

TEACHERS ACT
[SBC 2011] Chapter 19

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

PART 1 — DEFINITIONS

Definitions

1 In this Act:

"authorized person" means

- (a) a certificate holder, or
- (b) a person who holds a letter of permission issued under section 35 [issuance of letter of permission];

"board" means the Disciplinary and Professional Conduct Board established under section 26 [disciplinary and professional conduct board];

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"board of education" means a board of education or a francophone education authority as defined in section 1 [*definitions and interpretation*] of the *School Act*;

"certificate holder" means a person who holds a certificate of qualification or an independent school teaching certificate;

"certificate of qualification" means a certificate of qualification issued under this Act by the director of certification;

"certification appeal" means an appeal filed under section 32 (8) [*reconsideration and appeal*];

"certification standards" means the standards the council establishes under section 13 (d) [*powers and duties of council*] that are effective under section 14 (3) or (4) [*ratification of council rules, standards and decisions*] or a standard that is effective under section 15 (4) [*minister's orders*];

"citation" means a citation issued by the commissioner under section 56 [*citation*];

"commissioner" means the commissioner appointed under section 2 (1) [*appointment of commissioner*] or designated under section 2 (5);

"continuing education activity" means

(a) participating in or presenting a training or educational program, course or seminar,

(b) providing mentoring, or

(c) participating in a similar learning activity

that is relevant to the training or qualifications of certificate holders;

[2015-11-47, effective ?? by Reg.]

"coordination agreement" means the agreement described in section 80.1 [*coordination agreement with First Nations Education Authority*];

"council" means the British Columbia Teachers' Council established under section 9 [*British Columbia Teachers' Council*];

"director of certification" means the director of certification appointed under section 6 [*appointment of director of certification*];

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

"FNEA certified teacher" means a person who holds an FNEA teaching certificate;

"FNEA teaching certificate" means a teaching certificate issued by the First Nations Education Authority;

"independent school" means an independent school as defined in section 1 [*definitions*] of the *Independent School Act*;

"independent school authority" means

(a) a society as defined in section 1 [*definitions*] of the *Societies Act*,

(b) a company as defined in section 1 (1) [*definitions*] of the *Business Corporations Act*,

(b.1) a corporation incorporated under a private Act, or

(c) a person designated, by regulation, as an independent school authority

that operates or intends to operate an independent school;

"independent school teaching certificate" means an independent school teaching certificate issued under this Act by the director of certification;

"independent school teaching certificate standards" means the independent school teaching certificate standards as defined in section 1 of the *Independent School Act*;

"independent school teaching certificate standards committee" means the independent school teaching certificate standards committee constituted under the *Independent School Act*;

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"inspector of independent schools" means the inspector of independent schools appointed under the *Independent School Act*;

"letter of permission" means a letter of permission issued under this Act by the director of certification authorizing a person to teach without being a certificate holder;

"panel" means a panel established under section 57 [*establishment of panels for disciplinary and professional conduct inquiries*] or 73 [*establishment of panels for certification appeals*];

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

"practising teacher" means a certificate holder who has carried out one or more of the following duties in the preceding 2 years in the course of the certificate holder's employment:

- (a) design, supervision and assessment of educational programs;
- (b) instruction, assessment and evaluation of individual students and of groups of students;

"public school" means a school or a francophone school as defined in section 1 of the *School Act*;

"register of certificate holders" means the register of certificate holders kept under this Act by the director of certification;

"student" means

- (a) a student as defined in section 1 of the *School Act*,
- (b) a student as defined in section 1 of the *Independent School Act*,
- (c) a child registered under section 13 [*registration*] of the *School Act*,
- (d) a child engaged in a program of studies at an educational institution operated by
 - (i) a first nation, as defined in section 1 of the *School Act*, or
 - (ii) 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
- (e) a child participating in a kindergarten to grade 12 program of studies provided by a treaty first nation under its own laws;

"zone" means a zone established by regulation by the minister under section 19 [*zones*].

[am 2015-24-356, effective Nov 28/16; am. 2021-25-3, effective Nov. 25/21]

PART 2 — COMMISSIONER AND DIRECTOR OF CERTIFICATION

Appointment of commissioner

2 (1) On the recommendation of the minister, the Lieutenant Governor in Council may appoint, under the *Public Service Act*, a commissioner.

(2) The term of office of the commissioner is up to 5 years and a commissioner may be reappointed.

(3) Subject to subsection (4), before making the recommendation under subsection (1), the minister must consult with the council.

(4) The minister may make a recommendation under subsection (1) without consulting with the council with respect to the initial commissioner appointed after this section comes into force.

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(5) If the office of the commissioner is vacant or the commissioner is temporarily absent because of illness or another reason, the minister may designate, without consulting with the council, an acting commissioner to exercise the powers and perform the duties of the commissioner until whichever of the following is the case and occurs first:

- (a) a person is appointed under subsection (1);
- (b) the commissioner returns to office after the temporary absence.

(6) The commissioner has the powers conferred and the duties imposed on the commissioner by this Act and the regulations.

Commissioner's power to delegate

3 (1) Subject to subsection (2) and the regulations, the commissioner may delegate to one or more employees of the ministry the commissioner's powers or duties under this Act.

(2) The delegation of the powers or duties of the commissioner must be in writing and may include any terms or conditions the commissioner considers advisable.

Recommendations about standards

4 The commissioner may provide recommendations to

- (a) the council in respect of the certification standards, and
- (b) the independent school teaching certificate standards committee in respect of the independent school teaching certificate standards.

Annual commissioner report

5 (1) The commissioner must annually report to the minister, by a date specified by the minister, on the following:

- (a) the activities of the commissioner;
- (b) the activities of panels;
- (c) other matters
 - (i) on which the commissioner considers the commissioner should report, or
 - (ii) that the minister has directed be included in the annual report.

(2) When providing the annual report to the minister under subsection (1), the commissioner must also provide a copy of the annual report to the chair of the council and to the board members.

(3) The minister, within 45 days of receiving a report under subsection (1), must make public the report.

[am. 2021-25-4, effective Nov. 25/21]

Appointment of director of certification

6 (1) There is to be appointed, under the *Public Service Act*, a director of certification.

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(2) The director of certification has the powers conferred and the duties imposed on the director of certification by this Act and the regulations.

Director of certification's power to delegate

7 (1) Subject to subsection (2) and the regulations, the director of certification may delegate to one or more employees of the ministry any of the director's powers or duties under this Act.

(2) The delegation of the powers or duties of the director of certification must be in writing and may include any terms or conditions the director of certification considers advisable.

Staff of commissioner and director of certification

8 The staff of the commissioner and of the director of certification are employees of the ministry.

PART 3 — BRITISH COLUMBIA TEACHERS' COUNCIL AND DISCIPLINARY AND PROFESSIONAL CONDUCT BOARD

Division 1 — British Columbia Teachers' Council

British Columbia Teachers' Council

9 (1) The British Columbia Teachers' Council is established, consisting of the following persons:

- (a) 4 certificate holders, nominated by the British Columbia Teachers' Federation in accordance with the regulations, who are appointed by the minister;
- (a.1) one person appointed by the First Nations Education Authority in accordance with the regulations;
- (b) 5 persons elected in the zones in accordance with Division 2 [*Elections of Council Members*] of this Part;
- (c) subject to subsection (6), 7 persons appointed by the minister in accordance with the regulations;
- (d) one person appointed by the minister.

(2) In making the initial appointments after this section comes into force, the minister must appoint,

- (a) under subsection (1) (a), one council member for a term of one year, one council member for a term of 2 years and one council member for a term of 3 years, and
- (b) under subsection (1) (c), 2 council members for a term of one year, 3 council members for a term of 2 years and 2 council members for a term of 3 years.

(3) Subject to subsection (4), after the initial appointments under subsection (2), the term of office of a council member appointed under subsection (1) (a) or (c) is 3 years.

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(3.1) Subject to subsection (4), the term of office of a council member appointed under subsection (1) (a.1) is 3 years.

(4) The minister or the First Nations Education Authority, as applicable, may appoint a council member to a term of office other than 3 years but no more than 5 years if the council member is appointed to fill a vacancy.

(5) If the British Columbia Teachers' Federation fails to nominate one or more persons under subsection (1) (a), the minister may appoint, as required, the number of persons not nominated who are certificate holders.

- (6) In making an appointment under subsection (1) (c), the minister must
- (a) consult with prescribed persons or prescribed organizations, in accordance with the regulations, before making the appointments, and
 - (b) appoint at least one person with substantial knowledge of and experience in the independent school system.

- (7) The person appointed by the minister under subsection (1) (d)
- (a) is a non-voting council member, and
 - (b) must report to the minister on the activities of the council.

(8) Subject to section 14 [*ratification of council rules, standards and decisions*], the council may make rules governing its practices and procedures, including the conduct of council meetings.

(9) A majority of council members must elect a chair from among the council members, and may elect a new chair from among the council members at any time.

(10) The minister may provide for remuneration of council members and for payment of expenses to council members.

[am. 2021-25-5, effective April 3, 2023, BC Reg. 88/2023]

Objects of council and responsibilities of council members

- 10** (1) The objects of the council are as follows:
- (a) to establish standards for the education of applicants for certificates of qualification;
 - (b) to establish standards for the conduct and competence of applicants for certificates of qualification and certificate holders.

(2) In carrying out its objects, the council must exercise its powers and perform its duties under this Act in the public interest.

- (3) A council member must act
- (a) in good faith, and

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- (b) in a manner that puts the public interest ahead of the interest of any organization with which the council member may be affiliated.

(4) A council member must not act on behalf of an authorized person in respect of a complaint, a report, an investigation, a consent resolution process or a hearing under Part 6 [*Disciplinary and Professional Conduct Inquiries and Certification Appeals*] or on behalf of an appellant in respect of a certification appeal under Part 6.

Oath of office

11 (1) Before taking office, a person appointed or elected to the council, other than the person appointed under section 9 (1) (d), must take and sign, by oath or solemn affirmation, a prescribed oath of office within the following applicable time limit:

- (a) in the case of a person elected by acclamation, within 45 days after the date set for voting day had an election by voting been required in respect of this person;
- (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) A person must take the oath before a justice of the peace, the secretary treasurer of a board of education or the director of certification and must obtain the completed oath or a certificate of it from the person before whom the oath was taken.

(3) A person appointed or elected to the council must present the completed oath required by subsection (1) or a certificate of it to the director of certification within the applicable time limit under subsection (1) (a), (b) or (c) and before the person takes office on the council.

(4) If a person appointed or elected to the council does not take and sign the oath required by subsection (1) or does not comply with subsection (3) within the time limits set by those subsections, the office to which that person was appointed or elected is vacant and the minister may appoint a person to fill the vacancy.

(5) After reasonable notice to a council member, the council, by resolution passed by the vote of at least 2/3 of the other council members voting on the resolution, may remove from council a council member elected under section 9 (1) (b) if the council is satisfied that the person has contravened a term of the oath required by subsection (1) of this section.

(6) The minister may terminate the appointment of a council member appointed under section 9 (1) (a) or (c) or (4) if the minister is satisfied that the person has contravened a term of the oath required by subsection (1) of this section.

(6.1) The First Nations Education Authority may terminate the appointment of a council member appointed under section 9 (1) (a.1) if the First Nations Education Authority is satisfied that the person has contravened a term of the oath required by subsection (1) of this section.

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(7) If a person is removed from the council under subsection (5) of this section, the person ceases to be

- (a) a council member,
 - (b) a board member, if appointed as a board member under section 26 [*disciplinary and professional conduct board*], and
 - (c) a panel member, if sitting on a panel,
- and section 23 [*by-elections*] applies.

(8) If the appointment of a person is terminated under subsection (6) of this section, the person ceases to be

- (a) a council member,
 - (b) a board member, if appointed as a board member under section 26, and
 - (c) a panel member, if sitting on a panel,
- and the minister may appoint a person under section 9 (1) (a) or (c), as applicable, to fill the vacancy.

(9) If the appointment of a person is terminated under subsection (6.1), the person ceases to be

- (a) a council member,
 - (b) a board member, if appointed as a board member under section 26, and
 - (c) a panel member, if sitting on a panel,
- and the First Nations Education Authority may appoint a person under section 9 (1) (a.1) to fill the vacancy.

(10) If, within 90 days after a termination under subsection (6.1), no appointment is made under subsection (9), the minister may appoint a person to fill the vacancy in accordance with the regulations.

(11) For the purposes of this section and section 9, a person appointed under subsection (10) of this section is to be considered to have been appointed by the First Nations Education Authority under subsection (9) of this section.

[am. 2021-25-6, effective April 3, 2023, BC Reg. 88/2023]

Council meetings

12 (1) The council must hold a meeting at least once in each year.

(2) Council meetings must be open to the public.

(3) Despite subsection (2) of this section and subject to the regulations, the council may direct that the public is excluded from all or part of a council meeting, but the council member appointed under section 9 (1) (d) [*British Columbia Teachers' Council*] may report to the minister on all council meetings.

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Powers and duties of council

13 The council has the following powers and duties:

- (a) to establish teacher education program approval standards for determining if the teacher education program of any faculty of teacher education or school of teacher education satisfies the academic standards for a graduate of that program to be issued a certificate of qualification;
- (b) to determine if a teacher education program meets the teacher education program approval standards;
- (c) to cooperate with a faculty of teacher education or school of teacher education in the design and evaluation of teacher education programs;
- (d) to establish the standards that a person must meet in order to be issued and to maintain a certificate of qualification, other than standards respecting continuing education activities, including
[2015-11-48, effective ?? by Reg.??]
 - (i) standards with respect to the training and qualifications of applicants for a certificate of qualification and persons holding a certificate of qualification, including, but not limited to, professional, academic and specialist standards,
 - (ii) competence standards, and
 - (iii) conduct standards;
- (e) to classify certificates of qualification into one or more types, including requiring that different certification standards be met for different types of certificates of qualification;
- (f) to prepare and submit annual reports under section 16 and other reports under section 17 *[additional council reports]*.

Ratification of council rules, standards and decisions

- 14** (1) The chair of the council must submit to the minister a copy of
- (a) each rule, made by the council under section 9 (8) *[British Columbia Teachers' Council]*, governing its practices and procedures,
 - (b) each standard established under section 13 (a) or (d), and
 - (c) each decision, made under section 13 (e), in respect of classifying certificates of qualification,

within 10 days after the rule or decision was made or the standard was established.

(2) The minister may disallow a rule, standard or decision within 60 days after its submission under subsection (1).

(3) Subject to subsection (4) of this section and to section 15, a rule, standard or decision becomes effective 60 days after its submission under subsection (1) unless the minister disallows the rule, standard or decision under subsection (2).

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(4) If the minister notifies the council, before the end of the 60-day period described in subsection (3), that the minister will not disallow a rule, standard or decision under subsection (2), the rule, standard or decision becomes effective on the date of the notification.

Minister's orders

15 (1) In this section:

"**NWPTA**" means the New West Partnership Trade Agreement entered into by the governments of British Columbia, Alberta and Saskatchewan on April 30, 2010 and includes amendments to the agreement;

"**TILMA**" means the Trade, Investment and Labour Mobility Agreement entered into by the governments of British Columbia and Alberta on April 28, 2006 and includes amendments to the agreement.

(2) The minister, in respect of a standard established under section 13 (d) and submitted to the minister under section 14 (1) (b), may request the council to amend the standard submitted to the minister or to establish a new standard if the minister considers this is necessary or advisable to ensure that the certification standards comply with the NWPTA and TILMA.

(3) If the council does not comply with a request under subsection (2) within 60 days after the date of the request, the minister, by order, despite anything in this Act, may amend the standard or establish a new standard in accordance with that request.

(4) An amended standard or a newly established standard under subsection (3) becomes effective on the date of the minister's order or on a date specified in the minister's order.

Annual council report

16 (1) The council must annually report to the minister, by a date specified by the minister, on the activities of the council during the year and on other matters

- (a) on which the council considers it should report, or
- (b) that the minister has directed be included in the annual report.

(2) The minister, within 45 days of receiving a report under subsection (1), must make public the report.

Additional council reports

17 (1) The council must report to the minister, by a date specified by the minister, on any matter related to the objects, powers and duties of the council as directed by the minister.

(2) The minister, within 45 days of receiving a report under subsection (1), must make public the report.

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Division 2 — Elections of Council Members

Administration of elections of council members

18 The minister must administer the election of council members in accordance with this Division and the regulations.

Zones

- 19** (1) The minister, by regulation, must establish 5 zones in British Columbia.
- (2) One certificate holder must be elected in each zone.

Candidates

20 A certificate holder is not eligible to be a candidate for election to the council in a zone unless

- (a) the certificate holder is a practising teacher,
- (b) the certificate holder's principal residence is in that zone,
- (c) the certificate holder, if elected, would be an elected member of the council for less than 7 years at the end of the term of office for which the election is being held,
- (d) the certificate holder's nomination in writing is proposed by 10 certificate holders who have their principal residence in that zone, and
- (e) written consent of the certificate holder for the nomination has been filed with the minister by the prescribed date of the year in which the election is to take place.

[am. 2021-25-7, effective Nov. 25/21]

No opposing nomination

21 If in a zone there is only a single candidate nominated, the minister must declare that the candidate is elected as the council member in the zone.

Elections

- 22** (1) The minister, by regulation, must set the date of the first election after this section comes into force.
- (2) The minister must hold an election on a prescribed date in every third year after the date set under subsection (1).
- (3) At an election of a certificate holder in a zone, the vote must be by secret ballot of the certificate holders who have their principal residence in the zone.

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By-elections

23 (1) If an elected council member ceases to hold office before the member has served 30 months of the member's term, the minister must promptly hold an election to choose a successor.

(2) This Division and the regulations apply to an election held under subsection (1) of this section.

(3) If an elected council member ceases to hold office after the member has served 30 months or more of the member's term, the minister may appoint an eligible certificate holder in the same zone to fill the vacancy.

(4) A council member elected under subsection (1) or appointed under subsection (3) holds office for the remainder of the term of the member whom the council member replaces.

[am. 2021-25-8, effective Nov. 25/21]

Council members to be certificate holders

24 If an elected council member ceases to be a certificate holder, the council member ceases to hold office, and section 23 applies.

Failure to elect

25 (1) In the case of failure at an election to elect in any zone the required council member, the minister may appoint in the same zone a certificate holder to be a council member.

(2) A council member appointed under subsection (1) holds office as though the council member had been elected at an election.

[am. 2021-25-9, effective Nov. 25/21]

Division 3 — Disciplinary and Professional Conduct Board

Disciplinary and Professional Conduct Board

26 (1) The Disciplinary and Professional Conduct Board is established, consisting of 9 council members appointed by the minister in accordance with this section.

(2) The minister must make the appointments under subsection (1) as follows:

- (a) 4 of the 9 board members must be council members appointed under section 9 (1) (a) *[British Columbia Teachers' Council]* or elected under section 9 (1) (b);
- (b) 5 of the 9 board members must be council members appointed under section 9 (1) (c).

(3) In making appointments under subsection (1), the minister must appoint at least one person with substantial knowledge of and experience in the independent school system.

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(4) If a board member ceases to be a council member, the board member ceases to hold office as a board member.

Powers after resignation or expiry of term

27 (1) If a board member resigns or the board member's appointment expires, the commissioner may authorize the person to continue to exercise powers as a panel member, if selected to sit on a panel before the end of the board member's term.

(2) An authorization under subsection (1) continues until a final decision is made in the hearing in which the person is participating or until the commissioner revokes the authorization.

[am. 2021-25-10, effective Nov. 25/21]

Termination for cause

28 (1) The minister may terminate the appointment of a board member for cause.

(2) A board member whose appointment is terminated under subsection (1) ceases to be a council member and to be a panel member if sitting on a panel.

Panel member duties and remuneration

29 (1) A panel member must faithfully, honestly and impartially perform the duties of a panel member and, except in the proper performance of those duties, must not disclose to any person any information obtained as a panel member.

(2) A panel member must participate in training or education programs as directed by the commissioner.

(3) A panel member must act

- (a) in good faith, and
- (b) in a manner that puts the public interest ahead of the interest of any organization with which the panel member may be affiliated.

(4) The minister may provide for remuneration of panel members and for payment of expenses to panel members.

[am. 2021-25-11, effective Nov. 25/21]

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PART 4 — CERTIFICATION AND LETTERS OF PERMISSION

Division 1 — Certification

Issuance of certificate

30 (1) Subject to subsections (2) and (3), the director of certification may issue a certificate of qualification or an independent school teaching certificate, as applicable, to an applicant who

- (a) applies in writing in the form required by the director of certification,
- (b) pays the prescribed fees, and
- (c) satisfies the director of certification of the following requirements:
 - (i) the person meets
 - (A) the certification standards in respect of a certificate of qualification, or
 - (B) the independent school teaching certificate standards in respect of an independent school teaching certificate;
 - (ii) the person is of good moral character and is otherwise fit and proper to be issued a certificate of qualification or an independent school teaching certificate.

(2) The director of certification must consult with the inspector of independent schools before issuing an independent school teaching certificate to an applicant under subsection (1).

(3) The director of certification must not issue a certificate of qualification or an independent school teaching certificate to a person

- (a) if
 - (i) the person fails to authorize a criminal record check or a criminal record check verification, as applicable, under the *Criminal Records Review Act*, or
 - (ii) the deputy registrar under that Act has determined the person presents a risk of physical or sexual abuse to children or a risk of physical, sexual or financial abuse to vulnerable adults and that determination has not been overturned by the registrar under that Act, or
- (b) who has not paid costs ordered under section 65 [*power to award costs*].

(4) The director of certification may impose a limitation or condition on a certificate of qualification or an independent school teaching certificate

- (a) in accordance with the certification standards,
- (b) if a panel orders the director of certification to impose the limitation or condition, or
- (c) if the limitation or condition is a term of a consent resolution agreement under section 53 [*consent resolution agreement*].

(5) The director must give the applicant written reasons for a decision

- (a) to deny an applicant a certificate of qualification or an independent school teaching certificate,

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- (b) to issue a type of certificate of qualification or independent school teaching certificate other than the type for which the applicant applied, or
- (c) to impose a limitation or condition on a certificate of qualification or independent school teaching certificate under subsection (4) (a).

[am 2013-11-56, effective Nov.30/13, BC Reg. 214/13]

Review of certificate

31 (1) If the director of certification receives information relating to the conduct of a certificate holder that occurred prior to the issuance of a certificate of qualification or an independent school teaching certificate to the certificate holder

- (a) that was not disclosed to the director of certification, or not before the director of certification for any other reason, prior to the director issuing the certificate of qualification or independent school teaching certificate, and
- (b) that the director considers could have affected the decision to issue that certificate of qualification or independent school teaching certificate,

the director may review the information and rescind the certificate holder's certificate of qualification or independent school teaching certificate if the director determines that the certificate holder did not meet the requirements in section 30 when the certificate of qualification or independent school teaching certificate was issued to the certificate holder.

(2) Before deciding to rescind a certificate of qualification or an independent school teaching certificate under subsection (1), the director of certification must notify the certificate holder of the director's intention and the certificate holder

- (a) may provide written submissions, and
- (b) must provide any submissions under paragraph (a) within 30 days of the director's notification.

(3) The director of certification may rescind the certificate holder's certificate of qualification or independent school teaching certificate after considering any submissions provided by the certificate holder under subsection (2).

(4) If the director of certification rescinds a certificate of qualification or an independent school teaching certificate under subsection (1), the director of certification

- (a) must provide written reasons to the certificate holder,
- (b) notify each board of education and independent school authority of the rescission, and
- (c) record the fact of the rescission in the register of certificate holders.

Reconsideration and appeal

32 (1) An applicant for a certificate of qualification or an independent school teaching certificate may request the director of certification to reconsider the director of certification's decision in respect of any of the following:

- (a) a denial to issue to the applicant a certificate of qualification or an independent school teaching certificate under section 30;

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- (b) the issuance of a type of certificate of qualification or independent school teaching certificate other than the type for which the applicant applied;
- (c) the imposition of a limitation or condition on a certificate of qualification or an independent school teaching certificate under section 30 (4) (a).

(2) A certificate holder whose certificate of qualification or independent school teaching certificate is rescinded under section 31 may request the director of certification to reconsider the director of certification's decision to rescind the certificate.

(3) The request under subsection (1) or (2) must

- (a) be in writing in the form required by the director of certification,
- (b) include the prescribed fee, and
- (c) subject to subsection (4) of this section, be delivered to the director of certification within 30 days from,
 - (i) in the case of a reconsideration under subsection (1) (a) of this section, the date of the decision under section 30 (5),
 - (ii) in the case of a reconsideration under subsection (1) (b) or (c) of this section, the date the certificate of qualification or independent school teaching certificate is issued, or
 - (iii) in the case of a reconsideration under subsection (2) of this section, the date of the decision under section 31 (1).

(4) The director of certification may consider a request under subsection (1) or (2) submitted to the director of certification outside the required timeline if the director is satisfied that special circumstances exist.

(5) When reconsidering a decision under section 30 or 31, the director of certification may consider information that was not before the director at the time of making the original decision.

(6) The director of certification may confirm, vary or reverse a decision under section 30 or 31.

(7) The director of certification must provide the person who requested the reconsideration written reasons for the reconsideration decision.

(8) An applicant for a certificate of qualification or an independent school teaching certificate or a certificate holder whose certificate of qualification or independent school teaching certificate is rescinded under section 31 may appeal a reconsideration decision by the director of certification to the commissioner in writing within 30 days of the date of the reconsideration decision.

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Suspension or cancellation of certificate

33 (1) The director of certification must suspend a certificate of qualification or an independent school teaching certificate

- (a) in accordance with section 37 (3) [*annual practice fee*],
- (b) if the commissioner orders the director of certification to suspend the certificate under section 50 [*suspension of certificate or letter of permission before hearing*],
- (c) if the commissioner notifies the director of certification that the suspension is a term of a consent resolution agreement under section 53 [*consent resolution agreement*],
- (d) if a panel orders the director of certification to suspend the certificate under section 64 [*consequences after hearing*],
- (e) if the certificate holder does not pay the costs ordered under section 65 (1) [*power to award costs*] by the date specified in the order,
- (f) if the certificate holder does not authorize a criminal record check or a criminal record check verification, as applicable, under the *Criminal Records Review Act*, or
- (g) if the registrar under the *Criminal Records Review Act* has determined that the certificate holder does not have a portable criminal record check because the certificate holder has never undergone a criminal record check or the certificate holder underwent a criminal record check more than 5 years before the date of the criminal record check verification authorization.

(2) The director of certification must cancel a certificate of qualification or an independent school teaching certificate

- (a) in accordance with section 37 (4),
- (b) if the commissioner notifies the director of certification that the cancellation is a term of a consent resolution agreement under section 53,
- (c) if a panel orders the director of certification to cancel the certificate under section 64,
- (d) 6 months after the date specified in an order made under section 65, if the certificate holder does not pay the costs ordered under that section,
- (e) 6 months after the date of suspension under subsection (1) (f) of this section if the certificate holder does not authorize a criminal record check or a criminal record check verification, as applicable, under the *Criminal Records Review Act*, within a 6-month period,
- (f) 6 months after the date of suspension under subsection (1) (g) of this section if the certificate holder does not authorize a criminal record check under the *Criminal Records Review Act*, within a 6-month period,
- (g) if the registrar under the *Criminal Records Review Act* has determined that the certificate holder does not have a portable criminal record check because a criminal record check in respect of the same individual carried out within 5 years of the criminal record check verification authorization resulted in a determination that the certificate holder presents a risk of physical or sexual

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abuse to children or a risk of physical, sexual or financial abuse to vulnerable adults, or

- (h) if the deputy registrar under the *Criminal Records Review Act* has determined that a certificate holder presents a risk of physical or sexual abuse to children or a risk of physical, sexual or financial abuse to vulnerable adults and that determination has not been overturned by the registrar under that Act.

[am 2013-11-57, effective Nov.30/13, BC Reg. 214/13]

Notification of suspension or cancellation of certificate

34 If the director of certification suspends or cancels a certificate of qualification or an independent school teaching certificate under section 33, the director of certification must

- (a) notify the certificate holder of the suspension or cancellation,
- (b) notify each board of education and independent school authority of the suspension or cancellation, and
- I record the fact of the suspension or cancellation in the register of certificate holders.

Division 2 — Letters of Permission

Issuance of letter of permission

- 35** (1) Subject to subsections (2) and (3) and the regulations, the director of certification may
- (a) issue, on the payment of a prescribed fee, a letter of permission to a suitable person who is not a certificate holder and whose services the director of certification considers are required for a specified period of time, and
 - (b) place limitations or conditions on the letter of permission that the director of certification considers appropriate.

(2) The director of certification must consult with the inspector of independent schools before issuing a letter of permission to a person to teach in an independent school.

- (3) The director of certification must not issue a letter of permission to a person
- (a) if
 - (i) the person fails to authorize a criminal record check or a criminal record check verification, as applicable, under the *Criminal Records Review Act*, or
 - (ii) the deputy registrar under that Act has determined the person presents a risk of physical or sexual abuse to children or a risk of physical, sexual or financial abuse to vulnerable adults and that determination has not been overturned by the registrar under that Act, or
 - (b) who has not paid costs ordered under section 65 [*power to award costs*].

(4) That a person is issued a letter of permission under subsection (1) does not make the person a certificate holder.

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[am 2013-11-58, effective Nov.30/13, BC Reg. 214/13]

Suspension or cancellation of letter of permission

- 36** (1) The director of certification must suspend a letter of permission
- (a) if the commissioner orders the director of certification to suspend the letter of permission under section 50 [*suspension of certificate or letter of permission before hearing*],
 - (b) if the commissioner notifies the director of certification that the suspension is a term of a consent resolution agreement under section 53 [*consent resolution agreement*],
 - (c) if a panel orders the director of certification to suspend a letter of permission under section 64 [*consequences after hearing*], or
 - (d) if the person holding the letter of permission does not pay the costs ordered under section 65 (1) [*power to award costs*] by the date specified in the order.
- (2) The director of certification must cancel a letter of permission
- (a) if the commissioner notifies the director of certification that the cancellation is a term of a consent resolution agreement under section 53,
 - (b) if a panel orders the director of certification to cancel a letter of permission under section 64, or
 - (c) 6 months after the date specified in an order made under section 65, if the person holding the letter of permission does not pay the costs ordered under that section.

PART 4.1 — CONTINUING PROFESSIONAL DEVELOPMENT

Definitions

36.01 In this Part:

"approved continuing education activity" means a continuing education activity approved by the director of certification under section 36.03 (a);

"continuing professional development" means the following:

- (a) completion of the minimum number of hours of approved continuing education activities prescribed by the minister under section 36.02 (1) (b);
- (b) completion of the minimum number of hours of approved continuing education activities in one or more specified categories of continuing education activities prescribed by the minister under section 36.02 (1) (c);
- (c) completion of an approved continuing education activity specified by the minister under section 36.02 (1) (d);

"school year" has the same meaning as in the *School Act*.

Minister's regulations – continuing professional development

36.02(1) The minister may make regulations for the purposes of this Part and, without restriction, may make regulations as follows:

- (a) establishing categories of continuing education activities;

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- (b) specifying the minimum number of hours of approved continuing education activities that a certificate holder must complete each school year;
 - (c) specifying the minimum number of hours of approved continuing education activities in one or more specified categories of continuing education that a certificate holder must complete each school year;
 - (d) specifying an approved continuing education activity that a certificate holder must complete in a school year;
 - (e) exempting a class of certificate holders from all or part of the requirements for continuing professional development.
- (2) A regulation of the minister under this section may
- (a) make different provisions for different school years and for a class of certificate holders, and
 - (b) establish classes for the purpose of paragraph (a).

Powers and duties of director of certification – continuing professional development

36.03 The director of certification may do one or more of the following in respect of continuing education activities:

- (a) approve a continuing education activity as an approved continuing education activity;
- (b) establish and administer a process by which a certificate holder may apply to have a continuing education activity approved as an approved continuing education activity;
- (c) establish and administer a process by which a certificate holder may apply for an exemption from or a reduction in the requirements for continuing professional development;
- (d) establish and administer a process by which completion by a certificate holder of the requirements for continuing professional development is verified.

[2015-11-49, effective ?? by Reg.]

PART 5 — RESPONSIBILITIES OF AUTHORIZED PERSONS

Annual practice fee

- 37** (1) A certificate holder must pay a prescribed annual practice fee on or before May 31 each year unless the fee is remitted, in respect of the certificate holder, by
- (a) a board of education under section 168.2 [*annual practice fee*] of the *School Act*,
or
 - (b) an independent school authority under section 14.1 [*annual practice fee*] of the *Independent School Act*.
- (2) If a certificate holder is in default of paying the annual practice fee, the director of certification must give notice to the certificate holder that the annual practice fee and a prescribed late fee are due and payable no later than June 30.

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(3) If a certificate holder continues to be in default after June 30, the director of certification must

- (a) suspend the certificate holder's certificate of qualification effective July 1, and
- (b) give notice to the certificate holder that the annual practice fee and an additional prescribed late fee are due and payable no later than October 31.

(4) If a certificate holder continues to be in default after October 31, the director of certification must cancel the certificate holder's certificate effective November 1.

Duty to report professional misconduct

38 (1) An authorized person must promptly provide to the commissioner a written and signed report if the authorized person has reason to believe that another authorized person has engaged in conduct that involves any of the following:

- (a) physical harm to a student;
- (b) sexual abuse or sexual exploitation of a student;
- (c) significant emotional harm to a student.

(2) Subsection (1) applies even if the information on which the belief is based

- (a) is privileged, except as a result of a solicitor-client relationship, or
- (b) is confidential and its disclosure is prohibited under another Act.

(3) An authorized person who knowingly reports false information under subsection (1) commits an offence.

(4) No action for damages lies or may be brought against an authorized person for reporting information under this section unless the authorized person knowingly reported false information.

PART 6 — DISCIPLINARY AND PROFESSIONAL CONDUCT INQUIRIES AND CERTIFICATION APPEALS

Division 1 — General

Definitions

39 In this Part:

"complaint" means a written complaint about the competency or conduct of an authorized person, signed by the person making the complaint;

"report" means the following:

- (a) a report about an authorized person under section 16 [*report of dismissal, suspension and discipline regarding authorized persons*] or 16.1 [*report of dismissal, suspension and discipline regarding superintendents*] of the *School Act*;

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- (b) a report about an authorized person under section 7 [*report of dismissal, suspension and discipline regarding authorized persons*] or 7.2 [*report of dismissal, suspension and discipline regarding principals*] of the *Independent School Act*;
- (c) a report about an authorized person under section 38 of this Act.

Commissioner's rules of practice and procedure

40 The commissioner, in accordance with the regulations, may make rules respecting practice and procedure in relation to any of the following:

- (a) the just and timely resolution of a matter raised in a report or complaint;
- (b) investigations initiated by the commissioner under section 47 (1) (b) [*investigation*];
- (c) hearings before a panel.

Application of *Administrative Tribunals Act*

41 (1) The following sections of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45, apply to the commissioner and panels:

- (a) section 44 [*tribunal without jurisdiction over constitutional questions*];
- (b) section 46.3 [*tribunal without jurisdiction to apply the Human Rights Code*];
- (c) section 48 [*maintenance of order at hearings*];
- (d) section 49 [*contempt proceeding for uncooperative witness or other person*];
- (e) section 55 [*compulsion protection*];
- (f) section 61 [*application of the Freedom of Information and Protection of Privacy Act*].

(2) The following sections of the *Administrative Tribunals Act* apply to the director of certification, the commissioner and panel members:

- (a) section 55 [*compulsion protection*];
- (b) section 56 [*immunity protection for tribunal and members*];
- (c) section 61 [*application of the Freedom of Information and Protection of Privacy Act*].

(3) The following sections of the *Administrative Tribunals Act* apply to decisions of the commissioner and of a panel:

- (a) section 57 [*time limit for judicial review*];
- (b) section 58 [*standard of review if tribunal's enabling Act has privative clause*].

Final and binding decisions

42 (1) Subject to subsection (2), decisions of the commissioner and of a panel are final and binding.

(2) The commissioner, within 30 days of the date of a decision by the commissioner or by a panel, may amend a final decision to

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- (a) correct a typographical, an arithmetical or another similar error in the decision, and
- (b) correct an obvious error or omission in the decision.

Former authorized persons and former members

43 (1) In this section, "**former member**" means a person who was a member of the College of Teachers under the *Teaching Profession Act*, R.S.B.C. 1996, c. 449.

(2) For the purposes of determining whether a former authorized person or a former member has been guilty of professional misconduct or conduct unbecoming a teacher, section 38 [*duty to report professional misconduct*] of this Act and this Part apply to

- (a) the former authorized person as if the former authorized person were a certificate holder or a person holding a letter of permission, as applicable, and
- (b) the former member as if the former member were a certificate holder.

Division 2 — Preliminary Reviews and Investigations

Preliminary review of report or complaint

44 If the commissioner receives a report or complaint, the commissioner must

- (a) acknowledge receipt of the report or complaint, and
- (b) conduct a preliminary review of the matters raised in the report or complaint.

Decision not to take further action after preliminary review

45 (1) The commissioner may decide after a preliminary review not to take further action in respect of one or more of the matters raised in a report or complaint if the commissioner determines that any of the following apply:

- (a) the matter is not within the jurisdiction of the commissioner or a panel;
- (b) the matter is frivolous, vexatious or trivial or gives rise to an abuse of process;
- (c) the report or complaint was made in bad faith or filed for an improper purpose or motive;
- (d) there is no reasonable prospect the report or complaint will result in an adverse finding by a panel;
- (e) it is not in the public interest to take further action in respect of the matter;
- (f) the matter has not been pursued in a timely manner.

(2) If the commissioner decides not to take further action, the commissioner must provide written reasons to the following persons:

- (a) the authorized person who is the subject of the report or complaint;
- (b) the person who sent the report or complaint to the commissioner.

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(3) The commissioner, if the commissioner determines it to be in the public interest, may make public a summary of the commissioner's decision not to take further action under subsection (1), excluding all identifying information.

Deferral

46 (1) The commissioner, after a preliminary review, may defer taking further action in respect of one or more of the matters raised in a report or complaint if

- (a) the matter is addressed in another process, and
- (b) the commissioner determines that it is in the public interest that the other process is concluded before taking further action.

(2) If the commissioner decides to defer taking further action until the conclusion of another process, the commissioner must notify, in writing, all of the following:

- (a) the authorized person who is the subject of the report or complaint;
- (b) the person who sent the report or complaint to the commissioner;
- (c) if the authorized person is employed by a board of education or an independent school authority, the board of education or independent school authority.

(3) The commissioner,

- (a) at any time, may take further action in respect of a matter that the commissioner deferred under this section, and
- (b) at the conclusion of the other process, must decide, in respect of a matter that the commissioner deferred under this section,
 - (i) to take no further action under section 45,
 - (ii) to initiate an investigation under section 47, unless the commissioner decides that no investigation is required before making or accepting a proposal for a consent resolution agreement under Division 3 [*Consent Resolution*] of this Part or before issuing a citation under section 56 [*citation*],
 - (iii) to make or accept a proposal for a consent resolution agreement under Division 3 of this Part, or
 - (iv) to issue a citation under section 56.

Investigation

47 (1) The commissioner

- (a) must investigate a report or complaint unless the commissioner
 - (i) decides not to take further action under section 45, or
 - (ii) decides that no investigation is required before making or accepting a proposal for a consent resolution agreement under Division 3 [*Consent Resolution*] of this Part or before issuing a citation under section 56 [*citation*], and
- (b) may initiate, on the commissioner's own initiative if it is in the public interest, an investigation into the competency or conduct of an authorized person.

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(2) The commissioner must notify, in writing, the following persons, as applicable, of any investigation under subsection (1):

- (a) the authorized person who is the subject of the investigation;
- (b) the person who sent the report or complaint to the commissioner;
- (c) if the authorized person is employed by a board of education or an independent school authority, the board of education or independent school authority.

(3) In an investigation under this section, the commissioner may consider any of the following in respect of the authorized person who is the subject of the investigation:

- (a) previous decisions not to take further action after a preliminary review under section 45;
- (b) previous investigations under this section;
- (c) previous consent resolution agreements under section 53 [*consent resolution agreement*];
- (d) previous findings under section 63 [*findings after hearing*] or orders under section 64 [*consequences after hearing*];
- (e) disciplinary action taken under the *Teaching Profession Act*, R.S.B.C. 1996, c. 449.

Power to compel witnesses and require disclosure

48 (1) At any time during an investigation under section 47, the commissioner may require a person

- (a) to give evidence, on oath or affirmation or in any other manner, that is relevant to a matter being investigated, or
- (b) to produce a document or other thing in the person's possession or control that is relevant to a matter being investigated.

(2) The commissioner may apply to the court for an order directing a person to comply with the commissioner's requirement under subsection (1).

Additional investigation powers

49 For the purpose of an investigation under section 47, the commissioner may do one or more of the following:

- (a) enter the building of a public school or of an independent school or any other building used in conjunction with the school or offices of the board of education or independent school authority, or any part of them;
- (b) inspect any record of a board of education or of an independent school authority;
- (c) interview
 - (i) any employee of a board of education or of an independent school authority,
 - (ii) the authorized person who is the subject of the investigation,

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- (iii) the person who sent the report or complaint to the commissioner, and
- (iv) any other person the commissioner considers may have relevant information.

Suspension of certificate or letter of permission before hearing

50 (1) At any time between the commissioner's receipt of a report or complaint or the initiation of an investigation under section 47 (1) (b) [*investigation*] and the resolution under this Part of the report, complaint or investigation, the commissioner may order the director of certification

- (a) to suspend the certificate of qualification or independent school teaching certificate of the certificate holder who is the subject of the report, complaint or investigation until the report, complaint or investigation is resolved under this Part, or
- (b) to suspend the letter of permission of a person who is the subject of the report, complaint or investigation until the report, complaint or investigation is resolved under this Part

if the commissioner considers there is a risk of

- (c) physical harm to a student,
- (d) sexual abuse or sexual exploitation of a student, or
- (e) significant emotional harm to a student.

(2) The commissioner must deliver a notice of a suspension under subsection (1) to the following, as applicable:

- (a) the certificate holder whose certificate of qualification or independent school teaching certificate is suspended;
- (b) the person whose letter of permission is suspended;
- (c) if the authorized person is employed by a board of education or an independent school authority, the board of education or independent school authority.

(3) The commissioner,

- (a) on the commissioner's own initiative,
- (b) on the written request of the certificate holder whose certificate of qualification or independent school teaching certificate is suspended, or
- (c) on the written request of a person whose letter of permission is suspended,

may vary or rescind a suspension made under subsection (1).

(4) The commissioner must notify all of the persons listed in subsection (2), as applicable, of any variation or rescission under subsection (3).

Actions of commissioner

51 After completing an investigation under section 47 [*investigation*], the commissioner must take one or more of the following actions:

- (a) in accordance with section 52, decide not to take further action;

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- (b) in accordance with Division 3 [*Consent Resolution*] of this Part, make or accept a proposal for a consent resolution agreement;
- (c) in accordance with section 56 [*citation*], issue a citation.

Decision not to take further action after investigation

52 (1) The commissioner may decide not to take further action in respect of one or more of the matters related to an investigation after the investigation is concluded if the commissioner determines that any of the following apply:

- (a) the matter is not within the jurisdiction of the commissioner or a panel;
- (b) the matter is frivolous, vexatious or trivial or gives rise to an abuse of process;
- (c) the report or complaint that led to the investigation was made in bad faith or filed for an improper purpose or motive;
- (d) there is no reasonable prospect that the report or complaint or a matter relating to the investigation will result in an adverse finding by a panel;
- (e) it is not in the public interest to take further action in respect of the matter;
- (f) the matter has not been not pursued in a timely manner.

(2) If the commissioner decides not to take further action, the commissioner must provide written reasons to the following, as applicable:

- (a) the authorized person who is the subject of the investigation;
- (b) the person who sent the report or complaint to the commissioner;
- (c) if the authorized person is employed by a board of education or an independent school authority, the board of education or independent school authority.

(3) The commissioner, if the commissioner determines it to be in the public interest, may make public a summary of the commissioner's decision not to take further action under subsection (1), excluding all identifying information.

Division 3 — Consent Resolution

Consent resolution agreement

53 (1) At any time between a preliminary review or the initiation of an investigation under section 47 [*investigation*] and the resolution, at a hearing under Division 4 [*Disciplinary and Professional Conduct Hearings*] of this Part, of the report, complaint or investigation, the commissioner may

- (a) propose in writing to the authorized person who is the subject of the report, complaint or investigation to enter into a consent resolution agreement, or
- (b) accept a proposal in writing from the authorized person who is the subject of the report, complaint or investigation to enter into a consent resolution agreement.

(2) In deciding whether to make or accept a proposal under subsection (1), the commissioner may consider any of the following in respect of the authorized person who is the subject of the report, complaint or investigation:

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- (a) previous decisions not to take further action after a preliminary review under section 45 [*decisions not to take further action after preliminary review*];
 - (b) previous investigations under section 47;
 - (c) previous consent resolution agreements under this section;
 - (d) previous findings under section 63 [*findings after hearing*] or orders under section 64 [*consequences after hearing*];
 - (e) disciplinary action taken under the *Teaching Profession Act*, R.S.B.C. 1996, c. 449.
- (3) A consent resolution agreement must contain
- (a) the terms set out in the proposal made by the commissioner, or the terms set out in the proposal made by the authorized person if they are accepted by the commissioner,
 - (b) one or more admissions by the authorized person in relation to one or more of the matters raised in the report or complaint or related to the investigation, and
 - (c) one or more of the consequences with respect to which a panel may make an order under section 64 [*consequences after hearing*].
- (4) A consent resolution agreement entered into under this section has the same effect as an order made under section 64.
- (5) After a consent resolution agreement is entered into under this section, no further action may be taken under this section or section 56 [*citation*] with respect to the matters contained in the consent resolution agreement, unless the authorized person does not comply with one or more of the terms of the consent resolution agreement.
- (6) If the commissioner and the authorized person who is the subject of the preliminary review or investigation do not enter in a consent resolution agreement, a panel must not consider the admissions made or any information provided in relation to a proposal for a consent resolution agreement, apart from information collected in an investigation separate from the proposal for a consent resolution agreement, in making a finding under section 63 or an order under section 64.
- (7) In a proceeding, other than a criminal proceeding, unless agreed to by the commissioner and the authorized person who is the subject of the consent resolution, a person must not disclose or be compelled to disclose a document or other record created specifically for the purposes of entering into a consent resolution agreement.
- (8) The consent resolution agreement is not confidential unless the commissioner gives a direction to the director of certification under section 54 (3) (a) or decides not to make public the reasons under section 54 (3) (b).
- (9) Subsection (7) of this section applies despite any provision, other than section 44 (1) (b), (2), (2.1) and (3), of the *Freedom of Information and Protection of Privacy Act*.
- (10) In the case of a complaint or report, the commissioner must provide a copy of the consent resolution agreement to the person who sent the complaint or report to the commissioner,

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unless the commissioner gives a direction to the director of certification under section 54 (3) (a) or decides not to make public the reasons under section 54 (3) (b).

Publication of consent resolution agreement

54 (1) Subject to subsection (3), the director of certification must make public a consent resolution agreement entered into under this Division.

(2) The publication under subsection (1) may be made by posting a notice on a publicly accessible website maintained by or on behalf of the ministry.

(3) If the commissioner considers that making public the consent resolution agreement would cause significant hardship to a person who was harmed, abused or exploited by the authorized person, the commissioner may

- (a) direct the director of certification to make public a summary of the consent resolution agreement, excluding all identifying information, or
- (b) decide not to make public the consent resolution agreement.

Notification of suspension or cancellation in consent resolution agreement

55 If the certificate of qualification, independent school teaching certificate or letter of permission of an authorized person is suspended or cancelled as a term of a consent resolution agreement, the director of certification must notify the following of the suspension or cancellation:

- (a) each board of education and independent school authority;
- (b) in the case of the certificate holder who is the subject of the consent resolution agreement, record the fact in the register of certificate holders.

Division 4 — Disciplinary and Professional Conduct Inquiries

Citation

56 (1) After

- (a) a preliminary review under section 44 [*preliminary review of report or complaint*], the commissioner may issue a citation to the authorized person who is the subject of the preliminary review, and
- (b) an investigation under section 47 [*investigation*], the commissioner must issue a citation to the authorized person who is the subject of the investigation, unless the commissioner decides not to take further action under section 52 [*decision not to take further action after investigation*] or to make or accept a proposal for a consent resolution agreement under Division 3 [*Consent Resolution*] of this Part.

(2) A citation issued under subsection (1) must include

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- (a) a description of the matters to be considered by a panel, and
 - (b) a statement of the material facts on which the citation is based.
- (3) If the commissioner issues a citation under subsection (1), the commissioner
- (a) must deliver a copy of the citation to the last known address of the authorized person who is the subject of the citation,
 - (b) must notify, in the case of a report or complaint, the person who sent the report or complaint to the commissioner,
 - (c) must establish a panel in accordance with section 57,
 - (d) must determine whether the hearing will be by way of an oral hearing or written submissions and if the hearing
 - (i) is by way of an oral hearing, set the time and place of the hearing, or
 - (ii) is by way of written submissions, set the timelines for submissions, and
 - (e) may make any other orders, in accordance with the commissioner's rules of practice and procedure, the commissioner considers necessary to facilitate the just and timely resolution of one or more matters relating to the citation.
- (4) The commissioner may amend a citation at any time before the conclusion of a hearing if the commissioner receives new information relevant to the citation.
- (5) If the commissioner amends a citation under subsection (4), the commissioner must
- (a) issue the amended citation to the authorized person who is the subject of the citation and set out the information described in subsection (1), and
 - (b) in the case of a report or complaint, notify the person who sent the report or complaint to the commissioner of the amended citation.

[am. 2021-25-12, effective Nov. 25/21]

Establishment of panels for disciplinary and professional conduct inquiries

- 57** (1) The commissioner must establish a panel, consisting of 3 members, in respect of a citation issued by the commissioner.
- (2) If the citation that is referred to a panel is in relation to
- (a) a certificate holder who holds a certificate of qualification or a person who holds a letter of permission to teach in a public school, the commissioner must select as a panel member one, and no more than one, board member who is a board member appointed under section 26 (2) (a) [*disciplinary and professional conduct board*], unless no board member appointed under section 26 (2) (a) is available, or
 - (b) a certificate holder who holds an independent school teaching certificate, the commissioner must select at least one panel member with substantial knowledge of and experience in the independent school system.

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(3) Subject to subsection (2) and the regulations, the commissioner may select to sit on a panel a person who is not a board member.

(4) A panel member selected under subsection (3) must take and sign, by oath or affirmation, a prescribed oath before sitting as a panel member, unless the panel member is a council member.

- (5) The commissioner must
- (a) designate a chair from among the panel members, and
 - (b) designate a new chair from among the panel members if the chair is unable for any reason to complete the duties of chair.

Quorum of panel

58 (1) A decision of the majority of the panel members is the decision of the panel.

(2) If a panel member is unable for any reason to complete the panel member's duties, the commissioner must take one of the following actions:

- (a) give consent that the remaining members of that panel continue to hear and determine the matter, and the vacancy does not invalidate the hearing;
- (b) replace the panel member and that panel continues to hear and determine the matter;
- (c) remove the remaining panel members and establish a new panel under section 57 to hear and determine the matter.

(3) If the commissioner gives consent and the remaining panel members continue to hear and determine the matter under subsection (2) (a), in the case of a tie, the decision of the chair of the panel governs.

Conduct of hearings

59 (1) A panel must conduct hearings in accordance with

- (a) the commissioner's rules of practice and procedure, and
- (b) any orders made by the commissioner under section 56 (3) *[citation]*.

(2) If a panel considers it necessary and appropriate to facilitate the just and timely resolution of one or more matters before the panel, that panel, despite subsection (1),

- (a) may make determinations about the application of the commissioner's rules of practice and procedure and may vary the rules, and
- (b) may request the commissioner to schedule an oral hearing.

Power to compel witnesses and order disclosure

60 (1) At any time before or during a hearing, a panel may make an order requiring a person

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- (a) to attend a hearing to give evidence, on oath or affirmation or in any other manner, that is relevant to a matter before the panel, or
- (b) to produce for the panel a document or other thing in the person's possession or control that is relevant to a matter before the panel.

(2) The commissioner may apply to the court for an order directing a person to comply with an order made by a panel under subsection (1).

Hearings open to public

61 (1) An oral hearing of a panel must be open to the public.

(2) Despite subsection (1) and subject to the regulations, a panel may direct that the public is excluded from all or part of a hearing if the panel considers that the desirability of avoiding disclosure in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public.

Failure to attend

62 If an authorized person who is the subject of a citation being heard by a panel fails to attend the hearing, on proof that a copy of the citation was delivered to the authorized person's last known address in accordance with section 56 (3) (a) [*citation*], the panel may proceed with the hearing and may take, without further notice, any action it is authorized to take under this Act and make any order that the panel could have made in the presence of the authorized person.

Findings after hearing

63 (1) A panel, after a hearing, may make any of the following findings:

- (a) dismiss the citation;
- (b) determine that an authorized person has been or is guilty of professional misconduct or conduct unbecoming a teacher;
- (c) determine that an authorized person has been or is incompetent to carry out the professional duties and responsibilities of a teacher;
- (d) determine that an authorized person does not have the capacity to carry out professional duties and responsibilities of a teacher because of a physical or mental disability;
- (e) make to the commissioner any other report respecting the citation that the panel considers appropriate.

(2) In making a finding under subsection (1), the panel may consider any of the following in respect of the authorized person who is the subject of the hearing:

- (a) previous decisions not to take further action after a preliminary review under section 45 [*decisions not to take further action after preliminary review*];
- (b) previous investigations under section 47 [*investigation*];
- (c) previous consent resolution agreements under section 53 [*consent resolution agreements*];

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- (d) previous findings under this section or orders under section 64;
- (e) disciplinary action taken under the *Teaching Profession Act*, R.S.B.C. 1996, c. 449.

Consequences after hearing

64 If a panel makes a finding under section 63 (1) (b), (c) or (d), the panel may make an order setting out one or more of the following:

- (a) a reprimand of the authorized person;
- (b) a requirement for the director of certification to suspend the certificate of qualification, independent school teaching certificate or letter of permission of the authorized person for a fixed period;
- (c) a requirement for the director of certification to suspend the certificate of qualification, independent school teaching certificate or letter of permission of the authorized person until the authorized person has fulfilled conditions imposed by the panel;
- (d) a requirement for the director of certification to suspend the certificate of qualification, independent school teaching certificate or letter of permission of an authorized person until the authorized person satisfies the director of certification that the authorized person is able to carry out the professional duties and responsibilities of an authorized person;
- (e) a requirement for the director of certification to cancel the certificate of qualification, independent school teaching certificate or letter of permission of the authorized person;
- (f) a requirement for the director of certification to suspend or cancel a certificate of qualification, an independent school teaching certificate or a letter of permission unless the authorized person has fulfilled conditions by a fixed date imposed by the panel;
- (g) a requirement for the director of certification not to issue a certificate of qualification, an independent school teaching certificate or a letter of permission for a fixed or indeterminate period;
- (h) a requirement for the director of certification to place limitations and conditions on the certificate of qualification, independent school teaching certificate or letter of permission of the authorized person.

Power to award costs

65 (1) The panel, in addition to any order under section 64, may make an order requiring the authorized person to pay all or part of the costs of a hearing if the panel considers the conduct of the authorized person to have been improper, vexatious, frivolous or abusive during the hearing.

(2) An order under subsection (1), after filing in the court registry, has the same effect as an order of the court for the recovery of a debt in the amount stated in the order against the person named in it, and all proceedings may be taken on it as if it were an order of the court.

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Written reasons and publication of reasons

66 (1) A panel must give written reasons for making one of the findings under section 63 *[findings after hearing]* and for making an order under section 64 to the following:

- (a) the authorized person who is the subject of the citation;
- (b) subject to subsection (5) of this section, in the case of a report or complaint, the person who sent the report or complaint to the commissioner;
- (c) the director of certification.

(2) Subject to subsection (4), the director of certification must make public the written reasons under subsection (1).

(3) The publication under subsection (2) may be made by posting a notice on a publicly accessible website maintained by or on behalf of the ministry.

(4) If the panel that makes the finding under section 63 *[findings after hearing]* or the order under section 64 considers that making public the written reasons under subsection (1) would cause significant hardship to a person who was harmed, abused or exploited by the authorized person, the panel may

- (a) direct the director of certification to make public a summary of the reasons, excluding all identifying information, or
- (b) decide not to make public the reasons.

(5) If the panel gives a direction to the director of certification under subsection (4) (a) or decides not to make public the reasons under subsection (4) (b), the panel must not give written reasons to the person who sent the report or complaint to the commissioner.

Notification of suspension or cancellation

67 If an order is made to suspend or cancel a certificate of qualification, an independent school teaching certificate or a letter of permission under section 64 *[consequences after hearing]*, the director of certification must

- (a) notify each board of education and independent school authority, and
- (b) in the case of a certificate holder who is the subject of the citation, record the fact in the register of certificate holders.

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Division 5 — Certification Appeals

Definition

68 In this Division, "**appellant**" means a person who files an appeal under section 32 (8) *[reconsideration and appeal]*.

Notice to director of certification

69 The commissioner must notify the director of certification of a certification appeal received by the commissioner.

Preliminary review of certification appeal

70 If the commissioner receives a certification appeal, the commissioner must

- (a) acknowledge receipt of the certification appeal, and
- (b) conduct a preliminary review of the certification appeal.

Summary dismissal

71 (1) After completing a preliminary review, the commissioner may dismiss the certification appeal if the commissioner determines that any of the following apply:

- (a) the appellant did not pay the prescribed certification appeal fee;
- (b) the appellant did not file the appeal within the timeline set out in section 32 (8) *[reconsideration and appeal]*;
- (c) the matters raised in the certification appeal are not within the jurisdiction of the commissioner or a panel;
- (d) the certification appeal is frivolous, vexatious or trivial or gives rise to an abuse of process;
- (e) there is no reasonable prospect the certification appeal will be successful.

(2) Before deciding to summarily dismiss the certification appeal, the commissioner must notify the appellant of the commissioner's intention, and the appellant

- (a) may provide written submissions, and
- (b) must provide any submissions under paragraph (a) within 30 days of the commissioner's notification.

(3) The commissioner may dismiss the certification appeal after considering any submissions provided by the appellant under subsection (2).

(4) If the commissioner dismisses the certification appeal, the commissioner must provide written reasons to

- (a) the appellant, and
- (b) the director of certification.

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Referral to hearing

72 If the commissioner does not dismiss a certification appeal under section 71 after a preliminary review, the commissioner

- (a) must refer the certification appeal to a panel for a hearing,
- (b) must notify the appellant and the director of certification of the referral,
- (c) must establish a panel in accordance with section 73,
- (d) must determine whether the hearing will be by way of an oral hearing or written submissions and if the hearing
 - (i) is by way of an oral hearing, set the time and place of the hearing, or
 - (ii) is by way of written submissions, set the timelines for submissions, and
- (e) may make any other orders, in accordance with the commissioner's rules of practice and procedure, the commissioner considers necessary to facilitate the just and timely resolution of the certification appeal.

Establishment of panels for certification appeals

73 (1) The commissioner must establish a panel, consisting of 3 members, to hear a certification appeal.

(2) If the appellant

- (a) applied for a certificate of qualification, the commissioner must select as a panel member one, and no more than one, board member who is a board member appointed under section 26 (2) (a) [*disciplinary and professional conduct board*], unless no board member appointed under section 26 (2) (a) is available, or
- (b) applied for an independent school teaching certificate, the commissioner must select as a panel member at least one board member with substantial knowledge and experience in the independent school system.

(3) Subject to subsection (2) and the regulations, the commissioner may select to sit on a panel a person who is not a board member.

(4) A panel member selected under subsection (3) must take and sign, by oath or affirmation, a prescribed oath before sitting as a panel member, unless the panel member is a council member.

(5) The commissioner must

- (a) designate a chair from among the panel members, and
- (b) designate a new chair from among the panel members if the chair is unable for any reason to complete the duties of chair.

Quorum of panel

74 (1) A decision of the majority of the panel members is the decision of the panel.

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(2) If a panel member is unable for any reason to complete the panel member's duties, the commissioner must take one of the following actions:

- (a) give consent that the remaining members of that panel continue to hear and determine the matter, and the vacancy does not invalidate the hearing;
- (b) replace the panel member and that panel continues to hear and determine the matter;
- (c) remove the remaining panel members and establish a new panel under section 73 to hear and determine the matter.

(3) If the commissioner gives consent and the remaining panel members continue to hear and determine the matter under subsection (2) (a), in the case of a tie, the decision of the chair of the panel governs.

Conduct of hearing

75 (1) A panel must conduct hearings in accordance with

- (a) the commissioner's rules of practice and procedure, and
- (b) any orders made by the commissioner under section 72 (2) (e) [*referral to hearing*].

(2) If a panel considers it necessary and appropriate to facilitate the just and timely resolution of one or more matters before the panel, that panel, despite subsection (1),

- (a) may make determinations about the application of the commissioner's rules of practice and procedure and may vary the rules, and
- (b) may request the commissioner to schedule an oral hearing.

Certification appeal hearing

76 (1) At a certification appeal hearing, a panel may do the following:

- (a) determine whether or not the appellant meets the requirements in section 30 [*issuance of certificate*] to be issued a certificate of qualification or an independent school teaching certificate;
- (b) if the appellant meets the requirements in section 30, determine what type of certificate of qualification or independent school teaching certificate the director of certification must issue to the appellant.

(2) In making a determination under subsection (1), a panel must not consider evidence that was not before the director of certification unless

- (a) the evidence was not before the director of certification even though the appellant exercised due diligence to provide the director of certification all relevant evidence for the reconsideration under section 32 [*reconsideration and appeal*], and
- (b) the panel considers the evidence to be relevant and credible and, when taken together with the other evidence before the panel, the evidence is likely to affect the panel's determination.

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(3) If the panel considers evidence under subsection (2), the director of certification may provide additional evidence to the panel.

(4) If the panel determines that an appellant meets the requirements in section 30 to be issued a certificate of qualification or an independent school teaching certificate, the panel may make an order requiring the director of certification to issue to the appellant the type of certificate for which the appellant meets the requirements.

Written reasons and publication of reasons

77 (1) A panel must give to the appellant and the director of certification written reasons for its decision under section 76.

(2) Subject to subsection (4), the director of certification must make public the written reasons under subsection (1).

(3) The publication under subsection (2) may be made by posting a notice on a publicly accessible website maintained by or on behalf of the ministry.

(4) If the panel that makes a determination under section 76 considers that making public the written reasons under subsection (1) would cause significant and undue hardship to any person, the panel may

- (a) direct the director of certification to make public a summary of the reasons, excluding all identifying information, or
- (b) decide not to make public the reasons.

PART 7 — REGISTER AND EMPLOYERS LIST

Certificate holder register

78 The director of certification must maintain a register of all certificate holders.

Online registry

79 (1) The director of certification must establish and maintain an online registry for the purpose of providing the public the following information about each authorized person:

- (a) the authorized person's name;
- (b) the current status of the authorized person's certificate of qualification, independent school teaching certificate or letter of permission;
- (c) a record of any suspension or cancellation of the authorized person's certificate of qualification, independent school teaching certificate or letter of permission;

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- (d) a record of a term of a consent resolution agreement under section 53 [*consent resolution agreement*] that is
 - (i) an admission of professional misconduct or conduct unbecoming a teacher or an admission of incompetency to carry out professional duties and responsibilities, or
 - (ii) a consequence with respect to which a panel may make an order under section 64 [*consequences after hearing*];
- (e) a record of any findings under section 63 (1) (b) or (c) [*findings after hearing*] and orders made under section 64.

(2) If the minister provides information to the director of certification under section 80.2 (2) (a) [*minister's power to provide information for inclusion in online registry*], the director of certification must include that information in the online registry.

[am. 2021-25-13, effective Nov. 25/21]

Employers list

80 (1) In this section:

"employer" means a board of education or an independent school authority that employs a certificate holder in the capacity of a certificate holder;

"First Nations school employer" means any of the following that employs a certificate holder in the capacity of a certificate holder or that employs an FNEA certified teacher in the capacity of an FNEA certified teacher:

- (a) a first nation, as defined in section 1 [*definitions and interpretation*] of the *School Act*, that is operating an educational institution;
- (b) a Community Education Authority, as established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), that is operating an educational institution;
- (c) a treaty first nation that is operating an educational institution under the treaty first nation's laws;
- (d) a prescribed entity;

"prospective employer" means either of the following that is considering becoming an employer of a certificate holder:

- (a) a board of education;
- (b) an independent school authority;

"prospective First Nations school employer" means any of the following that is considering becoming a First Nations school employer of a certificate holder or FNEA certified teacher:

- (a) a first nation, as defined in section 1 [*definitions and interpretation*] of the *School Act*;
- (b) a Community Education Authority, as established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);
- (c) a treaty first nation;
- (d) a prescribed entity.

[am. 2021-25-14, effective Nov. 25/21]

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(2) On or before October 15 of each year, an employer must submit to the director of certification information that identifies the certificate holders employed by the employer during the 12-month period from July 1 in the previous year to June 30, including information that identifies any certificate holders currently employed by that employer, and the director of certification must maintain the information for at least 10 years.

(3) From the information submitted and maintained under subsection (2), the director of certification must establish and maintain a list that identifies the employers of every certificate holder.

(4) If the minister provides information to the director of certification under section 80.2 (2) (b) [*minister's power to provide information for inclusion in list of employers*], the director of certification must

- (a) include the information in the list, and
- (b) maintain the information for at least 10 years.

- (5) A prospective employer or prospective First Nations school employer
- (a) that is considering hiring a certificate holder or FNEA certified teacher may inspect the list maintained under subsection 4, and
 - (b) that inspects the list under paragraph (a) must keep confidential the information obtained from the list.

[am. 2021-25-15, effective Nov. 25/21]

PART 7.1 — TEACHER CERTIFICATION AND REGULATION BY THE FIRST NATIONS EDUCATION AUTHORITY

Coordination agreement with First Nations Education Authority

80.1 The minister may, on behalf of the government, enter into an agreement with the First Nations Education Authority to provide to the First Nations Education Authority assistance in respect of the certification of applicants for an FNEA teaching certificate and the regulation of FNEA certified teachers by the First Nations Education Authority.

Powers to assist First Nations Education Authority

80.2 (1) If the minister receives from the First Nations Education Authority a request for assistance under the coordination agreement, the minister may do the following:

- (a) assist with an investigation conducted by the First Nations Education Authority, or conduct an investigation on behalf of the First Nations Education Authority, to determine whether an applicant meets the criteria to be issued an FNEA teaching certificate;
- (b) assist with an investigation conducted by the First Nations Education Authority, or conduct an investigation on behalf of the First Nations

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Education Authority, into the conduct or competence of an FNEA certified teacher;

- (c) report to the First Nations Education Authority on an investigation described in paragraph (a) or (b);
- (d) assist the First Nations Education Authority with the submission of, or submit on behalf of the First Nations Education Authority, criminal record check authorizations or criminal record check verification authorizations under the *Criminal Records Review Act* for applicants for an FNEA teaching certificate and for FNEA certified teachers;
- (e) report to the First Nations Education Authority on information provided to the minister in response to the submission of the criminal record check authorizations or criminal record check verification authorizations referred to in paragraph (d);
- (f) assist the First Nations Education Authority with the consideration of notifications, determinations and written reasons for determinations provided under the *Criminal Records Review Act* in relation to criminal record checks and criminal record check verifications for applicants for an FNEA teaching certificate and for FNEA certified teachers;
- (g) provide advice in respect of the certification of applicants for an FNEA teaching certificate and the regulation of FNEA certified teachers.

(2) The minister may

- (a) provide to the director of certification the following information for inclusion in the online registry established under section 79 [*online registry*]:
 - (i) the name of an FNEA certified teacher;
 - (ii) the current status of the FNEA certified teacher's FNEA teaching certificate;
 - (iii) any other prescribed information, and
- (b) provide to the director of certification for inclusion in the list established and maintained under section 80 (3) [*list of employers and First Nations school employers*]:
 - (i) the name of each First Nations school employer, and
 - (ii) information that identifies any certificate holders or FNEA certified teachers employed by the First Nations school employer.

Power to compel witnesses and require disclosure

80.3 For the purposes of exercising the minister's powers under section 80.2 (1) (b), the minister has the same powers that the commissioner has under section 48 [*power to compel witnesses and require disclosure*] and may interview

- (a) any employee of the First Nations school employer of the FNEA certified teacher,
- (b) the FNEA certified teacher who is the subject of the investigation,

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- (c) if applicable, the person who sent to the First Nations Education Authority a written complaint in respect of the conduct or competence of the FNEA certified teacher, and
- (d) any other person the minister considers may have relevant information.

Personal information

80.4 (1) The minister may collect directly or indirectly, use and disclose personal information necessary for the following purposes:

- (a) responding under section 80.2 (1) [*powers to assist First Nations Education Authority*] to a request for assistance;
- (b) providing to the director of certification information described in section 80.2 (2);
- (c) any other prescribed purpose.

(2) The First Nations Education Authority may collect, use and disclose to the minister personal information necessary for the following purposes:

- (a) requesting and receiving the assistance described in section 80.2 (1);
- (b) providing the information referred to in section 80.2 (2);
- (c) any other prescribed purpose.

Minister's power to delegate

80.5 The minister may delegate to any person any of the minister's powers under this Part, except the power

- (a) to delegate under this section, and
- (b) to enter into an agreement under section 80.1 [*coordination agreement with First Nations Education Authority*].

[en. 21-25-16, effective Nov. 25/21]

PART 8 — GENERAL

Power of minister to make regulations

81 (1) The minister may make regulations for the purpose of carrying out any of the minister's powers and duties under this Act and, without restriction, may make regulations as follows:

- (a) respecting the nominations under section 9 (1) (a) [*British Columbia Teachers' Council*], including prescribing the minimum number of certificate holders the British Columbia Teachers' Federation must nominate;
- (a.1) respecting the appointment under section 9 (1) (a.1);
- (b) respecting the appointment of the 7 council members under section 9 (1) (c);
- (c) respecting the consultation for the purposes of section 9 (6);

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- (d) prescribing persons or organizations for the purposes of section 9 (6);
- (e) respecting council meetings for the purposes of section 12 [*council meetings*];
- (f) respecting the administration and conduct of the election of council members;
- (g) establishing zones for the purposes of the election of council members;
- (h) prescribing a date for the purposes of section 20 [*candidates*];
- (i) prescribing a date for the purposes of section 22 [*elections*];
- (j) respecting the issuance, suspension and cancellation of letters of permission;
- (k) respecting the commissioner's rules of practice and procedure;
- (l) respecting the selection by the commissioner of a person who is not a board member to sit on a panel for the purposes of section 57 (3) [*establishment of panels for disciplinary and professional conduct inquiries*] or 73 (3) [*establishment of panels for certification appeals*];
- (m) respecting hearings for the purposes of section 61 [*hearings open to public*];
- (n) classifying independent school teaching certificates into one or more types.

(2) In making a regulation under this Act, the minister may do one or more of the following:

- (a) delegate a matter to a person;
- (b) confer a discretion on a person;
- (c) make different regulations for different classes of persons, types of certificates of qualification and types of independent school teaching certificates, and for different letters of permission, activities, circumstances, matters or things.

(3) Without limiting subsection (1), the minister may make regulations respecting any matter for which regulations of the minister are contemplated by this Act.

[am. 2021-25-17, effective April 3, 2023, BC Reg.88/2023]

Additional ministerial powers

82 The minister may use personal information, in the custody or under the control of the ministry, about certificate holders to distribute information to certificate holders.

Power of Lieutenant Governor in Council to make regulations

83 (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:

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- (a) respecting the power of the commissioner to delegate under section 3 [*commissioner's power to delegate*] and the power of the director of certification to delegate under section 7 [*director of certification's power to delegate*];
- (b) prescribing the oath of office for council members under section 11 [*oath of office*] and panel members appointed under section 57 [*establishment of panels for disciplinary and professional conduct inquiries*] or section 73 [*establishment of panels for certification appeals*];
- (b.1) respecting appointments under section 11 (10);
- (c) prescribing fees that are to be paid under this Act and for any other service provided under this Act, including different annual practice fees for certificates of qualifications, independent school teaching certificates and different types of certificates;
- (d) varying the dates in section 37 [*annual practice fee*];
- (e) prescribing an entity for the purposes of paragraph (d) of the definition of "First Nations school employer" or paragraph (d) of the definition of "prospective First Nations school employer" in section 80 (1) [*list of employers and First Nations school employers*];
- (f) prescribing information for the purposes of section 80.2 (2) (a) (iii) [*minister's power to provide information for inclusion in online registry*];
- (g) prescribing a purpose for the purposes of section 80.4 (1) (c) or (2) (c) [*purposes for which personal information may be collected, used and disclosed*].

[am. 21-25-19, effective Nov.25/21; am. 2021-25-17, effective April 3, 2023, BC Reg.88/2023]

(3) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:

- (a) delegate a matter to a person;
- (b) confer a discretion on a person;
- (c) make different regulations for different classes of persons, types of certificates of qualification and types of independent school teaching certificates, and for different letters of permissions, activities, circumstances, matters or things.

(4) Without limiting subsection (1) or (2), the Lieutenant Governor in Council may make regulations respecting any matter for which regulations of the Lieutenant Governor in Council are contemplated by this Act.

(5) The Lieutenant Governor in Council may make regulations for transitional matters with respect to any matter inadequately provided for or not provided for as a result of the repeal of an Act by this Act and the enactment of this Act.

[am. 2021-25-19, effective Nov. 25/21]

Fees and costs

84 All fees and costs payable under this Act must be paid to the government.

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Teachers Act Special Account

85 (1) In this section, "**special account**" means the special account, as defined in section 1 [definitions] of the *Financial Administration Act*, established under subsection (2) of this section.

(2) A special account, to be known as the *Teachers Act* Special Account, is established.

(3) The following amounts are credited to the special account:

- (a) money transferred to the government under section 87;
- (b) proceeds realized on disposition of rights, property and assets that are transferred to the government under section 87;
- (c) fees, remittances and costs paid to the government under this Act and remittances paid to the government under section 168.2 [annual practice fee] of the *School Act* and section 14.1 [annual practice fee] of the *Independent School Act*;
- (d) payments made by the First Nations Education Authority under the coordination agreement.

(4) Despite section 21 (3) [Supply Act appropriations] of the *Financial Administration Act*, the minister may make payments out of the special account for any of the following purposes:

- (a) costs and expenses incurred in connection with the administration of this Act;
- (b) debts, obligations and liabilities transferred to the government under section 87.

[am. 21-25-20, effective Nov.25/21]

Application of Offence Act

85.1 Section 5 of the *Offence Act* does not apply to this Act or the regulations.

[2015-11-50, effective ?? by Reg.?]

PART 9 — TRANSITIONAL PROVISIONS AND REPEAL

Division 1 — Transitional Provisions

Definitions

86 In this Division:

"**College of Teachers**" means the College of Teachers continued under the former Act;

"**discipline committee**" means the committee that was appointed under section 28 (1) of the former Act and was in place immediately before the coming into force of this section;

"**former Act**" means the *Teaching Profession Act*, R.S.B.C. 1996, c. 449;

"**former council**" means the council of the College of Teachers that was in place immediately before the coming into force of this section;

"**former council member**" means a council member of the former council immediately before the coming into force of this section;

"**former committee member**" means a member of any of the following immediately before the coming into force of this section:

- (a) the qualifications committee;

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- (b) the discipline committee;
 - (c) a subcommittee appointed under section 26 (1.1) or 28 (1.1) of the former Act;
- "qualifications committee"** means the committee that was appointed under section 26 (1) of the former Act and was in place immediately before the coming into force of this section.

Transition — college

- 87** (1) On the repeal of the former Act,
- (a) the College of Teachers is dissolved,
 - (b) subject to sections 88 and 89 of this Act, the appointment of each former council member and each former committee member is rescinded, and members of the former council, whether appointed or elected, and of the qualifications committee, the discipline committee and any subcommittee appointed under section 26 (1.1) or 28 (1.1) of the former Act cease to hold office,
 - (c) all of the rights, property and assets of the College of Teachers are transferred to and vested in the government, and
 - (d) all of the debts, liabilities, and obligations of the College of Teachers are transferred to and assumed by the government.

(2) The minister may dispose of any rights, property or assets that are transferred to the government under subsection (1) (c).

(3) Subsection (1) (b) must not be construed as a breach of any contract, agreement or order related to the election or appointment of a person as a member of the former council, the discipline committee, the qualifications committee or any subcommittee appointed under section 26 (1.1) or 28 (1.1) of the former Act, and no legal proceeding for damages lies or may be commenced or maintained as a result of a member of the former council, the discipline committee, the qualifications committee or any subcommittee appointed under section 26 (1.1) or 28 (1.1) of the former Act ceasing to hold office.

(4) On and after the date on which the former Act is repealed, a reference to the council of the College of Teachers or to the College of Teachers in any commercial paper, contract, lease, licence, permit or other instrument or document is deemed to be a reference to the government.

Transition — discipline inquiries

- 88** (1) If, before the repeal of the former Act, the former council received a report or complaint referred to in section 28 (4) of the former Act, and the former council, the discipline committee or a subcommittee has started an inquiry under section 28 or 29 of the former Act but has not taken any action under section 34 or 35 of the former Act, then
- (a) subject to subsection (2) of this section, the former council members or former committee members of the discipline committee or subcommittee are deemed to be members of a panel under this Act, and
 - (b) the inquiry must be continued under this Act.

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(2) If a panel member withdraws from an inquiry referred to in subsection (1), the commissioner may do one of the following:

- (a) if at least two panel members remain on the panel, authorize the remaining panel members to hear the matter, and the vacancy does not invalidate the inquiry;
- (b) remove the remaining panel members hearing the matter and either
 - (i) appoint a panel under section 57 [*establishment of panels for disciplinary and professional conduct inquiries*] of this Act to conduct a new inquiry under this Act, or
 - (ii) in accordance with Division 3 [*Consent Resolution*] of Part 6 [*Disciplinary and Professional Conduct Inquiries and Certification Appeals*] of this Act, make or accept a proposal for a consent resolution agreement under section 53 [*consent resolution agreement*] of this Act.

(3) If, before the repeal of the former Act, a citation was issued under section 30 (1) of the former Act, and the former council, the discipline committee or a subcommittee has not commenced a hearing under that section, the commissioner may appoint a panel under section 57 of this Act with respect to that citation.

Transition — certification inquiries

89 (1) If, before the repeal of the former Act, the former council received an application for a certificate of qualification, and the qualifications committee or a subcommittee has started an inquiry with respect to the application under section 26 of the former Act but a decision with respect to the application has not been made, then

- (a) the applicant, within 30 days after the coming into force of this section, may request that the application be forwarded to the director of certification for determination under section 30 [*issuance of certificate*] of this Act, and
- (b) if the applicant does not make a request under paragraph (a) of this subsection, the inquiry must be continued under the former Act as if section 26 of the former Act were still in force, and the results of the inquiry must be forwarded to the director of certification, who, with respect to the application, must exercise the powers under section 30 of this Act in accordance with those results.

(2) If a former committee member withdraws from an inquiry referred to in subsection (1), the commissioner may do one of the following:

- (a) if at least two former committee members remain on the qualifications committee or subcommittee, authorize the remaining former committee members to hear the matter, and the vacancy does not invalidate the inquiry;
- (b) remove the remaining former committee members hearing the matter and forward the application that was the subject of the inquiry to the director of certification for determination under section 31 or 32 [*reconsideration and appeal*] of this Act, as applicable.

[am. 21-25-21, effective Nov. 25/21]

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Transition — college bylaws

90 (1) Bylaws respecting the matters referred to in section 23 (1) (d) of the former Act that were in effect immediately before the coming into force of this Act remain in effect until the council first establishes standards under section 13 (d) [*powers and duties of council*] of this Act.

(2) Bylaws respecting the matters referred to in section 23 (1) (e) of the former Act that were in effect immediately before the coming into force of this Act remain in effect until the council first classifies certificates of qualification under section 13 (e) of this Act.

(3) Criteria established under the College of Teachers Bylaw 5.C.03 that were in effect immediately before the coming into force of this Act remain in effect until the council first establishes standards under section 13 (a) of this Act.

- (4) In the bylaws referred to in subsections (1) to (3), a reference to an authority
- (a) must be read as a reference to the director of certification, if the reference is in relation to a matter that, under this Act, is within the authority of the director of certification, and
 - (b) must be read as a reference to the council, if the reference is in relation to a matter that, under this Act, is within the authority of the council.

Transition — certificates of qualification

- 91** (1) A certificate of qualification issued under the former Act that
- (a) was valid and subsisting immediately before the coming into force of this Act, and
 - (b) was not, immediately before the coming into force of this Act, subject to an undertaking according to which the certificate holder agrees not to practise teaching, other than an undertaking entered into because the holder of the certificate is incompetent to carry out professional duties and responsibilities because of a physical or mental disability,

is deemed to be a certificate of qualification issued under this Act, subject to all limitations and conditions imposed under the former Act with respect to the certificate.

(2) A certificate of qualification issued under the former Act is rescinded if the certificate of qualification is not deemed under subsection (1) to be a certificate of qualification issued under this Act.

(3) A certificate of qualification issued under the former Act is deemed to be suspended by the director of certification under section 33 (1) (d) [*suspension or cancellation of certificate*] of this Act as a result of an order issued under section 64 (d) [*consequences after hearing*] of this Act if the certificate of qualification was, immediately before the coming into force of this Act, subject to an undertaking according to which the certificate holder agrees not to practise teaching

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because the certificate holder is incompetent to carry out professional duties and responsibilities because of a physical or mental disability.

Transition — independent school teaching certificates

92 A certificate of qualification issued by the inspector under the *Independent School Act* or the *School Support (Independent) Act*, R.S.B.C. 1979, c. 378, that was valid and subsisting immediately before the coming into force of this Act is deemed to be an independent school teaching certificate issued under this Act.

Transition — letters of permission

93 A letter of permission issued under the former Act or *Independent School Act* that was valid and subsisting immediately before the coming into force of this Act is deemed to be a letter of permission issued under this Act.

Transition — independent school teaching certificate standards committee

94 The independent school teacher certification committee in place immediately before the coming into force of this Act is deemed to be the first independent school teaching certificate standards committee constituted under section 5 (1) of the *Independent School Act*.

Transition — disciplinary matters under *Independent School Act*

95 If, immediately before the coming into force of this Act, the inspector under the *Independent School Act* is considering whether to make a suspension or revocation under section 5 (3) of that Act, the inspector may make the suspension or revocation, and the suspension or revocation is deemed to be made by the director of certification under section 33 or 36 of this Act, as applicable.

Transition — investigations under *Independent School Act*

96 If, immediately before the coming into force of this Act, a person authorized by the inspector under the *Independent School Act* has started an investigation under section 7.3 of that Act, the investigation may continue under that Act and section 7.3 (3) of that Act, as it reads immediately after the coming into force of this Act, applies.

Transition — teacher education programs

97 An approval of a teacher education program for certification purposes under the former Act that is in place immediately before the coming into force of this Act is deemed to be an approval under this Act of the teacher education program.

Transition — registrar

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98 (1) In this section, "**former registrar**" means the registrar under the former Act immediately before the coming into force of this section.

(2) On the coming into force of this section, the appointment of the former registrar is rescinded and the former registrar ceases to hold office.

(3) The minister may appoint a registrar who has all the powers, duties and obligations of the registrar under the former Act until its repeal.

(4) For greater certainty, the registrar appointed under subsection (3) is not an officer or employee of the College of Teachers.

(5) Despite anything in the former Act, the minister may direct the registrar appointed under subsection (3) respecting the exercise of the registrar's powers or the carrying out of the registrar's duties or obligations under the former Act, and if there is an inconsistency between a direction of the minister under this subsection and a direction of the former council to the registrar under the former Act, the direction of the minister prevails to the extent of the inconsistency.

(6) The registrar appointed under subsection (3) must report to the minister on matters related to the exercise of the registrar's powers and the carrying out of the registrar's duties and obligations under the former Act.

Division 2 — Repeal

Repeal of former Act

99 (1) Section 17 of the *Teaching Profession Act*, R.S.B.C. 1996, c. 449, is repealed.

(2) The *Teaching Profession Act* is repealed.

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