INDEPENDENT SCHOOL ACT
[RSBC 1996] CHAPTER 216

CONTENTS

Section

1 Definitions
1.1 Classification of Students
2 Staff and duties
3 External evaluation committees
4 Classification of independent schools
5 Independent school teaching certificate standards committee
6 Reports, statements, records
6.1 Sharing of student records
7 Report of dismissal, suspension and discipline regarding authorized persons
7.2 Report of dismissal, suspension and discipline regarding principals
7.3 Commissioner may investigate
8 Principal
8.1 Provision of online learning
9 Educational resource materials
10 Registration of home schooled children
10.1 Agreements with participating first nations
11 Entitlement of independent schools
11.1 British Columbia certificate or diploma
11.2 Reimbursement of expenses for designated educational activities
12 Grant
13 Special purpose grants
14 Minister's discretion
14.1 Annual practice fee
15 Injunctive relief
16 Proof of interim injunction
17 No staying of certain orders
18 Power to make regulations
19 Offence

Schedule

INDEPENDENT SCHOOL ACT

Preamble

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

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

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

[2007-20-45, effective July 1/07, BC Reg 299/07]

Definitions

1 (1) In this Act:

"authority" means

(a) a society within the meaning of the *Societies Act*,

(b) a company within the meaning of the *Business Corporations Act* or a corporation incorporated under a private Act, or

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

that operates or intends to operate an independent school;

"board" means a board as defined in the *School Act*;

"capital expenses" means

(a) expenses incurred by an authority for and incidental to the acquisition of assets of a permanent or semipermanent nature,

(b) expenses incurred in acquiring and developing sites for independent school purposes,

(c) expenses incurred in purchasing, constructing, reconstructing, making major alterations to, furnishing and equipping buildings for independent school purposes,

(d) expenses incurred in acquiring vehicles and their accessories, and

(e) contingent and other expenses incurred that are of a capital nature;

"certificate of group classification" means a certificate issued under section 4 (1) or an interim certificate issued under section 4 (2);

“certificate of qualification" means a certificate of qualification as defined in section 1 of the *Teachers Act*;

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

"certified teacher" means a teacher who holds any of the following issued under the *Teachers Act*:

(a) a certificate of qualification;

(b) an independent school teaching certificate;

(c) a letter of permission;

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

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

"educational program" means an organized set of learning activities that is designed to enable learners to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic and pluralistic society and a prosperous and sustainable economy;

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

"former Act" means the *School Support (Independent) Act,* R.S.B.C. 1979, c. 378;

"guardian" means

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

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

"independent school" means a school, including an online learning independent school, that is, or is to be, maintained and operated in British Columbia by an authority and

(a) that offers an educational program to 10 or more school age students,

(b) that meets the requirements of section 2 (e) of the Schedule and otherwise qualifies for a certificate of group classification, or

(c) for which an authority holds a subsisting interim certificate issued under section 4 (2),

but does not include

(d) a public school, a Provincial school or a school operated by a participating First Nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), or

(d.1) a school, other than a school operated by a treaty first nation under and in accordance with this Act, operated by a treaty first nation under its own laws, or

(e) a school that

(i) solely offers religious instruction,

(ii) solely offers language instruction,

(iii) solely offers a program of social or cultural activities,

(iv) solely offers a program of recreational or athletic activities, or

(v) is designated by the inspector;

"independent school teaching certificate" means an independent school teaching certificate as defined in section 1 of the *Teachers Act*;

"independent school teaching certificate standards" means the standards, established by the independent school teaching certificate standards committee in respect of an independent school teaching certificate, that are effective under section 5;

"independent school teaching certificate standards committee" means an independent school teaching certificate standards committee constituted under section 5;

"inspector" means the inspector of independent schools appointed under section 2;

"letter of permission" means a letter of permission issued under the *Teachers Act*;

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

"online learning independent school" means an independent school that offers instruction to its students through online learning only;

"operating expenses" means all expenses incurred by an authority that are not capital expenses and includes

(a) expenses incurred in the operation, repair, maintenance and minor alteration of buildings used for or in connection with independent school purposes,

(b) expenses incurred in the maintenance of furniture and equipment and the replacement of furniture and equipment,

(c) expenses incurred in conducting feasibility studies and in securing options for sites or buildings required for independent school purposes or for use in connection with them, and

(d) principal repayments and interest payments on debt incurred by the authority;

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

"principal" means the teacher responsible for administering and supervising an independent school;

"Provincial school" means a Provincial school as defined in the *School Act*;

"public school" means a school as defined in the *School Act*;

"school age" means school age as determined under subsection (2);

"school district" means a school district as defined in the *School Act*;

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

"student" means a person enrolled in an independent school;

"student record" means a record of information in written or electronic form in respect of a student, but does not include a record prepared by a person if that person is the only person with access to the record;

"teacher" means a person employed by an authority to provide an educational program to students or to administer or supervise the provision of an educational program to students.

(2) A person is deemed

(a) to be of school age at the beginning of a school year if the person will have reached age 5 on or before December 31 of that school year, and

(b) to continue to be of school age until the end of the school year in which the person reaches age 19.

(3) A child who is registered under section 10 is deemed not to be enrolled in an independent school.

[2003-70-186, effective Mar. 29/04, B.C. Reg. 64/04; 2006-21-1, effective June 30/06, BC Reg 195/06; 2007-46-9, effective May 16/08 BC Reg 103/2008; 2007-36-101, effective April 3, 2009, BC Reg 55/2009; am 2011-12-107, effective Jan. 9/12, BC Reg. 239/11; am 2011-16-367, effective Mar 18/13; am 2015-24-321, effective Nov 28/16; am 2020-8-2, effective July 1, 2021]

Classification of students

1.1 (1) An authority must classify, according to the regulations, each student enrolled with the authority for the purposes of determining

(a) the classification of independent schools under section 4, and

(b) the amount of a grant to be provided under section 12.

(2) The authority must report to the inspector, in accordance with the regulations,

(a) the number of students in each classification, and

(b) any other information required by the regulations in respect of the classification of students.

(3) For the purposes of subsection (2) (a), a student must not be included in the calculation of the number of students in a classification unless

(a) the student is of school age, and

(b) the student's 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.

[2006-21-2, effective June 30/06, BC Reg 195/06]

Staff and duties

2 (1) There is to be appointed, under the *Public Service Act*, an inspector of independent schools who is responsible to the minister for the administration of this Act.

(2) The inspector may authorize a person to inspect and evaluate independent schools, teachers, the operations of an authority, educational programs provided by independent schools and educational resource materials and school buildings and other buildings used in conjunction with the school.

(3) A person authorized to make an inspection and evaluation under this section may

(a) enter a school building or any other building, used in conjunction with the school or offices of the authority, or any part of them for purposes of conducting the inspection and evaluation,

(b) inspect any record of an authority relating to the operation or administration of the independent school, and

(c) examine the achievement of students and examine and assess teachers, programs, operations and administration of the school.

External evaluation committees

3 (1) For the purposes of issuing or renewing certificates of group classification and for the purposes of inspecting and evaluating independent schools, the inspector may

(a) constitute one or more external evaluation committees,

(b) appoint the members of those committees,

(c) specify the duties of those committees, and

(d) provide for remuneration of and payment of expenses to members of the committee.

(2) The inspector may specify that a committee constituted under subsection (1) has the powers of a person authorized to make an inspection and evaluation under section 2.

Classification of independent schools

4 (1) On application by an authority, the inspector must issue or renew a certificate classifying an independent school into one or more of the groups set out in the Schedule if the inspector is satisfied that the authority and the independent school meet

(a) the requirements for that certificate set out in the Schedule,
(b) the educational standards established by the minister, and
(c) any additional requirements specified by the inspector.

(2) On application by an authority, the inspector may issue an interim certificate classifying an independent school that the authority is operating or intends to operate into group 3 or 4 if the inspector is satisfied that the requirements for the interim certificate set out in the Schedule

(a) are met by the authority, and
(b) are met by the independent school or, in the case of an independent school that has not begun to operate, will be met by the independent school on the commencement of its operations.

(3) If the inspector determines that an independent school meets the requirements for a certificate of group classification other than the one held by the authority for that school, the inspector must issue, on application by the authority, a new certificate of group classification for the school and may order that the effective date of the new certificate is a date, as designated by the inspector, earlier than the date of the application.

(4) The inspector may

(a) attach conditions to a certificate of group classification issued or renewed under this section,
(b) cancel a certificate of group classification
  (i) on issuing a new certificate of group classification, or
  (ii) on request of an authority, and
(c) cancel or suspend a certificate of group classification of an independent school if the authority operating the school
  (i) fails to maintain the standards and requirements referred to in subsection (1) during any part of the period of the certificate of group classification,
  (ii) breaches a condition of the certificate of group classification, or
  (iii) fails to comply with this Act and the regulations or a requirement of the inspector.

(5) If the inspector cancels or suspends a certificate of group classification under subsection (4) (c), the inspector, for the purposes of a grant under section 12, may order that

(a) the earliest day of the failure or breach under subsection (4) (c) is the effective date of cancellation or suspension, and
(b) if the inspector issues a new certificate of group classification, the effective date for that certificate is the same as the effective date for the cancellation or suspension of the previous certificate.

(6) If the inspector refuses to issue or renew a certificate of group classification to or cancels the certificate of group classification of an independent school, the authority operating the school may appeal, within 60 calendar days, the inspector's decision to the minister whose decision is final.

(7) Subject to the regulations, the inspector may recognize different grades within an independent school for the purposes of issuing not more than 2 different certificates of group classification with respect to that independent school.

Independent school teaching certificate standards committee

5 (1) The minister may, for the purposes of subsections (2) and (3),

(a) constitute an independent school teaching certificate standards committee,

(b) name the persons to be members of the committee, and

(c) provide for remuneration of and payment of expenses to members of the committee.

(2) The independent school teaching certificate standards committee must

(a) establish the standards that are required to be met in order to be issued an independent school teaching certificate and to maintain an independent school teaching certificate, and

(b) determine which standards must be met for each type of independent school teaching certificate.

(3) At the request of the inspector, the independent school teaching certificate standards committee must provide the inspector with advice in respect of the application for an independent school teaching certificate or a letter of permission authorizing a person to teach in an independent school.

[1999-8-4 effective July 19/99, BC Reg. 223/99; 2007-16-21, effective Jan 1/08, BC Reg. 386/07; en 2011-12-108, effective Jan 9/12, BC Reg. 239/11]

Reports, statements, records

6 An authority must submit to the inspector

(a) reports and statements in the forms and at the times the inspector requires, and

(b) on the closure of an independent school, the records the inspector may require.

Sharing of student records

6.1 (1) In this section:

"board" includes a francophone education authority, as defined in the *School Act*;

"public school" includes a francophone school, as defined in the *School Act*.

(2) This section applies to a student who is enrolled

(a) in an independent school, but takes one or more courses through a public school by means of online learning, or

(b) in a public school, but takes one or more courses through an independent school by means of online learning.

(3) In respect of a student described in subsection (2), each authority and board must provide to the other access to information in those student records and permanent student records that is necessary for the other authority or board to satisfactorily perform its obligations under this Act or the *School Act*, as applicable.

[2006-21-2, effective June 30/06, BC Reg 195/06; am 2020-8-3, effective July 1, 2021]

Report of dismissal, suspension and discipline regarding authorized persons

7 (1) In this section, **"authorized person"** means

(a) a person who holds a certificate of qualification issued under the *Teachers Act*, but does not include a principal,

(b) a person who holds an independent school teaching certificate issued under the *Teachers Act*, but does not include a principal, or

(c) a person who holds a letter of permission issued under the *Teachers Act*.

(2) If a principal

(a) suspends or dismisses an authorized person, or

(b) disciplines an authorized person for misconduct that involves

(i) physical harm to a student or minor,

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

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

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

(3) If an authority suspends or dismisses an authorized person or disciplines an authorized person for misconduct referred to in subsection (2) (b),

(a) the authority must without delay notify the principal of the suspension, dismissal or disciplinary action, and

(b) the principal must without delay send to the commissioner a report regarding the suspension, dismissal or disciplinary action.

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

(a) be in writing,

(b) be signed by the principal, and

(c) include reasons for the action taken by the principal or authority.

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

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

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

(8) If an authorized person resigns, the principal must
(a) report, without delay, the circumstances of the resignation to the commissioner if it is in the public interest to report the matter, and
(b) send a copy of the report to the authorized person who resigned.

(9) A principal who has made a report to the commissioner under this section in respect of an authorized person must, without delay after being requested to do so by the commissioner,
(a) provide the commissioner all of the records available to the principal that relate to the matter in respect of which the report was made, and
(b) send to the authorized person a copy of the records referred to in paragraph (a).

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

[am 2000-9-24; 2004-54-18, effective May 20, 2004; 2007-21-05, effective July 1, 2007, BC Reg. 231/07; 2007-21-05, effective July 1, 2007, BC Reg. 231/07; en 2011-12-109, effective Jan 9/12, BC Reg. 239/11]

Report of dismissal, suspension and discipline regarding principals

7.2 (1) If an authority
(a) suspends or dismisses a principal, or
(b) disciplines a principal for misconduct referred to in section 7 (2) (b), the authority must without delay send to the commissioner a report regarding the suspension, dismissal or disciplinary action.

(2) The report referred to in subsection (1) must
(a) be in writing,
(b) be signed by the chair of the authority, and
(c) include reasons for the action taken by the authority.

(3) The authority must send to the principal a copy of the report referred to in subsection (1).

(4) If an authority considers any conduct by, or the competence of, a principal to be in breach of the independent school teaching certificate standards or the certification standards, as applicable, the authority must send to the commissioner a report, in writing, regarding that conduct or competence if it is in the public interest to do so.

(5) The authority must send to the principal a copy of a report sent to the commissioner under subsection (4).

(6) If a principal resigns, the authority must
(a) report, without delay, the circumstances of the resignation to the commissioner if it is in the public interest to report the matter, and

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

(7) An authority that has made a report to the commissioner under this section in respect of a principal must, without delay after being requested to do so by the director of certification,

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

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

[2007-21-05, effective July 1, 2007, BC Reg. 231/07; en 2011-12-109, effective Jan 9/12, BC Reg. 239/11]

Commissioner may investigate

7.3 (1) If the commissioner considers that

(a) a principal has failed to report to the commissioner a matter that, in the opinion of the commissioner, should have been reported under section 7,

(b) an authority has failed to notify a principal of a matter that, in the opinion of the commissioner, should have been the subject of a notice under section 7 (3) (a),

(c) an authority has failed to report to the commissioner a matter that, in the opinion of the commissioner, should have been reported under section 7.2, or

(d) an authority has failed to submit information as required under section 80 of the *Teachers Act*,

the commissioner may authorize a person to investigate the circumstances of the failure.

(2) A person authorized under subsection (1) may

(a) enter the building of an independent school or any other building used in conjunction with the school or offices of the authority, or any part of them, for the purposes of conducting the investigation,

(b) inspect any record relating to the administration or supervision of the independent school, and

(c) interview students and teachers of the independent school and staff of the authority that operates the independent school.

(3) A person authorized under subsection (1) must submit a report to the commissioner in respect of anything resulting from carrying out the person's duties under subsection (1).

(4) After receiving a report referred to in subsection (3) regarding a principal, the commissioner

(a) may initiate an investigation under section 47 of the *Teachers Act*, and

(b) must provide the report to the inspector.

[2007-21-05, effective July 1, 2007, BC Reg. 231/07; en 2011-12-109, effective Jan 9/12, BC Reg. 239/11]

Principal

8 An authority that operates an independent school must designate a teacher to be the principal of the independent school.

Provision of online learning

8.1 (1) Subject to subsection (2) and the regulations, an authority may deliver all or part of an educational program through online learning.

(2) An authority of an independent school may deliver an educational program, or part of an educational program, through online learning to the following persons only if the authority has approval to provide the educational program under an agreement with the minister:

(a) a student who is enrolled in an educational program provided by another independent school;

(b) a student or francophone student, as defined in the *School Act*;

(c) a child who is registered under section 13 of the *School Act* with a school or francophone school, as defined in that Act, or another independent school.

(3) Subsection (2) does not apply in respect of an educational program that is

(a) offered through an independent school for which an authority holds a certificate of group 3 classification, or

(b) not intended to meet educational standards established by the minister.

[2006-21-2, effective June 30/06, BC Reg 195/06; 2020-8-4, effective July 1, 2021]

Educational resource materials

9 (1) An authority is, for an independent school in respect of which the authority holds a subsisting certificate of group classification,

(a) entitled to receive, without charge, the educational resource materials and services the minister determines, and

(b) entitled to purchase the educational resource materials the minister determines.

(2) The minister may, in determining the resource materials and services that authorities are entitled to receive or purchase under subsection (1), differentiate between authorities on one or more of the following bases:

(a) the group classification of the independent school for which an authority holds a certificate of group classification;

(b) the enrolment in that independent school;

(c) the school district within which that independent school is located.

Registration of home schooled children

10 (1) An independent school, for which an authority holds a subsisting certificate of group classification, may register a child who is being educated at home.

(2) An independent school that registers a child under this section must provide the child with access to educational services in accordance with the regulations.

(3) An authority holding a certificate of group 1 or group 2 classification for an independent school that registers a child under this section is entitled to receive a grant as determined by the minister.

Agreements with participating First Nations

10.1 (1) In this section, **"education"** has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada).

(2) An authority may enter into an agreement, with respect to matters relating to education, with

(a) a participating First Nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), or

(b) the First Nations Education Authority.

[2007-46-10, effective May 16/08 BC Reg 103/2008]

Entitlement of independent schools

11 (1) An independent school for which an authority holds a certificate of group 1, group 2 or group 4 classification may

(a) use in its publications the phrase "certified by the Province of British Columbia", and

(b) *REPEALED, BC Reg 194/07*

(c) receive provincial assessment and examination results.

(2) *REPEALED*, BC Reg 194/07

[2000-9-25, effective July 7, 2000, B.C. Reg. 243/00; 2007-22-01, effective July 1, 2007, BC Reg. 194/07]

British Columbia certificate or diploma

11.1 The minister may issue the following:

(a) a British Columbia Certificate of Graduation, as defined in the *School Act*, to a student who meets the general requirements for graduation established by order of the minister;

(b) a British Columbia Adult Graduation Diploma, as defined in the *School Act*, to a student who meets the requirements, established by the minister and the minister responsible for public post-secondary institutions, for obtaining the British Columbia Adult Graduation Diploma.

[2007-22-02, effective July 1, 2007, BC Reg. 194/07]

Reimbursement of expenses for designated educational activities

11.2 (1) The minister may reimburse a student or a child registered under section 13 of the *School Act* for expenses incurred for instruction, examination or certification with respect to an educational activity or a category of educational activities designated by the minister, in the amount established by the minister, if the student or child demonstrates a standard of achievement, satisfactory to the minister, in the designated educational activity or category of educational activities.

(2) Subsection (1) does not apply unless

(a) the student or child is of school age, and

(b) the parent or guardian of the student or child

(i) is, or was at the time of the 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.

(3) For the purposes of subsection (1), the minister may make orders establishing the amount a student or a child registered under section 13 of the *School Act* may be reimbursed, including

(a) designating an educational activity or a category of educational activities,

(b) setting the maximum amount that may be paid,

(c) establishing a limit on the number of educational activities or categories of educational activities for which a student or child may receive reimbursement, and

(d) setting different amounts and different limits for different educational activities or different categories of educational activities.

[2007-22-02, effective July 1, 2007, BC Reg. 194/07]

Grant

12 (1) The minister must pay, out of money appropriated by the Legislature for that purpose, for the school year to each authority for each independent school for which that authority holds a certificate of group 1 or group 2 classification, a grant calculated in accordance with the regulations.

(2) A grant for a school year must be paid in accordance with a schedule of payments set by the minister, with the first payment being made before February 1 in that school year and the last before December 1 in the next school year.

(3) If an authority receives a grant in respect of an independent school for which the authority holds a certificate of group 1 or group 2 classification, the authority must only use the grant to pay operating expenses of that school.

(4) A grant must not exceed the operating costs, as determined by the minister, of the independent school for the school year to which the grant applies.

(5) If the inspector is satisfied that an independent school for which the authority holds a certificate of group 1 or group 2 classification has, during the school year for which a certificate of group classification has been given, ceased to comply with this Act and the regulations or a requirement of the inspector, the inspector may order grant instalments be withheld, reduced or discontinued.

(6) If the inspector makes an order under subsection (5), the authority may appeal the order, within 60 days of the making of the order, to the minister whose decision is final.

[2004-17-1, effective September 8, 2006, B.C. Reg. 249/06]

Special purpose grants

13 (1) The minister may pay a special purpose grant to an authority for an independent school.

(2) A grant under subsection (1)
(a) must be in the amount determined by the minister, and
(b) is in addition to all other grants payable to the authority under the Act.

[2004-17-1, effective September 8, 2006, B.C. Reg. 249/06]

Minister's discretion

14 (1) The minister may, in determining the amount of the grants to be paid to an authority for an independent school under section 10 (3) or 13 (1), determine that the authority is, for the independent school, to be paid grants that differ in amount or in one or more other respects from the grants to be paid to that authority or to another authority for a different independent school.

(2) The minister may, in making the determinations referred to in subsection (1), consider any factor that the minister, in the minister's sole discretion, considers relevant, including, without limitation,
(a) the group classification of the independent school,
(b) the enrolment in the independent school,
(c) the school district within which the independent school is located, and
(d) the programs or resources available at the independent school.

Annual practice fee

14.1 (1) In this section, **"fee"** means the annual practice fee, prescribed under the *Teachers Act*, for a certificate of qualification or an independent school teaching certificate.

(2) Subject to subsection (4), an authority must deduct once a year, from the wage of a certificate holder employed with the authority, an amount that is equal to the fee.

(3) Subject to subsections (4) and (5), on or before May 15 each year, an authority must
(a) remit to the government the fee in respect of each certificate holder employed by the authority on April 30, and
(b) provide the minister with the name of each certificate holder for whom the authority has remitted the fee to the government.

(4) The authority must not
(a) deduct the fee from a certificate holder's wage, and
(b) remit the fee in respect of the certificate holder
if another authority or board remits the fee to the government for that certificate holder.

(5) The minister, by order, may vary the dates set in subsection (3).

[am 2011-12-110, effective Jan 9/12, BC Reg. 239/2011]

Injunctive relief

15 (1) The inspector may apply to the Supreme Court, by way of a petition proceeding or, if Rule 17-1 of the Supreme Court Civil Rules applies, a requisition proceeding, for

(a) a declaration that a person or an authority is contravening this Act, or

(b) an interim or permanent injunction restraining the person or authority from contravening this Act.

(2) The Supreme Court may issue the declaration or injunction applied for under subsection (1) and may make a further order requiring the person or authority to publish particulars of any judgment, declaration, order or injunction issued against the person or authority under subsection (1) (a) or (b) in a manner that will assure prompt and reasonable communication to the public.

[2010-11-55, July 1, 2010]

Proof of interim injunction

16 In any application under section 15 (1) (b) for an interim injunction,

(a) the court must give greater weight, importance and the balance of convenience to the enforcement of this Act than to the continued operation of the school,

(b) the inspector is not to be required to post a bond or give an undertaking as to damages, and

(c) the inspector need not establish that irreparable harm will be done if the interim injunction is not issued.

No staying of certain orders

17 Despite any other Act, an appeal to the Court of Appeal does not operate as a stay of an interim or permanent order or injunction referred to in section 15 (1) (b).

Power to make regulations

18 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) respecting the classification of students for the purposes of section 1.1, including

(i) eligibility for inclusion within a class, determined by calculating the hours of instruction received within a period of time, the number of courses in which the student is enrolled within a period of time, or by other means,

(ii) eligibility for inclusion within a class according to grade level or method of instruction, and

(iii) reporting on student classification;

(b) governing eligibility for and the calculation of grants under section 12;

(c) governing the issue, expiry, renewal, cancellation, suspension and reinstatement of a certificate of group classification;

(d) establishing requirements for authorities that hold a certificate of group classification;
(e) governing bonding requirements for independent schools;
(f) respecting online learning independent schools, online learning and educational programs delivered through online learning;
(g) amending the Schedule, other than section 1 of the Schedule.

(3) Regulations under this section may be specific or general in their application and may make different provision
(a) for different group classifications of independent schools, and
(b) in the case of regulations made under subsection (2) (b) or (e),
(i) for different authorities or different independent schools within a single group classification,
(ii) for online learning independent schools and other independent schools, and
(iii) for different classes of students under section 1.1.

[2006-21-3, effective June 30/06, BC Reg 195/06; 2020-8-5, effective July 1, 2021]

Offence

19 (1) A person must not provide or purport to provide schooling to persons of school age other than in
(a) an independent school for which an authority holds a subsisting certificate of group classification,
(b) a public school,
(b.1) a francophone school operated by a francophone education authority as defined in the *School Act*,
(c) a Provincial school,
(d) a school operated by
(i) the government of Canada,
(ii) a first nation, as defined in the *School Act*, or
(iii) 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
(iv) a school operated by a treaty first nation under its own laws,
(e) a university or institution as defined in the *College and Institute Act,* or
(f) a school that
(i) solely offers religious instruction,
(ii) solely offers language instruction,
(iii) solely offers a program of social or cultural activities,
(iv) solely offers a program of recreational or athletic activities, or
(v) is designated by the inspector.

(2) Subsection (1) does not prevent a person from providing schooling to fewer than 10 children.

(3) A person must not operate or purport to operate an independent school unless the person holds a certificate of group classification under this Act.

(4) An authority must not assume, display or use the phrase "certified by the Province of British Columbia" with respect to an independent school for which a certificate of group 3 classification has been issued.

(5) A person who contravenes this section commits an offence.

[1997-52-41 effective Aug. 1/97, BC Reg. 287/97; 2007-46-11, effective May 16/08 BC Reg 103/2008; 2007-36-101, effective April 3, 2009, BC Reg 55/2009]

SCHEDULE

(Note: Section 4)

CLASSIFICATION OF INDEPENDENT SCHOOLS

Basic requirements for certificates for groups 1 to 4 classification

1 Before issuing or renewing a certificate of group 1, group 2, group 3 or group 4 classification to an authority the inspector must be satisfied that

(a) no program is in existence or is proposed at the independent school that would, in theory or in practice, promote or foster doctrines of
  (i) racial or ethnic superiority or persecution,
  (ii) religious intolerance or persecution,
  (iii) social change through violent action, or
  (iv) sedition,

(b) the independent school facilities comply with the enactments of British Columbia and the municipality or regional district in which the facilities are located, and

(c) the authority complies with this Act and the regulations.

Additional requirements for certificates for groups 1 and 2 classification

2 (1) In addition to the section 1 requirements, the inspector must be satisfied that an independent school for which an authority is to be issued or have renewed a certificate of group 1 or group 2 classification meets the following requirements:

(a) the independent school is operated by a non-profit authority;

(b) at least 1/2 of the students enrolled in the independent school are eligible to be included within a classification carried out in accordance with section 1.1 for the purposes of section 4 of this Act;

(c) the following applies to the independent school:
  (i) it was operated by the authority applying for the certificate, or the renewal of the certificate, for the school year that immediately precedes the date of application,
  (ii) it was acquired, in all or part, during the period from September to June of the current school year from another authority that maintained and operated it in the current school year, it has enrolled at least 40% of the students who were enrolled in it at the time of the acquisition from the other authority and there is a sufficient continuity of educational philosophy, curriculum and delivery of educational philosophy and curriculum to prevent a disruption of the educational program for its students, or
  (iii) it was acquired, in all or part, during the period from July to August of the current school year from another authority that maintained and operated it in the school year that immediately preceded the current school year, it has enrolled at least 40% of the students who were enrolled in it in the school year immediately preceding the current school year and there is a sufficient continuity of educational philosophy, curriculum and delivery of

educational philosophy and curriculum to prevent a disruption of the educational program for its students;

(d) the independent school facilities are adequate for instructional purposes;

(d.1)*REPEALED, BC Reg. 206/14, effective July 1, 2016;*

(d.2)*REPEALED, BC Reg. 206/14, effective July 1, 2016;*

(e) for the 2016/2017 school year and subsequent school years, the enrolment in the independent school

(i) is not fewer than 10 school age students on September 30 of each school year, or

(ii) if fewer than 10 school age students on September 30 of any school year, was not fewer than 10 school age students on September 30 of the immediately preceding school year.

(2) Spent.

[am. effective Mar. 9/01, BC Reg. 49/01; 2006-21-4, effective June 30/06, BC Reg. 195/06; am. effective Nov 24/14, BC Reg. 206/14; am. effective July 1/16, BC Reg. 206/14]

Additional requirements for certificates for group 1 classification

3 (1) In addition to the requirements under sections 1 and 2, the inspector must be satisfied that an independent school for which an authority is to be issued or have renewed a certificate of group 1 classification meets the following requirements:

(a) the per FTE student cost as determined by the minister for the independent school for the previous school year is the same as, or less than, the per FTE student grant of the public school district in which the independent school is located, as determined by the minister for the previous school year;

(b) the independent school will establish an educational program for the current school year that complies with the instructional time and program requirements determined by the minister;

(c) the independent school has established an evaluation program that

(i) demonstrates student progress in achieving intellectual development, human and social development and career development,

(ii) includes provincial assessment and examination programs, and

(iii)satisfies the inspector;

(d) the teachers of the independent school are

(i) certified teachers, or

(ii) if no certified teachers are available to teach a particular class or classes, teachers who

(A) have qualifications established by the authority, and

(B) teach the particular class or classes for 20 or fewer consecutive teaching days.

(2) An independent school that is issued a certificate of group 1 classification must

(a) undergo an initial external evaluation,

(b) with respect to its educational program that is not delivered through online learning,

(i) undergo an external evaluation, after the initial external evaluation, at least once every 6 years, and

(ii) be inspected at least once every 2 years, and

(c) with respect to its educational program that is delivered through online learning.

(i) undergo an external evaluation, after the initial external evaluation, at least once every 2 years, and

(ii) be inspected at least once every year.

[am. B.C. Reg. 178/01, effective July 27/01; am B.C. Reg. 228/06, effective July 20/06; 2020-8-6, effective July 1, 2021]

Per FTE student cost requirement adjustment

3.1 (1) An independent school is eligible for the purposes of this section if

(a) it is one for which an authority has a certificate of group 1 classification, and

(b) it has at least three previous years of operation.

(2) If an eligible independent school fails to meet the requirements under section 3 (1) (a) with respect to a school year, the school may apply to the inspector for an adjustment of that requirement in respect of that year.

(3) The application must be made no later than November 1 of the school year and must be accompanied by any additional information the inspector may require.

(4) If the inspector is satisfied that the school's failure is due to unforeseen circumstances that are beyond the school's control, the inspector may, in applying section 3 (1) (a) for the school year in respect of the school,

(a) take into account the average per FTE student cost as determined by the minister for the school for the three previous school years instead of only the previous school year, and

(b) take into account the average per FTE student grant, as determined by the minister, of the public school district in which the independent school is located for the three previous school years instead of only the previous school year.

[en. B.C. Reg. 436/03, effective Nov. 27/03; am. B.C. Reg. 435/03, effective Nov. 27/03; am B.C. Reg.228/06, effective July 20/06]

Additional requirements for certificates for group 2 classification

4 The inspector must be satisfied that an independent school for which an authority is to be issued or have renewed a certificate of group 2 classification meets all the requirements applicable for a certificate of group 1 classification other than the requirement under section 3 (1) (a) or under section 3.1 if adjusted under that section.

[am. B.C. Reg. 436/03, effective Nov. 27/03]

Accelerated process for certificates for group 2 classification

4.1 (1) Despite section 2 (c) (i), the inspector may issue a certificate for group 2 classification to an authority of an independent school that

(a) has operated for less than one school year, and

(b) has obtained a certificate for group 3 classification in respect of the school.

(2) Before issuing a certificate mentioned in subsection (1), the inspector must be satisfied that the independent school meets

(a) all the requirements for a certificate of group 2 classification as set out in sections 1 and 2 except the requirement under section 2 (c) (i), and

(b) all the requirements applicable for a certificate of group 1 classification as set out in section 3 except the requirement under section 3 (1) (a).

[en B.C. Reg. 228/06, effective July 20/06]

Additional requirements for certificates for group 3 classification

5 In addition to the requirements in section 1, the inspector must be satisfied that an independent school for which an authority is to be issued or have renewed a certificate of group 3 classification meets the following requirements:

(a) at least 1/2 of the students enrolled in the independent school are eligible to be included within a classification carried out in accordance with section 1.1 for the purposes of section 4 of this Act;

(b) the independent school will undergo an evaluation satisfactory to the inspector.

[effective June 30/06, BC Reg 195/06]

Additional requirements for certificates for group 4 classification

6 (1) In addition to the requirements in section 1, the inspector must be satisfied that an independent school for which an authority is to be issued or have renewed a certificate of group 4 classification meets the following requirements:

(a) the independent school will establish an educational program for the current school year that complies with the instructional time and program requirements determined by the minister;

(b) the independent school has established an evaluation program that

(i) demonstrates student progress in achieving intellectual development, human and social development and career development,

(ii) includes provincial assessment and examination programs, and

(iii)satisfies the inspector;

(c) the independent school complies with prescribed bonding requirements;

(d) the teachers of the independent school are

(i) certified teachers, or

(ii) if no certified teachers are available to teach a particular class or classes, teachers who

(A) have qualifications established by the authority, and

(B) teach the particular class or classes for 20 or fewer consecutive teaching days;

(e) *REPEALED effective July 26/01*

(f) the independent school facilities are adequate for instructional purposes;

(g) the independent school's educational program, fees, accommodation and policy pertaining to the refund of school fees or other costs must be consistent with any promotional or other informational material published or supplied by the authority.

[am BC Reg 26/13, effective Jan 30/13]

(2) An independent school that is issued a certificate of group 4 classification must

(a) undergo an initial external evaluation;

(b) undergo an external evaluation after that at least once every 2 years; and

(c) be inspected at least once every year.

[am. B.C. Reg. 178/01, effective July 27/01; am. B.C. Reg. 228/06, effective July 20/06]

Requirements for interim certificates for group 3 classification

7 Before issuing or renewing an interim certificate of group 3 classification, the inspector must be satisfied

(a) that the independent school facilities comply with or, if the independent school facilities have not been completed by the date of the application for the interim certificate, will on the completion of those facilities comply with the enactments of British Columbia, the municipality and the regional district in which the facilities are or will be located, and

(b) by a letter of intention provided by the applicant authority to the inspector and containing the information required by the inspector, that the independent school has been or, if the independent school has not begun to operate by the date of the application for the interim certificate, will on the commencement of operations be established in keeping with the requirements under sections 1 and 5 for a certificate of group 3 classification.

Requirements for interim certificates for group 4 classification

8 Before issuing or renewing an interim certificate of group 4 classification, the inspector must be satisfied

(a) that the independent school facilities comply with or, if the independent school facilities have not been completed by the date of the application for the interim certificate, will on the completion of those facilities comply with the enactments of British Columbia, the municipality and the regional district in which the facilities are or will be located,

(b) that the independent school facilities are adequate or, if the independent school facilities have not been completed by the date of the application for the interim certificate, will on the completion of those facilities be adequate for instructional purposes,

(c) that the authority has complied with prescribed bonding requirements for the independent school, and

(d) by a letter of undertaking provided by the applicant authority to the inspector and containing the information required by the inspector, that the independent school has been established or, if the independent school has not begun to operate by the date of the application for the interim certificate, will on the commencement of operations be established in keeping with the requirements under sections 1 and 6 for a certificate of group 4 classification.