

INDEPENDENT SCHOOL REGULATION

Authority: *Independent School Act*, section 18

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| Amended by B.C. Reg. 447/90 | Effective November 21, 1990 |
| Amended by B.C. Reg. 208/93 | Effective July 1, 1993 |
| Amended by B.C. Reg. 260/93 | Effective July 30, 1993 |
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| Amended by B.C. Reg. 43/03 | Effective February 17, 2003 |
| Amended by B.C. Reg. 203/04 | Effective May 6, 2004 |
| Amended by B.C. Reg. 305/04 | Effective June 30, 2004 |
| Amended by B.C. Reg. 228/06 | Effective July 20, 2006 |
| Amended by B.C. Reg. 252/06 | Effective September 8, 2006 |
| Amended by B.C. Reg. 3/09 | Effective January 16, 2009 |
| Amended by B.C. Reg. 259/10 | Effective September 10, 2010 |
| Amended by B.C. Reg. 90/11 | Effective July 1, 2011 |
| Amended by B.C. Reg. 172/12 | Effective June 25, 2012 |
| Amended by B.C. Reg. 125/13 | Effective July 1, 2013 |
| Amended by B.C. Reg. 125/14 | Effective June 23, 2014 |
| Amended by B.C. Reg. 206/14 | Effective November 24, 2014 |
| Amended by B.C. Reg. 221/16 | Effective September 20, 2016 |
| Lieutenant Governor in Council Regulations | |

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Interpretation

1 In this regulation:

"Act" means the *Independent School Act*.

"eligible student" means a student

- (a) who is of school age, and
- (b) whose parent or guardian
 - (i) is, or was at the time of that parent's or guardian's death, a citizen of Canada or a permanent resident, as defined in the *Immigration and Refugee Protection Act* (Canada), who is or was at the time of the parent's or guardian's death, ordinarily resident in British Columbia, or
 - (ii) is lawfully admitted to Canada and is ordinarily resident in British Columbia.

"public distributed learning school" means a distributed learning school as defined in the *School Act*.

[am BC Reg 172/12, effective June 25/12]

Reports

2 (1) Subject to subsection (3), in order to qualify for a grant under the Act in respect of an independent school, an authority holding a group 1 or 2 certificate for the independent school must file the following with the inspector:

- (a) by October 15 of the school year for which a grant is claimed, a report, in the form specified by the inspector, stating
 - (i) the number of eligible students enrolled in and in attendance at the school as of September 30 of that school year in an educational program that is not delivered through distributed learning,
 - (ii) the number of eligible students
 - (A) classified as FTE kindergarten students, or
 - (B) in grades 1 to 9enrolled at the school as of September 30 of that school year in an educational program delivered in whole or in part through distributed learning,
 - (iii) the number of eligible students classified as 1/2 FTE kindergarten students enrolled at the school as of September 30 of that school year in an educational program delivered in whole or in part through distributed learning, multiplied by 1/2, and
 - (iv) the total number of eligible students enrolled at the school in each grade 10 to 12 course delivered through distributed learning as of September 30 of that school year, multiplied by 1/8;
- (b) by February 28 of the school year for which a grant is claimed, a report, in the form specified by the inspector, stating

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- (i) the number of eligible students
 - (A) classified as FTE kindergarten students, or
 - (B) in grades 1 to 9enrolled in the school after September 30 of that school year but on or before February 15 in an educational program delivered in whole or in part through distributed learning, multiplied by 1/2,
 - (ii) the number of eligible students classified as 1/2 FTE kindergarten students enrolled at the school after September 30 of that school year but on or before February 15 in an educational program delivered in whole or in part through distributed learning, multiplied by 1/4, and
 - (iii) the total number of eligible students enrolled at the school in each grade 10 to 12 course delivered through distributed learning after September 30 of that school year but on or before February 15, multiplied by 1/8;
- (c) by May 31 of the school year for which a grant is claimed, a report, in the form specified by the inspector, stating
- (i) the number of eligible students
 - (A) classified as FTE kindergarten students, or
 - (B) in grades 1 to 9enrolled in the school after February 15 of that school year but on or before May 15 in an educational program delivered in whole or in part through distributed learning, multiplied by 1/3,
 - (ii) the number of eligible students classified as 1/2 FTE kindergarten students enrolled in the school after February 15 of that school year but on or before May 15 in an educational program delivered in whole or in part through distributed learning, multiplied by 1/6, and
 - (iii) the total number of eligible students enrolled at the school in each grade 10 to 12 course delivered through distributed learning after February 15 of that school year but on or before May 15, multiplied by 1/8;
- (d) by June 15 of the school year for which a grant is claimed, an audited report, in the form specified by the inspector, stating
- (i) the number of eligible students
 - (A) classified as FTE kindergarten students, or
 - (B) students in grades 1 to 12enrolled in and in attendance at the school as of May 15 who have completed at least 600 hours of instruction after July 1 but before May 15 of that school year in an educational program that is not delivered through distributed learning,
 - (ii) the number of eligible students classified as 1/2 FTE kindergarten students enrolled in and in attendance at the school as of May 15 who have completed at least 320 hours of instruction after July 1 but before May 15 of that school year in an educational program that is not delivered through distributed learning, multiplied by 1/2,
 - (iii) the number of eligible students classified as FTE kindergarten students and students in grades 1 to 12 enrolled in and in attendance at the school

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as of May 15 who have completed fewer than 600 hours of instruction after July 1 but before May 15 of that school year in an educational program that is not delivered through distributed learning,

- (iv) the number of eligible students classified as 1/2 FTE kindergarten students enrolled in and in attendance at the school as of May 15 who have completed fewer than 320 hours of instruction after July 1 but before May 15 of that school year in an educational program that is not delivered through distributed learning,
- (v) the total number of hours of instruction received through the school by the students referred to in subparagraph (iii) , divided by 600, and
- (vi) the total number of hours of instruction received through the school by the students referred to in paragraph (iv), divided by 320 and multiplied by 1/2.

(1.1) For the purposes of subsection (1), kindergarten students enrolled in an independent school are classified as

- (a) FTE kindergarten students if the students are enrolled in an educational program that offers at least 850 hours of instruction, and
- (b) 1/2 FTE kindergarten students if the students are enrolled in an educational program that offers fewer than 850 hours of instruction.

(2) An authority holding a certificate for group 1 classification for an independent school shall file with the inspector, on or before October 15 in a school year, an audited report in a form specified by the inspector stating the independent school's per FTE student costs as referred to in section 3 of the Schedule to the Act in order to qualify for a grant under the Act in respect of that independent school.

(2.1) *REPEALED, BC Reg. 125/14, effective June 23, 2014*

(2.2) *REPEALED, BC Reg. 125/14, effective June 23, 2014*

(3) Where the inspector accepts the filing of a report after the date it is due under subsections (1) and (2), the report is deemed to be filed on time for the purposes of subsection (1) or (2), as the case may be.

(4) A report referred to in subsection (1) (d) or subsection (2) must be audited by a person qualified under section 112 of the *Societies Act* to be an auditor of a reporting society.

[am. B.C. Reg. 208/93; SBC 1995, c. 22, s. 2 (b); am. B. C. Reg. 203/04; am. B.C. Reg. 228/06; am. B.C. Reg. 252/06; am. B.C. Reg. 259/10; am. B.C. Reg. 90/11; am BC Reg 172/12, effective June 25/12; am BC Reg 125/14, effective June 23/14; am BC Reg. 221/16, effective Sept 20/16; am Nov 28/16]

Calculation of grants

3 (1) For the purposes of section 12 (1) of the Act, a grant for the school year commencing July 1, 2012 and for each subsequent school year to an authority for each group 1 or group 2 classification independent school it operates, other than a distributed learning independent school, is the product of the following:

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- (a) the total sum of the amounts described in section 2 (1) (d) (i), (ii), (v) and (vi);
- (b) the per FTE student grant for the school year of the school district in which the independent school is located;
- (c) the percentage applicable to the school under section 4.

(2) For the purposes of section 12 (1) of the Act, a grant for the school year commencing July 1, 2012 and for each subsequent school year to an authority for each group 1 or group 2 classification distributed learning independent school it operates is the product of the following:

- (a) the total sum of the amounts described in section 2 (1) (a) (ii), (iii) and (iv), (b) (i), (ii) and (iii) and (c) (i), (ii) and (iii);
- (b) the per FTE student grant for students enrolled in a public distributed learning school for the school year;
- (c) the percentage applicable to the school under section 4.1.

(3) The minister may not pay a grant to an authority with respect to a student whose education is fully or substantially funded by the government of Canada.

(4) The per FTE student grant in subsection (1) (b) must be calculated using the following formula:

$$\text{per FTE student grant} = \frac{(A+B) - C}{D}$$

where, in relation to the school district,

- A = the amount of the operating grant under section 106.3 of the *School Act* for the school year, determined by the minister as of December 30 of the school year;
- B = if in the school year a special grant is payable under section 115 (1) (a) of the *School Act* to all boards of all school districts in the Province for operating expenses, the amount of that special grant paid to the school district;
- C = the allocation by the minister made under section 106.3 of the *School Act* in respect of students eligible for supplementary special needs funding for the school year, determined by the minister as of December 30 of the school year;
- D = the number of the school district's FTE students for the school year, determined by the minister as of September 30 of the school year.

(5) The per FTE student grant in subsection (2) (b) is the per student funding amount determined under section 106.3 (1) (a) (i) of the *School Act* for students enrolled in a public distributed learning school on September 30 of the school year.

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(6) Except in respect of an eligible student enrolled in an educational program in any of grades 8 to 12 delivered in whole or in part through distributed learning, a grant must not be paid to an authority with respect to a student enrolled in an educational program offered by a board.

(7) Except in respect of an eligible student enrolled in more than one educational program in any of grades 8 to 12 delivered in whole or in part through distributed learning, only one grant will be paid with respect to a student enrolled in more than one independent school or enrolled in more than one educational program, each of which is offered by the same independent school.

[am. B.C. Reg. 447/90; B.C. Reg. 208/93; am. B.C. Reg. 193/94; am. SBC 1995, c. 22, s. 6; am B.C. Reg. 220/02; am B.C. Reg. 271/02, am B.C. Reg 305/04; am B.C. Reg. 228/06; am. B.C. Reg. 259/10; am BC Reg 172/12, effective June 25/12; am BC Reg 125/13, effective July 1/13; am BC Reg 125/14, effective June 23/14

Percentages

4 The percentage that is applicable in respect of an independent school, other than a distributed learning independent school, of the purposes of section 3 (1)(c) for the school year commencing July 1, 2009 and for each subsequent school year is

- (a) 100% for an independent school listed in Appendix 2,
- (b) 50% for an independent school
 - (i) for which an authority has been issued a certificate of group 1 classification, and
 - (ii) that is not listed in Appendix 2, and
- (c) 35% for an independent school
 - (i) for which an authority has been issued a certificate of group 2 classification, and
 - (ii) that is not listed in Appendix 2

[am BC Reg 172/12, effective June 25/12]

Percentages – distributed learning independent schools

4.1 The percentage that is applicable in respect of a distributed learning independent school for the purposes of section 3 (2) (c) for the school year commencing July 1, 2013 and for each subsequent school year is

- (a) 63% for a distributed learning independent school for which an authority has been issued a certificate of group 1 classification, and
- (b) 44.1% for a distributed learning independent school for which an authority has been issued a certificate of group 2 classification.

[am. B.C. Reg. 3/09; am. B.C. Reg. 259/10; am BC Reg 172/12, effective June 25/12; am BC Reg 125/13, effective July 1/13]

Expiry of certificate of group classification

5 A certificate of group classification for an independent school may be granted for a term not exceeding

- (a) 6 school years, where the authority holds a certificate of group 1 or group 2 classification,
- (b) 2 school years, where the authority holds a certificate of group 3 or group 4 classification, and

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- (c) one school year where the authority has not operated the school for one school year before the date of application for a certificate of group classification.

[am. B.C. Reg. 208/93; am. B.C. Reg. 43/03; am BC Reg 172/12, effective June 25/12]

Expiry of interim certificate of group classification

5.1 An interim certificate of group 4 classification is valid until the end of the school year in which the certificate is granted, plus one additional year.

[en. B.C. Reg. 228/06]

Home schooled children

- 6** (1) An independent school that registers a child under section 10 of the Act
- (a) must offer, free of charge, the evaluation and assessment services normally offered to students by the independent school in which the child is registered, and

[am BC Reg 172/12, effective June 25/12]

- (b) may loan
 - (i) authorized and recommended educational resource materials provided by the Ministry of Education that, in the school's opinion, are sufficient to enable the child to pursue his or her educational program, or
 - (ii) learning materials used by the students of the independent school that, in the school's opinion, are sufficient to enable the child to pursue his or her educational program.

(2) The independent school may require a deposit for the loan of educational resource materials and learning materials under subsection (1) (b).

(3) A child in grade 10, 11, or 12 registered under section 10 of the Act may enroll in all or part of an educational program that is

- (a) offered by an independent school or a board, and
- (b) delivered through distributed learning.

(4) If a child registered under section 10 of the Act enrolls in educational programs offered by an independent school that are not delivered through distributed learning, the child ceases to be registered under section 10 of the Act and is enrolled as a student with the independent school.

(5) If a child registered under section 10 of the Act enrolls in educational programs offered by a board that are not delivered through distributed learning, the child ceases to be registered under section 10 of the Act and is enrolled as a student with the board under the *School Act*.

[am. B.C. Reg. 252/06]

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Application for grant

- 7** To be eligible to receive a grant for a school year, an authority must
- (a) *REPEALED effective July 20/06*
 - (b) satisfy the inspector that it and its independent school qualify for the issue or renewal of the certificate or group classification that relates to the grant,
 - (c) be issued that certificate of group classification.

[en. B.C. Reg. 272/90 ;am B.C. Reg. 228/06]

Authority to provide information about bond

- 8** An authority that holds a certificate of group 4 classification for an independent school must include in its policies or publications provided to parents and students detailed information about the protection afforded by a bond acquired by the authority in accordance with sections 12 to 17.

[en. B.C. Reg. 260/93 ; am BC Reg 172/12, effective June 25/12 ; en BC Reg 221/16, effective Sept 20/16]

Student records

- 9** (1) Subject to the inspector's orders, an authority must establish and maintain a record for each student and for each child registered with the independent school of the authority.

- (2) Subject to the inspector's orders, an authority must
 - (a) establish written procedures regarding the storage, retrieval and appropriate use of student records, and
 - (b) ensure confidentiality of the information contained in the student records and ensure privacy for students and their families.

- (3) Despite subsection (2), an authority must, if required by the inspector's orders, permit a person providing health services, social services or other support services access to information in student records required to carry out those services.

[en. B.C. Reg. 228/06]

Sharing of student records

- 10** If a student is enrolled in more than one independent school, then the authority of one of the independent schools must provide to the authority of another of the independent schools access to information in the student's records that is necessary for the other authority to satisfactorily perform its obligations under the *Act*.

[en. B.C. Reg. 228/06]

- 11** *REPEALED, BC Reg. 206/14, effective July 1, 2015*

[am. BC Reg. 206/14, effective Nov 24/14; am BC Reg. 206/14, effective July 1/15]

Amount of bond

- 12** (1) In this section, “fees” means money received by an authority from or on behalf of a student or a person applying to become a student, other than money paid for post-secondary education.

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- (2) Subject to sections 13 to 15, an authority that applies for or is granted a certificate of group 4 classification under the Act must provide and maintain one of the following bonds:
- (a) up to and including the 45th day after the first day of instruction of the first year of the school's operation, a bond in the minimum amount of \$100 000;
 - (b) after the 45th day after the first day of instruction of the first year of the school's operation, a bond in the minimum amount of the greater of
 - (i) \$100 000, and
 - (ii) \$5 000 per student based on the number of students enrolled on the 30th day after the first day of instruction ;
 - (c) for a school that operated in the previous school year, a bond in a minimum amount equal to 75% of the total of all fees received by the authority operating the school during the 6-month period of either July 1 through December 31 or January 1 through June 30 of the previous school year, whichever period generated the most fees.
- (3) A bond must be provided no later than September 1 of the school year to which it applies unless it is a bond under subsection (2) (b), in which case it must be provided before the 45th day referred to in subsection (2) (b).
- (4) An authority must provide a new bond on September 1 of each school year.
- (5) The bond must provide for the prorated repayment to students of all fees when courses are not taken or completed by students as a result of
- (a) the authority closing the independent school, or
 - (b) the inspector suspending or cancelling the certificate of the authority.

[en BC Reg. 221/16, effective Sept 20/16]

Decrease in amount of bond

- 13** (1) On application by an authority, the minister may decrease, in accordance with subsection (2), the minimum amount of a bond referred to in section 12 (2) (c) if the minister is satisfied that the fees for the current school year will decrease by 20% or more compared to the previous school year based on enrolment on September 30 of the current school year.
- (2) The adjusted bond will be in the amount of 75% of 1/2 of the sum of
- (a) the projected income for the current year, and
 - (b) half of the difference between the projected income for the current year and the previous year's income.
- (3) On application by an authority that operates an independent school under a certificate of group 4 classification in a facility not shared by another independent school, the minister may decrease the minimum amount of a bond referred to in section 12 (2) (c) by 50% if the minister is satisfied that all of the following conditions apply :
- (a) if the application is received by the minister

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- (i) in relation to the 2016/2017 school year, on or before November 4, 2016 in respect of a bond required under section 12 (2) (c) to be provided by the authority on September 1, 2016,
- (ii) in relation to subsequent school years, on or before May 1 of each school year in respect of a bond required under section 12 (2) (c) to be provided by the authority the following September 1 ;
- (b) the authority is a society incorporated under the *Societies Act* or a company incorporated under the *Business Corporations Act* and provides the inspector with a certificate of good standing issued by or on behalf of the Registrar of Companies, not more than 30 days before the application ;
- (c) the authority has been operating the independent school under a certificate of group 4 classification for at least 10 continuous years immediately prior to the application ;
- (d) a certificate of classification of the authority has not been the subject of cancellation or suspension under section 4 (4) (c) of the Act in the 5 years immediately prior to the application.

[en BC Reg. 221/16, effective Sept 20/16 ; am Nov 28/16]

Decrease in amount of bond – group 4 school operated in same facility as group 1 or 2 school

14 On application by an authority that operates an independent school under a certificate of group 4 classification in the same facility as one or more independent schools operating under a group 1 or 2 classification, either by the authority or another authority, the minister may decrease the minimum amount of a bond referred to in section 12 (2) (c) by 50% if the minister is satisfied that all of the following conditions apply:

- (a) the authority must meet the conditions set out in section 13 (3);
- (b) the other authority must meet the conditions set out in section 13 (3) (b), (c) and (d);
- (c) at least one of the independent schools operating under a certificate of group 1 or 2 classification must have been in operation for at least 10 continuous years immediately prior to the application.

[en BC Reg. 221/16, effective Sept 20/16]

Decrease in amount of bond – group 4 school has agreement in respect of offshore school

15 (1) In this section,

"offshore school" means a school that

- (a) is located outside of British Columbia, and
- (b) is the subject of an agreement under section 168 (3) of the *School Act* between the minister and an offshore school owner/operator;

"offshore school owner/operator" means a person who is

- (a) a non-governmental legal entity,
- (b) incorporated under the laws of another jurisdiction, and
- (c) a party to an agreement under section 168 (3) of the *School Act* in respect of an offshore school;

"public post-secondary institution" means an institution established or continued under one of the following Acts:

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- (a) the *College and Institute Act*;
- (b) the *Royal Roads University Act*;
- (c) the *Thompson Rivers University Act*;
- (d) the *University Act*;

“student transition agreement” means an agreement between an authority and a public post-secondary institution about students transitioning from the authority to the public post-secondary institution.

(2) On application by an authority that operates an independent school under a certificate of group 4 classification and has entered into an agreement with an offshore school owner/operator, the minister may decrease the minimum amount of a bond referred to in section 12 (2) (c) by 50% if the minister is satisfied that all of the following conditions apply:

- (a) the application must be received by the minister
 - (i) in relation to the 2016/2017 school year, on or before November 4, 2016 in respect of a bond required under section 12 (2) (c) to be provided by the authority on September 1, 2016,
 - (ii) in relation to subsequent school years, on or before May 1 in respect of a bond required under section 12 (2) (c) to be provided by the authority the following September 1;
- (b) the authority has been operating the independent school under a certificate of group 4 classification for at least 10 continuous years immediately prior to the application;
- (c) the offshore school owner/operator must have operated at least one offshore school under the agreement with the minister under section 168 (3) of the *School Act* for 10 continuous years immediately prior to the application;
- (d) the offshore school owner/operator must not have been placed on probationary status under the agreement with the minister under section 168 (3) of the *School Act* because of non-compliance with that agreement;
- (e) the authority must have a student transition agreement.

[en BC Reg. 221/16, effective Sept 20/16]

Minimum amount of bond

16 Despite sections 12 (2) (c) and 13 to 15, the minimum amount of a bond may not be less than \$100 000.

[en BC Reg. 221/16, effective Sept 20/16]

Acceptable security for a bond

17 (1) In this section, **“minister”** means the minister responsible for the administration of the *Bonding Act*.

(2) Despite section 8 of the Bonding Regulations, B.C. Reg. 11/68, acceptable security for a bond for the purposes of the Act must consist of one or both of the following types of security:

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- (a) irrevocable letters of credit, issued by a savings institution, with a termination date beyond the required term of security and containing a promise to pay the minister a specified sum on written demand;
- (b) surety bonds issued by a person authorized under the *Financial Institutions Act* to carry on insurance business.

(3) Despite subsection (2) of this section and section 8 of the Bonding Regulations, for the period of time that starts on the date this section comes into force and ends on September 1, 2017, acceptable security for a bond for the purposes of the Act must consist of one or more of the following types of security:

- (a) short term deposits, not to exceed 3 years, issued by a savings institution and registered in the name of the minister, the interest from which may be payable to the depositor;
- (b) registered marketable bonds that are
 - (i) in fully registered form, issued or guaranteed by the government of Canada or the government of a province, with a maturity date of not longer than 3 years, and
 - (ii) accompanied by a duly executed, irrevocable power of attorney that authorizes the minister to realize the security;
- (c) treasury bill notes issued by the government of Canada or the government of a province ;
- (d) irrevocable letters of credit, issued by a savings institution, with a termination date beyond the required term of security and containing a promise to pay the minister a specified sum on written demand ;
- (e) surety bonds issued by a person authorized under the *Financial Institutions Act* to carry on insurance business.

(4) Subsection (3) and this subsection are repealed on September 2, 2017.

[en BC Reg. 221/16, effective Sept 20/16]

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APPENDIX 1

Repealed, BC Reg 90/2011, Effective July 1, 2011

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APPENDIX 2

[section 2]

| Item | Name of School |
|------|--|
| 1 | ?A'q'amnik Primary School |
| 2 | Aatse Davie School |
| 3 | Acwsalcta Band School |
| 4 | Bella Bella Community School |
| 5 | Chalo School |
| 6 | Coast Tsimshian Academy |
| 7 | Gitsegukla Elementary School |
| 8 | Gwa'sala-'Nakwaxda'xw School |
| 9 | Haahuupayak School |
| 10 | Kispoix Elementary-Junior Secondary School |
| 11 | Klappan Independent Day School |
| 12 | Lower Nicola Band School |
| 13 | Maaqtusiis Elementary School and Maaqtusiis Secondary School |
| 14 | Moricetown Elementary Secondary School |
| 15 | N'kwala School |
| 16 | Nak'albun Elementary School |
| 17 | Seabird Island School |
| 18 | Sen*Pok*Chin School |
| 19 | Sensisyusten House of Learning |
| 20 | Sk'elep School of Excellence |
| 21 | Stein Valley Nlakapamux School |
| 22 | Stz'uminus Senior Secondary School |
| 23 | T'lisalagi'lakw School |
| 24 | Yaqan Nukiy School |
| 25 | Yunesit'in ?Esgul School |
| 26 | 'Na Aksa Gyilak'yoo School |

[am BC Reg 125/14, effective June 23/14 ; am BC Reg 221/16 effective Sept 20/16]