SCHOOL ACT

REVISED STATUTES OF BRITISH COLUMBIA, 1996

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Preamble

WHEREAS it is the goal of a democratic society to ensure that all its members receive an education that enables them to become literate, personally fulfilled and publicly useful, thereby increasing the strength and contributions to the health and stability of that society;

AND WHEREAS the purpose of the British Columbia school system is to enable all learners to become literate, to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic and pluralistic society and a prosperous and sustainable economy;

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

[2007-20-01, effective July 1/07, BC Reg 229/07]

PART 1 — INTERPRETATION

Definitions and interpretation

1 (1) In this Act:

"administrative directive" means an administrative directive issued by the minister under section 168.03 or 168.04;

"annual budget" means the budget for a fiscal year as adopted or amended by a board under section 113;

"annual facility expenditure" means an expenditure with respect to a project that is financed from the board's annual facility grant;

"annual facility grant" means a grant to a board under section 115.1;

"annual facility project" means an undertaking to maintain or improve

(a) a site, or

(b) a building

that is owned or leased by a board;

"assessment", in Part 8, means assessment as defined in the *Assessment Act*;

"attend" includes

(a) to be enrolled in an educational program that includes online learning, and

(b) to participate in an educational activity by means of online learning;

"board" or **"board of education"** means a board of school trustees constituted under this Act or a former Act;

"British Columbia Adult Graduation Diploma" means the diploma that may be issued by the minister under section 168 (6) (b);

"British Columbia Certificate of Graduation" means the diploma that may be issued by the minister under section 168 (6) (a);

"capital plan expenditure" means a capital expenditure with respect to a project that is

included in a board's capital plan bylaw, and includes a capital expenditure that was a capital plan expense under this Act, as it read immediately before this definition was enacted, and was included in a capital plan;

"capital plan project" means a project that is budgeted for as a capital plan expenditure;

"capital project" means an undertaking that requires capital expenditures to be incurred;

"catchment area" means, in relation to a school, the geographical area established under section 75.1 as the catchment area for the school;

"certificate holder" means a person who holds a certificate of qualification;

"certificate of qualification" means a certificate of qualification as defined in the *Teachers Act*;

"certification standards" means the certification standards as defined in section 1 of the *Teachers Act*;

"child care program" means a program that is prescribed for the purposes of paragraph (a) of the definition of "care" in section 1 of the *Community Care and Assisted Living Act*;

"commissioner" means the commissioner as defined in section 1 of the *Teachers Act***;**

"community plan" means,

(a) in respect of a municipality other than the City of Vancouver, an official community plan as defined in the *Local Government Act*, or

(b) in respect of the City of Vancouver, an official development plan as defined in section 559 of the *Vancouver Charter*;

"debt service grant" means a grant to pay the estimate, approved by the minister under section 110 (2), of a board's debt service expenses for the fiscal year;

"designated service provider" means a person designated by the minister under section 168 (2)(s.3);

"district parents' advisory council" means, in relation to a school district, the district parents' advisory council established for that school district under section 8.4;

"directeur général" means an individual appointed as the directeur général of a francophone education authority under section 166.27;

"early learning program" means a program for children who are less than school age, or whose enrolment in an educational program has been deferred under section 3 (2), that

(a) is designed to improve readiness for and success in kindergarten, and

(b) requires a child participating in the program to be accompanied and supervised by the child's parent or other person designated in writing by the parent;

"educational program" means an organized set of learning activities that, in the opinion of

(a) the board, in the case of learning activities provided by the board,

(a.1) the francophone education authority, in the case of learning activities provided by the francophone education authority,

(b) the minister, in the case of learning activities in a Provincial school, or

(c) the parent, in the case of learning activities provided to a child registered under section 13,

is designed to enable learners to become literate, to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic and pluralistic society and a prosperous and sustainable economy;

"election area" means the trustee electoral area or other area for which an election under this Act or other local elections legislation is held;

"elector" means a resident elector or non-resident property elector;

"eligible child" means a child who has an eligible parent;

"eligible parent" means an individual who, under section 23 of the *Canadian Charter of Rights and Freedoms*, has the right to have his or her children receive primary and secondary instruction in French in British Columbia;

"eligible person" means

(a) an eligible parent, or

(b) an adult individual who, under section 23 of the *Canadian Charter of Rights and Freedoms,* would, if that individual had children, have the right to have his or her children receive primary and secondary instruction in French in British Columbia;

"employers' association" means employers' association as defined in the *Public Education Labour Relations Act;*

"first nation" means a band, as defined under the *Indian Act* (Canada), including a participating First Nation, located in British Columbia;

"First Nations Education Authority" has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

"fiscal year", in relation to a board or a company under Part 6.1, means the period beginning on July 1 and ending on the following June 30;

"former Act" means the *School Act*, R.S.B.C. 1979, c. 375, the *Education (Interim) Finance Act,* S.B.C. 1982, c. 2, or the *School District Housing Act*, R.S.B.C. 1979, c. 377, or a predecessor to any of those Acts;

"francophone education authority" means a francophone education authority established or continued under section 166.12;

"francophone educational program" means an educational program including, without limitation, linguistic and cultural components, designed for eligible children but does not include a course provided in the French language as part of an educational program that is designed for children other than eligible children;

"francophone school" means

(a) a body of francophone students that is organized as a unit by a francophone education authority for educational purposes under the supervision of a francophone principal, francophone vice principal or francophone director of instruction,

(b) the francophone teachers and other staff members associated with the unit, and

(c) the facilities associated with the unit,

and includes a Provincial resource program and an online learning school operated by a francophone education authority;

"francophone school district" means an area prescribed under section 166.12 (1) (c) as the area over which a francophone education authority has jurisdiction;

"francophone student" means an eligible child or an immigrant child who is enrolled in a francophone educational program provided by a francophone education authority;

"francophone teacher" means a person holding a certificate of qualification who is employed by, or has a service contract with, a francophone education authority to provide francophone educational programs to francophone students in a francophone school, but does not include the directeur généralof a francophone education authority, any assistant to that officer or a francophone principal, a francophone vice principal or a francophone director of instruction;

"general school election" means the elections referred to in section 35;

"guardian" means

(a) a guardian within the meaning of the *Family Law Act*, or

(b) a personal guardian within the meaning of the *Infants Act*;

"immigrant" means a person who

(a) has been granted landing within the meaning of the *Immigration and Refugee Protection Act* (Canada),

(b) has not become a Canadian citizen, and

(c) has not, under the *Immigration and Refugee Protection Act* (Canada), ceased to be a permanent resident within the meaning of that Act;

"immigrant child" means a child who has an immigrant parent;

"immigrant parent" means an immigrant who, under section 23 of the *Canadian Charter of Rights and Freedoms,* would, if the person were a citizen of Canada, have the right to have his or her children receive primary and secondary instruction in French in British Columbia;

"improvements" means improvements as defined in the *Assessment Act*;

"independent school" means an independent school as defined in the *Independent School Act*;

"Indian" means an Indian as defined in the *Indian Act* (Canada);

"joint capital project" means a capital project that consists of a capital plan project and a local capital project;

"land" means land as defined in the *Assessment Act*;

"literacy" means the ability to understand and employ printed information in daily activities, at home, at work and in the community;

"local capital expenditure" means a capital expenditure with respect to a project that is

(a) financed from the board's local capital reserve, or

(b) included in the annual budget of a board and financed from

(i) local revenue,

(ii) school referendum taxes, or

(iii) the board's operating grant or other grants designated by the minister,

and includes a capital expenditure that was a local capital expense under this Act as it read immediately before this definition was enacted;

"local capital project" means an undertaking that is budgeted for as a local capital expenditure;

"local revenue" means all classes of revenue determined by the minister to be local revenue but does not include revenue from an operating grant or from school referendum taxes;

"local trust area" means a local trust area as defined in the *Islands Trust Act*;

"local trust committee" means a local trust committee as defined in the *Islands Trust Act*;

"minister of finance" means the minister responsible for the *Financial Administration Act;*

"minister of revenue" means the minister responsible for the *Income Tax Act*;

"ministry" means the ministry continued under section 167 (1);

"municipal school district" means a school district in which a municipality or portion of a municipality is located;

"newspaper" means, in relation to a matter for which publication in a newspaper is required under this Act, a publication or local periodical that

(a) contains items of news and advertising, and

(b) is distributed at least weekly in the area that is affected by the matter;

"non-resident property elector" means, in relation to a trustee electoral area, a person who at the relevant time meets the qualifications under section 41 in relation to the trustee electoral area;

"occupier" means an occupier as defined in the *Assessment Act*;

"online learning" means a method of instruction that relies primarily on communication between students and teachers by means of the internet;

"online learning school" means a school or francophone school that offers instruction to its students through online learning only;

"operating grant" means a grant to a board or francophone education authority as determined under section 106.3;

"owner" means,

(a) with respect to real property in a municipality, an owner as defined in the *Community Charter*, and

(b) with respect to real property in a rural area, an owner as defined in the *Assessment Act*;

"parent" means, in respect of a student or of a child registered under section 13,

(a) a parent or other person who has guardianship or custody of the student or child, other than a parent or person who, under an agreement or order made under the *Family Law Act* that allocates parental responsibilities, does not have parental responsibilities in relation to the student's or child's education, or

(b) a person who usually has the care and control of the student or child;

"parents' advisory council" means, in relation to a school, the parents' advisory council established for that school under section 8;

"participating First Nation" has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

"Provincial funding" means the amount of Provincial funding established for a fiscal year under section 106.2;

"Provincial resource program" means a program established by order of the minister and operated by a board or a francophone education authority;

"Provincial school" means

(a) a body of students organized as a unit for educational purposes at an educational institution that is

(i) directly operated and maintained by the minister, and

(ii) under the supervision of a principal,

(b) the staff members associated with the unit, and

(c) the facilities associated with the unit;

"resident elector" means, in relation to a trustee electoral area, a person who, at the relevant time, meets the qualifications under section 40 in relation to the trustee electoral area;

"residential", with respect to land and improvements, means residential within the meaning of the regulations under the *Assessment Act*;

"rural area" means that part of a school district not within the boundaries of a municipality;

"rural school district" means a school district no part of which is in a municipality;

"school" means

(a) a body of students that is organized as a unit for educational purposes under the supervision of a principal, vice principal or director of instruction,

(b) the teachers and other staff members associated with the unit, and

(c) the facilities associated with the unit, and includes a Provincial resource program and an online learning school operated by a board;

"school age" means the age between the date on which a person is permitted under section 3 (1) to enrol in an educational program provided by a board and the end of the school year in which the person reaches the age of 19 years;

"school district" means an area created or constituted as a school district under this Act or a former Act;

"school referendum tax" means a tax to raise money approved by a referendum under section 112;

"school tax" means a tax under this Act other than a school referendum tax;

"school year" means the period beginning on July 1 and ending on the following June 30;

"secrétaire trésorier" means an individual appointed as the secrétaire trésorier of a francophone education authority under section 166.27;

"standard educational program" means an educational program described in section 82 (1) and (2.1), including

(a) an educational program provided in a language other than English under section 5 (2) or (3), and

(b) an educational program provided according to the terms of an individual education plan;

"student" means a person enrolled in an educational program provided by a board and, if a section or subsection refers to a Provincial school, includes a person enrolled in the Provincial school for the purposes of that section or subsection;

"student record" means a record of information in written or electronic form pertaining to

(a) a student or francophone student, or

(b) a child registered under section 13 with a school or a francophone school,

but does not include

(c) a record prepared by a person if that person is the only person with access to the record, or

(d) a record of a report under section 14 (1) or 16 (3)(b) of the *Child, Family and Community Service Act* or of information that forms the basis for a report under section 14 (1) of that Act;

"superintendent of appeals" means the person designated or appointed by the minister under section 11.1 (0.1);

"supervise", in the context of a teacher or francophone teacher providing an educational program or francophone educational program by means of online learning, means to supervise the student's progress through the educational program;

"teacher" means a person holding a certificate of qualification who is employed by a board to provide an educational program to students in a school, but does not include a person appointed by a board as superintendent of schools, assistant superintendent of schools or principal, vice principal or director of instruction;

"teachers' union" means a teachers' union or the Provincial union as defined in the *Public Education Labour Relations Act*;

"trustee" means a member of a board;

"trustee election" means an election for one or more trustees for a trustee electoral area;

"trustee electoral area" means the area from which one or more trustees are to be elected, as established under this or a former Act.

(2) A child who is registered under section 13 is deemed not to be enrolled in an educational program provided by a board or a francophone education authority.

(3) In the context of an online learning school, a reference to available space and facilities is to be read as a reference to the capacity of the school to deliver an educational program.

(4) For the purposes of this Act, a student is enrolled in an educational program provided by a board, or a francophone educational program provided by a francophone education authority, even if the student receives only a part of his or her educational program or francophone educational program from that board or francophone education authority.

[1997-52-1 effective Aug. 1/97, BC Reg. 287/97; 1997-52-2 effective Aug. 1/97, BC Reg. 287/97; 1998-34-301 effective Sept. 23/98, BC Reg. 311/98; 1999-8-11 effective June 29/99; 2000-9-53 effective July 7, 2000, B.C. Reg. 243/00; 2000-7-191 effective June 12/00; 2002-3-5 effective Jan. 28/02; 2002-53-1 effective May 30/02; 2002-53-1 effective Jan. 31/02; 2002-53-1 effective July 01/02; 2003-52-482 effective Jan. 1/04, 2004-17-3 effective Apr 29/04, 2006-21-5, effective June 30/06, BC Reg 195/06, 2006-21-6, effective June 30/06, BC Reg 195/06; 2007-20-02, effective July 1/07 and Nov 1, 22007, BC Reg 229/07; 2007-22-03, effective July 1/07, BC Reg 194/07; 2007-46-12, effective May 16/08 BC Reg 103/2008; am 2011-12-112, effective Jan 9/12, BC Reg. 239/11; am 2011-12-113, effective Jan 9/12, BC Reg. 239/11; am 2012-36-1, effective July 1/12; am 2011-16-441, effective March 18/13; am 2014-21-93, effective May 29/14; am 2015-11-3, effective May 14/15; am 2015-11-2, effective July 1/15; am 2020-8-8, effective March 5, 2020; am 2020-8-7, effective July 1, 2021, am 2020-8-9, effective July 1, 2021]

PART 2 — STUDENTS AND PARENTS

Division 1 - Students

Access to educational program

2 (1) Subject to section 74.1, a person is entitled to enrol in an educational program provided by the board of a school district if the person

(a) is of school age, and
(b) is resident in that school district.

(2) Subject to section 74.1, a person may enrol in an educational program provided by a board of a school district and attend any school in British Columbia if

(a) the person is of school age,
(b) the person is resident in British Columbia, and
(c) the board providing the educational program determines that space and facilities are available for the person at the school in which the educational program is made available.

[2002-53-2 effective July 1/02]

Entry to educational program

3 (1) Subject to subsections (2) and (3), a person who is resident in British Columbia must

(a) enrol in an educational program
(i) provided by a board,
(ii) in the case of an eligible child, provided by a board or a francophone education authority, and
(iii) in the case of an immigrant child, provided by a board or, if the child is permitted to enrol with a francophone education authority under section 166.24, provided by that francophone education authority,

on the first school day of a school year if, on or before December 31 of that school year, the person will have reached the age of 5 years, and,

(b) participate in an educational program provided by a board or, in the case of an eligible child or an immigrant child, by a board or a francophone education authority until he or she reaches the age of 16 years.

(2) A parent of a child referred to in subsection (1) (a) may defer the enrolment of his or her child until the first school day of the next school year.

(3) This section does not apply if the person

(a) is attending one of the following:

(i) an independent school;

(ii) a Provincial school;

(iii) an educational institution operated by the government of Canada or by a first nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada)

(b) is registered under section 13, or

(c) is participating in a kindergarten to grade 12 program of studies provided by a treaty first nation under its own laws.

[1997-52-3 effective Aug. 1/97, BC Reg. 287/97; 1999-8-12 effective June 29/99; 2007-46-13, effective May 16/08 BC Reg 103/2008; 2007-41-157, effective Apr 3/08 BC Reg55/2009]

Enrolment – distributed learning

3.1 (1) A student who is enrolled in an educational program provided by a board or a francophone student who is enrolled in a francophone educational program provided by a francophone education authority may, subject to section 2(2), enrol in one or more

(a) educational programs offered by another board or by an authority under the *Independent School Act*, or

(b) francophone educational programs offered by another francophone education authority

if the other educational programs or francophone educational programs, as applicable, are delivered, in whole or in part, through online learning.

(2) Despite subsection (1), a student does not acquire a right under this section to enrol with a francophone education authority if the student is not otherwise entitled or permitted under this Act to enrol with a francophone education authority.

[2006-21-7, effective June 30/06, BC Reg 195/06; am 2012-36-2, effective Feb 12/13, BC Reg 52/13; am 2020-8-10, effective July 1, 2021]

Consultation

4 A student is entitled to consult with a teacher or principal, vice principal or director of instruction with regard to that student's educational program.

[1999-53-3, effective May 30/02]

Language of instruction

5 (1) Every student is entitled to receive an educational program that is provided in the English language.

(2) Students whose parents have the right under section 23 of the *Canadian Charter of Rights and Freedoms* to have their children receive instruction in a language other than English are entitled to receive that instruction.

(3) Subject to the approval of the minister, a board may permit an educational program to be provided in a language other than as provided under subsections (1) and (2).

(4) The Lieutenant Governor in Council may make regulations
- (a) respecting the provision of educational programs in languages other than English,
- (b) to give effect to section 23 of the *Canadian Charter of Rights and Freedoms*, and
- (c) determining the manner in which a power, duty or function of a board may be performed or exercised under this Act with respect to students referred to in subsection (2).

(5) For the purposes of subsection (4), the Lieutenant Governor in Council may make different regulations for different circumstances.

Duties of students

6 (1) A student must comply
- (a) with the school rules authorized by the principal of the school or Provincial school attended by the student, and
- (b) with the code of conduct and other rules and policies of the board or the Provincial school.

(2) A student attending a school or a Provincial school must participate in an educational program as directed by the board or by the principal of the Provincial school.

Division 2 - Parents

Parents' entitlements and responsibilities

7 (1) A parent of a student of school age attending a school is entitled
- (a) to be informed, in accordance with the orders of the minister, of the student's attendance, behaviour and progress in school, and
- (b) *REPEALED 2015-11-5, effective July 1, 2015*
- (c) to belong to a parents' advisory council established under section 8.

(2) A parent of a student of school age attending a school may, and at the request of a teacher or principal, vice principal or director of instruction must, consult with the teacher,

principal, vice principal, or director of instruction with respect to the student's educational program.

[2002-53-3, effective May 30/02; 2002-53-4, effective July 1/02; OIC 840/06, Effective Dec 1/06; 2007-20-3, November 1, 2007 per BC Reg 229/07; am 2015-11-5, effective Jul 1/15]

Parent volunteers

7.1 Subject to this Act, the regulations and any rules of a board, a parent of a student may provide volunteer services at or for a school.

[2001-27-1, effective August 9, 2001]

Parents' advisory council

8 (1) Parents of students of school age attending a school or a Provincial school may apply to the board or to the minister, as the case may be, to establish a parents' advisory council for that school.

(2) On receipt of an application under subsection (1), the board or minister must establish a parents' advisory council for the school or the Provincial school.

(3) There must be only one parents' advisory council for each school or Provincial school.

(4) A parents' advisory council, through its elected officers, may advise the board and the principal and staff of the school or the Provincial school respecting any matter relating to the school or the Provincial school.

(5) A parents' advisory council, in consultation with the principal, must make bylaws governing its meetings and the business and conduct of its affairs, including bylaws governing

(a) the dissolution of the parents' advisory council, and
(b) *REPEALED 2015-11-6, effective July 1, 2015*
(c) the election of a member to represent the parents' advisory council on the district parents' advisory council.

(6) Voting at an election referred to in subsection (5) (c) must be by secret ballot.

[2002-53-5, effective May 30/02; am 2015-11-6, effective July 1/15]

8.1 *REPEALED 2015-11-7, effective July 1, 2015*

[2015-11-7, effective July 1/15]

8.2 *REPEALED 2015-11-7, effective July 1, 2015*

[am. 2015-11-7, effective July 1/15]

School plan

8.3 (1) In each school year, a board must approve a school plan for every school in the school district.

(2) A board must make a school plan approved under subsection (1) available to the parents of students attending that school.

[en 2015-11-8, effective July 1/15]

District parents' advisory council

8.4 (1) A parents' advisory council, through its elected officers, may apply to the board for the establishment of a district parents' advisory council.

(2) On receipt of an application under subsection (1), the board must establish a district parents' advisory council for the school district consisting of representatives elected to the council under subsection (3).

(3) Each parents' advisory council in a school district may elect annually one of its members to be its representative on the district parents' advisory council for a term of not more than one year.

(4) There must be only one district parents' advisory council for each school district.

[2002-53-6, effective July 01/02]

Purpose and operation of district parents' advisory council

8.5 (1) Subject to section 67 (5.1), the district parents' advisory council may advise the board on any matter relating to education in the school district.

(2) A district parents' advisory council must make bylaws governing its meetings and the business and conduct of its affairs, including bylaws governing the dissolution of the council.

(3) A superintendent of schools for the school district, a designate of the superintendent or a trustee of the school district may attend any meeting of the district parents' advisory council.

[2002-53-6, effective July 01/02]

Division 3 - Joint Rights and Duties

Examination of student records

9 (1) A student and the parents of a student of school age are entitled,

(a) on request and while accompanied by the principal or a person designated by the principal to interpret the records, to examine all student records kept by a board pertaining to that student, and

(b) on request and on payment of the fee, if any, charged under subsection (2), to receive a copy of any student record that they are entitled to examine under paragraph (a).

(2) A board may, for any copies of student records provided under subsection (1) (b), charge a fee that does not exceed the cost to the board of providing the copies.

Liability for damage to property

10 If property of a board or a francophone education authority is destroyed, damaged, lost or converted by the intentional or negligent act of a student or a francophone student, that student

and that student's parents are jointly and severally liable to the board or francophone education authority in respect of the act of that student.

[1997-52-4 effective Aug. 1/97, BC Reg. 287/97]

Appeals

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

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

(3) For the purposes of hearing appeals under this section, a board must, by bylaw, establish an appeal procedure.

(4) A board may refuse to hear an appeal under this section unless the appellant discusses the decision under appeal with one or more persons as directed by the board.

(5) A board may establish one or more committees for the purpose of investigating appeals under this section.

(6) A board may make any decision that it considers appropriate in respect of the matter that is appealed to it under this section, and, subject to section 11.1(1), the decision of the board is final.

(7) A board must

(a) make a decision under this section within 45 days of the date on which the board receives the appeal, and

(b) promptly report that decision to the person making the appeal.

[2007-20-06, BC Reg 24/08, effective March 3, 2008]

Appeals to superintendent of appeals

11.1 (0.1) The minister may

(a) designate an individual appointed under the *Public Service Act*, or

(b) appoint, by order, an individual who is not appointed under the *Public Service Act*

as a superintendent of appeals to hear an appeal under this section.

(0.2) The *Public Service Act* and the *Public Service Labour Relations Act* do not apply to an individual appointed under subsection (0.1) (b).

(1) Subject to the regulations, a decision of a board made under section 11 (6) or a reconsideration by a board under section 11.5 may be appealed to a superintendent of appeals.

(2) An appeal under this section is a new hearing.

(3) An appeal under this section does not suspend the operation of a decision under appeal unless the superintendent of appeals otherwise orders under section 11.3.

[2007-20-07, BC Reg 24/08, effective March 3, 2008; am 2015-11-9, effective July 1/15]

Powers and duties of superintendent of appeals on appeal

11.2 (1) On receipt of an appeal under section 11.1, a superintendent of appeals may

(a) refer the matter for mediation or adjudication, to a mediator or adjudicator under contract with the minister or a person designated by the minister, or

(b) summarily dismiss all or part of the appeal.

(2) A superintendent of appeals must exercise the discretion under subsection (1) in accordance with guidelines established by the minister.

(3) If a superintendent of appeals has referred a matter for mediation, the superintendent of appeals may refer the matter to an adjudicator for determination if

(a) mediation is unsuccessful in bringing about agreement between the parties, or

(b) a party so requests.

(4) A superintendent of appeals may, subject to the orders of the minister, establish practices and procedures for the purposes of subsection (1).

[2007-20-12, BC Reg 24/08, effective March 3, 2008; 2015-11-10, effective July 1/15]

Board decision may be suspended

11.3 (1) A person who files an appeal under section 11.1 may request the superintendent of appeals to suspend the operation of the decision under appeal.

(2) The superintendent of appeals may, on his or her own initiative or at the request of a person under subsection (1), suspend the decision for the period and on the conditions the superintendent of appeals considers to be appropriate.

[2007-20-12, BC Reg 24/08, effective March 3, 2008; 2015-11-10, effective July 1/15]

Adjudication of appeals

11.4 (1) On receipt of an appeal referred by a superintendent of appeals under section 11.2, an adjudicator may

(a) confirm, vary or revoke the decision under appeal,

(b) refer the matter back to the board for reconsideration, with or without directions, or

(c) dismiss all or part of the appeal.

(2) In adjudicating an appeal under subsection (1), an adjudicator must not make a decision that would result in a board being in breach of section 76.1 (2.1) or (2.4).

[am 2012-22-12, effective July 1/12]

(3) An adjudicator may, subject to the orders of the minister, establish practices and procedures for the hearing of an appeal.

[2007-20-12, BC Reg 24/08, effective March 3, 2008; 2015-11-10, effective July 1/15]

Reconsideration by board

11.5 If an adjudicator refers a matter back to a board under section 11.4 (1) (b), the adjudicator may

(a) request that the board review specific issues in its reconsideration, and

(b) require the board to complete its reconsideration by a certain date.

[2007-20-12, BC Reg 24/08, effective March 3, 2008]

Decision final

11.6 A decision of a superintendent of appeals under section 11.2 (1) (b), or of an adjudicator under section 11.4 (1), is final and binding on the parties.

[2007-20-12, BC Reg. 24/08, effective March 3, 2008; 2015-11-10, effective July 1/15]

Application of the *Administrative Tribunals Act*

11.7 The following provisions of the *Administrative Tribunals Act* apply to a superintendent of appeals and adjudicator for the purposes of an appeal under section 11.1 of this Act as if the superintendent of appeals or adjudicator were a tribunal under the *Administrative Tribunals Act*:

(a) section 29 *[disclosure protection]*;

(b) section 31 *[summary dismissal]*;

(c) section 34 (3) and (4) *[power to compel witnesses and order disclosure]*;

(d) section 36 *[form of hearing of application]*;

(e) section 38 *[examination of witnesses]*;

(f) section 44 *[tribunal without jurisdiction over constitutional questions]*;

(g) section 45 *[tribunal without jurisdiction over Canadian Charter of Rights and Freedoms]*;

(g.1) section 46.3 *[tribunal without jurisdiction to apply the Human Rights Code]*;

(h) section 58 *[standard of review if tribunal's enabling Act has privative clause]*;

(i) section 61 *[application of Freedom of Information and Protection of Privacy Act]*.

[2007-20-12, BC Reg 24/08, effective March 3, 2008; 2015-11-10, effective July 1/15]

Immunity protection for superintendent of appeals, mediator or adjudicator

11.8 Section 56 of the *Administrative Tribunals Act* applies to a superintendent of appeals, mediator or adjudicator for the purposes of an appeal under section 11.1 of this Act as if the superintendent, mediator or adjudicator were a tribunal under the *Administrative Tribunals Act*.

[2007-20-12, BC Reg. 24/08, effective March 3, 2008; 2015-11-10, effective July 1/15]

Division 4 - Home Education

Home education

12 A parent of a child who is required to enrol in an educational program under section 3

(a) may educate the child at home or elsewhere in accordance with this Division, and

(b) must provide that child with an educational program.

[1997-52-5 effective Aug. 1/97, BC Reg. 287/97]

Registration

13 (1) A parent of a child who is required under section 12 to provide the child with an educational program must register the child on or before September 30 in each year with

(a) a school of the parent's choice that is operating in British Columbia,

(a.1) if the child is an eligible child, a school referred to in paragraph (a) or (c), or a francophone school of the parent's choice that is operating in the francophone school district in which the parent resides,

(a.2) if the child is an immigrant child, a school referred to in paragraph (a) or (c), or a francophone school of the parent's choice that is operating in the francophone school district in which the parent resides but only if the francophone education authority responsible for that school permits the parent to register that child, or

(b) *REPEALED 2006-21-8, effective June 30/06, BC Reg 195/06*

(c) an independent school operating in British Columbia.

(2) If, in accordance with subsection (1), a parent is entitled to register his or her child with a school or, in the case of an eligible child or immigrant child, with a francophone school,

(a) the board that has jurisdiction over the school must ensure that the principal, vice principal or director of instruction responsible for that school registers the child, or

(b) the francophone education authority that has jurisdiction over the francophone school must ensure that the francophone principal, francophone vice principal or francophone director of instruction of that francophone school registers the child.

(3) A school or francophone school that registers a child under this section must provide the child with access to educational services in accordance with the regulations.

(4) A person who contravenes subsection (1) commits an offence.

[1997-52-6 effective Aug. 1/97, BC Reg. 287/97; 2002-53-7, effective May 30/02, 2006-21-8, effective June 30/06, BC Reg 195/06]

Power to report

14 (1) A person who believes that a child who is required to be registered under section 13 is not so registered may report that belief to the superintendent of schools for the school district in which that child resides.

(1.1) A person who believes that a child who is being educated in accordance with section 12 is not receiving an educational program may report that belief

(a) in the case of a child registered under section 13 with a francophone school, to the directeur general of the francophone education authority for the francophone school district in which that child resides, and
(b) in the case of a child registered under section 13 with a school, an independent school or the minister, to the superintendent of schools for the school district in which that child resides.

(2) On receipt of a report under this section, the superintendent, or directeur general must take such action as is required by the orders of the minister.

(3) No action lies against
(a) a person making a report under subsection (1) or (1.1), or
(b) the superintendent or directeur général in respect of an action taken under subsection (2)
unless the report is made or the action is taken maliciously.

[1997-52-7 effective Aug. 1/97, BC Reg. 287/97; am. 2000-9-54; 2007-22-28, effective July 1, 2007, BC Reg. 194/07]

PART 3 — SCHOOL PERSONNEL

Division 1 - General

Employees

15 (1) A board may employ and is responsible for the management of those persons that the board considers necessary for the conduct of its operation.

(2) A board must formulate policies for evaluating employees who are not covered by a collective agreement.

(3) Subject to subsections (4) and (5), a board must not dismiss, suspend or otherwise discipline an employee covered by a collective agreement except for just and reasonable cause.

(4) A board may suspend from the performance of his or her duties an employee who is charged with an offence that the board considers renders the employee unsuitable to perform those duties.

(5) If the superintendent of schools is of the opinion that the welfare of the students is threatened by the presence of an employee, the superintendent may suspend the employee, with pay, from the performance of his or her duties.

(6) When the superintendent suspends an employee under subsection (5), the superintendent must immediately notify the board.

(7) When the board is notified under subsection (6), it must as soon as practicable confirm, vary or revoke the suspension and must, if the board confirms and continues the suspension, determine whether the continuation of the suspension should be with or without pay.

Report of dismissal, suspension and discipline regarding authorized persons

16 (1) In this section, **"authorized person"** means a certificate holder or a person holding a letter of permission issued under the *Teachers Act*, but does not include a superintendent.

(2) If a superintendent of schools suspends an authorized person, the superintendent must without delay send to the commissioner a report regarding the suspension.

(3) If a board

(a) suspends or dismisses an authorized person, or

(b) disciplines an authorized person for misconduct that involves

(i) physical harm to a student or minor,

(ii) sexual abuse or sexual exploitation of a student or minor, or

(iii) significant emotional harm to a student or minor,

the board must without delay notify the superintendent of schools of the suspension, dismissal or disciplinary action, and the superintendent must without delay send to commissioner a report regarding the suspension, dismissal or disciplinary action.

(4) A report referred to in subsection (2) or (3) must

(a) be in writing,

(b) be signed by the superintendent of schools, and

(c) include reasons for the action taken by the board or superintendent.

(5) The superintendent of schools must send a copy of a report referred to in subsection (2) or (3) to the authorized person who is suspended, dismissed or disciplined.

(6) If the superintendent of schools considers any conduct by, or the competence of, an authorized person to be in breach of the certification standards, the superintendent must send to the commissioner a report, in writing, regarding that conduct or competence if it is in the public interest to do so.

(7) The superintendent of schools must send a copy of the report referred to in subsection (6) to the authorized person whose conduct or competence is the subject of that report.

(8) If an authorized person resigns, the superintendent of schools must

(a) report, without delay, the circumstances of the resignation to the commissioner if it is in the public interest to report the matter, and

(b) send to the authorized person who resigned a copy of the report.

(9) A superintendent of schools who has made a report to the commissioner under this section in respect of an authorized person must, without delay after being requested to do so by the commissioner,

(a) provide the commissioner all of the records available to the superintendent that relate to the matter in respect of which the report was made, and

(b) send to the authorized person a copy of the records referred to in paragraph (a).

(10) A superintendent of schools who fails to report as required under subsection (2), (3) or (8) commits an offence.

[2007-21-06, effective July 1, 2007, BC Reg. 231/07; en 2011-12-114, effective Jan 9/12, BC Reg. 239/11];

Report of dismissal, suspension and discipline regarding superintendents

16.1 (1) If a board

(a) suspends or dismisses a superintendent of schools, or

(b) disciplines a superintendent of schools for conduct referred to in section 16 (3) (b),

the board must without delay send to the commissioner a report regarding the suspension, dismissal or disciplinary action.

(2) The report referred to in subsection (1) must

(a) be in writing,

(b) be signed by the chair of the board, and

(c) include reasons for the action taken by the board.

(3) The board must send to the superintendent of schools a copy of the report referred to in subsection (1).

(4) If the board considers any conduct by, or the competence of, a superintendent of schools to be in breach of the certification standards, the board must send to the commissioner a report, in writing, regarding that conduct or competence if it is in the public interest to do so.

(5) The board must send to the superintendent of schools a copy of the report sent to the commissioner under subsection (4).

(6) If a superintendent of schools resigns, the board must

(a) report, without delay, the circumstances of the resignation to the commissioner if it is in the public interest to do so, and

(b) send to the superintendent a copy of the report.

(7) A board that has made a report to the commissioner under this section in respect of a superintendent of schools must, without delay after being requested to do so by the commissioner,

(a) provide the commissioner all of the records available to the board that relate to the matter in respect of which the report was made, and

(b) send to the superintendent a copy of the records referred to in paragraph (a).

[2007-21-06, effective July 1, 2007, BC Reg. 231/07; en 2011-12-114, effective Jan 9/12, BC Reg. 239/11]

Teachers' responsibilities

17 (1) A teacher's responsibilities include designing, supervising and assessing educational programs and instructing, assessing and evaluating individual students and groups of students.

(2) Teachers must perform the duties set out in the regulations.

[2002-53-8, effective May 30/02]

Teachers' assistants

18 (1) A board may employ persons other than teachers to assist teachers in carrying out their responsibilities and duties under this Act.

(2) Persons employed under subsection (1) must work under the general supervision of a teacher, principal, vice principal or director of instruction.

[2002-53-9, effective May 30/02; OIC 840/06, Effective Dec 1/06]

School year continuity in the assignment of special needs teachers' assistants

18.1 (1) In this section:

"collective agreement" means, in relation to a special needs teacher's assistant, a collective agreement between the employers' association and a union certified to represent the special needs teacher's assistant;

"special needs teacher's assistant" means a person employed by a board under section 18 to provide assistance in relation to a student with special needs;

"student with special needs" means a student who

(a) has a learning disability, or

(b) has a disability of an intellectual, physical, sensory, emotional or behavioural nature.

(2) The Lieutenant Governor in Council may make regulations as follows:

(a) providing a prescribed class of students with special needs with continuity in the assignment of special needs teachers' assistants during the school year;

(b) prescribing one or more classes of students with special needs who meet prescribed criteria for the purposes of paragraph (a) and prescribing those criteria;

(c) requiring boards to assess students with special needs annually to determine whether they fall into a prescribed class of students with special needs under paragraph (b);

(d) providing that, despite a provision of a collective agreement, a special needs teacher's assistant, who provides assistance in relation to a student assessed by a board as a student of a prescribed class under paragraph (b), not be displaced or laid off during a school year because of the exercise of bumping or displacement options under a collective agreement;

(e) limiting a regulation under this section under prescribed circumstances or imposing conditions on the regulation, including, without limitation, providing that continuity under paragraph (a) ceases if, during the school year, the student

stops attending a school in the school district of the board that assesses the student under paragraph (c);

(f) restricting, limiting or suspending the right of a special needs teacher's assistant under a collective agreement to exercise bumping or displacement options during a school year.

(3) The Lieutenant Governor in Council may make different regulations under this section for different classes of students with special needs and for the special needs teachers' assistants assigned to them.

(4) A provision of a collective agreement that conflicts or is inconsistent with a regulation under this section is void to the extent of the conflict or inconsistency.

[2002-3-6 effective ?????? by Reg.]

Employee qualifications

19 (1) Subject to subsection (2), a board must not employ a person as a teacher, principal, vice principal, director of instruction, superintendent of schools or assistant superintendent of schools unless that person

(a) holds a certificate of qualification as a teacher, or

(b) holds a letter of permission to teach issued under the *Teachers Act*.

(2) A board may employ a person who possesses qualifications approved by the board, but does not meet the requirements of subsection (1), if that person is

(a) employed for 20 or fewer consecutive teaching days and teaching a particular class or classes where no teacher holding a certificate of qualification is available, or

(b) instructing a general interest course that is not leading to school graduation.

[2002-53-10, effective May 30/02; 2004-54-19, effective May 20, 200; am 2011-12-115, effective Jan 9/12, BC Reg. 239/11]

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Principal, vice principal and director of instruction

20 (1) A board may appoint a person as a principal, vice principal or director of instruction to perform the duties and have the powers set out in the regulations.

(2) A principal, vice principal or director of instruction is not an employee within the meaning of the *Labour Relations Code*.

(3) A principal, vice principal or director of instruction who is responsible for evaluating a teacher in a specialized assignment may

(a) consult with a resource person who has relevant specialized technical knowledge, and

(b) use information obtained from the consultation in the evaluation.

[2002-53-11, effective May 30/02]

Offer of teaching position and seniority

21 (1) When a board of a school district

(a) does not intend to renew the contract of a principal, vice principal or director of instruction in the school district, or

(b) intends to dismiss the principal, vice principal or director of instruction other than for cause,

the board must offer the principal, vice principal or director of instruction a teaching position in the school district before the expiry of the contract or the effective date of the dismissal.

(2) If a person is appointed as a principal, vice principal or director of instruction in a school district and is subsequently offered a teaching position in that school district, he or she is, for the purposes of seniority only, deemed to have been a teacher in that school district both during the period that he or she was employed as a principal, vice principal or director of instruction and during the period that he or she was employed as a teacher in that school district.

[2002-53-12, effective May 30/02; 2003-40-2, effective May 29, 2003]

Superintendent of schools

22 (1) A board must appoint a superintendent of schools for the school district who, under the general direction of the board,

(a) has general supervision and direction over the educational staff employed by the board of that school district,

(b) is responsible

(i) to the board, for improvement of student achievement in that school district,

(ii) for the general organization, administration, supervision and evaluation of all educational programs provided by the board, and

(iii) for the operation of schools in the school district, and

(b.1) *REPEALED 2015-11-11, effective July 1, 2015*

(c) must perform other duties set out in the regulations.

(2) A board may appoint one or more assistant superintendents of schools to perform those duties assigned by the superintendent of schools for that school district.

(3) *REPEALED 2015-11-11, effective July 1, 2015*

[2007-20-08, effective July 1/07, BC Reg 229/07; 2015-11-11, effective July 1/15]

Secretary treasurer

23 (1) A board must

(a) appoint a secretary treasurer of the board, and

(b) arrange for the bonding of the secretary treasurer in an amount the board considers adequate.

(2) The secretary treasurer of a board is its corporate financial officer and must perform those duties set out in the regulations.

Notification of appointment

24 A board must promptly notify the minister of an appointment or the termination of an appointment of a superintendent of schools or secretary treasurer.

Act prevails

25 Powers or duties assigned to a person by a board do not abridge or impair the powers or duties assigned to the person under this Act.

Powers to suspend

26 A principal, vice principal or director of instruction of a school or the superintendent of schools may suspend a student of the school if

(a) the rules made under section 85 (2) (c) by the board operating the school do not provide otherwise, and

(b) the suspension is carried out in accordance with those rules.

[2002-53-13, effective May 30/02]

Board Use of Volunteers

26.1 (1) A board must not use a volunteer to provide services that would result in the displacement of an employee.

(2) A provision of a collective agreement between a board and employees, including a teachers' collective agreement, that limits the use of volunteers in a manner other than as described in subsection (1) is void.

[2001-27-2, effective August 9, 2001]

School Meals Program

26.2 (1) In this section:

"School Meals Program" means a School Meals Program approved by the minister and funded in whole or in part by the government;

"support staff collective agreement" means a collective agreement between the employers' association, on behalf of a board, and a support staff union;

"support staff union" has the same meaning as in the *Public Education Labour Relations Act.*

(2) Despite any provision of a support staff collective agreement, a board may contract with any person to provide meals to students, or a group of students, at one or more schools in its school district under a School Meals Program.

(3) A support staff collective agreement must not contain a provision that in any manner restricts, limits or regulates a board's authority to contract with any person to provide services under a School Meals Program referred to in subsection (2).

(4) A support staff collective agreement that conflicts or is inconsistent with subsection (2) or (3) is void to the extent of the conflict or inconsistency.

(5) A provision in a support staff collective agreement requiring the employers' association or a board to consult with the support staff union prior to contracting out work in relation to services provided under a School Meals Program is void.

[2002-3-7, effective ??? by Reg.]

Division 2 - Teachers' Collective Agreements

Terms and conditions of teachers' employment and restricted scope of bargaining

27 (1) Despite any agreement to the contrary, the terms and conditions of a contract of employment between a board and a teacher are

(a) the provisions of this Act and the regulations,

(b) the terms and conditions, not inconsistent with this Act and the regulations, of a teachers' collective agreement, and

(c) the terms and conditions, not inconsistent with paragraphs (a) and (b), agreed between the board and the teacher.

(2) A provision of an agreement referred to in subsection (1) (b) excluding or purporting to exclude the provisions of this Act or the regulations is void.

(3) There must not be included in a teachers' collective agreement any provision

(a) regulating the selection and appointment of teachers under this Act, the courses of study, the program of studies or the professional methods and techniques employed by a teacher,

(b) restricting or regulating the assignment by a board of teaching duties to principals, vice principals or directors of instruction,

(c) limiting a board's power to employ persons other than teachers to assist teachers in the carrying out of their responsibilities under this Act,

(d) to (j) *REPEALED 2012-22-13, effective June 30, 2013.*

(4) Subsection (3) does not prevent a teachers' collective agreement from containing a provision respecting hiring preferences for teachers who have previously been employed by the board.

(5) A provision of a teachers' collective agreement that conflicts or is inconsistent with subsection (3) is void to the extent of the conflict or inconsistency.

(6) A provision of a teachers' collective agreement that

(a) requires the employers' association to negotiate with the Provincial union, as defined in the *Public Education Labour Relations Act*, to replace provisions of the agreement that are void as a result of subsection (5), or

(b) authorizes or requires the Labour Relations Board, an arbitrator or any person to replace, amend or modify provisions of the agreement that are void as a result of subsection (5),

is void to the extent that the provision relates to a matter described in subsection (3).

(7) Subsection (3) (d) to (j) is repealed on June 30, 2013.

[en 2012-22-13, effective Apr 14/12; 2012-22-13, effective Jun 30/13]

Transitional – appointment of arbitrator

27.1 *REPEALED 2004-16-3, effective April 29, 2004*
[2002-3-9, effective Jan. 28/02; 2004-16-3, effective April 29, 2004]

Scope of bargaining

28 (1) The Provincial union, as defined in the *Public Education Labour Relations Act*, may, on matters in respect of which a board has been given power or discretion under this Act, enter into a collective agreement containing provisions respecting

(a) the manner in which the power or the discretion may be exercised, and

(b) the consequences that flow from the exercise of the power or discretion.

(2) Despite subsection (1), if this Act or the regulations contain provisions that limit or restrict
any matter described in subsection (1) (a) or (b), those provisions prevail over the collective agreement in the event of a conflict.

(3) For certainty and despite any decision of a court to the contrary made before or after the coming into force of this subsection, nothing in this section is to be construed as authorizing a board or the Provincial union to enter into a collective agreement that includes a provision that is prohibited under section 27 (3) or void under section 27 (2), (5) or (6).
[2002-3-10, effective Jan. 28/02; 2004-16-4, effective April 29, 2004]

Application of the *Labour Relations Code*

29 If there is a conflict between the *Labour Relations Code* or the application of the *Labour Relations Code* to teachers and this Act, this Act prevails, but nothing in this Act limits

(a) the right of the Provincial union, as defined in the *Public Education Labour Relations Act*, to declare or authorize a strike, or

(b) the right of the employers' association to declare or authorize a lockout,

subject always to the provisions of the *Labour Relations Code*.
[2002-3-11, effective Jan. 28/02]

PART 4 — SCHOOL TRUSTEES

Division 1 - Establishment of Boards of Education

Composition of board

30 (1) There is to be a board of education for each school district.

(2) A board consists of 3, 5, 7 or 9 trustees, as determined by order of the minister under this section.

(3) The minister must, by order, establish the following for each school district:

(a) the number of trustees for the school district;

(b) whether trustees are to be elected

(i) from the school district at large, in which case the school district is the trustee electoral area,

(ii) from a number of trustee electoral areas specified by the minister that are in total the entire school district, or

(iii) in another manner that is a combination of the methods under subparagraphs (i) and (ii);

(c) if there is more than one trustee electoral area, the number of trustees to be elected from each.

(4) The minister may, by order, vary an order under subsection (3) and may determine the manner in which and the times at which the new trustees under the variation order are to be appointed or elected.

(5) If the minister reduces the number of trustees for a board, the order reducing the number of trustees becomes effective for the following general school election.

(6) An order under subsection (3) or (4) must be published in the Gazette.

(7) Unless an order under this section provides otherwise, the election of trustees for School District No. 39 (Vancouver) must be an election from the school district at large.

(8) An order under this Act or a former Act that establishes the number of trustees for a school district and the area or areas from which they are to be elected is deemed to be an order under this section.

[2000-11-42, effective July 7, 2000, B.C. Reg. 243/00; 2007-20-09 and 10, effective July 1/07, BC Reg 229/07]]

First members of board

31 (1) As an exception to section 30 when a new school district is created, the minister must, by order, determine whether the first trustees of the school district are to be appointed by the minister or elected.

(2) If the minister determines that the first trustees are to be elected, the trustee election must be held as directed by order of the minister.

(3) The term of office of a trustee appointed or elected under this section begins when the person takes office in accordance with section 50 (3) following the appointment or election and ends at the time referred to in section 49 (b).

(4) When a new school district is created wholly or in part by the union of 2 or more existing school districts, or as a result of the division of a school district into 2 or more smaller school districts, and trustees are being elected or appointed to constitute the board or boards of the newly formed school district or districts, the Lieutenant Governor in Council may terminate the terms of office of all the trustees in the former school districts.

Division 2 - Trustee Qualifications

Who may hold office

32 (1) Except as provided in this Division, a person is qualified to be nominated for office and to be elected or appointed to and hold office as a trustee if, at the relevant time, the person meets all the following requirements:

(a) the person must be an individual who is, or who will be on general voting day for the election or the effective date of the appointment, as applicable, age 18 or older;

(b) the person must be a Canadian citizen;

(c) the person must have been a resident of British Columbia, as determined in accordance with section 42, for at least 6 months immediately before the relevant time;

(d) the person must not be disqualified under this Act or any other enactment from being nominated for, being elected to or holding office as a trustee, or be otherwise disqualified by law.

[am 2014-21-94, effective May 29/14]

(2) A person whose term of office as trustee has expired or is about to expire is eligible for re-election if the person is otherwise qualified to be a trustee.

(3) At any one time, a person is not eligible to be nominated for or elected as trustee for more than one trustee electoral area for any one school district.

Disqualifications

33 Without limiting section 32 (1) (d), the following persons are disqualified from being nominated for, being elected to or holding office as a trustee:

(a) a person who is disqualified under section 34 as an employee of a board, except as authorized under that section;

(b) a person who is disqualified under

(i) section 52 (1) *[failure to make oath or affirmation of office]*, or

(ii) section 52 (2) *[unexcused absence from board meetings]*;

(b.1) a person who is disqualified under the *Local Elections Campaign Financing Act* from holding office on a local authority;

(c) a person who is disqualified from holding office under

(i) Division 18 *[Election Offences]* of Part 3 of the *Local Government Act* as it applies under this Act, that Act or any other Act, or

(ii) Division (17) of Part I of the *Vancouver Charter*, as it applies under this Act, that Act or any other Act;

(d) a person who holds office as a regional trustee of a francophone education authority under Part 8.1.

[1997-52-8 effective Aug. 1/97, BC Reg. 287/97; 1999-37-269 effective June 29/99; 1999-8-13 effective Nov. 19/99; 2000-7-191 effective June 12/00; 2007-20-11, effective July 1/07, BC Reg 229/07; 2007-22-30, effective July 1, 2007, BC Reg. 194/07; am 2014-21-95, effective May 29/14; am effective Jan 1/16, BC Reg. 257/15]

Disqualification of board employees

34 (1) For the purposes of this section, "employee" means

(a) an employee or salaried officer of a board, or
(b) a person who is within a class of persons deemed by regulation to be employees of a specified board,

but does not include a person who is within a class of persons excepted by regulation.

(2) Unless the requirements of this section are met, an employee of a board is disqualified from being nominated for, being elected to or holding office as a trustee on the same board.

(3) Before being nominated for office as trustee, the employee must give notice in writing to his or her employer of the employee's intention to consent to the nomination.

(4) Once notice is given under subsection (3), the employee is entitled to and must take a leave of absence from the employee's position with the employer for a period that, at a minimum,

(a) begins on the first day of the nomination period or the date on which the notice is given, whichever is later, and
(b) ends, as applicable,
  (i) if the person is not nominated before the end of the nomination period, on the day after the end of that period,
  (ii) if the person withdraws as a candidate in the election, on the day after the withdrawal,
  (iii) if the person is declared elected, on the day the person resigns in accordance with subsection (7) or on the last day for taking office before the person is disqualified under section 52,
  (iv) if the person is not declared elected and no application for judicial recount is made, on the last day on which an application for a judicial recount may be made, or
  (v) if the person is not declared elected and an application for judicial recount is made, on the date when the results of the election are determined by or following the judicial recount.

(5) If agreed by the employer, as a matter of employment contract or otherwise, the leave of absence under this section may be for a period longer than the minimum required by subsection (4).

(6) Sections 54 and 56 of the *Employment Standards Act* apply to a leave of absence under this section.

(7) Before making the oath of office under section 50, an employee on a leave of absence under this section who has been elected must resign from the person's position with the employer.

(8) At the option of the employee, a resignation under subsection (7) may be conditional on the person's election not being declared invalid on an application under section 153 of the *Local Government Act* or section 115 of the *Vancouver Charter*, as those sections apply to trustee elections.

[2000-7-191 effective June 12/00; am effective Jan 1/16, BC Reg. 257/15]

Division 3 - Elections

General school election

35 (1) Elections of all trustees, to be known collectively as a general school election, must be held in the year 2014 and in every 4th year after that.

(2) General voting day for the general school election must be on the 3rd Saturday of October in the year of the election.

[am 2014-21-96, effective May 29/14; am 2014-21-182, effective Jan 1/16]

By-elections

36 (1) Except as permitted under subsection (2), an election must be held to fill a vacancy on a board that occurs in any of the following circumstances:

(a) a person elected or appointed as trustee dies before taking office or a trustee dies while holding office;

(b) a trustee resigns under section 51;

(c) the office is declared vacant on the final determination of an application under section 153 of the *Local Government Act* or under section 115 of the *Vancouver Charter*, as those sections apply to trustee elections, or a candidate affected by an application under one of those sections renounces claim to the office;

(c.1) the office becomes vacant under any of the following sections of the *Local Elections Campaign Financing Act*:

(i) section 64 (2) (a) *[candidate penalties for failure to disclose]*;

(ii) section 65 (1) (a) *[candidate penalties for false or misleading disclosure]*;

(iii) section 65.1 (1) *[endorsed candidate penalties for elector organization failing to file disclosure documents or disclosing false or misleading information]*;

(iv) section 68.01 (3) *[candidate penalties for exceeding expense limits or amount available]*;

(d) the office becomes vacant under section 52 or 53;

(e) the office is declared vacant on the final determination of an application under section 54 (1) or 63 (1).

(2) If a vacancy occurs after January 1 in the year of a general school election, the board may hold the vacancy open until the election as long as at least 3 trustees continue to hold office.

(3) Within 30 days after a vacancy occurs for which an election is to be held, the board must do the following:

(a) in the case of a trustee election required to be conducted by the board, appoint a chief election officer;
(b) in the case of a trustee election required to be conducted by a municipality, notify the municipal council of the election;
(c) for an election under paragraph (a) or (b), notify the minister of the election.

(3.1) In the case of a trustee election required to be conducted by a municipality, the municipal council must appoint a chief election officer within 30 days after being notified under subsection (3) (b).

(3.2) As soon as practicable after an appointment under subsection (3) (a) or (3.1), the chief election officer must notify the BC chief electoral officer of the election.

(4) The chief election officer must set a general voting day for the trustee election, which must be on a Saturday no later than 80 days after the date the chief election officer was appointed.

(5) If fewer than 3 trustees continue to hold office, the board must hold a trustee election or notify the minister, who must appoint persons as trustees to fill the vacancies.

(6) If a trustee election is not held as required under this Act, or if the electors fail to elect the number of trustees that are to be elected, the minister may appoint persons as trustees to fill the vacancies.

(7) The term of office of a trustee elected or appointed under this section begins when the person takes office in accordance with section 50 (2) following the election or appointment and ends at the time referred to in section 49 (b).

[1999-37-270 effective June 29/99; 2000-7-191 effective June 12/00; am 2014-21-97, effective May 29/14; am effective Jan 1/16, BC Reg. 257/15; am 2016-17-45, effective May 19/16]

Responsibility for conducting elections

37 (1) If a trustee electoral area is all or part of a single municipality, the municipal council must conduct the trustee elections in the trustee electoral area.

(2) If a trustee electoral area includes both all or part of a single municipality and all or part of a rural area, the minister, on request of the board for the school district, may order that the municipal council must conduct the trustee elections for the trustee electoral area.

(3) Except as provided in subsection (1) or (2), the board must conduct the trustee elections for its school district.

(4) Subsection (5) applies to municipalities that, immediately before June 15, 1993, were subject to an order under this Act or a former Act that deemed a rural area or part of a rural area to be within the boundaries of a municipality for the purpose of electing trustees.

(5) A rural area or part of a rural area that was deemed by an order referred to in subsection (4) to be within the boundaries of a municipality, together with the municipality, are deemed to be a trustee electoral area to which an order under subsection (2) applies.

Costs of trustee election conducted by municipality

38 (1) For a trustee election conducted by a municipality under section 37 (1) as part of a general school election, the board must reimburse the municipality for any costs of the trustee election that are additional to the costs, if any, incurred by the municipality in conducting a local government election or assent voting at the same time as the trustee election.

(2) The Lieutenant Governor in Council may, by regulation, prescribe costs that must or must not be considered additional for the purposes of subsection (1).

(3) For a trustee election conducted by a municipality, other than one referred to in subsection (1), the board must reimburse the municipality for the costs necessarily incurred by the municipality in conducting the election.

(4) A board may enter into an agreement with a local government referred to in section 57 of the *Local Government Act* or section 13 of the *Vancouver Charter*, under which one party to the agreement conducts an election for the other, or in conjunction with an election of the other, in accordance with the terms of the agreement.

(5) A board that is a party to an agreement under subsection (4) may, by bylaw, provide that the bylaws of the local government respecting elections apply to trustee elections conducted under the agreement.

(6) An agreement referred to in subsection (4) may provide for a party to conduct only some of the election proceedings for or in conjunction with the other party.

(7) An election to which an agreement referred to in subsection (6) applies is valid despite the agreement and any bylaws in relation to it having the effect of creating differences in election proceedings between different parts of the trustee electoral area or other area for which an election is held.

(8) Without limiting subsection (6), an agreement referred to in that subsection may allow a board or local government to restrict the persons who may vote at the election proceedings conducted under the agreement to persons who are entitled to be registered as electors in relation to a specified part of the trustee electoral area or other area for which the election is held.

(9) If a restriction under subsection (8) applies, on any day on which an advance voting opportunity conducted under the agreement is open to electors of only part of a trustee electoral area, an advance voting opportunity must be open to all electors of the trustee electoral area on the same day.

(10) So long as any required advance voting opportunities are provided, no bylaw is necessary for an advance voting opportunity required by subsection (9), and the voting opportunity may be held at the place and for the voting hours established by the chief election officer.

(11) The chief election officer must give notice of a voting opportunity to which subsection (10) applies in any manner the chief election officer considers appropriate, including in the notice the date, place and voting hours for the voting opportunity.

[1998-34-302 effective Sept. 23/98, BC Reg. 311/98; 2000-7-191 effective June 12/00; am 2014-21-98, effective May 29/14; am effective Jan 1/16, BC Reg. 257/15]

Division 4 - Electors

Who may vote at an election

39 (1) In order to vote in a trustee election, a person

(a) must meet the qualifications under section 40 (1) (a) to (e) as a resident elector or section 41 (1) (a) to (f) as a non-resident property elector,

(b) must not be disqualified by this Act or any other enactment from voting in the election or be otherwise disqualified by law, and

(c) must be registered as or deemed to be registered as an elector of the trustee electoral area for which the election is being held.

(2) The following persons are disqualified from voting at a trustee election:

(a) a person who has not completed the sentence for an indictable offence, unless the person is released on probation or parole and is not in custody;

(b) a person who is involuntarily confined to a psychiatric or other institution as a result of being acquitted of or found not criminally responsible for an offence under the *Criminal Code* on account of mental disorder;

(c) *REPEALED 2014-21-99 effective May 29, 2014*

(d) a person who has contravened section 161 (3) of the *Local Government Act* or section 123 (3) of the *Vancouver Charter,* as those sections apply to trustee elections, in relation to the election.

(2.1) In addition to the persons referred to in subsection (2), a person who has filed a declaration under section 166.14 (5) is disqualified from voting at a trustee election to which the declaration applies.

(3) For clarification, no corporation is entitled to be registered as an elector or have a representative registered as an elector and no corporation is entitled to vote.

(4) A person must not vote more than once in a trustee election for any one school district.

(5) A person must not vote at a trustee election unless entitled to do so.

[1997-52-9 effective Aug. 1/97, BC Reg. 287/97; 2000-7-191 effective June 12/00; 2014-21-99, effective May 29/14; am effective Jan 1/16, BC Reg. 257/15]

Resident electors

40 (1) In order to vote as a resident elector of a trustee electoral area, a person must meet all the following requirements at the time of voting:

(a) the person must be an individual who is, or who will be on general voting day for the trustee election, 18 years of age or older;
(b) the person must be a Canadian citizen;
(c) the person must have been a resident of British Columbia, for at least 6 months immediately before that day;
(d) the person must have been a resident of the trustee electoral area for which the election is held for at least 30 days immediately before that day;
(e) the person must not be disqualified by this Act or any other enactment from voting in a trustee election or be otherwise disqualified by law.

(2) If the boundaries of a school district or a trustee electoral area are extended, a person is deemed to have satisfied the requirement of subsection (1) (d) if, for at least 30 days before the person applies for registration as an elector, the person has been a resident of the trustee electoral area in which the person resides.

[am 2014-21-100, effective May 29/14]

Non-resident property electors

41 (1) In order to vote as a non-resident property elector for a trustee electoral area, a person must meet all the following requirements at the time of voting:

(a) the person must not be a resident elector of that or any other trustee electoral area of the school district;
(b) the person must be an individual who is, or who will be on general voting day for the trustee election, age 18 or older;
(c) the person must be a Canadian citizen;
(d) the person must have been a resident of British Columbia for at least 6 months immediately before that day;
(e) the person must have been the registered owner of real property in the trustee electoral area for at least 30 days immediately before that day;
(e.1) the only persons who are registered owners of the real property, either as joint tenants or tenants in common, are individuals who are not holding the property in trust for a corporation or another trust;
(f) the person must not be disqualified by this Act or any other enactment from voting in a trustee election or be otherwise disqualified by law.

(2) A person may only register as a non-resident property elector in relation to one parcel of real property in a school district.

(3) If the boundaries of a school district or trustee electoral area are extended, a person is deemed to have satisfied the requirement of subsection (1) (e) if, for at least 30 days before the person applies for registration as an elector, the person has been a registered owner of property within the trustee electoral area in which the property is located.

(4) For the purposes of this section, the registered owner of real property means whichever of the following is applicable:

(a) the owner of a registered estate in fee simple of the property, unless another person holds an interest in the property referred to in paragraphs (b) to (d);

(b) the holder of the last registered agreement for sale, unless another person holds an interest in the property referred to in paragraph (c) or (d);

(c) the tenant for life under a registered life interest in the property, unless another person holds an interest in the property referred to in paragraph (d);

(d) the holder of a registered lease of the property for a term of at least 99 years.

(5) If there is more than one individual who is the registered owner of real property, either as joint tenants or tenants in common, only one of those individuals may register as a non-resident property elector under this section in relation to the real property.

(6) If the land title registration of the real property in relation to which a person is registering under this section indicates that there is more than one individual who is the registered owner of the real property, the individual registering must do so with the written consent of the number of those individuals who, together with the individual registering, are a majority of those individuals.

(7) A registered owner who has consented to the registration of another registered owner of the property may withdraw the consent by delivering a written withdrawal to the secretary treasurer of the board.

(8) Once a withdrawal of consent has been delivered in accordance with subsection (7), the person registered as the non-resident property elector in relation to the property ceases to be entitled to be registered and vote as such if the number of individuals referred to in subsection (6) falls below a majority of the registered owners, with this effective

(a) for the next election, in the case of a withdrawal delivered at least 52 days before general voting day for the election, and

(b) following the next election, in the case of a withdrawal delivered less than 52 days before general voting day for the election.

[2000-7-248 effective June 12/00]

Rules for determining residence

42 (1) The following rules apply to determine for the purposes of this Part the area in which a person is a resident:

(a) a person is a resident of the area where the person lives and to which, whenever absent, the person intends to return;

(b) a person may be the resident of only one area at a time for the purposes of this Part;

(c) a person does not change the area in which the person is a resident until the person has a new area in which the person is a resident;

(d) a person does not cease being a resident of an area by leaving the area for temporary purposes only.

(2) As an exception to subsection (1), if for the purposes of attending an educational institution a person establishes a new area in which the person is a resident away from the usual area in which the person is a resident, the person may choose for the purposes of this Part either the usual area or the new area as the area in which the person is a resident.

Registration as an elector

43 (1) In order to be registered as an elector of a trustee electoral area, a person must meet the requirements of section 39 (1) (a) and (b) on the date of registration.

(2) A person may be registered as an elector in only one trustee electoral area for any one school district.

(3) A person registers as an elector of a trustee electoral area by

(a) delivering an application form completed as required by the board to the election official responsible at the place where the person is voting or providing to that official the information required in the manner established by the chief election officer, and

(b) in the case of a person applying to register as a non-resident property elector, providing to the election official responsible at the place where the person is voting

(i) the address or legal description of the real property in relation to which the person is registering,

(ii) proof satisfactory to that official that the person is entitled to register in relation to that real property, and

(iii) if applicable, the written consent from the other registered owners of that real property required by section 41 (6).

(4) For the purposes of subsection (3), the requirements to be registered as an elector under this Act may be satisfied by meeting the requirements to register as an elector under the *Local Government Act* or the *Vancouver Charter* at the time of voting.

(5) A person is deemed to be registered as a resident elector of a trustee electoral area if both the following requirements are met:

(a) a list of registered electors is prepared for the municipality or regional district electoral area in which the person resides;

(b) the person is registered as a resident elector of the election area referred to in paragraph (a) before the date established for the close of advance registration as an elector of that election area.

(6) A person is deemed to be registered as a non-resident property elector of a trustee electoral area if all the following requirements are met:

(a) the person is not entitled to be registered as a resident elector of a trustee electoral area for the school district;

(b) a list of registered electors is prepared for the municipality or regional district electoral area in which the person owns the property;

(c) the person is registered as a non-resident property elector of the election area referred to in paragraph (b) in relation to that property before the date established for the close of advance registration as an elector of that election area .

(7) Subsection (2) does not apply in relation to deemed registration under subsection (6) but, for certainty, a person is not entitled to vote in a trustee election as an elector of more than one trustee electoral area or as both a resident elector and a non-resident property elector.

[2000-7-191 effective June 12/00; 2008-07-35, effective March 5, 2008; am 2014-21-101, effective May 29/14]

Non-resident property elector certificate

44 *REPEALED 2002-07-36, effective March 5, 2008*

Division 5 - Election Proceedings

Elections conducted by board

45 (1) For a trustee election conducted by a board for a school district other than School District No. 39 (Vancouver), Part 3 of the *Local Government Act*, as that Part applies to an election of electoral area directors, applies to the trustee election except as provided in this Part.

(2) For the purposes of subsection (1), the references in Part 3 of the *Local Government Act* are to be read in accordance with the following:

(a) a reference to a regional district board or local government is to be read as a reference to the board;

(b) a reference to a municipality or electoral area is to be read as a reference to a trustee electoral area;

(c) a reference to the designated local government officer or to the local government corporate officer is to be read as a reference to the secretary treasurer of the board;

(d) a reference to the minister charged with the administration of that Act is to be read as a reference to the minister responsible for this Act.

(3) For a trustee election conducted by the board of School District No. 39 (Vancouver), Part I of the *Vancouver Charter* applies to the election except as provided in this Part.

(4) For the purposes of subsection (3), the references in Part I of the *Vancouver Charter* are to be read in accordance with the following:

(a) a reference to the Council is to be read as a reference to the board;

(b) a reference to the city is to be read as a reference to a trustee electoral area;

(c) a reference to the City Clerk is to be read as a reference to the secretary treasurer of the board;

(d) a reference to the minister charged with the administration of that Act is to be read as a reference to the minister responsible for this Act.

(5) On the application of a board, the minister may, by order, except the board from its obligation to hold one or both of the advance voting opportunities that would otherwise be required.

(6) In order for a bylaw under this Part, or under Part 3 of the *Local Government Act* or Part I of the *Vancouver Charter* as those Parts apply to trustee elections, to apply to a trustee election, the board must adopt the bylaw at least 4 weeks before the first day of the nomination period for the trustee election.

(7) A board may exercise the authority of a municipal council under section 113 of the *Local Government Act* to establish voting divisions in relation to its trustee elections and, if this is done, that section applies.

(8) For the purpose of harmonizing a trustee election with a local government election being conducted at the same time, a board may, by bylaw, provide that the bylaws of the local government under Part 3 of the *Local Government Act* or Part I of the *Vancouver Charter* apply to the trustee election.

(9) As restrictions on subsection (8), a bylaw under that subsection may not provide that a local government bylaw under any of the following provisions applies to a trustee election:

(a) in relation to the *Local Government Act*,
  (i) section 86 (2) *[minimum number of nominators]*,
  (ii) section 88 *[nomination deposits]*,
  (iii) section 117 *[order of names on ballot determined by lot]*, and
  (iv) section 151 *[determination of election results by lot]*;

(b) in relation to the Vancouver Charter,
  (i) section 43 (2) *[minimum number of nominators]*,
  (ii) section 44.1 *[nomination deposits]*,
  (iii) section 79 *[order of names on ballot determined by lot]*, and
  (iv) section 113 *[determination of election results by lot]*.

(10) Subsection (8) applies even if a bylaw under that subsection has the effect of creating differences in election proceedings between different trustee electoral areas.

[1998-34-303 effective Sept. 23/98, BC Reg. 311/98; 1999-37-272 effective June 29/99; 2000-7-191 effective June 12/00; 2003-52-483 effective January 1, 2004; am 2014-21-102, effective May 29/14; am effective Jan 1/16, BC Reg. 257/15; am 2018-43-24, effective January 1, 2016]

Elections conducted by municipality

46 (1) Except as provided in this Act,

(a) Part 3 of the *Local Government Act*, as that Part applies to an election for municipal councillors, applies to a trustee election that is conducted under section 37 (1) or (2) by a municipality other than the City of Vancouver, and

(b) Part I of the *Vancouver Charter*, as that Part applies to an election for city councillors, applies to a trustee election that is conducted under section 37 (1) or (2) by the City of Vancouver.

(2) Section 45 (2) and (4) applies for the purposes of subsection (1).

(3) In the case of a trustee election conducted by a municipality under section 37 (1) or (2) at the same time as a general local election under the *Local Government Act* or the *Vancouver Charter*, except as provided in this Act the trustee election must be conducted as if it were part of the general local election.

(4) In relation to a trustee election referred to in subsection (1), the municipal council does not have authority to adopt a bylaw under a provision of the *Local Government Act* or *Vancouver Charter* referred to in section 45 (9), but, instead, the board may adopt bylaws under those sections for the trustee election.

(5) For a trustee election conducted by a municipality under section 37 (1) or (2), the board may give directions to the municipal chief election officer as to the form of ballot to be used for the trustee election.

[am 2014-21-103, effective May 29/14]

Candidate endorsement by elector organization

46.1 In order to endorse a candidate in a trustee election, an organization must have a membership that includes at least 50 electors of the school district at the time that the solemn declaration under section 93 (2) *[process for candidate endorsement by elector organization]* of the *Local Government Act* or section 45.4 (2) of the *Vancouver Charter*, as applicable, is made.

[1999-37-273 effective June 29/99; 2000-7-191 effective June 12/00; am 2014-21-103, effective May 29/14; en 2014-21-104, effective May 29/14; am effective Jan 1/16, BC Reg. 257/15]

Counting of the vote

47 The counting of the votes for a trustee election for any one trustee electoral area must not take place until the close of voting at all voting places for the school district.

Election offences

48 (1) For certainty, Division 18 *[Election Offences]* of Part 3 of the *Local Government Act* and Division (17) *[Election Offences]* of Part I of the *Vancouver Charter* apply in relation to the application of those Parts to trustee elections.

(2) In addition to the offences applicable as referred to in subsection (1), a person who contravenes section 39 (5) or 166.14 (7) of this Act commits an offence and is liable to the penalties provided in section 166 (3) of the *Local Government Act*.

(3) Sections 164 *[prosecution of organizations and their directors and agents]* and 165 *[time limit for starting prosecution]* of the *Local Government Act* apply in relation to offences under this section.

[1997-52-10 effective Aug. 1/97, BC Reg. 287/97; 1999-37-274 effective June 29/99; 2000-7-191 effective June 12/002000-7-191 effective June 12/00; 2008-07-35, effective March 5, 2008; en 2014-21-105, effective May 29/14; am effective Jan 1/16, BC Reg. 257/15]

Division 6 - Holding Office

General term of office

49 The term of office of a trustee elected at a general school election

(a) begins on the first Monday after November 1 following the election or when the person takes office in accordance with section 50 (3), whichever is later, and

(b) ends immediately before the first Monday after November 1 in the year of the next general school election or when at least 3 trustees elected at or appointed following that election have taken office, whichever is later.

en 2014-21-183, effective Jan 1/16

Oath of office

50 (1) A person elected or appointed as a trustee must make a prescribed oath of office, by oath or solemn affirmation, within the following applicable time limit:

(a) in the case of a person elected by acclamation, within 50 days after the date set for general voting day had an election by voting been required;

(b) in the case of a person elected by voting, within 45 days after the declaration of the results of the election;

(c) in the case of a person appointed to office, within 45 days after the effective date of the appointment.

(2) The oath must be made before a judge of the Court of Appeal, Supreme Court or Provincial Court, a justice of the peace, a local government corporate officer or the secretary treasurer of a board, and the person making the oath must obtain the completed oath or a certificate of it from the person administering it.

(3) A person takes office as trustee

(a) at the time the term of office begins if, at this time, the person produces or has produced the completed oath or certificate to the secretary treasurer, or

(b) at any later time that the person produces the completed oath or certificate to the secretary treasurer.

(4) A person taking office as a trustee may also make an oath of allegiance.

[1998-34-304 effective Sept. 23/98, BC Reg. 311/98; 2000-7-191 effective June 12/00; 2003-52-484 effective January 1, 2004]

Resignation from office

51 (1) A trustee may resign from office by giving written notice to the secretary treasurer of the board.

(2) The secretary treasurer must notify the board of a resignation at its next meeting after the resignation is received or, if there are no other trustees on the board, the secretary treasurer must notify the minister.

(3) A resignation is irrevocable after it is given to the secretary treasurer and is effective from the date a successor takes office or at an earlier date stated in the resignation.

Disqualification for failure to make oath or attend meetings

52 (1) If a person appointed or elected as a trustee does not make the oath required by section 50 within the time limit set by that section, the office to which that person was appointed or elected is deemed to be vacant and the person is disqualified from holding office as a trustee until the next general school election.

(2) If a trustee is continuously absent from board meetings for a period of 3 consecutive months, unless the absence is because of illness or with the leave of the board, the office of the member is deemed to be vacant and the person who held the office is disqualified from holding office as a trustee until the next general school election.

(3) If a person elected as a trustee is disqualified from holding office as referred to in section 33 (c), the office to which the person was elected is deemed to be vacant.

[1999-37-275 effective June 29/99; 2000-7-191 effective June 12/00; am 2014-21-106, effective May 29/14]

Removal of trustee following conviction for offence

53 (1) A trustee ceases to hold office on the 30th day following the date of any of the following:

(a) the trustee's conviction for an indictable offence;
(b) the trustee's conviction for an offence under section 163 (2);
(c) a decision of the Supreme Court, on the application of an elector of the school district, that the conviction of the trustee for any other offence renders the trustee unsuitable to perform the duties of a trustee.

(2) On the application of a trustee referred to in subsection (1), the Supreme Court may, by order, suspend the operation of that subsection for a period and on the terms the court considers appropriate.

Questions as to trustee qualifications

54 (1) Subject to Part 5 and subsection (2), the right of a trustee to hold office may be determined on application to the Supreme Court and, for this purpose, section 111 *[application to court for declaration of disqualification]* of the *Community Charter* applies.

(2) The office of a person declared disqualified on an application under subsection (1) must remain vacant if the decision is appealed and no election to fill the office may be held until the final determination of the matter or until the next general school election, whichever is earlier.

(3) As an exception to subsection (2), if fewer than 3 trustees remain in office, section 36 (5) applies to require that the vacant office be filled by election or appointment and section 112 (3) *[status of person subject to application]* of the *Community Charter* applies to the person elected or appointed to the vacant office and to the person declared qualified.

(4) A bylaw, resolution, contract or other proceeding of a board must not be set aside or declared invalid merely because

(a) a person sitting or voting as a member of the board was not qualified as a trustee at or before the time of the proceeding,
(b) a trustee renounces claim to office on a board,
(c) a trustee election was set aside or declared invalid after the proceeding, or
(d) the election of a trustee was set aside or declared invalid after the proceeding.

[1998-34-305 effective Sept. 23/98, BC Reg. 311/98; 2000-7-191 effective June 12/00; 2003-52-485 effective January 1, 2004]

PART 5 — CONFLICT OF INTEREST

Definitions

55 (1) In this Part:

"child" includes a person whom the trustee has demonstrated a settled intention to treat as a member of his or her family;

"controlling interest" means

(a) an interest that a trustee must disclose under section 5 (1) of the *Financial Disclosure Act*, or
(b) an interest in shares in a corporation carrying more than 10% of the votes for the election of the directors of the corporation, other than an interest by way of security only;

"court" means the Supreme Court;

"meeting" includes a meeting of a committee of trustees;

"pecuniary interest" means, with respect to a trustee, an interest in a matter that could monetarily affect the trustee and includes an indirect pecuniary interest referred to in section 56;

"parent" includes a person whom the trustee has demonstrated a settled intention to treat as a member of his or her family;

"senior officer" means a senior officer as defined in the *Business Corporations Act*;

"spouse" subject to subsection (2), means a person who

(a) is married to a trustee, or
(b) is living with a trustee in a marriage-like relationship, and has lived as such for a continuous period of at least 2 years.

(2) A person is not a spouse for the purposes of this Part if

(a) the person is separated and living apart from the trustee, and
(b) the person and the trustee
  (i) have entered into a written agreement under which they have agreed to live apart, or
  (ii) are subject to an order of the court recognizing the separation.

[2003-70-246, effective Mar. 29/04; am 2011-16-442, effective Nov 24/11]

Indirect pecuniary interest

56 For the purposes of this Part, a trustee has an indirect pecuniary interest in any matter in which the board is concerned if

(a) the trustee or the trustee's nominee
  (i) is a shareholder in or a director or senior officer of a corporation that does not offer its securities to the public, or

(ii) has a controlling interest in or is a director or senior officer of a corporation that offers its securities to the public,

and the corporation has a pecuniary interest in the matter, or

(b) the trustee is a partner of a person, is a member of a firm or is in the employment of a person or firm that has a pecuniary interest in the matter.

[2007-20-12, effective July 1/07, BC Reg 229/07]

Deemed pecuniary interest

57 For the purposes of this Part, the pecuniary interest of a spouse or of a parent or child of the trustee is, if known to the trustee, deemed to be also the pecuniary interest of the trustee.

Duty of trustee

58 (1) If a trustee has any pecuniary interest in any matter and is present at a meeting of the board at which the matter is considered, the trustee

(a) must at the meeting disclose his or her pecuniary interest and the general nature of the pecuniary interest,

(b) must not take part in the discussion of or vote on any question in respect of the matter, and

(c) must not attempt in any way, whether before, during or after the meeting, to influence the voting on any question in respect of the matter.

(2) If the meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection the trustee must immediately leave the meeting or the part of the meeting during which the matter is under consideration.

(3) If the pecuniary interest of a trustee is not disclosed as required by subsection (1) by reason of the trustee's absence from the meeting, the trustee must disclose the pecuniary interest and otherwise comply with the requirements of that subsection at the first meeting of the board attended by the trustee after the meeting referred to in that subsection.

Exceptions

59 Section 58 does not apply to a pecuniary interest in any matter that a trustee may have

(a) by reason of the trustee having a pecuniary interest in the matter which is a pecuniary interest in common with electors generally,

(b) by reason of the trustee being entitled to receive any indemnity, expenses or remuneration payable to one or more trustees in respect of the matter,

(c) by reason only that the trustee is a member of an association incorporated under the *Cooperative Association Act* or a credit union having dealings or contracts in respect of the matter with the board of the school district of which he or she is a trustee, or

(d) by reason only of a pecuniary interest of the trustee that is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the trustee.

[2004-48-137, effective Dec 31/04]

Record of disclosure

60 (1) If a meeting is open to the public, every disclosure of pecuniary interest and the general nature of it made under section 58 must be recorded in the minutes of the meeting.

(2) If a meeting is not open to the public, the fact that a disclosure of pecuniary interest was made under section 58, but not the general nature of that interest, must be recorded in the minutes of the next meeting that is open to the public.

Remedy for lack of quorum

61 (1) When the number of trustees who, because of this Part, are disqualified from participating in a meeting is such that at that meeting the remaining trustees are not of sufficient number to constitute a quorum, the board may apply to the court without notice to any person for an order authorizing the board to give consideration to, discuss and vote on the matter out of which the pecuniary interest arises.

(2) The court, on application under subsection (1) and after giving any direction as to service considered appropriate, may declare that section 58 does not apply to the board in respect of the matter in relation to which the application is brought, and the board may then give consideration to, discuss and vote on the matter in the same manner as though none of the trustees had any pecuniary interest in the matter, subject only to the conditions and directions that the judge may consider appropriate and so order.

Application to court

62 (1) Subject to subsection (3) an elector may, within 6 weeks after the fact comes to the elector's knowledge that a trustee may have contravened section 58, apply to the court for a determination of the question of whether the trustee has contravened section 58.

(2) The elector in the application must state the grounds for alleging a contravention of section 58 by the trustee.

(3) No application may be brought under subsection (1) after the expiration of 4 years from the time at which the contravention is alleged to have occurred.

Remedy

63 (1) Subject to subsection (2), if the court determines that a person, while holding the office of trustee, has knowingly contravened section 58, the court

(a) must, in the case of a person currently holding office as a trustee, declare the office of the trustee vacant, and

(b) may, if the contravention has resulted in financial gain, require the person to make restitution to the party suffering the loss or, if that party is not readily ascertainable, to the board of which the person is a trustee or former trustee.

(2) If the court determines that a person who is currently holding an office of trustee contravened section 58 and finds that the contravention was committed through inadvertence or because of an error in judgment made in good faith, the person is not subject to having his or her office declared vacant under subsection (1).

(3) An office declared vacant under subsection (1) must remain vacant if the decision is appealed, and no election to fill the office may be held until the final determination of the matter or until the next general school election, whichever is earlier.

Proceedings voidable

64 (1) The failure of any person to comply with the requirements of section 58 does not of itself invalidate any proceedings of the board, but the proceedings are voidable at the instance of the board before the expiration of 2 years from the date of the passing of the resolution or bylaw in respect of which the failure occurred.

(2) Subsection (1) applies unless to invalidate the proceedings would adversely affect the rights of another person who acquired those rights under or as a result of the proceedings and who acted in good faith and without actual notice of the failure to comply with section 58.

PART 6 — BOARDS OF EDUCATION

Division 1 - Corporate Status and Meetings

Board is a corporation

65 (1) The trustees elected or appointed under this Act for each school district and their successors in office constitute a board of education for the district and are continued as a corporation under the name of "The Board of Education of School District No. 5 (Southeast Kootenay)", or as the case may be.

(1.1) A board is responsible for the improvement of student achievement in the school district.

(2) A board may

(a) establish committees and specify the functions and duties of those committees,

(b) establish a district advisory council comprised of persons representing parents' advisory councils and other organizations in the community, and

(c) delegate specific and general administrative and management duties to one or more of its employees.

(3) Committees of trustees or individual trustees may not exercise the rights, duties and powers of the board.

(4) Unless expressly required to be exercised by bylaw, all powers of a board may be exercised by bylaw or by resolution.

(5) A board may exercise a power with respect to the acquisition or disposal of property owned or administered by the board only by bylaw.

Quorum

66 A quorum of a board is a majority of the trustees holding office at the time of the meeting of the board.

[2007-20-14, effective July 1/07, BC Reg 229/07]

Meetings and chair

67 (1) After the general local election of trustees in a school district, the secretary treasurer for that school district must convene a first meeting of the board as soon as possible and in any event within 30 days from the date that the new board begins its term of office.

(2) At the meeting convened by the secretary treasurer under subsection (1), the board must elect a chair and may elect a vice chair from among its members.

(3) A board must meet as often as is necessary to transact its business and in any event not less than once in every 3 months.

(4) A majority of the board may elect a new chair or vice chair at any time.

(5) A board must establish procedures governing the conduct of its meetings and must permit any person to inspect those procedures.

(5.1) Without limiting subsection (5), a board may establish procedures respecting the provision of advice by a district parents' advisory council to the board.

(6) A board may allow trustees to participate in or attend a meeting of the board by telephone or other means of communication if all trustees and other persons participating in or attending the meeting are able to communicate with each other.

(7) If a trustee participates in or attends a meeting of the board by telephone or other means of communication as provided under subsection (6), the trustee is to be counted for the purposes of establishing a quorum.

[1999-8-14 effective July 19/99, BC Reg. 223/99; 2002-53-15, effective July 01/02]

Passage of bylaws

68 (1) Before it is passed, a bylaw of the board must be given 3 distinct readings.

(2) Subject to subsection (3), at each of the readings of a bylaw, the bylaw must be read in full.

(3) A reading of a bylaw may, if a written or printed copy of a bylaw is in the possession of each trustee and is available to each member of the public in attendance at the meeting at which the bylaw is to be read, consist of a description of the bylaw by

(a) its title, and

(b) a summary of its contents.

(4) The board may not give a bylaw more than 2 readings at any one meeting unless the members of the board who are present at the meeting unanimously agree to give the bylaw all 3 readings at that meeting.

Attendance of public and secretary treasurer at meeting

69 (1) Subject to subsection (2), the meetings of the board are open to the public.

(2) If, in the opinion of the board, the public interest so requires, persons other than trustees may be excluded from a meeting.

(3) Despite subsection (2), the secretary treasurer or another employee designated by the board under subsection (4) must be present at the time that a decision of the board is rendered and must record any decision.

(4) If the secretary treasurer is unable to attend a meeting or if the meeting concerns the work performance or employment of the secretary treasurer, the board may designate another employee of the board to attend the meeting in place of the secretary treasurer to perform the duties of the secretary treasurer at the meeting.

Improper conduct at meetings

70 (1) The chair or other member presiding at a meeting of the board may expel from the meeting a person, other than a trustee, who the presiding member considers guilty of improper conduct.

(2) A majority of the trustees present at a meeting of the board may expel a trustee from the meeting for improper conduct.

(3) A person who disturbs, interrupts or disquiets the proceedings of a meeting of a board commits an offence.

Remuneration and expense allowance

71 (1) A board may

(a) authorize annually the payment of remuneration to the chair, vice chair and other trustees, and

(b) authorize annually the payment of a reasonable allowance for expenses necessarily incurred by trustees in the discharge of their duties.

(2) The board is responsible for any payments under subsection (1).

(3) The remuneration for the chair and vice chair may be greater than for the other trustees.

Minutes

72 (1) The minutes of the proceedings of all meetings of the board must be

(a) legibly recorded in a minute book,

(b) certified as correct by the secretary treasurer or other employee designated by the board under section 69 (4), and

(c) signed by the chair or other member presiding at the meeting or at the next meeting at which the minutes are adopted.

(2) Except for minutes of a meeting from which persons other than trustees or officers of the board, or both, were excluded, the minutes must be open for inspection at all reasonable times by any person, who may make copies and extracts on payment of a fee set by the board.

(3) A board must prepare a record containing a general statement as to the nature of the matters discussed and the general nature of the decisions reached at a meeting from which persons other than trustees or officers of the board, or both, were excluded, and the record must be open for inspection at all reasonable times by any person, who may make copies and extracts on payment of a fee set by the board.

Division 2 - Powers and Duties

Establishment and closure of schools

73 (1) A board may

(a) subject to the orders of the minister, open, close or reopen a school permanently or for a specified period of time, and

(b) temporarily close a school building if the health or safety of the students is endangered.

(2) The board may operate more than one school in a single building or location.

[2002-53-16, effective May 30/02]

Management of schools and property

74 (1) Subject to the orders of the minister, a board is responsible for the management of the schools in its school district and for the custody, maintenance and safekeeping of all property owned or leased by the board.

(2) A board must ensure that a principal, vice principal or director of instruction is responsible for each school in its school district.

[2002-53-17, effective May 30/02; 2015-11-12, effective May 14/15]

Video surveillance cameras

74.01 (1) A board may install and operate a video surveillance camera in a school facility or on school land for the purposes of protecting

(a) the safety of individuals in a school facility or on school land,

(b) an individual's belongings in a school facility or on school land, or

(c) school property

with the prior approval of the parents' advisory council for the school where the board proposes to install and operate a video surveillance camera.

(2) A parents' advisory council may make recommendations to a board to install and operate a video surveillance camera in a school facility or on school land for the purposes set out in subsection (1).

(3) If a board

(a) has installed and operates a video surveillance camera in a school facility or on school land before the date this section comes into force, or

(b) installs and operates a video surveillance camera in a school facility or on school land for the purposes set out in subsection (1),

the board must conduct an annual review that assesses if the installation and operation of the video surveillance camera is accomplishing a purpose set out in subsection (1).

(4) Subsections (1) to (3) do not apply to the installation and operation of a video surveillance camera in a school facility or on school land on a temporary basis for a specific investigative purpose.

(5) Subsection (1) does not apply to a video surveillance camera installed in a school facility or on school land before the date this section comes into force.

[2010-20-42 effective Sept 10/10, BC Reg 260/2010; 2015-11-13, effective July 1/15]

Enrolment in an educational program

74.1 (1) In this section:

"catchment area child" means a person

(a) of school age, and

(b) resident in the catchment area of the school;

"non-catchment area child" means a person

(a) of school age,

(b) resident in the school district, and

(c) not resident in the catchment area of the school;

"non-school district child" means a person

(a) of school age,

(b) resident in British Columbia, and

(c) not resident in the school district;

"previous school year" means the school year previous to the school year for which the person is applying to enrol in an educational program;

"school district child" means a catchment area child or a non-catchment area child.

(2) A board must enrol all persons who exercise their entitlement to enrol in an educational program under section 2 (1).

(3) A board may refuse to enrol a non-school district child under section 2 (2) if the child is

(a) a student suspended by a board under section 85 (2) (d), or

(b) a student to whom a board has refused to offer an educational program under section 85 (3).

(4) A board

(a) for each school year, must establish a date by which an application to enrol a person in an educational program must be received by the board for the purposes of this section,

(b) in respect of the date referred to in paragraph (a), may establish different dates for different grades, educational programs, schools or children defined in subsection (1), and

(c) may dispense with the application referred to in paragraph (a) and establish an alternative procedure to enrol a school district child who was enrolled in an educational program in the school district in the previous school year.

(5) If a board establishes an alternative application procedure under subsection (4) (c), the enrolment of a school district child remains subject to the priorities set out in this section.

(6) If a board determines that space and facilities are available at the school in which the educational program is made available, a person whose application was received by the board by the date established under subsection (4) is entitled to enrol in that educational program in the following descending order of priority:

(a) a catchment area child who, in the previous school year, attended the school at which the educational program is made available;

(b) a catchment area child;

(c) a non-catchment area child;

(d) a non-school district child.

(6.1) Despite subsection (6), a board may, subject to subsection (6.2), give priority to

(a) a catchment area child as if that child were a child described in subsection (6) (a) if, in the previous school year, the child attended a school from which the board reassigns students progressing through their educational program to the school at which the educational program is made available,

(b) a non-catchment area child or a non-school district child as if the child were a child described in subsection (6) (a) or (b) if the child, in the previous school year,

(i) attended the school at which the educational program is made available, or

(ii) attended a school from which the board reassigns students progressing through their educational program to the school at which the educational program is made available, and

(c) a sibling of a child described in subsection (6) (a) or paragraph (b) (i) of this subsection as if the sibling were a child described in subsection (6) (a) or (b) if the sibling does not attend school or attends a different school at the time the application under subsection (4) is made.

(6.2) The board must establish rules governing the exercise of its discretion under subsection (6.1) and must make those rules publicly available.

(7) If a board determines that space and facilities are available at the school in which the educational program is made available, a non-school district child referred to in subsection (6) is entitled to enrol in an educational program in priority to a school district child whose application was received by the board after the date established under subsection (4).

(8) A board must establish rules for determining priority between 2 or more persons having the same priority under this section.

(9) For the purposes of this section, a person's residency is determined as of the date the application to enrol the person is submitted to the board.

[2002-53-18, effective July 1/02; 2003-40-3, effective May 29, 2003]

Provision of educational program

75 (1) Subject to the other provisions of this Act and the regulations and to any orders of the minister under this Act, a board must make available an educational program to all persons of school age who enrol in a school in the district.

(2) A board may provide an educational program to persons referred to in subsection (1)

(a) in its own school district, or

(b) with the consent of a parent of the person referred to in subsection (1), in another school district or in a francophone school district.

(3) A board complies with subsection (1) if

(a) the educational program is provided by the board,

(b) with the approval of the minister, the educational program is provided by a Provincial school, or

(c) with the agreement of one or more other boards or a francophone education authority, and with any consent required under subsection (2) (b), the educational program is provided

(i) in full by another board or by the francophone education authority, or

(ii) in part by one or more other boards or the francophone education authority, and the remainder of the educational program, if any, is provided by the board.

(4) Subject to section 74.1, a board may assign and reassign students to specific schools or to educational programs referred to in subsection (3).

(4.01) Subject to subsection (4.1) and the orders of the minister, a board may deliver all or part of an educational program through online learning.

(4.1) A board may deliver an educational program, or part of an educational program, through online learning to the following persons only if the board has approval to provide the educational program under an agreement with the minister:

(a) a student, as defined in the *Independent School Act*;

(b) a student who is enrolled in an educational program provided by another board, or a francophone student;
(c) a student who is not resident in the board's school district;
(d) a child who is registered under section 13 with a school operated by another board, a francophone school or independent school.

(5) *REPEALED 2002-53-19 effective July 1, 2002*

(6) A board may recognize as part of a student's educational program an educational activity that is not provided by the board.

(7) Subject to the regulations, a board
(a) is responsible for evaluating all of the educational programs and services provided by the board, including services provided under an agreement under section 86 (1) (a), and
(b) must have students assessed and evaluated by a certificate holder.

(8) A board may, in accordance with any terms and conditions specified by the board, permit a person who is older than school age
(a) to attend an educational program, or
(b) to enrol and receive instruction in an educational program sufficient to meet the general requirements for graduation.

[1997-52-11 effective Aug. 1/97, BC Reg. 287/97; 1998-27-5 effective Oct. 23/98, BC Reg. 371/98; 2000-9-55, effective July 7, 2000, B.C. Reg. 243/00; 2002-53-19, effective July 1, 2002; 2002-53-19, effective May 30/02; 2006-21-9, effective June 30/06, BC Reg 195/06; am 2011-12-116, effective Jan 9/12, BC Reg. 239/11; am 2020-08-11, effective July 1, 2021]

Catchment areas

75.1 (1) A board must establish for each school in its school district, except for a Provincial resource program, a catchment area consisting of a geographical area around the school that includes all or part of the school district.

(2) A board may amend the catchment area established for a school under subsection (1).

[2002-53-20, effective July 1/02; 2006-21-10, effective June 30/06, BC Reg 195/06]

Conduct

76 (1) All schools and Provincial schools must be conducted on strictly secular and non-sectarian principles.

(2) The highest morality must be inculcated, but no religious dogma or creed is to be taught in a school or Provincial school.

(3) The discipline of a student while attending an educational program made available by a board or a Provincial school must be similar to that of a kind, firm and judicious parent, but must not include corporal punishment.

Class size

76.1 (1) *REPEALED 2012-22-14, effective July 1, 2012*

(2) A board must ensure that the size of any primary grades class in any school in its school district does not exceed

(a) for kindergarten, 22 students, and

(b) for grades 1 to 3, 24 students.

(2.1) Subject to subsection (2.4), a board must ensure that the class size of any class for any of grades 4 to 12 in any school in its school district does not exceed 30 students unless

(a) in the opinions of the superintendent of schools for the school district and the principal of the school, the organization of the class is appropriate for student learning, or

(b) the class is in a prescribed category of classes.

(2.2) A board must provide additional compensation, as prescribed, to a teacher of a class that, under subsection (2.1) (a), exceeds 30 students.

(2.3) Subsection (2.2) does not apply with respect to a teacher in a prescribed category of teachers.

(2.4) A board must ensure that the class size of a class in a prescribed category of classes does not exceed the prescribed number of students

(3) *REPEALED 2012-22-14, effective July 1, 2012*

(4) *REPEALED 2012-22-14, effective July 1, 2012*

(5) *REPEALED 2012-22-14, effective July 1, 2012*

[2002-3-12 effective Jan. 28/02; BC Reg. 245/02, effective Aug. 13/02; 2006-21-11, effective June 30/06, BC Reg 195/06; am 2012-22-14, effective July 1/12]

Organization of classes — consultation at the beginning of the school year

76.2 *REPEALED 2012-22-15, effective July 1, 2012*

[2006-21-12, effective June 30/06, BC Reg 195/06; am 2012-22-15, effective July 1/12]

Organization of classes — report

76.3 *REPEALED 2012-22-15, effective July 1, 2012*

[2006-21-12, effective June 30/06, BC Reg 195/06; 2007-20-15, effective July 1/07, BC Reg 229/07; am 2012-22-15, effective July 1/12]

Organization of classes — changes after date on report

76.4 *REPEALED 2012-22-15, effective July 1, 2012*

[2006-21-12, effective June 30/06, BC Reg 195/06; am 2012-22-15, effective July 1/12]

Special administrator — class size compliance

76.5 *REPEALED 2012-22-15, effective July 1, 2012*

[2006-21-12, effective June 30/06, BC Reg 195/06; am 2012-22-15, effective July 1/12]

Special administrator — compliance with consultation and reporting requirements

76.6 *REPEALED 2012-22-15, effective July 1, 2012*

[2006-21-12, effective June 30/06, BC Reg 195/06; am 2012-22-15, effective July 1/12]

Special administrator —general

76.7 *REPEALED 2012-22-15, effective July 1, 2012*

[2006-21-12, effective June 30/06, BC Reg 195/06; am 2012-22-15, effective July 1/12]

Authority of vice principal under section 76.1

76.8 If authorized by the principal of a school, the vice principal of the school may perform any duties of the principal under section 76.1.

[2006-21-12, effective June 30/06, BC Reg 195/06; am 2012-22-16, effective July 1/12]

School calendar

77 *REPEALED 2012-36-3, effective June 30, 2013*

[1999-8-15 effective June 29/99; 2002-3-13 effective Jan. 28/02; am 2012-36-3, effective July 1, 2012]

Standard school calendar

78 *REPEALED 2012-36-4, effective June 30, 2013*

[1999-8-16 effective June 29/99; 2002-3-14 effective Jan. 28/02; am 2012-36-4, effective July 1/12]

Extended day and year-round schooling

78.1 *REPEALED 2012-22-17, effective April 14, 2012*

[en 2012-22-17, effective Apr 14/12]

Student records

79 (1) Subject to the orders of the minister, a board must

(a) establish written procedures regarding the storage, retrieval and appropriate use of student records, and

(b) ensure confidentiality of the information contained in the student records and ensure privacy for students and their families.

(1.1) Subsection (1) applies also in respect of records referred to in paragraph (d) of the definition of "student record", even though those records are excluded from that definition.

(2) Despite subsection (1), a board must, if required by the orders of the minister, permit a person providing health services, social services or other support services access to information in student records required to carry out that service.

(3) Subject to the orders of the minister, a board must establish and maintain a record for each student and for each child registered with the board's schools under section 13.

[1999-8-17 effective June 29/99]

Transmitting records

79.1 (1) Despite section 79 (1), if a francophone education authority enters into an agreement with a board or with another francophone education authority for the provision of services, including the provision of all or part of an educational program or a francophone educational program, each party to the agreement must provide to the other party access to information in those student records that are necessary for the other party to satisfactorily perform the contract.

(2) Despite section 79 (1), if a student is enrolled with more than one board, each board must provide to the other access to information in those student records that is necessary for the other board to satisfactorily perform its obligations under this Act.

(3) Despite section 79 (1), if a student is enrolled

(a) in an independent school, but takes one or more courses through a school or francophone school by means of online learning, or

(b) in a school or francophone school, but takes one or more courses through an independent school by means of online learning,

each board, francophone education authority and authority of an independent school with which the student is enrolled must provide to the other access to information in those student records and permanent student records that is necessary for the other board, francophone education authority or authority of the independent school to satisfactorily perform its obligations under this Act or the *Independent School Act*, as applicable.

[1997-52-12 effective Aug. 1/97, BC Reg. 287/97, 2006-21-13 effective June 30/06, BC Reg 195/06; am 2020-8-12, effective July 1, 2021]

Achievement contracts

79.2 *REPEALED 2015-11-14, effective July 1, 2015*

[2002-3-21 effective May 30/02; 2007-20-16, effective November 1/07, BC Reg 229/07; 2015-11-14, effective July 1/15]

Report on student achievement

79.3 *REPEALED 2015-11-14, effective July 1, 2015*

[2007-20-17, effective July 1/07, BC Reg 229/07; 2015-11-14, effective July 1/15]

Administrative directives

79.4 *REPEALED 2015-11-14, effective July 1, 2015*

[2007-20-17, effective July 1/07, BC Reg 229/07; 2015-11-14, effective July 1/15]

Annual reports

80 *REPEALED 2002-53-22, effective May 30, 2002*

Reports

81 A board must prepare and submit to the minister reports and statements in the form, with the information and at the time required by the minister.

[2002-53-23, effective May 30/02]

District literacy plans

81.1 *REPEALED 2015-11-14, effective July 1, 2015*

[2007-20-18, effective July 16/07, BC Reg 229/07; 2015-11-14, effective July 1/15]

Fees and deposits

82 (1) A board must provide free of charge to every student of school age resident in British Columbia and enrolled in an educational program in a school operated by the board,

(a) instruction in an educational program sufficient to meet the general requirements for graduation,

(b) instruction in an educational program after the student has met the general requirements for graduation, and

(c) educational resource materials necessary to participate in the educational program.

(2) For the purposes of subsection (1), a student is resident in British Columbia if the student and the student's guardian are ordinarily resident in British Columbia.

(2.1) Subject to subsection (2.2), if a board permits a student who is older than school age and is ordinarily resident in British Columbia to enrol in an educational program leading to graduation, the board must provide free of charge to that student

(a) instruction in an educational program sufficient to meet the general requirements for graduation, and

(b) educational resource materials necessary to participate in the educational program.

(2.2) Subsection (2.1) does not apply to a student who has

(a) already met the general requirements for graduation, or

(b) completed the requirements for graduation from a secondary school or high school in another jurisdiction.

(3) Subject to subsections (1) and (2.1), section 82.4 and to the orders of the minister, a board may charge fees for goods and services provided by the board.

(4) A board may require a deposit for educational resource materials provided to students and to children registered under section 13.

(5) If a board requires a deposit under subsection (4), it must refund all or part of the deposit to the student or child on return of the educational resource materials.

(6) A board must publish a schedule of the fees to be charged and deposits required and must make the schedule available to students and to children registered under section 13 and to the parents of those students and children before the beginning of the school year.

(7) Except as provided in an agreement under section 75 (4.1), a board is not responsible to pay for any educational activity undertaken by a student that is not provided by the board.

[1998-27-6 effective Oct. 23/98, BC Reg. 371/98; 2000-9-55, effective July 7, 2000, B.C. Reg. 243/00; 2002-53-24, effective July 1/03, 2006-21-14 effective June 30/06, BC Reg 195/06; 2007-20-219, effective July 1/07, BC Reg 229/07; am 2011-16-443, effective March 18/13]

Specialty academies

82.1 (1) In this section, **"specialty academy"** means an educational program that emphasizes a particular sport, activity or subject area and meets the prescribed criteria set out in the regulations.

(2) A board may offer a specialty academy if

(a) the board has consulted with the parents' advisory council for the school where the board proposes to offer the specialty academy, and

(b) the board is of the opinion that there is sufficient demand for the specialty academy.

(3) A board that offers a specialty academy must

(a) make available sufficient instruction for students enrolled in the specialty academy to meet the general requirements for graduation, and

(b) continue to offer a standard educational program in the school district.

(4) Despite section 82, but subject to section 82.4, a board may charge a student enrolled in a specialty academy fees relating to the direct costs incurred by the board in providing the specialty academy that are in addition to the costs of providing a standard educational program.

(5) On or before July 1 of each school year, a board that offers a specialty academy must

(a) establish a schedule of fees to be charged under subsection (4), and

(b) make the schedule of fees available to the public.

(6) Before establishing a schedule of fees under subsection (5), a board must

(a) consult with the parents' advisory council for the school where the specialty academy is offered, and

(b) obtain the approval of that parents' advisory council for the schedule of fees.

[2007-20-20, effective July 1/07, BC Reg 229/07; effective January 1, 2009, BC Reg 219/2008; am 2012-36-5, effective July 1/12; 2015-11-15, effective July 1/15]

Trades programs

82.2 (1) In this section, **"trades program"** means an educational activity that is designed to certify a student for a particular occupation and includes an apprenticeship for students registered with the Industry Training Authority under the *Industry Training Authority Act*.

(2) Despite section 82, but subject to section 82.4, a board may do the following in relation to a student enrolled in an educational program that has a trades program component:

(a) charge fees for the purchase or rental of tools, equipment and materials necessary for the student's participation in the trades program;

(b) require the student to provide his or her own tools, equipment and materials necessary for the student's participation in the trades program.

[2007-20-20, effective July 1/07, BC Reg 229/07]

Musical instruments

82.3 (1) Despite section 82, but subject to section 82.4, a board may do the following in relation to a student described in subsection (2) of this section:

(a) charge fees for the purchase or rental of a musical instrument for the student's personal use;
(b) require the student to provide his or her own musical instrument.

(2) Subsection (1) applies to a student participating in, as part of an educational program,
(a) a music class, course or program, or
(b) a fine arts class, course or program with a music component.

[2007-20-20, effective July 1/07, BC Reg 229/07]

International Baccalaureate

82.31 (1) In this section and section 178, **"International Baccalaureate program"** means an educational program based on a curriculum developed and standards set by the International Baccalaureate Organization, a registered extraprovincial non-share corporation as defined in section 167 of the *Societies Act*.

(2) A board that offers an International Baccalaureate program must
(a) make available sufficient instruction for students enrolled in the International Baccalaureate program to meet the general requirements for graduation, and
(b) continue to offer a standard educational program in the school district.

(3) Despite section 82, but subject to section 82.4, a board may charge a student enrolled in an International Baccalaureate program fees relating to the direct costs incurred by the board in providing the International Baccalaureate program that are in addition to the costs of providing a standard educational program.

(4) If a board that offers an International Baccalaureate program charges fees under subsection (3), the board must, on or before July 1 of each school year,
(a) establish a schedule of fees to be charged under subsection (3), and
(b) make the schedule of fees available to the public.

[am 2012-36-6, effective July 1/12; am 2015-24-351, effective Nov 28/16]

Requirement for financial hardship policy

82.4 Sections 82 (3), 82.1 (4), 82.2, 82.3 and 82.31 (3) apply only to a board that has established policies and procedures to facilitate participation by students of school age ordinarily resident in British Columbia who would otherwise be excluded from the course, class or program because of financial hardship.

[2007-20-20, effective July 1/07, BC Reg 229/07; am 2012-36-7, effective July 1/12]

Financial assistance

83 (1) A board may

(a) assist in paying the cost of transportation, board or lodging of a student, or

(b) subject to the orders of the minister, assist in paying the cost of transportation, board, lodging or tuition fees of a person attending an educational institution outside of British Columbia.

(2) If a student is enrolled in an educational program that is delivered, in whole or in part, through online learning, the board may provide any financial assistance to the student that is authorized under an agreement under section 75 (4.1).

[2002-53-24, effective May 30/02, 2006-21-15 effective June 30/06, BC Reg 195/06; am 2020-8-13, effective July 1, 2021]

Insurance

84 (1) A board must maintain insurance in accordance with this Act and the regulations.

(2) A board may maintain insurance, other than insurance referred to in subsection (1), that the board considers necessary.

(3) Subject to the regulations, if the board maintains insurance, the board must be the named beneficiary of the insurance.

Power and capacity

85 (1) For the purposes of carrying out its powers, functions and duties under this Act, a board has the power and capacity of a natural person of full capacity.

(1.1) Without limiting subsection (1), a board must, subject to this Act and the regulations, and in accordance with Provincial standards established by the minister, establish a code of conduct for students enrolled in educational programs provided by the board.

(2) Without limiting subsection (1), a board may, subject to this Act and the regulations, do all or any of the following:

(a) determine local policy for the effective and efficient operation of schools in the school district;

(b) subject to the orders of the minister, approve educational resource materials and other supplies and services for use by students;

(c) make rules

(i) *REPEALED 2007-22-4, effective September 4, 2007*

(ii) respecting suspension of students and the provision of educational programs for suspended students,

(iii) respecting attendance of students in educational programs provided by the board,

(iv) respecting the establishment, operation, administration and management of

(A) schools operated by the board and educational programs provided by the board, and

(B) transportation equipment used for the purposes of the board,

(v) respecting the provision of volunteer services,

(vi) respecting the management of student housing facilities and the supervision of students accommodated in them, and

(vii) respecting any other matter under the jurisdiction of the board;

(d) suspend students, in accordance with the rules under paragraph (c) (ii), so long as the board continues to make available to those students an educational program;

(e) if approved by the council of the municipality in which the school is located, provide a system of traffic patrols to assist in the control of motor vehicle traffic on highways or elsewhere in that municipality so far as the traffic may affect students going to or from school;

(f) provide housing accommodation for students;

(g) subject to the orders of the minister, permit persons other than students to utilize board facilities, equipment and personnel;

(h) subject to the orders of the minister, evaluate and recognize educational activities of an educational program undertaken by a student outside of the school;

(i) develop and offer local programs for use in schools in the school district;

(j) subject to the orders of the minister, cause an educational assessment to be made of students or groups of students;

(k) establish loan funds or bursaries for students enrolled in an educational program in the school district and spend money received by donation.

(3) Despite any other provision of this Act, a board may refuse to offer an educational program to a student 16 years of age or older if that student

(a) has refused to comply with the code of conduct, other rules and policies referred to in section 6, or

(b) has failed to apply himself or herself to his or her studies.

(4) A rule made under subsection (2) (c) (v) must not permit volunteers to provide services that would result in the displacement of an employee.

(5) A rule that conflicts or is inconsistent with subsection (4) is void.

[2001-27-3, effective August 9, 2001; 2002-53-26, effective July 1/03; 2007-22-03, effective September 1/07, BC Reg 194/07]

Policies respecting child care programs

85.1 (1) In this section and in sections 85.2, 85.3 and 85.4:

"board property", in relation to a board, means land or improvements

(a) that are owned or leased by the board,

(b) that are within the board's school district, and

(c) that are, have been or are intended to be used for educational activities;

"business day" means a day other than Saturday or a holiday;

"educational activities" means the provision of educational programs, early learning programs and extracurricular school activities;

"licensee", in relation to a child care program, means the person licensed under the *Community Care and Assisted Living Act* to provide the child care program.

(2) A board must establish a policy that

(a) promotes the use of board property by licensees, between the hours of 7 a.m. and 6 p.m. on business days, for the purpose of providing a child care program, and

(b) addresses the matters set out in any orders of the minister.

[2020-8-14, effective March 5, 2020]

Boards may provide child care programs

85.2 (1) A board may provide a child care program on board property to students enrolled with the board if both of the following apply:

(a) the board is a licensee;

(b) the child care program is provided only on school days before or after school hours.

(2) If a board provides a child care program referred to in subsection (1), the board may charge fees to a student to whom the child care program is provided if the fees are not more than the direct costs incurred and to be incurred by the board in providing that child care program.

[2020-8-15, effective March 5, 2020]

Child care programs provided by others

85.3 (1) A board may permit a licensee to use board property for the purpose of providing a child care program.

(2) If a board permits a licensee to use board property for the purpose of providing a child care program, the board must ensure that any revenue obtained by the board from that use is not more than the direct and indirect costs incurred and to be incurred by the board in making the board property available to the licensee for that use.

[2020-8-15, effective March 5, 2002]

Use of board property for child care programs

85.4 If a child care program is provided on board property by the board or by a licensee other than the board, the board must ensure

(a) that the child care program is provided in accordance with the board's policy established under section 85.1 (2) and any orders of the minister, and

(b) that the provision of the child care program does not disrupt or otherwise interfere with educational activities.

[2020-8-15, effective March 5, 2020]

Agreements

86 (1) A board may, subject to this Act, the regulations and the orders of the minister,

(a) enter into an agreement to purchase or provide procurement, managerial, administrative or other services,

(a.1) enter into an agreement to purchase educational services that will be under the general supervision of an employee of the board who is a certificate holder, and

[am 2011-12-116, effective Jan 9/12, BC Reg. 239/11; 2015-11-16, effective May 14/15]

(b) enter into an agreement concerning the promotion, development or operation of recreational and community services.

(1.1) A board may, subject to this Act, the regulations and the orders of the minister, enter into an agreement with a francophone education authority to provide all or part of a francophone educational program and health and support services, including busing and educational resources, to one or more francophone students enrolled with that authority.

(1.2) A board may, subject to this Act, the regulations and the orders of the minister, enter into an agreement with one or more boards to provide health and support services, including busing and educational resources, to one or more students enrolled with that board.

(2) With the approval of the minister, a board may enter into an agreement with the government of Canada or any agency of the government of Canada with respect to the education of

(a) Indian children, or

(b) children of members of the Canadian Forces or other persons employed by the government of Canada.

(3) A board may enter into an agreement,

(a) with respect to the education of Indian children, with

(i) a council of a band as defined in the *Indian Act* (Canada), or

(ii) the council of an Indian band established by another Act of the government of Canada, and

(b) with respect to matters relating to education, with

(i) a participating First Nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), or

(ii) the First Nations Education Authority.

(3.01)In subsection (3) (b), **"education"** has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada).

(3.1) With the approval of the minister, a board may enter into an agreement with the Nisga'a Lisims Government with respect to the education of a Nisga'a child.

(3.2) In subsection (3.1), **"Nisga'a** child" and **"Nisga'a Lisims Government**" have the same meanings as in the Nisga'a Final Agreement as defined in the *Nisga'a Final Agreement Act*.

(3.3) A board may enter into an agreement with a treaty first nation with respect to the education of

(a) a treaty first nation member or constituent of the treaty first nation, or

(b) a student who is

(i) not a treaty first nations member or constituent of the treaty first nation, and

(ii) attending an educational institution operated by the treaty first nation under its own laws.

(4) A board may operate a Provincial resource program in accordance with an agreement with the minister.

(5) A board may operate an early learning program with the prior agreement of the Minister.

(6) For the purposes of subsection (1), if the minister has made an applicable order under section 168 (2) (s.3), a board may enter into an agreement only with a designated service provider.

[1997-52-13 effective Aug. 1/97, BC Reg. 287/97; 2000-2-61 effective May 5/00, BC Reg. 146/00; 2002-53-27, effective May 30/02, 2006-21-16 effective June 30/06, BC Reg 195/06; 2007-20-21, effective July 1/07, BC Reg 229/07; 2007-46-13, effective May 16/08 BC Reg 103/2008, 2007-41-158, effective Apr 3/08 BC Reg 55/2009; 2015-11-16, effective May 14/15]

Training of student teachers

87 (1) If a board receives a request from a university established under the *University Act* or an institution for the training of teachers established under any other Act for permission for student teachers to practise and observe teaching, the board must permit student teachers enrolled at the university or institution reasonable access to all classrooms and other school accommodation in accordance with arrangements made by the superintendent of schools for the purposes of practising teaching, supervising, observing teaching and any related duties.

(2) A student teacher engaged in any of the duties referred to in subsection (1) has the same disciplinary authority as a teacher in the school.

[2002-53-28, effective May 30/02]

Division 2.1 – School Calendars

School calendar

87.01 (1) In this section, **"school calendar year"** means either of the following:

(a) the school year;

(b) subject to subsection (4), a period of 12 consecutive months covered by a school calendar, if the school calendar is not based on the school year.

(2) A board must, in accordance with the regulations of the minister, prepare a school calendar for each school in its school district for each school calendar year.

(3) A school calendar prepared by a board under subsection (2)

(a) need not be based on the school year but, subject to subsection (4), must cover a period of 12 consecutive months,
(b) must set out all of the information prescribed by the minister,
(c) may include variations for one or more groups of students in a school, and
(d) may include any other information that the board considers necessary.

(4) A school calendar must cover a period of more than 12 consecutive months if necessary to ensure that it applies immediately on the expiration of the previous school calendar.

(5) A board must submit to the minister a school calendar prepared under subsection (2) at least 3 months before the expiration of the current school calendar unless the board has made available to the public a school calendar under subsection (9) for the next school calendar year.

(6) A board may, at the same time, submit to the minister up to 3 school calendars prepared under subsection (2) for each of up to 3 consecutive school calendar years.

(7) Before submitting a school calendar or school calendars, as applicable, under subsection (5) or (6), the board must, in accordance with the regulations of the minister, consult with parents of the students enrolled in the school and representatives of employees of the board assigned to the school.

(8) If, in the opinion of the minister, a school calendar or school calendars, as applicable, submitted by a board under subsection (5) or (6) do not comply with the regulations of the minister, the minister
(a) may amend the school calendar or school calendars, as applicable, within 30 days of receiving the school calendar or school calendars, as applicable, under subsection (5) or (6), and
(b) must notify the board of any amendments made under paragraph (a) as soon as practicable.

(9) Subject to subsection (10), a board must, at least one month before the expiration of the current school calendar, make available to the public the school calendar or school calendars, as applicable, submitted to the minister under subsection (5) or (6).

(10) If the minister amends a school calendar under subsection (8), a board must, at least one month before the expiration of the current school calendar, make available to the public the school calendar amended under that subsection.

(11) Subsections (9) and (10) do not apply to a board if the board has previously made available to the public a school calendar under subsection (9) for the next school calendar year.

School calendar — amendment

87.02 (1) A board may, in accordance with the regulations of the minister, amend a school calendar made available to the public by the board under section 87.01 (9) or (10) if, in the opinion of the board, an amendment is necessary.

(2) A school calendar amended under subsection (1) must comply with section 87.01 (3) and the regulations of the minister.

(3) The board must, as soon as practicable and, in any event, within 30 days of amending a school calendar under subsection (1), make available to the public the amended school calendar.

Requirement to comply with school calendar

87.03 A board must operate each school in its district in accordance with the following:

(a) the applicable school calendar made available to the public under section 87.01 (9) or (10);

(b) if the board amended the school calendar under section 87.02, the amended school calendar made available to the public under section 87.02 (3).

[am 2012-36-8, effective July 1/12]

Division 3 - Health and Other Support Services

Definitions for this Division

87.1 In this Division:

"minister of health" means the minister responsible for the administration of the *Public Health Act*

"school medical officer" means a medical health officer under the *Public Health Act* who is designated as a school medical officer under section 89(1) of this *Act*.

[2008-23-155, effective March 31, 2009, BC Reg 46/09]

Support services for schools

88 (1) A board must provide health services, social services and other support services for schools in accordance with any orders made by the minister.

(2) *REPEALED, BC Reg 49/09*

[2007-20-22, effective July 1/07, BC Reg 229/07; 2008-23-155, effective March 31, 2009, BC Reg 49/09]

School medical officer

89 (1) Each regional health board under the *Health Authorities Act* must designate a school medical officer for each school district.

(2) The minister of health may appoint persons other than school medical officers to perform any duties that he or she considers advisable in respect of the health inspection of schools, francophone schools and the students and francophone students of those schools.

(3) A school medical officer designated under subsection (1) has the same rights, powers and duties in respect of francophone schools located in the school district as that medical officer has for other schools in that district.

[1997-52-14 effective Aug. 1/97, BC Reg. 287/97; 2002-53-29, effective May 30/02; 2008-23-155, effective March 31, 2009, BC Reg 49/09]

Inspection and closure of school

90 (1) A school medical officer must, as required by the minister of health, cause an inspection to be made of school buildings and school surroundings and must report to the board and the minister of health fully and in detail the result of all examinations and set out any recommendations in the report.

(2) A school medical officer may require a board to close a school when the school medical officer considers that the health or safety of students is at risk.

[2002-53-29, effective May 30/02]

Examinations and reports by school medical officer

91 (1) A school medical officer may and when required by the minister of health must examine or cause examinations to be made as to the general health of students of the schools in the school district.

(2) If the school medical officer considers that the health condition of any student is such as to endanger the health or welfare of the students of a school or the employees of the board, the school medical officer must so report to the board, giving the name of the student concerned.

(3) The board must promptly act on a report under subsection (2) and must remove from a school a student whose health condition is reported by the school medical officer as being dangerous.

(4) A student who is removed from a school under subsection (3) must not be permitted to return to the school until he or she delivers to the board a certificate signed by the school medical officer permitting the student to return to the school.

(5) If a teacher, principal, vice principal or director of instruction suspects a student is suffering from a communicable disease or other physical, mental or emotional condition that would endanger the health or welfare of the other students, the teacher, the principal, vice principal or the director of instruction

(a) must report the matter to the school medical officer, to the school principal and to the superintendent of schools for the district, and

(b) may exclude the student from school until a certificate is obtained for the student from the school medical officer, a private medical practitioner or a private nurse practitioner permitting the student to return to the school.

[am 2011-10-19, effective Aug 1/12, BC Reg 121/12]

(6) If a student is removed or excluded from school under subsection (3) or (5), the board must continue to make available to the student

(a) if the student is enrolled in more than one educational program, the educational program for which the board is responsible, or

(b) in any other case, an educational program.

[2002-53-30, effective May 30/02, 2006-21-17 effective June 30/06, BC Reg 195/06]

Board may require employee to undergo examination

92 (1) In this section, "contractor" means a person who is not an employee of a board and

(a) is present at a school, or

(b) has contact with one or more students,

because of a contract with a board.

(2) On the advice of the school medical officer, a board may, by notice to an employee of the board or to a contractor, require the employee or the contractor to undergo an examination

(a) by a medical practitioner, and to submit to the school medical officer a certificate signed by the medical practitioner setting out the medical practitioner's conclusions regarding the physical, mental and emotional health of the employee or contractor, or

(b) by a qualified person designated by the minister of health, and to submit to the school medical officer a certificate signed by the person conducting the examination setting out the person's conclusions regarding the physical, mental and emotional health of the employee or contractor.

(3) If an employee fails without reasonable excuse to take the examination required under subsection (2) within 14 days from the date of receiving notice from the board under that subsection, the board may summarily dismiss the employee.

(4) If a certificate submitted to the school medical officer under subsection (2) shows that the physical, mental or emotional health of the employee examined is such as to endanger the health or welfare of the students of the school, the board must

(a) suspend the employee and not permit the employee to return to his or her duties until the board receives from the employee a certificate signed by the school medical officer permitting the employee to return to his or her duties, and

(b) if the employee is a certificate holder, report the circumstances to the commissioner.

(5) An employee who fails to take an examination required under subsection (2) or who is suspended under subsection (4) must not be offered or accept a position with a board or a francophone education authority until the employee submits to the board or francophone education authority a medical certificate satisfactory to the board or francophone education authority or, if the employee is a certificate holder, satisfactory to the director of certification.

(6) An employee who is granted a superannuation allowance on medical evidence of total and permanent disability must not be offered or accept a position with a board or a francophone education authority until he or she submits to the minister a medical certificate, satisfactory to the minister, that the disability no longer exists.

(7) If a contractor fails to take the examination required under subsection (2) within 14 days from the date of receiving notice from the board under that subsection, the board may require the person who entered into the contract with the board to provide a replacement contractor.

(8) Expenses necessarily incurred by a board under this section must be included in the operating expenses of the board.

[1997-52-15 effective Aug. 1/97, BC Reg. 287/97; 2002-53-31, effective May 30/02; am 2011-12-117, effective Jan 9/12, BC Reg. 239/11]

Division 4 - Limitation of Actions and Indemnification

Interpretation

93 In this Division, a reference to a trustee, officer or employee includes a former trustee, officer or employee.

Actions against board

94 (1) No action for damages lies or may be instituted against a trustee, an officer or an employee of a board for anything said or done or omitted to be said or done by him or her in the performance or intended performance of his or her duty or the exercise of his or her power or for any alleged neglect or default in the performance or intended performance of the duty or the exercise of the power.

(1.1) No action for damages lies or may be instituted against a volunteer for anything said or done or omitted to be said or done by him or her 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 volunteer.

(2) Subsection (1) and (1.1) do not provide a defence if

(a) the trustee, officer or employee or volunteer has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or willful misconduct, or

(b) the cause of action is libel or slander.

(3) No action may be brought against a trustee, an officer or an employee of a board or a student or volunteer in respect of personal or other injuries sustained by a person arising out of the operation by the board of traffic patrols.

(4) Subsections (1), (1.1) and (3) do not absolve a board from vicarious liability arising out of a tort committed by the trustee, officer or employee of the board, student or volunteer for which the board would have been liable had subsections (1), (1.1) and (3) not been in force.

[2001-27-4, effective August 9, 2001]

Indemnification against proceedings

95 (1) A board may, by bylaw, provide that the board will indemnify a trustee, an officer or an employee of the board

(a) against a claim for damages against a trustee, officer or employee of the board arising out of performance of his or her duties, or

(b) if an inquiry under the *Public Inquiry Act* or other proceeding involves the administration and conduct of the business of the school district

and, in addition, may pay legal costs incurred in proceedings arising out of the claim or inquiry or other proceeding.

(2) A board may, by an affirmative vote of not less than 2/3 of all its members, pay

(a) any sum required to indemnify a trustee, an officer or an employee of the board if a prosecution arises out of the performance of his or her board duties, and

(b) costs necessarily incurred,

but the board must not pay a fine imposed on a trustee, officer or employee as a result of his or her conviction.

(3) A board must not seek indemnity against a trustee, an officer or an employee of the board in respect of any action of the trustee, officer or employee that results in a claim for damages against the board, but the board may seek indemnity

(a) against a trustee, officer or employee if the claim for damages arises out of the gross negligence of the trustee, officer or employee, or

(b) against an officer or employee if, in relation to the action that gave rise to the claim for damages against an officer or employee, the officer or employee wilfully acted contrary to

(i) the terms of his or her employment, or

(ii) an order of a superior.

[2007-06-40, effective July 11/07, BC Reg. 226/07; 2007-20-23, effective July 1/07, BC Reg 229/07]

PART 6.1 – COMPANIES

Division 1 – Interpretation

Definitions

95.1 (1) In this Part:

"annual reference date" means, for an annual reference period applicable to a company,

(a) the date in that annual reference period on which the company holds its annual general meeting, or

(b) if the company does not hold an annual general meeting in that annual reference period, the last day of that annual reference period,

and includes the first annual reference date applicable to that company under section 95.42 (2);

"annual reference period" means, in relation to a company, the period that

(a) begins on

(i) the date of the recognition of the company, or

(ii) if the company has had one or more annual reference dates, the day following the date of the most recent of those annual reference dates, and

(b) ends on the date by which the company is required, under section 95.42 (1) without reference to section 95.42 (3), to hold the annual general meeting that is to follow the date referred to in paragraph (a) of this definition;

"board" includes a francophone education authority;

"company" means a corporation incorporated under this Part;

"director" has the same meaning as in section 1 (1) of the *Business Corporations Act*;

"incorporation bylaw" means a bylaw referred to in section 95.2 (1) (a);

"member" means, in relation to a company, the board that incorporates the company, or, if the board disposes of the share referred to in section 95.25 (1), the person who owns the share;

"memorandum" means, for a company that was incorporated before the date of the coming into force of section 260 of the *Business Corporations Amendment Act, 2003* and that has not complied with section 436 (1) (a) and (b) of the *Business Corporations Act,* the record that constituted the company's memorandum under the *Company Act,* R.S.B.C. 1996, c. 62, immediately before that date;

"notice of articles" means the record described in section 95.2 (3);

"registrar" has the same meaning as in the *Business Corporations Act*.

(2) In this Part, in respect of a francophone education authority incorporating a company or a company incorporated by it, a reference in this Part

(a) to "secretary treasurer" must be read as a reference to "secrétaire trésorier", and

(b) to "trustee" must be read as a reference to "director" as defined in section 166.1.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-247, effective Mar. 29/04; 2007-22-05, effective July 1, 2007, BC Reg. 194/07; 2007-22-29, effective July 1, 2007, BC Reg. 194/07]

Definitions – application of the *Business Corporations Act*

95.11(1) Section 1 of the *Business Corporations Act,* except for the definitions of "annual reference date", "annual reference period", "company", "incorporation agreement", "memorandum", "shareholder" and "special Act corporation", applies for the purposes of this Part.

(2) For the purposes of this Part, a reference in the *Business Corporations Act*

(a) to a form under the *Business Corporations Act* or set out in the schedules to that Act must be read as a reference to the corresponding form prescribed by the Lieutenant Governor in Council under this Act or, if none, to the form under that Act with the necessary changes to adapt the form for the purposes of this Act,

(b) to "this Act" must be read as a reference to this Part and the provisions of the *Business Corporations Act* that apply for the purposes of this Part,

(b.1) to "annual reference date" must be read as a reference to "annual reference date", as defined in section 95.1 (1),

(b.2) to "annual reference period" must be read as a reference to "annual reference period", as defined in section 95.1 (1),

(c) to "company" must be read as a reference to "company", as defined in section 95.1 (1),

(d) to "incorporation agreement" must be read as a reference to "incorporation bylaw", as defined in section 95.1 (1),

(e) to "memorandum" must be read as reference to "memorandum", as defined in section 95.1 (1), and

(f) to "minister" must be read as a reference to the minister who is responsible for the administration of this Act,

(g) to "notice of articles" must be read as a reference to "notice of articles", as defined in section 95.1 (1),

(h) to "shareholder" must be read as a reference to "member", as defined in section 95.1 (1),
and

(i) to "special Act corporation" must be read as a reference to "company", as defined in section 95.1 (1).

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-248, effective Mar. 29/04; 2007-22-06, effective July 1, 2007, BC Reg. 194/07; 2015-11-17, effective May 14/15]

95.12 *REPEALED: BC Reg 194/07*

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-249, effective Mar. 29/04; 2007-22-07, effective July 1, 2007, BC Reg. 194/07]

Division 2 – Incorporation

Formation of company

95.2 (1) A board may form a company by

(a) adopting, by bylaw,

(i) a notice of articles that complies with subsection (3), and

(ii) articles that comply with subsection (4)

(b) filing with the registrar an incorporation application that complies with subsection (2), and

(c) complying with this Division.

(2) The incorporation application filed under subsection (1) (b) must

(a) comply with section 10 (3) of the *Business Corporations Act*, and

(b) set out, as the incorporator, the board incorporating the company.

(3) The notice of articles contained in the incorporation application must

(a) set out the name of the company in accordance with section 95.24 of this Act,

(b) set out the following for each of the individuals who are to be the first directors:

(i) the full name of the individual;

(ii) the residential address of the individual, and

(c) comply with section 11 (a), (d), (e) and (f), of the *Business Corporations Act*.

(4) The articles must

(a) set out every restriction, if any,

(i) on the business that may be carried on by the company, and

(ii) on the powers that the company may exercise,

except those restriction set out in this Part, and

(b) comply with section 12 (1) and (2) (c) of the *Business Corporations Act*.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-250, effective Mar. 29/04]

Formation of companies – signature on articles

95.21 The articles of a company must

(a) have a signature line with the full name of the board proposing to form the company set out legibly under the signature line, and

(b) be signed on the applicable signature line by the secretary treasurer of that board.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-250, effective Mar. 29/04]

Effect of incorporation

95.22 The member of the company, is, on and from the date of the incorporation mentioned in the certificate of incorporation, a company incorporated under this Act with the name contained in the notice of articles, capable immediately of exercising the functions of an incorporated company with the powers and with the liability on the part of the member provided in this Part.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-251, effective Mar. 29/04]

Formation of companies – application of the *Business Corporations Act*

95.23 Sections 12 (4) and (5), 13, 14, 15, 18, 19 and 420 of the *Business Corporations Act* apply for the purpose of this Part.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-252, effective Mar. 29/04]

Company without a member

95.231 A company must not carry on business without a member but, if at any time it carries on business without a member for more than 6 months, every director and officer of the company during the time that it so carries on business is jointly and severally liable for the payment of all the debts of the company contracted during that time.

[2003-70-252, effective Mar. 29/04, BC Reg. 64/04]

Corporate name

95.24 (1) The name of a company incorporated under this Part by a board, except a company incorporated by a francophone education authority, must be "School District No. X Business Company", where X is the school district number in the name of the board.

(2) The name of a company incorporated under this Part by a francophone education authority must be "Entreprise compagnie du X", where X is the name of the francophone education authority incorporating the company.

(3) Subject to section 95.81, a person must not use in British Columbia any name of which “School District” of “Francophone Education Authority” or any abbreviation of them, is part unless the name is in the form required by this section 95.24 and is used by a company the share of which is owned by the board or Francophone Education Authority indicated by the name.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-253, effective Mar. 29/04]

Share capital

95.25 (1) The authorized share structure of a company is one common voting share without par value.

(2) On the incorporation of a company under this Part, the share referred to in subsection (1) is deemed to be issued without consideration to the board incorporating the company.

[2002-53-32, effective July 19/02, BC Reg. 213/02, 2003-70-254, effective Mar. 29/04]

Member of one company

95.26 A board must not be the member of more than one company.

[2002-53-32, effective July 19/02, BC Reg. 213/02]

Capacity and powers – application of the *Business Corporations Act*

95.27(1) Sections 30 to 33, 228 (2) and (3) and 421 of the *Business Corporations Act* apply for the purposes of this Part.

(2) For the purposes of subsection (1) of this section, a reference in section 228 (2) or (3) of the *Business Corporations Act* as it applies for the purposes of this Part to a complainant in relation to a company is deemed to mean a director, an officer, a shareholder, an employee, an agent, an auditor, a trustee, a receiver, a receiver manager or a liquidator of the company.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-255, effective Mar. 29/04]

95.28 *REPEALED: BC Reg. 194/07*

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2007-22-08, effective July 1, 2007, BC Reg. 194/07]

Company offices – application of the *Business Corporations Act*

95.29 Sections 34 to 38 of the *Business Corporations Act* apply for the purposes of this Part.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-256, effective Mar. 29/04]

Division 3 – Finance

Share transfer

95.3 Unless otherwise authorized by the Lieutenant Governor in Council, a member must not encumber or dispose of an interest in the share of a company.

[2002-53-32, effective July 19/02, BC Reg. 213/02]

Guarantees and indemnities

95.31(1) A board must not

(a) give an indemnity to or for the benefit of a company, or

(b) guarantee the performance of an obligation of a company.

(2) A board is not liable on a guarantee or indemnity given in contravention of subsection (1).

[2002-53-32, effective July 19/02, BC Reg. 213/02]

Shares and liabilities of members – application of the *Business Corporations Act*

95.32 Sections 57, 87 (1), 107, 109 and 110 of the *Business Corporations Act* apply for the purposes of this Part.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-257, effective Mar. 29/04]

Loans and transfers to a company

95.33(1) A board must not give, loan or otherwise provide to a company, directly or indirectly, money from a grant under this Act.

(2) Unless otherwise authorized by the minister, a board must not provide any property or services to or for the benefit of a company for consideration that

(a) includes shares of a corporation, or

(b) is less than the fair market value of the property or services provided by the board.

[2002-53-32, effective July 19/02, BC Reg. 213/02]

Borrowings – application of the *Business Corporations Act*

95.34 Divisions 8 to 10 of Part 3 of the *Business Corporations Act* apply for the purposes of this Part.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-258, effective Mar. 29/04]

Division 4 – Management

Number of directors

95.4 (1) A company must have at least 3 directors.

(2) Subject to subsection (3), if a board is the member of a company, the secretary treasurer or a trustee of the board must be one of the directors of the company.

(2.1) A majority of the directors of a company must be individuals each of whom is not

(a) a trustee, employee or contractor of the board,

(b) a spouse, parent, child or partner of a trustee or employee of the board, or

(c) a spouse, parent, child, shareholder, director, officer or partner of a contractor of the board.

(3) The minister may order that subsection (2) does not apply to a company.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2007-22-09, effective July 1, 2007, BC Reg. 194/07]

Management – application of *Business Corporations Act*

95.41 Section 24 and 27 and Part 5, other than sections 120, 147 (4), 149 (3), 169, 182 to 185, and 195 (2) and (4), of the *Business Corporations Act,* apply for the purposes of this Part.

[2007-22-02, effective July 1, 2007, BC Reg. 194/07]

Residence of majority of directors

95.411(1) The majority of the directors of every company must be persons ordinarily resident in Canada.

(2) One director of every company must be ordinarily resident in British Columbia.

Financial assistance restricted

95.412 A company must not give financial assistance to a person, directly or indirectly, by way of loan, guarantee, the provision of security, or otherwise, unless there are reasonable grounds for believing that, or the directors are of the opinion that, the giving of the financial assistance is in the best interests of the company.

When loans and guarantees prohibited

95.413 (1)Without limiting section 95.412, a company must not give financial assistance to a person, directly or indirectly, by way of loan, guarantee, the provision of security, or otherwise, if

(a) at the time of the giving of financial assistance the company is insolvent, or

(b) in the case of a loan, the giving of the loan would render the company insolvent.

(2) The court, on the application of a director of a company, may declare that, in view of all the circumstances, the company is insolvent, or that the proposed giving of financial assistance would render the company insolvent.

Contract enforceable

95.414 Despite a contract to which a company is a party being made in contravention of section 95.412 or 95.413, a good faith lender for value without notice, or the company, may enforce the contract.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-259, effective Mar. 29/04, B.C. Reg. 64/04]

Annual general meetings

95.42 (1) Subject to subsection (3), a company must hold an annual general meeting,

(a) for the first time, not more than 15 months after the date on which it is recognized, and

(b) after its first annual reference date, at least once in each calendar year, no later than 3 months after the end of its fiscal year.

(2) For the purposes of subsection (1) (b), a company has, as its first annual reference date, the date that is 15 months after the recognition of the company.

(3) On the application of the company, the minister may, if satisfied that it is appropriate to do so, and on the terms and conditions the minister considers appropriate, allow the company to hold an annual general meeting on a date that is later than the date by which the meeting is required to be held under subsection (1).

(4) A company must, subject to the regulations, publish notice of the date, time and location of each annual general meeting of the company, at least 21 days but not more than 3 months before the meeting.

(5) The accidental omission to publish or an inadvertent defect in a notice of an annual general meeting does not invalidate any proceedings at that meeting.

[2007-22-11, effective July 1, 2007, BC Reg. 194/07]

Attendance of public and secretary treasurer at meetings

95.43(1) Subject to subsection (2), the annual general meetings of a company are open to the public.

(2) If, in the members' opinion, the public interest so requires, persons other than trustees may be excluded from a portion of a meeting, provided that at least the following business must be conducted in public:

(a) presentation and consideration of the annual report including the audited financial statements of the company;
(b) appointment of directors of the company;
(c) appointment of the auditor of the company.

(3) Despite subsection (2), the secretary treasurer or a director or employee of the company designated by the directors under subsection (4) must be present at the time that a decision of the members is rendered and must record any decision.

(4) If the secretary treasurer is not a director of the company or is unable to attend a meeting or if the meeting concerns the performance of the secretary treasurer as a director, the directors may designate another director or employee of the company to attend and chair the meeting.

[2007-22-11, effective July 1, 2007, BC Reg. 194/07]

Improper conduct at meetings

95.44(1) The chair presiding at a meeting of a company may expel from the meeting a person, other than a trustee, whom the chair considers guilty of improper conduct.

(2) A majority of trustees present at a meeting of a company may expel a trustee from the meeting for improper conduct.

(3) A person who disturbs, interrupts or disquiets the proceedings of a meeting of a company commits an offence.

[2007-22-11, effective July 1, 2007, BC Reg. 194/07]

Minutes of proceedings

95.45(1) The minutes of the proceedings of all meetings of a company must be

(a) legibly recorded in a minute book,
(b) certified as correct by the secretary treasurer or other person designated by the directors under section 95.43 (4), and
(c) signed by the chair presiding at the meeting or at the next meeting at which the minutes are adopted.

(2) Except for minutes of a meeting from which persons other than trustees are excluded, the minutes must be open for inspection at all reasonable times by any person.

(3) A company must prepare a record containing a general statement as to the nature of the matters discussed and the general nature of the decisions reached at a meeting from which persons other than the trustees were excluded, and the record must be open for inspection at all reasonable times by any person.

(4) On request and on payment of the fee, if any, charged under subsection (5), any person is entitled to receive copies of minutes or records open for inspection under subsections (2) and (3).

(5) A company may, for copies of minutes or records provided under subsection (4), charge a fee that does not exceed the cost to the company of providing the copies.

[2007-22-11, effective July 1, 2007, BC Reg. 194/07]

Division 5 - Records

Examination of records

95.5 (1) The member of a company may, without charge, examine and take extracts from the records, documents and instruments of the company that are referred to in section 42 of the *Business Corporations Act*, as that section applies to this Part.

(2) A debenture holder of a company may, without charge, examine and take extracts from the records, documents and instruments of the company that are referred to in section 42 of the *Business Corporations Act*, as that section applies to this Part, except those records, documents and instruments referred to in section 42 (1) (1) and (m) of the *Business Corporations Act*.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-260, effective Mar 29/04]

Inspection of accounting records

95.51 The accounting records of a company must be open to the inspection of the member during the normal business hours of the company.

[2002-53-32, effective July 19/02, BC Reg. 213/02]

Records – application of the *Business Corporations Act*

95.52 (1) Sections 42, other than sections 42 (1) (d) and (r) and (2) (e) (ii), 43 to 46, other than section 46 (3) and (8), 48, 49, 50, 196, other than section 196 (4), 426 (1) (a), (c) and (d) and (3) to (7) and 432 (7) (a) and (c) of the *Business Corporations Act* apply for the purposes of this Part.

(2) A company may, by an ordinary resolution, impose restrictions on the times during which a person, other than a current director or shareholder, may inspect the company's records under this section, but those restrictions must permit inspection of those records during the times set out in the regulations.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-7-261, effective Mar. 29/04: 2007-22-12, effective July 1, 2007, BC Reg. 194/07]

Annual report

95.53 (1) In each fiscal year, the directors of a company must prepare an annual report that includes the following:

(a) financial statements in respect of the immediately preceding fiscal year;
(b) the auditor's report submitted to the company under section 95.63 (1) (d);
(c) information sufficient for the reader to understand the general nature of the business activities carried out in the previous fiscal year;
(d) general information about planned business activities.

(2) The financial statements required under subsection (1) must be prepared by the directors of the company on or before September 15 in each year, in accordance with

(a) generally accepted accounting principles, and
(b) the directions of the minister.

(3) The financial statements may include separate statements of special activities of the company if the items of account of a controlling nature are set out in the statements referred to in subsection (2).

(4) The financial statements must include a schedule of transactions between the company and the board.

(5) The financial statements referred to in subsection (2) must be

(a) approved by the directors of the company, and
(b) signed by one or more of the directors to confirm that approval has been obtained.

(6) The company must, not later than September 30 in each year, make available to the public and forward to the minister a copy of the annual report.

[2007-22-13, effective July 1, 2007, BC Reg. 194/07]

Division 6 – Audits

Audit committee

95.6 (1) The directors of a company must elect at their first meeting following each annual general meeting a committee, to be known as the audit committee, composed of at least 3 directors to hold office until the next annual general meeting.

(2) The secretary treasurer or a trustee of the board that is the member of the company must be a member of the audit committee and must chair the audit committee.

(3) At every meeting of the audit committee,
(a) a quorum consists of a majority of the members of the committee, and
(b) the chair must be present.

(4) Subject to subsection (2) and (3), the audit committee may determine its own procedures.

[2002-53-32, effective July 19/02, BC Reg. 213/02]

Audits -- application of the *Business Corporations Act*

95.61 The following provisions of the *Business Corporations Act* apply for the purposes of this Part:

(a) section 202 *[definition]*;
(b) section 205 *[persons authorized to act as auditors]*;
(c) section 206 *[independence of auditors]*;
(d) section 207 *[remuneration of auditors]*;
(e) section 208 *[capacity to act as auditor]*;
(f) section 209 *[removal of auditor during term]*;
(g) section 211 *[replacement auditor]*;
(h) section 214 *[shareholders' ability to require auditor to attend general meetings]*;
(i) section 216 *[amendment of financial statements and auditor's report]*;
(j) section 217 *[auditor's access to records]*;
(k) section 218 *[information as to foreign subsidiaries]*;
(l) section 219 *[auditor's right and obligation to attend meetings]*;
(m) section 220 *[qualified privilege of auditor's reports or statements]*.

[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-262, effective Mar. 29/04; 2007-22-14, effective July 1, 2007, BC Reg. 194/07]

Appointment of auditors

95.62 (1) The directors of a company must appoint an auditor, and may establish terms of the appointment.

(2) If a company fails or neglects to appoint an auditor, the board must, on one month's notice to the company, appoint an auditor for the company and set the remuneration to be paid by the company to the auditor.

[2007-22-15, effective July 1, 2007, BC Reg. 194/07]

Duties and rights of auditor

95.63(1) In addition to any terms established under section 95.62 (1), the auditor

(a) must make an examination of the annual financial statements that will enable the auditor to make the report required under paragraph (d) of this subsection,
(b) has a right of access at all times to every record of the company other than a student record or a record referred to in paragraph (d) of the definition of "student record" in section 1 (1),
(c) may require from trustees or officers or employees of the company and from any other persons any information or explanation necessary to complete the audit, and
(d) must submit a report to the company respecting the annual financial statements referred to in section 95.53.

(2) In making the report required by subsection (1) (d), the auditor may rely on the report of an auditor of a corporation or an unincorporated business
(a) if the accounts of that corporation or business are included in whole or in part in the financial statements of the company, and
(b) whether or not the financial statements of the company reported on are in consolidated form.

(3) If an opinion given by an auditor in a report required by subsection (1) (d) is subject to qualification, the auditor must state, in the report, the reasons for that qualification.

(4) If the auditor is present at an annual general meeting, the auditor must answer questions concerning
(a) the company's financial statements being placed before the meeting under section 95.43, and
(b) the auditor's opinion on those financial statements as expressed in the report made under subsection (1) (d) of this section.

(5) In addition to the examination and reports required by this section, the minister or the board may at any time request further examinations and reports from the auditor, and the auditor may, on his or her own initiative, make any further examinations or reports the auditor considers advisable.

(6) Any report made by the auditor under subsection (5) must be forwarded
(a) by the auditor, to the company or an official of the company,
(b) by the company or an official of the company, to the board, and
(c) by the board, to the minister.

[2007-22-15, effective July 1, 2007, BC Reg. 194/07]

Division 7 – Company Alterations

Conversion of a company

95.7 (1) With the consent of and subject to any conditions established by the Lieutenant Governor in Council, a company incorporated under this Part may convert itself into a company under the *Business Corporations Act* by a special resolution that
(a) adopts, in substitution for the memorandum and articles, or for the notice of articles and articles, as the case may be, of the company,

(i) a notice of articles that reflects the information that will apply to the company on its conversion, and
(ii) articles that comply with the *Business Corporations Act,*

(b) alters the name of the company to comply with the *Business Corporations Act*, and

(c) authorizes 2 or more directors to sign the articles on behalf of the company and to submit to the registrar for filing
(i) a conversion applications in accordance with section 266 of the *Business Corporations Act*, and
(ii) any other records the registrar may require.

(2) Section 266 and 267 of the *Business Corporations Act* apply to a company converted under this section.

(3) & (4) *REPEALED 2003-70-246, effective Mar. 29, 2004*
[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-263, effective Mar. 29/04; 2003-71-59, effective Mar. 29/04]

Liabilities unaffected by conversion

95.71 Conversion of a company under this Part does not affect any debt, liability, obligation or contract incurred or entered into by, to, with or on behalf of the company before the conversion, and legal proceedings in respect of them may be continued or commenced against it in the same manner as if the conversion had not taken place.
[2002-53-32, effective July 19/02, BC Reg. 213/02]

Company alterations – application of the *Business Corporations Act*

95.72 Sections 257 to 259 and 262 of the *Business Corporations Act* apply for the purposes of this Part.
[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-264, effective Mar. 29/04]

Special resolution must be approved by bylaw

95.73 A board is not to vote in favour of a special resolution of a company until the board has approved the special resolution by bylaw.
[2003-70-264, effective Mar. 29/04, B.C. Reg. 64/04]

Division 8 – Proceedings, Dissolution and Restoration and Administration

Proceedings – application of the *Business Corporations Act*

95.8 Sections 9, 227, other than section 227 (1), 229, 232, other than the definition of "shareholder" in section 232 (1), 233, 234, 235, 236, 274 to 282 and Division 3 of Part 8 of the *Business Corporations Act* apply for the purposes of this Part.
[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-265, effective Mar. 29/04]

Member of more than one company

95.81 (1) In this section, **"additional company"** means, in relation to a board, each company of which the board becomes the member as a result of a disposal of assets referred to in subsection (2).

(2) Despite section 95.26, a board that is the member of a company may be the member of one or more other companies if the board becomes the member of those other companies as a result of a disposal of the assets of one of or more boards under section 176 (2).

(3) Each company of which the board is the member must amalgamate with each of the other companies of which the board is the member in accordance with subsections (4) to (7) of this section unless, within 30 days after the date on which the board becomes the member of an additional company,

(a) that additional company amalgamates under Division 3 of Part 9 of the *Business Corporations Act* with all other companies of which the board is the member,

(b) that additional company is dissolved under Division 2 of Part 10 of the *Business Corporations Act, or*

(c) liquidation of that additional company is commenced under Division 3 of Part 10 of the *Business Corporations Act.*

(4) If, despite subsection (3), the companies of which a board is the member do not amalgamate as required under that subsection, each of those companies is deemed, on the 31st day after the date on which the board becomes the member of an additional company, to have passed special resolutions approving their amalgamation and requiring that

(a) the shares of all the companies other than the first company of which the board was the member be cancelled without any repayment of capital in respect of those shares, and

(b) the amalgamated company has, as its notice of articles and articles, the notice of articles and articles of the amalgamating company the shares of which are not cancelled.

(5) Despite section 436 (1) of the *Business Corporations Act,* before a company that is a pre-existing company amalgamates under subsection (4) of this section, that company must, if it has not already done so, comply with section 370 (1) (a) and (b) or 436 (1) (a) and (b) of the *Business Corporations Act.*

(6) Within 30 days after the date of the deemed passing of the special resolutions referred to in subsection (4), the board must file, on behalf of the amalgamating companies, an amalgamation application with the registrar of companies.

(7) Sections 275 (2) (d), 279 (a), 281 and 282 of the *Business Corporations Act* apply for the purposes of an amalgamation under subsection (4) of this section.

(8) Despite section 95.82 (1) of this Act, section 323 of the *Business Corporations Act* does not apply in respect of any liquidation commenced under subsection (3) (c).
[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-266, effective Mar. 20/04]

Dissolution and restoration – application of the *Business Corporations Act*

95.82 (1) Subject to subsection (2) of this section, Part 10 of the *Business Corporations Act,* other than section 366, applies for the purposes of this Part.

(2) An application under section 324 or 325 of the *Business Corporations Act,* as it applies for the purposes of this Act, may be brought by the company, a member, a director, a creditor, a trustee for debenture holders, a receiver manager for the company or the minister.
[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-267, effective Mar. 29/04]

Administration – application of the *Business Corporations Act*

95.83 (1) Sections 51 and 231 and Part 12, other than section 432, of the *Business Corporations Act* apply for the purposes of this Part.

(2) A notation in the corporate register, as that term is defined in the *Business Corporations Act,* respecting a company is conclusive evidence for the purposes of this Act and for all other purposes that every requirement in respect of the matters included in the corporate register and of matters precedent to it have been complied with.
[2002-53-32, effective July 19/02, BC Reg. 213/02, 2003-70-267, effective Mar. 29/04]

Division 9 – Regulations

Regulations – application of the *Business Corporations Act*

95.9 (1) Without limiting section 175 (1), the Lieutenant Governor in Council may make regulations prescribing, for the purposes of this Part, forms that correspond with forms approved by the registrar under the *Business Corporations Act.*

(1.1) The Lieutenant Governor in Council may, by regulation,
- (a) provide that additional provisions of the *Business Corporations Act* apply for the purposes of this Part, or
- (b) provide that provisions of the *Business Corporations Act* do not apply for the purposes of this Part.

(2) and (3) *REPEALED 2003-70-268, effective Jun 30/04*
[2002-53-32, effective July 19/02, BC Reg. 213/02; 2003-70-268, effective Mar. 29/04; 2007-22-16, effective July 1, 2007, BC Reg. 194/07]

Transition

95.91 Part 14 of the *Business Corporations Act* applies for the purposes of this Part.
[2003-70-269, effective Mar. 29/04, B.C. Reg. 64/04]

PART 7 — SCHOOL PROPERTY

Division 1 - Acquisition and Disposal of Land and Improvements

Acquisition and disposal of land

96 (1) In this section, "land" includes any interest in land, including any right, title or estate in it of any tenure.

(2) A board may, for educational purposes, including the provision of housing accommodation for students or employees, board offices and outdoor activities or for the purposes of section 98 (2),

(a) acquire and hold land or improvements, or both, within its school district,

(b) with the approval of the minister, acquire and hold land or improvements, or both, in another school district, and

(c) expropriate land or improvements, or both, within its school district.

(3) Subject to the orders of the minister, the board may dispose of land or improvements, or both.

[2002-53-33, effective Jan. 17/03 by BC Reg. 7/03]

Assets in board's name

97 (1) Unless otherwise approved by the minister, a board may acquire assets only in its name.

(2) Assets that are used by the board and that are vested in a municipality may, by agreement between the board and the municipality, be transferred without charge to the board or remain vested in the municipality.

(3) A board may incur liabilities only in its name.

Sites

98 (1) The construction by a board of a new building must not be started unless

(a) title to the site for the new building is held by the board, or

(b) use of the site is approved by the minister.

(2) A board may enter into an agreement with municipalities or regional districts that are located in or located in part of the school district or with other persons for the purposes of

(a) constructing, maintaining, operating or using jointly, or

(b) contributing to the cost of the construction, maintenance or operation of facilities for joint board and community use.

(3) *REPEALED 2004-17-4, effective Apr.29/04*

[2002-53-34 effective May 30/02; 2004-17-4, effective Apr. 29/04]

Grants of Crown land

99 (1) The Lieutenant Governor in Council may grant Crown land in a school district to the board of the school district, in trust for educational purposes and as a site for a school building, housing accommodation for students or employees or board offices.

(2) Crown land granted under subsection (1) must be held by the board in trust for educational purposes and must not be disposed of except with the consent of and on terms and conditions first approved by the Lieutenant Governor in Council.

(3) If the land granted under subsection (1) is no longer required for those educational purposes, the minister may notify the registrar of the land title district in which the land is located, and the registrar must then cancel the registration of the board's title on the records of the land title office.

Disposition of proceeds on alienation

100 (1) In this section:

"board's contribution" means the percentage of the capital expenditure that was a local capital expenditure or was not paid for by the minister under a former Act;

"capital expenditure" does not include an annual facility expenditure;

"minister's contribution" means the percentage of the capital expenditure that was not a board's contribution.

(2) Subject to subsection (3), if a board receives money in respect of the disposition of any asset that was the subject of a capital expenditure, the money must be allocated between the board and the minister according to the board's contribution and the minister's contribution to the capital expenditure.

(3) The minister may allocate the money between the minister and the board if

(a) the minister is not able to determine the board's contribution or the minister's contribution to the capital expenditure, or

(b) in the opinion of the minister, the allocation under subsection (2) is not appropriate in the circumstances.

(4) Money allocated to the minister must be used by the board only

(a) for capital projects, and

(b) with the minister's approval.

(5) Money allocated to the board must be used by the board only for capital projects.

[2002-53-35 effective May 30/02, 2004-14-5; 2004-17-6, effective Apr. 29/04]

Disposition of proceeds from a lease

100.1 Despite section 100, the board may allocate the money received in respect of a lease to either operating or capital expenditures if the lease

(a) is for a term, including the cumulative total of all options and rights to extend or renew the lease, of not more than 5 years, and

(b) does not provide for an option or right to purchase.

[2003-40-4, effective May 29, 2003,;2004-17-6, effective Apr. 29/04]

School sites under the *Local Government Act*

101 (1) *REPEALED, 2004-17-7*

(2) *REPEALED, 2004-17-7*

(3) A board may only use money provided from a local government under section 580 (1) of the *Local Government Act*, or received as proceeds of a sale of land provided to the board under section 577 or transferred to the board under section 580 (2) of that Act,

(a) for the acquisition of land to meet the board's eligible school site requirements, as defined in section 571, of that Act,

(b) to pay administration fees and disbursements authorized by a regulation made under section 581 (h) of that Act, and

(c) to pay any disbursements related to the sale, transfer or subdivision of land received under Division 20 of Part 14 of that Act.

[1998-27-7 effective January 28, 2000; BC Reg. 17/00; 2000-7-191 effective June 12/00; 2004-17-7, effective Apr. 29/042007-20-24, effective July 1/07, BC Reg 229/07; am effective Jan 1/16, BC Reg. 257/15]

Division 2 - School District Housing

Authority to provide housing

102 A board may provide housing accommodation for its employees only if the minister grants prior approval.

103 *REPEALED 2004-17-7, effective Apr. 29/04*

Financing

104 A board must not mortgage any land or improvements other than the land and improvements acquired for housing accommodation for its employees under this Division.

Rent

105 (1) *REPEALED 2004-17-8, effective Apr. 29/04*

(2) If a board provides housing accommodation for employees, the board must determine and set the rent to be charged in respect of each unit of housing accommodation by dividing the total estimated expenditures of the housing accommodation, including

(a) amounts payable by the board for interest and principal,

(b) taxes and other levies,

(c) service charges,

(d) repairs and maintenance, and

(e) other expenditures,

by the number of units of housing accommodation, whether occupied or not.

(3) If in any year the board is unable to rent all the housing accommodation to its employees, the board may rent the accommodation to other persons on the same terms and conditions as apply to its employees for so long as the accommodation is not required by those employees.

(4) *REPEALED 2004-17-8, effective Apr. 29/04*

(5) The amount payable for interest and principal on a mortgage under section 104 is a first charge on the amount of rent received by the board with respect to the housing accommodation.

[2004-17-8, effective Apr. 29/04]

Application of Division

106 Unless the minister otherwise orders, this Division applies to housing accommodation acquired by a board under this or a former Act.

PART 8 — FINANCE

Division 1 - Provincial Funding

Definitions

106.1 In this division:
"board" includes a francophone education authority;
"educational program" includes a francophone educational program;
"number of students" means the number of full time or equivalent of full time students;
"student" means a person enrolled in an educational program provided by a board to whom instruction in the educational program is required to be provided free of charge under section 82 (1) or (2.1) but does not include a person who is enrolled in a Provincial resource program.

[2002-53-36 effective Jan. 31/02, 2006-21-18 effective June 30/06, BC Reg 195/06]

Provincial funding for boards

106.2 On or before March 15 of each year, the minister must establish and announce the amount of Provincial funding to be paid to boards in the next fiscal year for the delivery and support of educational programs.

[2002-53-36 effective Jan. 31/02; 2007-22-17, effective July 1, 2007, BC Reg. 194/07]

Operating grants to boards

106.3 (1) The minister must determine the amount of the operating grant to each board from the Provincial funding based on the following:

(a) by multiplying
  (i) a per student funding amount determined by the minister, and
  (ii) the number of students, estimated by the board under subsection (2) and approved by the minister under subsection (3) or estimated by the minister under subsection (4), who may be enrolled in educational programs provided by that board;
(b) other formulas and amounts determined by the minister and announced to the boards by March 15 of each year.

(2) A board must submit to the minister on or before February 15 of each year an estimate of the number of students who may be enrolled in educational programs provided by the board in the next school year.

(3) The minister may approve or reject the estimate submitted under subsection (2).

(4) If the minister rejects the estimate submitted under subsection (2), the minister must estimate the number of students who may be enrolled in educational programs provided by that board in the next school year.

(5) For the purposes of determining the amount of the operating grant under subsection (1) (a), the minister may

(a) classify students under a classification system established by the minister,
(b) estimate the number of students in each class referred to in paragraph (a) who may be enrolled in educational programs provided by the board,
(c) establish a maximum number of students for a class referred to in paragraph (a) that the minister will include in the determination of the number of students for that class under subsection (1), and
(d) establish different per student funding amounts for the different classes of students referred to in paragraph (a).

(6) The minister may amend an operating grant to a board, for all or part of the fiscal year,

(a) if the number of students enrolled in educational programs provided by the board is different than the estimate approved under subsection (3) or the estimate under subsection (4) or (5),
(b) by amending the per student funding amount under subsection (1) (a) (i) or (5) (d), or
(c) if, in the opinion of the minister, the operating grant must be amended.

(7) Subsections (2) and (3) do not apply for the purposes of the 2002-2003 fiscal year.
[2002-53-36 effective Jan. 31/02]

Targeted grant

106.4(1) The minister may, in respect of an operating grant, provide a direction to a board specifying

(a) an amount or a percentage of the operating grant to the board that is a targeted grant for the fiscal year,
(b) the manner in which that board must budget, spend and account for the targeted grant for the fiscal year,
(c) programs or services the board must provide in respect of the targeted grant and to whom the board must provide those programs or services, and
(d) a minimum amount of percentage of the targeted grant that the board must budget, spend and account for in respect of a program or service referred to in paragraph (c).

(2) The minister may vary a direction provided to a board under this section.
[2002-53-36 effective Jan. 31/02]

107 *REPEALED, effective January 31, 2002*
108 *REPEALED, effective January 31, 2002*
109 *REPEALED, OIC 574/97, effective April 21, 1997*

Division 2 - Establishment of Board Budgets

Financial information

110 (1) On or before March 15 of each year, a board must submit to the minister
(a) the board's estimate of the debt service surplus or deficit it will experience in that fiscal year, and
(b) any other information that the minister requests respecting revenue or other financial matters.

(2) On or before March 30 of each year, the minister must prepare, approve and provide to each board the estimate of the board's debt service expenses for the next fiscal year.

Preparation of annual budget

111 (1) In this section:
"estimated expenditures" means the estimated expenditures plus any operating deficit that the board must fund in the fiscal year;
"estimated revenues" means the estimated revenues plus appropriated operating reserves.

(2) The board must prepare an annual budget in the form and containing the content specified by the minister.

(3) Subject to subsection (4), estimated expenditures in the annual budget must not exceed estimated revenues.

(4) The estimated expenditures in the annual budget, other than the debt service expenses estimate referred to in section 110, may exceed the estimated revenues if the board has held a referendum under section 112 and the referendum approved the amount in excess of the estimated revenues.

[2002-53-38, effective Jan. 31/02; 2002-53-38, effective July 1/02; 2004-17-9, effective Apr. 29/04]

Referendum

112 (1) A board may, by resolution passed at a public meeting of the board at least 2 weeks before the referendum is held, authorize the holding of a referendum to obtain the approval of the electors for any money that the board wishes to raise for the next fiscal year by residential taxes under section 137.

(2) Money raised under subsection (1) may be used by a board to provide new programs, to enhance existing programs for additional activities for students or for local capital project initiatives but must not be used to fund operating deficits.

(3) If a board passes a resolution to hold a referendum, the referendum must be held on the third Saturday in April or on another date prescribed by the Lieutenant Governor in Council.

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

(5) The referendum ballot must be in the form set out in the Schedule and, subject to the regulations, a board must place a separate question on the ballot for each of the following categories for which it is seeking approval for funding:

(a) new, and enhanced, programs;
(b) additional activities for students;
(c) local capital initiatives in addition to those recognized by the Province

and a board must not place any additional questions on the ballot.

(6) A board must arrange for the holding of the referendum and may enter into an agreement with one or more councils of municipalities or boards of regional districts to conduct the referendum on the board's behalf within all or part of the school district.

(7) At least once a week for the 2 weeks immediately before the date for holding the referendum, the board must publish in a newspaper of general circulation in the school district a copy of the referendum ballot and any other information prescribed by the Lieutenant Governor in Council.

(8) A person is entitled to vote on a referendum in a school district if, at the time the referendum is held, that person

(a) is entitled to vote in an election of school trustees in the school district, or
(b) would have been entitled to vote in an election of school trustees in the school district had the person not filed a declaration under section 166.14 (5) in respect of that election.

(9) If a majority of the persons who cast valid ballots vote in favour of raising the money that is the subject of a question on the referendum, money approved by that question must form part of the board's budget for the next fiscal year.

(10) The referendum approval is for one year only and any money approved by the referendum must be entirely raised by residential taxation within the district in the calendar year in which the referendum is held.

(11) No grants are payable under the *Home Owner Grant Act* with respect to taxes that a board raises as a result of a referendum.

(12) A vote under this section must be conducted in accordance with the regulations.

(13) No elector may vote in more than one municipality or rural area in the same school district in the same referendum.

[1997-52-18 effective Aug. 1/97, BC Reg. 287/97; am 2015-11-18, effective May 14/15]

Referendum bylaw

112.1 (1) If a board has held a referendum approving the raising of money under section 112, the board must adopt a bylaw, on or before April 27 of that year, that sets out

(a) the amount, if any, of taxes to be raised within the school district in that calendar year as a result of the referendum that approved that amount,

(b) the apportionment of the amount approved by referendum to the constituent parts of the school district so that the tax to be raised in each of those constituent parts bears the same ratio to the total school referendum taxes to be raised in that school district as the net taxable value of the residential land and improvements in each constituent part of the school district bears to the total net taxable value of residential land and improvements in the whole of that school district, and

(c) the rate that is to be applied to the net taxable value of residential land and improvements in the school district so as to raise the amount approved by referendum.

(2) The board, immediately after adopting the bylaw referred to in subsection (1), must send a certified copy of that adopted bylaw to

(a) the council of each municipality in the school district, and

(b) the Surveyor of Taxes in respect of the rural area of the school district.

[2002-53-39, effective July 1/02, 2004-17-10, effective Apr. 29/04]

Adoption of budget

113 (1) A board, by bylaw,

(a) must adopt an annual budget on or before June 30 of each year for the next fiscal year, and

(b) may amend the annual budget adopted under paragraph (a).

(2) If an operating grant to a board is amended under section 106.3 (6) or a grant is withheld or reduced under section 117 (1), the minister may order that

(a) the board, by bylaw, must amend its annual budget, and

(b) the board must send a certified copy of the amended annual budget to the minister within 60 days of the order of the minister.

(3) At the request of the minister, the board must send to the minister a certified copy of its annual budget.

[2002-53-40, effective July 1/02]

Division 3 - Grants

Payment of grants

114 (1) In each fiscal year the minister must pay to the board of each school district the operating grant plus the debt service grant for that board.

(2) If an operating grant is amended under section 106.3 (6), the minister must vary the amount of the operating grant payable to the board under subsection (1).

(3) In respect of the payment of an operating grant or a debt service grant under this section, the minister

(a) must pay, at a minimum, an instalment in each month of the fiscal year to the board of each school district, and

(b) may determine the manner of payment.

(4) If, at the end of a fiscal year, the minister has paid a board more than the sum of the operating grant plus the debt service grant for that board, the minister may deduct the overpayment from the amount the minister must pay in the next fiscal year under subsection (1).

[2002-53-41, effective July 1/02, 2004-17-11, effective Apr. 29/04]

Special purpose grants

115 (1) The minister may pay to a board of a school district in addition to all other grants payable under this Act

(a) a special grant, or

(b) a grant for the operation of a Provincial resource program.

(2) If the minister considers that a capital project should include accommodation for a Provincial resource program or any other special program or activity designated by the minister, the minister may pay all or part of the capital cost of that capital project.

[2002-53-42, effective May 30/02, 2004-17-11 & 12, effective Apr. 29/04, 2006-21-19 effective June 30/06, BC Reg 195/06]

Annual facility grant

115.1 The minister may pay to a board an annual facility grant to be used for annual facility projects.

[2002-53-43, effective Jan. 31/02, 2004-17-12 & 13, effective Apr. 29/04]

115.2 *REPEALED 2020-8-16, effective July 1, 2020*

[2020-8-16, effective July 1/20]

Support of Provincial schools

116 Subject to an appropriation being made under another Act, the minister must pay all expenditures incurred in establishing, maintaining and operating Provincial schools.

[2002-53-44, effective May 30/02, 2004-17-11 & 14, effective Apr. 29/04]

Conditions of grant payment

117 (1) The minister may withhold or reduce a grant payable to a board under this Act, other than a debt service grant, if

(a) the duties of the secretary treasurer of the board are not being discharged satisfactorily,
(b) the board has not conducted its affairs in accordance with this Act and the regulations and the orders of the minister,
(c) each school building in the school district, together with its equipment, has not been established or maintained to the satisfaction of the minister,
(d) the board has not transmitted in a timely fashion, or within the time provided by this Act and the regulations or by the orders of the minister, all reports, statements or returns required by the minister,
(e) the operating expenses of a board have been reduced during a strike or lockout as defined in the Labour Relations Code,
(f) the board has not budgeted, spent or accounted for a targeted grant under section 106.4 in accordance with the directions provided to it in respect of that grant by the minister, or
(g) the board violates a provision of an agreement made under section 75 (4.1).

(2) Without limiting section 106.4 (1) (b), the minister may order that any debt service expenses incurred by a board as a result of the withholding of a grant under subsection (1) must be paid from one or more of the payments to the board under section 114.

(3) If a board fails to provide the money necessary to meet the payment of principal or interest on securities issued by it under this Act, or the payments of principal and interest referred to in section 154, the Lieutenant Governor in Council may direct that the amount necessary to meet the payments be deducted from sums due by way of grant under this Act other than a debt service grant, and may direct that amount to be applied in payment of the principal and interest in the manner the Lieutenant Governor in Council directs.

[2002-53-45, effective July 1/02, 2004-17-12, effective Apr. 29/04, 2006-21-20 effective June 30/06, BC Reg 195/06]

Division 4 – Taxation

Definitions for this Division

117.1 (1) In this Division:
"additional school tax" means tax imposed under section 120.1;
"agricultural land reserve" has the same meaning as the *Agricultural Land Commission Act*;
"assessor" means an assessor appointed under the *Assessment Authority Act*;
"class 1 property" means property that is assessed as a property in the class 1 property class under the Assessment Act;
"class 9 property" means land that is assessed as property in the class 9 property class under the Assessment Act;
"dwelling property" means the following class 1 property:
(a) land that is outside the agricultural land reserve and that is determined by the assessor to have no present use;
(b) improvements on land that is not class 1 property if the improvements are used or intended to be used as a residence;
(c) land and improvements on the land, if
(i) any of the improvements are used or intended to be used as a residence for 3 or fewer families, and

(ii) the improvements do not consist of a strata lot;

(d) land and improvements that consist of a strata lot that is used or intended to be used as a residence,

but does not include the following:

(e) property referred to in paragraph (b), (c) or (d) of this definition if the property includes a living accommodation described in section 4 (a), (b), (f) or (g) *[what the Act does not apply to]* of the *Residential Tenancy Act*;

(f) a prescribed type or class of property;

(g) property used for a prescribed purpose;

(h) property owned by a person in a prescribed class of persons;

"general school tax" means tax imposed under section 119;

"property" means property as defined in the *Assessment Act*;

"property class" means a class of property prescribed by the Lieutenant Governor in Council under section 19 (14) of the *Assessment Act*;

"threshold amount" means an applicable amount under section 120.1 (4) (a) or (b) or (5) *[determination of taxable amounts and threshold amounts]*.

(2) The Lieutenant Governor in Council may make regulations respecting any matter for which regulations are contemplated by the definition of "dwelling property" in subsection (1).

(3) Despite section 74 (5) *[order or regulation affecting the assessment roll]* of the *Assessment Act*, regulations made under subsection (2) of this section may be made retroactive to the extent necessary to apply for the 2019 or 2020 taxation year, as applicable, if the regulation is made on or before December 31 of the applicable taxation year.

[2018-2-89, effective February 21/18; 2018-52-51, effective February 22/19]

Grants in place of taxes

118 (1) A municipality must apply in each taxation year to the following for the school tax portion of a grant in place of taxes for the taxation year in respect of land and improvements:

(a) an owner who is identified by the British Columbia Assessment Authority as

(i) exempt from paying school taxes levied under this Act, and

(ii) authorized to pay a grant in place of taxes;

(b) an owner who is exempt from paying school taxes levied under this Act and has paid a grant in place of taxes to the municipality in the previous taxation year.

(2) On or before February 1 in each year, a municipality must pay to the minister of finance any amount that has been received by the municipality in the preceding calendar year as the school tax portion of a grant in place of taxes.

(3) If a municipality does not apply for the school tax portion of a grant in accordance with subsection (1) and in the opinion of the Surveyor of Taxes the municipality would have received the grant if the municipality had applied for it, the Surveyor of Taxes may disallow all or part of the administration fee to which the municipality would otherwise be entitled under section 124 (10).

[2003-23-78, effective April 10/03]

General school tax

119 (1) In order to raise revenue to finance the Provincial funding and the debt service expenses of boards, the Province may levy a tax equal to the net taxable value of the land and improvements multiplied by the appropriate rate determined under subsection (3).

(2) The minister of finance must determine the total amount to be raised by taxes under this section on land and improvements from each property class in all school districts.

(3) On or before May 4 in each year, the Lieutenant Governor in Council must determine rates to be applied to the net taxable value of all land and improvements in each school district in order to raise the amount referred to in subsection (2).

(4) The rates to be determined under subsection (3) may differ
(a) in respect of each school district, and
(b) for different parts of the school district.

(5) *REPEALED 2018-2-90, effective February 21, 2018*

(6) *REPEALED 2018-2-90, effective February 21, 2018*

(7) *REPEALED 2018-2-90, effective February 21, 2018*

(8) *REPEALED 2003-23-79, effective April 10, 2003*

(9) The Lieutenant Governor in Council must adopt a variable tax rate system for the purpose of determining tax rates under subsection (3).

(10) For the purposes of subsection (9), **"variable tax rate system"** means a system under which individual tax rates are determined and imposed for each property class.

[2002-19-22, effective April 11,/02; 2002-53-47, effective May 30/02; 2003-23-79, effective April 10/03; 2008-45-9, effective January 1, 2009; 2011-2-97, effective January 1, 2011; 2018-2-90, effective February 21/18]

Variable tax rate system for taxation

120 *REPEALED 2018-2-91, effective February 21, 2018*

Additional school tax

120.1 (1) This section applies to 2019 and subsequent taxation years.

(2) In order to raise revenue to finance the Provincial funding and the debt service expenses of boards, the Province may, in addition to the tax levied under section 119 *[imposition of general school tax]*, levy a tax in accordance with this section.

(3) An owner of dwelling property must, for a taxation year, pay tax in an amount equal to the sum of the following:
(a) the amount that is, as applicable,

(i) 0.2% of the taxable amount determined under subsection (4) for the taxation year, or

(ii) if a lower rate of tax is prescribed for a taxation year for the purposes of this paragraph, the prescribed rate or tax multiplied by the taxable amount;

(b) the amount that is, as applicable,

(i) 0.4% of the taxable amount determined under subsection (5) for a taxation year, or

(ii) if a lower rate of tax is prescribed for a taxation year for the purposes of this paragraph, the prescribed rate of tax multiplied by the taxable amount.

(4) For the purposes of subsection (3) (a) (i), the taxable amount for a taxation year in respect of the dwelling property is the amount of the net taxable value of the dwelling property

(a) that exceeds, as applicable, $3 000 000 or a greater amount prescribed, if any, and

(b) that does not exceed, as applicable, $4 000 000 or a greater amount prescribed, if any.

(5) For the purposes of subsection (3) (b) (i), the taxable amount for a taxation year in respect of the dwelling property is the amount by which the net taxable value of the dwelling property exceeds $4 000 000 or a greater amount prescribed, if any.

(6) The Lieutenant Governor in Council may make regulations as follows:

(a) for the purposes of subsection (3) (a) (ii), prescribing a rate of tax that is lower than 0.2% or prescribing a nil rate;

(b) for the purposes of subsection (3) (b) (ii), prescribing a rate of tax that is lower than 0.4% or prescribing a nil rate;

(c) for the purposes of subsection (4) (a), prescribing, for a taxation year, a threshold amount that is not lower than $3 000 000;

(d) for the purposes of subsections (4) (b) and (5), prescribing, for a taxation year, a threshold amount that is not lower than $4 000 000.

(7) A regulation under subsection (6) must be made on or before May 4 of the taxation year in which the rate of tax or threshold amount, as the case may be, is to apply.

[2018-2-92, effective February 21/18]

Determining net taxable value

120.2 The net taxable value of land and improvements must be determined by the assessor in accordance with the *Assessment Act* and this Act.

[2018-2-92, effective February 21/18]

Notice to municipal collector

120.3 (1) On or before May 10 in each year, the minister of revenue must send to the collector in each municipality a notice setting out all of the following information:

(a) the net taxable value of land and improvements in the municipality as certified under the *Assessment Act*;
(b) the amount to be raised by general school taxes in the municipality;
(c) the total amount of credits to which owners in the municipality are entitled under section 131.2 *[provincial industrial property tax credit]* and section 131.3 *[provincial farm land tax credit]*;
(d) the net amount to be raised by general school taxes in the municipality after the deduction of the amount referred to in paragraph (c);
(e) the rates determined for the taxation year by the Lieutenant Governor in Council under section 119 (3) *[tax rates for general school tax]*;
(f) the amount to be raised by additional school taxes in the municipality;
(g) the rates and threshold amounts applicable under section 120.1 *[imposition of additional school tax]* for the taxation year.

(2) If a municipality is contained within the boundaries of more than one school district, the notice under subsection (1) must, in relation to general school taxes, contain all of the following information for each part of the municipality:

(a) the net taxable value of land and improvements in that part of the municipality;
(b) the amount of general school taxes to be raised in that part of the municipality;
(c) the rates that are applicable to each school district within which that part of the municipality is contained.

[2018-2-92, effective February 21/18]

Adjustments

121 If the net taxable values of land and improvements are adjusted, or a supplementary assessment roll is prepared under the *Assessment Act* in respect of which section 228 (5) *[taxation of Crown land used by others]* of the *Community Charter* applies, amounts to be raised by taxation in each school district may be adjusted in the current taxation year or a subsequent taxation year in the manner directed by the minister of revenue.

[2000-7-191 effective June 12/00; 2002-53-48, effective May 30/02; 2003-52-486 effective January 1/04; 2004-17-14, effective Apr. 29/04]

Liability for taxation

122 An owner of land and improvements must pay school taxes and school referendum taxes levied under this Act, and the taxes must be collected in the manner provided for in this Act.

Application of other Acts for rural areas

123 (1) Subject to this Act and the *Assessment Act*, the *Taxation (Rural Area) Act* applies to the assessment, levy, collection and recovery of taxes imposed under this Act in a rural area of a school district, and to the addition of penalties and interest on those taxes when delinquent, in the same manner as taxes imposed under the *Taxation (Rural Area) Act*.

(2) All taxes levied under this Act in a rural area of a school district are, for all purposes of the *Taxation (Rural Area) Act*, deemed to be Provincial taxes imposed and assessed under that Act and must, on collection or recovery, be accounted for as such and be paid into the consolidated revenue fund.

Collection of school taxes by municipality

124 (1) In this section, **"additional school taxes", "general school taxes"** and **"school taxes"** do not include any penalty or interest that has been charged on those taxes.

(2) In each taxation year, each municipality collecting school taxes on behalf of the government under this Act must pay to the minister of finance

(a) instalments of general school taxes, or additional school taxes, or both, prescribed by regulation of the Lieutenant Governor in Council, and

(b) subject to subsections (6), (7) and (9), on the tenth business day after the calendar year end of each year the balance of all taxes imposed under this Act, whether or not they have been collected.

(3) Despite subsection (2) (b), a municipality may, on the tenth business day after the calendar year end of each taxation year and on the last day of each succeeding month until all school taxes imposed under this Act for that taxation year have been collected, pay to the minister of finance the amount of school taxes that it collects by each of those dates.

(4) If a municipality elects to comply with subsection (3) instead of subsection (2) (b), it must, in addition to the school taxes it pays to the minister of finance, pay to the minister of finance all penalties and interest that it collects in respect of those taxes.

(5) A regulation under subsection (2) (a) may prescribe the amounts, the manner and the times at which instalments are to be paid by a municipality, and the amounts, manner and times may be different for each municipality collecting school taxes under this Act.

(6) If a municipality satisfies the minister of revenue that it is unable to collect school taxes imposed under this Act in respect of a taxation year on

(a) land

(i) the fee of which is held by the government or by some person or organization on behalf of the government, and

(ii) that is held or occupied other than by or on behalf of the government, and

(b) improvements on land described in paragraph (a),

the minister of revenue may write off the amount not collected, whether or not the municipality has forwarded that amount under subsection (2), and, if the amount is written off, a corresponding adjustment must be made, in the manner directed by the minister of revenue in the amount of school tax to be paid by the municipality in respect of that or a subsequent taxation year.

(7) Subsection (6) applies also in respect of land held in trust for an Indian band and occupied, other than in an official capacity, by a person who is not an Indian.

(8) The write off of an amount under subsection (6) does not relieve the holder or occupier from liability for school tax imposed under this Act or prejudice the right of the government to collect from the holder or occupier the amount written off.

(9) In the manner and at the times prescribed by the Lieutenant Governor in Council, a municipality may deduct the amount of home owner grants certified under section 12 (1) *[certification and payments to municipalities]* of the *Home Owner Grant Act* from instalments of general school taxes payable under subsection (2) of this section.

(10) Subject to sections 118 (3) and 125 (5), a municipality may deduct, in the manner and at the times directed by the minister of revenue, from school taxes payable under this section for the current taxation year or a subsequent taxation year an administration fee prescribed by the Lieutenant Governor in Council.

(11) The prescribed fee referred to in subsection (10) may, in relation to general school taxes, be different for different property classes.

(12) If the Lieutenant Governor in Council prescribes different fees for different property classes, the prescribed fee referred to in subsection (10) must, in relation to additional school taxes, be the same as the fee prescribed in relation to general school taxes for class 1 property.

[2002-53-49, effective May 30/02, 2003-23-80, effective April 10/03, 2004-17-16, effective Apr. 29/04, 2015-11-19, effective May 14/15, 2018-2-93, effective February 21/18]

Interest on unpaid taxes

125 (1) In this section, **"unpaid taxes"** means any grants in place of taxes that a municipality is required to pay to the minister of finance under section 118 and any school taxes, penalties and interest that a municipality is required to pay to the minister of finance under section 124 that have not been paid as required by this Act or by the regulations.

(2) A municipality must pay interest on its unpaid taxes to the minister of finance.

(3) Interest payable under subsection (2) must be calculated at the rate prescribed by the Lieutenant Governor in Council and must be payable on each amount of school taxes, penalties, interest or grants in place of taxes included in the unpaid taxes from the date on which the amount was to be paid to the minister of finance under this Act to the date that the amount is received by the minister of finance.

(4) The minister of revenue may give notice to a municipality of
- (a) the municipality's unpaid taxes,
- (b) any interest that is payable on the unpaid taxes under this section,
- (c) the date by which payment of the unpaid taxes and the interest is required, and
- (d) powers of the Surveyor of Taxes under subsection (5) if that payment is not made as required.

(5) If a municipality to which a notice is sent under subsection (4) does not pay the unpaid taxes and the interest referred to in the notice by the date required in the notice, the

Surveyor of Taxes may disallow all or part of the administration fee to which the municipality would otherwise be entitled under section 124 (10).

[2002-53-49, effective May 30/02; 2002-53-50, effective May 30/02; 2003-23-81, effective April 10/03; 2004-17-16, effective Apr. 29/04]

Inspection

126 (1) For the purpose of ensuring compliance with this Part and the regulations related to Divisions 3 and 4 of this Part, the Surveyor of Taxes or a person authorized in writing by the Surveyor of Taxes may

(a) at any reasonable time enter the premises where one or more of the records of a municipality are kept,

(b) request production of records or things that may be relevant to the inspection, and

(c) inspect records or things relevant to the inspection.

(2) Subsection (1) (a) does not authorize entry to a room actually used as a dwelling without the consent of the occupier.

(3) The person conducting an inspection under this section is entitled to free access to all of the records of every description of the municipality referred to in subsection (1) (a) that touch on any of the matters in respect of which an inspection may be conducted under this section.

(4) A person who removes records or things under subsection (1) (c) must return them within a reasonable time.

Application of other Acts for municipalities

127 (1) Subject to this Act and the *Assessment Act*, the following Acts apply to the assessment, levy, collection and recovery of taxes imposed under this Act in a municipality within a school district, and to the addition of penalties and interest on taxes that are in arrears or are delinquent, in the same manner as taxes imposed under those Acts:

(a) *Community Charter*;

(b) *Local Government Act*;

(c) *Vancouver Charter*.

(2) All school taxes when levied must, on collection by a municipality, be separately accounted for as general school taxes or additional school taxes, as the case may be.

(3) All school referendum taxes when levied must, on collection by a municipality, be accounted for as school referendum taxes.

[2000-7-191 effective June 12/00; 2003-52-487 effective January 1/04, 2018-2-94, effective February 21/18]

General provisions on collection of school taxes

128 (1) The municipality and the Surveyor of Taxes must act as the agent

(a) for the board, for the collection of school referendum taxes, and

(b) for the Province, for the collection of school taxes.

(2) The collector of each municipality or the Surveyor of Taxes must prepare and mail a notice, setting out the tax payable under this Act, to each person named on the real property tax roll or assessment roll as an assessed owner in the municipality or rural area, if any, contained in the school district.

(3) The notice under subsection (2) forms part of the taxation notices under the *Community Charter*, the *Local Government Act*, the *Vancouver Charter* or the *Taxation (Rural Area) Act,* as the case may be, and separate notices must not be prepared and rendered solely in respect of taxes for school purposes.

(4) The notice under subsection (2) must set out

(a) the total amount of general school taxes levied on each property by the Province,

(a.1) the amount of any credit to which the assessed owner is entitled under section 131.2 *[provincial industrial property tax credit]* of this Act,

(a.2) the amount of any credit to which the assessed owner is entitled under section 131.3 *[provincial farm land tax credit]* of this Act,

(b) the net amount of general school taxes payable by the assessed owner after deduction of

(i) any grant to which the assessed owner may be eligible under the *Home Owner Grant Act*, or

(ii) the amounts of the credits referred to in paragraphs (a.1) and (a.2) of this subsection,

(b.1) the total amount of additional school taxes, if any, levied on dwelling property by the Province, and

(c) the total amount of school referendum taxes levied by a board.

(5) Despite subsections (2), (3) and (4), the Surveyor of Taxes may, with the written agreement of a taxpayer,

(a) send a taxation notice to the taxpayer other than by mail, and

(b) provide the information required to be contained in a taxation notice in a form other than a form prescribed by the Lieutenant Governor in Council, including provision by means of electronic information storage and electronic data transmission.

(6) Subject to sections 124 (10) and 137 (2), a municipality must not, directly or indirectly, charge a fee to a taxpayer or the government to cover the cost of

(a) assessment and collection of taxes under this Act,

(b) interest on money paid to a board in advance of collection of taxes, or

(c) losses that have occurred through the failure to collect taxes.

[1999-37-276 effective Sept. 28/99, BC Reg. 301/99; 2000-7-191 effective June 12/00; 2003-52-488 effective January 1, 2004; 2008-45-10, effective January 1, 2009; 2011-2-98, effective January 1, 2011; 2015-11-20, effective May 14/15, 2018-02-95, effective February 21/18]

Taxation of school property

129 (1) *REPEALED 2018-2-96, effective February 21, 2018*

(2) Despite any other enactment, property in which a board has an ownership interest is exempt from taxation if it is

(a) vacant,

(b) used in whole or in part for a school,

(c) used in whole or in part for a purpose ancillary to the operation of a school,

(d) used in whole or in part by the board as a residence, if the residence is available exclusively to the following individuals and the individuals with whom they reside:

(i) students attending a school within the board's school district;

(ii) employees of the board,

(e) leased by the board to an authority within the meaning of the *Independent School Act* and used in whole or in part for an independent school including any purpose ancillary to the operation of the independent school,

(e.1) leased by the board to a francophone education authority and used in whole or in part for a francophone school including any purpose ancillary to the operation of the francophone school, or

(f) exempted from tax by a bylaw under section 224 *[general authority for permissive exemptions]* of the *Community Charter* by the council of the municipality in which the property is located.

(3) Unless exempted from taxation under subsection (2), property in which a board has an ownership interest is subject to taxation in the name of the board.

(4) Nothing in subsection (2) exempts a property referred to in that subsection from a fee or charge under the *Community Charter* or the *Local Government Act*.

(5) If property referred to in subsection (3) is subject to taxation in the name of the board,

(a) the taxation imposed is a debt of the board due and payable to the taxing authority but is not subject to penalty additions or interest, and

(b) the property is not subject to tax sale.

(6) Property in which a board has an ownership interest is,

(a) if mortgaged under section 104, liable to be taken in execution by the mortgagee, or

(b) in any other case, not liable to be taken in execution.

(7) If property that is not exempted from taxation under section 224 *[general authority for permissive exemptions]* of the *Community Charter* is leased to a board and used in whole or in part for a school, including any purpose ancillary to the operation of the school, any taxes payable in respect of that property must be paid by the owner of the property and the board is not liable for the payment of any of those taxes.

(8) Subsection (7) does not apply to fees and charges under the *Community Charter* or the *Local Government Act*.

[1997-52-19 effective Aug. 1/97, BC Reg. 287/97; 1999-37-277 effective Sept. 28/99, BC Reg. 301/99; 2000-7-191 effective June 12/00; 2003-52-489 effective January 1, 2004]

Agricultural land reserve exemption

130 (1) Subject to this section, 50% of the assessed value of a parcel of land is exempt from taxation under this Act if

(a) the parcel of land is class 9 property, or

(b) the parcel of land is in the agricultural land reserve, is subject to sections 18 to 20.3 and 28 of the *Agricultural Land Commission Act* and is used in one or more of the ways set out in subsection (2) of this section.

(2) The parcel of land referred to in subsection (1) (b) must be

(a) vacant and unused,

(b) used for a farm or residential purpose, or

(c) used for a purpose prescribed by the Lieutenant Governor in Council.

(3) If only a portion of a parcel meets the requirements for exemption under this section, only that portion is eligible for the exemption.

(4) Subsection (1) (b) does not apply to a parcel of land that

(a) is assessed in a property class that is prescribed by the Lieutenant Governor in Council for the purposes of this section, or

(b) is used for a purpose prescribed by the Lieutenant Governor in Council.

[2002-36-88, effective Nov 1/02; 2011-2-25, effective Jun 2/11, 2018-2-97, effective February 21/18; 2018-52-52, effective February 21/19]

Other exemptions

131 (1) Subject to this Act, property that is in a municipal area of a school district and that is exempt from property taxation under the *Community Charter* or the *Vancouver Charter*, as the case may be, is also exempt from taxation under this Act.

(2) Land is exempt from taxation under this Act if the land is included in a timber lease or timber licence issued under an enactment of British Columbia or of Canada

(a) for which a stumpage, as defined in the *Forest Act*, has not been reserved or not made available to the government, or

(b) which is held for the specific purpose of cutting and removing timber, and for no other purpose while so held.

(3) Subject to subsection (4), if property in a rural area of a school district is exempt from taxation under the *Taxation (Rural Area) Act*, the property is also exempt from taxation under this Act.

(4) The following are subject to taxation under this Act:

(a) a farmer's dwelling referred to in section 15 (1) (f) of the *Taxation (Rural Area) Act*;

(b) farm improvements, other than the farmer's dwelling, that are exclusively used to operate a farm but only to the extent that the aggregate of their assessed values exceeds $50,000.

(5) Despite subsection (1), property that is exempted under section 225 *[partnering and other exemptions]* of the *Community Charter* or section 396 *[tax exemptions under a partnering agreement]* of the *Local Government Act* in relation to

(a) a partnering agreement under the applicable Act,
(b) a golf course, or
(c) a cemetery, mausoleum or columbarium,

is not exempt from taxation under this Act unless exempted under subsection (6) or (8) of this section.

(6) The Lieutenant Governor in Council may make regulations exempting property referred to in subsection (5) from taxation under this Act.

(7) Regulations under subsection (6) may

(a) provide an exemption for all or part of the property that is exempted under the *Community Charter* or the *Local Government Act*,
(b) provide an exemption for all or part of the term of the exemption under the *Community Charter* or the *Local Government Act*, and
(c) be different for different classes or uses of property, different classes of owner and different classes of partnering agreements.

(8) The Lieutenant Governor in Council may, by order in relation to property referred to in subsection (5) that is specified in the order, exempt all or part of the property from taxation under this Act and may provide the exemption for all or part of the term of the exemption under the *Community Charter* or the *Local Government Act*.

(9) Despite subsection (1) but subject to section 131.01 *[revitalization school tax exemption]* property that is exempted under

(a) section 226 *[revitalization tax exemptions]* of the *Community Charter*, or
(b) section 396E [revitalization tax exemptions] of the *Vancouver Charter*

is not exempted from taxation under this Act.

[1998-34-306 effective Sept. 23/98, BC Reg. 311/98; 2000-7-191 effective June 12/00; 2000-7-249 effective Aug. 30/00, BC Reg. 241/00; 2003-52-490 effective January 1, 2004; 2004-51-46, effective July 4, 2004; am effective Jan 1/16, BC Reg. 257/15; 2018-2-98, effective February 21/18]

Revitalization school tax exemption

131.01(1) In this section:

"exemption certificate", in relation to a qualifying rental property, means the exemption certificate referred to in subsection (4) (c);

"qualifying rental property" means land and improvements that are class 1 property if the improvements

(a) do not consist of strata lots,

(b) include at least 5 rental units that have been, since the date an exemption certificate was issued,

(i) newly constructed or placed on the land, or

(ii) created as the result of a substantial renovation of existing improvements, and

(c) meet the requirements prescribed by the Lieutenant Governor in Council,

but does not include

(d) land or improvements, or both, that are used for a purpose prescribed by the Lieutenant Governor in Council, or

(e) a type or class of land or improvements, or both, prescribed by the Lieutenant Governor in Council;

"revitalization tax exemption", in relation to a qualifying rental property, means the applicable revitalization tax exemption referred to in subsection (4) (a);

"substantial renovation", in relation to existing improvements, means a renovation of the improvements to such an extent that all or substantially all of the improvements have been removed or replaced, other than structural components, which include, without limitation, the roof, the foundation, external walls, interior supporting walls, floors and staircases.

(2) Words and expressions used in this section in relation to a revitalization tax exemption under section 226 *[revitalization tax exemptions]* of the *Community Charter* have the same meaning as in that section.

(3) Words and expressions used in this section in relation to a revitalization tax exemption under section 396E *[revitalization tax exemptions]* of the *Vancouver Charter* have the same meaning as in that section.

(4) Qualifying rental property is, for a taxation year, exempt from taxation under this Act, in accordance with subsection (5), if all of the following apply:

(a) the qualifying rental property, or property of which the qualifying rental property is a part, is, for the taxation year, subject to a revitalization tax exemption under section 226 of the *Community Charter* or section 396E of the *Vancouver Charter*, as applicable;

(b) the creation of new rental housing is one of the reasons for or one of the objectives of the applicable revitalization tax exemption as set out in the applicable

(i) revitalization program bylaw under section 226 of the *Community Charter*, or

(ii) revitalization program by-law under section 396E of the *Vancouver Charter;*

(c) an exemption certificate for property subject to the applicable revitalization tax exemption was issued after February 20, 2018, under section 226 (8) of the *Community Charter* or section 396E (10) of the *Vancouver Charter*, as applicable;

(d) all of the rental units in the qualifying rental property

(i) are rented or offered for rent only for a period of at least one month, and

(ii) when occupied, are occupied by a tenant who is not required to vacate the rental unit at the end of the first month;

(e) on or before October 31 of the taxation year immediately preceding the first taxation year for which the exemption under this section is to apply, the owner of the qualifying rental property notifies the assessor that the rental units are ready for occupancy.

(5) The exemption for qualifying rental property for a taxation year is calculated as follows:

$$VRSTE = \frac{VRTE}{TAV} \times AVQRP$$

where	
VRSTE	is the value of the revitalization school tax exemption under this section;
VRTE	is the value of the applicable revitalization tax exemption;
TAV	is the total assessed value of the parcel of land, together with improvements, that is subject to the applicable revitalization tax exemption;
AVQRP	is the assessed value of the qualifying rental property.

[2018-2-99; effective February 21, 2019]

School tax exemptions and refunds for approved and eligible alternative energy power projects

131.1 (1) In this section, **"power project"** and **"supply"** have the same meaning as in section 1 of the *Hydro and Power Authority Act*.

(2) The Lieutenant Governor in Council may

(a) establish and approve one or more classes of alternative energy power projects for the purposes of this section, and

(b) in respect of one or more power projects or types of power projects, within a class of alternative energy power projects approved under paragraph (a), make regulations providing for

(i) exemptions from school taxes, and

(ii) refunds of school taxes paid.

(3) A regulation providing an exemption from school taxes under subsection (2) (b) (i) may, as the Lieutenant Governor in Council considers advisable,

(a) designate one or more power projects or types of power projects, within a class of alternative energy power projects approved under subsection (2) (a), as eligible for the exemption,

(b) limit the exemption to newer power projects, and for that purpose establish what constitutes a newer power project,

(c) limit the exemption to specified types of land, improvements or both, that are used, or will be used at a future time, for or in connection with the generation or supply of power,

(d) establish the conditions on which and prescribe the manner in which the exemption may be provided, and

(e) provide differently for different power projects or types of power projects.

(4) The Lieutenant Governor in Council may make a regulation providing an exemption under this section retroactive to the extent necessary to apply for the purposes of the 2005 taxation year.

(5) A regulation may not be made under subsection (4) after December 31, 2005.

(6) A regulation providing a refund of school taxes under subsection (2) (b) (ii) may, as the Lieutenant Governor in Council considers advisable,

(a) designate one or more power projects or types of power projects, within a class of alternative energy power projects approved under subsection (2) (a), in respect of which the refund may be provided,

(b) limit the refund to newer power projects, and for that purpose establish what constitutes a newer power project,

(c) limit the refund to school taxes paid by the taxpayer in respect of specified types of land, improvements or both,

(d) establish the conditions on which and prescribe the manner in which the refund may be provided to the taxpayer, and

(e) provide differently for different power projects or types of power projects.

(7) School tax refunds provided under this section must be paid out of the consolidated revenue fund.

[2005-16-36, effective March 3/05]

Provincial industrial property tax credit

131.2 (1) In this section:

"class 4 property" means property that is assessed as property in the class 4 property class under the *Assessment Act*;

"class 5 property" means property that is assessed as property in the class 5 property class under the *Assessment Act*.

(2) For the 2009 and 2010 taxation years, an owner of class 4 property or class 5 property is entitled to a credit equal to 50% of the school taxes levied in the taxation year on the class 4 property or class 5 property.

(2.1) For the 2011 and subsequent taxation years, an owner of class 4 property or class 5 property is entitled to a credit equal to 60% of the school taxes levied in the taxation year on the class 4 property or class 5 property.

(3) For the purpose of calculating the school taxes payable under this Act by an owner entitled to a credit under subsection (2) or (2.1), the collector for the municipality or the Surveyor of Taxes must deduct the amount of the credit from the school taxes otherwise payable under this Act by the owner.

[2008-45-11, effective January 1, 2009; 2011-2-99, effective January 1, 2011]

Provincial farm land tax credit

131.3(1) *REPEALED 2018-2-100, effective February 21, 2018*

(2) For the 2011 and subsequent taxation years, an owner of class 9 property is entitled to a credit equal to 50% of the school taxes levied in the taxation year on the class 9 property.

(3) For the purpose of calculating the school taxes payable under this Act by an owner entitled to a credit under subsection (2), the collector for the municipality or the Surveyor of Taxes must deduct the amount of the credit from the school taxes otherwise payable under this Act by the owner.

[2011-2-100, effective January 1, 2011]

Corporations

132 Corporations must be assessed and taxed as other persons under this Act.

Assessor may require information in rural area

133 A person liable to assessment and taxation under this Act in respect of land and improvements in a rural area of a school district must, within 21 days after receiving a request from the assessor, make and file a return in the form approved by the assessor, detailing the nature, amount and value of all land and improvements in respect of which the person is liable to assessment.

Collector to apply *Taxation (Rural Area) Act*

134 The Surveyor of Taxes must apply the *Taxation (Rural Area) Act* to the taxation of property under this Act in rural areas, and in so doing must tax the property on a supplementary assessment roll prepared under the *Assessment Act* at the same rates of taxation as are charged against property assessed for school purposes in that school district for the corresponding period under this Act.

Appeal

135 Every person assessed in a rural area of a school district under this Act has the same rights of appeal on the person's real property assessment as are provided for by the *Taxation (Rural Area) Act* and *Assessment Act*.

Assessment to repay borrowed money

136 (1) If a school district that includes a rural area is abolished and is not included within the limits of another school district, all money borrowed under this Act by the board on behalf of the rural area and remaining unpaid must continue to constitute a charge on all the taxable property in the rural area formerly comprised in that school district.

(2) The yearly amount of money necessary to provide principal repayments and interest payments on debt incurred as determined by the minister of finance must be assessed, levied and collected in respect of the property in the rural area formerly comprised in that school district,

and all money so collected must be applied by the minister of finance to principal repayments and interest payments on debt incurred to the persons entitled to it.

[2002-53-51, effective May 30/02]

School referendum taxes

137 (1) In order to raise revenue approved by a referendum under section 112, a board must levy a school referendum tax on residential land and improvements in the district.

(2) The amounts of school referendum taxes levied by the board and requisitioned in the bylaw adopted under section 113 in respect of each constituent part of the school district are deemed to have been requisitioned on and from January 1 of the calendar year for which the requisition is made, and the amounts must be paid to the board by the municipality or municipalities or, in the case of rural areas, by the minister of finance, on or before September 1 of that year.

(3) A municipality must pay the amounts required of it under subsection (2) from the general revenue fund of the municipality, and the school referendum taxes collected under this Act in respect of the municipality must be paid into its general revenue fund.

(4) The minister of finance must pay amounts required with respect to a rural area under subsection (2) out of the consolidated revenue fund, and the school referendum taxes collected under this Act in respect of the rural area must be paid into the consolidated revenue fund.

(5) If the net taxable values of residential land and improvements for each part of a school district as certified under the *Assessment Act* are adjusted, the amount of the levy under subsection (1) is deemed to be adjusted to equal the product of the rate determined under section 113 (2) (c) multiplied by the adjusted net taxable value of the residential land and improvements determined under the *Assessment Act* and this Act.

(6) Sections 119 to 136 other than sections 124 (10), 131.2 and 131.3 apply to the assessment, levy, collection, recovery and payment of school referendum taxes levied by a board.

[2002-53-51, effective May 30/02; 2009; 2011-2-101, effective January 1, 2011]

Division 5 - General

Regulations

138 (1) The Lieutenant Governor in Council may make regulations, including regulations

(a) *REPEALED 2002-53-52, effective May 30, 2002*,

(b) amending the Schedule,

(c) governing referendums under section 112,

(d) governing the conduct of a vote under section 112, including, without limiting this, making

(i) Part 4 *[Assent Voting]* of the *Local Government Act* or, in the case of School District No. 39 (Vancouver), Part II *[Assent Voting]* of the *Vancouver Charter*, and

(ii) provisions of the *Local Elections Campaign Financing Act* in relation to assent voting,

apply to the extent the Lieutenant Governor in Council considers necessary, and

(e) providing for the manner of accounting for amounts payable by municipalities to the minister of finance under this Act.

(2) *REPEALED 2002-53-52, effective May 30, 2002.*

[1997-52-20 effective Aug. 1/97, BC Reg. 287/97; 2000-7-191 effective June 12/00; 2002-53-52, effective May 30/02; 2004-17-16, effective Apr. 29/04; am 2014-21-107, effective May 29/14]

Short term borrowing

139 (1) Subject to the regulations, a board may borrow to meet current operating expenses.

(2) Any interest earned as the result of borrowing under subsection (1) must be used first to offset the debt service expenses of that borrowing.

(3) The board must pay out of the amounts of the operating grant that is paid to the board in a fiscal year, any interest charges that are payable in that fiscal year as the result of borrowings under subsection (1).

[2002-53-53, effective July 01/02]

First charges

140 The amounts included in the expenditures for the payment of interest and principal in respect of debts lawfully incurred by a board constitute a first charge on the money available for those expenditures and are not subject to reduction by agreement or arbitration.

[2004-17-14, effective Apr. 29/04]

Division 6 - Capital Plans and Money Bylaws

Capital projects

141 (1) Subject to the orders of the minister, a board may

(a) engage in a tendering process related to any capital expenditure by the board, and

(b) spend money

(i) for a local capital project,

(ii) for an annual facility project, and

(iii) for a capital plan project, with the approval of the minister.

(2) Subject to the provisions of this Act respecting a local capital project and a capital plan project, a board may spend money on a joint capital project.

[2002-53-54, effective May 30/02; 2004-17-17, effective Apr. 29/04]

Capital plan

142 (1) A board must, when required by the minister, prepare and submit to the minister a capital plan.

(2) If one or more community plans have been or are being prepared in respect of areas that include the whole or any part of a school district, the board of the school district must, when preparing a capital plan under subsection (1) and with a view to rendering that capital plan consistent with those community plans,

(a) review and consider each of those community plans, and

(b) consult in respect of those community plans

(i) with each local government and local trust committee that has prepared or is preparing those plans, or

(ii) in the case of a community plan adopted by a local government before January 1, 1978 that applies, in whole or in part, to land within a local trust area, with each local government and local trust committee that has the authority to amend the community plan in respect of areas that include the whole or any part of the school district.

(3) A capital plan prepared under this section must

(a) be in a form specified by the minister,

(b) set out the plans of the board respecting the development of proposed school sites and facilities and the renovation of existing school facilities in its school district,

(c) set out particulars of all capital projects that the board proposes to undertake during a period specified by the minister other than

(i) local capital projects that are not joint capital projects, and

(ii) annual facility projects,

(d) set out an estimate of the financial resources required for the proposed capital projects set out in the capital plan, and

(e) set out any other information the minister requires.

(4) Before submitting a capital plan to the minister for approval, a board must, by resolution, approve the proposed capital plan.

(5) The minister may approve, approve with modifications or reject a capital plan submitted to the minister under this section.

[2002-53-55, effective May 30/02; 2004-17-18, effective Apr. 29/04]

Capital bylaws

143 (1) If the minister approves a capital plan or approves a capital plan with modification, the board must prepare a capital bylaw.

(2) The capital bylaw

(a) must be in a form specified by the minister,

(b) must include provisions that the minister considers necessary or that are prescribed by the Lieutenant Governor in Council,

(c) is not valid unless it is adopted by a majority of the board,
(d) may, subject to paragraphs (a) and (b), provide for the issue of securities to raise the net sums required after payment of expenses of issue and sale of the securities, and
(e) may delegate to a trustee, the secretary treasurer or an employee of the board the authority to settle the terms and conditions of securities referred to in paragraph (d).

(3) A board may not amend a capital bylaw except as approved in writing by the minister.

[2015-11-21, effective May 14/15]

Borrowing for capital expenditures

144 (1) A board must not borrow or spend money in respect of a capital plan expenditure unless
(a) the board has adopted a capital bylaw in accordance with section 143, and
(b) the minister has in writing authorized the borrowing or expenditure.

(2) An approval of a capital plan by the minister under section 142 (5) is not an authorization for the purpose of subsection (1) (b).

(3) A board that is authorized under subsection (1) (b) to borrow or to make an expenditure must, if the minister so directs, spend on the capital plan project such part of any surplus referred to in section 156 (10) as the minister specifies.

(4) A board that borrows money in respect of a capital plan project approved under subsection (1) must, if the minister so directs, apply to the discharge of the loan any part of a surplus referred to in section 156 (10) that the minister specifies.

(5) Despite subsection (1), a board may borrow or spend money in respect of a capital expenditure if
(a) the borrowing and expenditure is required because of an emergency, and
(b) the minister approves
(i) the capital project for which the capital expenditure is to be incurred, and
(ii) all borrowings and expenditures for that capital project.

(6) A board must not borrow money for capital expenditures unless the minister has, in writing, authorized the borrowing.

[2004-17-19, effective Apr. 29/04]

Sinking fund debentures

145 (1) Despite Division 7, a bylaw of a board providing for the borrowing of money by the issue of debentures may authorize the issue of sinking fund debentures for a term not exceeding 30 years from the date of the issue of the debentures.

(2) If a bylaw authorizes the issue of sinking fund debentures under subsection (1),

(a) the board must set aside in each fiscal year during the term of the debentures, a sum that, together with interest compounded annually on it at a rate determined by the minister of finance, would be sufficient to provide a sinking fund for
  (i) the full repayment of the debentures at their maturity, or minister of finance, the partial repayment of the debentures at their maturity, and
  (ii) with the approval of the minister of finance, the partial repayment of the debentures at their maturity, and
(b) the amount of interest payable in each fiscal year and the amount to be set aside in each fiscal year for the sinking fund must be set out in the bylaw.

(3) For the purposes of this Act, the amount to be set aside for the sinking fund in any fiscal year is deemed to be an amount or instalment of principal falling due or becoming payable in the fiscal year, and this Act must be construed accordingly.

(4) The amount to be set aside in each fiscal year for the sinking fund must be paid on or before the date specified in the bylaw to the minister of finance, who must
(a) act as trustee for the board,
(b) establish appropriate sinking fund trustee accounts, and
(c) invest the amount and interest earnings on it in investments permitted for a trust fund under section 40 (4) of the *Financial Administration Act*.

[1998-46-16 deemed effective April 1/98 on Royal Assent; 2002-53-56, effective May 30/02]

Issue of debentures to certain special purchasers

146 (1) If debentures issued by a board are to be sold to a purchaser designated by the Lieutenant Governor in Council as a purchaser with respect to whom this subsection applies, the board may
(a) issue the debentures in coupon form or in fully registered form and in the denominations required by their purchasers, and
(b) exchange the debentures for other debentures of the same issue for an equal aggregate principal amount on terms and conditions determined by the board.

(2) This section is retroactive to the extent necessary to give it full force and effect in respect of bylaws passed by a board before March 26, 1965 providing for the issue and sale of debentures and in respect of the debentures, and, with the approval of the Lieutenant Governor in Council, the board may amend the bylaw accordingly.

(3) Section 149 applies to debentures issued in exchange for other debentures of the same issue.

(4) Despite the other provisions of this Act, debentures issued by a board under this Act to be sold to the minister of finance may contain any terms and conditions agreed to by the board and the minister of finance.

[1998-46-17 deemed effective April 1/98 on Royal Assent; 2002-53-56, effective May 30/02]

Division 7 - Debentures

Issue of debentures

147 (1) Debentures authorized by a bylaw may be issued all at one time or, if it is anticipated that the proposed expenditures for the purposes set out in the bylaw will extend over a period of time and it is considered undesirable to have large portions of the money in hand unused and uninvested, or for other sufficient causes, the debentures may, with the approval of the minister, be issued in instalments in amounts, not exceeding in the aggregate the total principal amount authorized by the bylaw, and at times as the exigency of the case demands.

(2) Debentures may be issued up to the principal amount authorized by the bylaw referred to in subsection (1), even if the net sum realized after payment of discount, commission, brokerage, exchange and other expenses with respect to the issue and sale of the debentures is greater or less than the amount required for the purposes specified in the bylaw.

(3) If the amount so realized is greater than the amount required for the purposes set out in the bylaw, the excess may, with the approval of the minister, be spent by the board to meet other capital expenditures or be applied to retirement of the debt so created.

(4) If the amount so realized is less than the amount required for the purpose set out in the bylaw, the deficiency may be raised in the manner directed by the Lieutenant Governor in Council, who may direct that the deficiency be raised by a further issue of debentures.

(5) Unless otherwise authorized by the Lieutenant Governor in Council, the debentures must be dated no more than 2 years after the final passing of the bylaw authorizing their issue.

[2004-17-14, effective Apr. 29/04]

Signature and corporate seal

148 (1) Debentures issued under this Act by a board must have the board's corporate seal affixed and be signed by the chair and by the secretary treasurer of the board.

(2) The signature of the chair on the debentures may be printed or otherwise mechanically reproduced.

(3) The debentures may be signed at the date of the debentures or at any time after that by the chair and the secretary treasurer of the board holding office at the date of the passage of the bylaw authorizing the issue of the debentures.

(4) The debentures are binding on the board despite a change in the offices of the chair or the secretary treasurer between the time the signatures are affixed and the date of delivery of the debentures.

Debentures guaranteed

149 (1) The Lieutenant Governor in Council may guarantee payment of the principal and interest of debentures issued by a board, and the form and manner of the guarantee must be as approved by the Lieutenant Governor in Council.

(2) The guarantee must be signed by the minister of finance or another officer designated by the Lieutenant Governor in Council and, on being signed,

(a) the government is liable for payment of the principal and interest of the debentures,

(b) the Lieutenant Governor in Council is authorized to make arrangements to supply the money necessary to fulfil the requirements of the guarantee and to advance that amount out of the consolidated revenue fund, and

(c) in the hands of a holder of the debentures, a guarantee so signed is conclusive evidence that this section has been complied with.

[2002-53-56, effective May 30/02]

Registration of debentures and transfers

150 (1) A debenture issued by a board may contain or have endorsed on it a provision to the following effect:

> This debenture, or an interest in it, is not, after a certificate of ownership has been endorsed on it by the secretary treasurer of the board, transferable, except by entry by the secretary treasurer or his or her deputy in the debenture registry book of the Board of Education at the..... of.....

(2) On the application of the owner of a debenture endorsed in accordance with subsection (1) or of an interest in that debenture, the secretary treasurer or a person authorized by the board must endorse on the debenture a certificate of ownership, and must enter in a book, to be called the debenture registry book,

(a) a copy of the certificate and of every certificate that is subsequently given, and

(b) a memorandum of every transfer of the debenture.

(3) A certificate of ownership must not be endorsed on a debenture except by the written authority of the person last entered as the owner of it, or of that person's executor or administrator, or of the attorney representing the person, executor or administrator, which authority must be retained and filed by the secretary treasurer.

(4) After a certificate of ownership has been endorsed, the debenture is transferable only by entry by the secretary treasurer in the debenture registry book, as and when a transfer of the debenture is authorized by the then owner of it or by that person's executor or administrator, or the attorney representing any of them.

(5) On the written request of the person named as owner in the certificate of ownership endorsed on a debenture, or of that person's executor or administrator, or of the attorney of any of them, the secretary treasurer may cancel and remove the certificate of ownership and by that constitute the security a debenture payable to bearer and transferable by delivery.

(6) When a debenture issued by a board is held by the minister of finance, the board may by resolution authorize the security registrar in the ministry of the minister of finance to act as deputy of the secretary treasurer of the board for the purpose of registering in the debenture registry book of the board the ownership of the debenture by the minister of finance for the

government or by the minister of finance as trustee for any of the several accounts administered by him or her and of endorsing on the debenture a certificate of that ownership.

(7) A registration or endorsement under subsection (6) is of the same effect as if made by the secretary treasurer of the board.

[2002-53-57, effective May 30/02; 2007-20-26, effective July 1/07, BC Reg 229/07]

Validity of debentures

151 When debentures have been issued by a board under a bylaw that has not been quashed by a court and the interest on them that has fallen due has been paid for the period of one year by the board, the bylaw and the debentures issued under it, or so much of them as may be unpaid, are valid and binding on the board and the owner electors of the school district and on all parties concerned.

Issue of duplicate debenture

152 (1) If a debenture is lost, stolen or destroyed and

(a) notice of the loss, theft or destruction is given to the board, and

(b) neither the debenture nor any of its coupons has been presented for payment the

board may, on application accompanied by proof of the facts satisfactory to it, after the expiration of 6 months from the receipt of the notice replace the debenture with a duplicate debenture with its coupons attached.

(2) The duplicate must be printed in a manner distinguishing it from the original debenture.

(3) The applicant must pay the costs of printing and deliver to the board a bond or policy of a guarantee or insurance company, carrying on business in British Columbia and approved by the board, in the amount of the debenture and interest indemnifying the board and its paying agents against loss or damage.

(4) This section applies to debentures lost, stolen or destroyed before as well as after the coming into force of this section.

Provincial repayments to board

153 (1) The amount payable for interest and instalment of principal in any fiscal year in respect of debentures issued under a bylaw passed under this Act must be included in the board's estimates of expenses for that fiscal year.

(2) The amount paid by the government to a board under subsection (1) must be applied by the board to payment of the interest and instalments of principal falling due in the fiscal year, and for no other purpose.

(3) Failing an appropriation of the Legislature to provide the amounts to be paid by the government under this section, that amount is a charge on and must be paid out of the consolidated revenue fund.

Repayment of debentures

154 (1) The amount necessary to be levied to raise in each year the sums required to meet the portion of principal and interest on the debentures issued under a bylaw, other than the amount to be paid by the government under this Act, must be apportioned between the constituent parts of the school district, as provided in this Act.

(2) The Surveyor of Taxes and each municipality must, on the request of the board, raise annually by taxation and levy in the rural area and in the municipalities respectively, as part of the expenses of the board, the respective amounts apportioned under subsection (1) to the rural area and to the municipality or municipalities included in the school district.

(3) Every board must
- (a) provide as part of its expenses the sums required annually to pay interest and principal falling due on debentures issued, before September 1, 1989, by a municipality or by the board of a rural area,
- (b) pay annually the amounts attributable to each municipality in the school district as are necessary to pay the amounts of principal and interest payable by each municipal corporation in respect of debentures issued by it, and
- (c) provide for payment of the principal and interest in respect of debentures issued, before September 1, 1989, by the board of a rural area in the school district.

[OIC 840/06, Effective Dec 1/06]

Division 8 - Accounts and Audits

Designation of expenses

155 *REPEALED 2002-53-58, effective July 1, 2002*

Accounting practices

156 (1) Subject to this section, a board must
- (a) maintain budgetary control over expenditures,
- (b) in accordance with the orders of the minister,
  - (i) account and keep accounting records for funds, and
  - (ii) prepare and submit to the minister financial reports and statements, in the form, with the information and at the time required by the minister, and
- (c) designate specific funds in accordance with the requirements specified by the minister.

(2) Funds received by a board as proceeds of the issue and sale of debentures authorized under this Act must be placed in special purpose accounts and may be spent only for the purposes approved by the minister and for which they were provided.

(3) *REPEALED, 2004-17-20, effective Apr. 30, 2004*

(4) When directed to do so by the minister, a board must establish a special purpose account

(a) for a purpose specified by the minister, and
(b) in accordance with the terms of the special purpose account determined by the minister.

(5) A board that establishes a special purpose account under subsection (4) must spend and account for the money in the special purpose account in accordance with

(a) the terms of the special purpose account, and
(b) the directions of the minister.

(6) Except for a debt service surplus, every surplus accruing in respect of operating expenses of a board may be retained as an unappropriated operating reserve of the board.

(6.1) An amount retained as an operating reserve, unless appropriated for the purpose of section 111, may be spent or transferred by the board to another reserve only in accordance with the orders of the minister.

(6.2) The amount retained by a board as an unappropriated operating reserve of the board may not exceed the amount determined by order of the minister.

(7) *REPEALED*, *2004-17-20, effective Apr. 30, 2004*
(8) *REPEALED*, *2004-17-20, effective Apr. 30, 2004*
(9) *REPEALED*, *2004-17-20, effective Apr. 30, 2004*

(10) A surplus in respect of a capital plan project may be spent only

(a) on capital expenditures, and
(b) with the minister's approval.

(11) For purposes of this section, proceeds of the issue and sale of debentures are deemed to include premiums and accrued interest on them to the date of settlement, and interest earned in respect of a fund is deemed part of the fund.

(12) A board must not incur a deficit of any kind unless the board

(a) has the approval of the minister, or
(b) meets criteria prescribed by order of the minister.

[2002-53-59, effective July 1/02; 2004-17-20, effective Apr. 30/04, 2020-8-17, effective July 1, 2020]

Financial statements

157 (1) The board must cause to be prepared each fiscal year by the secretary treasurer or other person authorized by it, financial statements of the school district respecting the preceding fiscal year.

(2) The financial statements required under subsection (1) must be prepared on or before

September 15 of each year, in accordance with

(a) subject to paragraph (b), generally accepted accounting principles, and

(b) the directions of the minister.

(3) The financial statements may include separate statements of special activities of the board so long as the items of account of a controlling nature appear in the statements referred to in subsection (2).

(4) The financial statements referred to in subsection (2) must be signed by the chair of the board and the secretary treasurer, and must be published for distribution to the public before December 31 together with the auditor's report submitted to the board under section 161 (1) (d).

(5) The secretary treasurer must, not later than September 30 in each year, forward to the minister a copy of the financial statements together with the auditor's report.

[2004-17-21, effective Apr. 30/04]

Financial information

157.1 Without limiting section 81, at the times and in the form required by the minister, a board must submit to the minister financial information necessary for the purpose of incorporating the financial information into the financial reports of the government reporting entity.

[2004-17-22, effective Apr. 30/04]

Appointment of auditor

158 (1) Unless the Auditor General is appointed in accordance with the *Auditor General Act* as the auditor of the board of a school district, the board of the school district must appoint an auditor to audit the accounts of the board.

(2) The auditor appointed by the board must be a person who is

(a) a member of, or is a partnership whose partners are members of, a provincial institute of chartered accountants within Canada,

(b) a member of a provincial organization of chartered professional accountants within Canada, authorized by that organization to perform an audit,

(c) a professional accounting corporation as defined in the *Chartered Professional Accountants Act*, authorized by the CPABC as defined in that Act to perform an audit, or

(d) a registered firm as defined in the *Chartered Professional Accountants Act*, authorized by the CPABC as defined in that Act to perform an audit.

(3) If a board fails or neglects to appoint an auditor, and the Auditor General is not appointed in accordance with the *Auditor General Act*, the minister may on one month's notice to the board appoint an auditor.

(4) The board must pay the auditor's remuneration.

(5) Sections 159 and 160 do not apply if the auditor of the board of a school district is the Auditor General appointed in accordance with the *Auditor General Act.*

[am 2012-23-122, effective May 14/12; am 2015-4-98, effective June 12/15, BC Reg. 114/15; am 2018-36-29, effective October 31, 2018]

Rescission of auditor's appointment

159 (1) The secretary treasurer of each board must promptly notify, in writing, the auditor and the minister of an appointment made under section 158 (1) and of the rescission of the appointment.

(2) If an auditor's appointment is rescinded, the auditor may, within one month of notification of the rescission, appeal the rescission to the minister, who may confirm or set aside the rescission.

(3) An appeal under subsection (2) must be in writing and a copy of the written appeal must be filed by the auditor with the secretary treasurer.

(4) The board must not appoint another auditor until the time allowed for an appeal by the auditor has elapsed or, if an appeal has been made, until the appeal has been dealt with by the minister.

(5) The rescission of the appointment of an auditor is not effective until a successor has been appointed.

Minister may remove auditor

160 (1) If the minister believes an auditor has acted in a negligent manner, the minister may require the board to rescind the appointment and appoint another auditor.

(2) An auditor whose appointment is rescinded under subsection (1) may appeal within 10 days against the order of the minister to the Lieutenant Governor in Council, who may confirm or set aside the order of the minister.

Duties of auditor

161 (1) In addition to any terms of an auditor's appointment, the auditor

(a) must make an examination that will enable the auditor to report to the board as required under paragraph (d),

(b) has a right of access at all times to every record of the board other than a student record or a record referred to in paragraph (d) of the definition of "student record",

(c) may require from trustees or officers or employees of the board and from any other persons any information or explanation necessary to complete the audit, and

(d) must submit a report to the board respecting the annual financial statements referred to in section 157.

(2) The auditor must report to the board any disbursement, expenditure, liability or other transaction that exceeds the authority of the board under this or any other enactment.

(3) In addition to the examination and reports required by this section, the minister or the board may at any time require further examinations and reports from the auditor that are considered necessary, and the auditor on his or her own initiative may make any further examinations or reports considered advisable.

(4) The auditor must forward to the minister a copy of every report made by the auditor to the board or to an official of the board.

[1999-8-18 effective June 29/99; 2002-53-60, effective July 1/02; 2004-17-23, effective Apr. 29/04]

Auditor to report irregularities

162 (1) The auditor must report in writing to the board and the minister

(a) any expenditure that has not been recorded by the board in accordance with the requirements imposed under section 156 (1) (b),

(b) any irregularity respecting the assets, liabilities, accounts, funds or financial obligations of the board,

(c) the name of any person that the auditor considers responsible for an irregularity referred to in paragraph (b), and

(d) any sum that ought to have been but was not brought into account.

(2) On application by a person named by the auditor in a report under subsection (1), the auditor must state in writing his or her reasons for that part of the report concerning the named person.

(3) When the board receives a report under subsection (1), it must promptly bring the matter to the attention of the appropriate police authorities and may commence proceedings to recover any loss or damage.

[2002-53-61, effective July 1/02]

Unauthorized expenditures

163 (1) If the auditor considers that an expenditure is not authorized by any enactment, the auditor must report the unauthorized expenditure to the board and any other person considered appropriate.

(2) A person who believes or has reason to believe that a proposed expenditure is not authorized by an enactment and who authorizes or permits the expenditure is, on proof that the expenditure is not authorized by an enactment, guilty of an offence.

Duty to assist auditor

164 Every trustee and every officer or employee of the board must make available all records required by the auditor, and must give the auditor every reasonable assistance and furnish the information and explanations concerning the affairs of the board that the auditor considers necessary to complete the audit.

Auditor's power to obtain records

165 (1) For the purposes of an audit under this Act, the auditor may, in writing, require any person holding or accountable for records, money or securities

(a) to produce the records, money or securities, and

(b) to appear before the auditor and make and sign a declaration as to the accuracy of the records so produced.

(2) A person who neglects or refuses to comply with the auditor's requirements under subsection (1) commits an offence.

(3) A person who makes or signs a declaration under subsection (1), knowing it to be false, commits an offence.

(4) The auditor must not, without the approval of the board or an order of a court, remove any records, money or securities from the office of the board or other place where they are kept.

(5) An auditor who contravenes subsection (4) commits an offence.

Elector may object

166 (1) An elector of the school district may deliver to the auditor a written objection respecting any item of account or other matter relating to an audit so long as the objection is delivered within 3 months after the publication of the auditor's final report.

(2) On receipt of an objection under subsection (1), the auditor must notify the elector and the board of a time and place for dealing with the objection.

(3) This Part must not be construed to prevent an elector, or a group of electors, from exercising any right to take action for recovery on behalf of the school district.

PART 8.1 -- FRANCOPHONE EDUCATION AUTHORITIES

Division 1 - Interpretation

Definitions

166.1 In this Part:

"authority" means a francophone education authority;

"board of regional trustees" means the board of regional trustees of a francophone education authority constituted under this Part;

"francophone catchment area" means, in relation to a francophone school, the geographical area established under section 166.251 as the francophone catchment area for the francophone school;

"general election" means an election referred to in section 166.18;

"member" means a person who is admitted as a member of a francophone education authority under this Part;

"president" means the president of a francophone education authority elected under this Part.
"regional trustee" means an elected or appointed trustee of a francophone education authority.
[1999-8-19 effective Nov. 19/99; 2002-53-62, effective July 1/02; 2007-22-18, effective July 1, 2007, BC Reg. 194/07; 2007-22-30, effective July 1, 2007, BC Reg. 194/07; 2007-22-31, effective July 1, 2007, BC Reg. 194/07]

Interpretation

166.11(1) Where, in this Part, a provision of this Act is made to apply for the purposes of this Part, a reference in that provision to a word or phrase listed in Column A is to be read as a reference to the word or phrase listed opposite in Column B.

Column A	**Column B**
assistant superintendent	assistant to the directeur général of a francophone education authority
board	francophone education authority
chair	president of a francophone education authority
director of instruction	francophone director of instruction
district	francophone school district
educational program	francophone educational program
elector	member of a francophone education authority
principal	francophone principal
school	francophone school
board of education	francophone education authority
school district	francophone school district
secretary-treasurer	secrétaire trésorier of a francophone education authority
student	francophone student
superintendent	directeur général of a francophone education authority
teacher	francophone teacher

trustee	regional trustee of a francophone education authority
vice chair	vice president of a francophone education authority
vice principal	francophone vice principal

(2) If an order or regulation referred to in section 175 (7) is made to apply for the purposes of this Part, a reference in that order or regulation to a word or phrase listed in Column A of subsection (1) is to be read as a reference to the word or phrase listed opposite in Column B.

(3) If a provision that applies for the purposes of this Part refers to a word or phrase that is defined in section 1 of this Act but is not listed in Column A of subsection (1), a reference in that definition to a word or phrase listed in Column A of subsection (1) is to be read as a reference to the word or phrase listed opposite in Column B.

(4) Despite subsection (1), in applying the following provisions for the purposes of this Part, the references to a board are to be read as references to the board of regional trustees of a francophone education authority:

(a) the references to a board in sections 15 (6) and (7), 54, 58 (1) and (3), 68 (4), 69 (1) to (3), 70, 72 (1) and (4), 143 (2) (c), 144 (1) (a) and 177 (2) and (4);
(b) the first reference to a board in each of sections 69 (4), 72 (3), 157 (4) and 161 (1) (d) and (2);
(c) the second reference to a board in sections 61 (1) and (2) and 72 (2).

(5) If, in a provision of this Act that applies for the purposes of this Part, a reference is made to another provision of this Act, that reference is, for the purposes of this Part, deemed to be a reference to that other provision as it is to be read under this section.

(6) Section 42 applies for determining residency for the purposes of this Part.

[2002-53-63, effective May 30/02; 2007-22-28, effective July 1, 2007, BC Reg. 194/07; 2007-22-29, effective July 1, 2007, BC Reg. 194/07; 2007-22-30, effective July 1, 2007, BC Reg. 194/07; 2007-22-31, effective July 1, 2007, BC Reg. 194/07]

Division 2 - Establishment and Membership

Establishment of francophone education authorities

166.12(1) The Lieutenant Governor in Council may, by regulation,

(a) establish a francophone education authority,
(b) assign a name to a francophone education authority, and
(c) prescribe an area, to be known as a francophone school district, over which a francophone education authority has jurisdiction.

(2) A francophone education authority established under subsection (1) is a corporation consisting of those persons admitted as members under section 166.13.

(2.1) A francophone education authority is responsible for the improvement of francophone student achievement in the francophone school district.

(3) For the purposes of carrying out its powers, functions and duties under this Act, a francophone education authority has the power and capacity of a natural person of full capacity.

(4) The francophone education authority known as the Autorite Scolaire established under B.C. Reg. 457/95, the Francophone Education Regulation, is continued as a francophone education authority under the name "Conseil Scolaire Francophone de la Colombie-Britannique".

(5) The authority continued under subsection (4) is a corporation consisting of its members in good standing on the day this section comes into force and those other members admitted in accordance with this Part.

(6) On the day they take office, the regional trustees of a francophone education authority continued under subsection (4) who are elected in the general election of regional trustees constitute the board of regional trustees of that authority.

(7) The Lieutenant Governor in Council may, by regulation,

(a) alter the boundaries of the area prescribed under subsection (1) (c),

(b) change the name of a francophone education authority, or

(c) abolish a francophone education authority.

(8) A variation in the membership of a francophone education authority that occurs as a result of an alteration under subsection (7) (a) does not abolish the francophone education authority.

(9) The assets of a francophone education authority, including funds, must be disposed of as directed by the Lieutenant Governor in Council, having regard to the rights of creditors, if, under subsection (7)

(a) the area over which the francophone education authority has jurisdiction is reduced,

(b) all or part of the area over which the francophone education authority has jurisdiction is included in the area over which another francophone education authority has jurisdiction, or

(c) the francophone education authority is abolished.

(10) Without limiting subsection (9), the Lieutenant Governor in Council may make provision for

(a) the use and administration of property used and administered by the francophone education authority but not vested in the authority,

(b) the transfer and payment of the liabilities of the francophone education authority and for raising funds necessary for payment of those liabilities, or

(c) the use and expenditure of the proceeds of the sale of any asset of the francophone education authority.

(11) Section 31 (4) applies for the purposes of this Part.

[1999-8-20 effective Nov. 19/99; 2007-20-28, effective July 1/07, BC Reg 229/07; 2007-22-31, effective July 1, 2007, BC Reg. 194/07]

Membership in a francophone education authority

166.13(1) Any eligible person, and any immigrant parent, who is resident in an area prescribed by regulation of the Lieutenant Governor in Council may apply to become a member of a francophone education authority by providing to the authority a signed statement in the prescribed form.

(2) A francophone education authority

(a) must admit as a member an eligible person who applies under subsection (1), and

(b) may admit as a member an immigrant parent who applies under subsection (1).

(3) A francophone education authority must not charge its members any membership dues or other fees or assessments related to acquiring or maintaining membership in the authority.

(4) A person is not disqualified from being a member of a francophone education authority merely because the person

(a) voted in a trustee election, or

(b) was nominated for, was elected or appointed to or holds office as a trustee.

(5) A person ceases to be a member of a francophone education authority if the person

(a) is no longer an eligible person or an immigrant parent,

(b) is no longer resident in the area prescribed under subsection (1), or

(c) delivers his or her resignation in writing to the secrétaire trésorier of the authority or mails or delivers it to the address of the authority.

[2002-53-64, effective May 30/02; 2007-22-29, effective July 1, 2007, BC Reg. 194/07; 2016-5-2, effective Dec 8/16, BC Reg. 310/16]

Members' right to vote

166.14(1) Subject to subsections (2) to (6), the members of a francophone education authority are entitled to vote in an election of regional trustees of the authority, other than the first regional trustees appointed under section 166.17 (1).

(2) In order to vote in an election referred to in subsection (1), a person must meet all of the following requirements at the time of voting:

(a) the person must be age 18 or older;

(b) the person must be a Canadian citizen;

(c) the person must have been a member of the francophone education authority for which the election is held for at least 120 days;

(d) the person must not be disqualified by this Act or another enactment from voting in the election or be otherwise disqualified by law.

(3) The following persons are disqualified from voting in an election referred to in subsection (1):

(a) a person who has not completed the sentence for an indictable offence, unless the person is released on probation or parole and is not in custody;

(b) a person who is involuntarily confined to a psychiatric or other institution as a result of being acquitted of or found not criminally responsible for an offence under the *Criminal Code* on account of mental disorder;

(c) *REPEALED 2014-21-108, effective May 29/14*;

(d) a person who, in relation to that election, has contravened section 161 (3) of the *Local Government Act*, as that section applies to an election referred to in subsection (1).

(4) In addition to the persons referred to in subsection (3), a person who fails to comply with subsection (5) is also disqualified from voting in an election referred to in subsection (1).

(5) A person who wishes to vote in an election referred to in subsection (1) must

(a) make a declaration in the prescribed form that the person has not and will not vote in an election of school trustees to which the declaration applies, and

(b) file the declaration referred to in paragraph (a) with the francophone education authority.

(6) Subsection (5) applies only to an election referred to in subsection (1) that occurs in 1999 or later.

(7) A person must not vote in an election referred to in subsection (1) unless entitled to do so.

(8) For the purpose of elections referred to in subsection (1), the Lieutenant Governor in Council may, by regulation,

(a) establish wards for the area prescribed under section 166.13 (1), and

(b) alter the boundaries of the wards established under paragraph (a).

[1999-8-21 effective Nov. 19/99; 2000-7-191 effective June 12/00; 2007-22-31, effective July 1, 2007, BC Reg. 194/07; am 2014-21-108, effective May 29/14; am effective Jan 1/16, BC Reg. 257/15]

166.15 *REPEALED 1999-8-22, effective Nov. 19, 1999*

166.16 *REPEALED 1999-8-22, effective Nov. 19, 1999*

Division 3 – Regional Trustees

Appointment of first regional trustees

166.17(1) The Lieutenant Governor in Council may appoint as the first regional trustees of a francophone education authority those eligible persons who the Lieutenant Governor in Council

considers represent the interests of the eligible persons resident in the area prescribed under section 166.13 (1).

(2) The regional trustees appointed under subsection (1) hold office for a term set by the Lieutenant Governor in Council.

[2007-22-31, effective July 1, 2007, BC Reg. 194/07]

General election of regional trustees

166.18(1) A general election of regional trustees of a francophone education authority must be conducted in accordance with the regulations and held in the year 2014 and in every 4th year after that.

(1.1)The 3rd Saturday of October in the year of a general election is to be known as election day.

(1.2) On election day, the secrétaire trésorier must declare the results of the general election.

(2) The number of regional trustees to be elected under subsection (1) is 3, 5, 7 or 9 regional trustees, as prescribed by the Lieutenant Governor in Council.

(3) Subject to section 166.19 (2), the term of office of a regional trustee elected under subsection (1).

(a) begins on the first Monday after November 1 following the general election of regional trustees or when the person takes office in accordance with section 166.19 (2), whichever is later, and

(b) ends immediately before the first Monday after November 1 in the year of the next general election of regional trustees or when at least 3 regional trustees elected or appointed following that election have taken office, whichever is later.

(4) A candidate for election as a regional trustee who is not elected and who alleges that he or she should have been elected may, not more than 10 days after receiving notice of the outcome of the election, apply to the Supreme Court for an order declaring the applicant to be elected in place of the candidate declared to be elected under the regulations.

(5) A person who holds office as a trustee is disqualified from standing for election for, being elected to or holding office as a regional trustee of a francophone education authority.

(6) If a regional trustee of a francophone education authority is continuously absent from board meetings for a period of 3 consecutive months, unless the absence is because of illness or is with the permission of the board of regional trustees, the office of the regional trustee is deemed to be vacant and the person who held the office is disqualified from holding office as a regional trustee until the next general election of regional trustees of the francophone education authority.

(7) If an election of regional trustees is not held as required under this Part, or if the members of the authority fail to elect the number of regional trustees that are to be elected, the minister may appoint persons as regional trustees to fill the unfilled regional trustee positions until the next general election of regional trustees under this section.

[1999-8-23 effective Nov. 19/99; 2002-53-64, effective May 30/02; 2007-22-29, effective July 1, 2007, BC Reg. 194/07; 2007-22-29, effective July 1, 2007, BC Reg. 194/07; 2007-22-30, effective July 1, 2007, BC Reg. 194/07; am 2014-21-109, effective May 29/14; am 2014-21-184, effective Jan 1/16; am 2016-17-46, effective May 19/16]

Oath of office

166.19 (1)A person appointed or elected as a regional trustee of a francophone education authority must make a prescribed oath of office, by oath or solemn affirmation, within the following applicable time limit:

(a) in the case of a person appointed as a regional trustee under section 166.17 (1), 166.18 (7) or 166.2 (3), within 45 days after the effective date of the appointment;

(b) in the case of a person elected by voting in accordance with the regulations, within 45 days after the declaration of the results of the election;

(c) in the case of a person elected by acclamation in accordance with the regulations, within 50 days after the declaration of the results of the election.

(2) Section 50 (2), (3) and (4) applies for the purposes of this Part.

(3) If a person appointed or elected as a regional trustee of a francophone education authority does not make the oath required by subsection (1) within the time limit set by that subsection, the office to which that person was appointed or elected is deemed to be vacant and the person is disqualified from holding office as a regional trustee until the next general election of the regional trustees of the francophone education authority.

[1999-8-23 effective Nov. 19/99; 2007-22-30, effective July 1, 2007, BC Reg. 194/07; 2007-22-31, effective July 1, 2007, BC Reg. 194/07]

Vacancy in office of regional trustee

166.2(1) If

(a) a regional trustee ceases to hold office before the end of the regional trustee's term of office,

(b) the office of a regional trustee is declared vacant on the final determination of an application under section 63 (1), as that section applies for the purposes of this Part, or

(c) the office of a regional trustee becomes vacant under any of the following sections of the *Local Elections Campaign Financing Act*:

(i) section 64 (2) (a) *[candidate penalties for failure to disclose]*;

(ii) section 65 (1) (a) *[candidate penalties for false or misleading disclosure]*;

(iii) section 68.01 (3) *[candidate penalties for exceeding expense limits or amount available]*,

a by-election must be held in accordance with the regulations to fill the vacancy in that office.

(2) If a vacancy occurs after January 1 in the year of a general election of regional trustees, a francophone education authority may hold the vacancy open until the next general election as long as at least 3 regional trustees continue to hold office.

(3) If fewer than 3 regional trustees continue to hold office, the francophone education authority must hold an election of regional trustees in accordance with the regulations or notify the minister, who must appoint persons as regional trustees to fill the vacancies.

(4) A person elected or appointed under this section holds office for the remainder of the term of the regional trustee who vacated the office.

(5) No act or proceeding of the board of regional trustees is invalid merely because there are in office fewer than the number of regional trustees required under this Part.

(6) Sections 51, 53 and 54 apply for the purposes of this Part.

(7) In applying sections 53 and 54 for the purposes of this Part, a reference in those provisions to

(a) section 163 (2) is deemed to be a reference to section 166.37,
(b) an elector of a school district is deemed to be a reference to a member of a francophone education authority,
(c) Part 5 is deemed to be a reference to section 166.23,
(d) a general election is deemed to be a reference to a general election of regional trustees under this Part, and
(e) section 36 (5) is deemed to be a reference to subsection (3) of this section.

[1999-8-25 effective Nov. 19/99; 2007-22-30, effective July 1, 2007, BC Reg. 194/07; 2007-22-31, effective July 1, 2007, BC Reg. 194/07; am 2016-17-47, effective May 19/16]

Powers, functions and duties of board of regional trustees

166.21(1) The regional trustees that are elected or appointed under this Part constitute the board of regional trustees of the francophone education authority.

(2) The board of regional trustees of a francophone education authority may exercise all the powers, functions and duties of the francophone education authority.

(3) Unless expressly required to be exercised by bylaw, all powers of the board of regional trustees may be exercised by bylaw or resolution.

(4) The board of regional trustees may exercise a power with respect to the acquisition or disposal of property owned or administered by the francophone education authority only by bylaw.

(5) The board of regional trustees may

(a) establish committees and specify the functions and duties of those committees, and

(b) delegate specific and general administrative and management duties to one or more employees of the francophone education authority.

(6) Committees of regional trustees or individual regional trustees may not exercise the rights, duties and powers of the board of regional trustees.

[2007-22-31, effective July 1, 2007, BC Reg. 194/07]

Francophone literacy plan

166.211 *REPEALED 2015-11-22, effective July 1, 2015*

[2007-20-29, effective July 16/07, BC Reg 229/07; 2015-11-22, effective July 1/15]

Meetings of the board of regional trustees

166.22(1) After an election of regional trustees under section 166.18, the secrétaire trésorier for the francophone education authority must convene a first meeting of the board of regional trustees as soon as possible and in any event within 30 days from the date that the new board of regional trustees begins its term of office.

(2) The board of regional trustees of a francophone education authority must meet as often as is necessary to transact its business and in any event not less than once in every 3 months.

(3) At the first meeting of the board of regional trustees, the regional trustees must elect from among themselves a president and vice president.

(4) A majority of the regional trustees may elect a new president or vice president at any time.

(5) A quorum of the board of regional trustees is a majority of the regional trustees holding office at the time of the meeting of the board of regional trustees.

(6) A regional trustee may participate in a meeting of the board of regional trustees by telephone or other means of communication if all the participants at the meeting are able to communicate with each other.

(7) The board of regional trustees must establish procedures governing the conduct of its meetings and must permit any person to inspect those procedures.

(7.1) Without limiting subsection (7), a board of regional trustees may establish procedures respecting the provision of advice by a district parents' advisory council to the board.

(8) Sections 68 to 72 apply for the purposes of this Part.

[2002-53-64, effective May 30/02; 2002-53-65, effective July 1/02; 2007-22-29, effective July 1, 2007, BC Reg. 194/07; 2007-22-30, effective July 1, 2007, BC Reg. 194/07; 2007-22-31, effective July 1, 2007, BC Reg. 194/07]

Conflict of interest

166.23(1) Sections 55 to 62, 63 (1) and (2) and 64 apply for the purposes of this Part.

(2) An office declared vacant under section 63 (1), as that section applies under subsection (1) of this section, must remain vacant if the decision is appealed, and no election to

fill the office may be held until the final determination of the matter or until the next general election of regional trustees under this Part, whichever is earlier.

[2007-22-31, effective July 1, 2007, BC Reg. 194/07]

Division 4 - Francophone Educational Programs

Enrolment in a francophone educational program

166.24(1) An eligible child of school age who is resident in a francophone school district, on application to the francophone education authority for that district, is entitled to enrol in a francophone educational program provided by the authority.

(2) On application to a francophone education authority, an eligible child of school age who is resident in British Columbia is entitled to enrol in a francophone educational program provided by the francophone education authority if the francophone education authority determines that space and facilities are available for the child at the school in which the francophone educational program is provided.

(3) A francophone education authority, on receiving an application, may enrol an immigrant child of school age who is resident in British Columbia in a francophone educational program provided by the authority.

(4) An application to enrol a child under subsections (1) to (3) must include a signed statement, in the prescribed form, of one of the parents of the child unless at least one of the parents of the child is a member in good standing of the francophone education authority at the time that the application to enrol is made.

(5) If a francophone education authority enters into an agreement with a board by which the board agrees to provide all or any part of a francophone educational program to a francophone student, that francophone student is, for all purposes of this Act other than Part 8 of this Act and Division 7 of this Part, deemed to be enrolled with the board with respect to that portion of the francophone educational program provided by the board.

(6) If a board enters into an agreement with a francophone education authority by which the authority agrees to provide all or any part of a francophone educational program to an eligible child or immigrant child who is resident outside the francophone school district for that authority and who is enrolled with the board, that child is, for all purposes of this Act other than Part 8 of this Act and Division 7 of this Part, deemed to be enrolled with the francophone education authority with respect to that portion of the francophone educational program provided by the authority.

[2002-53-66, effective July 01/02; 2007-20-30, effective July 1/07, BC Reg. 229/07; 2016-5-3, effective Dec 8/16, BC Reg. 310/16]

Priority of enrolment

166.241 (1) In this section:

"francophone catchment area child" means an eligible child

(a) of school age, and

(b) resident in the francophone catchment area of the francophone school;

"francophone non-catchment area child" means an eligible child

(a) of school age, and

(b) resident in the francophone school district, and

(c) not resident in the francophone catchment area of the francophone school;

"francophone non-school district child" means an eligible child

(a) of school age, and

(b) resident in British Columbia, and

(c) not resident in the francophone school district;

"francophone school district child" means a francophone catchment area child or a francophone non-catchment area child;

"previous school year" means the school year previous to the year for which the person is applying to enrol in a francophone educational program.

(2) A francophone education authority must enrol all eligible children who exercise their entitlement to enrol in a francophone educational program under section 166.24 (1).

(3) A francophone education authority may refuse to enrol a francophone non-school district child under section 166.24 (2) if the child is

(a) a francophone student suspended by a francophone education authority under section 85 (2) (d), or

(b) a francophone student to whom a francophone education authority has refused to offer a francophone educational program under section 85 (3).

(4) A francophone education authority

(a) for each school year, must establish a date by which an application to enrol an eligible child in a francophone educational program must be received by the francophone education authority for the purposes of this section,

(b) in respect of the date referred to in paragraph (a), may establish different dates for different grades, francophone educational programs, francophone schools or children defined in subsection (1), and

(c) may dispense with the application referred to in paragraph (a) and establish an alternative procedure to enrol a francophone school district child who was enrolled in a francophone educational program in the francophone school district in the previous school year.

(5) If a francophone education authority establishes an alternative application procedure under subsection (4) (c), the enrolment of a francophone school district child remains subject to the priorities set out in this section.

(6) If a francophone education authority determines that space and facilities are available at the francophone school in which the francophone educational program is made available, an eligible child whose application was received by the francophone education authority by the date established under subsection (4) is entitled to enrol in that educational program in the following descending order of priority:

(a) a francophone catchment area child who, in the previous school year, attended the francophone school at which the francophone educational program is made available;
(b) a francophone catchment area child;
(c) a francophone non-catchment area child;
(d) a francophone non-school district child.

(6.1) Despite subsection (6), a francophone education authority may, subject to subsection (6.2), give priority to

(a) a francophone catchment area child as if that child were a child described in subsection (6) (a) if, in the previous school year, the child attended a francophone school from which the francophone education authority reassigns francophone students progressing through their francophone educational program to the francophone school at which the francophone educational program is made available,
(b) a francophone non-catchment area child or a francophone non-school district child as if the child were a child described in subsection (6) (a) or (b) if the child, in the previous school year,
  (i) attended the francophone school at which the francophone educational program is made available, or
  (ii) attended a francophone school from which the board reassigns francophone students progressing through their francophone educational program to the francophone school at which the francophone educational program is made available, and
(c) a sibling of a child described in subsection (6) (a) or paragraph (b) (i) of this subsection as if the sibling were a child described in subsection (6) (a) or (b) if the sibling is an eligible child who does not attend francophone school or attends a different francophone school at the time the application under subsection (4) is made.

(6.2) The francophone education authority must establish rules governing the exercise of its discretion under subsection (6.1) and must make those rules publicly available.

(7) If a francophone education authority determines that space and facilities are available at the francophone school in which the francophone educational program is made available, a francophone non-school district child referred to in subsection (6) is entitled to enrol in a francophone educational program in priority to a francophone school district child whose application was received by the francophone education authority after the date established under subsection (4).

(8) A francophone education authority must establish rules for determining priority between 2 or more persons having the same priority under this section.

(9) For the purposes of this section, an eligible child's residency is determined as of the date the application to enrol the child is submitted to the francophone education authority.

[2002-53-67, effective July 1/02; 2003-40-5, effective May 29, 2003]

Provision of francophone educational programs

166.25(1) Subject to the other provisions of this Act and the regulations and to any orders of the minister under this Act, a francophone education authority must make a francophone educational program available to all persons who enrol with the authority under section 166.24.

(2) The francophone educational program to be provided under subsection (1) may be provided

(a) in the francophone school district, or

(b) with the consent of a parent of the person referred to in subsection (1), in another francophone school district or in a school district.

(3) A francophone education authority may provide the francophone educational program referred to in subsection (1) in one or more of the following ways:

(a) all or any part of the francophone educational program is provided directly by the francophone education authority;

(b) with the agreement of another francophone education authority and with any consent required under subsection (2) (b), all or any part of the francophone educational program is provided by that other francophone education authority;

(c) with the agreement of a board of a school district and with any consent required under subsection (2) (b), all or any part of the francophone educational program is provided by that board.

(4) Subject to section 166.241, a francophone education authority may assign and reassign to specific francophone schools or to specific francophone educational programs the children enrolled in a francophone educational program provided by it.

(5) A francophone education authority may recognize, as part of a francophone educational program provided by it, an educational activity that is not provided by the francophone education authority.

(6) Subject to the regulations, a francophone education authority

(a) is responsible for evaluating all of the francophone educational programs and services that it provides, including services provided on its behalf, and

(b) must have francophone students assessed and evaluated by a certificate holder.

(7) A francophone education authority may, in accordance with any terms and conditions specified by the authority, permit a person who is older than school age but who is the child of an eligible parent or immigrant parent

(a) to attend a francophone educational program provided by the authority, or

(b) to enrol and receive instruction in a francophone educational program sufficient to meet the general requirements for graduation.

(8) The only educational programs that a francophone education authority may provide are francophone educational programs.

(9) A francophone education authority must not provide a francophone educational program to any person other than

(a) a person who is enrolled with the francophone education authority under section 166.24, or

(b) a person permitted to attend the program under subsection (7).

(10) A board must not provide a francophone educational program to a student resident in a francophone school district other than a student who is deemed to be enrolled with the board under section 166.24 (5).

[1998-27-10 effective Oct. 23/98, BC Reg. 371/98; 2000-9-55, effective July 7/ 00, B.C. Reg. 243/00; 2002-53-68, effective July 01/02; 2002-53-68, effective May 30/02; 2007-20-31, effective July 1/07, BC Reg 229/07; am 2011-12-118, effective Jan 9/12, BC Reg. 239/11]

Francophone catchment areas

166.251(1) A francophone education authority must establish, for each francophone school in its francophone school district, a francophone catchment area consisting of a geographical area around the francophone school that includes all or part of the francophone school district.

(2) A francophone education authority may amend the francophone catchment area established for a francophone school under subsection (1).

[2002-53-69, effective July 01/02]

Rights and duties of enrolled children and their parents

166.26 Sections 4, 6 to 9, 11 and 11.1 to 11.6 apply for the purposes of this Part.

[2007-20-32, BC Reg 24/08, effective March 3, 2008]

Division 5 - Personnel

Directeur général and secrétaire trésorier

166.27(1) A francophone education authority must appoint an individual as the directeur général of the authority.

(2) The directeur général of a francophone education authority, under the general direction of the board of regional trustees of the authority,

(a) has general supervision and direction over the educational staff employed by the authority,

(b) is responsible

(i) to the francophone education authority, for improvement of student achievement in the francophone school district,

(ii) for the general organization, administration, supervision and evaluation of all francophone educational programs provided by the authority, and

(iii) for the operation of francophone schools in the francophone school district, and

(b.1) *REPEALED 2015-11-23, effective July 1, 2015*

(c) must perform other duties set out in the regulations.

(2.1) *REPEALED 2015-11-23, effective July 1, 2015*

(3) A francophone education authority must
- (a) appoint an individual as the secrétaire trésorier of the authority, and
- (b) arrange for the bonding of the secrétaire trésorier in an amount the authority considers adequate.

(3.1) The secrétaire trésorier of a francophone education authority is its corporate financial officer and must perform those duties set out in the regulations.

(4) A francophone education authority may appoint one or more assistants
- (a) to the directeur général to perform those duties assigned by the directeur général, or
- (b) to the secrétaire trésorier to perform those duties assigned by the secrétaire trésorier.

(5) A francophone education authority must promptly notify the minister of the appointment or termination of appointment of the directeur général or the secrétaire trésorier of the authority.

[2002-34-70, effective May 30/02; 2007-20-33, effective July 1/07, BC Reg 229/07; 2007-22-28, effective July 1, 2007, BC Reg. 194/07 ; 2007-22-29, effective July 1, 2007, BC Reg. 194/07; 2007-22-31, effective July 1, 2007, BC Reg. 194/07; 2015-11-23, effective July 1/15]

Francophone school personnel

166.28(1) Sections 15 to 21 and 25 to 29 apply for the purposes of this Part.

(2) A francophone education authority must, for the first school year in which it intends to employ persons as francophone teachers to provide a francophone educational program to francophone students, attempt, on terms and conditions the board of regional trustees considers appropriate, to fill any available teaching positions with individuals who
- (a) are teachers employed by a board,
- (b) are or were, in the immediately preceding school year, employed by a board to teach a francophone educational program in the francophone school district over which the authority is responsible, and
- (c) are, in the opinion of the board of regional trustees, qualified and suitable for the available positions.

[2007-20-34, effective July 1/07, BC Reg 229/07; 2007-22-31, effective July 1, 2007, BC Reg. 194/07]

Division 6 - School Property

Acquisition and disposal of land and improvements

166.29(1) Section 96 (1), (2) (a) and (b) and (3) and sections 97 to 100.1 apply for the purposes of this Part.

(2) A francophone education authority and a board may, with the prior approval of the minister, enter into an agreement for the transfer of assets that are used by one of the parties but that are vested in the other party.

(3) A francophone education authority and the board of a school district located in the francophone school district may, with the prior approval of the minister, enter into an agreement for the purposes of

(a) the construction, maintenance, operation and use of facilities to be used jointly by the authority and the board, or

(b) contributing to the cost of the construction, maintenance or operation of the facilities referred to in paragraph (a).

Housing accommodation

166.3 Sections 102 to 105 apply for the purposes of this Part.

Division 7 - Finance

Establishment of budgets for francophone education authorities

166.31 Sections 110, 111 (1) to (3) and 113 apply for the purposes of this Part.

[2002-53-71, effective July 01/02; 2004-17-25, effective Apr. 29/04]

Grants

166.32 Sections 114 to 117, except section 116, apply for the purposes of this Part.

[2002-53-72, effective Jan. 31/02]

Taxation of francophone school property

166.33(1) Section 129, other than subsection (2) (e.1), applies for the purposes of this Part.

(2) In addition to the exemptions granted under section 129 (2), as that section applies under subsection (1) of this section, property that is leased by a francophone education authority to a board and used in whole or in part for a school, including any purpose ancillary to the operation of the school, is exempt from taxation under section 129.

Short term borrowing and first charges

166.34 Sections 139 and 140 apply for the purposes of this Part.

Capital plans and money bylaws

166.35 Sections 141 to 146, other than section 142 (2), apply for the purposes of this Part.

Debentures

166.36(1) Sections 147 to 153, other than section 151, apply for the purposes of this Part.

(2) When debentures have been issued by a francophone education authority under a bylaw that has not been quashed by a court and the interest on them that has fallen due has been paid for the period of one year by the authority, the bylaw and the debentures issued under it, or so much of them as may be unpaid, are valid and binding on the authority and on all parties concerned.

Accounts and audits

166.37 Sections 156 to 165 apply for the purposes of this Part.

[2002-53-73, effective July 01/02]

Member may object

166.38(1) A member of a francophone education authority may deliver to the auditor a written objection respecting any item of account or other matter relating to an audit so long as the objection is delivered within 3 months after the publication of the auditor's final report.

(2) On receipt of an objection under subsection (1), the auditor must notify the member and the francophone education authority of a time and place for dealing with the objection.

Right of action preserved

166.39 This Act must not be construed to prevent a member of a francophone education authority, or a group of members of that authority, from exercising any right to take action for recovery on behalf of the authority.

Division 8 - General

Additional powers and duties of a francophone education authority

166.4(1) Sections 73, 74, 74.01 76 to 85, other than sections 79.1 and 85 (1), and section 87 apply for the purposes of this Part.

(2) Sections 85.1 to 86, other than section 86 (1.1), apply for the purposes of this Part.

[am 2020-8-18, effective March 5, 2020]

(2.1) Division 2.1 of Part 6 applies for the purposes of this Part.

[am 2012-36-9, effective July 1/12; 2015-11-24, effective July 1/15]

(3) A francophone education authority may, subject to this Act, the regulations and the orders of the minister, enter into an agreement with a board to provide all or part of a francophone educational program and health and support services, including busing and educational resources, to one or more students enrolled with the board.

(4) Subject to subsection (5) and the orders of the minister, a francophone education authority may deliver all or part of a francophone educational program through online learning.

(5) A francophone education authority may deliver a francophone educational program, or part of a francophone educational program, through online learning to the following persons

only if the francophone education authority has approval to provide the francophone educational program under an agreement with the minister:

(a) a student, as defined in the *Independent School Act*;

(b) a francophone student who is enrolled in a francophone educational program provided by another francophone education authority, or a student;

(c) a child who is registered under section 13 with a school, another francophone school or an independent school.

[2006-21-21 effective June 30/06, BC Reg 195/06; 2007-20-35, effective July 16/07, BC Reg 229/07; 2010-20-42 effective Sept 10/10, BC Reg 260/2010; am. 2020-8-19, effective July 1, 2021]

Health and other support services

166.41 Sections 87.1, 88 (1) and 90 to 92, other than 92 (5) and (6), apply for the purposes of this Part.

[2002-53-74, effective May 30/02]

Limitation of actions against francophone education authority

166.42(1) A reference to a regional trustee, officer or employee in section 166.43, or in section 94, as that section applies under subsection (2) of this section, includes a former regional trustee, officer or employee.

(2) Section 94 applies for the purposes of this Part.

[2007-22-30, effective July 1, 2007, BC Reg. 194/07]

Indemnification against proceedings

166.43(1) The board of regional trustees of a francophone education authority may, by bylaw, provide that the francophone education authority

(a) will indemnify a regional trustee, officer or employee of the francophone education authority

(i) against a claim for damages against that regional trustee, officer or employee arising out of the performance of his or her duties, or

(ii) if an inquiry under the *Public Inquiry Act* or other proceeding involves the administration and conduct of the business of the francophone education authority, and

(b) may pay legal costs incurred in proceedings arising out of the claim or inquiry or other proceeding.

(2) The board of regional trustees of a francophone education authority may, by an affirmative vote of not less than 2/3 of all of the regional trustees of the authority, cause the francophone education authority to pay

(a) any sum required to indemnify a regional trustee, officer or employee of the francophone education authority if a prosecution arises out of the performance of his or her duties, and

(b) costs necessarily incurred.

(3) Despite subsection (2), a francophone education authority must not pay a fine imposed on a regional trustee, officer or employee as a result of his or her conviction.

(4) A francophone education authority must not seek indemnity against a regional trustee, officer or employee of the francophone education authority in respect of any action of the director, officer or employee that results in a claim for damages against the francophone education authority, but the francophone education authority may seek indemnity

(a) against a director, officer or employee if the claim for damages arises out of the gross negligence of the director, officer or employee, or

(b) against an officer or employee if, in relation to the action that gave rise to the claim for damages, the officer or employee wilfully acted contrary to

(i) the terms of his or her employment, or

(ii) an order of a superior.

[2007-06-40, effective July 11/07, BC Reg. 226/07; 2007-22-30, effective July 1, 2007, BC Reg. 194/07; 2007-22-31, effective July 1, 2007, BC Reg. 194/07]

Appointment of special advisor or special advisory committee to francophone school district

166.431(1) The minister, by order, may appoint a special advisor or a special advisory committee to one or more francophone school districts, for a term determined by the minister,

(a) to review the progress of the francophone education authority or francophone education authorities in respect of the improvement of student performance or to inspect and evaluate any other matters as directed by the minister,

(b) to assist the francophone education authority or francophone education authorities in the conduct of the affairs of the francophone school district or francophone school districts in respect of any educational, financial or community matters, or

(c) if the minister considers that

(i) a directeur général of a francophone education authority has failed to report to the commissioner a matter that, in the opinion of the minister, should have been reported under section 16,

(ii) a francophone education authority has failed to notify a directeur général of a francophone education authority of a matter that, in the opinion of the minister, should have been the subject of a notice under section 16 (3),

(iii) a francophone education authority has failed to report to the commissioner a matter that, in the opinion of the minister, should have been reported under section 16.1, or

(iv) a francophone education authority has failed to submit to the director of certification information as required under section 80 *[employers list]* of the *Teachers Act*,

to investigate the circumstances of the failure.

(2) The special advisor or special advisory committee must

(a) submit a report to the minister in respect of anything resulting from carrying out the duties under subsection (1), and

(b) provide to the commissioner a copy of the report if the report relates to a matter described in subsection (1) (c).

(3) At the request of the minister, a report under subsection (2) must include recommendations about student performance and the conduct of the francophone education authority or francophone education authorities in respect of any educational, financial or community matters.

(4) With the approval of the minister, a special advisor and special advisory committee may

(a) appoint employees necessary for performing the duties of the special advisor or special advisory committee,

(b) engage and retain specialists and consultants to carry out the duties of the special advisor or special advisory committee, as required, and

(c) determine the remuneration of persons appointed or retained under paragraph (a) or (b) of this subsection.

(5) The minister, by order, may require the francophone education authority or francophone education authorities to do one or more of the following:

(a) pay the remuneration of the special advisor or members of the special advisory committee appointed under subsection (1) and any person appointed or retained under subsection (4) (a) or (b), at the rate determined by the minister;

(b) pay the expenses of the special advisor or members of the special advisory committee;

(c) implement one or more recommendations set out in a report under subsection (2) within the time period specified by the minister.

(6) The minister may provide a direction to the special advisor, the special advisory committee or a francophone education authority respecting the duties of the special advisor or special advisory committee.

[2002-53-75, effective May 30/02; OIC 840/06, Effective Dec 1/06; 2007-20-36, effective November 1 2007, BC Reg. 229/07; 2015-11-25, effective July 1/15]

Powers of special advisor to a francophone school district

166.432 A special advisor or a member of a special advisory committee appointed under section 166.431 may

(a) attend any meeting of the francophone education authority,

(b) enter a school building or any other building used in conjunction with the school or offices of the francophone education authority, or any part of them, for the purposes of performing his or her duties, and

(c) inspect any record of the francophone education authority.

[2002-53-75, effective May 30/02; 2015-11-26, effective July 1/15]

Responsibilities of the francophone education authority

166.433A francophone education authority and its employees must assist the special advisor or special advisory committee in the carrying out of the duties of the special advisor or special advisory committee.

[2002-53-75, effective May 30/02; 2015-11-27, effective July 1/15]

Appointment of official trustee

166.44(1) The Lieutenant Governor in Council may appoint an official trustee to conduct the affairs of a francophone education authority if the Lieutenant Governor in Council is of the opinion that

(a) there has been a default in a payment on the due date of either interest or principal of a debenture guaranteed under this Part or a failure to comply to the satisfaction of the minister with a condition governing the guarantee,
(b) the authority is in serious financial jeopardy,
(c) there is substantial non-compliance with this Act or the regulations or any rules or orders made under this Act,
(c.1) *REPEALED 2012-22-20, effective July 1, 2012*,
(d) there is substantial non-performance of the duties of the authority, or
(e) there is a risk to student achievement in the district and it is in the public interest to do so.

[am 2012-22-20, effective July 1/12]

(2) On the appointment of an official trustee to conduct the affairs of a francophone education authority, the regional trustees of the authority cease to hold office.

(3) The Lieutenant Governor in Council may remove an official trustee and

(a) order that elections of regional trustees be held for the authority in accordance with the regulations made under section 166.18, or
(b) appoint regional trustees to hold office for the term set by the Lieutenant Governor in Council.

[2002-53-76, effective May 30/02, 2006-21-22 effective June 30/06, BC Reg 195/06; 2007-22-31, effective July 1, 2007, BC Reg. 194/07]

Powers of official trustee

166.45 (1) An official trustee appointed under section 166.44

(a) has the powers and duties conferred by this Act on a francophone education authority, and
(b) must be remunerated out of the funds of the francophone education authority in respect of which the official trustee is appointed or otherwise as the Lieutenant Governor in Council determines.

(2) In the exercise of a power or performance of a duty conferred under this Act on a francophone education authority, an official trustee, with the approval of the minister, may deviate in matters of procedure and in the form of any notice or statement under this Act as the official trustee considers necessary for the more effective exercise of that power or duty.

(3) The Lieutenant Governor in Council may make regulations to adapt this Act to the conduct of the affairs of francophone education authorities to which official trustees are appointed.

School calendars

166.451 Section 168.02 applies for the purposes of this Part.

[am 2012-36-10, effective July 1/12]

Reimbursement of expenses for designated educational activities

166.452 Section 168.1 applies for the purposes of this Part.

Annual practice fee

166.453 Section 168.2 applies for the purposes of this Part.

[am 2012-36-11, effective May 31/12]

Maintenance of order

166.46 (1) Section 177 (1), (2) and (4) applies for the purposes of this Part.

(2) A person who contravenes section 177 (1) or (2), as that section applies under subsection (1), commits an offence.

Administrative directives

166.47 Sections 168.03 and 168.04 apply for the purposes of this Part.

[en 2015-11-28, effective May 14/15; 2015-11-29, effective July 1/15]

PART 9 — GENERAL

Division 1 - Ministry of Education

Ministry of Education

167 (1) There must continue to be a ministry of the public service of British Columbia called the Ministry of Education over which the minister must continue to preside and have direction.

(2) A deputy minister and other employees required to conduct the business of the ministry may be appointed under the *Public Service Act*.

[2002-53-78, effective May 30/02]

Jurisdiction of minister

168 (1) The minister, subject to this Act and the regulations,

(a) has charge of the maintenance and management of all Provincial schools established under this Act,

(b) must advise the Lieutenant Governor in Council on all matters relating to education in British Columbia,

(c) may designate a member of the public service to act on behalf of the minister, and

(d) may charge fees with respect to any goods or services provided by the minister or the ministry, and may establish different fees for different circumstances.

(2) The minister may make orders for the purpose of carrying out any of the minister's powers, duties or functions under this Act and, without restriction, may make orders

(a) governing the provision of educational programs,

(b) subject to subsection (5) determining the general requirements for graduation from an educational program,

(c) determining the general nature of educational programs for use in schools and francophone schools and specifying educational program guides,

(d) preparing a process for the assessment of the effectiveness of educational programs and requiring a board or a francophone education authority to cause its schools to participate in the process for the purpose of comparison to provincial, national and international standards,

(d.1) preparing a process for measuring individual student performance, and requiring a board or a francophone education authority to cause its schools to participate in the process for the purpose of assessing the effectiveness of educational programs,

(e) governing educational resource materials in support of educational programs,

(f) establishing and causing to be operated Provincial resource programs and Provincial schools in British Columbia,

(g) requiring a board to close a school if the number of students attending the school falls below 8,

(g.1) requiring a francophone education authority to close a francophone school if the number of francophone students falls below 8,

(h) respecting online learning schools, online learning and educational programs delivered through online learning,

(i) establishing committees and authorizing the payment of expenses to the members of the committees and other advisory bodies established under this Act,

(j) governing fees that may be charged by a board or a francophone education authority, and those fees may be different for different circumstances,

(j.1) designating an educational activity or a category of educational activities for the purposes of section 168.1,

(j.2) establishing, for the purposes of section 168.1, the amount a student or a child registered under section 13 may be reimbursed, including

(i) setting the maximum amount that may be paid,

(ii) establishing a limit on the number of educational activities or categories of educational activities for which reimbursement may be made, and

(iii) setting different amounts and different limits for different educational activities or different categories of educational activities,

(k) respecting the use of student records, and records referred to in paragraph (d) of the definition of "student records", by boards and francophone education authorities,

(k.1) respecting the circumstances in which persons other than students and francophone students and their parents, and employees of boards and francophone education authorities, must have access to student records,

(l) establishing policies and procedures that are to be followed by boards and francophone education authorities in a tendering process related to a capital expenditure by the board or francophone education authority,

(m) *REPEALED, 2012-36-12, effective June 30, 2013*,

(n) respecting the appointment of auditors under section 158 (1) or, in the case of francophone education authorities, under section 166.37,
(o) respecting accounting, accounting records and financial reports and statements referred to in sections 156 (1), 157 (2), and 157.1,
(o.1) respecting the spending or transfer of an amount from an operating reserve under section 156 (6.1),
(o.2) determining the amount a board may retain as an unappropriated operating reserve under section 156 (6.2),
(p) respecting the opening and closing of schools under section 73 (1) (a),
(q) respecting a board assisting in paying the cost of a person attending an educational institution outside of British Columbia under section 83 (b),
(r) *REPEALED 2015-11-30, effective July 1, 2015*,
(s) respecting the appointment, remuneration and duties of a special advisor or special advisory committee,
(s.1) establishing Provincial standards for a code of conduct required under section 85 (1.1),
(s.2) varying the dates in section 168.2(3),
(s.3) for the purpose of section 86 (6), designating one or more persons, including a board, who provide procurement, managerial, administrative or other services as a designated service provider, specifying the service with respect to which a person is a designated service provider and specifying one or more boards with respect to which a person is a designated service provider, and
(t) that the minister otherwise considers advisable to effectively administer this Act or the regulations.

[am 2012-36-12, effective June 30/13; 2015-11-31, effective May 14/15; am. 2020-8-20, effective July 1, 2021]

(2.1) An order made under subsection (2) (d.1) may provide for the reporting of student performance, on an individual or aggregate basis, to a board or francophone education authority so that it may assess the effectiveness of the educational programs it delivers.

(2.11) An order under subsection (2) (o.1) may
(a) establish different classes of boards, and
(b) make different provisions for a board or a class established under paragraph (a).

(2.12) An order made under subsection (2) (o.2) may do one or more of the following:
(a) establish different classes of boards;
(b) make different provisions for a board or a class established under paragraph (a);
(c) determine the amount by establishing a formula, ratio, percentage or other method of determining the amount.

(2.2) An order made under subsection (2) (s.3) may
(a) establish different classes of boards, designated service providers and services, and

(b) make different provisions for a board, designated service provider or service or a class established under paragraph (a).

(3) The minister, or with the approval of the minister, a board or a francophone education authority, may enter into an agreement with a school authority outside British Columbia for the education of children for whose education that school authority is responsible.

(4) The minister may grant an approval or authorization under this Act with or without conditions.

(5) The minister may, with the minister responsible for public post-secondary institutions, establish the requirements for obtaining the British Columbia Adult Graduation Diploma.

(6) The minister may issue the following:

(a) a British Columbia Certificate of Graduation to

(i) a student who is enrolled at a school, francophone school or Provincial school, if the student has met the general requirements for graduation established by order of the minister, or

(ii) a non-resident person whose study outside British Columbia is under or related to an agreement entered into by the minister under subsection (3) with a school authority responsible for the education of the person, if the person has met the general requirements for graduation established by order of the minister;

(b) a British Columbia Adult Graduation Diploma to a person who meets the requirements established under subsection (5).

(c) a British Columbia Certificate of Graduation or a British Columbia Adult Graduation Diploma to a person who is engaged in a program of studies at an educational institution operated by a first nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), if the minister is satisfied that the person

(i) has completed a program of studies at the grade 12 level at the educational institution, and

(ii) has achieved learning outcomes substantially similar to the learning outcomes necessary to meet the general requirements for graduation established by order of the minister.

(6.1) At the request of an educational institution operated by a treaty first nation under its own laws, or of the treaty first nation, the minister may issue a British Columbia Certificate of Graduation to a student of the educational institution, if the minister is satisfied that the student has

(a) completed a program of studies at the grade 12 level at that educational institution, and

(b) achieved learning outcomes substantially similar to the learning outcomes necessary to meet the general requirements for graduation established by order of the minister.

[1997-52-23 effective Aug. 1/97, BC Reg. 287/97; 1999-8-26 effective June 29/99; 1999-30-11 effective July 19/99, BC Reg. 224/99; 2000-9-56, effective July 7, 2000, B.C. Reg. 243/00; 2002-53-79, effective May 30/02; 2002-53-79, effective July 1/02; 2004-17-26, effective Apr. 29/04, 2006-21-23 effective June 30/06, BC Reg 195/06; 2007-20-36 effective November 1 2007, BC Reg 229/07, addition of (2)(s.1) by BC Reg??? ; 2007-22-21, effective July 1, 2007, BC Reg. 194/07; 2007-46-15, effective May 16/08 BC Reg 103/2008; 2007-41-159, effective Apr 3/08 BC Reg 55/2009; am 2011-12-119, effective Jan 9/12, BC Reg. 239/11; 2015-11-31, effective May 14/15; 2015-11-30, effective July 1/15; am 2020-8-22, effective March 5, 2020, 2020-8-21, effective July 1, 2020]

Orders respecting child care programs

168.001 The minister may make orders as follows:

(a) respecting board policies established under section 85.1 (2) or francophone education authority policies established under section 166.4 (2);

(b) respecting the provision of a child care program on board property as defined in section 85.1 (1).

[2020-8-23, effective March 5, 2020]

Minister's regulations

168.01 The minister may make regulations as follows:

(a) prescribing categories of classes for the purposes of section 76.1 (2.1) (b) and (2.4);

(b) respecting compensation to be provided under section 76.1 (2.2), including, without limitation, regulations

(i) prescribing categories of teachers for the purposes of section 76.1 (2.3), and

(ii) respecting

(A) the timing of the provision of compensation,

(B) the amount of compensation, and

(C) the form of compensation, including a form other than money;

(c) prescribing class size limits of fewer than 30 students for the purposes of section 76.1 (2.4);

(d) requiring boards to prepare, submit to the minister and make publicly available, in the form and manner specified by the minister, reports respecting class size for each school district and each school within the district;

(e) defining terms used in section 76.1 of the Act for the purposes of that section or of a regulation under paragraphs (a), (b) or (c) of this section;

(f) *REPEALED 2020-8-24, effective July 1, 2020.*

[am 2012-22-21, effective Apr 14/12; en 2012-22-22, effective July 1/12, 2020-8-24, effective July 1, 2020]

Minister's regulations — school calendars

168.02 (1) The minister may make regulations respecting school calendars for the purposes of Division 2.1 of Part 6, including, without limitation, regulations as follows:

(a) respecting the preparation of a school calendar;

(b) respecting the form of a school calendar;

(c) establishing procedures, including respecting the preparation or amendment of a school calendar and respecting consultation for the purposes of section 87.01(7);
(d) prescribing information required to be set out in a school calendar;
(e) prescribing the minimum number of hours of instruction that a board must offer to students enrolled in the schools in its school district, including prescribing that there is no minimum number of hours of instruction for prescribed classes of students, schools or educational programs;
(f) prescribing the minimum number of hours that the principal, vice principals, directors of instruction and teachers of an online learning school, or of an educational program delivered through online learning, must be available for instruction;
(g) varying the times referred to in Division 2.1 of Part 6;
(h) designating one or more non-instructional days or non-instructional periods, if any, scheduled by a board to be used for a specific purpose.

(2) In making a regulation under subsection (1), the minister may make different regulations for
(a) different classes of persons or different circumstances, places, things, grades of students and groups of students in a school, or
(b) students enrolled in an online learning school and students enrolled in an educational program, any part of which is delivered through online learning.

[am 2012-36-13, effective July 1/12; am. 2020-8-25, effective July 1, 2021]

Administrative directives

168.03 (1) The minister may, by order, issue an administrative directive to a board if the minister believes
(a) the board is failing or has failed to meet its obligations under the Act, or
(b) it is in the public interest to do so.

(2) A board that is subject to an administrative directive under subsection (1) may exercise its powers under this or any other Act only in accordance with the terms and conditions of the administrative directive.

(3) During the period of time that a board is subject to an administrative directive, the board may be exempted from the application of any or all of the following:
(a) a regulation of the Lieutenant Governor in Council under this Act, by order of the Lieutenant Governor in Council;
(b) a regulation of the minister, by order of the minister;
(c) a ministerial order, by the administrative directive.

(4) Failure of a board to comply with an administrative directive under subsection (1) is grounds for the appointment of an official trustee.

[en 2015-11-32, effective May 14/15]

Administrative directives – projects

168.04 (1) The minister may, by order, issue an administrative directive to a board to enable the board to participate in or undertake a project in respect of the improvement of student performance or another matter specified by the minister.

(2) During the period of time that a board is subject to an administrative directive, the board may be exempted from the application of any or all of the following:

(a) a regulation of the Lieutenant Governor in Council under this Act, by order of the Lieutenant Governor in Council;

(b) a regulation of the minister, by order of the minister;

(c) a ministerial order, by the administrative directive.

[en 2015-11-33, effective July 1/15]

Reimbursement of expenses for designated educational activities

168.1 The minister may reimburse a student or a child registered under section 13 for expenses incurred for instruction, examination or certification with respect to an educational activity or a category of educational activities designated by the minister, in the amount established by the minister, if the student or child

(a) is of school age,

(b) is resident in British Columbia, within the meaning of section 82 (2), and

(c) demonstrates a standard of achievement, satisfactory to the minister, in the designated educational activity or category of educational activities.

[2007-22-22, effective July 1, 2007, BC Reg. 194/07]

Annual practice fee

168.2 (1) In this section, "**fee**" means the annual practice fee, prescribed under the *Teachers Act*, for a certificate of qualification.

(2) Subject to subsection (4), a board must deduct once a year, from the wage of a certificate holder employed with the board, an amount that is equal to the fee.

(3) Subject to subsection (4), on or before May 15 each year, a board must

(a) remit to the government the fee in respect of each certificate holder employed by the board on April 30, and

(b) provide the minister with the name of each certificate holder for whom the board has remitted the fee to the government.

(4) The board must not

(a) deduct the fee from a certificate holder's wage, and

(b) remit the fee in respect of the certificate holder

if another board or an authority as defined in the *Independent School Act* remits the fee to the government for that certificate holder.

[am 2011-12-120, effective Jan 9/12, BC Reg. 239/11]

Annual report and ministerial statement

169 (1) The minister must make annually a report on the state of education in British Columbia including the effectiveness of educational programs.

(2) An annual report made under this section must be laid before the Legislature by the minister during the session next following the end of the year for which the report is made.

(3) Subject to the approval of the Lieutenant Governor in Council, the minister must from time to time issue a statement of education policy for British Columbia.

Division 1.1 – Personal Education Numbers and Personal Information

[2020-8-26, effective March 5, 2020]

Definition

169.1 In this Division, "**personal information**" means recorded information about an identifiable individual.

[2020-8-27, effective March 5, 2020]

Student personal information

170 (1) A public body as defined in the *Freedom of Information and Protection of Privacy Act* must not disclose any personal information contained in a student record except for one of the following purposes:

(a) a purpose authorized under the *Freedom of Information and Protection of Privacy Act*;

(b) to ensure efficient and effective use of grants paid under sections 114 and 115 of this Act and under sections 12 and 13 of the *Independent School Act*;

(c) to evaluate the effectiveness of boards, francophone education authorities and authorities governed by the *Independent School Act* and the programs, courses and curricula delivered by them.

(2) For the purposes of this section, **"student record"** includes a student record under the *Independent School Act*.

[1997-52-24 effective Aug. 1/97, BC Reg. 287/97; 2002-53-80, effective May 30/02; 2015-11-34, effective July 15/15, BC Reg. 136/15]

Personal education numbers

170.1 (1) In this section, **"personal education number"** means a unique identification number assigned to a person under subsection (2).

(2) The minister may assign a personal education number to the following persons:

(a) a student;

(b) a francophone student;

(c) a child registered under section 13;

(d) a student as defined in the *Independent School Act*;

(e) a child participating in an early learning program;

(f) at the request of a first nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), a person who is engaged in a program of studies at an educational institution operated by the first nation or Community Education Authority;

(g) a person

(i) who is not resident in British Columbia, and

(ii) whose study outside British Columbia is under or related to an agreement entered into by the minister under section 168 (3) with a school authority that is responsible for the education of the person;

(h) at the request of an educational institution operated by a treaty first nation under its own laws, or of a treaty first nation, a person participating in a kindergarten to grade 12 program of studies provided by the treaty first nation under its own laws.

(i) a child who is resident in British Columbia.

[am 2020-8-28, effective March 5, 2020]

(3) *REPEALED 2015-11-35, effective July 15/15*

[1999-30-12 effective July 19/99, BC Reg. 224/99; 2002-53-81, effective Jan. 31/02; 2007-20-38, effective July 1/07, BC Reg 229/07; 2007-22-23, effective July 1, 2007, BC Reg. 194/07; 2007-46-16, effective May 16/08 BC Reg 103/20082007-41-160, effective Apr 3/08 BC Reg55/2009; 2015-11-35, effective July 15/15, BC Reg. 136/15]

Public post-secondary students

170.2(1) In this section:

"personal education number" means a unique identification number for a student assigned or identified under subsection (2);

"public post-secondary institution" means an institution established or continued under one of the following Acts:

(a) the *College and Institute Act*;

(b) *REPEALED 2004-33-30, effective June 11/04;*

(c) *REPEALED 2015-11-36, effective July 15/15*;

(d) the *Royal Roads University Act*;

(d.1) the *Thompson Rivers University Act*;

(e) repealed 2002-35-13(a), effective Mar 31/03;

(f) the *University Act*;

(g) *REPEALED: BC Reg. 194/07*

"student" means a person who is, or is applying to be, a student of a public post-secondary institution.

(2) If the minister receives from the board of a public post-secondary institution the personal information the minister considers necessary with respect to a student, the minister must,

(a) assign a personal education number to the student or identify a personal education number previously assigned to the student under this Act, and

(b) provide the personal education number to the board of that public post-secondary institution.

(3) The minister must provide to the minister responsible for public post-secondary institutions the personal information about a student that is in the possession of the minister if the minister responsible for public post-secondary institutions requests that information and provides the minister with a valid personal education number for that student.

(4) The personal information of a student obtained by the minister under

(a) section 41.1 (5) of the *College and Institute Act*,

(b) section 70.1 (2) of the *University Act*, as it applies under section 16 of the *Royal Roads University Act*,

(c) section 70.1 (2) of the *University Act*, or

(d) section 70.1 (2) of the *University Act*, as it applies under section 4 of the *Thompson Rivers University Act*

may be used only for the following purposes:

(e) evaluating the effectiveness of boards, francophone education authorities and authorities governed by the *Independent School Act* and the programs, courses and curricula delivered by them;

(f) conducting research and statistical analysis as authorized under the *Freedom of Information and Protection of Privacy Act*.

(5) The personal information of a student obtained under this section by the minister responsible for public post-secondary institutions may be used only for the following purposes:

(a) conducting research and statistical analysis relating to students, including research and analysis as authorized under the *Freedom of Information and Protection of Privacy Act*;

(b) delivering a common or integrated program or activity within the meaning of section 33.2 (d) of the *Freedom of Information and Protection of Privacy Act*;

(c) facilitating the administration of the BC Student Assistance Program by the minister responsible for the program;

(d) conducting research and statistical analysis related to the BC Student Assistance Program;

(e) evaluating the effectiveness of the BC Student Assistance Program.

[1999-30-12 effective July 19/99, BC Reg. 224/99, 2002-35-13(a) effective March 31, 2003, 2004-33-30 effective Jun 11, 2004, 2005-17-28(a) & (b) effective Mar 31, 2005; OIC 840/06, Effective Dec 1/06; 2007-22-24, effective July 1, 2007, BC Reg. 194/07; 2015-11-36, effective July 15/15, BC Reg. 136/15]

Private post-secondary institutions

170.3 [Not in force.]

Student financial assistance

170.4 (1) In this section:

"financial assistance" has the same meaning as in the Canada Student Financial Assistance Regulations, and includes any form of financial assistance provided under

(a) the BC Student Assistance Program,

(b) the *Canada Student Financial Assistance Act*, and

(c) the *Canada Student Loans Act*;

"personal education number" means a unique identification number for a recipient assigned or identified under subsection (2);

"program" means the BC Student Assistance Program;

"recipient" means a person who is, or is applying to receive, financial assistance administered by the program.

(2) If the minister receives from the minister responsible for the administration of the program the personal information the minister considers necessary with respect to a recipient, the minister must

(a) assign a personal education number to the recipient or identify a personal education number previously assigned to the recipient under section 170.1, and

(b) provide the personal education number to the minister responsible for the administration of the program.

(3) The minister must provide to the minister responsible for the program the personal information about a recipient that is in the possession of the minister if the minister responsible for the program requests that information and provides the minister with a valid personal education number for the recipient.

(4) The personal information of a recipient obtained under this section may be used by the minister responsible for the administration of the program only for the following purposes:

(a) administering the program;

(b) conducting research and statistical analysis related to the program;

(c) evaluating the effectiveness of the program.

[2007-22-25, effective July 1, 2007, BC Reg. 194/07]

Removal or destruction of individual identifiers

170.5 *REPEALED 2015-11-37, effective July 15/15*

[2007-22-25, effective July 1, 2007, BC Reg. 194/07; 2015-11-37, effective July 15/15, BC Reg. 136/15]

Division 2 - Education Advisory Council

Education advisory council

171 (1) The minister may appoint one or more education advisory councils to advise the minister on policy matters respecting education.

(2) The members of an education advisory council must be appointed for the term and in the manner determined by the minister.

(3) The minister may determine how frequently an education advisory council meets.

(4) If a member of an education advisory council is not an individual, the member must appoint an individual to represent the member at meetings of the council.

(5) The Lieutenant Governor in Council must prescribe the terms of reference of an education advisory council.

[2002-53-82, effective May 30/02; en 2015-11-38, effective July 1/15; am 2020-8-29, effective March 5, 2020]

Division 2.1 – Special Advisor and Special Advisory Committee

Appointment of special advisor or special advisory committee

171.1 (1) The minister, by order, may appoint a special advisor or a special advisory committee to one or more school districts, for a term determined by the minister,

(a) to review the progress of the board or boards in respect of the improvement of student performance or to inspect and evaluate any other matters as directed by the minister,

(b) to assist the board or boards in the conduct of the affairs of the school district or school districts in respect of any educational, financial or community matters, or

(c) if the minister considers that

(i) a superintendent of schools has failed to report to the commissioner a matter that, in the opinion of the minister, should have been reported under section 16,

(ii) a board has failed to notify a superintendent of schools of a matter that, in the opinion of the minister, should have been the subject of a notice under section 16 (3),

(iii) a board has failed to report to the commissioner a matter that, in the opinion of the minister, should have been reported under section 16.1, or

(iv) a board has failed to submit to the director of certification information as required under section 80 *[employers list]* of the *Teachers Act*,

to investigate the circumstances of the failure.

(2) The special advisor or special advisory committee must

(a) submit a report to the minister in respect of anything resulting from carrying out the duties under subsection (1), and

(b) provide to the commissioner a copy of the report if the report relates to a matter described in subsection (1) (c).

(3) At the request of the minister, a report under subsection (2) (a) must include recommendations about student performance and the conduct of the board or boards in respect of any educational, financial or community matters.

(4) With the approval of the minister, a special advisor and a special advisory committee may

(a) appoint employees necessary for performing the duties of the special advisor or special advisory committee,

(b) engage and retain specialists and consultants to carry out the duties of the special advisor or special advisory committee, as required, and

(c) determine the remuneration of persons appointed or retained under paragraph (a) or (b) of this subsection.

(5) The minister, by order, may require the board or boards to do one or more of the following:

(a) pay the remuneration of the special advisor or members of the special advisory committee appointed under subsection (1) and any person appointed or retained under subsection (4) (a) or (b), at the rate determined by the minister;

(b) pay the expenses of the special advisor or members of the special advisory committee;

(c) implement one or more of the recommendations set out in a report under subsection (2) within the time period specified by the minister.

(6) The minister may provide a direction to the special advisor, the special advisory committee or a board respecting the duties of the special advisor or special advisory committee.

[2002-53-83, effective May 30/02; 2007-21-07, effective July 1, 2007, BC Reg. 231/07; 2007-20-39, effective November 1/07, BC Reg 229/07; 2015-11-39, effective July 1/15; en 2015-11-40, effective July 1/15]

Powers of special advisor

171.2 A special advisor or a member of a special advisory committee appointed under section 171.1 may

(a) attend any meeting of the board,

(b) enter a school building or any other building used in conjunction with the school or offices of the board, or any part of them, for the purposes of performing his or her duties, and

(c) inspect any record of the board.

[2002-53-83, effective May 30/02; 2015-11-41, effective July 1/15]

Responsibilities of the board

171.3 A board and its employees must assist the special advisor or special advisory committee in the carrying out of the duties of the special advisor or special advisory committee.

[2002-53-83, effective May 30/02; 2015-11-42, effective July 1/15]

Division 2.2 — Superintendents of Achievement

Appointment and duties of superintendent of achievement

171.4 *REPEALED 2015-11-43, effective July 1, 2015*

[2007-20-40, effective July 1/07, BC Reg 229/07; 2015-11-43, effective July 1/15]

Powers of inspection

171.5 *REPEALED 2015-11-43, effective July 1, 2015*

[2007-20-40, effective July 1/07, BC Reg 229/07; 2015-11-43, effective July 1/15]

Responsibilities of board or francophone education authority

171.6 *REPEALED 2015-11-43, effective July 1, 2015*

[2007-20-40, effective July 1/07, BC Reg 229/07; 2015-11-43, effective July 1/15]

Division 3 – Official Trustee

Appointment of official trustee

172 (1) The Lieutenant Governor in Council may appoint an official trustee to any school district to conduct the affairs of the school district if, in the opinion of the Lieutenant Governor in Council,

(a) there has been a default in a payment on the due date of either interest or principal of a debenture guaranteed under this Act or a failure to comply to the satisfaction of the minister with a condition governing the guarantee,

(b) the board is in serious financial jeopardy,

(c) there is substantial non-compliance with this Act or the regulations or any rules or orders made under this Act,

(c.1) *REPEALED 2012-22-23, effective July 1, 2012,*

(d) there is substantial non-performance of the duties of the board,

(e) there is a risk to student achievement in the district and it is in the public interest to do so, or

(f) the board has failed to comply with an administrative directive issued by the minister under section 168.03 (1).

(2) On the appointment of an official trustee to conduct the affairs of a school district, the trustees of the school district cease to hold office.

(3) The Lieutenant Governor in Council may remove an official trustee and order that elections be held in the school district or may appoint trustees to hold office in the school district until the next general local election.

[2002-53-84, effective May 30/02, 2006-21-24 effective June 30/06, BC Reg 195/06; 2007-20-41, effective July 1/07, BC Reg 229/07; am 2012-22-23, effective July 1/12; 2015-11-44, effective July 1/15]

Powers of official trustee

173 (1) An official trustee appointed under section 172

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

(b) must be remunerated out of the funds of the board of the school district in which the official trustee is appointed or otherwise as the Lieutenant Governor in Council determines.

(2) In the exercise of a power or performance of a duty conferred under this Act on a board, an official trustee, with the approval of the minister, may deviate in matters of procedure and in the form of any notice or statement under this Act as the official trustee considers necessary for the more effective exercise of that power or duty.

(3) The Lieutenant Governor in Council may make regulations to adapt this Act to the conduct of the affairs of school districts to which official trustees are appointed.

Division 4 – Examiners

Appointment of boards of examiners

174 (1) The Lieutenant Governor in Council may appoint one or more boards of examiners to advise the minister on matters that are related to examinations.

(1.1) A board of examiners appointed under subsection (1) must consist of 2 or more members, and include at least one representative of the ministry and one person appointed to represent the universities named in the *University Act*, the *Thompson Rivers University Act* and the *Trinity Western University Act*.

(2) The members of a board of examiners may be paid remuneration and expenses at rates determined by the Lieutenant Governor in Council.

(3) The minister may designate a member of a board of examiners as chair of the board of examiners.

(4) *REPEALED: BC Reg. 194/02*.

[2002-53-853, effective May 30/02, 2005-17-29, effective Mar 31, 2005; 2007-22-26, effective July 1, 2007, BC Reg. 194/07]

Division 5 – Lieutenant Governor in Council Regulations and Orders

Power to make regulations and orders

175 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) governing the conduct of schools;

(b) *REPEALED 2012-36-14, effective June 30, 2013*;

(c) prescribing the duties of secretary treasurers and employees of a board who are certificate holders;

(c.1) prescribing the duties of the secrétaire trésorier of a francophone education authority and employees of a francophone education authority who are certificate holders;

[am 2011-12-122, effective Jan 9/12, BC Reg. 239/11; am 2012-36-14, effective June 30/13]

(d) governing the manner, form and amount of insurance that must be maintained by a board;

(e) setting apart and reserving in each school district a quantity of Crown land that may be necessary for educational purposes in that district;

(f) defining any expression that is used but not defined in this Act;

(g) deeming a described class of persons to be employees of a specified board for the purposes of section 34;
(h) excepting a described class of persons from being employees of a specified board for the purposes of section 34;
(i) establishing one or more alternative oaths of office for the purposes of section 50;
(j) *REPEALED 2002-53-86, effective May 30, 2002*;
(k) deeming one or more categories of persons to be ordinarily resident in a school district or in British Columbia for the purposes of section 82;
(l) varying the dates or times referred to in section 106.2, 106.3, 110, 112, 113, 119 (3), 120.1 (7), 120.3 (1) and 137;
(m) respecting the evaluation of educational programs and services provided by a board for the purposes of section 75 (7);
(n) respecting the evaluation of francophone educational programs and services provided by a francophone education authority for the purposes of section 166.25 (6);
(o) respecting the assessment and evaluation of students by a certificate holder;
(p) respecting the assessment and evaluation of francophone students by a certificate holder;

[am 2011-12-122, effective Jan 9/12, BC Reg. 239/11]

(q) in respect of online learning schools and educational programs delivered through online learning, exempting the school or program from, or modifying, a requirement of the regulations, except in relation to school calendars;
(r) establishing conditions and limits for the purposes of an appeal to a superintendent of appeals under section 11.1 (1);
(s) prescribing criteria for the purposes of the definition of "specialty academy" in section 82.1;
(t) prescribing what may and what may not be considered to be direct costs for the purposes of section 82.1 (4) or 82.31 (3).
(u) deeming that a board that has scheduled for a school in its district a number of hours of instruction for a day has provided the scheduled number of hours of instruction for that day and has complied with section 87.03 for that day if
(i) the school is closed as a result of a strike or lockout in respect of some or all of the employees of the board assigned to the school, or
(ii) the school is closed by the board under section 73(1) or 90(2).

[am 2012-36-15, effective July 1/12; am 2012-36-14, effective June 30/13; 2015-11-45, effective July 1/15; 2018-2-101, effective February 21/18; am. 2020-8-30, effective July 1, 2021]

(3) *REPEALED 2012-36-14, effective June 30, 2013*

[am 2012-36-14, effective June 30/13]

(4) *REPEALED 2002-53-86, effective May 30/02*

(5) The Lieutenant Governor in Council may
(a) *REPEALED 2002-53-86, effective July 1, 2002*,

(b) authorize the minister to enter into an agreement with Canada for the education of Indian or other children for whose education Canada assumes responsibility, and

(c) vest in the minister the powers and authority considered necessary or advisable to effectively administer this Act and the regulations and to make orders for that purpose.

(5.1) Without limiting subsections (1) to (5), the Lieutenant Governor in Council may make regulations for the purposes of Part 6.1, including regulations prescribing

(a) the manner in which a notice of an annual general meeting must be given, and

(b) the manner in which an annual report may be made available to the public.

(6) Without limiting subsections (1) to (5.1), the Lieutenant Governor in Council may make regulations for the purposes of Part 8.1, including regulations

(a) prescribing a form of signed statement for the purposes of sections 166.13 (1) and 166.24 (4),

(b) prescribing a form of declaration for the purposes of section 166.14 (5) (a),

(c) *REPEALED 1999-8-27 effective Nov. 19/99*

(d) respecting the election of regional trustees of francophone education authorities for the purposes of section 166.18,

(e) prescribing the number of regional trustees for a francophone education authority for the purposes of section 166.18 (2),

(f) prescribing the form of an oath of office for the purposes of section 166.19,

(g) respecting the procedures for by-elections of regional trustees to be held under section 166.2,

(h) prescribing additional duties of the directeur général of a francophone education authority for the purposes of section 166.27 (2) (c),

(i) respecting any matter or thing in respect of which the Lieutenant Governor in Council may make regulations under subsections (2), (3) and (4), and

(j) respecting any matter or thing that the Lieutenant Governor in Council considers necessary or advisable to facilitate the establishment and operation of francophone education authorities.

(7) Without limiting subsections (1) to (6), the Lieutenant Governor in Council may, by regulation, specify that one or more of the following instruments applies for the purposes of Part 8.1:

(a) an order of the minister made under this Act;

(b) an order of the Lieutenant Governor in Council made under this Act;

(c) a regulation of the Lieutenant Governor in Council made under this Act.

(8) An instrument may only be specified under subsection (7) if the instrument is in force on the day this section comes into force.

(9) A regulation made under subsection (6) (c) or (d) may

(a) adopt by reference any of the provisions of this Act, the *Local Government Act* or the *Local Elections Campaign Financing Act* respecting the election of

school trustees, with any modifications necessary to adapt those provisions to the purposes of Part 8.1, and

(b) provide that a person who is guilty of an offence for a contravention of a provision referred to in paragraph (a) is liable to the same penalties that apply to such an offence under the enactments referred to in that paragraph.

(10) If a regulation made under subsection (6) (e)

(a) increases the number of regional trustees of a francophone education authority, the regulation may determine the manner in which and the times at which the new regional trustees under the regulation are to be appointed or elected, or

(b) reduces the number of regional trustees of a francophone education authority, the regulation becomes effective for the following general election of regional trustees of the authority.

(11) A regulation made under subsection (2) (1)

(a) may vary the dates or times referred to in the sections listed in that subsection as those sections apply to francophone education authorities or for the purposes of Part 8.1, and

(b) may be made after the expiry of the date or time being varied.

[1997-52-25 effective Aug. 1/97, BC Reg. 287/97; 1998-27-11 effective Oct. 23/98, BC Reg. 371/98; 1999-8-27 effective Nov. 19/99; 2000-7-191 effective June 12/00; 2002-53-86, effective May 30/02; [2003-23-82, effective April 10/03, 2006-21-25 effective June 30/06, BC Reg 195/06; 2007-20-42, effective July 1/07, BC Reg 229/07; 2007-22-25, effective July 1, 2007, BC Reg. 194/07; ; 2007-22-27, effective July 1, 2007, BC Reg. 194/07; 2007-22-28, effective July 1, 2007, BC Reg. 194/07; 2007-22-29, effective July 1, 2007, BC Reg. 194/07; 2007-22-31, effective July 1, 2007, BC Reg. 194/07; am 2014-21-110, effective May 29/14; 2016-5-4, effective Dec 8/16, BC Reg. 310/16]

Creation and alteration of school districts

176 (1) The Lieutenant Governor in Council may, by order,

(a) create school districts in addition to those already existing,

(b) define the boundaries of school districts created under paragraph (a),

(c) alter the boundaries of or abolish a school district, and

(d) change the name of a school district.

(2) The assets of the board of a school district, including funds, must be disposed of as directed by the Lieutenant Governor in Council, having regard to the rights of creditors, if

(a) the area of the school district becomes included in another school district,

(b) part of the area of the school district becomes included in another school district, or

(c) the school district is abolished.

(3) Without limiting subsection (2), the Lieutenant Governor in Council may make provision for

(a) the use and administration of property used and administered by the board, but not vested in the board,

(b) the transfer and payment of the liabilities of the board and for raising funds necessary for payment of the liabilities, or

(c) the use and expenditure of the proceeds of the sale of any asset of the board.

Division 6 - Offences

Maintenance of order

177 (1) A person must not disturb or interrupt the proceedings of a school or an official school function.

(2) A person who is directed to leave the land or premises of a school by a principal, vice principal, director of instruction or a person authorized by the board to make that direction

(a) must immediately leave the land and premises, and

(b) must not enter on the land and premises again except with prior approval from the principal, vice principal, director of instruction or a person who is authorized by the board to give that approval.

(3) A person who contravenes subsection (1) or (2) commits an offence.

(4) A principal, vice principal, or director of instruction of a school or a person authorized by the board may, in order to restore order on school premises, require adequate assistance from a peace officer.

[2002-53-87, effective May 30/02]

Division 7 — Validation of Fees

Validation of fees — International Baccalaureate program

178 (1) Despite section 82 and despite any decision of a court to the contrary made before or after the coming into force of this section or section 82.31, the fees set and charged by a board, from July 1, 2002 to the date this section comes into force, in relation to an International Baccalaureate program that would have been validly set and charged had the board set and charged those fees in accordance with section 82.31 (3) are conclusively deemed to have been validly set and charged, and all fees collected by the board are conclusively deemed to have been validly collected.

(2) This section is retroactive to the extent necessary to give full force and effect to its provisions and must not be construed as lacking retroactive effect in relation to any matter because it makes no specific reference to that matter.

[am 2012-36-16, effective July 1/12]]

SCHEDULE

(Section 112(5) of the Act)

REFERENDUM BALLOT

The Board of Education of School District No..... (.....) seeks approval to raise funds in the..... calendar year through local residential taxation for expenditures in the next school year in addition to those provided for by the operating grant to this school district. Please place an "X" in the appropriate box signifying that you approve or do not approve of each proposed expenditure.

1. New, and enhanced, programs

Description of programs

		Tax consequences per $10,000 of assessed property value
Cost for additional staffing	$ _____	
Cost for additional services and supplies	$ _____	
TOTAL COSTS	**$** _____	$ _____

I approve of this expenditure
I do not approve of this expenditure

---

2. Additional activities for students

Description of activities

		Tax consequences per $10,000 of assessed property value
Cost for additional staffing	$ _____	
Cost for additional services and supplies	$ _____	
TOTAL COSTS	**$** _____	$ _____

I approve of this expenditure
I do not approve of this expenditure

---

3. Local capital initiatives in addition to those recognized by the Province

Description of local capital initiatives

		Tax consequences per $10,000 of assessed property value
TOTAL COSTS	**$** _____	$ _____

I approve of this expenditure
I do not approve of this expenditure

[2002-53-88, effective Jan. 31/02; 2007-20-43, effective July 1/07, BC Reg 229/07]

SCHOOL AMENDMENT ACT, 2003

Transitional

6 Section 21 (2) of the *School Act*, as it is amended by section 2 of this Act, applies to a person who is employed as a principal, vice principal or director of instruction in a school district at the time section 2 of this Act comes into force, as if section 21 (2) of the *School Act*, as amended by section 2 of this Act, were in force at the time the person was appointed as a principal, vice principal or director of instruction in the school district.

[2003-40-6, effective May 29, 2003]

SCHOOL AMENDMENT ACT, 2002

Transitional – district parents' advisory council

89 (1) In this section, **"district parents' committee"** means a group of persons known as, or performing functions similar to those set out for, a district parents' advisory council.

(2) A district parents' committee that was recognized by a board immediately before July 1, 2002, is deemed to be the district parents' advisory council, established under section 8.4 of the *School Act*, for the school district.

(3) Subject to subsections (4), the members of a district parents' committee referred to in subsection (2) are deemed to be the representatives elected to the district parents' advisory council under section 8.4 (3) of the *School Act.*

(4) A member of the district parents' committee deemed to be a representative to the district parents' advisory council ceases to be a representative on September 30, 2002 if the person is not elected on or before September 30, 2002 under section 8.4 (3) and in accordance with section 8 (5) and (6) of the *School Act*.

[2002-53-89, effective July 1/02]

Transitional – provincial funding

90 Despite this Act, sections 107, 108 and 170.1 (3) (a) of the *School Act*, as they read before they were repealed by this Act, continue to apply to the 2001-2002 fiscal year.

[2002-53-90, effective May 30/02]

Transitional – application of enrolment provisions

91 Despite this Act,

(a) sections 2, 74.1, 75, except subsection (7), 75.1, 82, 166.24 (2) to (4), 166.241, 166.25 (2) to (4) and 166.251 of the *School Act*, as amended or enacted by this Act, do not apply for the purposes of a person enrolling in an educational program or francophone educational program for the 2002-2003 school year, and

(b) sections 2, 75, except subsection (7), 82, 166.24 (2) to (4) and 166.25 (2) to (4) of the *School Act*, as they read on June 30, 2002, continue to apply for the purposes of a person enrolling in an educational program or francophone education program for the 2002-2003 school year.

[2002-53-91, effective July1/02]

SCHOOL AMENDMENT ACT, 2002

Transitional – annual budget

92 (1) A preliminary budget for the 2002-2003 fiscal year, adopted by a board or francophone education authority on or before April 27, 2002 under section 113 (1) (b) of the *School Act*, as that section read on June 30, 2002, is deemed to be an annual budget for the 2002-2003 fiscal year.

(2) Despite this Act, the definitions of "local capital expense" and "local revenue" in section 1 (1) of the *School Act*, as they read before they were amended by this Act, continue to apply to the 2001-2002 fiscal year.

[2002-53-92, effective July1/02]

SCHOOL (PROTECTION OF PARENT VOLUNTEERS) AMENDMENT ACT, 2001

Transitional

5 (1) Section 26.1 of the *School Act* applies to collective agreements in effect at the time that section comes into force and to collective agreements entered into on or after the coming into force of that section.

(2) Section 85 (4) and (5) of the *School Act* applies to rules made before, on or after the coming into force of that section.

EDUCATION STATUTES AMENDMENT ACT, 1998

Transitional – funding
13 Sections 107 (3.1) and 108 (2.1) and (2.3) of the *School Act*, as enacted by sections 8 and 9 of this Act, apply for the purposes of the 1998-99 and subsequent fiscal years of schools boards.

Commencement
14 (2) When brought into force by regulation, sections 8 and 9 are retroactive to the extent necessary to give them force and effect in accordance with section 13.

SCHOOL AMENDMENT ACT, 1993

Transitional

12 (1) In this section

"agreement" means a collective agreement referred to in sections 27 and 28 of the *School Act*;

"school calendar provisions" means sections 77, 78, 168 (2) (m) and 175 (2) (b) and (3) of the *School Act* as enacted by this Act, and any regulations and orders made under those sections.

(2) The school calendar provisions apply, under sections 27 and 28 of the *School Act*, to every agreement whether made before or after the coming into force of any of the school calendar provisions, and, without limitation,

(a) are, under section 27 (1) (a) of the *School Act*, included in the agreement, and

(b) prevail over any conflicting provisions in the agreement.

(sections numbers refer to the sections in the School Act, revised statutes of BC 1996)

[1993-6-12, effective June 4, 1993 (BC Reg. 190/93); 1994-21-21, effective June 10, 1994]

SCHOOL AMENDMENT ACT, 2012

Transition — school calendars

17 (1) Division 2.1 of Part 6 and any regulation made under section 168.02 do not apply to any school year before the 2013/2014 school year.

(2) Sections 77 and 78 (3) to (5), any ministerial order made under section 168 (2) (m) and any regulation made under section 175 (2) (b) do not apply to any school year after the 2012/2013 school year or to the making or adoption of a school calendar for any school year after the 2012/2013 school year.

(3) The School Calendar Regulation, B.C. Reg. 114/2002, and any other regulation made under section 175 (2) (b) are repealed on June 30, 2013.

[2012-36-17, effective July 1/12]

EDUCATION STATUTES AMENDMENT ACT, 2015

Transition —special advisor

51 (1) In this section, **"former special advisor legislation"** means sections 166.431 to 166.433 and Division 2.1 of Part 9 of the *School Act* as those provisions read immediately before being amended by this Act.

(2) If, on the date this section comes into force,

(a) a special advisor appointed under the former special advisor legislation has not completed his or her duties and responsibilities under the former special advisor legislation, or

(b) a francophone education authority or board has not completed its duties or responsibilities under the former special advisor legislation,

the former special advisor legislation continues to apply until the duties and responsibilities of the special advisor, francophone education authority or board, as applicable, are completed.

[2015-11-51, effective July 1/15]