## **Part 1**

### **Access to Education**

#### **Right of access to education**

**3(1)** Every person

- (a) who at September 1 in a year is 6 years of age or older and younger than 19 years of age,
- (b) who is a resident of Alberta, and
- (c) who has a parent who is a resident of Canada,

is entitled to have access in that school year to an education program in accordance with this Act.

**(2)** A board may permit an individual

- (a) who at September 1 in a year is younger than 6 years of age or older than 18 years of age, and
- (b) who complies with subsection (1)(b) and (c),

to have access in that year to an education program in accordance with this Act.

2012 cE-0.3 s3;2019 c7 s4

#### **Resident student**

**4(1)** Subject to this section, a student is a resident student of the board of the school division in which the student's parent resides.

**(2)** For the purposes of this section and section 59,

- (a) a student who is in the care of a foster parent under the *Child, Youth and Family Enhancement Act* is deemed to be a resident student of the board of the school division in which the foster parent resides, unless subsection (5) applies, and
- (b) a student who has a disability and is the subject of an agreement under the *Family Support for Children with Disabilities Act* is deemed to be a resident student of the board of the school division in which the student resides.

**(3)** Subject to this section, every student is a resident student of a board of a public school division.

**(4)** Where a separate school district is established, an individual residing within the boundaries of the separate school district who is of the same faith as those who established that district, whether Protestant or Roman Catholic,

- (a) is a resident of the separate school division responsible for operating the separate school district, and
- (b) is not a resident of the public school division.

(5) A child intervention worker under the *Child, Youth and Family Enhancement Act* may deem a student to be a resident student of the board that represents the faith of the student if

- (a) the student is in the care of a foster parent under the *Child, Youth and Family Enhancement Act*,
- (b) the faith of the student, whether Protestant or Roman Catholic, differs from the faith of the foster parent, and
- (c) the foster parent resides in an area where a separate school district has been established.

(6) If a student

- (a) is under 16 years of age and is not the subject of an order or agreement under the *Child, Youth and Family Enhancement Act*, and
- (b) is a child in respect of whom financial assistance is being provided under section 105.8 of the *Child, Youth and Family Enhancement Act*,

the student is a resident student of the board of the school division in which the student resides.

(7) The following students are resident students of the Government:

- (a) a student who resides in unorganized territory and who is not an Indian as defined in the *Indian Act* (Canada) residing on a reserve pursuant to the *Indian Act* (Canada);
- (b) a student in custody under the *Corrections Act*, the *Corrections and Conditional Release Act* (Canada), the *Youth Justice Act* or the *Youth Criminal Justice Act* (Canada) who resides in an institution or a group home prescribed by the Minister as an institution or a group home to which this clause applies;
- (c) a student
  - (i) who is in the custody or under the guardianship of the Crown under the *Child, Youth and Family Enhancement Act*, and
  - (ii) who resides in an institution or a group home prescribed by the Minister as an institution or a group home to which this clause applies that is operated or approved by the Government;

- (d) a student who is under long-term medical care who resides or is placed in a program in an institution that is under the control, direction or administration of the Government.

**(8)** If each parent is a resident of a different school division,

- (a) the parents must choose in writing one of those school divisions,
- (b) the student is a resident student of the board of the chosen school division,
- (c) the student must attend the school the student is directed to attend by the board of the chosen school division in accordance with section 10, and
- (d) the board of either school division may require that the choice of the parents remains in effect during the school year in respect of which it is made.

**(9)** If a parent is limited by law in exercising an authority under subsection (8)(a) and that parent is a resident of a school division different than that of the other parent, the other parent may choose which of the 2 divisions in which the student is to attend school, and subsection (8)(b) to (d) apply.

**(10)** If the parents referred to in subsection (8) do not choose a school division under subsection (8), the Minister shall designate the board of a school division of which one parent is a resident as the board of which the student is a resident student.

**(11)** If the residence of the parent of a student changes after the commencement of a school year, the parent must designate the student to be a resident student of one of the following for the balance of that school year:

- (a) the board of the school division in which the student resides after the change,
- (b) the board of the school division in which the student resided immediately before the change, or
- (c) the Government if the student
  - (i) resides in unorganized territory after the change, or
  - (ii) resided in unorganized territory immediately before the change.



(12) If a parent of a student dies and, as a result of the death, the student no longer has a living parent who is a resident of the school division of whose board the student is a resident student, the student may remain a resident student of that board notwithstanding subsections (1) to (11).

(13) If there is a dispute as to the number of resident students of a board, the Minister may determine the number or the method to be used to calculate the number.

(14) If there is a dispute as to the residency of a student, the Minister may determine that the student is a resident student of a particular board.

2012 cE-0.3 s4;2015 c6 s3;2019 c7 s5

### **Residence**

**4.1** For the purposes of this Act, the place of residence of a person is governed by the following:

- (a) a person is deemed to have only one place of residence;
- (b) a person's residence is the place where that person ordinarily lives and sleeps and to which, when absent from the residence, that person intends to return.

2020 c11 s3

**5** Repealed 2015 c6 s4.

### **Independent student**

**6(1)** In determining whether a student is living independently for the purposes of this Act, a board may consider the following:

- (a) whether the student or the student's parent has made a statement in writing indicating that the student is living independently;
- (b) the student's living arrangements;
- (c) whether the student is financially independent or contributes financially to his or her maintenance;
- (d) whether the student is responsible for the making of significant decisions regarding matters such as health care;
- (e) any other factor the board considers relevant.

(2) Notwithstanding any other provisions in this Act, an independent student is entitled to exercise all the rights and powers

and receive all the benefits and is subject to all the obligations under this Act that the student's parent would be entitled to exercise or receive or would be subject to, and the student's parent shall not exercise those rights, receive those benefits or be subject to those obligations.

2012 cE-0.3 s6;2015 c6 s5

### **Compulsory education**

#### **7(1)** Every person who

- (a) is a resident of Alberta and has a parent who is a resident of Canada,
- (b) at September 1 in a year is 6 years of age or older, and
- (c) subject to subsection (2), is younger than 16 years of age,

shall attend school.

**(2)** Subsection (1)(c) does not apply to a person who is younger than 16 years of age who has attained high school completion in accordance with the requirements prescribed in an order of the Minister under section 18.

**(3)** A board shall make all reasonable efforts to ensure that a student who is a resident student of the board or who is enrolled in a school operated by the board attends school.

**(4)** Notwithstanding subsection (1), a student is excused from attending school on a day on which the school is open if

- (a) the student is unable to attend by reason of sickness or other unavoidable cause,
- (b) the day is recognized as a religious holiday by the religious denomination to which the student belongs,
- (c) the principal of the school has suspended the student from school and the suspension is still in effect,
- (d) the student has been expelled from a school and has not yet been enrolled in another education program, or
- (e) the board or, if the student is enrolled in a private school or resides in unorganized territory, the Minister
  - (i) determines that the parent of the student has shown sufficient cause as to why the student should not be required to attend school, and

- (ii) excuses the student from attending school for a prescribed period of time.

**(5)** Where a student is excused from attendance at school under subsection (4)(c), that student is excused from attendance at school only during the period of time prescribed by the board or the Minister, as the case may be.

2012 cE-0.3 s7;2019 c7 s6

### **Enforcing school attendance**

**8(1)** In this section,

- (a) “judge” means a judge of the Provincial Court;
- (b) “order” means an order given under this section by a judge or a justice of the peace.

**(2)** If an attendance officer has reasonable and probable grounds to believe that a student is not attending school in accordance with section 7, the attendance officer may do any or all of the following:

- (a) enter, during school hours,
  - (i) any building or premises other than a dwelling place, and
  - (ii) if authorized by an order under subsection (5), a dwelling place,

where the attendance officer has reason to believe the student may be found or employed;

- (b) send the student who the attendance officer suspects is not attending school home or to school and accompany the student for that purpose;
- (c) deal with the student in accordance with the rules prescribed by the board.

**(3)** If

- (a) an attendance officer has reasonable and probable grounds to believe that a student who is not attending school in accordance with section 7 is located in a place or premises, including a dwelling place, or
- (b) a student does not comply with a proper direction given by an attendance officer,

the attendance officer may act under subsection (4).

(4) If subsection (3) applies, the attendance officer may make an ex parte application to a judge or, if a judge is not reasonably available, to a justice of the peace for either or both of the following orders:

- (a) if the judge or justice of the peace is satisfied that the student may be found in the place or premises, an order authorizing the attendance officer named in the order to enter the place or premises without force and search for the student;
- (b) an order requiring the student to comply with the directions of the attendance officer.

(5) On hearing an application under this section, the judge or justice of the peace, as the case may be, may grant the order applied for subject to any terms or conditions that the judge or justice of the peace considers appropriate in the circumstances.

#### **Attendance at school**

##### **9(1) Where**

- (a) a student who is required to attend a school under section 7 does not attend school, and
- (b) attempts to enforce school attendance under section 8 have, in the opinion of the board, not been effective,

the board of which the student is a resident student or that operates or supervises the school in which the student is enrolled may refer the matter to the Attendance Board.

##### **(2) Where a student who is required to attend a school under section 7**

- (a) is enrolled in a private school, and
- (b) does not regularly attend that private school,

and the person responsible for the operation of that private school has made all reasonable efforts to ensure that the student attends school, the person responsible for the operation of that private school shall refer the matter to the Attendance Board.

##### **(3) Before referring a matter respecting the attendance of a student to the Attendance Board, a board shall ensure**

- (a) that the student has been advised by the board or the attendance officer of the student's duty to attend school in accordance with section 7, and
  - (b) that all reasonable efforts have been made by the board or the attendance officer to enforce the student's attendance at school.
- (4) Before referring a matter respecting the attendance of a student to the Attendance Board, the person responsible for the operation of a private school shall ensure
- (a) that the student has been advised by that person of the student's duty to attend school in accordance with section 7, and
  - (b) that all reasonable efforts have been made by that person to enforce the student's attendance at school.

**Enrolment in school operated by board**

- 10(1)** Subject to subsection (2), a board shall direct a resident student of the board to enrol in and attend a particular school operated by the board.
- (2) A board shall enrol a resident student of the board in the school operated by the board that is requested by the parent of the student if, in the opinion of the board asked to enrol the student, there are sufficient resources and facilities available to accommodate the student.
- (3) Where a board establishes an attendance area for a school, a resident student of a board who resides in the attendance area for the school must be given priority over a student who does not reside in the attendance area.
- (4) A board shall, for that school year, enrol a resident student of another board in the school operated by the board that is requested by the parent of the student if, in the opinion of the board asked to enrol the student, there are sufficient resources and facilities available to accommodate the student.
- (5) Notwithstanding subsections (2) and (4), a board may direct a student who requests enrolment in a senior high school program beyond a 3rd school year to attend a school designated by the board.
- (6) A board shall enrol a resident student of the Government in a school operated by the board as requested by the Minister.

(7) A parent of a student enrolled in a school operated by a board shall not request that the student be enrolled in another school during a school year unless the board operating the other school consents.

### **Responsibility to students**

**11(1)** A board shall ensure that each of its resident students is provided with an education program consistent with the requirements of this Act and the regulations.

(2) A board shall provide to each student enrolled in a school operated by the board an education program consistent with the requirements of this Act and the regulations that will give the student the opportunity to meet the standards of education set by the Minister.

(3) In respect of a student referred to in subsection (2), if a student's behavioural, intellectual, learning, communication or physical characteristics, or a combination of any of them, impair the student's ability and opportunity to learn, a board may determine that the student is in need of specialized supports and services.

(4) Subject to section 40, a student who is determined by a board to be in need of specialized supports and services is entitled to have access to those supports and services in an education program provided in accordance with this Act that will give the student the opportunity to meet the standards of education set by the Minister.

(5) Before providing specialized supports and services to a student, a board shall

- (a) consult with the parent of the student, and
- (b) where appropriate, consult with the student.

(6) The Minister may make regulations respecting the delivery of specialized supports and services.

2012 cE-0.3 s11;2015 c6 s6

### **International students**

**12** A board shall enrol all individuals who are entitled under section 3 to have access to an education program in a school year before enrolling an individual who is not entitled under section 3 to have access to an education program in that school year.

**Tuition fees**

**13(1)** A board shall not charge any tuition fees with respect to the enrolment in a school operated by the board of its resident students or the resident student of any other board or the Government.

**(2)** A board may charge tuition fees in respect of an individual who attends a school operated by the board and who is not a resident student of the board or any other board or the Government.

**(3)** Where a board may charge a tuition fee under subsection (2), the board may determine the amount of the tuition fee.

**Francophone education**

**14(1)** If an individual has rights under section 23 of the *Canadian Charter of Rights and Freedoms* to have the individual's children receive school instruction in French, the individual's children are entitled to receive that instruction in accordance with those rights wherever in Alberta those rights apply.

**(2)** The Minister may make regulations

- (a) respecting the education generally of students whose parents are Francophones, and
- (b) notwithstanding any other provision of this Act, respecting any matter required to give effect to subsection (1).

**(3)** A student who is enrolled in a school operated by a Francophone regional authority is entitled to receive school instruction in French.

**Enrolment in Francophone school**

**15(1)** If a student's parent is a Francophone who requests that the student be enrolled in a school operated by a Francophone regional authority and the student resides in the Francophone education region within the distance from the school, as determined by the Francophone regional authority, the student is entitled to attend that school, and the Francophone regional authority shall

- (a) enrol the student in that school, and
- (b) ensure that the student is provided with an education program consistent with the requirements of this Act and the regulations that will give the student the opportunity to meet the standards of education set by the Minister.

**(2)** If a student's parent is a Francophone who requests that the student be enrolled in a school operated by a Francophone regional

authority and the student does not reside in the Francophone education region within the distance from the school, as determined by the Francophone regional authority, the Francophone regional authority

- (a) may enrol the student in that school under the terms set by the Francophone regional authority, and
- (b) if the student is enrolled under clause (a), shall ensure that the student is provided with an education program consistent with the requirements of this Act and the regulations that will give the student the opportunity to meet the standards of education set by the Minister.

(3) If a student is the child of a Francophone and is enrolled in a school operated by a Francophone regional authority, the student continues to be a resident student of a board of a school division or, if section 4(7) applies to the student, of the Government, but section 11(1) does not apply to that board or the Minister, as the case may be, with respect to that student while the student is enrolled in a school operated by a Francophone regional authority.

(4) Notwithstanding subsections (1) and (2), a Francophone regional authority that is requested to enrol a student in a senior high school program beyond a 3rd school year may direct the student to attend a school designated by the Francophone regional authority.

(5) A Francophone regional authority shall enrol a resident student of the Government in a school operated by the Francophone regional authority as requested by the Minister.

2012 cE-0.3 s15;2020 c11 s4

## **Part 2**

### **Opportunities for Learning**

#### **Division 1**

#### **Diverse and Flexible Learning**

##### **Diversity and respect**

**16(1)** All courses or programs of study and instructional materials used in a school must reflect the diverse nature and heritage of society in Alberta, promote understanding and respect for others and honour and respect the common values and beliefs of Albertans.

(2) For greater certainty, the courses or programs of study and instructional materials referred to in subsection (1) must not promote or foster doctrines of racial or ethnic superiority or



persecution, social change through violent action or disobedience of laws.

**Language of instruction**

**17(1)** Every student is entitled to receive instruction in English.

**(2)** Notwithstanding subsection (1), a board may authorize the use of French or any other language as a language of instruction.

**(3)** The Minister may make regulations governing the provision of instruction in any language authorized under subsection (2).

**Courses, programs of study, etc.**

**18(1)** The Minister may do the following:

- (a) prescribe courses or programs of study;
- (b) prescribe requirements for the granting of credits, certificates and diplomas, including requirements for high school completion;
- (c) prescribe requirements with respect to course sequencing or advancement;
- (d) authorize learning and teaching resources for use in schools;
- (e) approve any course, program of study or learning and teaching resource that may be submitted to the Minister by a board or another operator of a school for use in a school.

**(2)** The Minister may, by order, do the following:

- (a) subject to the right of a board to provide religious instruction, prohibit the use of a course, a program of study or a learning and teaching resource in schools;
- (b) adopt or approve goals and standards applicable to the provision of education in Alberta.

**(3)** The *Regulations Act* does not apply to an order made under subsection (2).

**(4)** The Minister may issue directives respecting the assessment of persons by the Minister.

2012 cE-0.3 s18;2015 c6 s7

**Alternative programs**

**19(1)** In this section, “alternative program” means an education program offered by a board that

- (a) emphasizes a particular language, culture, religion or subject-matter, or
- (b) uses a particular teaching philosophy,

but that is not a religious education program offered by a separate school board of that religious denomination, a Francophone education program or specialized supports and services under section 11.

**(2)** A board may offer an alternative program to a student whose parent requests it where, in the opinion of the board,

- (a) the board has sufficient resources and facilities to offer the alternative program, and
- (b) the alternative program is appropriate to meet the student’s education needs.

**(3)** A board may offer an alternative program under subsection (2) that operates within the geographic boundaries of another board only if the other board has been requested to offer the alternative program and has refused.

**(4)** A board that offers an alternative program shall continue to offer an education program consistent with the requirements of this Act and the regulations to those students not enrolled in the alternative program.

**(5)** If a parent enrolls a student in an alternative program, the board may charge that parent fees related to the alternative program only for the purpose of defraying all or a portion of any non-instructional costs that

- (a) may be incurred by the board in offering the alternative program,
- (b) are necessary for the delivery of the alternative program, and
- (c) are in addition to the costs incurred by the board in providing education programs other than the alternative program.

2012 cE-0.3 s19;2015 c6 s8

**Home education programs**

**20(1)** A parent of a student may provide, at home or elsewhere, a type of home education program for the student in accordance with the regulations.

**(2)** The Minister may make regulations respecting any type of home education program, including, without limitation, regulations respecting

- (a) notification requirements to provide a home education program, and
- (b) supervision requirements, if any, of a home education program.

2012 cE-0.3 s20;2020 c11 s5

**Early childhood services programs**

**21(1)** A board or, with the approval of the Minister, another person may provide an early childhood services program to a child who, as of September 1, is younger than 6 years of age, if the parent of the child requests it.

**(2)** A board or, with the approval of the Minister, a person may provide an early childhood services program to a student who, as of September 1, is younger than 7 years of age if both the parent of the student and the board are of the opinion that the program will benefit the student.

**(3)** An early childhood services program provided by a board or a person under this section must be consistent with the goals and standards adopted or approved by the Minister under section 18(2)(b).

**(4)** Subject to the regulations, if a parent enrolls a child or a student in an early childhood services program, the board or other person that provides the early childhood services program may charge the parent fees in respect of the program.

**(5)** Unless otherwise stated, if a child referred to in subsection (1) attends a program under this section, the child is not, by reason of attending that program,

- (a) a resident student of the board, or
- (b) entitled to any of the rights or benefits given to a student under this Act.

**(6)** The Minister may make regulations respecting early childhood services programs.

2012 cE-0.3 s21;2015 c6 s9;2020 c11 s6

**Off-campus education programs**

- 22(1)** A board may provide off-campus education programs for its students.
- (2)** A board may enter into an agreement with a person to provide a workplace for students who are participating in an off-campus education program.
- (3)** When a student wishes to participate in an off-campus education program, the board shall obtain the consent of the student's parent or, if the student is 16 years of age or older, of the student.
- (4)** A student who is participating in an off-campus education program is considered to be attending school while at the workplace provided for the program.

**Continuing education**

- 23(1)** A board, in addition to meeting its obligations under section 11(1), may develop or provide courses to any person on any subject.
- (2)** A board shall employ teachers in accordance with section 198 to provide instruction in courses provided under this section that conform with the courses prescribed or approved under section 18, and may employ any person to provide instruction in other courses provided under this section.
- (3)** When a board develops or provides a course under subsection (1), the board shall ensure that the course does not interfere with the ability of the board to meet its obligations under section 11(1).
- (4)** Notwithstanding section 13, a board may charge a student registered in a course developed or provided by it under subsection (1) any fees it considers appropriate, but it may not charge a student who is registered in a course prescribed or approved under section 18 a fee for a course prescribed or approved under that section.
- (5)** Any person may apply to a board to register in a course developed or provided under subsection (1) and the board may in its discretion accept or refuse the applicant.
- (6)** A person who registers in a course developed or provided by a board under subsection (1) who is not otherwise a student enrolled in a school operated by the board is not, by reason of being registered in that course,

- (a) a resident student of that board, or
- (b) entitled to any of the rights and benefits given to a student under this Act.

## **Division 2 Charter Schools**

### **Application to establish charter school**

**24(1)** A person may apply to the Minister for the establishment of a charter school to be operated by a society incorporated under the *Societies Act* or by a company registered under Part 9 of the *Companies Act*.

**(2)** On receipt of an application under subsection (1), the Minister shall, in accordance with the regulations, provide notice of the application for a new charter school and the proposed programming to

- (a) every board of a public or separate school division and Francophone regional authority operating within the geographic area in which the charter school is to be established, and
- (b) the operators of any other charter schools as determined by the Minister.

**(3)** An application must be in the form and contain the information prescribed by the regulations.

2012 cE-0.3 s24;2020 c11 s7

### **Charter schools**

**25(1)** The Minister may issue a charter to establish a charter school in accordance with the regulations if the Minister is of the opinion that the program to be offered by the charter school

- (a) focuses on
  - (i) a learning style, a teaching style, approach or philosophy or pedagogy that is not already being offered by a board of a public or separate school division or Francophone regional authority operating within the geographic area in which the charter school will be located, or
  - (ii) vocation-based education,
- (b) has the potential to improve student learning outcomes,

- (c) demonstrates collaboration or engagement with a post-secondary institution or a school division, and
  - (d) has the potential to provide improvements to the education system as a whole and to enhance education research and innovation in Alberta.
- (2) The Minister may, in accordance with the regulations,
- (a) determine the initial term of a charter,
  - (b) renew the term of a charter, or
  - (c) repeal a charter.
- (3) The Minister may by regulation establish criteria for issuing a charter to a charter school on a continuing basis.

2012 cE-0.3 s25;2020 c11 s8

**Operation of charter schools**

- 26(1)** A charter school must be operated in accordance with the charter approved by the Minister.
- (2) A charter must include the items established by the Minister by regulation.
- (3) The society or company that is named in the charter shall operate the charter school.
- (4) The operator of a charter school must restrict its purposes to the operation of that charter school.
- (5) A charter school shall not charge a fee that may not be charged by a board under this Act.
- (6) A charter school shall not be affiliated with a religious faith or denomination.

**Application of Act to charter schools**

- 27(1)** The following provisions and any regulations made under them apply to a charter school and its operation, and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to the operator of a charter school or a member of the governing body of the operator of a charter school, as the case may be:
- (a) sections 1 and 2;
  - (b) Part 1 except sections 4, 4.1, 10, 11(1), 14 and 15;

- (c) Part 2 except sections 19, 20, 23, 28.1, 29 and 30;
- (d) Part 3 except sections 33(1)(k) and 34;
- (e) Part 4 except sections 51, 53.1, 59, 59.1, 62 and 69(a), Division 4, section 87(1)(a) and (2), section 91(b) and (c) and sections 92 to 96;
- (f) in Part 6, Division 1, sections 171 and 180, and Division 8 except section 191;
- (g) Part 7;
- (h) Part 8.

**(2)** Notwithstanding subsection (1), the Lieutenant Governor in Council

- (a) may exempt a charter school from the operation of any provision of this Act, except sections 24, 25 and 26, or of the regulations under section 25(3) or 28, and
- (b) may make any provision of this Act or the regulations apply to a charter school.

2012 cE-0.3 s27;2019 c7 s7;2020 c11 s9,14

### **Regulations**

**28(1)** The Minister may make regulations with respect to charter schools.

**(2)** An order under section 27(2) or a regulation under subsection (1) may be general in its application or may apply to a particular charter school or a class of charter schools.

## **Division 3 Private Schools**

### **Recognition of private schools**

**28.1** Private schools are recognized as being important in providing parents and students with choice in education, and a person responsible for the operation of a private school shall ensure students enrolled in the private school are provided with an education program consistent with the requirements set out in the Act and the regulations.

2020 c11 s10

**Private schools**

**29(1)** A school may be registered as a private school if the person who will be responsible for the operation of the proposed private school applies to the Minister and the Minister is satisfied that

- (a) the private school will provide education programs to its students that comply with any orders made under section 18(2)(b),
- (b) the private school will meet standards of student achievement acceptable to the Minister,
- (c) the person who will be responsible for the operation of the private school agrees to regular evaluation and monitoring by the Minister, and
- (d) the building that is to be used for school purposes meets and will continue to meet all applicable local and provincial health, safety and building standards.

**(2)** A private school may be accredited as an accredited private school if the person responsible for the operation of the private school applies to the Minister and

- (a) the Minister approves the education programs offered to its students and its programs of study, and any modification of them, and
- (b) the Minister is satisfied that
  - (i) the person responsible for the operation of the private school continues to meet the requirements under subsection (1),
  - (ii) the person responsible for the operation of the private school has the capacity, in accordance with the regulations, to deliver an appropriate education program to its students, and
  - (iii) individuals employed to teach at the school have the qualifications approved by the Minister.

**(3)** An application under subsection (1) or (2) must be in the form and contain the information prescribed by the regulations.

**(4)** The Minister may cancel or suspend the registration or accreditation of a private school

- (a) if the person responsible for the operation of the school does not comply, in the case of a private school, with subsection



(1) and, in the case of an accredited private school, with subsections (1) and (2),

- (b) if the evaluation or monitoring of a private school indicates that the private school does not have the capacity to deliver an appropriate education program to its students,
- (c) if, in the opinion of the Minister, the students at the private school are not achieving acceptable educational progress,
- (d) if the person responsible for the operation of the private school permits courses, programs of study or instructional materials that do not comply with section 16, or
- (e) if, in the opinion of the Minister, the financial situation of the school places the learning environment of the students at risk.

(5) No person shall operate a school as a private school unless it is registered under subsection (1).

(6) If a person operates as a private school a school that is not registered under subsection (1) or in respect of which the registration has been cancelled or suspended, the Minister may apply to the Court of Queen's Bench for an order restraining that person from operating the school during the time that

- (a) the school is not registered, or
- (b) the registration of the school is cancelled or suspended,

as the case may be.

(7) The Minister may make regulations respecting private schools, including, without limiting the foregoing, regulations establishing eligibility criteria that must be met by a person who proposes to operate a private school.

2012 cE-0.3 s29;2015 c6 s10

#### **Application of Act to private schools**

**30(1)** The following provisions and any regulations made under them apply to a registered or accredited private school and its operation, and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to the person responsible for the operation of a private school or a member of the governing body of the operator of a private school, as the case may be:

- (a) sections 1 and 2;

- (b) in Part 1, sections 3, 5, 6, 7 and 9(2) and (4);
- (c) in Part 2, sections 16, 17, 18, 28.1, 29 and 30;
- (d) in Part 3, sections 31, 32 and 35.1, section 42, except subsection (3), in respect of appeals referred to in section 58.2, and Division 7;
- (e) in Part 4, sections 56, 58.1, 58.2, 66 and 70;
- (f) in Part 7, sections 201 and 218;
- (g) in Part 8, sections 243, 244, 246, 254 and 259.

**(1.1)** Section 33(1)(d), (2) and (3) apply to an accredited private school and a board referred to in section 33(1)(d), (2) and (3) is deemed to include a person responsible for the operation of an accredited private school.

**(2)** In addition to the provisions referred to in subsection (1), section 20 and section 21, except subsection (5), and any regulations made under section 20(2) or 21(6), apply to an accredited private school and its operation, and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to the person responsible for the operation of an accredited private school or a member of the governing body of the operator of an accredited private school.

2012 cE-0.3 s30;2015 c1 s2;2015 c6 s11;2019 c7 s8;2020 c11 s11

## **Part 3**

### **Responsibilities and Dispute Resolution**

#### **Division 1**

#### **Responsibilities**

##### **Student responsibilities**

**31** A student, as a partner in education, has the responsibility to

- (a) attend school regularly and punctually,
- (b) be ready to learn and actively engage in and diligently pursue the student's education,
- (c) ensure that the student's conduct contributes to a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging,
- (d) respect the rights of others in the school,

- (e) refrain from, report and not tolerate bullying or bullying behaviour directed toward others in the school, whether or not it occurs within the school building, during the school day or by electronic means,
- (f) comply with the rules of the school and the policies of the board,
- (g) co-operate with everyone authorized by the board to provide education programs and other services,
- (h) be accountable to the student's teachers and other school staff for the student's conduct, and
- (i) positively contribute to the student's school and community.

**Parent responsibilities**

**32** A parent has the prior right to choose the kind of education that shall be provided to the parent's child, and as a partner in education, has the responsibility to

- (a) act as the primary guide and decision-maker with respect to the child's education,
- (b) take an active role in the child's educational success, including assisting the child in complying with section 31,
- (c) ensure that the child attends school regularly,
- (d) ensure that the parent's conduct contributes to a welcoming, caring, respectful and safe learning environment,
- (e) co-operate and collaborate with school staff to support the delivery of supports and services to the child,
- (f) encourage, foster and advance collaborative, positive and respectful relationships with teachers, principals, other school staff and professionals providing supports and services in the school, and
- (g) engage in the child's school community.

2012 cE-0.3 s32;2019 c7 s9

**Board responsibilities**

**33(1)** A board, as a partner in education, has the responsibility to

- (a) deliver appropriate education programming to meet the needs of all students enrolled in a school operated by the board and to enable their success,

- (b) be accountable and provide assurances to students, parents, the community and the Minister for student achievement of learning outcomes,
- (c) provide, where appropriate, for the engagement of parents, students, staff and the community, including municipalities and the local business community, in board matters, including the board's plans and the achievement of goals and targets within those plans,
- (d) ensure that each student enrolled in a school operated by the board and each staff member employed by the board is provided with a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging,
- (e) provide a continuum of supports and services to students that is consistent with the principles of inclusive education,
- (f) collaborate with municipalities, other boards and community-based service agencies in order to effectively address the needs of all students and manage the use of public resources,
- (g) collaborate with post-secondary institutions and the community to enable smooth transitions for students from secondary to post-secondary education;
- (h) establish and maintain governance and organizational structures that promote student well-being and success, and monitor and evaluate their effectiveness,
- (i) ensure effective stewardship of the board's resources,
- (j) recruit the superintendent and entrust the day-to-day management of the school division to the staff through the superintendent,
- (k) develop and implement a code of conduct that applies to trustees of the board, including definitions of breaches and sanctions, in accordance with principles set out by the Minister by order,
- (l) comply with all applicable Acts and regulations,
- (m) establish appropriate dispute resolution processes, and
- (n) carry out any other matters that the Minister prescribes.

(2) A board shall establish, implement and maintain a policy respecting the board's obligation under subsection (1)(d) to provide a welcoming, caring, respectful and safe learning environment that includes the establishment of a code of conduct for students that addresses bullying behaviour.

(3) A code of conduct established under subsection (2) must

- (a) be made publicly available,
- (b) be reviewed every year,
- (c) be provided to all staff of the board, students of the board and parents of students of the board,
- (d) contain the following elements:
  - (i) a statement of purpose that provides a rationale for the code of conduct, with a focus on welcoming, caring, respectful and safe learning environments;
  - (ii) one or more statements that address the prohibited grounds of discrimination set out in the *Alberta Human Rights Act*;
  - (iii) one or more statements about what is acceptable behaviour and what is unacceptable behaviour, whether or not it occurs within the school building, during the school day or by electronic means;
  - (iv) one or more statements about the consequences of unacceptable behaviour, which must take account of the student's age, maturity and individual circumstances, and which must ensure that support is provided for students who are impacted by inappropriate behaviour, as well as for students who engage in inappropriate behaviour,

and

- (e) be in accordance with any further requirements established by the Minister by order.

(4) An order of the Minister under subsection (1)(k) or (3)(e) must be made publicly available.

2012 cE-0.3 s33;2019 c7 s10

**Exemption from section 33**

**33.1** The Lieutenant Governor in Council may, by order, exempt an accredited private school or a class of accredited private schools from the operation of all or part of section 33.

2019 c7 s11

**Trustee responsibilities**

**34** A trustee of a board, as a partner in education, has the responsibility to

- (a) fulfil the responsibilities of the board as set out in section 33,
- (b) be present and participate in meetings of the board and committees of the board,
- (c) comply with the board's code of conduct, and
- (d) engage parents, students and the community in matters related to education.

## **Division 2 Bullying Awareness and Non-discrimination**

**Bullying Awareness and Prevention Week**

**35(1)** The 3rd week in November in each year is Bullying Awareness and Prevention Week.

**(2)** The purpose of subsection (1) is to promote awareness and understanding of bullying and its consequences in the school community.

**Support for student organizations**

**35.1(1)** If one or more students attending a school operated by a board request a staff member employed by the board for support to establish a voluntary student organization, or to lead an activity intended to promote a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging, the principal of the school shall

- (a) permit the establishment of the student organization or the holding of the activity at the school, and
- (b) designate a staff member to serve as the staff liaison to facilitate the establishment, and the ongoing operation, of the student organization or to assist in organizing the activity.

(2) For the purposes of subsection (1), an organization or activity includes an organization or activity that promotes equality and non-discrimination with respect to, without limitation, race, religious belief, colour, gender, gender identity, gender expression, physical disability, mental disability, family status or sexual orientation, including but not limited to organizations such as gay-straight alliances, diversity clubs, anti-racism clubs and anti-bullying clubs.

(3) The students may select a respectful and inclusive name for the organization, including the name “gay-straight alliance” or “queer-straight alliance”, after consulting with the principal.

(4) The principal shall immediately inform the board and the Minister if no staff member is available to serve as a staff liaison referred to in subsection (1), and if so informed, the Minister shall appoint a responsible adult to work with the requesting students in organizing the activity or to facilitate the establishment, and the ongoing operation, of the student organization at the school.

(5) If a staff member indicates to a principal a willingness to act as a staff liaison under subsection (1),

- (a) a principal shall not inform a board or the Minister under subsection (4) that no staff member is available to serve as a staff liaison, and
- (b) that staff member shall be deemed to be available to serve as the staff liaison.

2015 c1 s2

### **Division 3**

#### **Student Discipline**

##### **Suspension**

**36(1)** A teacher or a principal may suspend a student in accordance with subsection (2) or (3) if in the opinion of the teacher or principal

- (a) the student has failed to comply with section 31,
- (b) the student has failed to comply with the code of conduct established under section 33(2),
- (c) the student’s conduct, whether or not the conduct occurs within the school building or during the school day, is injurious to the physical or mental well-being of others in the school, or

- (d) the student has distributed an intimate image of another person in the circumstances described in section 1(1.1).
- (2) A teacher may suspend a student from one class period.
- (3) A principal may suspend a student
  - (a) from school,
  - (b) from one or more class periods or courses,
  - (c) from transportation provided under section 59, or
  - (d) from any school-related activity.
- (4) When a student is suspended under subsection (3), the principal shall
  - (a) immediately inform the student's parent of the suspension,
  - (b) report in writing to the student's parent all the circumstances respecting the suspension, and
  - (c) provide an opportunity to meet with the student's parent, and the student if the student is 16 years of age or older, to discuss the suspension.
- (5) A suspension may not exceed 5 school days, except in accordance with a recommendation for expulsion made by the principal under section 37.

2012 cE-0.3 s36;2017 cP-26.9 s11

**Expulsion**

- 37(1)** If a student is suspended in accordance with section 36, the principal may recommend, prior to the end of the student's suspension, that the board expel the student if
- (a) the student has displayed an attitude of wilful, blatant and repeated refusal to comply with section 31,
  - (b) the student has displayed an attitude of wilful, blatant and repeated refusal to comply with the code of conduct established under section 33(2),
  - (c) the student's conduct, whether or not the conduct occurs within the school building or during the school day, is injurious to the physical or mental well-being of others in the school, or



- (d) the student has distributed an intimate image of another person in the circumstances described in section 1(1.1).

**(2)** If the principal recommends expulsion under subsection (1), the principal shall

- (a) immediately inform the board of the recommendation for expulsion, and
- (b) report in writing to the board all the circumstances respecting the suspension and the principal's recommendation for expulsion,

and the student remains suspended until the board has made a decision under subsection (4).

**(3)** The student and the student's parent may make representations to the board with respect to the principal's recommendation to expel the student.

**(4)** The board shall, within 10 school days after the initial date of the suspension, make a decision

- (a) to return the student to school, class, a course or courses, transportation provided under section 59 or a school-related activity, or
- (b) to expel the student.

**(5)** The board may expel a student under subsection (4) only if the principal has recommended that the board expel the student.

**(6)** If a student is expelled under this section, the expulsion takes effect immediately following the board's decision under subsection (4)(b).

**(7)** The board may establish rules or conditions for an expelled student respecting the circumstances in which the student may be enrolled in the same or a different education program.

**(8)** An expulsion or any rule or condition under subsection (7) may apply to a student beyond the school year in which the student was expelled.

**(9)** When a student is expelled under this section, the board shall immediately notify, in writing, the student's parent, and the student if the student is 16 years of age or older,

- (a) of the expulsion and any rules or conditions that apply to the student, and

- (b) of the right to request a review under section 43.

**(10)** When a student is expelled under this section, the board shall

- (a) ensure that the student is provided with a supervised education program consistent with the requirements of this Act and the regulations,
- (b) ensure that the student is provided with supports and services in accordance with section 33(1)(e), and
- (c) make all reasonable efforts to ensure the attendance of the student in accordance with section 7.

2012 cE-0.3 s37;2017 cP-26.9 s11;2019 c7 s12

## **Division 4**

### **Student Advisory Council**

#### **Student advisory council**

**38** The Minister may establish a student advisory council consisting of as many student members appointed by the Minister as the Minister considers necessary for a term determined by the Minister.

#### **Functions of student advisory council**

**39** The student advisory council shall

- (a) at the Minister's request, advise the Minister or consult with the Minister respecting any matter determined by the Minister, and
- (b) perform any duty or function assigned to the council by the Minister.

## **Division 5**

### **Complex Education Needs Tribunal**

#### **Complex Education Needs Tribunal**

**40(1)** A board may determine that a student requires specialized supports and services that cannot be met in an education program that may be provided by the board under any other provision of this Act.

**(2)** If a board makes a determination under subsection (1) in respect of a student, the board shall refer the matter to a Complex Education Needs Tribunal, which shall confirm the board's determination or determine that the board is able to provide the student with an education program that is appropriate to the needs of the student.

(3) If a Complex Education Needs Tribunal confirms the determination of a board under subsection (1), it shall develop or approve a plan that is consistent with the needs of the student and, in accordance with that plan, shall

- (a) determine the relationship between the student, the board and any other person or government that may provide the services required under the plan, and
- (b) apportion the cost of providing the services required under the plan between the board and the Government.

(4) If a Complex Education Needs Tribunal determines that a board is able to provide the student with an education program that is appropriate to the needs of the student, the board shall provide the student with that education program.

(5) A board and the parent of a student in respect of whom a determination has been made under subsection (1) shall comply with a plan developed or approved by a Complex Education Needs Tribunal under this section.

(6) A plan developed or approved by a Complex Education Needs Tribunal under subsection (3) or this subsection must be reviewed by the same or any other Complex Education Needs Tribunal at least every 3 years after the plan is developed or approved until the student is no longer entitled to have access to an education program under this Act.

(7) The Minister may establish one or more Complex Education Needs Tribunals for the purposes of this section.

(8) For the purposes of carrying out its powers under this section, a Complex Education Needs Tribunal and each of its members have the powers of a commissioner under the *Public Inquiries Act*.

(9) A parent or a board may request in writing that the Minister review a confirmation made under subsection (2) or a plan developed or approved under subsection (3) by a Complex Education Needs Tribunal.

## **Division 6**

### **Dispute Resolution**

#### **School dispute resolution**

**41** A board shall establish a policy respecting the resolution of disputes or concerns at the school level between parents and school staff that supports a co-operative and collaborative learning environment for students.

**Appeal to board**

**42(1)** The failure of a person to make a decision is deemed to be a decision that may be appealed under this section.

**(2)** Where a decision that significantly affects the education of a student or of a child enrolled in an early childhood services program operated by the board is made by an employee of the board or an employee authorized by the board under section 52(1) to make a decision,

- (a) a parent of the student or child, and
- (b) in the case of a student who is 16 years of age or older, either a parent of the student or the student,

may appeal that decision to the board within a reasonable time from the date that the parent or student was informed of the decision.

**(3)** Prior to appealing a decision to the board under subsection (2), a parent of the student or child or, where subsection (2)(b) applies, the student, must have followed the school dispute resolution policy established by the board under section 41.

**(4)** A person who may review a student record under section 56 may appeal to a board a decision of an employee of the board respecting access to or the accuracy or completeness of the student record within a reasonable time from the date that the person was informed of the decision.

**(5)** For the purposes of hearing appeals under this section, a board shall establish an appeal procedure by resolution.

**(6)** A board may establish one or more committees for the purposes of carrying out the board's responsibilities under this section.

**(7)** A board may make any decision that it considers appropriate in respect of the matter that is appealed to it under this section.

**(8)** A board shall make a decision under this section forthwith after receiving a notice of an application for an appeal and shall report that decision, in writing, to the person making the appeal forthwith.

**Request for review by the Minister**

**43(1)** If a board makes a decision, on an appeal to it or otherwise, with respect to

- (a) the provision of specialized supports and services to a student in accordance with section 11(4) or to a child enrolled in an early childhood services program, or
- (b) the expulsion of a student,

a parent of a student or child affected by the decision, and the student if the student is 16 years of age or older, may request in writing that the Minister review the decision.

(2) A request under subsection (1) must be made within 60 days of the date on which the parent or the student, if the student is 16 years of age or older, is informed of the decision.

(3) Where a dispute arises as to which board is responsible for a student or child referred to in this section, a board or other person that is a party to the dispute may request in writing that the Minister review the matter.

(4) A person who may review a student record under section 56 may request in writing that the Minister review a decision of the board, made on an appeal to it or otherwise, respecting access to or the accuracy or completeness of the student record.

#### **Review by the Minister**

**44(1)** The Minister may review a matter as requested in accordance with this Act or the regulations and may review the matter in any manner the Minister considers appropriate in order to determine whether the decision of the board was reasonable in the circumstances.

(2) Where the Minister reviews a matter under subsection (1), the Minister may, subject to this Act and the regulations, make whatever decision with respect to the matter in dispute appears to the Minister to be appropriate in the circumstances, and that decision is final.

(3) The Minister may, by regulation, set out the circumstances in which the Minister will review a matter and the manner in which reviews will be conducted.

### **Division 7 Attendance Board**

#### **Establishment of Attendance Board**

**45** The Minister may, by order, establish an Attendance Board consisting of as many members appointed by the Minister as the

Minister considers necessary and designate from among the members a chair and one or more vice-chairs.

#### **Referral to Attendance Board**

**46** The Attendance Board may hear a matter referred to it pursuant to section 9 respecting the failure of a student to attend school as required under this Act.

#### **Mediation by Attendance Board**

**47(1)** Where a matter is referred to the Attendance Board by a board or the person responsible for the operation of a private school, the Attendance Board may attempt to mediate the matter by means of a case conference with the student, the student's parent and school staff.

**(2)** In the event that a case conference conducted pursuant to subsection (1) does not successfully resolve the matter, the Attendance Board may schedule a formal hearing of the Attendance Board in accordance with section 48.

**(3)** Notwithstanding subsection (1), where a matter is referred to the Attendance Board by a board or the person responsible for the operation of a private school, the Attendance Board may proceed directly to schedule a formal hearing of the Attendance Board in accordance with section 48.

#### **Hearing before Attendance Board**

**48(1)** For the purposes of conducting a hearing before the Attendance Board, the following applies:

- (a) notice in writing of the date, time, place and purpose of the hearing must be served at least 7 days before the commencement of the hearing on the parent of the student, on the student who is the subject of the hearing, if the student is capable of understanding the situation, and on any other person the Attendance Board directs;
- (b) the Attendance Board has, with respect to the holding of a hearing, the same power as is vested in the Court of Queen's Bench for the trial of civil actions
  - (i) to summon and enforce the attendance of witnesses,
  - (ii) to compel witnesses to give evidence on oath or otherwise, and

- (iii) to compel witnesses to produce documents, records and things;
- (c) the Attendance Board may require a board or a person responsible for the operation of a private school to produce to the Attendance Board, prior to a hearing, copies of all reports, statements, correspondence and other documents or things relating to the matter being heard;
- (d) if a person fails to attend, to answer questions or to produce an item as required under clause (b) or (c) or subsection (2) or (3), the Attendance Board may apply to the Court of Queen's Bench for an order committing that person for contempt in the same manner as if that person were in breach of an order or judgment of that Court;
- (e) the Attendance Board shall receive any evidence presented to it that is relevant to the matter being heard;
- (f) the rules of evidence applicable to judicial proceedings do not apply;
- (g) all oral evidence received must be taken down in writing or recorded by electronic means;
- (h) all the evidence taken down in writing or recorded by electronic means and all documentary evidence and things received in evidence at a hearing form the record of the proceeding;
- (i) a person on whom notice of the hearing is served and the person's counsel or agent are entitled to examine the record of the proceeding;
- (j) the Attendance Board may from time to time adjourn matters that are before the Board;
- (k) a hearing must be held in public;
- (l) notwithstanding clause (k), a hearing or any portion of it may be held in private if, in the opinion of the Attendance Board, it is in the public interest to do so;
- (m) a person who is likely to be affected by a hearing before the Attendance Board is entitled
  - (i) to appear before the Attendance Board,
  - (ii) to be represented by counsel or an agent, and

- (iii) to make representations to the Attendance Board;
  - (n) a witness attending a proceeding before the Attendance Board may be paid the same fees and allowances as a witness summoned to attend at the Provincial Court;
  - (o) notice of every order together with a copy of the written reasons for it, if any, must promptly be sent to
    - (i) a person on whom notice of the hearing was served, and
    - (ii) any person that the Attendance Board considers is substantially affected by it.
- (2) The Attendance Board may require the student or a parent of the student, or both, to attend proceedings before the Attendance Board.
- (3) Any person other than the student and a parent of the student who, in the opinion of the Attendance Board, has knowledge of the matter before the Attendance Board is a compellable witness in proceedings before the Attendance Board.
- (4) Notice under this section may be served personally on the person required to be served or by being sent to that person by registered or certified mail.

#### **Order of Attendance Board**

**49(1)** On hearing a matter referred to it, the Attendance Board may, subject to any terms or conditions that the Attendance Board considers proper in the circumstances, make an order doing one or more of the following:

- (a) directing the student to attend school;
- (b) directing a parent of the student to send the student to school;
- (c) subject to sections 11, 20 and 40, directing the student to take an education program set out in the order;
- (d) reporting the matter to a child intervention worker under the *Child, Youth and Family Enhancement Act*;
- (e) imposing on a parent of the student a monetary penalty not exceeding \$100 per day to be paid to the Crown for each day that the student does not attend school, up to a maximum of \$1000;



- (f) giving any other direction not referred to in clauses (a) to (e) that the Attendance Board considers appropriate in the circumstances.

**(2)** Notwithstanding subsection (1), the Attendance Board may at any time during the proceedings

- (a) make an interim order giving any directions to the student, a parent of the student, the board or the person responsible for the operation of the private school that the Attendance Board considers appropriate in the circumstances,
- (b) adjourn the proceedings before it for a period set by the Attendance Board, and
- (c) reconvene the proceedings to hear further evidence, if the Attendance Board considers it necessary to do so, consider the interim order and make a final order under subsection (1).

**(3)** A copy of an order of the Attendance Board made under subsection (1) may be filed with the clerk of the Court of Queen's Bench at the judicial centre closest to the place where the cause of the proceedings before the Attendance Board arose.

**(4)** On the filing of a copy of an order with the clerk of the Court of Queen's Bench pursuant to subsection (3), the order of the Attendance Board has the same force and effect as if the order were an order of that Court.

**(5)** A copy of the order as filed must be sent to the Minister and any person to whom notice of the order is sent.

2012 cE-0.3 s49;2019 c7 s13

#### **Attendance Board panels**

**50(1)** The chair or a vice-chair of the Attendance Board may designate a panel consisting of

- (a) one member, or
- (b) 3 or more members.

**(2)** Where a panel consists of 3 or more members, 2 members constitutes a quorum at a sitting of a panel of the Attendance Board.

**(3)** A decision made or other action taken at a sitting of a panel of the Attendance Board at which a quorum is present

- (a) is the decision or action of the Attendance Board, and

(b) binds all members of the Attendance Board.

(4) A panel of the Attendance Board has, with respect to its duties, the jurisdiction of the Attendance Board and may exercise all the powers of the Attendance Board under this Act and the regulations.

(5) The chair may designate a member of a panel of the Attendance Board to preside at any sitting of the panel at which the chair is not present.

(6) A panel of the Attendance Board shall conduct its sittings separately from those of another panel of the Attendance Board being conducted at the same time.

(7) Where a hearing is conducted by a panel of the Attendance Board and one or more members of the panel for any reason do not attend on any day or part of a day, the remaining members present may, if they constitute a quorum of the panel, continue with the hearing.

## **Part 4**

### **Board Powers and Elections**

#### **Division 1**

#### **Board Powers**

##### **Natural person powers**

**51(1)** A board has the capacity and, subject to this Act and the regulations, the rights, powers and privileges of a natural person.

(2) With respect to any right, power or privilege exercisable by a board, the Minister may, by regulation,

- (a) prohibit or restrict the use of the right, power or privilege;
- (b) provide that the right, power or privilege is to be exercised subject to any terms or conditions prescribed in the regulations.

(3) Notwithstanding subsection (1), a board shall not engage in or carry on any activity that is not consistent with the responsibilities of a board as set out in section 33.

##### **Delegation of power**

**52(1)** Subject to subsections (4) and (5), a board may authorize

- (a) any of its employees,

- (b) a committee of the board or a committee established by the board, or
- (c) a school council,

to do any act or thing or exercise any power that the board may do or exercise or is required to do or exercise.

**(2)** An authorization by a board under subsection (1) must be in the form of a resolution of the board.

**(3)** For the purposes of this Act, the doing of an act or thing or the exercise of a power by an employee of the board, a committee of the board, a committee established by the board or a school council authorized by a board under subsection (1) is deemed to be the doing of the act or thing or the exercise of the power by the board.

**(4)** A board shall not delegate

- (a) the power to make a bylaw under this Act,
- (b) the power to close a school or school building under section 62,
- (c) the power to requisition from a municipality that the board may have from time to time, or
- (d) the power to hold a hearing under section 212.

**(5)** A board shall not delegate, except to a superintendent employed by the board,

- (a) the power to suspend the services of a teacher, or
- (b) the power to terminate the services of a teacher.

#### **General powers and duties of boards**

**53(1)** A board shall

- (a) establish, maintain and implement policies necessary for fulfilling its responsibilities under section 33,
- (b) ensure that all policies are available and accessible to students, parents, board employees and others affected by the policies,
- (c) in co-operation with school councils, provide for parental and community engagement in schools, and

- (d) maintain, repair, furnish and keep in good order all its real and personal property.

**(2)** A board may

- (a) subject to section 18 and any regulations under this Act, develop, acquire or offer courses or programs,
- (b) subject to section 18 and any regulations under this Act, develop or acquire instructional materials for use in courses or programs or in schools, and
- (c) make policies, subject to any regulations under this Act, respecting the establishment, administration, management and operation of
  - (i) schools operated by the board, or
  - (ii) school buses and other vehicles used for the purposes of the board.

**Joint use and planning agreements**

**53.1(1)** In this section, “municipal reserve”, “municipal and school reserve” and “school reserve” have the meanings given to them in section 616 of the *Municipal Government Act*.

**(2)** Where on the coming into force of this section a board is operating within the municipal boundaries of one or more municipalities, the board must, within 3 years after this section comes into force, or if the Minister extends that period under subsection (4), within the extended period, enter into an agreement under section 670.1 of the *Municipal Government Act* with each of the municipalities.

**(3)** Where after the coming into force of this section a board commences operating within the municipal boundaries of a municipality, the board must, within 3 years after it commences operating in the municipality, or if the Minister extends that period under subsection (4), within the extended period, enter into an agreement under section 670.1 of the *Municipal Government Act* with the municipality.

**(4)** The Minister may extend the 3-year period under subsection (2) or (3) in respect of all boards or one or more specified boards.

**(5)** More than one board may be a party to an agreement referred to in this section.

(6) An agreement may be amended from time to time as the parties consider necessary or advisable.

2019 c22 s2

#### **Insurance and investment**

**54(1)** A board shall, in respect of its operations, keep in force adequate and appropriate policies of insurance for the purpose of, at a minimum, indemnifying the board and its employees and school councils in respect of claims for

- (a) damages for death or personal injury,
- (b) damage to property, and
- (c) damage to property owned by the board in respect of which the board has an insurable interest
  - (i) that the board has agreed to insure, or
  - (ii) for which the board otherwise has or may have assumed liability.

(2) A board may invest only in accordance with the regulations made under subsection (3)(b).

(3) The Minister may make regulations

- (a) governing the requirement of boards to
  - (i) acquire insurance, or
  - (ii) take part in schemes or arrangements to protect the board and its teachers and other employees with respect to loss or legal liability;
- (b) respecting the investment of money for the purpose of subsection (2).

#### **School council**

**55(1)** For each school operated by a board, a school council must be established in accordance with the regulations.

(2) The majority of the members of a school council must be parents of students enrolled in the school.

(3) A board of a separate school division may by resolution require that the parents of students enrolled in a school operated by the board who are members of the school council declare themselves to

be of the same faith as the electors of the separate school division, whether Protestant or Roman Catholic.

- (4) A school council may, at its discretion,
- (a) advise the principal and the board respecting any matter relating to the school,
  - (b) perform any duty or function delegated to it by the board in accordance with the delegation,
  - (c) consult with the principal so that the principal may ensure that students in the school have the opportunity to meet the standards of education set by the Minister,
  - (d) consult with the principal so that the principal may ensure that the fiscal management of the school is in accordance with the requirements of the board and the superintendent, and
  - (e) do anything it is authorized under the regulations to do.
- (5) Subject to the regulations, a school council may establish and implement policies in the school that the school council considers necessary to carry out its functions.
- (6) A school council may make bylaws governing its meetings and the conduct of its affairs.
- (7) Subject to the regulations, a board may establish and implement policies respecting school councils.
- (8) A board shall establish a dispute resolution process to address disputes between the principal and the school council with respect to policies proposed or adopted for a school.
- (9) The Minister, on the request of the board, may dissolve a school council without notice at any time if the Minister is of the opinion that the school council is not carrying out its responsibilities in accordance with this Act and the regulations.
- (10) Where a school council has been dissolved by the Minister pursuant to subsection (9), a school council must, in accordance with the regulations, be established after the start of the school year immediately following the year in which the school council was dissolved.
- (11) The Minister may make regulations

- (a) respecting the establishment of school councils, the election or appointment of the members of a school council, the term or other conditions of election or appointment and the dissolution of a school council;
- (b) respecting the roles of the principal and the school council of a school and their respective powers, duties and responsibilities;
- (c) respecting the re-establishment of school councils that have been dissolved by the Minister pursuant to subsection (9);
- (d) respecting any other matter the Minister considers necessary respecting school councils;
- (e) exempting a school or class of schools from the application of this section.

**Student records**

**56(1)** A board shall establish and maintain in accordance with the regulations a student record for

- (a) each student enrolled in a school operated by the board, and
- (b) each child or student enrolled in an early childhood services program provided by the board.

**(2)** A person, other than a board, providing an early childhood services program to a child shall establish and maintain in accordance with the regulations a student record for each child enrolled in the early childhood services program.

**(3)** The following persons may review the student record maintained in respect of a student or a child enrolled in an early childhood services program:

- (a) the student;
- (b) the student's parent, except where the student is an independent student;
- (c) the parent of a child enrolled in an early childhood services program.

**(4)** A person who is entitled to review a student record under subsection (3) may submit a request for a copy of the student record, along with any associated fee, to the board or a person other than the board providing an early childhood services program, and the board or the person other than the board providing the early

childhood services program shall provide a copy of the student record to the person.

(5) A person who provides information to a student record is exempt from any liability with respect to the provision of that information if that person, in providing that information,

- (a) acted in good faith,
- (b) acted within the scope of that person's duties and responsibilities, and
- (c) did not act in a negligent manner.

(6) If, on reviewing a student record, a person who is entitled to review the student record is of the opinion that the student record contains inaccurate or incomplete information, that person may request that the board or the person other than the board providing an early childhood services program rectify the matter.

(7) Where in accordance with the regulations a board or a person other than a board providing an early childhood services program is required to transfer a student record, the board or the person other than the board providing the early childhood services program shall do so in a timely manner.

(8) The Minister may make regulations respecting student records for students and children referred to in subsections (1) and (2).

2012 cE-0.3 s56;2015 c6 s12;2019 c7 s14

#### **School fees**

**57(1)** Notwithstanding section 13, a board may charge a parent of a student fees in accordance with the regulations.

(2) The Minister may make regulations respecting school fees.

#### **Religious and patriotic instruction or exercises**

**58(1)** A board may

- (a) prescribe religious instruction to be offered to its students;
- (b) prescribe religious exercises for its students;
- (c) prescribe patriotic instruction to be offered to its students;
- (d) prescribe patriotic exercises for its students;
- (e) permit persons other than teachers to provide religious instruction or exercises to its students.



(2) Where a teacher or other person providing religious instruction or exercises or a teacher providing patriotic instruction or exercises receives a written request signed by a parent of a student that the student be excluded from religious instruction or exercises or patriotic instruction or exercises, or both, the teacher or other person shall, in accordance with the request of the parent, permit the student

- (a) to leave the classroom or place where the instruction or exercises are taking place for the duration of the instruction or exercises, or
- (b) to remain in the classroom or place without taking part in the instruction or exercises.

**Notice to parent**

**58.1(1)** A board shall provide notice to a parent of a student where courses, programs of study or instructional materials, or instruction or exercises, include subject-matter that deals primarily and explicitly with religion or human sexuality.

(2) Where a teacher or other person providing instruction, teaching a course or program of study or using the instructional materials referred to in subsection (1) receives a written request signed by a parent of a student that the student be excluded from the instruction, course or program of study or use of instructional materials, the teacher or other person shall, in accordance with the request of the parent, permit the student, without academic penalty,

- (a) to leave the classroom or place where the instruction, course or program of study is taking place or the instructional materials are being used for the duration of the part of the instruction, course or program of study, or the use of the instructional materials, that includes the subject-matter referred to in subsection (1), or
- (b) to remain in the classroom or place without taking part in the instruction, course or program of study or using the instructional materials.

(3) This section does not apply to incidental or indirect references to religion, religious themes or human sexuality in a course, program of study, instruction or exercises or in the use of instructional materials.

2015 c1 s2

**Non-compliance**

**58.2(1)** If a board, teacher or other person fails to comply with section 58 or 58.1, that failure to comply is deemed to be a decision that may be appealed in accordance with section 42.

**(2)** A decision of the board under section 42 with respect to an appeal relating to subsection (1) is final.

2015 c1 s2

**Transportation**

**59(1)** Subject to the regulations, a board must provide for the transportation of a student to and from the site of the school in which the board has enrolled the student if

- (a) the student resides within the attendance area established by the board for the school,
- (b) the student resides within the boundaries of the school division, and
- (c) the criteria, if any, set out in the regulations are met.

**(2)** Where in the opinion of the Minister it is reasonable to do so, the Minister may direct a board to co-operate with another board with respect to the transportation of students.

**(3)** Subject to the regulations, a board may charge the parent of a student receiving transportation provided by the board any fee determined by the board.

**(4)** Repealed 2019 c7 s15.

**(5)** The Minister may make regulations

- (a) setting out criteria respecting the transportation of students that must be met by boards including criteria related to the age or grade of the student, the distance from the student's residence to the site of the school and any other geographical considerations;
- (b) respecting the transportation of students generally.

2012 cE-0.3 s59;2019 c7 s15

**Transport by parent**

**59.1(1)** A board may, instead of providing transportation under section 59, enter into an agreement with the parent of the student under which the parent will

- (a) convey the student to and from school or the bus route, and

- (b) receive payment, as determined by the board, for providing that service.

(2) A board is not under any liability to the parent of a student or to a student for negligence arising out of the student's being conveyed to and from school or the bus route pursuant to an agreement made under this section.

2019 c7 s16

#### **School day and year**

**60** A board shall determine and make publicly available for each school year the days, dates and number of days of school operation.

#### **Flags**

**61** A board shall ensure that the Canadian flag and the Alberta flag are displayed at each school operated by the board.

#### **Closure of schools**

**62(1)** A board may, only by resolution, permanently or temporarily

- (a) close a school, or
- (b) transfer students from one school building to another school building.

(2) A board shall establish, implement and make publicly available policies respecting the actions referred to in subsection (1).

(3) A policy established pursuant to subsection (2) must be consistent with any regulations made by the Minister under this section.

(4) Where a board is considering an action referred to in subsection (1), the board shall, in writing, notify

- (a) the parents of every student enrolled in the school that may be affected by the action considered under subsection (1), and
- (b) any other person, municipality or community organization who, in the opinion of the board, may be significantly affected.

(5) A policy established pursuant to subsection (2) related to the permanent closure of a school must provide for

- (a) adequate opportunity for the public to respond to the board's proposal to permanently close a school,
  - (b) a process by which the board shall fairly consider responses provided under clause (a),
  - (c) consideration of future growth or decline in student enrolment, and
  - (d) consideration of possible alternative educational or community uses for all or part of the school building.
- (6) Where a board decides to close a school permanently, the board shall notify the Minister in writing forthwith and include
- (a) the name of the school, and
  - (b) the effective date of the closure.
- (7) This section does not apply where the Minister directs a board to dispose of a school building pursuant to section 192.
- (8) The Minister may make regulations with respect to the permanent or temporary closure of schools by a board.

#### **Education services agreements for First Nations students**

- 63(1)** In this section, "Indian" means Indian as defined in the *Indian Act* (Canada).
- (2) The Minister may, by order, establish requirements or standards that apply to education services agreements between a board and
- (a) the Government of Canada or an agent of the Government of Canada, or
  - (b) a council of a band as defined in the *Indian Act* (Canada) or a person authorized by the council of a band,
- for the education of Indian children.
- (3) Where a board enters into an agreement with respect to the education of Indian children pursuant to subsection (2), the agreement must meet the requirements or standards established by the Minister.
- (4) The *Regulations Act* does not apply to an order made under subsection (2).

2012 cE-0.3 s63;2015 c6 s13

## **Division 2 Board Procedures**

### **Open meetings**

**64(1)** The meetings of a board must be held in public and no person may be excluded from them except for improper conduct.

**(2)** The chair of the board may cause to be excluded from a meeting any person who, in the opinion of the chair, is guilty of improper conduct at that meeting.

**(3)** Notwithstanding subsection (1), when a majority of the trustees present at a meeting of the board are of the opinion that it is in the public interest to hold the meeting or a part of the meeting in private for the purpose of considering any matter, the board may by resolution exclude any person from the meeting.

**(4)** When a meeting is held in private, the board does not have the power to pass a bylaw or resolution at that meeting except the resolution necessary to revert to an open meeting.

### **Inspection of documents**

**65(1)** At any reasonable time, an elector of a school division may with respect to the board of that school division inspect any one or more of the following items:

- (a) the agenda of any public meeting or board meeting;
- (b) the minutes of any public meeting or board meeting;
- (c) a budget adopted by the board;
- (d) a bylaw of the board;
- (e) an agreement entered into by the board;
- (f) an account of the board;
- (g) a financial statement prepared pursuant to a requirement of this Act.

**(2)** An elector of a school division may request from the board of that school division a copy of any item that the elector is entitled to inspect under subsection (1) and the secretary of the board shall provide or, on request, send the copy of the item to the elector on receiving payment for it at the rate prescribed by the board.

**(3)** An elector may not inspect a student record or information respecting a particular employee unless that information is included

in financial statements of the board prepared under this or any other Act.

**Requests to provide information**

**66(1)** A board shall provide the Minister in writing with any information the Minister requests.

**(2)** Subject to Part 2, Division 2 of the *Freedom of Information and Protection of Privacy Act*, the Minister may publish or otherwise disseminate any information the Minister receives under subsection (1).

**Accountability of board**

**67(1)** A board shall develop and implement a reporting and accountability system on any matter the Minister prescribes.

**(2)** A board shall disseminate any information in the reports and accounts produced under the reporting and accountability system it develops under subsection (1) to students, parents, electors or the Minister in the manner the Minister prescribes.

**(3)** A board shall use any information in the reports and accounts produced under the reporting and accountability system it develops under subsection (1) in the manner the Minister prescribes.

**Secretary and treasurer**

**68** A board shall

- (a) appoint a secretary and a treasurer, or one person to act as secretary-treasurer,
- (b) immediately notify the Minister of the appointment, and
- (c) arrange for the bonding of the treasurer or the secretary-treasurer, as the case may be, in an amount that is reasonable in the circumstances.

**Regulations**

**69** The Minister may make regulations

- (a) respecting board governance and administrative procedures;
- (b) respecting the reporting and accountability requirements for boards for the purposes of section 67;

- (c) respecting the collection, use, disclosure, disposal and destruction of personal information within the meaning of the *Freedom of Information and Protection of Privacy Act* by the Minister, a board or a person responsible for the operation of a charter school.

### **Division 3**

#### **Investigation and Inquiry**

##### **Investigation**

**70(1)** Where, in the opinion of the Minister, there is reason to believe that a board is not fulfilling its responsibilities under section 33, the Minister may appoint a person to investigate the management, administration and operation of the board.

**(2)** Where, in the opinion of the Minister, there is reason to believe that

- (a) a private school is not being operated in compliance with this Act and the regulations,
- (b) a private school does not have the capacity to deliver an appropriate education program to its students,
- (c) students enrolled in a private school are not achieving acceptable educational progress, or
- (d) a private school permits courses or programs of study or instructional materials that do not comply with section 16 to be offered or used at the school,

the Minister may appoint a person to investigate the management, administration and operation of the private school.

**(3)** Where, in the opinion of the Minister, there is reason to believe that a person, other than a board, providing an early childhood services program is failing to comply with this Act and the regulations, the Minister may appoint a person to investigate the management, administration and operation of the early childhood services program.

**(4)** In any circumstance not referred to in subsections (1) to (3), where the Minister considers it appropriate, the Minister may appoint a person to investigate into and report to the Minister on the financial condition, or any other matter connected with the management, administration and operation, of a board, a private school or a person providing an early childhood services program.

(5) A person appointed under this section may examine and take copies of

- (a) all records and accounts,
- (b) all bank statements, and
- (c) any other documents or things,

including those in electronic form.

(6) The records, accounts, bank statements, documents and things referred to in subsection (5) must be made available to the person appointed under this section at the time the person requests them from the person who has custody of them.

(7) A person appointed under this section may take evidence on oath.

(8) If the Minister so provides in the appointment, a person appointed under this section has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

(9) A person appointed under this section shall report to the Minister on the results of the investigation, and on receipt of the report the Minister may make any order that the Minister considers appropriate.

2012 cE-0.3 s70;2015 c6 s14

**71** Repealed 2015 c6 s14.

#### **Official trustee**

**72(1)** The Minister may appoint an official trustee to conduct the affairs of a board, subject to any terms and conditions the Minister considers necessary, when

- (a) a board fails to comply with an order made under section 70, or
- (b) the Minister considers it in the public interest to do so.

**(2)** An official trustee appointed under subsection (1)

- (a) has the powers and duties conferred by this Act on a board,



- (b) is to be remunerated out of the funds of the board or otherwise as the Lieutenant Governor in Council determines, and
  - (c) with the prior approval of the Minister, has the power to borrow money and pass a bylaw.
- (3) On the appointment of an official trustee to conduct the affairs of a board, the members of the board cease to hold office as members of that board.
- (4) An official trustee holds office during the pleasure of the Minister.

2012 cE-0.3 s72;2015 c6 s15

## **Division 4 Elections and Trustees**

### **Procedure for elections, etc.**

**73** All

- (a) general elections, by-elections, polls and plebiscites,
- (b) votes on bylaws or money bylaws, and
- (c) votes on any other matters or questions

held pursuant to this Act are to be governed by this Act and the *Local Authorities Election Act*.

### **Eligibility**

**74(1)** In addition to section 48(1) and (1.1) of the *Local Authorities Election Act*, this section applies to determine whether an individual is a resident of a public school division or a separate school division for the purposes of determining eligibility to vote or to be nominated as a candidate for election as a trustee of a school board under the *Local Authorities Election Act*.

(2) Subject to subsection (3), for the purposes of subsection (1), an individual is a resident of the school division in which the individual resides.

(3) Where a separate school district is established, an individual residing within the boundaries of the separate school district is a resident of the separate school division if the individual declares that the individual is of the same faith as those who established the separate school district, whether Protestant or Roman Catholic.

(4) Notwithstanding the *Local Authorities Election Act*, a resident of a separate school division is eligible

- (a) to vote for, and
- (b) to be nominated as a candidate for election as,

a trustee of the board of either the public school division or the separate school division in which the person's residence is located, but not both.

2012 cE-0.3 s74;2015 c6 s16

#### **Oath of office**

**75** Every trustee shall

- (a) take and subscribe to the official oath prescribed by the *Oaths of Office Act* before commencing the trustee's duties, and
- (b) deposit the oath with the secretary of the board.

#### **Establishment of wards**

**76(1)** The board of a school division may by bylaw

- (a) provide for the nomination and election of trustees by wards and determine the boundaries of the wards, or
- (b) provide for the election of trustees by the general vote of the electors.

**(2)** A bylaw passed under this section

- (a) does not apply to the general election next following the passing of the bylaw unless it is passed before December 31 in the year prior to that general election being held, and
- (b) does not apply to or affect the composition of the board until the date of the next general election to which the bylaw applies.

**(2.1)** Subject to subsection (2.2), a board shall provide a copy of a bylaw passed under this section to the Minister as soon as possible after the bylaw is passed.

**(2.2)** A board shall provide a copy of a bylaw passed under this section to the Minister before December 31 in the year prior to an election year.

(3) A bylaw passed under this section must, if practicable, provide that the number of trustees to be elected in each ward is in the same proportion to the total number of trustees of the board as the population of the ward is to the population of the school division.

(4) A board shall establish, implement and make publicly available a policy respecting the considerations and process used by the board to determine ward structures.

(5) The Minister may make regulations respecting

- (a) the nomination and election of trustees by wards or electoral subdivisions;
- (b) the partition of a school division into wards.

2012 cE-0.3 s76;2015 c6 s17;2019 c7 s17

#### **Board establishment**

**77(1)** For each public school division, the Minister shall by order establish a board, and the members of the board are a corporation with a name in the following form:

The Board of Trustees of \_\_\_\_\_ School Division.

(2) For each separate school division, the Minister shall by order establish a board, and the members of the board are a corporation with a name in the following form:

The Board of Trustees of \_\_\_\_\_ Separate School Division.

#### **Number of trustees**

**78(1)** The Minister shall specify for each board the number of trustees, being no fewer than 3, to be elected to the board.

(2) The Minister may vary the number of trustees to be elected for each school division.

#### **Change of name**

**79** A board of trustees may, by resolution, change its corporate name to another name that is approved by the Minister.

#### **Resignations**

**80(1)** A trustee may resign by submitting the trustee's written resignation to the secretary of the board at the beginning of a meeting of the board, and the trustee ceases to hold office at that time.

(2) If all the trustees of a board wish to resign at the same time, they may resign by transmitting to the Minister a notice in writing to that effect, and their resignation is effective on the date on which their successors are elected or appointed.

**Filling vacancies**

**81(1)** If a vacancy occurs on a board of 6 or more trustees, the board shall make provision to fill the vacancy by holding a by-election.

(2) Notwithstanding subsection (1), where a vacancy occurs on a board of 6 or more trustees

- (a) during the 3-year period immediately following a general election, a by-election need not be held if there is only one vacancy on the board, and
- (b) during the 4th year following a general election, a by-election need not be held unless the number of vacancies on the board reduces the board to a number that is less than the quorum of the board plus one.

(3) If a board consists of 5 trustees or fewer, the board shall provide for the filling of all vacancies that occur prior to the last 6 months of the term by holding a by-election.

(4) When the Minister increases the number of trustees on a board, the board shall make provision to fill the new vacancies by holding a by-election unless the increase is made in the 4th year following a general election.

2012 cE-0.3 s81;2015 c6 s18

**Failure to elect trustee, etc.**

**82(1)** Where 2 attempts to fill a vacancy on a board have been made and no nominations have been put forward, whether as part of a general election or a by-election held in accordance with section 81, the Minister may, in consultation with the board, appoint a trustee to fill that vacancy.

(2) A person appointed by the Minister under subsection (1) is in the same position as the person would have been had the person been elected under any other provision of this Act.

**Direction to official trustee to hold by-election**

**83** When

- (a) an official trustee has been appointed under this Act to conduct the affairs and business of a board, and

- (b) the Minister considers that the official trustee has completed the official trustee's duties,

the Minister may direct the official trustee to hold a by-election to fill the vacancies on the board.

#### **Appointment of First Nations trustee**

**84(1)** Where a board has entered into one or more education services agreements pursuant to section 63,

- (a) the board, by resolution, or
- (b) the Minister, at the request of the board or in consultation with the board and the band,

may appoint a trustee to represent First Nations students and parents on the board.

**(2)** A person appointed by the board or the Minister under subsection (1) is in the same position as the person would have been had the person been elected under any other provision of this Act.

**(3)** Notwithstanding subsection (2), where a trustee appointed under this section resigns or is disqualified under section 87, the board is not required to comply with the obligations set out in section 81.

**(4)** A person appointed by the board or the Minister under subsection (1) is in addition to the number of trustees specified by the Minister under section 78.

**(5)** The number of trustees appointed to a board under this section may not exceed 1/3 of the number of trustees specified by the Minister under section 78 for that board.

### **Division 5 Conflict of Interest and Disqualification**

#### **Pecuniary interest**

**85(1)** In this Division,

- (a) “corporation”, “distributing corporation”, “shareholder”, “voting shares”, “voting rights”, “director” and “officer” have the meanings given to them in the *Business Corporations Act*;

- (b) “pecuniary interest” means, with respect to a person, an interest in a matter that could monetarily affect
  - (i) the person,
  - (ii) a corporation, other than a distributing corporation, in which the person is a shareholder, director or officer,
  - (iii) a distributing corporation in which the person beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the person is a director or officer,
  - (iv) a partnership or firm of which the person is a member, or
  - (v) a corporation, partnership, firm, government or person that employs the person;
- (c) “spouse” means the spouse of a married person but does not include a spouse who is living separate and apart from the person if the person and spouse have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order.

**(2)** For the purposes of this Division except section 86(1), the pecuniary interests of the spouse or adult interdependent partner of a person that are known to the person or of which the person reasonably should know are deemed to be the pecuniary interests of the person.

**(3)** For the purposes of this Division, a person does not have a pecuniary interest by reason only of any interest that the person may have

- (a) as an elector or taxpayer of the school division,
- (b) as a parent of a student or a child enrolled in an early childhood services program in the school divisions,
- (c) by reason of
  - (i) the person’s appointment by the board as a director of a company incorporated for the purpose of carrying on business for and on behalf of the board, or
  - (ii) the person’s appointment as the representative of the board on any commission, committee or other body,

- (d) with respect to any allowance, honorarium, remuneration or benefit to which the person may be entitled by reason of being a trustee or an employee of a board or by reason of having been appointed by the board to a position described in clause (c),
  - (e) by reason of the person's employment by the Government of Canada, the Government of Alberta or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department, corporation or agency of which the person is an employee,
  - (f) by reason of the person's being a member of a credit union, a cooperative or a non-profit organization formed under an Act of the Legislature or of the Parliament of Canada,
  - (g) by reason of the person's having an interest that is an interest in common
    - (i) with the majority of electors of the school division, or
    - (ii) in respect of a matter that affects only part of the school division, with the majority of electors in that part,
- or
- (h) by reason of an interest that is so remote or insignificant that it cannot reasonably be regarded as likely to influence the person.

(4) Subsection (3)(f) does not apply to a person who is an employee or director of a credit union or cooperative or an employee of a non-profit organization referred to in that clause.

2012 cE-0.3 s85;2014 c8 s17

#### **Disclosure of information**

**86(1)** Each trustee of a board shall file with the board's secretary a statement showing

- (a) the names and employment information of the trustee and the trustee's spouse or adult interdependent partner,
- (b) the names of the corporations, partnerships, firms, governments or persons in which the trustee has a pecuniary interest, and
- (c) the names of the corporations, partnerships, firms, governments or persons in which the trustee's spouse or adult interdependent partner or children under 18 years of age have a pecuniary interest.

**(2)** The board's secretary shall

- (a) compile a list of all the names reported on the statements filed with the secretary, and
- (b) provide a copy of the list to
  - (i) all the trustees of the board, and
  - (ii) the officials and employees of the board that the board directs shall receive a copy.

**Disqualification of trustees**

**87(1)** A person is disqualified from remaining as a trustee of a board if that person

- (a) other than a person appointed under section 84(1), ceases to be qualified for nomination as a trustee under the *Local Authorities Election Act*;
- (b) is an auditor or employee of the board for which the person is a trustee;
- (c) has breached the code of conduct of the board established under section 33, where the sanction for the breach under the code of conduct may be determined by the board to be disqualification;
- (d) is a party to a subsisting contract for the construction, maintenance or repair of real property over which the board has administration other than a contract for the provision of goods or services in an emergency;
- (e) beneficially owns more than 10% of the issued shares of a corporation that has a pecuniary interest in a subsisting contract for the construction, maintenance or repair of real property over which the board has administration other than a contract for the provision of goods or services in an emergency;
- (f) has a pecuniary interest in a contract with the board, other than
  - (i) a contract for the provision of goods or services in an emergency,
  - (ii) a contract for the sale of goods or services to the board at competitive prices by a dealer in those goods or services



incidental to and in the ordinary course of the dealer's business,

- (iii) a contract of employment with the trustee's spouse or adult interdependent partner, child, parent or spouse's or adult interdependent partner's parent, or
- (iv) a contract approved by the board pursuant to disclosure;
- (g) uses information gained through the person's position as a trustee of the board to gain a pecuniary benefit in respect of any matter in which the person has a pecuniary interest;
- (h) is a judge of a court or a member of the Senate or House of Commons of Canada or of the Legislative Assembly of Alberta;
- (i) is absent without being authorized by a resolution of the board from 3 consecutive regular meetings of the board, unless the person's absence is due to illness and the person provides evidence of that illness in the form of a medical certificate respecting the period of the person's absence;
- (j) is convicted of
  - (i) an indictable offence punishable by imprisonment for 5 or more years, or
  - (ii) an offence under section 123 of the *Criminal Code* (Canada)for which an absolute discharge or pardon has not been granted.

**(2)** Notwithstanding section 24 of the *Local Authorities Election Act*, a trustee of the board who is disqualified under this section is eligible to be elected at the next general election of trustees to the board if that person is qualified for nomination as a trustee under the *Local Authorities Election Act*.

#### **Disclosure of pecuniary interest**

**88(1)** When a trustee has a pecuniary interest in a matter before the board, any committee of the board or any commission, committee or agency to which the trustee is appointed as a representative of the board, the trustee shall, if present,

- (a) disclose the general nature of the pecuniary interest prior to any discussion of the matter,

- (b) abstain from voting on any question relating to the matter,
- (c) subject to subsection (3), abstain from discussing the matter, and
- (d) subject to subsections (2) and (3), leave the room in which the meeting is being held until the discussion and voting on the matter are concluded.

(2) If the matter with respect to which the trustee has a pecuniary interest is the payment of an account for which funds have previously been committed, it is not necessary for the trustee to leave the room.

(3) If a trustee is temporarily absent from a meeting when a matter in which the trustee has a pecuniary interest is introduced, the trustee shall, immediately on the trustee's return to the meeting or as soon afterwards as the trustee becomes aware that the matter has been considered, disclose the general nature of the trustee's pecuniary interest in the matter.

(4) The abstention of a trustee under subsection (1) and the disclosure of a trustee's pecuniary interest under subsection (1) or (3) must be recorded in the minutes of the meeting.

(5) If a trustee

- (a) has a pecuniary interest in a matter before the board, any committee of the board or any commission, committee or agency to which the trustee is appointed as a representative of the board, and
- (b) makes a disclosure of that pecuniary interest in accordance with this section,

that trustee is not disqualified from being a trustee by reason of having that pecuniary interest.

(6) Subsection (5) does not apply to an interest referred to in section 87(1)(d) or (e).

(7) A trustee who contravenes this section is disqualified from remaining as a trustee of the board.

#### **Effect of interest on contract**

**89** No contract with a board under which a trustee of the board has an interest referred to in section 87(1)(d), (e) or (f) is binding on the board unless

- (a) the contract is for the provision of goods or services in the case of an emergency,
- (b) the contract is for the sale of goods or services to the board or to persons contracting with the board at competitive prices by a dealer in those goods or services incidental to and in the ordinary course of the dealer's business,
- (c) the contract has been approved by the board pursuant to disclosure, or
- (d) the contract is a contract of employment with the trustee's spouse or adult interdependent partner.

**Resignation on disqualification**

**90** If a person is disqualified under section 87 or 88 from remaining as a trustee of the board, the person shall immediately resign.

**Refusal to resign on disqualification**

**91** If the person does not resign as required under section 90,

- (a) the board may by resolution declare that person to be disqualified from remaining as a trustee and the seat on the board to be vacant,
- (b) the board may apply to the Court of Queen's Bench for
  - (i) an order determining whether the person is qualified to remain as a trustee, or
  - (ii) an order declaring the person to be disqualified from remaining as a trustee and the seat on the board to be vacant,

or

- (c) an elector of the school division in respect of which the person was elected may apply to the Court of Queen's Bench for an order declaring the person to be disqualified from remaining as a trustee and the seat on the board to be vacant, by
  - (i) filing an affidavit showing reasonable grounds for believing that the person never was or has ceased to be qualified as a trustee of the board, and
  - (ii) paying into court the sum of \$250 as security for costs.

**Appeal of board's resolution**

**92(1)** Where a person is declared under section 91(a) to be disqualified from remaining as a trustee, that person may apply to the Court of Queen's Bench for an order declaring the person to be qualified to remain as a trustee.

**(2)** Where a person

- (a) is declared under section 91(a) to be disqualified from remaining as a trustee, and
- (b) makes an application to the Court under subsection (1),

that person remains disqualified unless the Court otherwise orders.

**(3)** An application under this section must be made within 30 days from the date that the resolution was passed under section 91(a).

**(4)** On hearing an application and any evidence, whether oral or by affidavit, that the Court requires, the Court may make an order, with or without costs,

- (a) declaring the person to be qualified to be a trustee, and
  - (i) reinstating the person as a trustee for any unexpired portion of the term of office for which the person was elected,
  - (ii) requiring any person who has been elected to serve the balance of that term to vacate the office, and
  - (iii) requiring the repayment to the reinstated person of any honorarium, salary or entitlement that was not paid to the person during the period of disqualification,

or

- (b) declaring the person to be disqualified from remaining as a trustee and requiring the person to vacate the person's seat on the board.

**Hearing of application**

**93(1)** On hearing an application under section 91(b) or (c) and any evidence, whether oral or by affidavit, that the Court requires, the Court of Queen's Bench may make an order, with or without costs,

- (a) declaring the person to be disqualified from remaining as a trustee and the seat on the board to be vacant,

- (b) declaring the person to be qualified to remain as a trustee, or
- (c) dismissing the application.

**(2)** If the Court declares a person disqualified for a contravention of section 87(1)(d), (e), (f) or (g), it may order the person to pay to the board the total amount of any profit attributable to the contravention.

**(3)** An application under section 91(b) or (c)

- (a) must be made within 4 years from the date on which the contravention is alleged to have occurred, and
- (b) may be commenced or continued notwithstanding that an election has been held between the time at which the disqualification is alleged to have arisen and the time at which the application is or was commenced, and whether or not the person in respect of whom the application is being brought
  - (i) resigns before or after the election,
  - (ii) was re-elected in the election,
  - (iii) was not re-elected or did not run in the election, or
  - (iv) has completed a term of office.

2012 cE-0.3 s93;2015 c6 s19

#### **Dismissal of application for disqualification**

**94** Where the Court of Queen's Bench hears an application under section 91(b) or (c) or 92 and finds that the person is disqualified, the Court may nevertheless declare the person to be qualified to be a trustee if it is of the opinion that the disqualification arose inadvertently or by reason of a bona fide error in judgment.

#### **Appeal of declaration of disqualification**

**95(1)** A person who is declared disqualified by the Court of Queen's Bench and appeals that declaration to the Court of Appeal remains disqualified until the final determination of the appeal.

**(2)** If, on the final determination of the appeal, the disqualification is set aside, the Court of Appeal

- (a) shall

- (i) reinstate the person as a trustee for any unexpired portion of the term of office for which the person was elected,
- (ii) require any person who has been elected to serve the balance of that term to vacate the office, and
- (iii) require the repayment to the reinstated person of any honorarium, salary or entitlement that was not paid to the person during the period of disqualification,

and

- (b) may order that any money paid to the board pursuant to section 93(2) be paid back to the trustee together with any interest.

**(3)** If, on the final disposition of the appeal, the disqualification is set aside but the term of office for which the person was elected has expired, the person shall not be reinstated, but the person is eligible to be elected at the next general election for the election of trustees to the board, if otherwise qualified.

#### **Reimbursement**

##### **96(1)** If

- (a) an application made under section 91(b) or (c) is dismissed, or
- (b) an order is made declaring that the person is qualified to remain as a trustee of the board,

the board may reimburse the trustee in respect of whom the application was made for any of the trustee's costs and expenses that the board considers reasonable other than costs that have already been awarded to the trustee by the Court.

**(2)** A board may contract for insurance in respect of payments under subsection (1).

## **Part 5**

### **Structure of School Authorities**

#### **Division 1**

#### **Creation of Public School Districts**

##### **Establishment of public school district**

**97(1)** The Minister may, by order, establish any portion of Alberta as a public school district.

**(2)** The order establishing a public school district must describe the boundaries of the district and give it a name in the following form:

The \_\_\_\_\_ School District.

#### **Division 2**

#### **Establishment and Disestablishment of Separate School Districts**

##### **Definitions**

**98** In this Division,

- (a) “community information meeting” means a meeting referred to in section 103;
- (b) “initiating separate school electors” means the separate school electors referred to in section 100 who initiate the process to establish a separate school district;
- (c) “operating separate school board” means
  - (i) the school board that, pursuant to section 123(1)(b), provides services to the separate school region in which the newly established separate school district is to be located, or
  - (ii) if no separate school region has been established in the area in which the newly established separate school district is to be located, an individual or a separate school board designated by the Minister;
- (d) “petitioners” means the initiating separate school electors who provide a petition for the establishment of a separate school district in accordance with section 102(3);
- (e) “public school board” means the public school division operating in the area in which a newly established separate school district is to be located;

- (f) “separate school elector” means an individual who,
  - (i) where a separate school district is not established,
    - (A) is an elector of the public school district, and
    - (B) declares that the individual is of the same faith, whether Protestant or Roman Catholic, as those in the minority in the public school district,
  - and
  - (ii) where a separate school district is established, declares that the individual is of the same faith as those who established the separate school district, whether Protestant or Roman Catholic, and is an elector of that separate school district;
- (g) “separate school establishment area” means the separate school establishment area determined in accordance with section 101;
- (h) “separate school region” means a separate school region established pursuant to section 123(2).

2012 cE-0.3 s98;2019 c7 s18

**Right to establish separate school district**

**99** The separate school electors in any public school district where a separate school district is not established may establish a separate school district within that public school district in accordance with this Division.

2012 cE-0.3 s99;2019 c7 s18

**Intention to establish**

**100(1)** Where no fewer than 3 of the separate school electors referred to in section 99 wish to establish a separate school district, they must initiate the process by

- (a) notifying the Minister in writing of their intention to proceed with the establishment of a separate school district, and
- (b) providing a copy of the notification referred to in clause (a) to the operating separate school board, the public school board and the municipality or municipalities in which the public school district is located.

**(2)** The Minister may make regulations



- (a) prescribing the time by which notice must be provided to the Minister under subsection (1)(a) for the establishment of a proposed separate school district, and
- (b) prescribing the time by which a copy of the notice under subsection (1)(b) must be provided to the operating separate school board, the public school board and the municipality or municipalities in which the public school district is located.

2012 cE-0.3 s100;2019 c7 s18

**Separate school establishment area**

**101(1)** The initiating separate school electors, the operating separate school board and the public school board must meet to collectively determine the boundaries of the separate school establishment area in accordance with the regulations and, if agreement is reached, notify the Minister in writing in a form acceptable to the Minister respecting the proposed separate school establishment area.

**(2)** If the proposed separate school establishment area meets the requirements of the regulations, the Minister shall approve the proposed separate school establishment area as the area that will form the separate school district if it is established in accordance with this Division.

**(3)** If the initiating separate school electors, the operating separate school board and the public school board are not able to agree within the time limits set out in the regulations on the boundaries of the area that will form the separate school district, or if the proposed separate school establishment area does not meet the requirements of the regulations, the Minister shall declare a separate school establishment area, and may, subject to the regulations, declare the separate school establishment area to be

- (a) the public school district in which the initiating separate school electors reside, and
- (b) all the public school districts that are
  - (i) contiguous to the public school district in which the initiating separate school electors reside,
  - (ii) located in the separate school region, and
  - (iii) located within the boundaries of the public school board.

**(4)** The Minister may make regulations

- (a) respecting the process and criteria for determining a separate school establishment area;
- (b) respecting the requirements for a separate school establishment area;
- (c) respecting the time within which agreement must be reached on the boundaries of a proposed separate school establishment area;
- (d) respecting the provision of a proposed separate school establishment area to the Minister.

2012 cE-0.3 s101;2019 c7 s18

**Petition for establishment**

**102(1)** Where the Minister has approved or made a declaration respecting a separate school establishment area under section 101, and the initiating separate school electors wish to proceed with the establishment of a separate school district, the initiating separate school electors must, in accordance with subsection (2), prepare a petition for the establishment of a separate school district based on that separate school establishment area.

**(2)** The petition for the establishment of a separate school district must

- (a) be signed by no fewer than 3 of the initiating separate school electors,
- (b) provide evidence satisfactory to the Minister that the separate school electors are of the same faith, whether Protestant or Roman Catholic, as those in the minority in the separate school establishment area, and
- (c) be in the form prescribed by the Minister.

**(3)** The initiating separate school electors must provide

- (a) the petition for establishment to the Minister, and
- (b) copies of the petition to the operating separate school board and the public school board.

2012 cE-0.3 s102;2019 c7 s18

**Community information meeting**

**103(1)** Where a petition has been provided to the Minister in accordance with section 102(3), the petitioners, the operating separate school board and the public school board must arrange for a community information meeting to be held for the purpose of

providing information with respect to the process and operational implications of the establishment of a separate school district.

(2) Notice of the date, time and location of the community information meeting must be published in accordance with the regulations.

(3) The community information meeting must be conducted in accordance with the regulations.

(4) No vote respecting the establishment of a separate school district may be conducted at the community information meeting.

(5) The meeting must be chaired by an individual designated by the Minister.

(6) The Minister may make regulations respecting a community information meeting, including, without limitation, regulations respecting

- (a) the time period within which the meeting must be held;
- (b) the content of notices of the meeting, the manner of publishing and posting the notices and the responsibility for the notices;
- (c) the conduct of the meeting, including, without limitation, regulations respecting the appointment and duties of a secretary and time for questions and discussion;
- (d) who may attend and participate in the meeting;
- (e) the information to be provided to the Minister respecting the meeting and the time within which the information must be provided.

2012 cE-0.3 s103;2019 c7 s18

#### **Vote respecting establishment**

**104(1)** After a community information meeting has been held, the petitioners may proceed with the establishment of a separate school district by requesting that the operating separate school board call a vote of the separate school electors who reside in the separate school establishment area for the purpose of determining whether the separate school district should be established.

(2) Only the separate school electors who reside in the separate school establishment area are eligible to vote on the establishment of the separate school district.

(3) Notice respecting a vote on the establishment of the separate school district must be

- (a) in the form prescribed by the Minister,
- (b) made public in accordance with the regulations, and
- (c) at least 10 days prior to the date set out in the notice of the vote, served in accordance with the regulations on the public school board.

(4) The vote on the establishment of the separate school district must be

- (a) held on a date separate from and subsequent to the date of the community information meeting, and
- (b) conducted in accordance with the regulations.

(5) The Minister may make regulations respecting the vote on the establishment of a separate school district, including, without limitation, regulations respecting

- (a) the publication and service of notice in advance of the vote;
- (b) the means of identification of those separate school electors eligible to vote;
- (c) the method of voting;
- (d) the wording of the question on the ballot;
- (e) the hours of the poll;
- (f) the appointment, number and duties of returning officers and the assignment of duties to returning officers;
- (g) the payment of returning officers;
- (h) the assignment of duties to persons other than the returning officers.

2012 cE-0.3 s104;2019 c7 s18

#### **Minimum requirements for binding vote**

**105(1)** In order for the vote on the establishment of a separate school district to be binding, a minimum of 25% of the separate school electors eligible to vote must cast a ballot on the question.

(2) The vote on the establishment of a separate school district must be decided by a majority of the ballots validly cast, and, in the case

of an equality of votes, the question is deemed to be decided in the negative.

2012 cE-0.3 s106;2019 c7 s18

**Notification to Minister, electors, etc.**

**106(1)** The returning officer must, within 10 days from the date of the vote, send the following to the Minister:

- (a) a copy of the notice calling the vote;
- (b) proof, in the form required by the Minister, that the notice respecting the vote was made public in accordance with the regulations;
- (c) proof, in the form required by the Minister, of the service of the notice under section 104(3)(c);
- (d) proof satisfactory to the Minister that those who participated in the vote are eligible separate school electors;
- (e) the declaration of the returning officer with respect to the result of the vote, which must include a statement that the minimum requirements for a binding vote as set out in section 105 were met.

**(2)** The returning officer must, as set out in the regulations, provide notice of the results of the vote on the establishment of a separate school district to the operating separate school board, the public school board and the municipality or municipalities in which the public school district is located.

**(3)** The Minister may make regulations respecting the provision of notice of the results of the vote.

2012 cE-0.3 s107;2019 c7 s18

**Establishment of district**

**107(1)** Where the majority of the separate school electors who cast valid ballots voted in favour of the establishment of a separate school district, the Minister shall by order establish the separate school district with the same boundaries as those of the separate school establishment area.

**(2)** The Minister shall make an order in subsection (1) effective on September 1 of the year determined in accordance with the regulations.

**(3)** The Minister may make regulations respecting the determination of the year in which the order in subsection (1) is to become effective.

2012 cE-0.3 s108;2019 c7 s18

**Effect of establishment**

**108(1)** The order establishing the separate school district must give it a name in the following form:

The \_\_\_\_\_ Separate School District.

**(2)** If there is a separate school region in which the newly established separate school district is located, the Minister shall, in accordance with section 114, add the newly established separate school district to the separate school division to which the operating separate school board provides services.

**(3)** Subject to subsection (4), if there is no separate school region in which the newly established separate school district is located, the Minister shall add the newly established separate school district to another separate school division, as determined by the Minister, in accordance with section 114.

**(4)** If there is no separate school region in which the newly established separate school district is located, the Minister

- (a) on the request of the petitioners and the public school division may establish a new school division in accordance with section 112(2), or
- (b) shall add the newly established separate school district as set out in subsection (3).

**(5)** Subject to Part 6, Division 2, after a separate school district is established, a person residing within the boundaries of the separate school district who declares that the person is of the same faith as those who established that district, whether Protestant or Roman Catholic, is a resident of the separate school district.

2012 cE-0.3 s109;2015 c6 s21;2019 c7 s18

**Vote against establishment**

**109** If the majority of the separate school electors who voted in accordance with section 104 voted against the establishment of a separate school district, no further vote on the establishment of a separate school district may be held until at least

- (a) one year from the date of the vote on establishment if less than 60% of the valid ballots were cast against the establishment of a separate school district, or
- (b) 2 years from the date of the vote on establishment if 60% or more of the valid ballots were cast against the establishment of a separate school district.

2012 cE-0.3 s110;2019 c7 s18

**Disestablishment of separate school district**

**110(1)** A board of a school division established under section 112(2) or a board of a separate school division

- (a) may pass a resolution requesting the Minister to disestablish a separate school district within the boundaries of the school division established under
  - (i) section 112(2), or
  - (ii) a separate school division, or
- (b) may of its own volition or must, if at least 25% of the separate school electors of the separate school district petition the board to disestablish the district, conduct a plebiscite to determine whether the separate school district should be disestablished.

**(2)** A board must conduct a plebiscite not more than 60 days after

- (a) the date on which it passes a resolution under subsection (1)(a), or
- (b) the petition is made under subsection (1)(b).

**(3)** A board must

- (a) provide notice of a plebiscite as set out in the regulations, and
- (b) conduct a plebiscite as set out in the regulations.

**(4)** After a plebiscite, a board must, as required in the regulations, provide a report to the Minister respecting

- (a) the notice given before the plebiscite,
- (b) the process by which the plebiscite was conducted, and
- (c) the outcome of the plebiscite.

**(5)** The Minister

- (a) shall, on receiving the report of a board made pursuant to subsection (4), or
- (b) may, if there are no separate school electors or the Minister receives a resolution under subsection (1)(a),

by order, disestablish the separate school district, and on that disestablishment, the former separate school district residents become residents of the public school board within which they reside.

**(6)** The Minister may make regulations respecting a plebiscite, including, without limitation, regulations

- (a) respecting who may vote;
- (b) respecting the wording of the question for the plebiscite;
- (c) respecting notice of the plebiscite;
- (d) respecting the process and requirements for conducting the plebiscite;
- (e) respecting reporting to the Minister after the plebiscite.

2012 cE-0.3 s111;2019 c7 s18

**111** Repealed 2019 c7 s18.

### **Division 3**

#### **Creation, Alteration and Dissolution of School Divisions**

##### **Establishment of school division**

**112(1)** The Minister may, by order, establish a school division consisting of any number of public school districts, separate school districts and school divisions established under this Act.

**(2)** The Minister may only establish a school division consisting of both public school districts and separate school districts or both a public school division and a separate school division on the request of both the public school division and the separate school division.

**(3)** A school division may be

- (a) a public school division,
- (b) a separate school division, or
- (c) both a public and separate school division if the school division is established under subsection (2).

**(4)** The order establishing a school division must give the school division a name in the following form:

The \_\_\_\_\_ School Division.



**Effect of establishment**

**113** When a school division is established,

- (a) the boards of the public school districts, separate school districts and school divisions referred to in section 112 included in the area of the school division are dissolved,
- (b) all assets and liabilities of the boards of the public school districts, separate school districts and school divisions are transferred to the board of the school division, and
- (c) all employees of the boards of the public school districts, separate school districts and school divisions become employees of the board of the school division.

**Addition and removal of land**

**114(1)** The Minister may, by order,

- (a) add land to or take land from a public school district, separate school district or school division, and
- (b) divide a public school district, separate school district or school division into 2 or more public school districts, separate school districts or school divisions.

**(2)** If all the land included in a school division has been taken from it, the school district or school division is deemed to be dissolved.

**Effect of town or village**

**115** Notwithstanding anything in this Act, the formation within any school division of a town or village does not have the effect of removing from the school division any public school district wholly or partially within the corporate limits of that town or village.

**Alteration of name**

**116(1)** The Minister may by order alter the name of a school division.

**(2)** If a name is altered under subsection (1), the seal previously used by the board continues to be its seal until it is changed by the board.

**(3)** Any alteration in the name of a school division does not affect any obligations incurred, acts done or property acquired prior to the alteration.

**Dissolution by Minister**

**117(1)** The Minister may by order declare that any school division is dissolved, and on the Minister so ordering,

- (a) the board of the school division is dissolved and ceases to have any of the rights, powers and privileges vested in it by this or any other Act, and
- (b) the school division ceases to exist.

**(2)** If the Minister makes an order under subsection (1), the Minister may

- (a) add the land from the dissolved school division to another school division, as determined by the Minister, in accordance with section 114, or
- (b) establish a new school division in accordance with section 112.

2012 cE-0.3 s117;2015 c6 s22

**Appointment of trustees**

**117.1(1)** An order made by the Minister under section 112 or 114 may

- (a) set out the number of trustees of the board of the school division established under section 112,
- (b) increase the number of trustees of the board of the school division to which the land is added under section 114, and
- (c) appoint one or more persons as trustees to the board of the school division.

**(2)** A trustee appointed to a board under subsection (1)(c) holds office until the first organizational meeting of the board held after the first general election held after the appointment.

**(3)** A board of a school division referred to in subsection (1)(b) that has passed a bylaw under section 76 must amend the bylaw to provide for the representation of the area added to the school division.

2015 c6 s23

**Adjustment of assets and liabilities**

**118** On

- (a) any inclusion, exclusion, dissolution or transfer of land or school divisions, or

- (b) the formation of a school division,

if the Minister considers any adjustment of assets and liabilities necessary, the Minister shall in the same or a subsequent order give directions with respect to the assets and liabilities of any board affected by the inclusion, exclusion, dissolution, transfer or formation, and those directions are binding on the board.

#### **Transfer of teachers**

**119(1)** If, as a result of a transfer of land or school divisions by an order of the Minister, resident students of a board come under the jurisdiction of another board, the board to which the students are transferred must select teachers of the board from which the students are transferred in the same proportion as the number of students transferred bears to the total number of resident students of the board from which the students are transferred.

**(2)** The teachers selected by the board under subsection (1) may choose to become employees of the board to which jurisdiction is given.

**(3)** Where a teacher chooses under subsection (2) to become an employee of the board to which jurisdiction is given, that teacher shall

- (a) be paid by the board to which the teacher is transferred a salary in the same amount as the teacher was paid by the board from which the teacher was transferred, and
- (b) continue to be paid that salary until
  - (i) the expiry date of the contract between the board formerly having jurisdiction and the teacher, or
  - (ii) the termination of the contract in accordance with this Act,

whichever occurs first.

#### **Publication of order**

**120** Every order of the Minister with respect to the establishment, boundaries, names, dissolution or disposal of assets and liabilities of a board or of a school division must be published in The Alberta Gazette.

**Boundaries**

**121(1)** When a public school district, separate school district or school division is described in whole or in part in an order establishing it as consisting of certain townships, parts of townships, sections or parts of sections, the boundary line of the public school district, separate school district or school division, unless it is otherwise expressly set out in the order, is

- (a) subject to clause (b), the side of the road allowance between adjoining sections or townships on which the survey monuments or posts are placed, and
- (b) in the case of correction lines, the south side of the road.

**(2)** Any road allowance between either an Indian reserve or a forest reserve and a public school district, separate school district or school division is deemed to be in the public school district, separate school district or school division, notwithstanding anything in this Act to the contrary.

**(3)** All road allowances within the boundaries of a public school district, separate school district or school division are deemed to be in the public school district, separate school district or school division.

**(4)** Unless otherwise stated in an order establishing a public school district, separate school district or school division, if a part of the boundary of a public school district, separate school district or school division is described as being a certain river or other waterway, the downstream right bank is the boundary.

**Restriction re alteration of boundaries**

**122** When a school division has debenture indebtedness outstanding, no alteration in its boundaries may be made that prejudicially affects the right or security of the holders of the debentures without due provision being made for the protection of the holders of the debentures.

## **Division 4 Establishment of Separate School Regions**

**Establishment of separate school region**

**123(1)** The Minister may do one or both of the following by order:

- (a) establish any portion of Alberta as a separate school region;

- (b) provide for services by a separate school board in a separate school region.

(2) The order establishing a separate school region must describe the boundaries of the separate school region and give it a name in the following form:

The \_\_\_\_\_ Separate School Region.

- (3) A separate school region may have only one separate school board.

- (4) The Minister may exclude any portion of Alberta from a separate school region.

## **Division 5**

### **Establishment and Dissolution of Francophone Education Regions**

#### **Definitions**

**124** In this Division,

- (a) “public school” means a school designated as a public school by a Francophone regional authority under section 130;
- (b) “public school elector” means an individual described in section 135(1) other than a separate school elector;
- (c) “public school trustee” means an individual who is appointed or elected as a public school trustee of a Francophone regional authority;
- (d) “separate school” means a school designated as a separate school by a Francophone regional authority under section 130;
- (e) “separate school elector” means an individual described in section 135 who declares that the individual is of the same faith, whether Protestant or Roman Catholic, as the minority of all individuals living within the boundaries of a Francophone education region as determined by the Minister under section 128;
- (f) “separate school trustee” means an individual who is appointed or elected as a separate school trustee of a Francophone regional authority.

**Application**

**125(1)** The following provisions and any regulations made under them apply to a Francophone regional authority and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to the Francophone regional authority or a trustee of a Francophone regional authority, as the case may be:

- (a) sections 1 and 2;
- (b) Part 1, except sections 4, 10 and 11(1);
- (c) Part 2, except sections 28.1, 29 and 30;
- (d) Part 3;
- (e) Part 4, except sections 74 and 77;
- (f) Part 5, Division 4;
- (g) in Part 6, Division 1, section 171, Division 7 and Division 8 except section 192(3);
- (h) Part 7;
- (i) Part 8.

**(2)** Sections 114, 116 to 122 and the provisions of Division 4 of Part 5 and any regulations made under them apply to a Francophone education region, and a reference in those provisions or those regulations to a school division is deemed to include a reference to a Francophone education region.

**(3)** If a provision of this Act applies to a Francophone regional authority, a reference to an elector in the provision is deemed to be a reference to an individual referred to in section 135.

**(4)** If in any other Act a reference is made

- (a) to a school division, the reference is deemed to include a Francophone education region, or
- (b) to a board of a school division or the trustees of a board of a school division, the reference is deemed to include a Francophone regional authority or the trustees of a Francophone regional authority, as the case may be.

**(5)** Subsection (4) does not apply to a reference in the following Acts:

- (a) *Condominium Property Act*;
- (b) *Drainage Districts Act*;
- (c) *Health Insurance Premiums Act*;
- (d) *Northland School Division Act*;
- (e) *Parks Towns Act*.

(6) Notwithstanding subsections (1), (2) and (4), the Minister may exempt a Francophone regional authority or a Francophone education region from the application of a provision of this or any other Act.

2012 cE-0.3 s125;2015 c6 s24;2020 c11 s12

#### **Establishment of Francophone education region**

**126(1)** The Minister may, by order, establish any portion of Alberta as a Francophone education region.

(2) The order establishing a Francophone education region must describe the boundaries of the region and give it a name in the following form:

The \_\_\_\_\_ Francophone Education Region.

#### **Effect of establishment**

**127** The establishment of a Francophone education region does not affect a public school division or a separate school division established in respect of all or part of the portion of Alberta in which the Francophone education region is established.

#### **Minority in Francophone education region**

**128** For the purposes of this Division, the Minister may by order determine for each Francophone education region, on evidence satisfactory to the Minister, whether the Protestant or Roman Catholic faith is the faith of the minority of all individuals living within the boundaries of the Francophone education region.

#### **Composite Francophone regional authority**

**129(1)** For each Francophone education region, the Minister shall by order establish a composite Francophone regional authority, and the trustees of the composite Francophone regional authority are a corporation under the name of:

The Francophone Regional Authority of \_\_\_\_\_  
Francophone Education Region.

(2) A composite Francophone regional authority must be composed of at least 3 trustees.

(3) Subject to subsection (4), the number of public school trustees of a composite Francophone regional authority must, if practicable, be in the same proportion to the total number of trustees of the composite Francophone regional authority as the total number of public school electors in the Francophone education region is to the combined total number of public school electors and separate school electors in the Francophone education region.

(4) A composite Francophone regional authority must have at least one public school trustee and at least one separate school trustee.

(5) The separate school trustees of a composite Francophone regional authority are a corporation under the name of:

The Separate School Trustees of the Francophone Regional Authority of \_\_\_\_\_.

#### **Designation of schools**

**130** A composite Francophone regional authority must designate each school either as a public school or as a separate school.

#### **Public and separate Francophone regional authorities**

**131(1)** If, within a Francophone education region, the public school electors exceed 30% of the combined total number of all public school electors and separate school electors and there are at least 500 students registered in the public schools, the Minister may dissolve the existing composite Francophone regional authority and establish both a public Francophone regional authority and a separate Francophone regional authority.

(2) The trustees of the public Francophone regional authority established under subsection (1) are a corporation under the name of:

The Francophone Regional Authority of \_\_\_\_\_ Public Francophone Education Region.

(3) The trustees of the separate Francophone regional authority established under subsection (1) are a corporation under the name of:

The Francophone Regional Authority of \_\_\_\_\_ Separate Francophone Education Region.



**Appointment of trustees on establishment**

**132(1)** The Minister may appoint the first trustees of a Francophone regional authority.

**(2)** Trustees of a Francophone regional authority appointed under subsection (1) hold office until the first organizational meeting of the Francophone regional authority held after the first general election held after the Francophone regional authority is established.

**Agreements with school divisions**

**133(1)** The board of a school division required by the Minister to do so must enter into an agreement with the Francophone regional authority respecting any matter the Minister considers necessary, including, but not limited to, dealing with assets and liabilities and the transfer of employees.

**(2)** If a board referred to in subsection (1) and the Francophone regional authority do not enter into an agreement under subsection (1) within a period that the Minister considers reasonable, the Minister may make an order respecting any matter the Minister considers necessary.

**Responsibility and authority of Francophone regional authority**

**134(1)** A Francophone regional authority has the responsibility and authority to ensure that minority language educational rights guaranteed under the Constitution of Canada are protected in the Francophone education region.

**(2)** The separate school trustees of a composite Francophone regional authority have the responsibility and authority to ensure that the rights and privileges with respect to separate schools guaranteed under the Constitution of Canada are protected in the Francophone education region.

**(3)** A separate Francophone regional authority has the responsibility and authority to ensure that both minority language educational rights and the rights and privileges with respect to separate schools guaranteed under the Constitution of Canada are protected in the Francophone education region.

**Eligibility**

**135(1)** For the purposes of this Act and the *Local Authorities Election Act*, an individual is eligible to vote in an election of trustees of a Francophone regional authority if

- (a) the individual
  - (i) is a Francophone,
  - (ii) is 18 years of age or older,
  - (iii) is a Canadian citizen, and
  - (iv) is a resident of Alberta and resides in the Francophone education region on election day,
- or
- (b) the individual is a member of a class of individuals prescribed by the Lieutenant Governor in Council as being eligible to vote.

**(2)** For the purposes of this Act and the *Local Authorities Election Act*, an individual is eligible to be elected as a trustee of a Francophone regional authority if the individual

- (a) is a Francophone,
- (b) is 18 years of age or older,
- (c) is a Canadian citizen,
- (d) has been a resident of Alberta for the 6 consecutive months immediately preceding nomination day and resides in the Francophone education region on election day, and
- (e) is not otherwise ineligible under the *Local Authorities Election Act*.

**(3)** An individual who is a public school elector is eligible only

- (a) to vote for, and
- (b) to be nominated as a candidate for election as,

a public school trustee of a Francophone regional authority.

**(4)** For the purposes of this Act, an individual who is a separate school elector is eligible

- (a) to vote for, and
- (b) to be nominated as a candidate for election as,

either a public school trustee or a separate school trustee of a Francophone regional authority, but not both.

(5) A person who is eligible to vote in an election for a board other than a Francophone regional authority and in an election for a Francophone regional authority may only vote in one election.

(6) A person may not be a trustee of a Francophone regional authority and of a board at the same time.

2012 cE-0.3 s135;2019 c7 s19

#### **Dissolution of Francophone regional authority**

**136(1)** A Francophone regional authority may pass a resolution requesting the Minister to dissolve the Francophone regional authority.

(2) The Minister, subject to any terms or conditions the Minister imposes, may, by order, dissolve a Francophone regional authority whether or not the Minister receives a resolution requesting the dissolution.

(3) If on the dissolution of a Francophone regional authority the Minister considers an adjustment of assets or liabilities to be necessary, the Minister shall, by order, give directions with respect to the assets or liabilities of the Francophone regional authority.

## **Part 6 Finance and Property**

### **Division 1 Finance**

#### **Definition**

**137** In this Part, “auditor” means a professional accounting firm registered under the *Chartered Professional Accountants Act* and authorized to perform an audit engagement.

2012 cE-0.3 s137;2014 cC-10.2 s174

#### **Auditor**

**138** Each board shall appoint an auditor.

#### **Financial reporting to the Minister**

**139(1)** The fiscal year of a board is September 1 to the following August 31, unless otherwise specified by the Minister.

(2) The board shall, in each year, do the following:

- (a) on or before May 31, or another date specified by the Minister, prepare and submit to the Minister a budget for the fiscal year beginning on the following September 1;

- (b) on or before November 30, or another date specified by the Minister, submit to the Minister, in the form prescribed by the Minister, copies of
  - (i) the board's financial statements,
  - (ii) the auditor's report on the board's financial statements, and
  - (iii) any written communications between the auditor and the board respecting the systems of internal control and accounting procedures of the board.

(3) The Minister in the Minister's discretion may publish or otherwise disseminate all or any of the items submitted to the Minister pursuant to subsection (2)(b).

**Contents of financial statements and authority to disclose personal information**

**140(1)** The financial statements referred to in section 139(2)(b) must include the following information in respect of the board:

- (a) the remuneration, the benefits, the allowances and the expenses paid to or on behalf of the members of the board, each shown as a separate figure and shown separately for each member;
- (b) the remuneration, the benefits, the allowances, the expenses and the performance bonuses and other monetary incentives paid to or on behalf of the superintendent, each shown as a separate figure;
- (c) the remuneration, the benefits, the allowances, the expenses and the performance bonuses and other monetary incentives paid to or on behalf of the secretary-treasurer or the secretary and the treasurer appointed by the board, as the case may be, each shown as a separate figure;
- (d) the total of the remuneration, the total of the benefits and the total of the allowances paid to or on behalf of the persons in each of the following groups:
  - (i) teachers employed by the board;
  - (ii) non-teaching employees of the board.

(2) The board has the authority to disclose the information listed in subsection (1) notwithstanding any other Act or any provision of

any agreement that purports to prohibit the disclosure of that information.

**Auditor's report**

**141(1)** An auditor shall, in accordance with the Canadian Auditing Standards, perform the auditor's examination of, and prepare the auditor's report on, the financial statements prepared pursuant to this Act and submit the report to the board.

**(2)** Board employees must give the auditor access to all records, documents, books of account and vouchers of the board at all times, and the auditor is empowered to request and receive from the board and any employee of the board any information and explanations that in the auditor's opinion may be necessary to enable the auditor to report as required by subsection (1).

**Audit committee**

**142(1)** Each board shall establish an audit committee to

- (a) recommend external auditors to the board,
- (b) review the annual financial statements and report to the board, and
- (c) attend to other matters as the board may determine in the establishment of the audit committee.

**(2)** The audit committee shall comprise at least 5 individuals and shall include 2 members who are not trustees.

2012 cE-0.3 s142;2020 c11 s13

**Application of funds**

**143(1)** Subject to subsections (3) and (4), any money of a board that is accumulated or acquired for the purpose of capital expenditures must be used only for capital expenditures.

**(2)** Subject to subsections (3) and (4), any money of a board that is accumulated or acquired for a capital expenditure by borrowing or in any other manner must be used only for the capital expenditure for which it was acquired.

**(3)** The Minister, on any conditions that the Minister prescribes,

- (a) may permit a board, or
- (b) may require a board

to use money referred to in subsection (1) or (2) for a particular capital expenditure or a particular capital project or for any other expenditure or project whether or not the expenditure or project is one for which the money was accumulated or acquired.

(4) Notwithstanding subsections (1) and (2), a board may effect a temporary transfer of capital funds for a period of not more than 365 days to an account for operating expenses and, on the transfer of the capital funds, the funds may be applied during that period toward operating expenses.

#### **Accumulated surplus fund**

**143.1(1)** A board that establishes an accumulated surplus fund that is not a capital reserve fund or an endowment fund may make a payment, or transfer money, from the fund only with the prior approval of the Minister.

(2) The Minister may, on any conditions that the Minister prescribes, permit or require a board to make a payment, or transfer money, from an accumulated surplus fund referred to in subsection (1).

(3) This section is repealed on September 1, 2022.

2020 c3 s1

## **Division 2 Assessment of Property**

#### **Definition**

**144** In this Division, “person” includes a cooperative within the meaning of the *Cooperatives Act*.

#### **Assessment**

**145** All property is assessable in accordance with this Act for school purposes.

#### **Property owned by individuals**

**146(1)** Where

- (a) property owned by an individual is located in an area where a separate school district has been established, and
- (b) the individual who owns the property declares that the individual is of the same faith, whether Protestant or Roman Catholic, as the faith of those who established the separate school district,

the property owned by that individual is assessable for separate school purposes.

(2) Property owned by an individual who is not referred to in subsection (1) is assessable for public school purposes.

(3) Where

- (a) property is held by 2 or more individuals as joint tenants or tenants in common, and
- (b) that property is located in an area where a separate school district has been established,

that property must be assessed for separate or public school purposes, in accordance with subsections (1) and (2), in proportion to each individual's interest in the property.

(4) For the purposes of this section, when property is held by 2 or more individuals as joint tenants, they are deemed to hold that property in equal shares and the property must be assessed accordingly.

**List of separate school district residents**

**146.1(1)** Where a separate school district is established, the board of the separate school division to which the separate school district is added shall

- (a) before the December 1 next following the establishment of the separate school district, and
- (b) according to the information available to the board,

submit to each municipality within which the district lies a list of the names and addresses of all individuals whose property is liable to assessment for separate school purposes.

(2) The board of the separate school division shall submit to the municipality where the separate school district is established a list of the names and addresses of all individuals who were separate school electors as defined in section 98 at the time the separate school district was established.

(3) A list submitted to a municipality under subsection (1) becomes effective on the December 31 next following the date on which the list is submitted.

(4) The lists referred to in subsections (1) and (2) shall each be accompanied with a statutory declaration of the chair and secretary of the board stating

- (a) the sources of information used in the preparation of the list, and
- (b) that to the best of their knowledge and belief, the list is accurate according to that information.

(5) On receiving the lists referred to in subsections (1) and (2), the municipality shall mail to each individual named on a list, at the individual's address shown on the list, a notice stating

- (a) that the board of a separate school division claims that
  - (i) the individual is a resident of that district and the individual holds property that is located in the district that is assessable for separate school purposes because the individual is Protestant or Roman Catholic, whichever is the faith of those who established the separate school district,
  - (ii) the individual is a resident of that district but does not hold property in the district, or
  - (iii) the individual does not reside in that district but the individual holds property that is located in the district that is assessable for separate school purposes because the individual is Protestant or Roman Catholic, whichever is the faith of those who established the separate school district,

and

- (b) that the individual will be recorded as a resident of the separate school district or as a non-resident property owner whose property is assessable for separate school purposes unless within 3 weeks from the date of the mailing of the notice the individual gives written notice to the municipality stating that the individual is not a member of the same faith as those who established the separate school district.

(6) When a written notice is given by an individual under subsection (5)(b), the municipality shall remove the name of the individual from the list.

(7) After the expiration of 3 weeks from the date of the mailing of the last of the notices by the municipality under subsection (5), the municipality shall,



- (a) with respect to all individuals whose names remain on the list referred to in subsection (1), record their properties as being assessable for separate school purposes, and
- (b) with respect to all individuals whose names remain on the list referred to in subsection (2), if any, record those individuals as being electors of the separate school division.

(8) The municipality shall give to the board of the separate school division and to the board of the relevant public school division a copy of the list following the removal of names, if any, pursuant to subsection (6).

(9) Notwithstanding subsections (5) to (8), a municipality shall not remove the name of any individual from a list referred to in subsection (1) on or after the date on which the board passes the resolution authorizing the holding of a plebiscite under Part 6 in respect of the separate school division unless

- (a) the resolution is withdrawn by the board,
- (b) the electors of the separate school division do not agree in the plebiscite to a special school tax levy, or
- (c) the taxable period affected by the special school tax levy has ended or public notice is given by the board under section 172(2), whichever occurs first.

2015 c6 s25

#### **Notice of assessability by an individual**

**147(1)** Any individual who is a separate school elector as defined in section 98 may give written notice, in the form prescribed by the Minister, at any time to a municipality that the property of the individual is assessable for separate school purposes in accordance with section 146.

(2) An individual whose name is on a list given by a municipality to the board of a separate school division under section 146.1(8) is deemed to have given notice under subsection (1) that the property of the individual is assessable for separate school purposes.

(3) Any individual who is not a separate school elector as defined in section 98 may give written notice at any time, in the form prescribed by the Minister, to the municipality that the property of the individual is assessable for public school purposes.

(4) Notwithstanding subsections (1) and (3), an individual may not give a written notice referred to in subsection (1) or (3) or withdraw a notice already given on or after the date on which the

board of a school division passes a resolution authorizing a plebiscite under section 172(2) in respect of a school division that includes the part of the municipality in which the property of the individual is located unless

- (a) the resolution is withdrawn by the board,
- (b) the school electors do not agree in the plebiscite to a special school tax levy, or
- (c) the taxable period affected by the special school tax levy has ended or further public notice is subsequently given by the board under section 172(2), whichever occurs first.

(5) Subject to subsection (4), if a notice is given under this section, an individual may withdraw the notice only if it is replaced by a notice under this section that the property of the individual is assessable

- (a) for separate school purposes, if the original notice made the property assessable for public school purposes, or
- (b) for public school purposes, if the original notice made the property assessable for separate school purposes.

2012 cE-0.3 s147;2015 c6 s26

#### **Notice of assessability by corporation or cooperative**

**148(1)** A corporation or cooperative may give written notice, in the form prescribed by the Minister, to a municipality that all or a portion of its property located in the municipality is assessable for public or separate school purposes.

(2) A corporation or cooperative may by notice at any time require

- (a) that a portion of its property be entered and assessed for separate school purposes in accordance with this section if it has shareholders or members who declare themselves to be of the same faith as those who established a separate school district in which it has property, or
- (b) that all of the property it has in the municipality be entered and assessed for public school purposes.

(3) When a corporation has shareholders, the notice under subsection (2)(a) must designate for separate school purposes the same proportion of the property of the corporation in the separate school district that is assessable for school purposes as the value of shares owned by shareholders who declare themselves to be of the same faith as those who established the separate school district bears to the total value of all shares of the corporation.

(4) The notice under subsection (2)(a) given by a corporation that does not have shareholders or by a cooperative must designate for separate school purposes the same proportion of the property of the corporation or cooperative in the separate school district that is assessable for school purposes as the number of members who declare themselves to be of the same faith as those who established the separate school district bears to the total number of members.

(5) Notwithstanding subsection (1), a corporation or cooperative may not give a written notice or withdraw a notice already given on or after the date on which the board of a school division passes a resolution authorizing a plebiscite under section 172(2) in respect of a school division that includes the property referred to in the notice unless

- (a) the resolution is withdrawn by the board,
- (b) the school electors do not agree in the plebiscite to a special school tax levy, or
- (c) the taxable period affected by the special school tax levy has ended or further public notice is subsequently given by the board under section 172(2), whichever occurs first.

(6) Subject to subsection (5), if a notice is given under this section, a corporation or cooperative may withdraw the notice only if it is replaced by a notice under this section that the property of the corporation or cooperative is assessable

- (a) for separate school purposes, if the original notice made the property assessable for public school purposes, or
- (b) for public school purposes, if the original notice made the property assessable for separate school purposes.

(7) A notice given by a corporation or cooperative under this section must state that the information in the notice has been approved by a resolution of the shareholders, the members or the directors, as the case may be.

#### **Notice on acquisition**

**149(1)** If a person acquires ownership of a fee simple estate in land, the person shall complete the appropriate notice referred to in this Division and give it to the municipality in which the land referred to in the transfer is located.

(2) If a municipality does not receive a notice under subsection (1) within 60 days after it is advised that the ownership of a fee simple

estate in land has been transferred, the municipality shall send the transferee

- (a) if the transferee is an individual, a form of notice under section 147(1) and (3), or
- (b) if the transferee is a corporation or cooperative, a form of notice under section 148.

**(3)** A form of notice required to be sent under subsection (2)(a) or (b) may be sent in accordance with a bylaw under section 608.1(2) of the *Municipal Government Act*.

2012 cE-0.3 s149;2019 c22 s2

#### **Examination of notice**

**150** Any person entitled to examine the assessment roll may, in accordance with the *Municipal Government Act*, examine a notice given under this Division by a corporation or a cooperative.

#### **Evidence**

**151** A notice given under this Division is proof, in the absence of evidence to the contrary,

- (a) of the contents of that notice, and
- (b) that a corporation or cooperative that gave the notice was properly empowered to give the notice.

#### **Effect of notice**

**152(1)** A notice given by a person under this Division must be given to the proper officer of the municipality in which the property is situated and to the secretaries of the boards of the public school division and the separate school division.

**(2)** When a person gives notice under this Division, any change in the assessment roll is not effective for assessment purposes until the year following the year in which the notice is given.

**(3)** The proper officer shall retain on file in the officer's office each notice given to the officer under subsection (1).

**(4)** A notice continues in force and must be acted on until it is withdrawn, varied or cancelled by a subsequent notice given by the individual or pursuant to a resolution of the corporation or cooperative.

**Assessment of corporation**

**153** The proper officer of each municipality shall in each year, before the completion of the assessment and tax roll, examine each notice on file in the officer's office and shall show in the assessment and tax roll the property of a corporation or cooperative or the part of it that is designated by the notice as assessable for separate school purposes.

**Equalized assessment**

**154(1)** The Minister responsible for the *Municipal Government Act* shall in each year apportion among the school divisions, whether public or separate, situated in whole or in part within a municipality the equalized assessment, as defined in the *Municipal Government Act*, established in respect of the municipality for that year, and afterwards that Minister shall advise the municipality of the apportionment.

**(2)** On being advised by the Minister responsible for the *Municipal Government Act* of an apportionment under subsection (1), the chief administrative officer or a designated officer of a municipality within which a school division is situated in whole or in part shall provide a certificate to the secretary of the board showing the portion of the equalized assessment of the municipality as determined pursuant to subsection (1) that is applicable to that part of the municipality within which the school division is situated.

**(3)** For the purposes of this section, if a separate school district is situated in whole or in part within a municipality,

- (a) the assessment of property of an individual that is assessable for separate school purposes pertains to the separate school district in accordance with section 146 and any notice given under section 147,
- (b) the assessment of property of an individual that is assessable for public school purposes pertains to the public school division in accordance with section 146 and any notice given under section 147, and
- (c) the assessment of property of a corporation or a cooperative must be apportioned between the separate school district and the public school division in accordance with the notice given under section 148.

**Statement to boards by municipality**

**155** The proper officer of each municipality, when providing the certificate required by section 154, shall also send to each board a statement showing, both for public school purposes and for separate school purposes,

- (a) the total assessment of all property assessed to individuals,
- (b) the total assessment of all property assessed to corporations under section 148, and
- (c) the totals of the assessments, valuations and assessed values under clauses (a) and (b).

**Copy of assessment roll**

**156(1)** Each municipality within which a school division is situated in whole or in part shall, at the request of and at the expense of the board, supply to the board a copy of the whole or any part of the assessment roll of the municipality.

**(2)** A board that receives a copy of the whole or any part of an assessment roll shall treat the information as being strictly confidential.

**False statement re assessment**

**157** A false statement made in any notice respecting the assessment of property of an individual, corporation or cooperative that is given by the individual, the corporation or the cooperative does not relieve the individual, the corporation or the cooperative from taxes.

**Offence**

**158(1)** A corporation or cooperative that fraudulently gives notice or makes a false statement in a notice is guilty of an offence and liable to a fine of not more than \$10 000.

**(2)** Any person

- (a) who gives a notice on behalf of a corporation or cooperative, and
- (b) who fraudulently or wilfully inserts in that notice a false statement,

is guilty of an offence and liable to a fine of not more than \$10 000.

### Division 3 Requisitions

#### Definition

**159** In this Division, “Alberta School Foundation Fund” means the Alberta School Foundation Fund continued under Division 4.

#### Calculation of requisition by board

**160(1)** Subject to the regulations and subsection (2), a board shall requisition from a municipality included in whole or in part within the school division

- (a) in the case of a board of a separate school division to which Division 4 does not apply, the difference between its estimated total expenditures and its estimated total revenues derived from all sources, and
- (b) the amount required under a special school tax levy under section 175.

**(2)** For the purposes of this section, the requisition from a particular municipality referred to in subsection (1)(a) must not, in a year, be less than the requisition that would be determined using

- (a) the property tax rates established under section 167 for that year for the particular municipality, and
- (b) the equalized assessment of the particular class of property referred to in section 167(2) of that portion of the assessment base of the municipality in respect of which notice has been given in accordance with Division 2 that the property is assessable for separate school purposes.

**(3)** In subsection (2)(b), the reference to notice given in accordance with Division 2 is a reference to a notice effective as at December 31 of the year preceding the year for which the requisition is made.

**(4)** A municipality that has passed a supplementary assessment bylaw under the *Municipal Government Act* shall pay to a board that has requisitioned the municipality under subsection (1)(a) the amount raised as a result of the supplementary taxes levied on that portion of the assessment base of the municipality in respect of which notice has been given in accordance with Division 2 that the property is assessable for separate school purposes.

**(5)** The amount referred to in subsection (4) must be paid to the board on or before February 28 in the year subsequent to the year for which the supplementary tax is levied.

(6) A municipality shall advise the Minister of the amount paid to a board under subsection (4) on or before February 28 in the year subsequent to the year for which the supplementary tax is levied.

(7) The amount received by a board under subsection (4) must be used to lower the requisition under subsection (1)(a) by the board from the municipality in the subsequent year.

(8) The Minister may make regulations

- (a) limiting the amount of money a board may requisition from a municipality;
- (b) setting the limit referred to in clause (a) as an amount or as a percentage;
- (c) providing one or more methods, whether by a vote of the electors or otherwise, by which a board may exceed the limits set under clause (a).

(9) The Minister may use any criteria the Minister considers appropriate in establishing limits under subsection (8).

#### **Submission of requisition**

**161(1)** Subject to section 164(6), on or before April 30 in each year or within 30 days after the date on which a board is provided with the certificates under section 154, whichever is later, the board shall submit to each municipality and to the Minister its requisition that is required to be raised by the relevant municipality.

(2) If a municipality requests it, the board shall supply a copy of its estimates to the municipality to which it submits a requisition.

#### **Payment by council of a municipality**

**162(1)** A municipality, in each year, shall pay to the board of each school division in which the area of the municipality is included the amount of the requisition transmitted by the board of the school division under this Part.

(2) In the same manner and at the same time as it levies the amount of the basic requisition made under section 160, a municipality shall levy on the assessable property in the part of the separate school district or school division that is within the municipality

- (a) the amount of any other requisition referred to in section 175, and



- (b) the amount required for the purposes of the Alberta School Foundation Fund under section 167.

(3) A municipality shall pay to a board or the Alberta School Foundation Fund the amount required under this Part in equal quarterly instalments on the last banking day of each of the months of March, June, September and December in that year.

(4) If a municipality has not received the requisition of the board of a school division or the mill rates under section 167 by March 15, the municipality shall make a payment on account to that board or the Alberta School Foundation Fund, as the case may be, based on the requisitions or payments of the previous year.

(5) If a municipality fails to pay the amount required from time to time under this Part as required by this Part, the amount becomes a debt due, owing and payable to the school division or the Government, as the case may be.

(6) With the permission of the Minister, a debt referred to in subsection (5) may be recovered by an action in debt.

#### **Interest**

**163** If a municipality is in default of payment of a requisition or payment into the Alberta School Foundation Fund, the amount unpaid bears interest at a rate determined by the Lieutenant Governor in Council.

### **Division 4 Alberta School Foundation Fund**

#### **Application of this Division**

**164(1)** Subject to a resolution of a board under subsection (2), this Division applies to all boards.

(2) The board of a separate school division may, pursuant to a resolution, certify to the Minister under the seal of the separate school division that this Division does not apply to it.

(3) A resolution of a board under subsection (2) remains in effect until it is rescinded by another resolution of the board.

(4) A board may make or rescind a resolution referred to in subsection (2) only after the date of a general election under the *Local Authorities Election Act* and before December 31 of the same year.

(5) A resolution of a board under subsection (2) takes effect in the first taxation year beginning after the date of the resolution.

(6) A board of a school division to which this Division applies shall requisition a municipality under Division 3 only in accordance with a special school tax levy.

#### **Alberta School Foundation Fund**

**165** The Alberta School Foundation Fund is continued by this section.

#### **Taxing authority**

**166** The Government of Alberta is a taxing authority for the purpose of applying property tax rates against the equalized assessment of a municipality.

#### **Payment into the Fund**

**167(1)** The Lieutenant Governor in Council shall in each year establish one or more property tax rates expressed in mills.

(2) The property tax rates must be established under subsection (1) in accordance with the following:

- (a) there must be one property tax rate for the equalized assessment of residential and farm land property referred to in section 297(1) of the *Municipal Government Act*;
- (b) there must be one property tax rate for the equalized assessment of non-residential property referred to in section 297(1) of the *Municipal Government Act*;
- (c) there must be one property tax rate for the equalized assessment of machinery and equipment property referred to in section 297(1) of the *Municipal Government Act*.

(3) Notwithstanding subsection (2), the property tax rates established under subsection (1) may be varied by the Lieutenant Governor in Council among towns or townsites in national parks.

(4) Each municipality shall pay annually into the Alberta School Foundation Fund a sum equal to the amount that results from applying the property tax rates established under subsection (1) in accordance with the order that establishes them to the equalized assessment of the municipality as established for the year under the *Municipal Government Act*.

(5) A municipality that has passed a supplementary assessment bylaw under the *Municipal Government Act* shall pay into the Alberta School Foundation Fund the amount raised pursuant to the requisition as a result of the supplementary taxes levied on that portion of the assessment base of the municipality in respect of which no payment is made under section 160(4).

(6) The amount referred to in subsection (5) must be paid into the Alberta School Foundation Fund on or before February 28 in the year subsequent to the year for which the supplementary tax is levied.

(7) The amount paid into the Alberta School Foundation Fund pursuant to subsection (5)

- (a) must be used to offset any under levy resulting from appeals from equalized assessments under the *Municipal Government Act*, and
- (b) if there is an amount remaining after all offsets under clause (a) are made, that amount must be used to lower the province-wide requisition under this section in the subsequent year.

(8) The Minister, or a person designated in writing by the Minister, shall advise each municipality as soon as possible in each year of the amount that the municipality is required to pay into the Alberta School Foundation Fund.

(9) Each municipality shall pay into the Alberta School Foundation Fund the amount calculated by applying the property tax rates established under subsection (1).

(10) Notwithstanding anything in this Division, the Minister may by order provide that the sum required to be paid into the Alberta School Foundation Fund by a municipality pursuant to subsection (4) be paid, in whole or in part, directly to one or more boards of school divisions situated in whole or in part within the municipality, and any sum paid under this section is deemed to be a payment into the Alberta School Foundation Fund.

(11) Notwithstanding anything in this Division, the Minister may by order suspend or defer in whole or in part the payment of any sum required to be paid under subsection (4) for the period of time and on the terms and conditions that the Minister prescribes.

(12) Notwithstanding anything in this section, that portion of the assessment base of a municipality that is assessable for separate

school purposes pursuant to section 160(2)(b) is not to be included in the equalized assessment referred to in subsection (4).

**(13)** If it is determined on appeal under the *Municipal Government Act* that a municipality has paid an amount into the Alberta School Foundation Fund in excess of the sum that it is required to pay under subsection (4), the Minister may order the repayment of the excess to the municipality from the Alberta School Foundation Fund.

#### **Default**

**168** Where a municipality defaults in making a payment required under this Division, the Minister may pay into the Alberta School Foundation Fund to the credit of the municipality any grants payable to that municipality for that year or any succeeding year until the amount owing by the municipality has been received.

#### **Payment from the Fund**

**169(1)** In this section,

- (a) “eligible student” means a student who is eligible in accordance with regulations made under subsection (8);
- (b) “amount per student” means the amount calculated in accordance with subsection (4).

**(2)** Subject to regulations made under subsection (8), the Minister shall make payments from the Alberta School Foundation Fund to all boards, whether or not the board has a subsisting resolution that this Division does not apply to it.

**(3)** The Minister shall not make a payment from the Alberta School Foundation Fund to any person other than a board except

- (a) when section 167(13) applies, or
- (b) when a payment to the General Revenue Fund is required to repay advances made from that Fund to the Alberta School Foundation Fund, and in that case, interest may also be paid from the Alberta School Foundation Fund to the General Revenue Fund.

**(4)** The amount per student with respect to a board is the amount obtained by dividing

- (a) the total amount received by the board pursuant to a payment from the Alberta School Foundation Fund and a

requisition under section 160, other than pursuant to a special school tax levy,

by

- (b) the number of eligible students enrolled in schools operated by the board.

(5) The Minister shall calculate the amount to be paid from the Alberta School Foundation Fund to all boards in such a way that the payment for a school year to each board is consistent with the principle that every board is entitled to receive the same amount per student for the school year.

(6) If a separate school division to which this Division does not apply receives from municipalities requisitioned by the board an amount per student for a school year that is greater than the amount per student for the school year used by the Minister to calculate payments from the Alberta School Foundation Fund under subsection (5) subject to the rights under the Constitution of Canada of separate school electors, the board of that school division shall pay the difference between the amounts into the Alberta School Foundation Fund.

(7) The receipt of money from the Alberta School Foundation Fund does not make this Division apply to a board of a separate school division that has a subsisting resolution certifying that this Division does not apply to it.

(8) The Lieutenant Governor in Council may make regulations

- (a) respecting payments to boards from the Alberta School Foundation Fund for the purposes of education under this Act;
- (b) establishing criteria for determining who is an eligible student.

#### **Collecting boards**

**170** For the purpose of this Division, a collecting board under Division 6 is deemed to be both a board and a municipality.

#### **Effect of cessation of services**

**171** Notwithstanding anything in this Division or the regulations, in the event of a cessation of services by teachers or other employees of a board by reason of a strike or lockout, the Minister shall

- (a) pursuant to the regulations made under this Division, calculate the amount payable to the board for the period during which the cessation of services continued, and
- (b) reduce the amount payable to the board by any sum up to and including the amount calculated pursuant to clause (a) after considering the continuing operating costs incurred by the board.

### **Division 5 Special School Tax Levy**

#### **Plebiscite**

**172(1)** Subject to this section, a board may authorize the holding of a plebiscite to obtain the approval of the electors of the school division to impose a special school tax levy under this Division.

**(2)** A board that intends to hold a plebiscite referred to in subsection (1)

- (a) shall not less than 60 days before the board intends to consider the resolution authorizing the holding of a plebiscite referred to in subsection (1), give public notice, in accordance with the regulations, of its intention, and
- (b) must at least 60 days before election day in a year in which a general election will be held under the *Local Authorities Election Act*, pass the resolution at a public meeting of the board.

**(3)** The resolution referred to in subsection (2) must include a statement respecting the purpose of the special school tax levy.

**(4)** The question that the plebiscite is to determine must be

- (a) in accordance with the regulations, and
- (b) included in the resolution referred to in subsection (2).

**(5)** A board, by resolution, may withdraw the authorization for the plebiscite under subsection (2) up to the date on which the plebiscite is to be held.

**(6)** The Lieutenant Governor in Council may make regulations

- (a) respecting the information to be given to the public by a board before a plebiscite is held under this Division;

- (b) respecting the question, any information and any other matter to be included on a ballot in a plebiscite under this Division;
- (c) respecting generally the holding and conduct of a plebiscite under this Division.

**Conduct of plebiscite**

**173(1)** A plebiscite under this Division must be conducted in conjunction with the next general election under the *Local Authorities Election Act* after the resolution is passed under section 172.

**(2)** The *Local Authorities Election Act* and the regulations under it apply to the plebiscite except as otherwise provided by this Act or the regulations under this Act.

**(3)** The persons eligible to vote in a plebiscite are the persons eligible to vote at the general election for members of the board that passed the resolution.

**(4)** The results of a plebiscite must be reported in accordance with the *Local Authorities Election Act*.

**Special school tax levy**

**174(1)** No special school tax levy may be authorized by plebiscite if the amount to be raised by the special school tax levy in each year is more than 3% of the budget of the board for the year in which the resolution is passed.

**(2)** A special school tax levy may be approved by a plebiscite for a period of not more than the 4-year period ending on December 31 of the year of the next general election under the *Local Authorities Election Act* after the plebiscite.

**(3)** Money raised by a board by a special school tax levy must be used for the purpose referred to in the resolution.

2012 cE-0.3 s174;2015 c6 s27

**Assessment and requisition**

**175(1)** If a majority of the ballots cast at a plebiscite under this Division vote in favour of a special school tax levy, the board may requisition municipalities in accordance with Division 3.

**(2)** Subject to subsections (3) and (4), Divisions 2 and 3 apply to a special school tax levy.

(3) Only the property of an individual that is assessable for public school purposes under section 146 or of a corporation or cooperative that has given notice under section 148 that all or a portion of its property is assessable for public school purposes is assessable for a special school tax levy by a board of a public school division.

(4) Only the property of an individual that is assessable for separate school purposes under a notice under section 147 or of a corporation or cooperative that has given notice under section 148 that all or a portion of its property is assessable for separate school purposes is assessable for a special school tax levy by a board of a separate school division.

### **Division 6**

#### **Levying and Collection of Taxes by a Board**

##### **Definition**

**176** In this Division, “collecting board” means a board that is authorized under section 177 to levy and collect taxes.

##### **Authorization to levy and collect taxes**

**177(1)** The Minister may by order authorize a board to levy and collect taxes as a collecting board in accordance with section 178 with respect to its whole area.

(2) An order made under subsection (1) must be published in The Alberta Gazette.

##### **Collecting board**

**178(1)** A collecting board

- (a) has, for the purpose of imposing, collecting and refunding taxes, all the powers with respect to the imposition and collection of taxes that are vested in a municipality by the *Municipal Government Act*, and
- (b) has and may exercise all the powers and duties of a municipality under this Act and the *Municipal Government Act*, but only to the extent that the power is not being exercised in the district by any other public authority.

(2) A collecting board may exercise the powers given by subsection (1) only in accordance with a plebiscite conducted under Division 5 or as a municipality under Division 4.



**Exemption**

**179** Division 3 as it relates to the making of requisitions on municipalities does not apply to a collecting board.

**Division 7  
Borrowing****Borrowing**

**180(1)** Subject to subsection (2), a board may borrow to meet operating and capital expenditures only with the prior approval of the Minister.

**(2)** The Minister may make regulations respecting the circumstances in which a board is not required to obtain the prior approval of the Minister before borrowing to meet operating and capital expenditures, including qualifying conditions or requirements that the Minister considers appropriate.

**(3)** The Minister may approve all or a part of a request to borrow and may impose any conditions on the approval that the Minister considers appropriate.

**(4)** Where the amount of any borrowing by a board is secured, a charge secured by the board is not effective against the Government, the municipality or any other person who is not a party to the charge.

**(5)** The Minister may make regulations respecting borrowing by a board under this section.

**Borrowing by debenture**

**181(1)** Whenever a board intends to borrow by the issuance of a debenture, the board must

- (a) pass a bylaw authorizing the borrowing, and
- (b) notwithstanding section 180(2), obtain the prior approval of the Minister.

**(2)** If the Minister, under section 180, approves a request by a board to borrow by the issuance of a debenture, the Minister shall, as soon as possible after giving the approval, publish a notice of the approval in The Alberta Gazette.

**(3)** A debenture must not be issued after the expiration of 3 years from the date on which the notice of the approval was published in The Alberta Gazette under subsection (2).

**Validity of debentures**

**182** Any debenture issued under this Act is valid and binding on a board notwithstanding any insufficiency in form or substance or otherwise of the bylaw or of the authority of the board in respect of it.

**Use of unexpended debenture proceeds****183(1)** If

- (a) debentures have been issued for a capital expenditure, and
- (b) on completion of the work or in consequence of its partial abandonment there remains a balance of funds,

a board shall, by resolution reciting the facts, apply to the Minister for authority to use that balance for any purpose not authorized by the bylaw under which the debentures were issued.

**(2)** Where the board makes an application under subsection (1), the Minister may, on the terms and conditions that the Minister considers proper, grant permission to a board to use the balance of funds for the purpose set out in the application.

**Improper application of money borrowed**

**184(1)** If a board uses money that was borrowed for a capital expenditure for a purpose not authorized under section 143 or 183, the persons who were trustees of the board when it approved the improper application of the capital money, whether or not they are still trustees, are jointly and severally liable for the payment to the board of the amount of money applied to the unauthorized use.

**(2)** A person is not liable under subsection (1)

- (a) if, being a trustee when the improper application of the capital money was approved and being present at the meeting of the trustees or of a committee of the trustees when it was approved, the person
  - (i) voted against the improper application of capital money at that meeting,
  - (ii) requested the person's name and vote to be recorded, and
  - (iii) notified the Minister in writing of the person's objection to the improper application of the capital money within 8 days from the date of that meeting,

or

- (b) if, being a trustee when the improper application of the capital money was approved but not being present at the meeting of the trustees or of a committee of the trustees when it was approved, the person
  - (i) filed with the secretary of the board a written objection to the improper application of the capital money, and
  - (ii) notified the Minister in writing of the person's objection, within 30 days from the date on which the person first had notice that the improper application of the capital money was approved.

#### **Liability of trustees**

**185** Where a trustee is liable to a board for funds under this Part, the amount for which the trustee is liable may be recovered by the board by legal action as a debt due from the trustee.

#### **Enforcement of liability of trustees**

**186(1)** On the application to the Court of Queen's Bench by any elector of the school division, the Court, if it is satisfied that

- (a) the elector has reasonable grounds for believing that the board has a cause of action under section 143, 183 or 184, and
- (b) either
  - (i) the board has refused or failed to commence an action to recover the funds within 60 days from the date of receipt of a written request from the elector to do so, or
  - (ii) the board has failed to prosecute diligently an action commenced by it to recover the funds,

may make an order, on any terms as to security for costs and otherwise that the Court considers proper, requiring the Minister of Justice and Solicitor General to commence or continue an action in the name and on behalf of the board to recover the funds.

**(2)** The board and the Minister of Justice and Solicitor General

- (a) must be given notice of any application under subsection (1), and

- (b) must have the right to appear and be heard in respect of the application.
- (3) Every order made under subsection (1) must require that the board
  - (a) co-operate fully with the Minister of Justice and Solicitor General in the institution and prosecution of the action, and
  - (b) make available to the Minister of Justice and Solicitor General all books, records, documents and other material or information known to the board or reasonably ascertainable by the board that is relevant to the action.

## **Division 8 Property**

### **Real and personal property**

**187** A board shall provide and maintain adequate real and personal property for its administrative and educational purposes.

### **Acquisition of property**

**188** A board shall notify the Minister within 30 days from the date on which the board purchases or enters into an agreement to purchase land or an interest in land or a school building or an interest in a school building.

### **Joint property**

**189(1)** Subject to section 195, a board may enter into an agreement with one or more other boards, persons or municipalities for the joint construction, ownership, control, management, maintenance, operation or use of a school building, public work or a building without the prior approval of the Minister.

(2) An agreement entered into under subsection (1) must be in writing.

(3) A board shall provide a copy of an agreement entered into under subsection (1) to the Minister on request.

### **Non-school buildings**

**190(1)** When a board proposes to construct, purchase or lease a non-school building, the board shall give public notice in accordance with the regulations of its intention to construct, purchase or lease the building if the estimated cost of the

construction, the purchase price or the leasehold costs over the term of the lease exceed \$500 000.

(2) For the purposes of this section, if a building is to be constructed, the estimated cost of the construction of the building is the cost estimated by the architect employed or consulted by the board, and the estimate must be incorporated in a minute of the board.

(3) If a board

- (a) receives a petition in accordance with the regulations respecting the construction, purchase or leasing of a non-school building within 15 days from the end of the period of public notice set out in the regulations, and
- (b) decides to proceed with the construction, purchase or lease of a non-school building,

the board shall submit the question to a vote of the electors.

(4) The board shall

- (a) send to the Minister a copy of each request contained in the petition received under subsection (3) within 5 days from the date of receiving it, and
- (b) advise the Minister in writing within 14 days from the date of the vote of the outcome of each vote conducted under subsection (3).

(5) If the result of the vote under subsection (3) is to defeat the proposal to construct, purchase or lease a building, the board is bound by the vote for a period of 12 months from the date of the vote and during that 12-month period the board shall not propose to construct, purchase or lease the same or a similar building.

2012 cE-0.3 s190;2015 c6 s28

### Expropriation

**191(1)** If a board is unable to acquire land or an interest in land necessary for it to carry out its functions, the board may apply to the Minister in accordance with subsection (2) for authority to expropriate the land or the interest in land under the *Expropriation Act*.

(2) An application to the Minister by a board must set out the facts and reasons for the request for authority to expropriate.

(3) The Minister may make any investigation the Minister considers necessary into the application and, if the Minister is

satisfied that the expropriation is necessary, the Minister shall issue an order authorizing the board to expropriate the land or the interest in land specified in the order.

(4) Until the Minister issues an order authorizing a board to expropriate, a board has no power to expropriate.

#### **Disposition of property**

**192(1)** Subject to this section, section 193, the regulations, Part 17 of the *Municipal Government Act* and the *Public Lands Act*, a board may, with the written approval of the Minister, sell, lease, rent or otherwise dispose of any of its real property.

(2) Where a board has determined that it no longer has a use for a school building, it must notify the Minister in writing.

(3) Where a board provides notice to the Minister under subsection (2), the Minister may, in writing, direct the board to dispose of that property subject to the terms and conditions that the Minister prescribes.

(4) The Registrar of Land Titles shall not accept an instrument that has the effect of transferring from a board any real property of the board unless the instrument is accompanied with

- (a) the approval given under subsection (1), or a certified copy of it, or
- (b) the direction given under subsection (3), or a certified copy of it.

#### **Leasing of property**

**193** A board may, without the approval of the Minister,

- (a) lease any real property that is not a school building or a portion of a school building,
- (b) lease a school building or a portion of a school building for less than 12 months, or
- (c) lease a school building or a portion of a school building for 12 months or more if the lease contains a termination provision allowing the board to terminate the lease on 12 months' notice.

#### **Regulations**

**194** The Minister may make regulations respecting the disposition of property by a board.

**School building and non-school building projects**

**195(1)** A school jurisdiction may not engage in a school building project without the prior written approval of the Minister.

**(2)** Notwithstanding subsection (1), prior written approval of the Minister is not required where a school jurisdiction relocates or leases a portable or modular room at the school jurisdiction's own expense.

**(3)** Where a school jurisdiction relocates or leases a portable or modular room at its own expense, the school jurisdiction must notify the Minister within 90 days of the relocation or lease.

**(4)** The Minister may establish terms and conditions under which a board may engage in a school building project.

**(5)** Subject to the regulations, a school jurisdiction may engage in a non-school building project without Ministerial approval.

**(6)** The Minister may make regulations respecting school building and non-school building projects.

## **Part 7 Education Professions and Occupations**

### **Division 1 Responsibilities**

**Teachers**

**196(1)** A teacher while providing instruction or supervision must

- (a) provide instruction competently to students;
- (b) teach the courses and programs of study that are prescribed, approved or authorized pursuant to this Act;
- (c) promote goals and standards applicable to the provision of education adopted or approved pursuant to this Act;
- (d) encourage and foster learning in students;
- (e) regularly assess students and periodically report the results of the assessment to the students, the students' parents and the board;
- (f) maintain, under the direction of the principal, order and discipline among the students while they are in the school or on the school grounds and while they are attending or

participating in activities sponsored or approved by the board;

- (g) subject to any applicable collective agreement and the teacher's contract of employment, carry out the duties that are assigned to the teacher by the principal or the board.

**(2)** At any time during the period of time that a teacher is under an obligation to a board to provide instruction or supervision or to carry out duties assigned to the teacher by a principal or the board, the teacher must, at the request of the board,

- (a) participate in curriculum development and field testing of new curriculum,
- (b) develop, field test and mark provincial assessments, and
- (c) supervise student teachers.

2012 cE-0.3 s196;2015 c6 s29

### **Principals**

**197** A principal of a school must

- (a) provide instructional leadership in the school,
- (a.1) provide a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging,
- (b) ensure that the instruction provided by the teachers employed in the school is consistent with the courses and programs of study prescribed, approved or authorized pursuant to this Act,
- (c) evaluate or provide for the evaluation of programs offered in the school,
- (d) ensure that students in the school have the opportunity to meet the standards of education set by the Minister,
- (e) direct the management of the school,
- (f) maintain order and discipline in the school and on the school grounds and during activities sponsored or approved by the board,
- (g) promote co-operation between the school and the community that it serves,
- (h) supervise the evaluation and advancement of students,



- (i) evaluate the teachers employed in the school, and
- (j) subject to any applicable collective agreement and the principal's contract of employment, carry out the duties that are assigned to the principal by the board in accordance with the regulations and the requirements of the school council and the board.

2012 cE-0.3 s197;2019 c7 s20

## **Division 2 Teachers**

### **Qualifications re employment**

**198(1)** Unless otherwise authorized under this Act, a board shall employ as a teacher only an individual who holds a certificate of qualification as a teacher issued pursuant to this Act.

**(2)** A board may employ a competent individual to teach a language or culture under the supervision of a teacher who holds a certificate referred to in subsection (1).

### **Qualifications re supervisory position**

**199** Unless a person holds a certificate of qualification as a teacher issued under this Act, that person is not eligible to hold a supervisory position that directly relates to the teaching functions of a teacher.

### **Agreements**

**200** A board shall, on the request of an institution that has a program of teacher education authorized by the Minister, enter into an agreement with the institution permitting the individuals enrolled in the program of teacher education and their instructors to attend a classroom of a school operated by the board while the school is in session for the purpose of observing or student teaching.

### **Regulations**

**201(1)** The Minister may make regulations

- (a) governing the issuing of certificates of qualification to teachers, including, without limitation, regulations
  - (i) providing for the issuance of different classes, types or categories of certificates,

- (ii) providing for the form and manner of application for a certificate and the information to be provided with or in support of an application,
  - (iii) respecting education, training and experience and character and other eligibility requirements of applicants for certificates,
  - (iv) authorizing the issuance of certificates subject to terms and conditions, and
  - (v) providing for procedural matters related to the issuance of certificates, including the appointment of advisory bodies;
- (a.1) respecting additional qualifications of principals, including leadership certificate requirements, for eligibility for designation as a principal;
  - (a.2) governing the issuing of leadership certificates, including, without limitation, regulations
    - (i) providing for the issuance of different classes, types or categories of certificates,
    - (ii) providing for the form and manner of application for a leadership certificate and the information to be provided with or in support of an application,
    - (iii) respecting education, training and experience, character and other eligibility requirements of applicants for leadership certificates,
    - (iv) authorizing the issuance of leadership certificates subject to terms and conditions, and
    - (v) providing for procedural matters related to the issuance of leadership certificates, including the appointment of advisory bodies;
  - (b) governing appeals from a decision to refuse to issue a certificate of qualification as a teacher or a leadership certificate, including, without limitation, regulations
    - (i) respecting the grounds on which an appeal may be made,
    - (ii) providing for the establishment of appeal panels and setting out their powers and duties,

- (iii) providing for procedural and evidentiary matters related to the appeal process,
  - (iv) authorizing the Minister to accept, reject or vary the recommendations of an appeal panel and authorizing the Minister to take any action necessary to implement the Minister's decision, and
  - (v) respecting the responsibility of the parties to an appeal for costs in respect of the appeal;
- (c) providing for and governing the means of dealing with allegations that a teacher is unskilled or incompetent in teaching or that a principal or other individual who holds a leadership certificate is unskilled or incompetent in carrying out the leadership duties related to that leadership certificate, or the means of dealing with complaints about alleged unprofessional conduct of a teacher or of a principal or other individual who holds a leadership certificate, other than a teacher, principal or other individual who is subject to the disciplinary provisions set out under the *Teaching Profession Act*, including, without limitation, regulations
- (i) governing what constitutes unprofessional conduct of a teacher or unskilled or incompetent teaching,
  - (ii) governing what constitutes unprofessional conduct of a principal or other individual who holds a leadership certificate or the unskilled or incompetent carrying out of the leadership duties related to a leadership certificate,
  - (iii) respecting the form and manner in which a complaint or allegation is to be made,
  - (iv) authorizing a complaint or allegation to be dealt with notwithstanding the fact that the individual who is the subject of the complaint or allegation may no longer hold a certificate under this Act, and respecting the circumstances under which that complaint or allegation may be dealt with,
  - (v) respecting the investigation of complaints and allegations and the powers and duties of a person conducting the investigation or receiving the report of the person conducting the investigation, as the case may be,

- (vi) respecting the establishment of panels to deal with complaints and allegations and respecting the powers and duties of those panels,
- (vii) respecting procedural and evidentiary matters in respect of the investigation of complaints and allegations and in respect of the business of the panels, including, without limitation, regulations
  - (A) providing for the taking of evidence under oath,
  - (B) providing for the compellability of witnesses,
  - (C) requiring persons to produce records and documents relevant to the subject-matter of a complaint or allegation, and
  - (D) authorizing proceedings for civil contempt of court to be brought against a person who fails to comply with a notice to attend a proceeding before a panel as a witness or a notice to produce records or documents, or who refuses to be sworn or to answer questions at a proceeding before a panel,
- (viii) authorizing a person conducting an investigation of a complaint or allegation to investigate any other matter related to the conduct of the individual who is the subject of the complaint or allegation that arises in the course of the investigation,
- (ix) authorizing the Minister, on receipt of a panel's recommendation, to do one or more of the following, whether or not that is the panel's recommendation:
  - (A) dismiss the complaint or allegation;
  - (B) serve a letter of reprimand on the individual who is the subject of the complaint or allegation;
  - (C) suspend one or more certificates of the individual who is the subject of the complaint or allegation, with or without conditions;
  - (D) cancel one or more certificates of the individual who is the subject of the complaint or allegation, or cancel one or more certificates and issue a certificate of a different class, type or category;
  - (E) order that the individual who is the subject of the complaint or allegation be ineligible for one or more

certificates for a definite or indefinite time, with or without conditions;

- (d) respecting the responsibility of the parties to a proceeding in respect of a complaint or allegation referred to in clause (c) for costs in respect of the proceeding;
- (e) authorizing the Minister to accept, reject or vary the recommendations of a committee established under the *Teaching Profession Act* to cancel or suspend one or more certificates, and authorizing the Minister to take any action necessary to implement the Minister's decision;
- (f) governing the publication of particulars regarding any recommendation or decision made in proceedings in respect of a complaint or allegation referred to in clause (c) or in proceedings under sections 17 to 65 of the *Teaching Profession Act*;
- (g) authorizing the Minister to appoint a Registrar and other officials for the purpose of carrying out powers and duties under the regulations;
- (h) requiring the Registrar to keep registers and records and respecting the information that is to be kept in the registers and records;
- (i) respecting, authorizing and prohibiting the release of information in the Registrar's registers and records;
- (j) authorizing the Registrar to delegate to any employee under the Minister's administration the powers or duties of the Registrar that are specified in the regulations;
- (k) requiring the payment of fees in respect of any matter provided for under the regulations, including prescribing the amount of the fee or the manner in which and by whom the amount is determined and who must pay it;
- (l) providing for the service of notices and documents in respect of matters and proceedings dealt with in the regulations.

(2) A regulation made under subsection (1) may be specific or general in its application.

2012 cE-0.3 s201;2019 c7 s21

#### **Principals designated**

**202(1)** A board that operates one or more schools shall designate a number of teachers as principals.

(1.1) Unless otherwise authorized by this Act, a board must designate as a principal only a teacher who holds a leadership certificate prescribed by the regulations and issued pursuant to this Act.

(2) The board shall assign a principal to each school.

(3) The board may assign a principal to be a principal of more than one school.

2012 cE-0.3 s202;2019 c7 s22

#### **Acting principal**

**203(1)** Notwithstanding section 202, a board may

- (a) designate a teacher to be an acting principal for a period of not more than one year, and
- (b) assign that acting principal to a school.

(1.1) A teacher who is designated as an acting principal must hold a leadership certificate prescribed by the regulations and issued under this Act.

(2) Where a board has assigned an acting principal under subsection (1), the board shall, within one year from the date of that assignment, assign a principal to that school.

2012 cE-0.3 s203;2019 c7 s23

#### **Administrative, supervisory and consultative positions**

**204(1)** Subject to section 199, a board may appoint any person or designate a teacher to an administrative, supervisory or consultative position.

(2) When an organization representing teachers carries on collective bargaining on behalf of the teachers, a board and the organization

- (a) may, through negotiation, include or exclude from the teachers on whose behalf the organization is bargaining any teacher who has been designated by the board to an administrative, supervisory or consultative position, and
- (b) must exclude from the teachers on whose behalf the organization is bargaining any teacher who as a result of making an election under section 5.1 of the *Teaching Profession Act* is not an active member of The Alberta Teachers' Association.

**Contracts of employment**

**205(1)** In this Division, “teaching day” means

- (a) a day on which instruction is given by a teacher,
- (b) a day on which a school is closed due to an emergency,
- (c) a day on which a school is closed by order of the Minister,
- (d) 2 days on which a teachers’ convention authorized by The Alberta Teachers’ Association is held,
- (e) holidays declared by a board, and
- (f) any other days that are approved by the Minister.

**(2)** Unless the teacher agrees, a board may not require a teacher to instruct students

- (a) for more than 1100 hours in a school year, or
- (b) for more than 200 teaching days in a school year.

**(3)** Subject to subsection (2) and notwithstanding any other agreement to the contrary, the terms and conditions of a contract of employment between a board and a teacher shall comprise the following:

- (a) except in the case of a teacher excluded under section 204(2), the terms and conditions negotiated, agreed on or awarded under the *Labour Relations Code*;
- (b) this section and sections 204, 206, 207 and 209 to 219;
- (c) the terms and conditions agreed on by the board and the teacher.

**(4)** Any contract of employment excluding or purporting to exclude the provisions of subsection (3)(a) or (b) is void.

**(5)** Every contract of employment between a board and a teacher must

- (a) be in writing,
- (b) be offered to a teacher by a person acting on behalf of the board, and
- (c) be accepted by the teacher.

**(6)** For the purposes of this Division, an offer, acceptance, confirmation, statement or notification must be in writing and must be

- (a) sent by registered or ordinary mail or by courier to,
- (b) personally served on, or
- (c) sent by fax or electronic mail to

the person to whom it is addressed.

#### **Probationary contract**

**206(1)** A board may employ a teacher under a probationary contract of employment for a complete school year if that teacher

- (a) was not employed by that board as a teacher in the school year immediately prior to the school year in which the contract is entered into, or
- (b) in the school year immediately prior to the school year in which the contract is entered into was employed by that board under section 208 or under a contract referred to in section 209.

**(2)** For the purposes of subsection (1), a teacher who was employed under section 211 is deemed to have been employed by the board under a probationary contract of employment if at the conclusion of a school year the total amount of time that the teacher taught for the board is at least equal to the amount of time the teacher would have been required to teach in a complete school year if the teacher had been employed by the board to teach on a full-time basis.

**(3)** A probationary contract of employment terminates on the June 30 next following the commencement date specified in the contract.

**(4)** Notwithstanding subsection (3), if evaluations of the teacher indicate to the board that a further probationary period is required and the teacher agrees, the probationary contract of employment may be extended for a further period ending no later than the June 30 next following the date of the renewal of the contract.

#### **Continuing contract**

**207** Subject to this Act, a contract of employment between a board and a teacher continues in force from year to year.



**Substitute teachers**

**208(1)** A teacher may teach without a contract of employment that is in accordance with section 205 only when the teacher is employed

- (a) on a day-to-day basis, or
- (b) to occupy a vacancy that is expected to be less than 20 consecutive teaching days in duration.

**(2)** Neither a teacher who teaches without a contract of employment that is in accordance with section 205 nor the board employing the teacher may appeal to the Board of Reference in respect of that teacher's employment.

**Temporary contract**

**209(1)** A teacher may be employed by a board under a temporary contract of employment when that teacher is employed for the purpose of replacing a teacher who is absent from the teacher's duties for a period of 20 or more consecutive teaching days.

**(2)** A temporary contract of employment entered into under subsection (1) must

- (a) specify the date on which the teacher commences employment with the board, and
- (b) terminate
  - (i) on the June 30 next following the commencement date specified in the contract, or
  - (ii) on a date provided for in the contract,whichever is earlier.

**(3)** Notwithstanding anything contained in a temporary contract of employment, a party to a temporary contract of employment may terminate that contract by giving 30 days' written notice of the termination to the other party to the contract.

**(4)** Section 231 does not apply to the termination of a temporary contract of employment under this section.

**Interim contract**

**210(1)** A board may employ a teacher for a period of not more than 360 teaching days under an interim contract of employment if that teacher

- (a) was not employed by that board as a teacher in the school year immediately prior to the school year in which the interim contract of employment commences, or
- (b) was employed under section 208 or under a contract referred to in section 209 by that board in the school year immediately prior to the school year in which the interim contract of employment commences.

(2) For the purposes of subsection (1), a teacher who was employed under section 211 is deemed to have been employed by the board under an interim contract of employment if at the conclusion of a school year the total amount of time that the teacher taught for the board is at least equal to the amount of time the teacher would have been required to teach in a complete school year if the teacher had been employed by the board to teach on a full-time basis.

(3) An interim contract of employment terminates on the June 30 next following the commencement date specified in the contract unless otherwise specified in the contract.

#### **Part-time contract**

**211(1)** A board may employ a teacher under a part-time contract of employment for a period that includes all the teaching days in a school year

- (a) to teach on a part-time basis, and
- (b) to be paid only for the time that the teacher teaches.

(2) When the board employs a teacher under a part-time contract of employment, the board may, unless that teacher's contract provides otherwise, vary the amount of time that the teacher is required to teach in the subsequent semester or school year.

(3) If

- (a) under subsection (2), a board varies the amount of time that a teacher is required to teach under a part-time contract of employment, and
- (b) the teacher does not agree to teach for that amount of time as varied,

the board may terminate that teacher's contract.

(4) Section 231 does not apply to the termination of a contract under subsection (3).

**Transfer of teacher**

**212(1)** A superintendent may, at any time during a school year, transfer a teacher from one school operated by the board to another of its schools.

(2) Subject to this section, if a teacher is transferred, that transfer becomes effective not less than 7 days from the day on which the notice of transfer and reasons for the transfer are received by the teacher.

(3) When a teacher is given a notice of transfer, the teacher may, within 7 days from the day on which the teacher receives the notice of transfer, make a written request to the board to have a hearing before the board for the purpose of objecting to the transfer.

(4) The board may set a date and time for the hearing requested under subsection (3) that is not earlier than 14 days after the teacher receives notice of the transfer unless the teacher agrees in writing to an earlier date.

(5) Where a teacher makes a request to have a hearing before a board under subsection (3), that teacher must not be transferred until after the hearing is held.

(6) Notwithstanding section 217, if a teacher has been given

- (a) a notice of transfer and does not wish to transfer in accordance with the notice, or
- (b) a hearing before the board under this section and does not wish to comply with the decision of the board,

that teacher may resign from the teacher's employment with the board on giving the board 30 days' written notice of the teacher's resignation.

(7) Notwithstanding that 30 days has not passed from the date that a teacher gave notice of the teacher's resignation under subsection (6), the contract of employment between that teacher and the board terminates on the board paying to the teacher the salary that the teacher would have been entitled to if the teacher had remained in the employ of the board for 30 days from the date of the giving of notice of the teacher's resignation.

**Suspension of teacher**

**213(1)** When a board has reasonable grounds for believing that a teacher has been guilty of gross misconduct, neglecting the teacher's duty or refusing or neglecting to obey a lawful order of

the board, the board may suspend the teacher from the performance of the teacher's duties.

**(2)** If a superintendent is authorized in writing to do so by the board, the superintendent may suspend a teacher from the performance of the teacher's duties without prior notice if the superintendent is of the opinion that the welfare of students is threatened by the presence of the teacher.

**(3)** The superintendent shall advise the board forthwith of a suspension under subsection (2).

**(4)** The superintendent shall advise the teacher forthwith in writing of the reasons for the suspension of the teacher.

**(5)** A suspension by a superintendent under subsection (2) is deemed to be a suspension by the board under subsection (1) to which subsection (6)(a) does not apply.

**(6)** The board shall

- (a) give written notice of the suspension to the teacher specifying the reasons for the suspension, and
- (b) forward a copy of the notice of suspension together with a written statement of the facts alleged to the Minister.

**(7)** If the Board of Reference under section 237 authorizes the board to terminate a teacher's contract of employment, the board may terminate that contract, and on so doing the board is deemed to have acted reasonably.

**(8)** A board may reinstate a teacher who is suspended under subsection (1) or (2) notwithstanding an appeal of the suspension, and on reinstatement the teacher shall return to the performance of the teacher's duties.

**(9)** Reinstatement under subsection (8) does not affect an appeal of the suspension to the Board of Reference under section 231 or in the absence of an appeal the power of the board to investigate or terminate the teacher's contract of employment in accordance with subsection (11).

**(10)** If the suspension is appealed to the Board of Reference and the Board of Reference confirms the suspension, the board may

- (a) reinstate the teacher, or
- (b) terminate the teacher's contract of employment, and the board is deemed to have acted reasonably.

(11) If the teacher does not appeal the suspension to the Board of Reference, the board may make an investigation of the circumstances and may reinstate the teacher or terminate the teacher's contract of employment in accordance with section 215.

(12) A teacher who is suspended must be paid the teacher's salary until the teacher's contract of employment is terminated in accordance with this Act.

(13) A board shall not employ a teacher who has been suspended by another board while the suspension is in effect.

2012 cE-0.3 s213;2015 c6 s30

#### **Termination of contract**

**214(1)** A contract of employment between a board and a teacher automatically terminates at the time that

- (a) the teacher's certificate of qualification is suspended or cancelled by the Minister, or
- (b) the teacher's certificate of qualification expires.

(2) A contract of employment between a board and a teacher or a designation of a teacher made pursuant to section 202, 203 or 204 may be terminated by mutual consent.

#### **Termination of designation as principal**

**214.1** The designation of a teacher as a principal automatically terminates at the time that

- (a) the prescribed leadership certificate held by the principal is suspended or cancelled by the Minister, or
- (b) the prescribed leadership certificate held by the principal expires.

2019 c7 s24

#### **Termination by board**

**215(1)** Whether or not the board has suspended a teacher under section 213 and whether or not the suspension, if any, has been appealed to the Board of Reference, a board may terminate

- (a) a contract of employment with a teacher, or
- (b) a designation of a teacher made pursuant to section 202, 203 or 204,

after serving the teacher with written notice of termination not less than 30 days prior to the effective date of termination.

(2) In terminating a contract of employment or a designation, the board shall act reasonably.

(3) A notice of termination of a contract of employment or a designation must specify the reasons for the termination.

(4) Where a teacher has been served with a notice of termination of a contract of employment or a designation, the board may suspend the teacher from the performance of the teacher's duties in accordance with the notice.

(5) A notice of termination of, or the termination of, a designation does not terminate a contract of employment.

(6) A teacher who has been suspended under this section must be paid the teacher's salary until the effective date of the termination of the teacher's contract of employment or the designation.

(7) If a teacher is served with notice of termination under subsection (1) and the teacher has been suspended under section 213 before the notice is served, an appeal, if any, to the Board of Reference in respect of the suspension must not be proceeded with but is merged with the appeal, if any, to the Board of Reference in respect of the termination under this section.

#### **Termination by teacher**

**216(1)** A teacher may terminate

- (a) a contract of employment with a board, or
- (b) a designation of the teacher made pursuant to section 202, 203 or 204,

by giving the board 30 days' written notice of the teacher's intention to terminate that contract or designation.

(2) If a teacher has terminated the teacher's contract of employment with a board before rendering any service under the contract, the teacher must not be employed by another board unless the board with which the teacher's contract was terminated gives its prior approval to the teacher's employment with the other board.

**Notice of termination**

**217(1)** Subject to section 214(2), a notice of termination of a contract of employment or of a designation made pursuant to section 202, 203 or 204 must not be given by a board or a teacher

- (a) in the 30 days preceding, or
- (b) during

a vacation period of 14 or more days' duration.

**(2)** Notwithstanding section 215(1) and subsection (1), if a teacher or principal has been convicted of an indictable offence, a board may terminate the teacher's or principal's contract of employment or the designation made pursuant to section 202, 203 or 204 without prior notice

- (a) on the conclusion of an appeal from the conviction or a proceeding to quash the conviction, or
- (b) if no appeal is made and no proceeding is commenced, at the end of the period within which an appeal may be made or a proceeding commenced.

**Duty to report**

**218(1)** In this section,

- (a) "executive secretary" means the executive secretary as defined in the *Teaching Profession Act*;
- (b) "Registrar" means the Registrar appointed under the regulations.

**(2)** A superintendent or the person responsible for the operation of a private school must make a report in writing to the Registrar regarding the suspension, termination, resignation or retirement from employment of a teacher, principal or other individual if the suspension, termination, resignation or retirement, as the case may be, results from conduct that brings into question the suitability of the teacher, principal or other individual to hold one or more certificates prescribed by the regulations and issued pursuant to this Act.

**(3)** A board must make a report in writing to the Registrar regarding the suspension, termination, resignation or retirement from employment of a superintendent if the suspension, termination, resignation or retirement, as the case may be, results from conduct that brings into question the suitability of the

superintendent to hold one or more certificates issued under this Act.

(4) If a report made under subsection (2) is in respect of a teacher, principal or other individual who is employed by the board and who is subject to the disciplinary provisions set out under the *Teaching Profession Act*, the board must make a complaint about the teacher's, principal's or other individual's conduct pursuant to section 24 of the *Teaching Profession Act*.

(5) If a report made under subsection (2) is in respect of a teacher, principal or other individual who is employed by

- (a) a board and who is not subject to the disciplinary provisions set out under the *Teaching Profession Act*,
- (b) the person responsible for the operation of a private school, or
- (c) the operator of a charter school,

the superintendent, the person responsible for the operation of the private school or the operator of the charter school must make a complaint about the teacher's, principal's or other individual's conduct pursuant to the applicable regulation made under sections 201 and 224.

(6) A board that makes a report under subsection (3) must make a complaint about the conduct of the superintendent pursuant to the applicable regulation under section 224.

(7) No action lies against any of the following in respect of any report made under subsection (2) or (3) in good faith when acting or purporting to act under this Act or the regulations:

- (a) a superintendent;
- (b) a board;
- (c) the person responsible for the operation of a private school or the operator of a charter school;
- (d) a person appointed as an official trustee;
- (e) the executive secretary;
- (f) a person who acts on the instruction of, or under the supervision of, a person referred to in clauses (a) to (e).



**(8)** No action for defamation may be founded on a report made under subsection (2) or (3) in good faith.

**(9)** If a complaint under subsection (4), (5) or (6) is dismissed, the Registrar must remove

- (a) from the teacher's, principal's or other individual's file the corresponding report made under subsection (2), and
- (b) from the superintendent's file the corresponding report made under subsection (3).

2012 cE-0.3 s218;2019 c7 s25

### **Termination of designation**

**219(1)** Notwithstanding section 214(2), a teacher, on receipt of a notice of termination of a designation made pursuant to section 202, 203 or 204, may terminate the teacher's contract of employment by giving 30 days' written notice to the board of the teacher's intention to terminate that contract.

**(2)** No appeal may be made from a termination of a contract to the Board of Reference if the contract of employment is terminated pursuant to subsection (1).

### **Salaries**

**220(1)** Subject to section 205, a board

- (a) shall pay the annual salary of every teacher who teaches on all the teaching days of a school year on which the school at which the teacher is employed is in operation,
- (b) shall, except as provided in clause (c), pay to every teacher who
  - (i) is under a contract of employment for a period that includes all the teaching days of a school year, and
  - (ii) does not teach on all the teaching days on which the school at which the teacher is employed is in operation,

that teacher's full annual salary less 0.5% of the salary for each teaching day on which the teacher does not teach,

- (c) shall pay
  - (i) to every teacher who is under a contract of employment for a period that does not include all the teaching days of a school year, and

- (ii) to every teacher who is under a contract of employment for a period that includes all the teaching days of a school year but who during that year teaches on fewer than 100 teaching days,

0.5% of the teacher's annual salary for each day on which the teacher teaches,

- (d) shall not deduct any amount from a teacher's salary in respect of that teacher's absence if the absence

- (i) is approved by the board or the Minister, or

- (ii) is

- (A) for the purpose of the teacher's receiving necessary medical or dental treatment, or

- (B) on account of injury to or the illness or disability of the teacher,

when the total number of teaching days on which the teacher is absent in a school year does not exceed the total number of teaching days of absence that the teacher is allowed under subsection (2), and

- (e) may authorize a teacher's absence without pay.

**(2)** For the purposes of subsection (1)(d)(ii), a teacher is allowed to be absent in a school year on not more than

- (a) a total of 20 teaching days, or

- (b) the number of teaching days determined by dividing by 9 the total number of teaching days that the teacher taught for the board during the school year,

whichever is the lesser number of teaching days.

**(3)** For the purposes of subsection (1)(d)(ii), a board may require the teacher to provide it with a certificate from a physician or a dentist.

**(4)** A board may allow a teacher to be absent and pay full or part salary to the teacher for a greater number of teaching days than the number of teaching days calculated in accordance with subsection (2).

**(5)** A board may adopt a scheme whereby a teacher may earn, during the teacher's service with a board, an entitlement to salary

applicable to periods of illness, the unused portion of which may be carried forward from year to year.

(6) Notwithstanding any agreement to the contrary, a board shall,

- (a) on or before the last day of each month, or
- (b) within 7 days from the date of the termination of a contract of employment,

pay to a teacher under a contract of employment the money due to the teacher.

(7) Notwithstanding subsection (6), a board may withhold

- (a) at the end of each school year, or
- (b) at the termination of a teacher's contract of employment,

an amount not exceeding one month's pay for a period ending not later than 7 days after the submission by the teacher of any reports, returns or property of the board or the Government that are required to be returned to the board or the Government.

(8) When a teacher's employment with a board terminates prior to

- (a) the conclusion of the school year, in the case of a teacher employed under a contract to teach during all the teaching days in a school year, or
- (b) the expiry date provided for in the contract or under this Act, in the case of a teacher employed under a contract to teach for part of a school year,

the board may deduct from the amounts payable to that teacher 0.5% of the teacher's annual salary for each teaching day that the teacher was absent that exceeds

- (c) the number of teaching days that the teacher is allowed under subsection (2)(a), or
- (d) the number of teaching days determined by dividing by 9 the total number of teaching days that the teacher taught for the board in the school year in which the teacher's employment was terminated,

whichever is the greater number of teaching days.

**Unqualified teachers**

**221(1)** Unless otherwise authorized under this Act, a board shall not knowingly employ as a teacher a person who does not hold a certificate of qualification as a teacher issued under this Act.

**(2)** Unless otherwise authorized under this Act, a person shall not teach in a school operated by a board unless that person holds a certificate of qualification as a teacher issued under this Act.

**(3)** A person who is not permitted to teach is not entitled to recover any remuneration for the person's services as a teacher.

**Division 3  
Non-teaching Employees****Superintendent of schools**

**222(1)** Subject to the regulations, a board shall appoint an individual as a superintendent of schools for a period of not more than 5 years with the prior approval in writing of the Minister.

**(1.1)** Unless otherwise authorized under this Act, a board must appoint as a superintendent of schools only a teacher who holds a superintendent leadership certificate prescribed by the regulations and issued under this Act.

**(1.2)** A teacher who is appointed as an acting superintendent must hold a superintendent leadership certificate prescribed by the regulations and issued under this Act.

**(2)** Where a board applies for the Minister's approval under subsection (1), it must give to the Minister, in the form and containing the information required by the Minister, notice of its intention to appoint the superintendent.

**(3)** The superintendent is the chief executive officer of the board and the chief education officer of the school division.

**(4)** The superintendent shall carry out the duties assigned to the superintendent by the board.

**(5)** The superintendent shall supervise the operation of schools and the provision of education programs in the school division, including, but not limited to, the following:

- (a) implementing education policies established by the Minister;

- (b) ensuring that students have the opportunity in the school division to meet the standards of education set by the Minister;
  - (c) ensuring that the fiscal management of the school division by the treasurer or secretary-treasurer is in accordance with the terms or conditions of any grants received by the board under this Act or any other Act;
  - (d) providing leadership in all matters relating to education in the school division.
- (6) The superintendent shall report to the Minister with respect to the matters referred to in subsection (5)(a) to (d) at least once a year.
- (7) A report required under subsection (6) must be in the form and contain the information required by the Minister.

2012 cE-0.3 s222;2019 c7 s26

**Term of appointment**

**223(1)** A board may enter into a contract of employment or a contract renewing a contract of employment with an individual who is appointed as a superintendent only if the contract includes a maximum term of not more than 5 years with no option to renew or extend the contract at the end of the term unless the individual is reappointed under this section.

(2) A contract of employment referred to in subsection (1) automatically terminates at the time that

- (a) the prescribed superintendent leadership certificate held by the superintendent is suspended or cancelled by the Minister, or
- (b) the prescribed superintendent leadership certificate held by the superintendent expires.

(3) If a board intends to reappoint a superintendent named in a contract referred to in subsection (1), the board must, not less than 6 months before the contract ends, give to the Minister, in the form and containing the information required by the Minister, notice of its intention to reappoint the superintendent.

(4) A reappointment of a superintendent must be for a period of not more than 5 years.

(5) The Minister may approve or refuse to approve a reappointment under subsection (3), in any form the Minister

considers appropriate, not more than one month after the Minister is notified under subsection (3).

**(6)** If the Minister refuses to approve a reappointment under subsection (3), the Minister shall give the board reasons in writing for the refusal.

**(7)** If the Minister refuses to approve a reappointment under subsection (3), the board must appoint another individual as superintendent of schools in accordance with section 222.

**(8)** This section applies to a contract renewing a contract of employment whether or not the original contract was entered into before this section comes into force.

2012 cE-0.3 s223;2019 c7 s27

### Regulations

**224(1)** The Minister may make regulations respecting superintendents of schools, including regulations

- (a) respecting the qualifications, appointment and conditions of employment and the termination of employment of superintendents of schools;
- (b) governing the issuing of superintendent leadership certificates, including, without limitation, regulations
  - (i) providing for the issuance of different classes, types or categories of superintendent leadership certificates,
  - (ii) providing for the form and manner of application for a superintendent leadership certificate and the information to be provided with or in support of an application,
  - (iii) respecting education, training and experience, character and other eligibility requirements of applicants for superintendent leadership certificates,
  - (iv) authorizing the issuance of superintendent leadership certificates subject to terms and conditions, and
  - (v) providing for procedural matters related to the issuance of superintendent leadership certificates, including the appointment of advisory bodies;
- (c) governing appeals from a decision to refuse to issue a superintendent leadership certificate, including, without limitation, regulations
  - (i) respecting the grounds on which an appeal may be made,

- (ii) providing for the establishment of appeal panels and setting out their powers and duties,
  - (iii) providing for procedural and evidentiary matters related to the appeal process,
  - (iv) authorizing the Minister to accept, reject or vary the recommendations of an appeal panel and authorizing the Minister to take any action necessary to implement the Minister's decision, and
  - (v) respecting the responsibility of the parties to an appeal for costs in respect of the appeal;
- (d) providing for and governing the means of dealing with allegations that a superintendent or other individual who holds a superintendent leadership certificate is unskilled or incompetent in carrying out the leadership duties related to that superintendent leadership certificate, or the means of dealing with complaints about alleged unprofessional conduct of a superintendent or other individual who holds a superintendent leadership certificate, including, without limitation, regulations
- (i) governing what constitutes unprofessional conduct of a superintendent or other individual who holds a superintendent leadership certificate or unskilled or incompetent carrying out of the leadership duties related to a superintendent leadership certificate,
  - (ii) respecting the form and manner in which a complaint or allegation is to be made,
  - (iii) authorizing a complaint or allegation to be dealt with notwithstanding the fact that the individual who is the subject of the complaint or allegation may no longer hold a certificate under this Act, and respecting the circumstances under which that complaint or allegation may be dealt with,
  - (iv) respecting the investigation of complaints and allegations and the powers and duties of the person conducting the investigation or receiving the report of the person conducting the investigation, as the case may be,
  - (v) respecting the establishment of panels to deal with complaints and allegations and respecting the powers and duties of those panels,

- (vi) respecting procedural and evidentiary matters in respect of the investigation of complaints and allegations and in respect of the business of the panels, including, without limitation, regulations
  - (A) providing for the taking of evidence under oath,
  - (B) providing for the compellability of witnesses,
  - (C) requiring persons to produce records and documents relevant to the subject-matter of a complaint or allegation, and
  - (D) authorizing proceedings for civil contempt of court to be brought against a person who fails to comply with a notice to attend a proceeding before a panel as a witness or a notice to produce records or documents, or who refuses to be sworn or to answer questions at a proceeding before a panel,
- (vii) authorizing a person conducting an investigation of a complaint or allegation to investigate any other matter related to the conduct of the individual who is the subject of the complaint or allegation that arises in the course of the investigation, and
- (viii) authorizing the Minister, on receipt of a panel's recommendation, to do one or more of the following, whether or not that is the panel's recommendation:
  - (A) dismiss the complaint or allegation;
  - (B) serve a letter of reprimand on the individual who is the subject of the complaint or allegation;
  - (C) suspend one or more certificates of the individual who is the subject of the complaint or allegation, with or without conditions;
  - (D) cancel one or more certificates of the individual who is the subject of the complaint or allegation, or cancel one or more certificates and issue a certificate of a different class, type or category;
  - (E) order that the individual who is the subject of the complaint or allegation be ineligible for one or more certificates for a definite or indefinite time, with or without conditions;



- (e) respecting the responsibility of the parties to a proceeding in respect of a complaint or allegation referred to in clause (d) for costs in respect of the proceeding;
  - (f) governing the publication of particulars regarding any recommendation or decision made in proceedings in respect of a complaint or allegation referred to in clause (d);
  - (g) authorizing the Minister to appoint a Registrar and other officials for the purpose of carrying out powers and duties under the regulations;
  - (h) requiring the Registrar to keep registers and records and respecting the information that is to be kept in the registers and records;
  - (i) respecting, authorizing and prohibiting the release of information in the Registrar's registers and records;
  - (j) authorizing the Registrar to delegate to any employee under the Minister's administration powers or duties of the Registrar that are specified in the regulations;
  - (k) requiring the payment of fees in respect of any matter provided for under the regulations, including prescribing the amount of the fee or the manner in which and by whom the amount is determined and who must pay it;
  - (l) providing for the service of notices and documents in respect of matters and proceedings dealt with in the regulations.
- (2) A regulation made under subsection (1) may be specific or general in its application.

2012 cE-0.3 s224;2019 c7 s28

**Other non-teaching employees**

**225** In addition to the employees referred to in sections 68 and 222, the board may employ other non-teaching employees that the board considers necessary for its operation.

**Division 4  
General****Medical examination**

**226** A board may require any person employed by it to undergo a medical examination by a physician named or approved by the board.

**Labour relations**

**227(1)** Notwithstanding anything in this Act, the *Labour Relations Code* applies to a board and the employees of the board.

**(2)** A board may

- (a) be a member of an employers' organization, and
- (b) delegate its power to bargain with any of its employees to the employers' organization.

**(3)** When a delegation is made under subsection (2), the employers' organization may bargain collectively and make an agreement on the board's behalf in accordance with the *Labour Relations Code*.

**Trustees**

**228** For the purposes of the *Labour Relations Code* and the *Employment Standards Code*, neither

- (a) a trustee of a board, nor
- (b) an official trustee appointed under this Act,

is an employee of the board.

**Employee contracts**

**229(1)** Section 85 applies to an employee under this section.

**(2)** No employee of a board shall enter into an agreement, other than a contract of employment, either in the employee's own name or in the name of another, alone or jointly with another, with the board by which the employee is employed or with any person contracting with the board, if the employee has a pecuniary interest in the agreement, unless

- (a) other than in the case of the purchase of real property from or the sale of real property to the board, the employee
  - (i) discloses the employee's interest to the board, and
  - (ii) obtains the board's approval of the employee's entering into the agreement,before entering into the agreement, and
- (b) in the case of the purchase of real property from or the sale of real property to the board, the employee

- (i) declares the employee's interest to the board, and
  - (ii) obtains the board's and the Minister's approval of the employee's entering into the agreement,
- before entering into the agreement.
- (3) A contract entered into in contravention of subsection (2) is void.

## Division 5 Board of Reference

### Board of Reference

- 230(1)** The Lieutenant Governor in Council shall, by order, appoint a roster of individuals who may act as a Board of Reference.
- (2) The Minister may name one or more individuals from the roster referred to in subsection (1) to act as a Board of Reference in relation to an appeal.
- (3) For the purposes of carrying out the duties and functions under this Division, the individuals named to act as a Board of Reference under subsection (2) have, in relation to that appeal, all the powers of and may carry out all the duties and functions of a Board of Reference.
- (4) For the purposes of carrying out the duties and functions under this Division, the individuals named to act as a Board of Reference under subsection (2) have the powers of a commissioner under the *Public Inquiries Act*.
- (5) The *Alberta Public Agencies Governance Act* does not apply to the roster of individuals who may act as a Board of Reference.

2012 cE-0.3 s230;2015 c6 s31

### Appeal

- 231(1)** This section does not apply to
- (a) a superintendent, chief deputy superintendent, deputy superintendent, associate superintendent or assistant superintendent of a board, or
  - (b) a teacher who, under section 204(2), is excluded from the teachers on whose behalf an organization is bargaining.
- (2) Except where this Act prohibits an appeal, if a disagreement arises between a board and a teacher with respect to

- (a) the termination of a contract of employment,
- (b) the suspension of the teacher,
- (c) the termination of a designation of a teacher, or
- (d) the refusal of a board to give an approval pursuant to section 216(2),

the board or the teacher may appeal the matter by sending to the Minister a notice of appeal in accordance with section 232.

#### **Notice of appeal**

**232(1)** A notice of appeal must

- (a) be in writing, and
- (b) set out the nature of the appeal.

**(2)** The board or teacher appealing shall within the period specified in subsection (3) send by registered mail

- (a) to the Minister, the notice of appeal and a \$250 deposit, and
- (b) to the other party to the appeal, a copy of the notice of appeal.

**(3)** The period referred to in subsection (2) is 21 days from the date of receipt of the notice of

- (a) termination of a contract or of a designation,
- (b) suspension, or
- (c) refusal to give an approval.

**(4)** A notice of appeal must set out the grounds on which the appeal is being made.

#### **Appeal referred to Board of Reference**

**233(1)** On receiving a notice of appeal, the Minister shall refer the appeal to the Board of Reference.

**(2)** The Board of Reference shall, on having an appeal referred to it,

- (a) set the date, time and place for the hearing of the appeal, and

- (b) notify the parties to the appeal of the date, time and place of the hearing of the appeal.

### **Investigation**

**234** In considering the matter being appealed, the Board of Reference may make any investigation it considers necessary.

### **Hearing**

**235(1)** After the date, time and place of the hearing are set under section 233(2), the Board of Reference shall not make any decision in respect of the matter being appealed without giving the parties to the appeal an opportunity to be heard.

(2) A person appearing at a hearing is entitled to be represented by counsel.

(3) Not less than 30 days before the date set for hearing the appeal, or a shorter time period as determined by the Board of Reference, each of the parties to the appeal shall provide to the Board of Reference and the other parties to the appeal any material and information and make any disclosures as set out, described, governed or otherwise provided for by regulation.

(4) Before conducting an appeal, the Board of Reference may determine any preliminary matter concerning the appeal, including, without limiting the generality of the foregoing, matters relating to process and jurisdiction.

(5) An appeal is considered to be abandoned if one year elapses from the day that a step in the appeal was last taken.

(6) Notwithstanding subsection (5), if the Board of Reference is satisfied that exceptional circumstances exist for doing so, the Board of Reference may permit an appeal to proceed even though one year has elapsed since a step in the appeal was last taken.

(7) The Minister may make regulations

- (a) setting out or otherwise describing the material and information and any disclosure that a party to an appeal to the Board of Reference must provide or make to the Board of Reference and to the other parties to the appeal;
- (b) governing any matter respecting
  - (i) the provision of material and information, and
  - (ii) the making of disclosures,

under subsection (3).

#### **Appeal from suspension**

**236** If an appeal to the Board of Reference is from the suspension of a teacher, the Board of Reference shall inform the board and the teacher of its decision.

#### **Order of Board of Reference**

**237(1)** In deciding the matter being appealed, the Board of Reference may make an order doing one or more of the following:

- (a) confirming the termination, suspension or refusal to give an approval;
- (b) changing the termination date of a contract of employment or of a designation;
- (c) directing the board
  - (i) to reinstate the contract of employment or the designation of a teacher, or
  - (ii) to give the approval;
- (d) removing the suspension;
- (e) confirming the suspension and authorizing the board to terminate the teacher's contract of employment;
- (f) directing a board to pay to the teacher an amount of money equivalent to the teacher's salary for a specified period;
- (g) authorizing a board not to pay salary to the teacher for a specified period;
- (h) providing for any matter not referred to in clauses (a) to (g) that the Board of Reference considers just in the circumstances.

**(2)** In making an order under subsection (1)(c)(i) or (d), the Board of Reference may take into consideration any matter that the Board of Reference considers relevant, but in making that order the Board of Reference must consider at least the following:

- (a) whether the teacher is guilty of gross misconduct;
- (b) whether the teacher refused to obey a lawful order of the board without justification;

- (c) the risk to the safety of students, co-workers and the teacher;
- (d) the ability of the teacher to perform teaching duties effectively;
- (e) the effect of reinstatement on the future relationship between the board and the teacher;
- (f) the possibility of recidivism;
- (g) whether the reinstatement would have the effect of undermining the confidence of Albertans in general in the public education system;
- (h) fairness to the teacher.

**(3)** Notwithstanding subsection (1), the Board of Reference shall not make an order under subsection (1)(c)(i) or (d) if the Board of Reference determines that

- (a) the teacher should not be engaged in teaching for a board, or
- (b) there is just cause for terminating the contract of employment or designation.

**(4)** Subsection (3) applies notwithstanding any technical or procedural irregularity by any party to the appeal that may have taken place in relation to the matter being appealed.

**(5)** The Board of Reference, unless the Minister directs or gives permission to the Board of Reference to do otherwise, shall render its decision, including any reasons on which the decision is based, in respect of the matter being appealed within 45 days from the day that the Board of Reference concludes its hearing of the appeal.

**(6)** For the purpose of subsection (5), the direction or permission of the Minister may be given by the Minister before or after the end of the 45-day period.

#### **Irregularities in notice of appeal**

**238** The Board of Reference may proceed with an appeal under this Division notwithstanding any technical or procedural irregularity in respect of matters dealt with under this Division if the Board of Reference is of the opinion that none of the parties to the appeal were substantially affected by the technical or procedural irregularity.

**Costs**

**239(1)** Unless the Board of Reference orders otherwise, the parties to an appeal to the Board of Reference shall contribute equally in accordance with the regulations to the payment of the costs and expenses of the Board of Reference relating to the appeal.

**(2)** The parties to an appeal shall pay their own costs unless the Board of Reference orders otherwise.

**(3)** The Lieutenant Governor in Council may make regulations

- (a) respecting the remuneration and expenses payable to a member of the Board of Reference;
- (b) prescribing the classes of costs and expenses that are costs and expenses for the purposes of subsection (1);
- (c) respecting the amount or calculation of the amount of costs and expenses payable by the parties under subsection (1).

**Deposit**

**240(1)** The Board of Reference may with respect to the deposit paid under section 232(2) make an order doing one or more of the following:

- (a) requiring that it be paid in whole or in part to the person against whom the decision on the appeal is made in payment or part payment of costs;
- (b) requiring that it be retained in whole or in part by the Minister and paid into the General Revenue Fund;
- (c) requiring that it be repaid in whole or in part to the person who paid it to the Minister.

**(2)** If the Board of Reference does not make any order as to costs, the deposit paid under section 232(2) is to be repaid to the person who paid the deposit.

**Enforcement of order**

**241(1)** A copy of an order made by the Board of Reference under section 237, 239 or 240 must be filed with the clerk of the Court of Queen's Bench at the judicial centre closest to the place where the cause of the proceedings before the Board of Reference arose.

**(2)** On the filing of a copy of an order with the clerk of the Court of Queen's Bench pursuant to subsection (1), the order of the



Board of Reference has the same force and effect as if the order were an order of that Court.

(3) A copy of an order as filed must be sent to the Minister.

#### **Appeal to Court of Appeal**

**242(1)** A teacher or a board that is the subject of an order of the Board of Reference under section 237, 239 or 240 may appeal that order to the Court of Appeal.

(2) The appeal must be commenced not more than 30 days after the date on which the order is filed under section 241

- (a) by filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and
- (b) by serving a copy of the notice of appeal
  - (i) on the relevant board if the appellant is a teacher,
  - (ii) on the relevant teacher if the appellant is a board, and
  - (iii) on the Board of Reference.

(3) The appeal must be founded on the record, if any, of the evidence before the Board of Reference.

(4) The *Alberta Rules of Court* for appeals from a judgment or order of the Court of Queen's Bench apply to an appeal to the Court of Appeal under this section.

(5) The Court of Appeal on hearing the appeal may

- (a) make any other finding that in its opinion ought to have been made on the evidence before it,
- (b) quash, confirm or vary any order made by the Board of Reference,
- (c) refer the matter to the Board of Reference for further consideration by it, or
- (d) direct that a new trial of any mixed questions of law and fact relating to a finding or order, or both, of the Board of Reference made under this Act be held before the Court of Queen's Bench.

## Part 8 General

### Delegation of Minister's powers

**243** The Minister may authorize in writing

- (a) an employee of the Government under the administration of the Minister,
- (b) a board or an employee of a board, or
- (c) any other person designated by the Minister,

to do any act or thing, perform any duties or exercise any power that the Minister may do, perform or exercise under this Act except the power to make regulations.

### Forms

**244** The Minister may prescribe notices and forms to be used under this Act whether or not specifically required to do so by this Act.

### Labour Relations Code

**245** Nothing in Part 1, 2, 3 or 4 restricts or prohibits or is to be construed as restricting or prohibiting a board or any employee of a board from exercising any rights under the *Labour Relations Code*.

### Alteration of time limits

**246(1)** If anything

- (a) is to be done by a person, a board or an employee of a board within a number of days or at a time fixed by or under this Act, and
- (b) cannot be or is not so done,

the Minister may, by order, appoint a further or other time for doing the thing.

**(2)** An order may be made under subsection (1) notwithstanding that the time at or within which the thing ought to have been done has or has not arrived or expired, as the case may be.

**(3)** Anything done at or within the time specified in an order made under subsection (1) is as valid as if it had been done at or within the time fixed by or under this Act.

**(4) When**

- (a) a certain day is fixed on or by which certain things are to be done or proceedings taken, and
- (b) it appears that the date was fixed having regard to an earlier fixed date on or by which certain other things are to be done or proceedings taken,

then, notwithstanding anything in this Act, if default is made in respect of the earlier date, a similar delay is allowed in respect of the later date.

**(5) This section does not apply to**

- (a) the time limits mentioned in connection with a contract or the termination of a contract of employment between a board and its teacher, or
- (b) the time limits relating to an appeal to the Board of Reference.

**Petition**

**247** When this Act provides for the doing of anything by petition or an elector wishes to present a petition to a board, the petition must be in accordance with the regulations.

2012 cE-0.3 s247;2015 c6 s32

**Notice of public meeting**

**248** When notice of a public meeting is required under this Act, it must be given in accordance with the regulations.

**Public notice**

**249** When public notice, other than notice of a public meeting, is required under this Act, it must be given in accordance with the regulations.

**Regulations**

**250** The Minister may make regulations respecting

- (a) the form, requirements respecting validity, the process of presentation and requirements respecting sufficiency of a petition, including the process for appeals of petitions determined to be insufficient;

- (b) the form, contents and method of service of a notice of a public meeting or other public notice.

2012 cE-0.3 s250;2015 c6 s33

**Protection from liability for trustees, employees, members and volunteers**

**251(1)** Trustees, employees of a board and school council members are not liable for any loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of their functions, duties or powers under this Act or any other enactment.

**(2)** Volunteers are not liable for any loss or damage caused by anything said or done or omitted to be done in good faith in the provision of volunteer services for a board, or for any alleged neglect or default in the provision of volunteer services for the board by the volunteers.

**(3)** Subsections (1) and (2) do not provide a defence if the cause of action is defamation.

**(4)** This section does not affect the legal liability of a board.

**Protection from liability for others**

**252(1)** No action lies against a member of the Attendance Board, a member of the Board of Reference, a member of a Complex Education Needs Tribunal, a person appointed as an official trustee or a person who conducts a review under section 44 on behalf of the Minister for anything done by that person in good faith and in purporting to act under this Act or the regulations.

**(2)** No action for defamation may be founded on a communication if the communication is published to or by an attendance officer, the Attendance Board, the Board of Reference, a member of a Complex Education Needs Tribunal, a person appointed as an official trustee or a person who conducts a review under section 44 on behalf of the Minister in good faith in the course of any proceedings under this Act.

**Enforcement of judgment**

**253(1)** A judgment against or order for the payment of money by a board may be enforced by means of a writ of enforcement and not otherwise.

**(2)** The writ of enforcement must specify the manner of satisfying the judgment on any terms that the court rendering the judgment determines.

**Enforcement by Court**

**254(1)** Where a board or a person employed by a board offers or provides a course, a program of study or a learning and teaching resource that is prohibited under section 18, the Minister may apply to the Court of Queen's Bench for an order directing the board, or the employee, as the case may be, to desist from offering or providing that course, program of study or learning and teaching resource.

**(2)** Where under this Act or the regulations

- (a) the Minister or a board is empowered to make an order or a direction to a person

- (i) to do an act or thing, or

- (ii) to cease doing an act or thing,

and that person does not comply with that order or direction,  
or

- (b) the approval of the Minister or a board is required in order for a person to carry on an activity or do a thing and that person carries on that activity or does the thing without obtaining or after the withdrawal of that approval,

the Minister or the board that exercised that power or did not grant or withdrew that approval may apply to the Court of Queen's Bench for either or both of the orders referred to in subsection (3).

**(3)** Where subsection (2) applies, the Court may make either or both of the following orders:

- (a) an order directing the person to whom the order or direction referred to in subsection (2)(a) was given to comply with the order or direction;
- (b) an order directing the person that carried on the activity or thing referred to in subsection (2)(b) without the required approval to desist from carrying on the activity or thing.

**(4)** The Court may grant an order under this section

- (a) on the terms or conditions that the Court considers proper in the circumstances, and
- (b) notwithstanding that the respondent to the application has or has not been prosecuted under this Act in respect of the matter that is the subject of the application.

**Return of property on ceasing to hold office****255** Where a person

- (a) was a trustee or employee of a board,
- (b) has in the person's possession or has control over any money, book, paper, thing or other property that is the property of the board or the Government, and
- (c) after being given a written notice by the board or the Minister to deliver that property in accordance with the directions in the notice, refuses or fails to deliver that property to the board or the Minister in accordance with the notice,

that person is guilty of an offence and liable to a fine of not more than \$50 for each day that the person does not deliver that property to the board or the Minister in accordance with the notice.

**Prohibited activities****256** No person shall

- (a) disturb or interrupt the proceedings of a school,
- (b) disturb or interrupt the proceedings of a school meeting or board meeting,
- (c) loiter or trespass in a school building or on property owned by a board, or
- (d) conduct themselves in a manner detrimental to the safe operations of a school.

**Liability for damage to property by student****257(1)** If property of a board is destroyed, damaged, lost or converted by the intentional or negligent act

- (a) of one student, the student and the student's parent are jointly and severally liable to the board in respect of the act of the student, or
- (b) of 2 or more students acting together, the students and their parents are jointly and severally liable to the board in respect of the act of the students.

**(2)** Subsection (1) does not apply to the parent of an independent student.

**Penalty**

**258** Any person who contravenes section 86, 221 or 256 is guilty of an offence and liable to a fine of not more than \$1000.

**Penalty for failure to give information**

**259** A person who is required by this Act or the regulations

- (a) to furnish any information, or
- (b) to make a return, report or statement in writing,

and who refuses, neglects or fails to do so is guilty of an offence and liable to a fine of not more than \$1000.

## **Part 9 Transitional Provisions, Consequential Amendments, Repeals and Coming into Force**

### **Transitional Provisions**

**Transitional provisions**

**260(1)** In this section, “former Act” means the *School Act*, RSA 2000 cS-3.

**(2)** A charter school established by the Minister under the former Act whose charter has not expired or been repealed and which is still in operation when this Act comes into force is deemed to be established by the Minister under this Act.

**(3)** A private school registered or accredited under the former Act and whose registration or accreditation has not been cancelled or suspended when this Act comes into force is deemed to be registered or accredited, as the case may be, under this Act.

**(4)** A ward or electoral subdivision established under the former Act is continued and deemed to be established as a ward or electoral subdivision under this Act until the board of the school division where the ward or electoral subdivision is located passes a bylaw pursuant to section 76 to confirm or amend its boundaries.

**(5)** A board referred to in subsection (4) shall confirm or amend the boundaries of its existing wards or electoral subdivisions by December 31, 2020.

**(6)** A separate school region established under the former Act is deemed to be a separate school region established under this Act.

**(7)** A Francophone Education Region established under the former Act is deemed to be a Francophone education region established under this Act.

**(8)** A board of trustees of a Francophone Regional authority established under the former Act is deemed to be a board of trustees of a Francophone Regional authority established under this Act.

**(9)** A person elected or appointed to a board of trustees or a Regional authority under the former Act continues to serve in the same capacity under this Act until the person's term expires or is otherwise terminated in accordance with this Act.

**(10)** A school district, school division or regional division established or continued under the former Act is continued and deemed to be a school division established under this Act with the same boundaries and a name in the following form:

The \_\_\_\_\_ School Division.

**(10.1)** A board of trustees of a school district, school division or regional division established or continued under the former Act is deemed to be a board of trustees of a school division established under this Act with a name in the following form:

The Board of Trustees of \_\_\_\_\_ School Division.

**(11)** If property was liable to assessment

- (a) for public school purposes under the former Act, it is deemed to be liable to assessment for public school purposes under this Act, or
- (b) for separate school purposes under the former Act, it is deemed to be liable to assessment for separate school purposes under this Act,

until the municipality

- (c) receives notice under section 147 or 148 in respect of the property, or
- (d) is advised that ownership of the property has been transferred,

at which time the property is liable to assessment in accordance with Part 6.

2012 cE-0.3 s260;2015 c6 s34;2019 c7 s29



**Transitional regulation-making powers**

**260.1(1)** In this section, “former Act” means the *School Act*, RSA 2000 cS-3, as it read immediately before the coming into force of this section.

**(2)** The Lieutenant Governor in Council may make regulations

- (a) respecting the transition to this Act of anything under the former Act, including the interpretation of any transitional provision in this Act;
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act from the former Act.

**(3)** A regulation made under subsection (2) may be made retroactive to the extent set out in the regulation.

**(4)** A regulation made under subsection (2) is repealed 3 years after the regulation comes into force.

**(5)** The repeal of a regulation under subsection (2) does not affect anything done under the authority of the regulation before the repeal of the regulation.

2019 c7 s30

**Consequential changes to regulations**

**260.2(1)** The Lieutenant Governor in Council may, by regulation, amend the regulations filed under the *Regulations Act* to reflect changes made by this Act.

**(2)** An amendment made under subsection (1) may be made even though the regulation being amended was made by a member of the Executive Council or some other body or person.

2019 c7 s30

**260.3 to 262** *(These sections amend other Acts; the amendments have been incorporated into those Acts.)*

**263** Repealed 2015 c1 s2.

**264 to 264.3** *(These sections amend other Acts; the amendments have been incorporated into those Acts.)*

**265** Repealed 2013 cN-5.5 s30.

**266** and **267** *(These sections amend other Acts; the amendments have been incorporated into those Acts.)*

**268** Repealed 2013 cF-14.5 s23.

**269** to **288** *(These sections amend other Acts; the amendments have been incorporated into those Acts.)*

### Repeals

#### Repeals

**289** The following enactments are repealed:

- (a) *School Act, RSA 2000 cS-3;*
- (b) *School Amendment Act, RSA 2000 c30 (Supp);*
- (c) *School (Compulsory Attendance) Amendment Act, 2003, SA 2003 c9;*
- (d) *Miscellaneous Statutes Amendment Act, 2005, SA 2005 c28, section 10;*
- (e) *School Amendment Act, 2017, SA 2017 c28.*

2012 cE-0.3 s289;2019 c7 s46

### Coming into Force

#### Coming into force

**290** This Act comes into force on September 1, 2019.

2012 cE-0.3 s290;2019 c7 s47





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