



BRITISH COLUMBIA
COMMISSIONER FOR
TEACHER REGULATION

Commissioner's Rules for Certification Appeals

Under the *Teachers Act*
and the Commissioner's Regulation

Commissioner's Rules for Certification Appeals

These rules are made under the *Teachers Act*, S.B.C. 3/2012 and in accordance with the Commissioner's Regulation, B.C. Regulation 3/2012.

If there is any discrepancy between these rules and the *Teachers Act*, the *Teachers Act* governs, and if there is any discrepancy between these rules and the Regulation, the Regulation governs.

DEFINITIONS

In these rules:

“Act” means the *Teachers Act*;

“address” includes

- (a) an email address,
- (b) a street address,
- (c) a postal address, if different from a street address, and
- (d) a facsimile address;

“appeal” means an appeal started under section 32(8) of the Act;

“appeal fee” means the certification appeal fee set under section 4 of the Fees Regulation, B.C. Regulation 14/2012;

“appeal form” means the appeal form attached to these rules as Appendix A;

“appellant” means a person who files an appeal under section 32(8) of the Act;

“certification decision” means a decision of the director to:

- (a) deny to issue a certificate of qualification or an independent school teaching certificate under section 30 of the Act;
- (b) issue a type of certificate of qualification or independent school teaching certificate other than the type for which the applicant applied;
- (c) impose a limitation or condition on a certificate of qualification or an independent school teaching certificate under section 30(4)(a) of the Act; or
- (d) rescind a certificate of qualification or independent school teaching certificate under section 31 of the Act;

“commissioner” means the commissioner appointed under section 2(1) or designated under section 2(5) of the Act;

“director” means the director of certification appointed under section 6 of the Act;

“director’s counsel” means counsel appointed to represent the director in an appeal under rule 3;

“hearing” means a hearing conducted under sections 72-77 of the Act;

“panel” means a panel established by the commissioner under section 73 of the Act to hear the appeal;

“reconsideration decision” means a reconsideration decision made by the director under section 32 of the Act.

FILING AN APPEAL

Form of an appeal

1. An appeal must
 - (a) be made using the applicable appeal form,
 - (b) be signed by the appellant,
 - (c) include the appeal fee, and
 - (d) be submitted to the commissioner, at the address shown on the form, within 30 days of the date of the reconsideration decision.

Acknowledging receipt of the appeal

2. The commissioner will, within 10 days of receipt of the appeal form,
 - (a) acknowledge it by sending an acknowledgment letter to the appellant, and
 - (b) notify the director by sending the director a copy of the appeal form.

Director’s Counsel

3. After receiving notification of an appeal, the director may appoint counsel to represent the director in all matters connected with the appeal.
4. The commissioner and the appellant may send notices or documents to the director at the address provided by the director’s counsel.

APPEAL BEFORE THE COMMISSIONER

Preliminary review

5. As soon as reasonably practicable after receiving notification of an appeal, and before the commissioner conducts a preliminary review under section 71 of the Act, the director or the director's counsel must give the commissioner and the appellant the following:
 - (a) a copy of the appellant's application for certification;
 - (b) a copy of all documents submitted by the appellant in support of the application for certification;
 - (c) the certification decision;
 - (d) the request for reconsideration made by the appellant under section 32 of the Act;
 - (e) a copy of all documents submitted by the appellant in support of the request for reconsideration;
 - (f) a copy of the reconsideration decision which is the subject of the appeal; and
 - (g) a copy of any other documents which were before the director.

Notification of intention to dismiss summarily

6. If, after conducting a preliminary review, the commissioner intends to summarily dismiss the appeal, he must
 - (a) notify, in writing, the appellant and the director of his intention,
 - (b) identify the basis under section 71(1) of the Act on which he intends to dismiss the appeal summarily, and
 - (c) invite submissions from the appellant, which must be made in accordance with section 71(2) of the Act.

Submissions

7. If an appellant provides submissions to the commissioner, where possible those submissions should be in a form that may be photocopied, electronically scanned, or otherwise reasonably easily reproduced.
8. The Commissioner will provide a copy of any submissions made by the appellant to the director's counsel.

EVIDENCE AT A HEARING

Disclosure of Evidence

9. No later than 30 days after receiving notice from the Commissioner under section 72 that the appeal is referred to a panel for a hearing, the appellant must provide the director's counsel with
 - (a) a copy of every document in his or her possession upon which he or she intends to rely at the hearing, and
 - (b) a summary of the anticipated evidence of any person whom the appellant intends to call as a witness at the hearing.
10. Upon request of the director's counsel, the appellant will provide the director's counsel, within 30 days, a written explanation as to why a document or evidence of a witness was not before the director.
11. No later than 45 days after receiving the documents and summary of evidence from the appellant under rule 9, or a written explanation provided by the appellant under rule 10, whichever is later, the director's counsel must provide the appellant with
 - (a) a copy of every other document in his or her possession which has not already been disclosed under rule 5, and upon which he or she may rely at the hearing, and
 - (b) a summary of the anticipated evidence of any person whom the director intends to call as a witness at the hearing.

Submissions and documents

12. If an appellant submits documents or submissions to the panel, where possible those documents or submissions should be in a form that may be photocopied, electronically scanned, or otherwise reasonably easily reproduced.

PRE-HEARING CONFERENCES

13. At any time after referring an appeal to a panel under section 72 of the Act, and before a hearing begins, either the appellant or the director's counsel may request in writing that the commissioner set a pre-hearing conference, or the commissioner may, on the commissioner's own initiative, set a pre-hearing conference.
14. The commissioner must give written notice to the parties to attend a pre-hearing conference, in person or by telephone, on the date, time and location set by the commissioner.

15. Notice of the pre-hearing conference must be given at least 14 days before the date set for it, unless otherwise ordered by the commissioner.
16. The appellant or the director's counsel may request, in writing, that a different method, date, or time be set for the pre-hearing conference, and that request must
 - (a) be in writing,
 - (b) be made at least five days before the scheduled pre-hearing conference, and
 - (c) set out the basis for the request and preferred alternatives.
17. If the commissioner does not grant a request made under rule 16, then the pre-hearing conference will be held as scheduled.
18. If the appellant or their legal counsel, if any, or the director's counsel, does not attend the pre-hearing conference as scheduled, the commissioner may make any order that could have been made had they attended it, without any further notice to them.
19. At a pre-hearing conference, the commissioner may make any order considered appropriate to facilitate a hearing and the just and timely resolution of one or more matters relating to the appeal and, without limitation, may make orders:
 - (a) requiring that a hearing be conducted in person, by telephone or other electronic means, in writing, or any combination of those;
 - (b) setting, adjourning or rescheduling dates and times for a hearing;
 - (c) imposing time limitations and terms and conditions on the exchange of documents, admissions, agreed statements of facts, witness lists, written summaries of each witness's anticipated evidence, and written submissions;
 - (d) directing that the evidence of any witness be given by affidavit or other means;
 - (e) imposing measures to protect the interests of a person who is under the age of 19 or any other witness who may require or may have requested measures to protect them while giving evidence or being cross-examined;
 - (f) directing that the public be excluded during all or part of the evidence of a witness or witnesses; and
 - (g) restricting public access to the commissioner's records or documents and to a panel's records or documents.
20. At a pre-hearing conference, the commissioner may review compliance with any orders already made and make any further orders to ensure the hearing is ready to proceed.

21. Before the hearing, the commissioner must set out all orders made at any pre-hearing conference or otherwise, in writing, and must send a copy
 - (a) to the appellant,
 - (b) to the director's counsel, and
 - (c) to the panel.

HEARING DATES

Setting the hearing date

22. The commissioner must set the manner, date and location of the hearing, at or without a pre-hearing conference, and give the appellant and the director of certification at least 28 days' notice of the hearing, unless the appellant consents to a shorter notice period.

Adjournment of hearing date

23. A request to change the date of a hearing may be made by the appellant or the director's counsel, and must
 - (a) be in writing,
 - (b) set out the reasons for the request, and
 - (c) be delivered to the commissioner and the other party to the proceeding.
24. A request for a change under rule 23 must be made as soon as the reason for the change is known to the person making the request. A failure to make the request as soon as practicable may be a factor when the commissioner considers the request.
25. The other party to the appeal may make submissions with respect to a request under rule 23, within the time set by the Commissioner.
26. The commissioner will notify the parties to the appeal, and any other person the commissioner considers should be informed, of a decision made under rule 23.

GENERAL PROVISIONS

Parties to an appeal

27. The parties to an appeal are the appellant and the director.

Address for service and sending notices

28. The commissioner, the director and the director's counsel may use any address provided by the appellant on the appeal form to mail or deliver notices or documents to the appellant and may use the telephone number shown on the appeal form to contact the appellant.

29. An appellant must provide written notification of any change in address to the commissioner and to the director or the director's counsel, and until such notification is received, any document or notice sent to an address provided by the appellant on the appeal form will be deemed to be received in accordance with rule 32.

Notice to the commissioner

30. An appellant who is required to file or submit a notice, submission or other thing to the commissioner must mail or deliver it in one of the following ways:

By mail or by courier to:

Commissioner for Teacher Regulation
c/o the Teacher Regulation Branch
Suite 201 – 828 8th Avenue W
Vancouver, B.C. V5Z 1E2

By fax to:

Fax number: 604-775-4858

By email to:

Email address: TRB.CertificationAppeals@gov.bc.ca

Date of receipt

31. An appeal, document, submission or thing required to be filed, submitted or sent by an appellant to the commissioner or to the director will be deemed to have been received:

- (a) if delivered in person, by a courier, or by mail, on the actual date of receipt by the commissioner's office, the director's office or director's counsel's office; or

- (b) if sent by facsimile or email, on the date received by the commissioner's office or the director's office, or director's counsel's office except that any facsimile or email sent after 4:00 p.m. Pacific will be deemed received at 9:00 a.m. Pacific on the next business day.
32. A notice, document, submission or thing required to be sent by the commissioner or the director to a person:
- (a) if delivered in person, by registered mail, or by a courier, will be deemed to have been received on the date of delivery;
 - (b) if sent by regular mail, will be deemed to have been received on the earlier of the date it is delivered or the fifth business day after the date it was sent; or
 - (c) if sent by facsimile or email, will be deemed to have been received on the day sent, except that any facsimile or email sent after 4:00 p.m. Pacific will be deemed received at 9:00 a.m. Pacific on the next business day.

Protecting privacy interests

33. In order to protect the privacy interests of a person, other than the appellant, about whom information may be disclosed in the course of the appeal, the commissioner may make an order respecting the use or disclosure of that information by the appellant, including
- (a) placing limits on or restricting the copying, scanning or any other duplication of that information, and
 - (b) expressly limiting its use to the preparation for the appeal.

Legal representation

34. If an appellant is represented by legal counsel, the appellant must give the commissioner written notice of the name, address, telephone number and email address, if any, of the legal counsel. On receipt of that notice, any notices or documents that the commissioner is required to send to the appellant will be sent to that legal counsel and will have the same effect as if sent to the appellant.
35. If an appellant's legal counsel withdraws as legal counsel, the legal counsel must immediately provide written notice to the commissioner.

Timelines

36. If a time or date for documents to be provided or an action to be taken is set by these rules or by order of the commissioner, then the documents must be provided or the action taken within the time or by the date set.

37. If a person fails to provide documents or to take an action within the time or by the date set by these rules or by order of the commissioner, the commissioner may take such further action as the commissioner deems advisable.

Waiver or extension

38. At any time after the commissioner's preliminary review under section 71 of the Act, and before the start of the hearing, a person may request that the commissioner extend a timeline or deadline, vary an order, or waive or vary a requirement set by these rules.
39. A request for extension of a timeline or deadline, waiver or variation must
 - (a) be in writing,
 - (b) set out the reasons for the request,
 - (c) where an extension for filing the appeal is being sought, include the special circumstances relied upon for the extension,
 - (d) be made before the timeline or deadline expires, and
 - (e) be delivered to the commissioner and the other party to the proceeding.
40. The other party to the appeal may make submissions with respect to a request under rule 38, within the time set by the Commissioner.
41. The commissioner will notify the parties to the appeal, and any other person the commissioner considers should be informed, of a decision made under rule 38.

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Appendix A – Appeal Form



BRITISH COLUMBIA
COMMISSIONER FOR
TEACHER REGULATION

**Appeal of a
Reconsideration Decision**
under section 32(8) of the *Teachers Act*

Step 1: Your Contact Information

Name	
Street Address	
City/Town	
Postal Code	
Telephone	
Day Time Telephone	
Email	

Step 2: Reconsideration and Appeal Information

Date of the reconsideration decision being appealed	
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The reconsideration decision being appealed is:

- A decision of the director of certification not to issue a certificate of qualification or an independent school teaching certificate under section 30 of the *Teachers Act*.
- A decision of the director of certification to issue a type of certificate of qualification or independent school teaching certificate other than the type for which you applied.
- A decision of the director of certification to impose a limitation or condition on a certificate of qualification or an independent school teaching certificate under section 30(4)(a) of the *Teachers Act*.
- A decision of the director of certification to rescind a certificate of qualification or independent school teaching certificate under section 31 of the *Teachers Act*.



Step 3: Basis for Appeal

Please set out briefly the basis on which you are appealing the reconsideration decision.

Lined area for writing the basis for appeal.

Please sign this form and submit it with the certification appeal fee of \$300. Payment can be made in cash, or by cheque or money order made payable to the Minister of Finance. If you are paying by cash, you must submit the form and fee in person. If you are paying by cheque or money order, you may submit the form and the fee in person or send them to the mailing address below.

Signature

Date

April 2020

Mailing Address:
Commissioner for Teacher Regulation
201-828 8th Ave W
Vancouver BC V5Z 1E2

Contact:
Telephone: 604 775-4870