



Province of Alberta

## **SCHOOL ACT**

### Revised Statutes of Alberta 2000 Chapter S-3

Current as of June 1, 2015

#### 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.

### **Amendments not in Force**

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

Repealed and superseded by 2012 cE-0.3 s289.

RSA 2000 c30 (Supp) s2 amends s39, s3 amends s60.1.

2003 c9 s2 (repealed by 2012 cE-0.3 s289 unproclaimed) amends s13, s3 (repealed by 2012 cE-0.3 s289 unproclaimed) repeals s15, s4 (repealed by 2012 cE-0.3 s289 unproclaimed) repeals ss126 to 130 and the heading preceding s126, s5 (repealed by 2012 cE-0.3 s289 unproclaimed) amends s144, s6 (repealed by 2012 cE-0.3 s289 unproclaimed) amends ss24, 25, 44, 54, 123 and 124.

2005 c28 s10 (repealed by 2012 cE-0.3 s289 unproclaimed) amends s136.

2013 cC-12.5 s21 amends s44.

## Regulations

The following is a list of the regulations made under the *School Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>School Act</b>		
Alberta School Foundation Fund .....	250/96 .....	166/2001, 251/2001, 223/2006, 112/2016
Board of Reference Fees .....	93/98 .....	251/2001, 63/2003, 242/2005, 18/2013, 109/2015, 112/2016
Capital Borrowing .....	188/98 .....	251/2001, 236/2003, 145/2008, 37/2009, 262/2009, 132/2010, 150/2012, 231/2012, 133/2015
Certification of Teachers .....	3/99 .....	206/2001, 251/2001, 213/2003, 92/2008, 106/2010, 231/2012, 133/2015
Charter Schools .....	212/2002 .....	33/2012, 231/2012, 133/2015
Closure of Schools .....	238/97 .....	223/2002, 135/2003, 257/2003, 170/2004, 163/2008, 85/2010, 150/2012, 231/2012, 133/2015
Disposition of Property .....	181/2010	
Early Childhood Services .....	31/2002 .....	245/2007, 36/2009, 231/2012, 133/2015
Home Education .....	145/2006 .....	164/2011, 231/2012, 133/2015
Practice Review of Teachers .....	11/2010	
Private Schools .....	190/2000 .....	251/2001, 108/2004, 43/2005, 225/2006, 228/2009, 231/2012, 133/2015
School Board Investment .....	1/2007	
School Buildings and Tendering .....	383/88 .....	251/2001
School Councils .....	113/2007	
Separate School Regions Establishment and Provision of Services Order .....	109/2002	
Special School Tax Levy Plebiscite .....	94/98 .....	251/2001, 63/2003, 181/2008, 18/2013, 109/2015, 112/2016
Student Evaluation .....	177/2003 .....	108/2004, 105/2005, 139/2009, 133/2015

Student Record.....	225/2006	.....	229/2009, 170/2012, 133/2015
Student Transportation .....	250/98	.....	197/2000, 251/2001, 125/2005, 128/2010, 150/2012, 231/2012, 133/2015
Superintendent of Schools.....	178/2003	.....	90/2005, 88/2007, 138/2009, 231/2012, 133/2015
Withdrawal of Ward Plebiscite .....	27/2004	.....	215/2010, 231/2012, 133/2015

# **SCHOOL ACT**

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### **Preamble**

WHEREAS the best educational interests of the student are the paramount considerations in the exercise of any authority under this Act;

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

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 there is one publicly funded system of education in Alberta whose primary mandate is to provide education programs to students through its two dimensions, the public schools and the separate schools, in such a way that the rights guaranteed under the Constitution of Canada of separate school electors are preserved and maintained; and

WHEREAS the education community in making decisions should consider the diverse nature and heritage of society in Alberta within the context of its common values and beliefs; and

WHEREAS the Regional authority of a Francophone Education Region has a unique responsibility and the 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 Region, such that the principles of francophone educational governance are distinct from, not transferrable to nor a precedent for, the English educational system; and

WHEREAS the Government of Alberta affirms its commitment to the preservation and continuation of its one publicly funded system of education through its two dimensions: the public schools and the separate schools;

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 an Attendance Board appointed under section 129;
- (b) “board” means a board of trustees of a district or division;

- (b.1) “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;
- (c) “charter school” means a school established under section 32;
- (d) repealed 2001 c27 s3;
- (e) “department” means the Department administered by the Minister;
- (f) “district” means a school district established pursuant to this Act or any predecessor Act or Ordinance;
- (g) “division” means a school division or regional division established pursuant to this Act or any predecessor Act;
- (h) “early childhood services program” means an education program provided pursuant to section 30;
- (i) “elector” means an elector as defined in the *Local Authorities Election Act*;
- (j) “expel” means to remove a student
  - (i) from school,
  - (ii) from one or more courses or education programs, or
  - (iii) from riding in a school busfor a period of more than 10 school days in accordance with section 25;
- (k) “Francophone” means an individual referred to in section 10(1);
- (l) “home education program” means an education program provided pursuant to section 29;
- (m) “independent student” means a student who is
  - (i) 18 years of age or older, or
  - (ii) 16 years of age or older and
    - (A) who is living independently, or



- (B) who is a party to an agreement under section 57.2 of the *Child, Youth and Family Enhancement Act*;
- (C) repealed RSA 2000 c32(Supp) s3;
- (n) “Indian” means an Indian as defined in the *Indian Act* (Canada);
- (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 city, town, village, municipal district, improvement district, special area or summer village;
- (q) “parent” means, in respect of a student, the relevant individual under subsection (2) unless otherwise specified;
- (r) “principal” means a teacher designated as a principal or acting principal under this Act;
- (s) “private school” means a school registered under section 28;
- (t) “public school district” means a public school district established pursuant to this Act or any predecessor Act or Ordinance;
- (u) “Region”, except in Division 3 of Part 8, means a Francophone Education Region established pursuant to this Act;
- (v) “Regional authority” means a Regional authority established pursuant to this Act;
- (w) “regional division” means a regional division established pursuant to this Act;
- (x) “resident student” means an individual who is entitled to have access to an education program under section 8 and who is a resident student as determined under section 44;
- (y) “school” means a structured learning environment through which an education program is offered to a student by
- (i) a board,
  - (ii) an operator of a private school,

- (iii) an early childhood services program private operator,
  - (iv) a parent giving a home education program, or
  - (v) the Minister;
- (z) “school building” means a building used for the instruction or accommodation of students that is owned or occupied by
- (i) a school jurisdiction,
  - (ii) a school jurisdiction and a municipality, or
  - (iii) a school jurisdiction and another person;
- (aa) “school building project” means
- (i) the purchase, erection, relocation, renovation, furnishing or equipping 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;
- (bb) “school council” means a school council established under section 22;
- (cc) “school division” means a school division established pursuant to this Act;
- (dd) “school jurisdiction” means a board, the Lloydminster Public School Division or the Lloydminster Roman Catholic Separate School District;
- (ee) “separate school district” means a separate school district established pursuant to this Act or any predecessor Act or Ordinance;
- (ff) “special education program” means an education program referred to in section 47;
- (gg) “student” means an individual who is
- (i) enrolled in a school, or
  - (ii) required under section 13 to attend school;

- (hh) “suspend” means to remove a student
  - (i) from school,
  - (ii) from one or more class periods, courses or education programs, or
  - (iii) from riding in a school busfor a period of 10 school days or less in accordance with section 24;
- (ii) “teacher” means an individual who holds a certificate of qualification as a teacher issued under this Act;
- (jj) “trustee” means a member of a board;
- (kk) “unorganized territory” means any area in Alberta that is not included within a district or a division.

**(2)** For the purposes of subsection (1)(q), 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* or section 23 of the *Family Law Act* if the guardian notifies the board in writing of the guardian’s appointment, or
  - (iii) the guardian appointed under a will or document referred to in section 22 of the *Family Law Act* whose appointment has taken effect, if the guardian notifies the board in writing of the guardian’s appointment,
- (b) notwithstanding clause (a), if the student’s guardian resided in Alberta and has changed the guardian’s residence so that it is outside Alberta or unknown, the individual who has care and control of the student as a result of the change,
- (c) notwithstanding clauses (a) and (b), the guardian of a student appointed under a temporary or permanent guardianship order or a permanent guardianship agreement under the *Child, Youth and Family Enhancement Act* if the guardian notifies the board in writing of the guardian’s appointment, or

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

**(2.1)** 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.

**(3)** 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 is entitled to exercise or receive or is subject to, and the student's parent shall not exercise those rights, receive those benefits or be subject to those obligations.

RSA 2000 cS-3 s1;RSA 2000 c32(Supp) s3;2001 c27 s3;  
AR 49/2002 s9;2002 c30 s29;2003 cF-4.5 s124;  
2003 c16 s117;2003 c41 s4(29);2007 c36 s5;  
2010 c16 s1(49);2013 c10 s34;2015 c1 s3

### Limitations

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

1988 cS-3.1 s2

### Diversity in shared values

**3(1)** All education programs offered and instructional materials used in schools 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, education programs and instructional materials referred to in subsection (1) must not promote or foster doctrines of racial or ethnic superiority or persecution, religious intolerance or persecution, social change through violent action or disobedience of laws.

1999 c28 s3

### Application to Francophone Education Regions

**4(1)** The following apply to a Francophone Education Region and its Regional authority, if any, as if the Region were a district and the Regional authority were a board:

sections 1 to 4;  
Part 1;

Part 2 except section 28;  
Part 3 except sections 44 and 45;  
Part 4;  
Part 5;  
sections 145 to 152, 178, 183 and 184 to 189;  
Part 7 except section 200(3);  
sections 238 to 245 and 247 to 252;  
Part 10.

- (2) If a provision of this Act applies to a Region, a reference to a board in the provision is deemed to include a reference to the Regional authority, if any.
- (3) If a provision of this Act applies to a Region, a reference to a trustee in the provision is deemed to include a reference to a member of the Regional authority, if any.
- (4) If a provision of this Act applies to a Region, a reference to a resident student in the provision as it applies to the Region is deemed to be a reference to a student enrolled in a school operated by the Regional authority, if any.
- (5) If a provision of this Act applies to a Region, a reference to an elector in the provision as it applies to the Region is deemed to be a reference to an individual referred to in section 256(1).
- (6) If in any other Act a reference is made
- (a) to a school district or division, the reference is deemed to include a Region governed by a Regional authority, or
  - (b) to a school board or the trustees of a school board, the reference is deemed to include a Regional authority or the members of a Regional authority, as the case may be.
- (7) Subsection (6) does not apply to a reference in the following Acts:

*Condominium Property Act;*

*Drainage Districts Act;*

*Health Insurance Premiums Act;*

*Hospitals Act;*

*Northland School Division Act;*

*Parks Towns Act.*

**(8)** Notwithstanding subsections (1) and (6), the Minister may exempt a Region or a Regional authority from the application of a provision of this or any other Act.

1993 c24 s3;1994 cS-13.3 s13;1995 c24 s99(31);1995 c27 s2

#### **Application to regional divisions**

**5** If in any other Act a reference is made to a school district or a division, the reference is deemed to include a regional division.

1993 c24 s3

#### **Enrolment in Francophone school**

**6(1)** If a student's parent is a Francophone who requests that the student be enrolled in a school operated by a Regional authority and the student resides in the Region within the distance from the school prescribed by regulation, the student is entitled to attend that school and the Regional authority shall enrol the student in that school.

**(2)** If a student's parent is a Francophone who requests that the student be enrolled in a school operated by a Regional authority and the student does not reside in the Region within the distance from the school prescribed by regulation, the Regional authority may enrol the student in that school under the terms set by the Regional authority.

**(3)** If a student is the child of a Francophone and is enrolled in a school operated by a Regional authority, the student continues to be a resident student of a board of a district, of a division or, if section 44(7) applies to the student, of the Government, but section 45 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 Regional authority.

1993 c24 s3;1994 c29 s4

#### **Regulations**

**7** The Minister may make regulations

- (a) respecting the distance from a school operated by a Regional authority referred to in section 6;
- (b) respecting the amount of fees or costs payable and by whom the fees or costs are payable in respect of a student who is the child of a Francophone and who is enrolled in a francophone program operated by a board.

1993 c24 s3;1994 c29 s5

## **Part 1 Students**

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

**8(1)** Every individual

- (a) who at September 1 in a year is 6 years of age or older and younger than 19 years of age, and
- (b) who is
  - (i) a Canadian citizen,
  - (ii) lawfully admitted to Canada for permanent residence,
  - (iii) a child of a Canadian citizen, or
  - (iv) a child of an individual who is lawfully admitted to Canada for permanent or temporary residence

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),

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

1988 cS-3.1 s3;1990 c36 s3

#### **Language of instruction - English**

**9** Every student is entitled to receive school instruction in English.

1988 cS-3.1 s4

#### **Language of instruction - French**

**10(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 the Province those rights apply.

(2) The Lieutenant Governor in Council may make regulations

- (a) respecting the education generally of students whose parents are Francophones;
- (b) repealed 2001 c27 s4;
- (c) 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 Regional authority is entitled to receive school instruction in French.

(4) A Regional authority shall provide to each student enrolled in a school operated by it an education program consistent with the requirements of this Act and the regulations.

RSA 2000 cS-3 s10;2001 c27 s4

#### **Other languages of instruction**

**11(1)** A board may authorize the use of French or any other language as a language of instruction.

(2) The Minister may make regulations governing the provision of instruction in any language authorized under subsection (1).

1988 cS-3.1 s6

#### **Students**

**12** A student shall conduct himself or herself so as to reasonably comply with the following code of conduct:

- (a) be diligent in pursuing the student's studies;
- (b) attend school regularly and punctually;
- (c) co-operate fully with everyone authorized by the board to provide education programs and other services;
- (d) comply with the rules of the school;
- (e) account to the student's teachers for the student's conduct;
- (f) respect the rights of others;
- (g) 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;
- (h) 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;
- (i) positively contribute to the student's school and community.

RSA 2000 cS-3 s12;2015 c1 s3

#### **Compulsory education**

**13(1)** An individual who

- (a) is eligible to be enrolled in a school,



(b) at September 1 in a year is 6 years of age or older, and

(c) is younger than 16 years of age,

shall attend school.

**(2)** A board may establish an attendance area for a school.

**(3)** A resident student of a board who resides in the attendance area for a school

(a) shall be enrolled in that school if a program offered in the school is suitable for the student in the opinion of the board, and

(b) shall be given priority over a student who does not reside in the attendance area if there are insufficient resources and facilities to accommodate both students in the opinion of the board.

**(4)** 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.

**(5)** 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 been given permission to enroll in another school, or

(e) the board or, if the student is enrolled in a private school or resides in an 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.

**(6)** Where a student is excused from attendance at school under subsection (5)(e), 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.

1988 cS-3.1 s8;1990 c36 s4;1994 c29 s6

### **Enforcing school attendance**

**14(1)** In this section,

- (a) “attendance officer” means the superintendent or any other individual designated by the board as an attendance officer;
- (b) “judge” means a judge of the Provincial Court;
- (c) “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 13, 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 (3), a dwelling place,

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

- (b) send the student the attendance officer suspects of being truant 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 as required under this Act 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.

1988 cS-3.1 s9

#### **Attendance at school**

##### **15(1) Where**

- (a) a student who is required to attend a school under section 13 does not attend school, and
- (b) attempts to enforce school attendance under section 14 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 13

- (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.

1988 cS-3.1 s10;1990 c36 s5

#### **Liability for damage to property by student**

**16(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.

1988 cS-3.1 s11

### Support for student organizations

**16.1(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 s3

**Parents****16.2** A parent of a student has the responsibility

- (a) to take an active role in the student's educational success, including assisting the student in complying with section 12,
- (b) to ensure that the parent's conduct contributes to a welcoming, caring, respectful and safe learning environment,
- (c) to co-operate and collaborate with school staff to support the delivery of specialized supports and services to the student,
- (d) to 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
- (e) to engage in the student's school community.

2015 c1 s3

**Part 2  
Schools****Division 1  
Schools Operated by a Board****Application of Division****17** This Division applies only to schools operated by a board.

1988 cS-3.1 s12

**Teachers****18(1)** A teacher while providing instruction or supervision must

- (a) provide instruction competently to students;
- (b) teach the courses of study and education programs 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 evaluate students and periodically report the results of the evaluation 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 those 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 the board to provide instruction or supervision or to carry out duties assigned to the teacher by a principal or the board, a 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 achievement tests and diploma examinations;
- (c) supervise student teachers.

RSA 2000 cS-3 s18;2004 c26 s2

#### **Principals designated**

**19(1)** A board that operates one or more schools shall designate a number of teachers as principals.

**(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.

1988 cS-3.1 s14

#### **Principals**

**20** A principal of a school must

- (a) provide instructional leadership in the school;
- (b) ensure that the instruction provided by the teachers employed in the school is consistent with the courses of study and education programs 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;
- (j) subject to any applicable collective agreement and the principal's contract of employment, carry out those 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.

1988 cS-3.1 s15;1994 c29 s7

#### **Alternative programs**

**21(1)** In this section, "alternative program" means an education program that

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

but that is not a special education program, a program referred to in section 10 or a program of religious education offered by a separate school board.

**(2)** If a board determines that there is sufficient demand for a particular alternative program, the board may offer that program to those students whose parents enroll them in the program.

**(3)** A board that offers an alternative program shall continue to offer the regular education program to those students whose parents do not enroll them in the alternative program.

**(4)** If a parent enrolls a student in an alternative program, the board may charge that parent fees 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, and
- (b) are in addition to the costs incurred by the board in providing its regular education program.

1988 cS-3.1 s16

**School council**

**22(1)** A school council shall be established in accordance with the regulations for each school operated by a board.

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

**(3)** A board of a separate school district or a division made up only of separate school districts, by resolution, may require that the parents of students enrolled in a school operated by the board who are members of the school council must also be of the same faith as those who established the separate school districts, 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 make and implement policies in the school that the 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 develop and implement policies respecting school councils.

**(8)** A board shall establish an appeal process or conflict resolution procedure under which the principal or the school council may



apply respecting disputes on 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)** The Minister may make regulations

- (a) respecting the election or appointment of the members of a school council and 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 any other matter the Minister considers necessary respecting school councils;
- (d) exempting a school or class of schools from the application of this section.

1988 cS-3.1 s17;1990 c36 s6;1994 c29 s8;1995 c27 s3

#### **Student records**

**23(1)** A board shall establish and maintain pursuant to the regulations a student record for each student enrolled in its schools.

**(2)** Subject to subsection (4), the following persons may review the student record maintained in respect of a student:

- (a) the student;
- (b) the student's parent, except where the student is an independent student;
- (c) a person who has access to the student under a separation agreement dated before this section comes into force or an access order under section 18 or 19 of the *Provincial Court Act* or under similar legislation, but not under a contact order under Part 2, Division 3, of the *Family Law Act*.

*(NOTE: Section 124(3) of the Family Law Act purports to repeal and replace section 23(c) of the School Act. As section 23 is divided into subsections, there is no section 23(c). The clause (c) enacted by section 124(3) of the Family Law Act is included in this consolidation as section 23(2)(c).)*

**(3)** A person who is entitled to review a student record under subsection (2) may request a copy of the student record from the board, and the secretary of the board shall provide, or on request shall send, the copy to the person on receiving payment for it at the rate prescribed by the board.

**(4)** Where a student record contains

- (a) a test, a test result or an evaluation of a student that is given by a person who has a recognized expertise or training in respect of that test or evaluation, or
- (b) information relating to a test, test result or evaluation referred to in clause (a),

the individuals referred to in subsection (2) are entitled to the things referred to in subsection (5).

**(5)** If subsection (4) applies, the individuals referred to in subsection (2) are entitled

- (a) to review the test, test result or evaluation referred to in subsection (4)(a) or information referred to in subsection (4)(b), and
- (b) to receive from a person who is competent to explain and interpret it an explanation and interpretation of that test, test result, evaluation or information.

**(6)** If a person reviewing a student record referred to in subsection (4) so requests, the board shall ensure that a person who is competent to explain and interpret the test, test result, evaluation or information is available to explain and interpret that test, test result, evaluation or information.

**(7)** A person who contributes 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.

**(8)** If, on examining a student record, a person is of the opinion that the student record contains inaccurate or incomplete information, that person may request the board to rectify the matter.

- (9) The Minister may make regulations respecting student records.  
RSA 2000 cS-3 s23;2003 cF-4.5 s124

### **Suspension**

- 24(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 12,
  - (b) the student has failed to comply with the code of conduct established under section 45.1(2), or
  - (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.
- (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, courses or education programs, or
  - (c) from riding in a school bus.
- (4) A principal may reinstate a student suspended under subsection (2) or (3).
- (5) When a student is suspended under subsection (3), the principal shall
- (a) forthwith 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) if requested, 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 reasonableness of the suspension.
- (6) If the student is not to be reinstated within 5 school days after the date of the suspension, the principal shall
- (a) forthwith inform the board of the suspension, and

- (b) report in writing to the board all the circumstances respecting the suspension and the principal's recommendations,

and the student remains suspended until the board has made a decision under subsection (8).

(7) The principal may recommend that the board expel the student if

- (a) the student has displayed an attitude of wilful, blatant and repeated refusal to comply with section 12,
- (b) the student has displayed an attitude of wilful, blatant and repeated refusal to comply with the code of conduct established under section 45.1(2), or
- (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.

(8) The board shall within 10 school days after the date of the suspension

- (a) reinstate the student, or
- (b) expel the student from school in accordance with section 25.

(9) Before the board makes a decision under subsection (8), the student and the student's parent may make representations to the board with respect to the principal's recommendation to expel the student.

RSA 2000 cS-3 s24;2015 c1 s3

### **Expulsion**

**25(1)** On considering the report provided to it under section 24(6)(b) and any representations made to it under section 24(9), the board may expel the student if

- (a) the principal has recommended that the board expel the student, and
- (b) the student has been offered another education program by the board.

(2) An expulsion must be for a period of more than 10 school days.

(3) When a student is expelled under this section, the board shall forthwith 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
  - (b) of the right to request a review under section 124.
  - (4) The board may re-enrol a student who has been expelled.
- 1999 c28 s4

**Flags**

- 26** The principal of a school shall ensure that the Canadian flag and the Alberta flag are displayed at the school.
- 1988 cS-3.1 s20

**Prohibited activities****27(1)** 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, or
  - (c) loiter or trespass in a school building or on property owned by a board.
- (2) No person shall canvass, sell or offer to sell goods, services or merchandise to a teacher or a student in a school without the prior approval of the board.

1988 cS-3.1 s21

## Division 2 Other Schools

**Private schools**

**28(1)** A school is entitled to be registered as a private school if the operator applies to the Minister and the Minister is satisfied that

- (a) the school will provide a program of studies that complies with any orders made under section 39(1)(f),
  - (b) the school will meet the standards of student achievement and achievement testing acceptable to the Minister,
  - (c) the operator agrees to regular evaluation and monitoring by the Minister, and
  - (d) the building that is used for school purposes meets and will continue to meet all applicable local and provincial health, safety and building standards.
- (2) A private school is entitled to be accredited as an accredited private school if

- (a) the Minister approves the education program and any modification of it offered at the school, and
  - (b) the Minister is satisfied that
    - (i) the operator of the private school continues to meet the requirements under subsection (1),
    - (ii) 7 or more students from 2 or more families are enrolled and continue to be enrolled in the school, and
    - (iii) individuals whose qualifications are approved by the Minister are employed to teach at the school.
- (3)** The Minister may cancel or suspend the registration or accreditation of a private school
- (a) if the operator 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 in the opinion of the Minister, the students at the school are not achieving acceptable educational progress, or
  - (c) if the operator of the school permits education programs or instructional materials that do not comply with section 3 to be offered or used in the school.
- (4)** No person shall operate a school as a private school unless it is registered under subsection (1).
- (5)** 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.
- (6)** The Minister may make regulations respecting private schools.
- (7)** Sections 16.1, 50.1 and 50.2 and section 123, in respect of appeals referred to in section 50.2, apply to a private school and its operation, and a reference in those provisions to a board is deemed to include a reference to the operator of a private school.

**Home education program**

**29(1)** A parent of a student may provide, at home or elsewhere, a home education program for the student if the program

- (a) meets the requirements of the regulations, and
- (b) is under the supervision of a board or a private school accredited under section 28(2).

**(2)** If a parent resides in unorganized territory, the Minister shall act as a board under this section.

**(3)** The Minister may make regulations respecting home education.

1988 cS-3.1 s23;1993 c24 s6

**Early childhood services program**

**30(1)** A board or, with the approval of the Minister, a person may provide an early childhood services program to

- (a) a child who, as of September 1, is younger than 6 years of age, if the parent of the child agrees, or
- (b) a student, if the parent of the student and the board are of the opinion that the program will benefit the student.

**(2)** A person or board that provides an early childhood services program may charge fees in respect of the program from the parent of a child referred to in subsection (1)(a) who attends the program.

**(3)** If a child referred to in subsection (1)(a) 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.

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

1988 cS-3.1 s24; 1990 c36 s9;1994 c29 s10;1997 c25 s5

**Division 3  
Charter Schools****Application**

**31(1)** A person or society may apply to the Minister for the establishment of a charter school to be operated by a society incorporated under the *Societies Act* or a company registered under Part 9 of the *Companies Act*.

(2) An application may be made to the Minister only if the board of the district or division in which the school is to be established refuses to establish an alternative program under section 21 as requested by the person or society.

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

RSA 2000 cS-3 s31;2001 c27 s5

#### **Charter schools**

**32** The Minister may establish a charter school if the Minister is of the opinion that

- (a) the school will have significant support from the community in which it is to be located,
- (b) the program to be offered by the school will potentially improve the learning of students as it is measured by the Minister in schools operated by boards that are not charter schools, and
- (c) the program to be offered by the school is not already being offered by the board of the public school district or division or the board of the separate school district or regional division made up only of separate school districts, as the case may be, in which the school will be located.

RSA 2000 cS-3 s32;2001 c27 s6

#### **Restriction on operator**

**33** The operator of a charter school established by the Minister must restrict its purposes to the operation of that charter school.

RSA 2000 cS-3 s33;2001 c27 s7

#### **Transitional**

**33.1(1)** In this section, “amending Act” means the *School Amendment Act, 2001*.

(2) A charter school established by a board before the coming into force of section 7 of the amending Act is deemed to be established by the Minister.

2001 c27 s8

#### **Operation of charter schools**

**34(1)** A charter school must be operated in accordance with the charter approved by the Minister.

(2) The society or company that is named in the charter shall operate the charter school.



(3) A charter school shall not charge a fee that may not be charged by a board under this Act.

(4) A charter school shall not be affiliated with a religious faith or denomination.

(5) Repealed 2001 c27 s9.

RSA 2000 cS-3 s34;2001 c27 s9

### **Charter**

**35** A charter must include the following:

- (a) the particular teaching philosophy, vision and purpose of the school with the goals of the school written as measurable outcomes;
- (b) a description of the improved student learning outcomes to be attained by the students;
- (c) the period during which the school is to operate;
- (d) the name of the society or company that is to operate the school;
- (e) a description of the students for whom the school is intended;
- (f) the grades to be offered at the school;
- (g) any other matter required by the regulations or the Minister.

RSA 2000 cS-3 s35;2001 c27 s10

### **Application of Act**

**36(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 a society or company that operates a charter school or a member of the governing body of that society or company, as the case may be:

- (a) sections 1, 2 and 3;
- (b) Part 1;
- (c) Part 2 except sections 21(3), 28 and 29;
- (d) in Part 3, sections 45.1, 49, 50, 50.1, 50.2, 52, 54, 56, 57, 60, 75, 77, 78, 79, 80 and 81, section 82 except subsections (1)(a) and (2), sections 83 to 85 and section 86 except clauses (b) and (c);

- (e) Part 4;
- (f) Part 5;
- (g) in Part 6, sections 145 to 152, 178 and 183;
- (h) Part 7 except section 199;
- (i) in Part 10, sections 272 to 280.

**(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 31, 32, 34 and 35, or of the regulations, or
- (b) may make any provision of this Act or the regulations apply to a charter school.

RSA 2000 cS-3 s36;2001 c27 s11;2015 c1 s3

**Regulations**

**37** The Minister may make regulations

- (a) respecting applications for charter schools and the charter under which a charter school is operated, its contents and amendment or repeal;
- (b) respecting the number of charter schools in Alberta, the location of those schools and their relationship with boards and schools operated by boards;
- (c) respecting the transfer of the management or operation of a charter school to a society or company approved by the Minister or the winding-up of a charter school;
- (d) respecting any other matter the Minister considers necessary for a charter school to be operated in accordance with its charter.

RSA 2000 cS-3 s37;2001 c27 s12

**Application of order or regulation**

**38** An order under section 36 or a regulation under section 37 may be general in its application or may apply to a particular charter school or a class of charter schools.

1994 c29 s11

## Division 4 General

### Courses, programs, etc.

**39(1)** The Minister may do the following:

- (a) prescribe courses of study or education programs, including the amount of instruction time;
- (b) authorize courses of study, education programs or instructional materials for use in schools;
- (c) prescribe the minimum total hours of instruction a board shall make available to a student in a school year;
- (d) approve any course, education program or instructional material that may be submitted to the Minister by a board or another operator of a school for use in a school;
- (e) subject to the right of a board to provide religious instruction, by order prohibit the use of a course, an education program or instructional material in schools;
- (f) by order adopt or approve goals and standards applicable to the provision of education in Alberta.

**(2)** The *Regulations Act* does not apply to an order made under subsection (1).

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

- (a) governing the evaluation and inspection of teachers;
- (b) respecting the granting of certificates and diplomas;
- (c) respecting the examination and evaluation of individuals by the Minister, including appeals, fees and the payment of remuneration;
- (d) for the establishment, operation, administration and management of schools, institutes or facilities for the education and training of persons with special educational needs and prescribing fees or a schedule of fees to be charged for any matter connected with the school, institute or facility;
- (e) providing for correspondence courses and the fees to be charged in connection with them;
- (f) governing registration in, the fees to be charged for registration in and the operation of private correspondence

courses and private tutoring institutions that offer correspondence courses or tutoring in the same or substantially the same subjects as those offered in schools.

(4) A regulation made under subsection (3)(d), (e) or (f) may be specific or general in its application.

1988 cS-3.1 s25;1990 c36 s10;1994 cG-8.5 s68

#### **Investigators**

**40(1)** The Minister may appoint a person to inquire into and report on

- (a) any appeal, complaint or dispute arising from the decision of a board or inspector or other school official,
- (b) the condition of one or more schools, or
- (c) any other school matter.

(2) A person appointed under subsection (1) may take evidence on oath.

(3) The Minister may, on receipt of a report under subsection (1), make any order that to the Minister seems proper.

1994 cG-8.5 s68

#### **Inquiry into administration**

**41(1)** The Minister may appoint a person to examine and inspect

- (a) the financial condition,
- (b) the administrative condition, or
- (c) any other matter connected with the management, administration or operation,

of a board, private school or early childhood services program.

(2) A person appointed under subsection (1) may examine and take copies of

- (a) all books of record and accounts,
- (b) all bank books, and
- (c) any other papers, documents or things.

(3) If the Minister so provides, a person appointed under subsection (1) has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

(4) The books, papers, documents and things referred to in subsection (2) shall be made available to the person appointed by the Minister at the time the person requests them from the person who has custody of them.

(5) A person appointed under subsection (1) shall report to the Minister on the examination and inspection and on receipt of the report the Minister may make any order that seems proper to the Minister.

1994 cG-8.5 s68

#### **Official trustee**

**42(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,

- (a) when a board fails to comply with an order made under section 40(3) or 41(5), or
- (b) when 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) shall 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 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.

1994 cG-8.5 s68;1995 c24 s99(31)

#### **Inspections**

**43(1)** The Minister may authorize a person to inspect and evaluate teachers, schools, the operations of school districts and divisions, education programs, instructional materials or buildings used as a school.

(2) A person authorized to make an inspection and evaluation under subsection (1) may include in the person's inspection an examination of the achievement of students and of the policies,

procedures, books and records of a school jurisdiction or a person operating a school.

(3) A person authorized to make an inspection and evaluation under subsection (1) may enter a building used as a school, other than a dwelling house, or any part of that building for the purpose of conducting the inspection and evaluation.

1988 cS-3.1 s26;1990 c36 s11

### **Bullying Awareness and Prevention Week**

**43.1(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.

2015 c1 s3

## **Part 3 School Boards**

### **Division 1 Provision of Educational and Associated Services**

#### **Resident student**

**44(1)** Subject to this section, a student is a resident student of the board of the district or division, as the case may be, in which the student's parent resides.

(2) For the purposes of this section and section 51,

- (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 district or division in which the foster parent resides, unless subsection (5) applies, and
- (b) a student who is a handicapped child and 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 district or division in which the student resides.

(3) Subject to this section, every individual is a resident of a public school district or 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 district, and
- (b) is not a resident of the public school district.

**(5)** A director under the *Child, Youth and Family Enhancement Act* may deem a student to be a resident student of a 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 served by both a public and a separate school district or division.

**(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 district or 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 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
    - (A) is in the custody of a director, or
    - (B) has a guardian appointed,

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 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 district or division, as the case may be,

(a) the parents shall choose in writing one of those school districts or divisions,

(b) the student is a resident student of the board of the chosen district or division,

(c) the student shall attend the school the student is directed to attend by the board of the chosen district or division, and

(d) either board may require that the choice of the parents under clause (a) shall remain in effect during the school year in respect of which it is made.

**(8.1)** Notwithstanding that a parent is limited by law in exercising an authority under subsection (8)(a) and that parent is a resident of a school district or division different than the other parent, the other parent may choose which of the two districts or divisions in which the student is to attend school, and subsection (8)(b) to (d) applies.

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

**(10)** Notwithstanding section 273(c), if the residence of the parent of a student changes after the commencement of a school year, the parent shall 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 district or division in which the student resides after the change,

(b) the board of the district or 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.

(11) 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 district of whose board the student is a resident student, the student may remain a resident student of that board notwithstanding subsections (1) to (10).

(12) 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.

(13) 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.

RSA 2000 cS-3 s44;RSA 2000 c32(Supp) s3;2003 cF-4.5 s124;  
2003 cF-5.3 s13;2003 c16 s117;2003 c41 s4(29);2004 c26 s3

#### **Responsibility to students**

**45(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) Subject to subsection (3) and section 13(3), a board shall direct a resident student of the board to enroll in and attend a particular school operated by the board.

(3) A board shall enroll a resident student of the board or 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 enroll the student, there are sufficient resources and facilities available to accommodate the student.

(4) Notwithstanding subsection (3), 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.

(5) A board shall enroll a resident student of the Government in a school operated by the board as requested by the Minister.

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

(7) 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.

(8) Repealed 2015 c1 s3.

RSA 2000 cS-3 s45;2015 c1 s3

### **Board responsibility**

**45.1(1)** A board has the responsibility to 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.

(2) A board shall establish, implement and maintain a policy respecting the board's obligation under subsection (1) 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 (3)(e) must be made publicly available.

2015 c1 s3

#### **Foreign students**

**46** A board shall enroll all individuals who are entitled under section 8 to have access to an education program in a school year before enrolling an individual who is not entitled under section 8 to have access to an education program in that school year.

1997 c25 s8

#### **Special education program**

**47(1)** A board may determine that a student is, by virtue of the student's behavioural, communicational, intellectual, learning or physical characteristics, or a combination of those characteristics, a student in need of a special education program.

(2) Subject to section 48, a student who is determined by a board to be in need of a special education program is entitled to have access to a special education program provided in accordance with this Act.

(3) Before a board places a student in a special education program it shall

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

1988 cS-3.1 s29;1993 c24 s8

#### **Special Needs Tribunal**

**48(1)** A board may determine that a student has special needs that cannot be met in an education program that can 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 Special 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 Special Needs Tribunal confirms the determination of a board under subsection (1), it shall develop or approve a special needs 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 special needs plan, and
  - (b) apportion the cost of providing the services required under the special needs plan between the board and the Government.
- (4) If a Special 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 decisions and determinations made by a Special Needs Tribunal under this section.
- (6) A decision made by a Special Needs Tribunal under subsection (3) or this subsection shall be reviewed by the same or any other Special Needs Tribunal at least every 3 years after the decision is made 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 Special Needs Tribunals for the purposes of this section.
- (8) For the purpose of carrying out its powers under this section, a Special 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 decision made by a Special Needs Tribunal under this section.

1988 cS-3.1 s30;1990 c36 s14;1993 c24 s9

#### **Tuition fees**

- 49(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) A tuition fee charged by a board under subsection (2)
- (a) in respect of an individual who is entitled under section 8 to have access to an education program must not exceed the cost to the board of having that individual enrolled in a school operated by the board, and

- (b) in respect of an individual who is not entitled under section 8 to have access to an education program may exceed the cost to the board of having that individual enrolled in a school operated by the board.

**(4)** Notwithstanding subsection (1), the Minister may by order

- (a) authorize boards to enter into an agreement with an independent student, or the parent of a student other than an independent student, requiring the student or parent to pay a refundable deposit to the board where the student has failed to complete a high school credit course and is repeating the course,
- (b) prescribe the circumstances under which a deposit is payable and the circumstances under which all or part of the deposit may be refunded, and
- (c) prescribe the amount of a deposit or the manner in which the amount is determined.

1988 cS-3.1 s32;1990 c36 s15;1993 c24 s10;1994 c29 s15;  
1997 c25 s9

**Religious and patriotic instruction**

**50(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 to its students.

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

1988 cS-3.1 s33;1990 c36 s16

**Notice to parent**

**50.1(1)** A board shall provide notice to a parent of a student where courses of study, educational programs 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 of study or educational program 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 of study, educational program 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 of study or educational program is taking place or the instructional materials are being used for the duration of the part of the instruction, course of study or educational program, 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 of study or educational program 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 of study, educational program, instruction or exercises or in the use of instructional materials.

2015 c1 s3

**Complaint process**

**50.2(1)** If a board, teacher or other person fails to comply with section 50 or 50.1, that failure to comply is deemed to be a decision that may be appealed in accordance with section 123.

**(2)** A decision of the board under section 123 with respect to an appeal relating to subsection (1) is final.

2015 c1 s3

**Transportation**

**51(1)** Subject to the regulations, a board shall provide for the transportation of a student to and from the site of the school in which the board has enrolled the student if the student resides

- (a) at a distance from the site of that school to be determined by the regulations,

- (b) within the attendance area established by the board under section 13, and
  - (c) within the boundaries of the district or division.
- (2) The board is deemed to have complied with subsection (1) when transportation is provided on a route that is not more than 2.4 kilometres from the residence of the student.
- (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 whether or not the transportation is provided under subsection (1).
- (4) In computing distances for the purposes of this section,
- (a) the official survey made under any Act of Canada or the Legislature relating to surveys shall be accepted as final and conclusive and all sections are deemed to be 1.6 kilometres square and no more,
  - (b) the width of road allowances shall be excluded from the computation, and
  - (c) the distance of a residence from a school or from a bus route is the shortest distance measured along a travelled road or public right of way between the school site or the bus route, as the case may be, and the nearest roadway access at the boundary of the quarter section or lot on which the student's parent resides.
- (5) The Minister may make regulations respecting the transportation of students.

1988 cS-3.1 s34;1990 c36 s17;1994 c29 s16;1995 c27 s6;  
1997 c25 s10;1999 c28 s10

#### **Transport by parent**

- 52(1)** A board may, instead of providing transportation under section 51, 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, in accordance with the rules of the board, payment 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 a school or bus route pursuant to an agreement made under this section.

1988 cS-3.1 s35

**Maintenance allowance**

**53** If a student is directed by a board to attend a school and as a result of attending that school the student is unable to live in the residence of the student's parent, the board shall pay a maintenance allowance in respect of that student in an amount prescribed by the board.

1988 cS-3.1 s36

**Off-campus education programs**

**54(1)** A board may provide off-campus education programs for its students.

**(2)** Subject to the regulations, 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, 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.

1988 cS-3.1 s37;1998 c27 s2

**Continuing education**

**55(1)** A board, in addition to its obligation to provide courses and education programs to students enrolled in schools operated by the board under this Act, may develop or provide courses to any person on any subject.

**(2)** A board shall employ teachers in accordance with section 92 to provide instruction in courses provided under this section that conform with the courses of study prescribed or approved under section 39, and may employ any person to provide instruction in other courses provided under this section.

**(3)** When a board provides a course under this section, the board shall ensure that the course does not interfere with normal school operation.

**(4)** Notwithstanding section 49, a board may charge a student registered in a course provided by it under this section any fees it considers appropriate, but it may not require a student who is enrolled in a school operated by the board to pay a fee for a course provided under this section.

**(5)** Any person may apply to a board to register in a course provided under this section and the board may in its discretion accept or refuse the applicant.



- (6)** Where
- (a) a board provides a course under this section,
  - (b) a person registers in the course referred to in clause (a), and
  - (c) the person referred to in clause (b) is not otherwise a resident student of the board that provides the course,
- that person is not, by reason of being registered in that course,
- (d) a resident student of that board, or
  - (e) entitled to any of the rights or benefits given to a student under this Act.

1988 cS-3.1 s38;1994 c29 s17

**School day and year****56(1)** A board shall specify the following:

- (a) the school opening date;
  - (b) the number and the days of school operation;
  - (c) the length of the school day;
  - (d) the number and length of recesses;
  - (e) subject to section 39, the number of hours of instruction.
- (2)** A board shall specify the vacation periods in a school year, which shall, as a minimum, include a vacation period that extends at least from December 24 to January 2.
- (3)** A board in its discretion may declare one day a month to be a school holiday.
- (4)** A holiday declared by a municipality does not apply to a school within the municipality unless the board declares it to be applicable.
- (5)** A board shall, before May 31 in each year, give notice to the Minister of
- (a) the opening and closing dates of all schools under its jurisdiction for the 12-month period next following,
  - (b) the dates of the vacation periods in the school year, and
  - (c) the number of hours of instruction to be made available to students in the school year

(i) by grade, and

(ii) by school.

**(6)** A board may declare the 2nd Friday of June in any year to be a Farmer's Day holiday.

1988 cS-3.1 s40;1990 c36 s18;1997 c25 s11;1999 c28 s11

#### **Emergency closure of school building**

**57(1)** A board may temporarily close a school building if the health or safety of the students is endangered.

**(2)** If a board closes a school building under subsection (1), it shall forthwith remedy the situation causing the closure and reopen the school building.

1988 cS-3.1 s41

#### **Closure of schools, etc.**

**58** The Minister may make regulations

(a) authorizing a board to

(i) close a school permanently or for a specified period of time,

(ii) close entirely 3 or more consecutive grades in an elementary school,

(iii) close the entire junior high school program or the entire high school program in a school, or

(iv) transfer all students from one school to one or more other schools;

(b) governing procedural and other requirements a board must comply with when doing anything described in clause (a).

1988 cS-3.1 s42;1997 c25 s12

## **Division 2 Operation and Management**

#### **Powers of separate school boards**

**59** Unless otherwise provided for in this Act, the board of a separate school district

(a) possesses and may exercise all the rights, powers and privileges of,

(b) is subject to duties and liabilities the same as those of, and

(c) has the same method of government as,

the board of a public school district.

1988 cS-3.1 s43

### **Powers of boards**

#### **60(1)** A board must

- (a) establish policies respecting the provision of educational services and programs;
- (b) in respect of its operations
  - (i) keep in force a policy or policies of insurance,
  - (ii) with the approval of the Minister, participate in an arrangement under Part 1, Subpart 3 of the *Insurance Act*, or
  - (iii) with the approval of the Minister, participate in an alternative arrangement acceptable to the Minister, for the purpose of indemnifying the board and its employees and school councils in respect of claims for
- (iv) damages for death or personal injury,
- (v) damages to property, and
- (vi) damages to property owned by the board in respect of which the board has an insurable interest
  - (A) that the board has agreed to insure, or
  - (B) for which the board otherwise has or may have assumed liability;
- (c) maintain, repair, furnish and keep in good order all its real and personal property;
- (d) make copies of the rules made by it available to those of its employees who are affected by the rules;
- (e) make rules respecting the circumstances in which a student may be suspended or expelled and the circumstances in which an expelled student may be re-enrolled.

#### **(2)** A board may

- (a) subject to section 39 and the regulations, develop, acquire or offer courses or programs;

- (b) subject to section 39 and the regulations, develop or acquire instructional materials for use in programs or in schools;
  - (c) subject to the regulations and in co-operation with school councils, provide for parental and community involvement in schools;
  - (d) invest only in accordance with the regulations made under section 79;
  - (e) provide for the payment of travelling and other expenses and honoraria to
    - (i) trustees, and
    - (ii) persons appointed to committees of the board;
  - (f) make payments, other than loans or grants, to another board;
  - (g) make grants or payments, other than loans, to an association of school trustees or to a person or organization engaged in educational activities;
  - (h) at its own expense or otherwise, arrange, undertake or sponsor for its students educational, cultural or recreational trips inside or outside its district or division;
    - (i) establish committees and specify the powers and duties of the committees;
    - (j) charge a parent of a student fees with respect to instructional supplies or materials;
  - (k) make any banking arrangements necessary for the carrying out of its duties and powers.
- (3)** A board may make rules
- (a) respecting activities sponsored or approved by the board;
  - (b) respecting the attendance of students at schools;
  - (c) subject to the regulations, respecting the establishment, administration, management and operation of
    - (i) schools operated by the board, or
    - (ii) school buses used for the purposes of the board;

- (d) respecting any other matter under the jurisdiction of the board.

RSA 2000 cS-3 s60;RSA 2000 cl-3 s868;  
2001 c28 s20;2006 c9 s18

#### **Delegation of power**

##### **61(1)** The board may authorize by resolution

- (a) any of its employees,
- (b) a committee of the board or that is established by the board,
- (c) a school council, or
- (d) a joint committee established under section 63,

to do any act or thing or exercise any power that the board may or is required to do or exercise subject to the directions and limitations set out in the resolution, except for those powers referred to in subsection (2).

##### **(2)** The 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 58,
- (c) the power to requisition from a municipality that the board may have from time to time, and
- (d), (e) repealed 2004 c26 s4,
- (f) the power to hold a hearing under section 104.

##### **(3)** Notwithstanding subsection (1), the board shall not delegate, except to the superintendent,

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

RSA 2000 cS-3 s61;2004 c26 s4

#### **Avoiding duplication of functions**

##### **61.1(1)** In this section,

- (a) “board function” means any matter under this Act in respect of which the board is empowered or otherwise obligated to carry out any act or thing or to exercise any power;

- (b) “party” means an employee, committee, school council or joint committee referred to in section 61(1);
- (c) “subordinate function” means anything that is required under this Act to be carried out by a party in relation to or in support of the board carrying out a board function.

**(2)** Where a party is authorized under section 61 to carry out a board function, the board may excuse that party from carrying out a subordinate function that relates to that board function.

2004 c26 s5

### **Agreements**

**62(1)** A board may, without the approval of the Minister,

- (a) enter into an agreement with
  - (i) a person, or
  - (ii) a joint committee established under section 63,  
respecting the provision of educational, managerial or other services with respect to the operation of schools;
- (b) with respect to its resident students, enter into an agreement with another board or person to provide education programs;
- (c) enter into an agreement with another board, a non-profit organization or a municipality concerning the promotion and development of recreation and community services.

**(2)** A board may, with the prior approval of the Minister,

- (a) enter into an agreement with
  - (i) the Government of Alberta or any agent of the Government of Alberta,
  - (ii) the Government of Canada or any agent of the Government of Canada, or
  - (iii) the government of any other jurisdiction or any agent of a government of any other jurisdiction,  
respecting the provision of educational services;
- (b) enter into an agreement with the Government of Canada or any agency of the Government of Canada with respect to the education of
  - (i) Indian children, or

- (ii) the children of members of the Canadian Forces or of other persons employed by the Government of Canada,

in a school operated by a board;

- (c) enter into an agreement with a council of a band as defined in the *Indian Act* (Canada) with respect to the education of Indian children;
- (d) enter into an agreement with an organization representing the residents of an unorganized territory for the provision of educational services by the board.

**(3)** If an agreement under subsection (2)(b), (c) or (d) provides for the appointment of one or more individuals resident in the unorganized territory to the board, those individuals are deemed on their appointment to be members of the board and to have all the rights and obligations of trustees as set out in the agreement.

**(4)** 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 those 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.

1988 cS-3.1 s46;1999 c28 s13

#### **Joint committees, etc.**

**63(1)** If an agreement is entered into pursuant to section 62(1)(a)(ii) or 197, the board may appoint one or more of its trustees to be members of a joint committee with persons appointed by another board and, if appropriate, by a person or municipality.

**(2)** A board, person or municipality may provide the committee established pursuant to subsection (1) with any money the board, person or municipality considers proper and the committee may expend any money received for the control, management, upkeep and operation of the undertaking.

**(3)** A committee established pursuant to subsection (1) shall in each year furnish to the board, person or municipality

- (a) an audited statement of its receipts and payments for the preceding year, and
- (b) any information regarding its management and operation that is considered necessary by the board, person or municipality.

(4) Notwithstanding anything in this Act, a board may, for the purposes of this Act and the regulations, appoint another board to act on its behalf or on behalf of a joint committee established pursuant to this section.

1988 cS-3.1 s47

#### **Organizational meeting**

**64(1)** The organizational meeting of a board

- (a) subject to clause (b), shall be held annually, and
- (b) in any year in which a general election takes place, shall be held within 4 weeks following the date of that election,

at a time and place to be fixed by the secretary of the board.

(2) The secretary of the board shall give notice of the organizational meeting to each trustee as if it were a special meeting.

1988 cS-3.1 s48

#### **Chair**

**65(1)** At the organizational meeting, and afterwards at any time as determined by the board, the board shall elect one of its members as chair and another as vice-chair to hold office during the pleasure of the board.

(2) If the chair through illness or other cause is unable to perform the duties of the chair's office or is absent, the vice-chair has all the powers and shall perform all the duties of the chair during the chair's inability to act or absence.

(3) If both the chair and the vice-chair through illness or other cause are unable to perform the duties of the office or are absent, the board shall appoint from among its members an acting chair, who on being so appointed has all the powers and shall perform all the duties of the chair during the chair's and vice-chair's inability to act or absence.

1988 cS-3.1 s49

#### **Regular meetings**

**66(1)** The board shall hold as many regular meetings as it considers necessary to deal adequately with its business.

(2) The resolution of the board establishing the regular meetings of the board shall state the date, time and place of the regular meeting.

(3) The board is not required to give notice of the regular meetings of the board.

1988 cS-3.1 s50



**Special meetings**

**67(1)** A special meeting of a board may be called by

- (a) the chair of the board,
- (b) a majority of the trustees, or
- (c) the Minister,

after written notice has been given to each trustee in accordance with subsection (2).

**(2)** A notice of a special meeting shall state

- (a) the date, time and place of the special meeting, and
- (b) the nature of the business to be transacted at the special meeting.

**(3)** The notice of the special meeting shall be

- (a) sent by registered mail to each trustee at least 7 days before the date of the meeting, or
- (b) personally served at least 2 days before the date of the meeting on
  - (i) the trustee, or
  - (ii) a responsible person at the trustee's residence.

**(4)** Notwithstanding subsections (1) to (3), a special meeting may be held without notice being given under this section if every trustee agrees to waive the requirements of subsections (1) to (3).

**(5)** Unless all the trustees are present at the special meeting, no business other than that stated in the notice of the special meeting shall be transacted at the special meeting.

1988 cS-3.1 s51

**Procedure**

**68** The board may make rules governing its internal procedure and its meetings.

1988 cS-3.1 s52

**Readings of bylaw**

**69(1)** Every bylaw of a board shall have 3 distinct separate readings before the bylaw is finally passed.

**(2)** Not more than 2 readings of a bylaw shall be given at any one meeting unless the trustees present at the meeting unanimously agree to give the bylaw a third reading.

(3) The first reading of a bylaw shall be in full and, if each board member has in the member's possession a written or printed copy of the bylaw, the second and third readings may be by title and description only.

1988 cS-3.1 s53

#### **Open meetings**

**70(1)** The meetings of a board shall be held in public and no person shall 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 apart from the resolution necessary to revert to an open meeting.

1988 cS-3.1 s54

#### **Quorum**

**71(1)** No act or proceeding of a board is binding unless it is adopted at a meeting at which a quorum of the board is present.

(2) The quorum of a board is a majority of the trustees that, as specified under section 247, are to be elected to the board.

(3) Notwithstanding subsection (1), the Minister may order that when the number of trustees has fallen below the quorum the remaining trustees are deemed to be a quorum until elections are held to fill the number of vacancies required to achieve a normal quorum.

(4) Notwithstanding subsection (1), when the number of trustees at a meeting is less than a quorum because one or more trustees have declared a conflict of interest with respect to a matter before the board at the meeting, the Minister may order that the remaining trustees are deemed to be a quorum for the purpose of deciding that matter.

(5) A trustee may participate in a meeting of the board by electronic means or other communication facilities if the electronic means or other communication facilities enable the trustees participating in the meeting and members of the public attending the meeting to hear each other.

(6) Trustees participating in a meeting of the board by electronic means or other communication facilities are deemed to be present at the meeting.

RSA 2000 cS-3 s71;2009 c48 s7

#### **Voting on question**

**72(1)** All resolutions shall be submitted to a board by the chair or a trustee and no seconder is required.

(2) The chair and every trustee present at a meeting of the board shall vote for or against every question unless

(a) in a specific case, the chair or a trustee is excused by resolution of the board from voting, or

(b) the chair or a trustee is otherwise excused by this Act.

(3) The secretary of the board shall, whenever a recorded vote is requested by a trustee, record in the minutes the name of each trustee present and whether the trustee voted for or against the matter.

(4) Notwithstanding subsection (3), the secretary of the board shall, immediately after a vote is taken and on the request of a trustee, record in the minutes the name of that trustee and whether that trustee voted for or against the matter or abstained.

1988 cS-3.1 s56

#### **Required votes**

**73** At a meeting of a board the following apply:

(a) each question shall be decided by a majority of the votes of those trustees present;

(b) in case of an equality of votes, the question shall be decided in the negative;

(c) a vote on a question shall be taken by open vote;

(d) notwithstanding clause (c), with respect to the election of a chair or a vice-chair, if one or more trustees request that the vote be by secret ballot, the vote shall be by secret ballot.

1988 cS-3.1 s57

#### **Records**

**74** The board shall maintain a record of all the proceedings of the board and committees of the board.

1988 cS-3.1 s58

**Inspection of documents**

**75(1)** At any reasonable time, an elector of a district or division may with respect to the board of that district or 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 district or division may request from the board of that district or 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.

1988 cS-3.1 s59;1995 c27 s8

**Oath of office**

**76** 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.

1988 cS-3.1 s60

**Requests to provide information**

**77(1)** A board shall provide the Minister with any information the Minister requests in writing.

**(2)** The Minister may publish or otherwise disseminate any information the Minister receives under subsection (1).

1990 c36 s21;1994 c29 s20

**Accountability of board**

**78(1)** A board shall develop 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.

1995 c27 s9

**Regulations**

**79** 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 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 an operator of a charter school;
- (c) respecting the investment of money for the purpose of section 60(2)(d).

RSA 2000 cS-3 s79;2006 c9 s18

**Division 3  
Conflict of Interest****Pecuniary interest**

**80(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 81(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 district or division,
- (b) 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 being appointed as the representative of the board on any commission, committee or other body,
- (c) 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 (b),

- (d) 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,
  - (e) by reason of the person being a member of
    - (i) a credit union, a co-operative or a non-profit organization formed under an Act of the Legislature or of the Parliament of Canada, or
    - (ii) a service club,
  - (f) by reason of the person having an interest that is an interest in common with
    - (i) the majority of electors of the district or division, or
    - (ii) where the matter affects only part of the district or division, with the majority of electors in that part,
- or
- (g) 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)(e) does not apply to a person who is an employee or director of a credit union or co-operative or an employee of an organization or club referred to in that clause.

RSA 2000 cS-3 s80;2002 cA-4.5 s71;2002 c23 s2;  
2014 c8 s17

#### **Disclosure of information**

**81(1)** Each trustee of a board shall file with the board's secretary a statement showing

- (a) the names and employment of the trustee and the trustee's spouse or adult interdependent partner and children,
- (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.

RSA 2000 cS-3 s81;2002 cA-4.5 s71;2002 c23 s2

#### **Disqualification of trustees**

**82(1)** A person is disqualified from remaining as a trustee of a board if that person

- (a) 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) 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;
- (d) 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;
- (e) 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;



- (f) 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;
- (g) 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;
- (h) absents himself or herself, without being authorized by a resolution of the board to do so, 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;
- (i) 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 under the *Local Authorities Election Act*.

RSA 2000 cS-3 s82;2002 cA-4.5 s71

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

**83(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 (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 82(1)(c) or (d).

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

1988 cS-3.1 s65

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

**84** No contract with a board under which a trustee of the board has an interest referred to in section 82(1)(c), (d) or (e) 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, child, parent or spouse's or adult interdependent partner's parent.

RSA 2000 cS-3 s84;2002 cA-4.5 s71

#### **Resignation on disqualification**

**85** If a person is disqualified under section 82 or 83 from remaining as a trustee of the board the person shall forthwith resign.

1988 cS-3.1 s67

#### **Refusal to resign on disqualification**

**86** If the person does not resign as required under section 85,

- (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 district or division in respect of which the person was elected who
  - (i) files an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a trustee of the board, and
  - (ii) pays into court the sum of \$250 as security for costs,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.

RSA 2000 cS-3 s86;2009 c53 s168

#### **Appeal of board's resolution**

**87(1)** Where a person is disqualified under section 86(a) 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 disqualified under section 86(a) 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 86(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 the seat on the board to be vacant.

RSA 2000 cS-3 s87;2009 c53 s168

**Hearing of application****88(1)** On hearing an application under section 86(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 82(1)(c), (d), (e) or (f), it may order the person to pay to the board the total amount of any profit so made.

- (3) An application under this section
- (a) must be made within 3 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.

1988 cS-3.1 s70

**Dismissal of application for disqualification**

**89** Where the Court of Queen's Bench hears an application under section 86(b) or (c) or 87 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.

1988 cS-3.1 s71

**Appeal of declaration of disqualification**

**90(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 88(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.

1988 cS-3.1 s72

### Reimbursement

**91(1)** If

- (a) an application made under section 86(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 person in respect of whom the application was made for any of the person'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).

1988 cS-3.1 s73

## Part 4 Employment

### Division 1 Teachers

#### Qualifications re employment

**92(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 under 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).

1988 cS-3.1 s74;1994 cG-8.5 s68

#### Qualifications re supervisory position

**93** 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.

1988 cS-3.1 s75;1994 cG-8.5 s68

**Regulations****94(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 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, character and other eligibility requirements of applicants for certificates;
  - (iv) authorizing the issuance of certificates subject to terms and conditions;
  - (v) providing for procedural matters related to the issuance of certificates, including the appointment of advisory bodies;
- (b) governing appeals from a decision to refuse to issue a 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;
  - (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, whether or not the teacher is a teacher to whom the *Teaching Profession Act* applies, or for the means of dealing with complaints about alleged unprofessional conduct of a teacher, other than a teacher to whom the

*Teaching Profession Act* applies, including, without limitation, regulations

- (i) governing what constitutes unprofessional conduct or unskilled or incompetent teaching;
- (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 kind of 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 investigation, 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;
- (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 the certificate of the individual who is the subject of the complaint or allegation, with or without conditions;
    - (D) cancel the certificate of the individual who is the subject of the complaint or allegation, or cancel the certificate and issue a certificate of a different class;
    - (E) order that the individual who is the subject of the complaint or allegation be ineligible for a certificate 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 hearing committee or Appeal Committee under the *Teaching Profession Act* to cancel or suspend a certificate, 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 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.

RSA 2000 cS-3 s94;2004 c26 s6

#### **Acting principal**

**95(1)** Notwithstanding section 19, 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.

(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.

1988 cS-3.1 s76

#### **Administrative, supervisory and consultative positions**

**96(1)** Subject to section 93, 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) in the case of any teacher who has been designated by the board to an administrative, supervisory or consultative position, may, through negotiation, include or exclude that teacher from the teachers on whose behalf the organization is bargaining, and
- (b) in the case of 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, must exclude that teacher from the teachers on whose behalf the organization is bargaining.

RSA 2000 cS-3 s96;2004 c26 s7

### **Contracts of employment**

**97(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 96(2), the terms and conditions negotiated, agreed on or awarded under the *Education Services Settlement Act* or the *Labour Relations Code*, as the case may be;
- (b) this section and sections 96 to 99 and 101 to 110;
- (c) the terms and conditions agreed to between the board and the teacher.

**(3.1)** A contract of employment between a board and a teacher to whom the *Education Services Settlement Act* applies shall not contain any matter described in section 23(1) of the *Education Services Settlement Act*.

**(4)** Any contract of employment excluding or purporting to exclude the provisions of subsection (3)(a) and (b) or subsection (3.1) is void.

(5) Every contract of employment between a board and a teacher shall

- (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 shall be in writing and shall be

- (a) sent by registered or ordinary mail or by courier to,
- (b) personally served on, or
- (c) sent by telex, telegram or electronic mail to

the person to whom it is addressed.

RSA 2000 cS-3 s97;2002 cE-0.5 s39

#### **Probationary contract**

**98(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 prior to the school year in which the contract was entered into, or
- (b) was employed by that board in the school year prior to the school year in which the contract was entered into under section 100 or under a contract referred to in section 101.

(2) For the purposes of subsection (1), a teacher employed under section 103 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 shall terminate 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.

1988 cS-3.1 s79

#### **Continuing contract**

**99** Subject to this Act, a contract of employment between a board and a teacher continues in force from year to year.

1988 cS-3.1 s80

#### **Substitute teachers**

**100(1)** A teacher may teach without a contract of employment that is in accordance with section 97 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 97 nor the board employing the teacher may appeal to the Board of Reference.

1988 cS-3.1 s81

#### **Temporary contract**

**101(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) shall

- (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 132 does not apply to the termination of a temporary contract of employment under this section.

1988 cS-3.1 s82

#### **Interim contract**

**102(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 100 or under a contract referred to in section 101 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 employed under section 103 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.

1988 cS-3.1 s83

#### **Part-time contract**

**103(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 132 does not apply to the termination of a contract under subsection (3).

1988 cS-3.1 s84

#### **Transfer of teacher**

**104(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 shall not be transferred until after the hearing is held.

(6) Notwithstanding section 109, 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 have 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 the teacher's notice of resignation.

1988 cS-3.1 s85

### **Suspension of teacher**

**105(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 the 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 138 authorizes the board to terminate the contract of employment of a teacher, 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 132 or in the absence of an appeal the power of the Board to investigate or terminate the contract of employment of the teacher 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 contract of employment of the teacher, 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 contract of employment of the teacher in accordance with section 107.

**(12)** A teacher who is suspended shall 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.

1988 cS-3.1 s86;1990 c36 s26

#### **Termination of contract**

**106(1)** A contract of employment between a board and a teacher automatically terminates at the time that

- (a) the certificate of qualification of the teacher is suspended or cancelled by the Minister, or
- (b) the certificate of qualification of the teacher expires.

**(2)** A contract of employment between a board and a teacher or a designation of a teacher made pursuant to section 19, 95 or 96 may be terminated by mutual consent.

1988 cS-3.1 s87

#### **Termination by board**

**107(1)** Whether or not the board has suspended a teacher under section 105 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 19, 95 or 96,

after giving the teacher 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 shall 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 105 before the notice is served, an appeal, if any, to the Board of Reference in respect of the suspension shall 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.

1988 cS-3.1 s88;1990 c36 s27

**Termination by teacher****108(1)** A teacher may terminate

- (a) a contract of employment with a board, or
- (b) a designation of the teacher made pursuant to section 19, 95 or 96,

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 shall 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.

1988 cS-3.1 s89

**Notice of termination****109(1)** Subject to section 106(2), a notice of termination of a contract of employment or of a designation made pursuant to section 19, 95 or 96 shall 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 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 19, 95 or 96 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.

1988 cS-3.1 s90;1995 c27 s10

#### **Duty to report**

**109.1(1)** A superintendent of a school board or the operator of a private school or charter school shall make a report in writing to the Registrar regarding the suspension, termination, resignation or retirement from employment of a teacher if the suspension, termination, resignation or retirement, as the case may be, results from conduct that brings into question the suitability of the teacher to hold a teaching certificate.

(2) If a report made under subsection (1) is in respect of a teacher employed by a school board, the board shall make a complaint about the teacher's conduct pursuant to section 24 of the *Teaching Profession Act*.

(3) If a report made under subsection (1) is in respect of a teacher employed by the operator of a private school or charter school, the operator shall make a complaint about the teacher's conduct pursuant to section 6 of the *Practice Review of Teachers Regulation* (AR 4/99).

(4) No action lies against any of the following in respect of any report made under subsection (1) in good faith when acting or purporting to act under this Act or the regulations:

- (a) a superintendent of a school board,
- (b) the operator of a private school or a charter school,
- (c) a person appointed as an official trustee,
- (d) the executive secretary, or
- (e) a person who acts on the instruction of, or under the supervision of, a person referred to in clauses (a) to (d).

(5) No action for defamation may be founded on a report made under subsection (1) in good faith.

(6) If a complaint under subsection (2) or (3) is dismissed, the Registrar shall remove from the teacher's file the corresponding report made under subsection (1).

(7) 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.

2001 c27 s13

#### **Termination of designation**

**110(1)** Notwithstanding section 106(2), a teacher, on receipt of a notice of termination of a designation made pursuant to section 19, 95 or 96, 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).

1988 cS-3.1 s91

#### **Salaries**

**111(1)** Subject to section 97, 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 teacher's school 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 teacher's school 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);

(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 20 teaching days referred to in 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.

1988 cS-3.1 s92

#### **Unqualified teachers**

**112(1)** Unless otherwise authorized under this Act, a board shall not knowingly employ a person as a teacher 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.

1988 cS-3.1 s93;1994 cG-8.5 s68

## **Division 2 Non-teaching Employees**

### **Superintendent of schools**

**113(1)** Subject to the regulations, a board shall appoint an individual superintendent of schools for a period of not more than 5 years with the prior approval in writing of the Minister.

(2) Where a board applies for the Minister's approval under subsection (1), it shall 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 district or 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 district or 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 district or division to meet the standards of education set by the Minister;
- (c) ensuring that the fiscal management of the district or 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 district or 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.

1988 cS-3.1 s94;1994 c29 s22;1997 c25 s15

**Term of appointment**

**114(1)** A board shall not enter into a contract of employment or a contract renewing a contract of employment with an individual who is appointed as a superintendent under this section unless 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 if the individual is not reappointed under this section.

**(2)** If a board intends to reappoint a superintendent named in a contract referred to in subsection (1), the board shall, 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.

**(3)** A reappointment of a superintendent must be for a period of not more than 5 years.

**(4)** The Minister may approve or refuse to approve a reappointment under subsection (2), in any form the Minister considers appropriate, not more than one month after the Minister is notified under subsection (2).

**(5)** If the Minister refuses to approve a reappointment under subsection (2), the Minister shall give the board reasons in writing for the refusal.

**(6)** If the Minister refuses to approve a reappointment under subsection (2), the board shall appoint another individual as superintendent of schools in accordance with section 113.

**(7)** 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.

1994 c29 s22;1997 c25 s16

**Regulations**

**115** The Minister may make regulations governing the qualifications, appointment and conditions of employment and termination of employment of superintendents of schools.

1988 cS-3.1 s95;1997 c25 s17

**Secretary and treasurer**

**116** The board shall

- (a) appoint a secretary and a treasurer, or one person to act as secretary-treasurer,
- (b) forthwith 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.

1988 cS-3.1 s96

**Other non-teaching employees**

**117** In addition to the employees referred to in sections 113 and 116, the board may employ other non-teaching employees that the board considers necessary for its operation.

1988 cS-3.1 s97

**Division 3  
General****Medical examination**

**118** A board may require any person employed by it to undergo a medical examination by a physician named or approved by the board.

1988 cS-3.1 s98

**Labour relations**

**119(1)** Notwithstanding anything in this Act, the *Labour Relations Code* applies to a board and the employees of the board that are not subject to the *Education Services Settlement Act*.

**(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*.

RSA 2000 cS-3 s119;2002 cE-0.5 s39

**Trustees**

**120** 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.

1988 cS-3.1 s100;1989 c17 s23;1994 cG-8.5 s68

**Employee contracts**

**121(1)** Section 80 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 or 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 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 entering into the agreement,before entering into the agreement.

(3) A contract entered into in contravention of subsection (2) is void.

1988 cS-3.1 s101

### **Return of property on ceasing to hold office**

**122** 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.

1988 cS-3.1 s102

## **Part 5 Appeals**

### **Division 1 Appeals Concerning Student Matters**

#### **Appeal to board**

**123(1)** The failure of a person to make a decision is deemed to be a decision that may be appealed under this Division.

**(2)** Where a decision of an employee of a board significantly affects the education of a student,

(a) the parent of the student, and

(b) in the case of a student who is 16 years of age or older, the student,

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

**(3)** For the purposes of this Act, a decision of an employee authorized by a board under section 61(1) to make the decision is deemed to be a decision of the board.

**(4)** A person who may review a student record under section 23 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 parent or student 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 purpose 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 an appeal and shall report that decision to the person making the appeal forthwith.

1988 cS-3.1 s103;1990 c36 s28

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

**124(1)** If a board makes a decision on an appeal to it or otherwise with respect to

(a) the placement of a student in a special education program,

- (b) a matter referred to in section 10,
- (c) a home education program,
- (d) the expulsion of a student, or
- (e) the amount and payment of fees or costs,

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

**(2) Where a dispute arises**

- (a) as to the amount of fees that are payable by a board to another board under Part 3, or
- (b) as to which board is responsible for a student,

a board or other person that is a party to the dispute may request in writing that the Minister review the matter.

**(3)** A person who may review a student record under section 23 may request in writing that the Minister review a decision of the board, whether made on an appeal to it or otherwise, respecting access to or the accuracy or completeness of the student record.

1988 cS-3.1 s104;1990 c36 s29

**Powers on review**

**125(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 the circumstances.

**(2) Where**

- (a) the Minister reviews a matter under subsection (1), and
- (b) the parties to the dispute are unable to settle the matter,

the Minister may, subject to this Act and the regulations, make whatever decision with respect to the matter in dispute that appears to the Minister to be appropriate in the circumstances, and that decision is final.

1988 cS-3.1 s105;1990 c36 s30;1993 c24 s15;1997 c25 s18

## Division 2 Attendance Board

### Duties re hearings

**126(1)** An Attendance Board may hear a matter referred to it pursuant to section 15 respecting the failure of a student to attend school as required under this Act.

**(2)** 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 13, and
- (b) that all reasonable efforts have been made by the board or the attendance officer to enforce the student's attendance at school.

**(3)** 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 13, and
- (b) that all reasonable efforts have been made by that person to enforce the student's attendance at school.

1988 cS-3.1 s108;1990 c36 s32

### Matters governing hearings

**127(1)** For the purpose of conducting a hearing before the Attendance Board, the following apply:

- (a) notice in writing of the date, time, place and purpose of the hearing shall be served on the parent, 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 at least 10 days before the commencement of the hearing;
- (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 or 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 shall 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;
- (j) the Attendance Board may from time to time adjourn matters that are before the Board;
- (k) a hearing shall 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 unless otherwise prescribed in the regulations;
  - (o) notice of every order together with a copy of the written reasons for it, if any, shall 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.

1988 cS-3.1 s109;1990 c36 s33;1993 c24 s16

#### **Order of Board**

**128(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 the parents of a student to send the student to school;
- (c) subject to sections 29, 47 and 48, directing the student to take an education program, course or student program set out in the order;
- (d) reporting the matter to a director under the *Child, Youth and Family Enhancement Act*;
- (e) imposing on the student's parent a monetary penalty not exceeding \$100 per day up to a maximum of \$1000 to be paid to the Crown for each day that the student does not attend school;

- (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 shall be sent to the Minister and any person to whom notice of the order is sent.

RSA 2000 cS-3 s128;2003 c16 s117;2009 c53 s168

### **Establishment of Board**

**129** The Minister may

- (a) divide Alberta into attendance districts;
- (b) appoint an Attendance Board consisting of as many members as the Minister considers necessary and designate from among the members a chair and one or more vice-chairs.

1988 cS-3.1 s111;1990 c36 s35

### **Sitting in panels**

- 130(1)** At the request of the chair or a vice-chair, 3 or more members may sit as a panel of the Attendance Board.
- (2) Two members constitute 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 do not for any reason 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.

1988 cS-3.1 s112

### **Division 3 Board of Reference**

#### **Board**

- 131(1)** The Lieutenant Governor in Council shall appoint a Board of Reference consisting of those persons that the Lieutenant Governor in Council considers necessary.
- (2) An appeal referred to the Board of Reference may be heard by one or more members of the Board.
- (3) Where an appeal referred to the Board of Reference is heard by one or more members of the Board,
- (a) that member or those members, as the case may be, have all the powers of and may carry out, in respect of that appeal, all the duties and functions of the Board of Reference, and
  - (b) the decision of that member or those members, as the case may be, is the decision of the Board of Reference.

(4) For the purpose of carrying out its duties and functions under this Division, the Board of Reference and each of its members have the powers of a commissioner under the *Public Inquiries Act*.  
1988 cS-3.1 s113;1994 c29 s23

### Appeal

**132(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 96(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) a termination of a contract of employment,
- (b) a suspension of the teacher,
- (c) a termination of a designation of a teacher, or
- (d) the refusal of a board to give an approval pursuant to section 108(2),

the board or the teacher may appeal the matter by sending to the Minister a notice of appeal in accordance with section 133.

RSA 2000 cS-3 s132;2004 c26 s8

### Notice of appeal

**133(1)** A notice of appeal shall

- (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 contract or of 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.

RSA 2000 cS-3 s133;2004 c26 s9

#### **Appeal referred to Board**

**134(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 appeal.

1988 cS-3.1 s116

#### **Investigation**

**135** In considering the matter being appealed, the Board of Reference may make any investigation it considers necessary.

1988 cS-3.1 s117

#### **Hearing**

**136(1)** After the hearing is set under section 134(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 such shorter time period as determined by the Board of Reference, each of the parties to the appeal must 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).

RSA 2000 cS-3 s136;2004 c26 s10

#### **Appeal from suspension**

**137** 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.

1988 cS-3.1 s119

#### **Order of Board**

**138(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 contract of employment of the teacher;
- (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 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 that any technical or procedural irregularity by any party to the appeal 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, must 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.

RSA 2000 cS-3 s138;2004 c26 s11

#### **Irregularities in notice of appeal**

**139** 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.

RSA 2000 cS-3 s139;2004 c26 s12

#### **Costs**

**140(1)** Unless the Board of Reference orders otherwise, the parties to an appeal to the Board shall contribute equally in accordance with the regulations to the payment of the costs and expenses of the Board 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).

1988 cS-3.1 s122;1994 c29 s24

#### **Deposit**

**141(1)** The Board of Reference may with respect to the deposit paid under section 133(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 133(2) is to be repaid to the person who paid the deposit.

1988 cS-3.1 s123

#### **Enforcement of order**

**142(1)** A copy of an order made by the Board of Reference under section 138, 140 or 141 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 the order as filed shall be sent to the Minister.

RSA 2000 cS-3 s142;2009 c53 s168

#### **Appeal to Court of Appeal**

**143(1)** A teacher or a board that is the subject of an order of the Board of Reference under section 138, 140 or 141 may appeal that order to the Court of Appeal.

(2) The appeal shall be commenced not more than 30 days after the date on which the order is filed under section 142

- (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 shall 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.

RSA 2000 cS-3 s143;2007 c36 s5

## **Division 4 Protection from Liability**

### **Protection from liability**

**144(1)** No action lies against a member of the Attendance Board, a member of the Board of Reference, a member of a Special Needs Tribunal, a person appointed as an official trustee or a person who conducts a review under section 124 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 Special Needs Tribunal, a person appointed as an official trustee or a person who conducts a review under section 124 on behalf of the Minister in good faith in the course of any proceedings under this Act.

1990 c36 s38;1999 c28 s14

### **Protection from liability**

**144.1(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.

2003 c29 s3



## Part 6 Finance

### Division 1 General

#### Definitions

**145** In this Part,

- (a) “auditor” means a person registered under the *Registered Accounting Profession Act* or a firm or partnership of those persons;
- (b) “person” includes a co-operative association and a cooperative.

RSA 2000 cS-3 s145;RSA 2000 cR-12 s150;  
2001 cC-28.1 s467;2001 c23 s1(17)

#### Auditor

**146** A board shall appoint an auditor.

1988 cS-3.1 s125;1990 c36 s39

#### Financial reporting

**147(1)** The fiscal year of a board of a district or division is September 1 to the following August 31.

**(2)** The board of a district or division shall do the following:

- (a) on or before November 15 in each year, prepare financial statements for the fiscal year ending on the previous August 31;
- (b) on or before May 31 in each year, prepare and submit to the Minister a budget for the fiscal year beginning on the following September 1.

1988 cS-3.1 s126;1994 c29 s25;1995 c24 s99(31);  
1999 c28 s15

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

**148(1)** The financial statements referred to in section 147(2)(a) 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 of schools appointed by the board, 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.

1997 c25 s20

#### **Auditor's report**

**149(1)** An auditor shall perform the auditor's examination and prepare the auditor's report in accordance with generally accepted auditing standards on the financial statements prepared pursuant to this Act and submit the report to the board.

(2) The auditor shall at all times be given access to all records, documents, books of account and vouchers of the board by board employees, 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).

(3) The Minister may prescribe procedures to be used under this section that differ from generally accepted accounting principles.

1988 cS-3.1 s127

#### **Examination of auditor's report**

**150** The chair shall lay the auditor's report before the board at its next meeting and provide an opportunity to the members to discuss it at a meeting of the board.

1988 cS-3.1 s128

#### **Report to Minister**

**151(1)** The auditor shall send to the Minister, on or before November 30 in each year, in respect of a board of which the auditor is auditor, copies of

- (a) the financial statements,
- (b) the auditor's report on the financial statements, and
- (c) any written communication between the auditor and the board respecting the systems of internal control and accounting procedures of the board.

(2) The Minister in the Minister's discretion may publish or otherwise disseminate all or part of the documents submitted to the Minister pursuant to subsection (1).

1988 cS-3.1 s129

#### **Application of funds**

**152(1)** Subject to subsections (3) and (4), any money of a board that is accumulated by way of a reserve fund for capital expenditures shall be used only for capital expenditures.

(2) Subject to subsections (3) and (4), any money of a board that is acquired for capital expenditures by borrowing or in any other manner shall be used only for the purpose 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 subsections (1) and (2) for a particular capital purpose or a particular capital project or for any other purpose or project whether or not the purpose or project is one for which the money was accumulated, received or acquired.

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

1988 cS-3.1 s130;1994 c29 s26;1995 c27 s11;1997 c25 s21

## **Division 2 Assessment of Property**

#### **Interpretation**

**152.1** In this Division, except in section 161(3), a reference to a separate school district includes a regional division made up only of separate school districts.

2001 c27 s14

**Assessment**

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

1988 cS-3.1 s131;1994 c29 s27

**Property owned by individuals**

**154(1)** When

- (a) a separate school district exists, and
- (b) the faith of an individual, whether Protestant or Roman Catholic, is the same as the faith of those who established the separate school district,

the property of that individual is assessable for separate school purposes.

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

**(3)** When

- (a) a separate school district exists, and
- (b) the property is held by 2 or more individuals as joint tenants or tenants in common,

each individual shall be assessed for the purposes of the district of which the individual is a resident, in proportion to the 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 shall be assessed accordingly.

1988 cS-3.1 s132;1994 c29 s28;1995 c27 s12

**List of separate school district residents**

**155(1)** Where a separate school district is established, the board of the separate school district shall

- (a) before the December 1 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 the support of the separate school district.

**(2)** Where a separate school district is established, the board of the separate school district shall submit a list of the names and

addresses of all individuals who were separate school electors as defined in section 212 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 following the date on which the list is submitted.

**(4)** The lists referred to in subsections (1) and (2) shall 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 it a notice stating

- (a) that the board of a separate school district claims that
  - (i) the individual is a resident of that district and the individual's property that is located in the district is assessable for the purposes of the separate school district by virtue of the individual being 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's property that is located in the district is assessable for the purposes of the separate school district by virtue of the individual being 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 the purposes of the separate school district 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 with respect to all individuals whose names remain

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

(8) The municipality shall furnish to the board of the separate school district and to the board of the relevant public school district or 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 a plebiscite under Part 6 in respect of the separate school district unless

- (a) the resolution is withdrawn by the board,
- (b) the separate 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 public notice is given by the board under section 190(2), whichever occurs first.

1988 cS-3.1 s134;1990 c36 s40;1994 c29 s30

#### **Notice of assessability**

**156(1)** Any individual who is a separate school elector as defined under section 212 may give written notice at any time to a municipality that the property of the individual is assessable for separate school purposes.

(2) An individual whose name is on a list given by a municipality to the board of a separate school district under section 155(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 under section 212 may give written notice at any time to the

municipality that the property of the individual is assessable for public school purposes.

**(4)** Notwithstanding subsections (1) and (3), an individual shall 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 district or division passes a resolution authorizing a plebiscite under Part 6 in respect of a district or 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 public notice is given by the board under section 190(2), whichever occurs first.

**(5)** A corporation, cooperative or co-operative association may give written notice to a municipality that all or a portion of its property located in the municipality is assessable for public or separate school purposes in accordance with section 157.

**(6)** Subject to subsection (4) and section 157(2), if a notice is given under this section, an individual, corporation, cooperative or co-operative association may withdraw the notice only if it is replaced by a notice under this section that the property of the individual, corporation, cooperative or co-operative association 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)** If a person acquires ownership of a fee simple estate in land, the person shall complete the appropriate notice referred to in this section and give it to the municipality in which the land referred to in the transfer is located.

**(8)** If a municipality does not receive a notice under subsection (7) 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 subsections (1) and (3), or

(b) if the transferee is a corporation, cooperative or co-operative association, a form of notice under subsection (5).

(9) A notice given by a corporation, cooperative or co-operative association under this section shall 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.

(10) When a person gives notice under this section, any change in the assessment roll shall not be effective for tax purposes until the year following the year in which the notice is given.

(11) Any person entitled to examine the assessment roll may, in accordance with the *Municipal Government Act*, examine a notice given under this section or section 157 by a corporation.

RSA 2000 cS-3 s156;2001 cC-28.1 s467;2001 c23 s1(17)

#### **Notice of assessability**

**157(1)** A corporation, cooperative or co-operative association, by notice under section 156 at any time, may 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 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.

(2) Notwithstanding subsection (1), a corporation, cooperative or co-operative association shall not give a written notice referred to in section 156 or withdraw a notice already given on or after a board of a school district or division passes a resolution authorizing a plebiscite under Part 6 in respect of a district or 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 public notice is given by the board under section 190(2), whichever occurs first.

(3) When the corporation has shareholders, the notice under subsection (1)(a) shall designate to the separate school district the proportion of the property of the corporation in the district that is assessable for school purposes that the value of shares owned by



shareholders who are separate school supporters bears to the total value of all shares of the corporation.

**(4)** The notice under subsection (1)(a) of a corporation or cooperative that does not have shareholders or of a co-operative association shall designate to the separate school district the proportion of the property of the corporation, cooperative or co-operative association in the district that is assessable for school purposes that the number of members who are separate school supporters bears to the total number of members.

RSA 2000 cS-3 s157;2001 cC-28.1 s467;2001 c23 s1(17)

#### **Evidence**

**158** A notice given under section 156 is proof, in the absence of evidence to the contrary,

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

RSA 2000 cS-3 s158;2001 cC-28.1 s467;2001 c23 s1(17)

#### **Effect of notice**

**159(1)** A notice given by a corporation, cooperative or co-operative association under section 156 or 157 shall 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 and separate school districts or to the secretary of the board of the division if the public school district is within a division.

**(2)** When a person gives notice under section 156 or 157, any change in the assessment roll shall not be 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 by a corporation, cooperative or co-operative association.

**(4)** The notice continues in force and shall be acted on until it is withdrawn, varied or cancelled by a subsequent notice given pursuant to a resolution of the corporation, cooperative or co-operative association.

RSA 2000 cS-3 s159;2001 cC-28.1 s467;2001 c23 s1(17)

#### **Assessment of corporation**

**160** The proper officer of each municipality in each year shall, 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 the corporation, cooperative

or co-operative association or the part of it that is designated by the notice as assessed for separate school purposes.

RSA 2000 cS-3 s160;2001 cC-28.1 s467;2001 c23 s1(17)

### **Equalized assessment**

**161(1)** The Minister responsible for the *Municipal Government Act* shall in each year apportion among the districts, whether public or separate, and the divisions lying in whole or in part within a municipality the equalized assessment 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 district or 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 that is within the district or division.

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

- (a) the assessment of property of an individual that is assessable for separate school purposes shall pertain to the separate school district in accordance with section 154 and any notice given under section 156,
- (b) the assessment of property of an individual that is assessable for public school purposes shall pertain to the public school district in accordance with section 154 and any notice given under section 156, and
- (c) the assessment of property of a corporation, a cooperative or a co-operative association shall be apportioned between the separate school district and the public school district in accordance with the notice given under section 156.

**(4)** For the purposes of subsection (3),

- (a) a reference to a public school district includes a regional division other than a regional division made up only of separate school districts, and
- (b) a reference to a separate school district includes a regional division made up only of separate school districts.

RSA 2000 cS-3 s161;2001 cC-28.1 s467;2001 c23 s1(17)

**False statement re assessment**

**162** A false statement made in any notice respecting the assessment of property of a corporation, cooperative or co-operative association that is given by a corporation, cooperative or co-operative association does not relieve the corporation, cooperative or co-operative association from taxes.

RSA 2000 cS-3 s162;2001 cC-28.1 s467;2001 c23 s1(17)

**Offence**

**163(1)** A corporation, cooperative or co-operative association 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, cooperative or co-operative association, 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.

RSA 2000 cS-3 s163;2001 cC-28.1 s467;2001 c23 s1(17)

### **Division 3 Requisitions**

**Calculation of requisition by board**

**164(1)** Subject to the regulations and subsection (2), a board shall requisition from a municipality included in whole or in part within the district or division

- (a) in the case of a board to which Division 4 does not apply, the difference between its estimated total expenditures and its estimated total revenues derived from all sources;
- (b) the amount required under a special school tax levy under section 192;
- (c) the amount required under an additional requisition under section 194.

**(2)** For the purposes of this section, the requisition under subsection (1)(a) for a year of a board of a separate school district or division to which Division 4 does not apply on a particular municipality must not be less than the requisition that would be determined using

- (a) the property tax rates established under section 174 for the year for the particular municipality, and

- (b) the equalized assessment of the particular class of property referred to in section 174(2) of that portion of the assessment base of the municipality in respect of which notice has been given in accordance with section 156 that the property is assessable for separate school purposes.

**(2.1)** In subsection (2)(b), the reference to notice given in accordance with section 156 is a reference to a notice effective as at December 31 of the year preceding the year for which the requisition is made.

**(3)** 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 section 156 that the property is assessable for separate school purposes.

**(4)** The amount referred to in subsection (3) shall be paid to the board on or before February 28 in the year subsequent to the year for which the supplementary tax is levied.

**(5)** A municipality shall advise the Minister of the amount paid to a board under subsection (3) on or before February 28 in the year subsequent to the year for which the supplementary tax is levied.

**(6)** The amount received by a board under subsection (3) shall be used to lower the requisition under subsection (1)(a) by the board on the municipality in the subsequent year.

**(7)** 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) in 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).

**(8)** The Minister may use any criteria the Minister considers appropriate in establishing limits under subsection (7).

RSA 2000 cS-3 s164;2001 c27 s15

#### **Requisition deemed valid and binding**

**164.1** A requisition calculated under section 164 before the coming into force of this section is deemed to be valid and binding notwithstanding any error, defect or omission in the requisition.

2001 c27 s16

**Submission of requisition**

**165(1)** Subject to section 171(8), 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 161, 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.

1988 cS-3.1 s151;1994 c29 s44

**Statement to boards by municipality**

**166** The proper officer of each municipality, when providing the certificate required by section 161, 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 sections 156 and 157, and
- (c) the totals of the assessments, valuations and assessed values under clauses (a) and (b).

1988 cS-3.1 s153;1994 c29 s47

**Copy of assessment roll**

**167(1)** Each municipality in which a board is included 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.

1995 c27 s15

**Payment by council of a municipality**

**168(1)** A municipality, in each year, shall pay to the board of each district or division in which the area of the municipality is included the amount of the requisition transmitted by the board of the district or 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 164, a municipality shall levy on the assessable property in the part of the district, division or hamlet that is within the municipality

- (a) the amount of any other requisition referred to in sections 192 and 194, and
- (b) the amount required for the purposes of the Alberta School Foundation Fund under section 174.

**(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 district or division or the mill rates under section 174 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 district or division or the Government, as the case may be.

**(6)** A debt referred to in subsection (5) may not be recovered by suit at law unless permission to enter suit is granted by the Minister.

1988 cS-3.1 s155;1994 c29 s45;1995 c24 s98;1996 c30 s70

#### **Interest**

**169** If a municipality is in default of payment of a requisition or payment into the Alberta School Foundation Fund, the amount unpaid shall bear interest at a rate determined by the Lieutenant Governor in Council.

1988 cS-3.1 s156;1994 c29 s48

### **Division 4 Alberta School Foundation Fund**

#### **Dissolution of School Foundation Program Fund**

**170** The School Foundation Program Fund is dissolved.

1988 cS-3.1 s157;1994 c29 s50

#### **Application of this Division**

**171(1)** Subject to a resolution of a board under subsection (2), this Division applies to all boards.

**(2)** The board of a separate school district or a division made up only of separate school districts may, pursuant to a resolution, certify to the Minister under the seal of the district or division that this Division does not apply to it.

(3) A resolution of a board referred to in subsection (2) remains in effect until it is rescinded by the board by another resolution.

(4) A board shall only make or rescind a resolution referred to in subsection (2) after the date of a general election under the *Local Authorities Election Act* and before December 31 of the same year.

(5) A resolution under this section is effective with respect to the taxation year beginning immediately after the date of the resolution.

(6) Notwithstanding subsections (4) and (5), a board of a separate school district or a division made up only of separate school districts may make a resolution referred to in subsection (2) not more than 30 days after May 25, 1994, and the resolution is deemed to be effective with respect to the 1994 and subsequent taxation years unless it is rescinded in accordance with this section.

(7) Notwithstanding subsection (4), a board of a division made up only of separate school districts that is established under section 223 or 225 may make a resolution referred to in subsection (2) not more than 30 days after the date on which the division is established.

(8) A board of a district or division to which this Division applies shall requisition a municipality under Division 3 only in accordance with a special school tax levy or an additional requisition under Division 7.

1994 c29 s51

#### **Alberta School Foundation Fund**

**172** The Alberta School Foundation Fund is established by this section.

1994 c29 s51

#### **Taxing authority**

**173** The Government of Alberta is a taxing authority for the purpose of applying property tax rates against the equalized assessment of a municipality.

1995 c24 s98

#### **Payment into the Fund**

**174(1)** The Lieutenant Governor in Council shall in each year establish one or more property tax rates expressed in mills.

(2) The property tax rate shall be established under subsection (1) in accordance with the following:

- (a) there shall 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 shall 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 shall 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 any other subsection, 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 rates referred to in 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 to 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 164(3).
- (6) The amount referred to in subsection (5) shall be paid to 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) shall 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 shall 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 mill rates set pursuant to 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 districts or 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 164(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.

RSA 2000 cS-3 s174;2001 c27 s17

#### **Default**

**175** 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.

RSA 2000 cS-3 s175;2006 c23 s73

#### **Payment from the Fund**

**176(1)** 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.

(2) The Minister shall not make a payment from the Alberta School Foundation Fund to any person other than a board except

- (a) when section 174(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.

(3) In this section, “amount per student” with respect to a board means the amount obtained when

- (a) the total amount received by the board pursuant to a payment from the Alberta School Foundation Fund and a requisition under section 164, other than pursuant to a special school tax levy or an additional requisition under Division 7,

is divided by

- (b) the number of eligible students enrolled in schools operated by the board.

(4) 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 one board is consistent with the principle that each board is entitled to receive the same amount per student for the school year.

(5) If a separate school district or division to which Division 4 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 (4) and subject to the rights under the Constitution of Canada of separate school electors, the board of that district or division shall pay the difference between the amounts into the Alberta School Foundation Fund.

(6) The receipt of money from the Alberta School Foundation Fund does not make this Division apply to a board of a separate school district or division that has a subsisting resolution certifying that this Division does not apply to it.

(7) Subsections (4) and (5) apply to the school year commencing after July 31, 1995 and subsequent school years.

(8) The Lieutenant Governor in Council may make regulations respecting payments to boards from the Alberta School Foundation Fund for the purposes of education under this Act.

1994 c29 s54;1997 c25 s22

#### **Collecting boards**

**177** For the purpose of this Division, a collecting board under Division 5 is deemed to be both a board and a municipality.

1988 cS-3.1 s161;1994 c29 s56

#### **Effect of cessation of services**

**178** 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.

1988 cS-3.1 s162

### **Division 5 Levying and Collecting Taxes by a Board**

#### **Definition**

**179** In this Division, “collecting board” means a board that is authorized under section 180 to levy and collect taxes.

1988 cS-3.1 s163

#### **Authorization to levy and collect taxes**

**180(1)** Notwithstanding anything in this Part, the Minister may by order authorize a board to levy and collect taxes with respect to its whole area.

**(2)** An order made under subsection (1) shall be published in The Alberta Gazette.

1988 cS-3.1 s164

#### **Collecting board**

**181(1)** A collecting board

- (a) has, for the purpose of imposing, collecting, compromising 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 shall only exercise the powers given by subsection (1) in accordance with a plebiscite conducted under Division 7 or as a municipality under Division 4.

1988 cS-3.1 s165;1994 cM-26.1 s642(65);1994 c29 s57

**Exemption**

**182** Division 3 as it relates to the making of requisitions on municipalities does not apply to a collecting board.

1988 cS-3.1 s166

**Division 6  
Borrowing****Borrowing**

**183(1)** A board may borrow to meet current expenditures, but a board shall not, without the prior written approval of the Minister, borrow to meet current expenditures if the aggregate of the amount to be borrowed and the total amount owing under previous borrowings under this subsection would exceed the amount of the board's accounts receivable, as shown in the most recent audited financial statements for the board prepared pursuant to this Act.

**(2)** A board, with the prior approval of the Minister, may borrow to meet capital expenditures.

**(3)** The amount of any borrowing by a board under this section may be secured

- (a) by a promissory note, or
- (b) in any other manner.

**(4)** The Minister may make regulations respecting borrowing by a board under this section.

**(5)** A charge secured by a board pursuant to subsection (3) is not effective against the Government, the municipality or any other person who is not a party to the charge.

**(6)** The lender of any money under this Act is not required to establish the necessity of the purpose for which the money is borrowed.

1988 cS-3.1 s167;1994 c29 s58;1995 c27 s16;1997 c25 s24

**Loan on debentures limited**

**184(1)** The board may, by resolution, raise money by way of a loan on any debentures,

- (a) pending the sale of the debenture authorized by a bylaw, or
- (b) instead of selling and disposing of the debentures referred to in clause (a).

**(2)** A loan referred to in subsection (1) shall not exceed 80% of the par value of the debentures.

(3) The board may hypothecate the debentures for the purposes of the loan referred to in subsection (1).

(4) The proceeds of every loan obtained under this section must be applied to the purposes for which the debentures were issued and if the debenture is subsequently sold the proceeds must first be applied in repayment of the loan.

1988 cS-3.1 s176

#### **Validity of debentures**

**185** 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 if

- (a) the bylaw has received the assent of the required number of electors voting on it, where their assent is required,
- (b) no successful application has been made to quash the bylaw within 2 months from the date of its final passing, and
- (c) the bylaw has received the approval of the Minister.

1988 cS-3.1 s177;1994 cM-26.1 s642(65);1995 c27 s17

#### **Use of unexpended debenture proceeds**

**186(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 remaining,

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 remaining for the purpose set out in the application.

1988 cS-3.1 s178

#### **Improper application of money borrowed**

**187(1)** If a board uses money that was borrowed for a capital expenditure for a purpose not authorized under section 152 or 186, the persons who were trustees of the board at the time that they 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 capital money was approved and being present at the meeting of the trustees or a committee of the trustees at the time 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 capital money was approved but not being present at the meeting of the trustees or of a committee of the trustees at the time 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 capital money was so approved.

1988 cS-3.1 s179

#### **Liability of trustees**

**188** 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.

1988 cS-3.1 s180

#### **Enforcement of liability of trustees**

**189(1)** On the application to the Court of Queen's Bench by any elector of the district or division, the Court may, if it is satisfied that

- (a) the elector has reasonable grounds for believing that the board has a cause of action under section 152, 186 or 187, 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,

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 must

- (a) be given notice of any application under subsection (1), and
- (b) have the right to appear and be heard in respect of the application.

**(3)** Every order made under subsection (1) shall 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.

RSA 2000 cS-3 s189;2009 c53 s168;2013 c10 s34

## **Division 7 Special School Tax Levy**

### **Plebiscite**

**190(1)** A board, by resolution passed at a public meeting of the board at least 60 days before election day in a year in which a general election will be held under the *Local Authorities Election Act*, may authorize the holding of a plebiscite to obtain the approval of the electors of the district or division respecting a special school tax levy under this Part.

**(2)** A board, not less than 60 days before the board intends to consider a resolution referred to in subsection (1), shall give public notice of its intention to consider the resolution.

**(3)** The question that the plebiscite shall determine must be

- (a) in accordance with the regulations, and
- (b) included in the resolution.

**(4)** A board, by resolution, may withdraw a plebiscite authorized under subsection (1) at any time up to the date on which the plebiscite is to be held.

**(5)** 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 Part;
- (b) respecting the question, any information or any other matter to be included in a ballot in a plebiscite under this Part;
- (c) respecting the holding and conduct of a plebiscite generally under this Part.

1994 c29 s60;1997 c25 s25

#### **Special school tax levy**

**191(1)** No special school tax levy shall 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 3-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.

1994 c29 s60

#### **Assessment and requisition**

**192(1)** If a majority of the ballots cast at a plebiscite under this Part 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 154 or of a corporation, cooperative or co-operative association that has given notice under section 156 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 district or division.



(4) Only the property of an individual that is assessable for separate school purposes under a notice under section 156 or of a corporation, cooperative or co-operative association that has given notice under section 156 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 district or division.

RSA 2000 cS-3 s192;2001 cC-28.1 s467;2001 c23 s1(17)

#### **Plebiscite**

**193(1)** A plebiscite under this Part shall be conducted in conjunction with the next general election under the *Local Authorities Election Act* after the resolution is passed under section 190.

(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 secretary of the school board shall report the results of the plebiscite to the board as soon after they are known as practicable.

1994 c29 s60

#### **Hamlet**

**194(1)** For the purpose of an additional requisition only, the Minister, on the petition of the residents of an area, may by order declare that area to be a hamlet.

(2) The Minister may

- (a) establish an additional requisition under this section,
- (b) determine the amount of the additional requisition to be made, and
- (c) designate the hamlet within which the assessment will be made.

(3) The Minister shall require the public school board of the district or division in which the hamlet is located to requisition the municipality under this Act in accordance with the order of the Minister and the regulations.

(4) A municipality shall assess the residents of the hamlet in accordance with the requisition, the order of the Minister and section 161.

- (5) The board shall expend the amount raised under this section in accordance with the order of the Minister and the regulations.
- (6) When an additional requisition has been approved by the Minister under this section it shall continue in effect from year to year until changed in accordance with this section.
- (7) An additional requisition established under this section may be increased or decreased by order of the Minister.
- (8) The Minister may make regulations respecting additional requisitions under this section.

1994 c29 s60

## **Part 7 Property**

### **Division 1 General**

#### **Real and personal property**

**195** A board shall provide and maintain adequate real and personal property for its administrative and educational purposes.

1988 cS-3.1 s182

#### **Acquisition of property**

**196(1)** A board may

- (a) acquire by gift, lease or purchase and hold any real or personal property or any interest in it;
- (b) acquire land for buildings, whether the land is in or outside the district or division, and acquire additional land to add to land owned by it;
- (c) acquire land or any rights in, on, over or under it and if necessary extending beyond the boundaries of building sites for sewage, water, gas, electric power or other services;
- (d) enter into agreements for the acquisition of an option to lease or purchase any real or personal property;
- (e) acquire, build, furnish or rent buildings or portions of buildings.

**(2)** A board shall notify the Minister within 30 days from the date on which the board purchases or enters into an agreement to purchase any land or any interest in land pursuant to subsection (1)(a), (b) or (d) of that purchase or agreement.

1988 cS-3.1 s183

**Joint property**

**197** Subject to the prior approval of the Minister, a board may enter into an agreement

- (a) with one or more other boards for the joint construction, ownership, control, management, maintenance, operation or use of a school building or a building to be used primarily by students of one or more districts or divisions, or
- (b) with one or more other boards, persons or municipalities for the joint construction, ownership, control, management, maintenance, operation or use of a public work or building.

1988 cS-3.1 s184

**Buildings other than school buildings**

**198(1)** When a board proposes to construct, purchase or lease a building other than a school building, the board shall give public notice 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 shall be the cost estimated by the architect employed or consulted by the board and the estimate shall be incorporated in a minute of the board.

**(3)** If a board

- (a) receives a petition meeting the requirements of section 268 within 15 days from the date of the last publication of the public notice in a newspaper, and
- (b) decides to proceed with the construction or purchase of a building other than a 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 or purchase 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 or purchase the same or a similar building.

1988 cS-3.1 s185;1994 cM-26.1 s642(65);1995 c27 s19

### Expropriation

**199(1)** If a board is unable to acquire land or any 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) The application to the Minister by a board shall 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.

1988 cS-3.1 s186

### Disposition of property

**200(1)** Subject to the regulations, a board may sell, lease, rent or otherwise dispose of any of its personal property or any interest in it.

(2) Subject to this section, 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.

(3) Where a board no longer has a use for a school building, the Minister may in writing direct the board to dispose of that property subject to those terms or 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, or a certified copy of it, given under subsection (2), or
- (b) the direction, or a certified copy of it, given under subsection (3).

1988 cS-3.1 s187;1995 c24 s100;1995 c34 s11;1995 c27 s20

**Regulations**

**201** The Minister may make regulations respecting the disposition of property by a board.

1988 cS-3.1 s188

**Division 2  
School Buildings**

**202** Repealed 2001 c27 s19.

**Approval**

**203(1)** Where a school jurisdiction wishes to engage in a school building project that involves the construction of or the addition to a school building, the school jurisdiction shall, before construction begins on the school building or addition, submit a copy of the plans respecting the area and capacity of the building or addition to the Minister.

**(2)** No structural alteration that has the effect of reducing the number of classrooms in the original design of the school building may be made to a school building unless a copy of the plan amended for area and capacity has been submitted to the Minister.

RSA 2000 cS-3 s203;2001 c27 s20

**School building projects**

**204** Subject to section 205, a school jurisdiction may engage in a school building project.

1988 cS-3.1 s191

**Approval of project**

**205(1)** When a school jurisdiction intends to carry out a school building project, that school jurisdiction must obtain the approvals required under the regulations from the Minister.

**(2)** A school jurisdiction shall give to the Minister any information concerning a school building project that the Minister requires in order for the Minister to determine

- (a) the necessity for the proposed school building project, having regard to existing and available facilities, and
- (b) the nature and suitability of the school building project.

RSA 2000 cS-3 s205;2001 c27 s20

**Regulations**

**206** The Lieutenant Governor in Council may make regulations respecting school buildings or school building projects.

1988 cS-3.1 s193

**Part 8**  
**Creation, Dissolution and Alteration**  
**of Districts, Divisions and Boards**

**Division 1**  
**Establishment and Dissolution of Public**  
**School Districts and Divisions**

**Establishment of district**

**207(1)** The Minister may establish any portion of Alberta as a public school district.

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

The \_\_\_\_\_ School District No. \_\_\_\_\_.  
1988 cS-3.1 s194

**Establishment of division**

**208(1)** The Minister may establish a school division consisting of any number of public school districts.

**(2)** The order establishing a school division shall

(a) give the school division a name and number in the following form:

The \_\_\_\_\_ School Division No. \_\_\_\_\_

(b) divide the school division into no fewer than 3 wards, and

(c) give each ward a number.

1988 cS-3.1 s195;1993 c24 s18;1995 c27 s21

**Effect of establishment**

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

(a) the boards of the public school districts included in the school division are dissolved,

(b) all assets and liabilities of the boards of the public school districts are transferred to the board of the school division, and

(c) all employees of the boards of the public school districts become employees of the board of the school division.

1988 cS-3.1 s196;1993 c24 s18

**Rearrangement**

**210** The Minister may, in respect of a school division,

- (a) include in an established school division one or more public school districts;
- (b) transfer a public school district included in one school division to another school division;
- (c) exclude from a school division any public school district included in it;
- (d) redivide a school division into wards.

1988 cS-3.1 s197;1993 c24 s18;1995 c27 s22

#### **Effect on town or village**

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

1988 cS-3.1 s198

## **Division 2 Establishment and Dissolution of Separate School Districts**

#### **Definitions**

**212** In this Division,

- (a) “meeting” means a meeting called under section 215;
- (b) “separate school elector” means an individual who,
  - (i) in the case where a separate school district is not established,
    - (A) is an elector of the public school district, and
    - (B) is either of the Protestant or Roman Catholic faith, whichever is the minority in the public school district,

and

- (ii) in the case where a separate school district is established, is a Protestant or Roman Catholic, as the case may be, and is an elector of that separate school district.

1988 cS-3.1 s199

#### **Right to establish separate schools**

**213** 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.

1988 cS-3.1 s200

#### **Petition for establishment**

**214(1)** Where no fewer than 3 of the separate school electors referred to in section 213 wish to establish a separate school district they shall prepare a petition in accordance with subsection (2).

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

- (a) be signed by at least 3 separate school electors, and
- (b) be in the form prescribed by the Minister.

1988 cS-3.1 s201

#### **Calling of meeting**

**215** When a petition meets the requirements of section 214(2), the petitioners, if they wish to proceed with the establishment of a separate school district, shall call a meeting of the separate school electors for the purpose of taking a vote to determine whether the separate school district should be established.

1988 cS-3.1 s202

#### **Notice of meeting**

**216(1)** The notice calling a meeting shall be in the form prescribed by the Minister.

**(2)** The notice referred to in subsection (1) shall be

- (a) posted in 5 or more conspicuous places in the proposed separate school district for a period of at least 14 days immediately prior to the date set out in the notice for the public meeting,
- (b) published in a newspaper circulating within the proposed separate school district once a week for at least 2 of the 3 weeks immediately prior to the week containing the date set out in the notice for the public meeting, and
- (c) served on the board of the public school district or division within the boundaries of which the proposed separate school district would be established at least 10 days prior to the date set out in the notice for the public meeting.

1988 cS-3.1 s203;1990 c36 s47;1993 c24 s19

#### **Conduct of meeting**

**217(1)** The quorum for a meeting is 25% of the separate school electors.



- (2) A separate school elector who wishes to take part in and vote at the meeting shall sign in the presence of 2 of the persons referred to in section 214(2)(a) a declaration in the form prescribed by the Minister stating that the elector is a separate school elector.
- (3) The separate school electors present at the meeting shall elect one of their number as chair of the meeting.
- (4) The chair shall appoint a secretary of the meeting, who shall
- (a) record the minutes of the meeting, and
  - (b) perform any other duties required of the secretary.
- (5) A person who has not signed the declaration referred to in subsection (2) is not entitled to take part in the meeting or vote at it and the chair may require the person to leave.
- (6) Notwithstanding subsection (5), an authorized representative of the Minister is entitled to take part in the meeting but is not entitled to vote.
- (7) The chair shall vote on each question at the meeting.
- (8) Subject to section 219(1), each question at the meeting shall be decided by a majority of the votes validly cast, and in the case of an equality of votes, the question shall be decided in the negative.
- (9) Subject to subsection (12), voting may be carried out by a show of hands or by poll.
- (10) At the meeting, the chair, after the signing of the declaration referred to in subsection (2), shall provide a period of time for questions and discussion with respect to the proposed establishment of the separate school district.
- (11) Immediately after the period for questions and discussion, but not later than 180 minutes after the opening of the meeting, the chair shall, if there is a quorum present, proceed to take a poll of the votes of the separate school electors for and against the establishment of the separate school district.
- (12) The poll referred to in subsection (11) shall be taken by secret ballot.
- (13) The chair shall preside over the taking of the poll and the secretary of the meeting shall act as the poll clerk.
- (14) The poll shall remain open for one hour or any longer period that the chair considers reasonable in the circumstances.

**(15)** At the end of the period referred to in subsection (14) the chair shall

- (a) declare the poll to be closed, and
- (b) proceed to count the votes and to declare the result of the poll.

**(16)** If the majority of the separate school electors who voted at the meeting at which a quorum was present have voted against the establishment of a separate school district, no petition for a separate school district may be presented again until at least

- (a) one year from the date of the meeting if less than 60% of the persons voting voted against the establishment of a separate school district, or
- (b) 2 years from the date of the meeting if 60% or more of the persons voting voted against the establishment of a separate school district.

1988 cS-3.1 s204;1997 c25 s26

#### **Notification to Minister**

**218** The chair of a meeting shall, within 10 days from the date of the meeting, send to the Minister the following:

- (a) a copy of the notice calling the meeting;
- (b) proof, in the form the Minister requires, of the posting, publication and service of the notice calling the meeting;
- (c) a copy, in the form prescribed by the Minister, of the minutes of the meeting;
- (d) the declarations of the chair and the separate school electors.

1988 cS-3.1 s205;1990 c36 s48;1993 c24 s20

#### **Establishment of district**

**219(1)** Where the majority of the separate school electors present at the meeting at which a quorum is present vote 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 public school district.

**(2)** Where a meeting is called under section 215 but a quorum is not present at the meeting, the petitioners may request the Minister to conduct a plebiscite to determine whether a separate school district should be established.

(3) If the Minister receives a request under subsection (2) and is of the opinion that the circumstances are extraordinary, the Minister may cause a plebiscite to be conducted.

(4) The question that the plebiscite shall determine is

Do you favour the establishment of a separate school district with the same boundaries as The \_\_\_\_\_ Public School District No. \_\_\_\_\_?

(5) If the majority of the separate school electors who voted in the plebiscite voted in favour of the establishment of a separate school district, the petitioners or the person conducting the plebiscite shall report that fact to the Minister.

(6) On receiving the report under subsection (5), the Minister shall by order establish a separate school district with the same boundaries as those of the public school district.

1988 cS-3.1 s206

#### **Effect of establishment**

**220(1)** The order establishing the separate school district shall give it a name and number in the following form:

The \_\_\_\_\_ Separate School District No. \_\_\_\_\_.

(2) An order made under subsection (1) becomes effective on the date specified in the order.

(3) Notwithstanding section 44, when a separate school district is established during a school year, the board of the public school district within which the separate school district is established or the board of the division if the public school district is within a division shall, at the request of the board of the separate school district, continue until the end of the school year to accept in its school and on its school buses the resident students of the separate school board.

(4) A board of a public school district or division that accepts the resident students of a separate school board pursuant to subsection (3) is entitled to receive from or on behalf of the board of the separate school district, in proportion to the number of months in the school year that the resident students of the board of the separate school district are in the schools operated by the board of the public school district, the requisitions, grants or other revenues that the board of the public school district or division would have received if the separate school district had not been established.

(5) Any dispute respecting the application of subsections (3) and (4) must be referred to the Minister, whose decision is final and binding on the parties to the dispute.

(6) 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 is of the same faith as those who established that district, whether Protestant or Roman Catholic, is a resident of the separate school district and is not a resident of the public school district.

1988 cS-3.1 s207

### Dissolution

**221(1)** A board of a separate school district

- (a) may pass a resolution requesting the Minister to dissolve the separate school district, or
- (b) may of its own volition or shall, if 25% of the separate school electors of the separate school district petition the board to dissolve the district, conduct a plebiscite to determine whether the separate school district should be dissolved.

(2) The board shall conduct a plebiscite not more than 60 days after

- (a) the date on which it resolves to conduct the plebiscite under subsection (1), or
- (b) the date of receipt of a petition referred to in subsection (1)(b).

(3) The question that the plebiscite shall determine is

Do you favour the dissolution of The \_\_\_\_\_  
Separate School District No. \_\_\_\_\_?

(4) If the majority of the separate school electors who voted in the plebiscite have voted in favour of the dissolution of the separate school district, the board shall report that fact to the Minister.

(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),

dissolve both the separate school district and the board of the separate school district and, on that dissolution, the former separate

school district residents become residents of the public school district or division within which they reside.

1988 cS-3.1 s208;1990 c36 s49

## **Division 2.1 Establishment of Separate School Regions**

### **Definition**

**221.1** In this Division, “Region” means a Separate School Region established pursuant to section 221.2.

2001 c27 s21

### **Establishment of Separate School Region**

**221.2(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 Region and give it a name and number in the following form:

The \_\_\_\_\_ Separate School Region No.

**(3)** A Region may only have one separate school board.

**(4)** The Minister may exclude any portion of Alberta from a Region.

2001 c27 s21

### **Regulations**

**221.3** The Minister may make regulations

- (a) respecting the consultation process that must be followed in respect of the establishment of a new separate school district in a Region by separate school electors under Division 2;
- (b) providing for one or more means of settling disputes that may arise between a separate school board and a public school board as a result of a new separate school district being established in a Region by separate school electors under Division 2.

2001 c27 s21

### Division 3 Establishment and Dissolution of Regional Divisions

#### Regional agreements

**222** In this Division, “regional agreement” means an agreement respecting the establishment of a regional division and, subject to this Act and the regulations, the operation of the board of the regional division, including, but not limited to,

- (a) the appointment of the first trustees of the board;
- (b) the establishment of the number of trustees to be elected in each ward;
- (c) the transfer of employees.

1993 c24 s21

#### Establishment of regional division

**223(1)** Subject to section 224, the Minister may establish a regional division consisting of 2 or more districts, divisions or other areas governed by boards.

**(2)** The order establishing a regional division shall give the regional division a name and number in the following form:

The \_\_\_\_\_ Regional Division No. \_\_\_\_\_  
\_\_\_\_\_

**(3)** The Minister, in accordance with the regional agreement, may appoint the first trustees of the board of the regional division.

**(4)** The trustees appointed under subsection (3) hold office until the first organizational meeting of the board of the regional division held after the first general election held after the regional division is established.

**(5)** A regional agreement is binding in accordance with its terms on the board of the regional division.

1993 c24 s21;1995 c24 s99(31)

#### Bylaws

**224(1)** The Minister shall not establish a regional division unless all of the boards have entered into a regional agreement approved by the Minister and have passed the bylaw referred to in subsection (2).

**(2)** Each board that enters into a regional agreement must pass a bylaw that approves the establishment of the regional division and the inclusion of its area in the regional division.

(3) Subject to subsection (4), each board that enters into the regional agreement may pass a bylaw that divides the ward that was the district, division or other area into electoral subdivisions.

(4) The number of trustees to be elected in each electoral subdivision must, if practicable, be in the same proportion to the number of trustees to be elected from the ward as the population of the electoral subdivision is to the population of the ward.

(5) A bylaw made under subsection (2) or (3) is binding in accordance with its terms on the board of the regional division.

(6) Subject to section 262, a bylaw made under subsection (3) may be amended by the board of the regional division if the amendment is required by the application of subsection (4).

1993 c24 s21;1995 c24 s99(31);1995 c27 s23

#### **Lieutenant Governor in Council order**

**225(1)** Notwithstanding sections 223 and 224, the Lieutenant Governor in Council may, by order, establish a regional division

- (a) consisting of 2 or more separate school districts or regional divisions that originally consisted of separate school districts, or
- (b) consisting of 2 or more public school districts or divisions or other areas governed by boards that originally consisted of areas that are not referred to in clause (a).

(2) An order under subsection (1) may deal with any matter and include any term or condition that the Lieutenant Governor in Council considers necessary.

(3) An order under subsection (1) applies as if it were a regional agreement.

(4) Sections 228 to 235 do not apply to a regional division established under subsection (1).

1994 c29 s63;1995 c24 s99(31);1998 c27 s3

#### **Election of trustees**

**226(1)** In a regional division,

- (a) subject to clause (b), each of the districts, divisions or other areas governed by a board before the regional division was established is one ward in the regional division, and
- (b) where an area governed by a board before the regional division was established was itself a regional division that

consisted of wards, each of those wards is one ward in the regional division.

(2) The board of a regional division shall by bylaw and in accordance with the regional agreement and this section establish the wards and provide for the nomination and election of trustees in the wards before the first general election is held after the board is established.

(3) The number of trustees to be elected in each ward must, if practicable, be in the same proportion to the total number of trustees of the board of the regional division as the population of the ward is to the population of the regional division.

(4) Subject to section 262, a bylaw made under subsection (2) may be amended by the board of the regional division if the amendment is required by the application of subsection (3).

1993 c24 s21;1995 c24 s99(31);1995 c27 s24;1997 c25 s27

#### **Effect of establishment**

**227** When a regional division is established, in accordance with the regional agreement,

- (a) the boards of all the areas included in the regional division are dissolved, and
- (b) assets and liabilities are transferred to the board of the regional division.

1993 c24 s21

#### **Petition for plebiscite to withdraw ward from regional division**

**228(1)** Not less than 4 years after the establishment of a regional division, the electors residing in a ward in the regional division may, for the purpose set out in subsection (2), petition the board of the regional division to provide for a plebiscite to determine whether the ward should be withdrawn from the regional division.

(2) When a ward is withdrawn from a regional division as a result of a successful plebiscite, all land in the ward must be added to a district or division in accordance with section 232 or 233.

(3) The petition must be signed in accordance with the regulations and forwarded to the secretary of the board, and a copy of the petition must be forwarded to the Minister.

(4) If the petition complies with subsections (1) and (3) and is determined under Part 10 to be a sufficient petition, the board shall

- (a) provide for a plebiscite to be conducted in the ward at the next general election in accordance with the regulations, and



- (b) specify the questions, in accordance with the regulations, that are to be determined by the plebiscite.

1993 c24 s21;1995 c24 s99(31);1998 c27 s4

#### **Elected ward representatives**

**229(1)** The plebiscite must provide for the election of 3 individuals

- (a) who are residents of the ward, and
- (b) each of whom has been nominated by at least 5 individuals who are eligible to vote in the ward

to represent the ward pursuant to section 231.

**(2)** The elected ward representatives shall make decisions on the basis of a majority vote.

**(3)** The board of the original regional division shall pay reasonable expenses to the elected ward representatives to enable them to carry out their duties.

**(4)** In this section and in sections 230 to 234, “original regional division” means the regional division that a ward is part of at the time the electors in that ward present a petition under section 228(1).

1998 c27 s4

#### **Vote against withdrawal of ward**

**230** If a majority of the electors who vote in the plebiscite do not vote in favour of withdrawing the ward from the original regional division,

- (a) the ward must remain within the original regional division, and
- (b) no further petition relating to the withdrawal of that ward may be presented under section 228(1) until after the expiry of 6 years following the date on which the board received the petition that initiated the plebiscite.

1998 c27 s4

#### **Vote in favour of withdrawal of ward**

**231(1)** If a majority of the electors who vote in the plebiscite vote in favour of withdrawing the ward from the original regional division, the elected ward representatives shall negotiate with the board of a district or division for the purpose of adding all land in the ward to that district or division in accordance with section 232 or 233.

(2) Where the negotiations are with the board of a regional division, the elected ward representatives may enter into the agreement referred to in section 232 on behalf of the board of the original regional division.

1998 c27 s4

**Addition of ward to another regional division**

**232(1)** If as a result of negotiations an agreement has been entered into relating to the addition of the ward to a regional division and the regional division proposed as the recipient of the ward has passed a resolution approving the addition of the ward to that regional division, the Minister shall, by order,

- (a) take all land in the ward out of the original regional division,
- (b) add all land in the ward to the regional division proposed as the recipient of the ward,
- (c) if requested, provide that the ward continues to have the status of a ward,
- (d) if necessary, vary in accordance with the principle set out in section 226(3), the number of trustees to be elected for the whole of the regional division and appoint additional interim trustees to represent the ward, who hold office until the first organizational meeting of the board of the regional division held after the first general election following their appointment, and
- (e) deal with any other matter that the Minister considers necessary respecting or resulting from the addition of the ward to the regional division.

(2) The addition of a ward to a regional division under subsection (1) takes effect on September 1 of the year following the year in which the plebiscite is held unless the Minister orders otherwise.

1998 c27 s4

**Addition of ward to district or school division**

**233(1)** If as a result of negotiations the elected ward representatives request the Minister to add the ward to a district or school division and the district or school division proposed as the recipient of the ward has passed a resolution approving the addition of the ward to that district or school division, the Minister shall, by order,

- (a) take all land in the ward out of the original regional division,

- (b) add all land in the ward to the district or school division proposed as the recipient of the ward,
- (c) if the Minister considers it appropriate, appoint additional interim trustees to represent the ward, who hold office until the first organizational meeting of the board of the district or school division held after the first general election following their appointment, and
- (d) deal with any other matter that the Minister considers necessary respecting or resulting from the addition of the ward to the district or school division.

**(2)** The addition of a ward to a district or school division under subsection (1) takes effect on September 1 of the year following the year in which the plebiscite is held unless the Minister orders otherwise.

1998 c27 s4

#### **Failure of negotiations**

**234** If by April 30 of the year following the year in which the plebiscite is held the elected ward representatives

- (a) in a case to which section 232 applies, fail to provide a copy of the signed agreement and a copy of the resolution to the Minister, or
- (b) in a case to which section 233 applies, fail to make the request to the Minister and to provide a copy of the resolution to the Minister,

then the ward must remain within the original regional division and no further petition relating to the withdrawal of that ward may be presented under section 228(1) until after the expiry of 6 years following the date on which the board received the petition that initiated the plebiscite.

1998 c27 s4

#### **Regulations**

**235** The Minister may make regulations respecting petitions and plebiscites for the purposes of sections 228 to 234.

1998 c27 s4

#### **Regional divisions consisting of former counties or Town of Devon**

**236(1)** This section applies to regional divisions

- (a) that were established before May 17, 1995, and
- (b) whose boundaries at the time of their establishment included one or more counties or the Town of Devon.

(2) The establishment of the regional divisions and their boards is confirmed, and this Act continues to apply to the regional divisions and their boards.

(3) Section 224(3) to (6) apply to the council of the Town of Devon and the council of a municipal district that was formerly a county whose area is included in a regional division.

(4) In a regional division, each area governed by a board of education before the regional division was established is one ward in the regional division.

1995 c24 s99(31);1997 c25 s28

#### **Conversion of regional division to school division**

**237(1)** The board of a regional division composed wholly of one or more public divisions, public school districts or areas that were defined as counties in the *County Act*, RSA 1980 cC-27, may by bylaw request the Minister to convert the regional division to a school division.

(2) On receipt of a bylaw under subsection (1), the Minister may establish the regional division as a school division in accordance with section 208.

(3) When a school division is established by reason of the operation of subsection (2),

- (a) the board of the regional division is dissolved,
- (b) all assets and liabilities of the board of the regional division are transferred to the board of the school division, and
- (c) all employees of the board of the regional division become employees of the school division.

(4) The Minister shall appoint the first trustees for each of the wards into which the school division is divided.

(5) The trustees appointed under subsection (4) hold office until the first organizational meeting of the board of the school division held after the first general election following the establishment of the school division.

1997 c25 s29;1998 c27 s5

### **Division 4 Boundaries and Alterations**

#### **Alteration of name or number**

**238(1)** The Minister may by order alter the name or number of a district or division or the number of a ward.

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

(3) Any change in the name or number, or both, of a district or division does not affect any obligations incurred, acts done or property acquired prior to the change.

1988 cS-3.1 s209;1995 c27 s25

#### **Addition of land**

**239(1)** The Minister may, by order,

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

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

1988 cS-3.1 s210;1994 c29 s64;1995 c24 s99(31)

#### **Dissolution by Minister**

**240(1)** The Minister may by order declare that any district or division is dissolved and on the Minister so ordering

- (a) the board of the district or 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 district or division ceases to exist.

(2) If land in a dissolved district or division is added to another district or division under section 239, the Minister may

- (a) increase the number of trustees of the board of the district or division to which the land is added, and
- (b) appoint one or more persons as trustees to the board.

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

(4) A board of a district or division referred to in subsection (2)(a) that has passed a bylaw under section 262(1) shall amend the bylaw to provide for the representation of the area added to the district or division.

1988 cS-3.1 s211;1994 c29 s65

#### **Adjustment of assets and liabilities**

**241** On

- (a) any inclusion, exclusion, dissolution or transfer of land or districts, or
- (b) the formation of a district,

the Minister, if the Minister considers any adjustment of assets and liabilities necessary, 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.

1988 cS-3.1 s212

#### **Transfer of teachers**

**242(1)** If, as a result of a transfer of land or of districts by an order of the Minister, resident students of a board come under the jurisdiction of another board, the board to which jurisdiction is given shall select the proportion of the teachers of the board from which jurisdiction is taken that the number of students transferred to the board to which jurisdiction is given bears to the total number of resident students of the board from which jurisdiction is taken.

**(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 contract is terminated in accordance with this Act,

whichever occurs first.

1988 cS-3.1 s213

#### **Publication of order**

**243** 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 district or division must be published in The Alberta Gazette.

1988 cS-3.1 s214

**Boundaries**

**244(1)** When a district or 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 district or 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 district or division is deemed to be in the district or division, notwithstanding anything in this Act to the contrary.

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

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

1988 cS-3.1 s215

**Restriction re alteration of boundaries**

**245** When a district or division has debenture indebtedness outstanding, no alteration in its boundaries shall 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.

1988 cS-3.1 s216

## Division 5 Board of Trustees

**Establishment**

**246(1)** For each public school district not included in a division, the Minister shall by order establish a board and the members of the board are a corporation under the name of:

The Board of Trustees of \_\_\_\_\_ School  
District No. \_\_\_\_\_.

**(2)** For each separate school district not included in a division, there shall be a board and the members of the board are a corporation under the name of:

The Board of Trustees of \_\_\_\_\_ Separate  
School District No. \_\_\_\_\_.

(3) For each school division, the Minister shall by order establish a board and the members of the board are a corporation under the name of:

The Board of Trustees of \_\_\_\_\_  
School Division No. \_\_\_\_\_.

(4) For each regional division, the Minister shall by order establish a board and the members of the board are a corporation under the name of:

The Board of Trustees of \_\_\_\_\_  
\_\_\_\_\_  
Regional Division No. \_\_\_\_\_

1988 cS-3.1 s217;1993 c24 s22

#### Number of trustees

**247(1)** The Minister shall specify for each board the number of trustees, being no fewer than 3, to be elected to the board.

(2) For each ward within a school division, the Minister shall specify the number of trustees to be elected in the ward.

(3) The Minister may vary the number of trustees to be elected for each division, district or ward.

1988 cS-3.1 s218;1993 c24 s23;1995 c27 s26

#### Change of name

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

1988 cS-3.1 s219

#### Failure to elect trustee, etc.

**249(1)** If a trustee is not elected or an appointment that is required to be made by this Act is not made, the Minister may

- (a) appoint a person as a trustee or appoint a person to the position, or
- (b) in the case of an elected position, direct that an election be held to fill the 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 or appointed under any other provision of this Act.

1988 cS-3.1 s220



**Resignations**

**250(1)** A trustee may resign by submitting the trustee's written resignation to the secretary of the board, and the trustee ceases to hold office at the meeting of the board at which the trustee's resignation is submitted.

**(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.

**(3)** The chair of a board may resign the position as chair while retaining the chair's seat on the board.

1988 cS-3.1 s221

**Filling vacancies**

**251(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),

(a) during the 2-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 3rd 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)** 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 3rd year following a general election.

**(4)** 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.

1988 cS-3.1 s222

**Official trustee**

**252** 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.

1988 cS-3.1 s223;1994 cG-8.5 s68

## **Part 9**

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

#### **Definitions**

**252.1** In this Part,

- (a) “public school” means a school designated as a public school by a Regional authority under section 255.3;
- (b) “public school elector” means an individual described in section 256(1) other than a separate school elector;
- (c) “public school member” means an individual who is appointed or elected as a public school member of a Regional authority;
- (d) “Regional authority”, except in sections 255(2) and 255.3, includes a Public Regional authority and a Separate Regional authority established under section 255.1;
- (e) “separate school” means a school designated as a separate school by a Regional authority under section 255.3;
- (f) “separate school elector” means an individual described in section 256(1) who is of the same faith, whether Protestant or Roman Catholic, as the minority of all individuals living within the boundaries of a Region as determined by the Minister under section 253.1;
- (g) “separate school member” means an individual who is appointed or elected as a separate school member of a Regional authority.

2001 c27 s22;2004 c30 s5

#### **Establishment of Region**

**253(1)** The Minister may establish any portion of Alberta as a Francophone Education Region.

**(2)** The order establishing a Francophone Education Region shall describe the boundaries of the Region and give it a name and number in the following form:

The \_\_\_\_\_ Francophone Education Region No. \_\_\_\_\_

1993 c24 s24

**Minority in Region**

**253.1** For the purposes of this Part, the Minister may by order determine for each 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 Region.

2001 c27 s23

**Effect of establishment**

**254** The establishment of a Francophone Education Region does not affect a public school district or division or a separate school district established in respect of all or part of the portion of Alberta in which the Francophone Education Region is established.

1993 c24 s24

**Regional authority**

**255(1)** The Minister may by order establish a Regional authority for a Region, and the members of the Regional authority are a corporation under the name of:

The Regional authority of \_\_\_\_ Francophone Education Region  
No. \_\_\_\_

**(2)** A Regional authority must be composed of at least 3 members and not more than 7 members.

**(2.1)** Subject to subsection (2.2), the number of public school members of a Regional authority must, if practicable, be in the same proportion to the total number of members of the Regional authority as the total number of public school electors in the Region is to the combined total number of public school electors and separate school electors in the Region.

**(2.2)** A Regional authority must have at least one public school member and at least one separate school member.

**(2.3)** The Minister may appoint the first members of a Regional authority.

**(3)** Members of a Regional authority appointed under subsection (2.3) hold office until the first organizational meeting of the Regional authority held after the first general election held after the Regional authority is established.

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

(5) If a board referred to in subsection (4) and the Regional authority do not enter into an agreement under subsection (4) within a period that the Minister considers reasonable, the Minister may make an order respecting any matter the Minister considers necessary.

RSA 2000 cS-3 s255;2001 c27 s24

### **Public and Separate Regional authorities**

**255.1(1)** If, within a Region, the public school electors exceed 30% 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 Regional authority and establish both a Public Regional authority and a Separate Regional authority.

(2) The members of the Public Regional authority established under subsection (1) are a corporation under the name of:

The Regional authority of \_\_\_\_\_ Public Francophone Education Region No. \_\_\_\_\_

(3) The members of the Separate Regional authority established under subsection (1) are a corporation under the name of:

The Regional authority of \_\_\_\_\_ Separate Francophone Education Region No. \_\_\_\_\_

(4) A Public Regional authority must be composed of at least 3 members, all of whom must be public school members.

(5) A Separate Regional authority must be composed of at least 3 members, all of whom must be separate school members.

2001 c27 s25

### **Transitional**

**255.2(1)** In this section, “amending Act” means the *School Amendment Act, 2001*.

(2) The members of a Regional authority established before the coming into force of sections 22 to 27 of the amending Act continue as members of the Regional authority until the next election of its members.

(3) The Regional authority of the Greater Southern Public Francophone Education Region No. 4 established before the coming into force of sections 22 to 27 of the amending Act is continued and deemed to be established as a Public Regional authority.

(4) The Regional authority of the Greater Southern Separate Catholic Francophone Education Region No. 4 established before the coming into force of sections 22 to 27 of the amending Act is

continued and deemed to be established as a Separate Regional authority.

(5) Notwithstanding section 256(1.1), a separate school elector who has a child enrolled in a public school in the Greater Southern Public Francophone Region No. 4 may vote for a candidate who is standing for election as a public school member.

2001 c27 s25

#### **Designation of schools**

**255.3** A Regional authority must designate each school either as a public school or as a separate school.

2001 c27 s25

#### **Separate school members**

**255.4** The separate school members of a Regional authority are a corporation under the name of:

The Separate School Members of the Regional authority of \_\_\_\_\_  
\_\_\_\_\_ Francophone Education Region No. \_\_\_\_.

2001 c27 s25

#### **Responsibility and authority of Regional authority**

**255.5(1)** Subject to subsections (2) and (3), a 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 Region.

(2) Subject to subsection (3), the separate school members of a 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 Region.

(3) If a Public Regional authority and a Separate Regional authority are established under section 255.1 or continued under section 255.2,

- (a) the Public Regional authority has the responsibility and authority to ensure that minority language educational rights guaranteed under the Constitution of Canada are protected in the Region, and
- (b) the Separate 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 Region.

2001 c27 s25

**Electors for Region**

**256(1)** For the purposes of this Act and the *Local Authorities Election Act*, an individual is eligible to vote in an election of members of a Regional authority if

- (a) the individual
  - (i) is a Francophone,
  - (ii) has a child who is enrolled in a school operated by the Regional authority,
  - (iii) is 18 years of age or older,
  - (iv) is a Canadian citizen, and
  - (v) has been a resident of Alberta for the 6 consecutive months immediately preceding 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.

**(1.1)** In addition to the requirements of subsection (1),

- (a) an individual who is a separate school elector may only vote for a candidate who is standing for election as a separate school member, and
- (b) an individual who is a public school elector may only vote for a candidate who is standing for election as a public school member.

**(2)** For the purposes of this Act and the *Local Authorities Election Act*, and notwithstanding section 21 of the *Local Authorities Election Act*, an individual who may vote in an election of members of a Regional authority may

- (a) in the case of a separate school elector, nominate an individual as a candidate to stand for election as a separate school member, and
- (b) in the case of a public school elector, nominate an individual as a candidate to stand for election as a public school member.

**(3)** For the purposes of this Act and the *Local Authorities Election Act*, an individual is eligible to be elected as a member of a Regional authority if the individual

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

**(3.1)** In addition to the requirements of subsection (3), an individual standing as a candidate for election

- (a) as a separate school member must be of the same faith, whether Protestant or Roman Catholic, as the minority of all individuals living within the boundaries of the Region as determined by the Minister under section 253.1, and
- (b) as a public school member may not be of the same faith, whether Protestant or Roman Catholic, as the minority of all individuals living within the boundaries of the Region as determined by the Minister under section 253.1.

**(4)** A person who is eligible to vote in an election for a board other than a Regional authority and in an election for a Regional authority may exercise the right to vote in both elections.

**(5)** A person may be a member of only one of a Regional authority or a board at any particular time.

RSA 2000 cS-3 s256;2001 c27 s26

#### **Dissolution of Regional authority**

**257(1)** A Regional authority may pass a resolution requesting the Minister to dissolve the Regional authority.

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

**(3)** If on the dissolution of a 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 Regional authority.

1993 c24 s24

**258 to 260** Repealed 2001 c27 s27.

## Part 10 General

### Procedure for elections, etc.

#### 261 All

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

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

1988 cS-3.1 s224

### Election for trustees

**262(1)** The board of a district, with the approval of the Minister, 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)** If the board of a school district that is situated wholly within a municipality with a population of no fewer than 300 000 individuals has not passed a bylaw providing for the nomination and election of trustees by wards before March 1 in a year in which a general election is to be held, the Minister, by order and before April 1 in that year, may

- (a) direct that the nomination and election of trustees of that board be by wards, and
- (b) determine the boundaries of the wards.

**(3)** An order under subsection (2) applies to the general election next following the making of the order notwithstanding any bylaw made by the board and to each following election until the Minister approves a bylaw of the board under subsection (1).

**(4)** Subject to subsections (2) and (3), a bylaw passed under subsection (1) or any bylaw that amends, revokes or replaces it

- (a) does not apply to the general election next following the passing of the bylaw unless it is passed before March 1 in the year in which that general election is 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.
- (5)** The board of a division, with the approval of the Minister, may by bylaw
- (a) amend or replace a bylaw providing for the nomination and election of trustees by wards or electoral subdivisions, as the case may be, or
  - (b) provide for the nomination and election of trustees by wards or electoral subdivisions, as the case may be.
- (6)** A bylaw passed under subsection (5) or any bylaw that amends or replaces it
- (a) does not apply to the general election next following the passing of the bylaw unless it is passed before March 1 in the year in which that general election is 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.
- (7)** A bylaw passed under this section shall, 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 district or division, as the case may be.
- (8)** The Minister may make regulations
- (a) respecting the nomination and election of trustees by wards;
  - (b) respecting the partition of a district or division into wards.

1988 cS-3.1 s225;1995 c27 s27;1997 c25 s31

#### **Petition**

**263(1)** When this Act provides for the doing of anything by petition or an elector desires to present a petition to a board or the Minister, the petition shall comply with the following:

- (a) each page of the petition shall contain an accurate and identical statement of the purpose of the petition;
- (b) each signature on the petition must be witnessed by an elector;
- (c) the postal address of each signatory to the petition must be set out opposite the signatory's signature.

(2) The elector who acted as a witness referred to in subsection (1)(b) shall swear an affidavit that to the best of the elector's knowledge and belief the persons whose signatures the elector has witnessed are eligible to vote at an election for trustees to the board.

(3) There must be attached to every petition a statement signed by an elector stating that

- (a) the elector represents the petitioners, and
- (b) the elector is the person to whom a board may direct any inquiries with respect to the petition.

(4) In determining the number of petitioners on a petition there shall be excluded the names of the following persons:

- (a) a person whose signature appears on a page of the petition that does not contain an accurate statement of the purpose of the petition identical to the statement contained on all the other pages of the petition;
- (b) a person whose signature is not witnessed;
- (c) a person whose address is not set out or is incorrectly set out;
- (d) a person who is not an elector.

(5) No name may be removed from a petition after it has been received by a board or the Minister.

1988 cS-3.1 s226

#### **Presentation of petition to board**

**264** When the petitioners wish to present a petition to a board, they shall do so by filing the petition with the secretary of the board.

1988 cS-3.1 s227

#### **Determination of a petition's sufficiency**

**265** When a petition is filed with the secretary of the board, the secretary shall

- (a) determine the number of petitioners that have signed the petition,
- (b) determine whether the petition meets the requirements of section 263, and

- (c) having made the secretary's determinations under clauses (a) and (b), declare the results of the secretary's determination.

1988 cS-3.1 s228

**Insufficiency of a petition**

**266** If a petition is found under section 265 to be insufficient, the board shall proceed as if the petition had not been presented to the board.

1988 cS-3.1 s229

**Appeal re insufficiency**

**267(1)** Where it is determined that a petition is insufficient, the petitioners may appeal the determination to the Court of Queen's Bench by application.

**(2)** An appeal under subsection (1) must be commenced within 14 days from the date that the secretary of the board made the secretary's declaration under section 265(c).

**(3)** If on hearing the appeal the Court considers that the petition is sufficient, the board shall proceed as if the petition had been declared sufficient by the secretary of the board.

RSA 2000 cS-3 s267;2009 c53 s168

**Petition calling for vote**

**268** For the purposes of requiring a question to be submitted to a vote referred to in section 198, the petition must be signed by at least

- (a) the lesser of
- (i) 5000 electors, and
  - (ii) the number of electors that is equal to 10% of the number of resident students of the board,
- in a district or division having 5000 or more resident students,
- (b) the lesser of
- (i) 500 electors, and
  - (ii) the number of electors that is equal to 25% of the number of resident students of the board,
- in a district or division having fewer than 5000 but 1000 or more resident students, or
- (c) the lesser of

- (i) 250 electors, and
  - (ii) the number of electors that is equal to 40% of the number of resident students of the board,
- in a district or division having fewer than 1000 resident students.

1988 cS-3.1 s231;1995 c27 s28

**Petition calling for public meeting**

**269(1)** When a board of a district situated wholly or partly within the boundaries of a city receives a petition calling for a public meeting that is signed

- (a) by 25% of the parents, who are also electors, of the students in a school, or
- (b) by the lesser of
  - (i) 2000 electors, and
  - (ii) 25% of the electors,

the board shall within 21 days from the date that it receives the petition publish notice of the public meeting to be held under this section in accordance with section 270.

**(2)** When a board, other than a board of a district referred to in subsection (1), receives a petition calling for a public meeting signed

- (a) by 100 electors, or
- (b) by a majority of the electors,

whichever is the lesser, the board shall within 21 days from the date that it receives the petition publish notice of the public meeting to be held under this section in accordance with section 270.

**(3)** A board shall direct one or more persons to attend the public meeting held pursuant to this section, as representatives of the board.

**(4)** The public meeting shall be held within 90 days from the day on which the board receives the petition.

**(5)** At a public meeting held under this section, the electors present may

- (a) elect 4 persons to a committee, and

- (b) by resolution of the meeting, identify the areas of concern, related to the purpose stated in the petition, that are to be studied by the committee.

(6) The board shall name 2 representatives to any committee established by a public meeting held under this section.

(7) Within 30 days from the date of the establishment of a committee under this section, the committee shall make recommendations to the board respecting the areas of concern identified in the public meeting at which the committee was established.

(8) Within 30 days from the date of receipt of the recommendations under subsection (7), the board shall

- (a) hold a meeting of the board, and
- (b) permit the committee to make representations with respect to its recommendations.

1988 cS-3.1 s232;1990 c36 s50

#### **Notice of public meetings**

**270** Notice of a public meeting under section 269, including the date, time, place and purpose of the meeting, shall be given in at least 2 of the following ways:

- (a) by mailing to the electors of the district or division a notice in the form prescribed by the Minister at least 14 days prior to the date of the meeting;
- (b) by posting in 5 or more conspicuous places to which the public has normal and regular access, not later than the 8th day prior to the date of the meeting, a notice in the form prescribed by the Minister;
- (c) by publishing a notice in the form prescribed by the Minister in a newspaper circulating within the district or division at least once a week for 2 weeks, the last of which shall be no fewer than 8 days prior to the date of the meeting;
- (d) by an announcement on at least 3 consecutive days during the 8 days immediately preceding the date of the meeting that is broadcast
  - (i) by a radio station serving the district or division, between the hours of 7 a.m. and 9 a.m. or 5 p.m. and 11 p.m., or

- (ii) by a television station serving the district or division, between the hours of 5 p.m. and 11 p.m.

1988 cS-3.1 s233

**Public notice**

**271(1)** Subject to this Act, when public notice, other than notice of a public meeting under section 269, is required to be given under this Act, the notice shall be given

- (a) by posting it in 5 or more conspicuous places to which the public has normal and regular access, and
- (b) by publishing it, at the same time the notice is posted, in a newspaper circulating within the district or division at least once a week for 2 weeks.

**(2)** A notice given under this section shall be in a form prescribed by the Minister.

1988 cS-3.1 s234

**Alteration of time limits**

**272(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 the 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 like 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 mentioned in connection with an appeal to the Board of Reference.

1988 cS-3.1 s235;1990 c36 s51

### Residence

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

- (a) a person can 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;
- (c) when a person leaves a district, division or unorganized territory, as the case may be, with the intention of becoming resident somewhere other than in that district, division or territory, that person's residence in that district, division or unorganized territory ceases;
- (d) when a person leaves Alberta with the intention of residing outside Alberta, that person's residence in Alberta ceases.

1988 cS-3.1 s236

### Delegation of Minister's powers

**274** 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.

1988 cS-3.1 s237

### Enforcement of judgment

**275(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 shall specify the manner of satisfying the judgment on any terms that the court rendering the judgment determines.

1988 cS-3.1 s238;1994 cC-10.5 s166

#### **Forms**

**276** The Minister may prescribe notices and forms to be used under this Act whether or not specifically required to do so by this Act.

1988 cS-3.1 s239

#### **Penalty**

**277** Any person who contravenes section 27, 81 or 112 is guilty of an offence and liable to a fine of not more than \$1000.

1988 cS-3.1 s240

#### **Penalty for failure to give information**

**278** 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.

RSA 2000 cS-3 s278;2001 c27 s28

#### **Enforcement by Court**

**279(1)** Where a board or another operator of a school or a person employed by a board or by another operator of a school offers or provides a course, an education program or instructional material that is prohibited under section 39, the Minister may apply to the Court of Queen's Bench for an order directing the board, the other operator of a school or the employee, as the case may be, to cease or desist from offering or providing that course of study, education program or instructional material.

(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 granted 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) If 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 cease or 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.

RSA 2000 cS-3 s279;2009 c53 s168

#### **Labour Relations Code**

**280(1)** Nothing in Part 1, 2 or 3 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*.

(2) Subsection (1) does not apply to a board or an employee to whom the *Education Services Settlement Act* applies.

RSA 2000 cS-3 s280;2002 cE-0.5 s39

## **Part 11 Transitional**

#### **Continuation re boards, trustees, etc.**

**281(1)** In this Part, "former Act" means the *School Act*, RSA 1980 cS-3.

(2) If property is 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 156 or 157 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.

1988 cS-3.1 s244





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