

1990 BILL 48

Second Session, 22nd Legislature, 39 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 48

SCHOOL AMENDMENT ACT, 1990

THE MINISTER OF EDUCATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 48

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1990

SCHOOL AMENDMENT ACT, 1990

(Assented to _____, 1990)

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

1 The School Act is amended by this Act.

2 Section 1(1)(h)(ii) is repealed and the following is substituted:

(ii) 16 years of age or older and

(A) who is living independently,

(B) who is a party to an agreement under section 7(2) of the Child Welfare Act, or

(C) on behalf of whom a social allowance is issued under section 9(1) of the Social Development Act;

3 Section 3(1) is amended by striking out "access in that year" and substituting "access in that school year".

Explanatory Notes

1 This Bill will amend chapter S-3.1 of the Statutes of Alberta, 1988.

2 Section 1(1)(h) presently reads:

1(1) In this Act,

(h) "independent student" means a student who is

(i) 18 years of age or older, or

(ii) 16 or 17 years of age or older and

(A) living independently, or

(B) living pursuant to a support agreement under the Child Welfare Act;

3 Section 3(1) presently reads:

3(1) Every individual

(a) who at September 1 in a year is 6 years of age or older and younger than 19 years of age, and

(b) who is

(i) a Canadian citizen,

(ii) lawfully admitted to Canada for permanent residence,

4 *Section 8 is amended by adding the following after subsection (2):*

(2.1) A board shall make all reasonable efforts to ensure that a student who is a resident student of the board or who is enrolled in a school operated by the board attends school.

5 *Section 10(2) is amended by adding “and the person responsible for the operation of that private school has made all reasonable efforts to ensure that the student attends school,” before “the person responsible”.*

6 *Section 17(3)(b) is amended by adding “under section 45” after “board”.*

7 *Section 18(2)(b) is repealed and the following is substituted:*

(b) if a student is 16 years of age or older, the student, his parent or both of them, or

(iii) a child of a Canadian citizen, or

(iv) a child of an individual who is lawfully admitted to Canada for permanent or temporary residence

is entitled to have access in that year to an education program in accordance with this Act.

4 Section 8(2) presently reads:

(2) A resident student of a board, unless otherwise permitted under this Act or by the board, shall attend the school that the board directs the student to attend.

5 Section 10(2) presently reads:

(2) Where a student who is required to attend a school under section 8

(a) is enrolled in a private school, and

(b) does not regularly attend that private school,

the person responsible for the operation of that private school shall refer the matter to the Attendance Board.

6 Section 17(3) presently reads:

(3) A school council may

(a) advise the principal of the school and the board respecting any matter relating to the school, and

(b) perform any duty or function delegated to it by the board in accordance with the delegation.

7 Section 18(2) presently reads:

(2) Subject to subsection (3),

(a) if a student is younger than 16 years of age, his parent,

(b) if a student is 16 years of age or older, his parent and the student, or

(c) if an individual has access to the student under an order made under the Divorce Act (Canada), that individual

may review the student record maintained in respect of that student.

8 Section 19 is amended

(a) by repealing subsection (2) and substituting the following:

(2) A teacher may suspend a student from one class period.

(2.1) A principal may suspend a student from

- (a) one or more class periods,
- (b) one or more courses or school programs,
- (c) school, or
- (d) riding in a school bus.

(2.2) A principal may reinstate a student suspended by him or by a teacher.

(b) by repealing subsection (8) and substituting the following:

(8) If a student is expelled, the board shall notify, in writing, the parent and, in the case of a student who is 16 years of age or older, the student of their right to request that the Minister review the matter.

9 Section 24 is amended

(a) in subsection (2)

(i) by striking out “Notwithstanding section 32, a person” and substituting “A person”;

(ii) by adding “referred to in subsection (1)(a) who is” after “parent of a child”;

(b) by adding the following after subsection (2):

(2.1) If a child referred to in subsection (1)(a) attends a program under this section, the child is not, by reason of attending that program,

- (a) a resident student of the board, or
- (b) entitled to any of the rights or benefits given to a student under this Act.

8 Section 19(2) and (8) presently read:

(2) Subject to the rules of a board,

(a) a teacher may suspend a student from a class period,

(b) a principal may suspend a student from

(i) 1 or more class periods,

(ii) 1 or more courses or school programs,

(iii) school,

(iv) riding on a school bus, or

(v) participating in an activity sponsored or approved by the board,

and

(c) a principal may reinstate a student suspended by him or by a teacher.

(8) If a student is expelled, the board shall notify, in writing, the parent and, in the case of a student who is 16 years of age or older, the student of their right to have the matter reviewed by the Minister.

9 Section 24(1) and (2) presently read:

24(1) A board or, with the approval of the Minister, a person may provide an early childhood services program to

(a) a child who, as of September 1, is younger than 6 years of age, if the parent of the child agrees, or

(b) a student, if the parent of the student and the board of which the student is a resident student are of the opinion that the program will benefit the student.

(2) Notwithstanding section 32, a person or board that provides early childhood services may charge the parent of a child attending the program fees in respect of the program.

10 *Section 25 is amended*

(a) *by repealing subsection (1) and substituting the following:*

25(1) The Minister may do the following:

- (a) prescribe courses of study or education programs, including the amount of instruction time;
- (b) authorize courses of study, education programs or instructional materials for use in schools;
- (c) prescribe the minimum total hours of instruction a board shall make available to a student in a school year;
- (d) approve any course, education program or instructional material that may be submitted to the Minister by a board or another operator of a school for use in a school;
- (e) subject to the right of a board to provide religious instruction, by order prohibit the use of a course, an education program or instructional material in schools;
- (f) by order adopt or approve goals and standards applicable to the provision of education in Alberta.

(b) *by repealing subsection (3)(b) and substituting the following:*

(b) respecting the granting of certificates and diplomas;

(c) *in subsection (3)(c) by striking out “students” and substituting “individuals”.*

11 *Section 26 is amended*

(a) *in subsection (1) by striking out “school buildings” and substituting “buildings used as a school”;*

(b) *in subsection (2) by adding “or a person operating a school” after “jurisdiction”;*

(c) *by repealing subsection (3) and substituting the following:*

(3) A person authorized to make an inspection and evaluation under subsection (1) may enter a building used as a school, other than a dwelling house, or any part of that building for the purpose of conducting the inspection and evaluation.

10 Section 25 presently reads:

25(1) The Minister may by order do the following:

(a) prescribe courses of study, including the amount of instruction time, and authorize education programs and instructional materials for use in schools;

(b) approve any course, education program or instructional material that is submitted to the Minister by a board or another operator of a school for use in schools;

(c) subject to the rights of a board to provide religious instruction, prohibit the use of a course, education program or instructional material in schools;

(d) adopt or approve goals and standards applicable to the provision of education in Alberta.

(2) The Regulations Act does not apply to an order made under subsection (1).

(3) The Minister may make regulations

(a) governing the evaluation and inspection of teachers;

(b) governing the granting of credits, certificates and diplomas;

(c) respecting the examination and evaluation of students by the Minister, including appeals, fees and the payment of remuneration.

11 Section 26 presently reads:

26(1) The Minister may authorize a person to inspect and evaluate teachers, schools, the operations of school districts and divisions, education programs, instructional materials or school buildings.

(2) A person authorized to make an inspection and evaluation under subsection (1) may include in his inspection an examination of the achievement of students and of the policies, procedures, books and records of a school jurisdiction.

(3) A person authorized to make an inspection and evaluation under subsection (1) may enter a school building and any part of a school building for the purpose of conducting the inspection and evaluation.

12 *Section 27 is amended*

(a) *by repealing subsection (2) and substituting the following:*

(2) For the purposes of this section and section 34 but subject to subsection (5), a student who is in the care of a foster parent under the *Child Welfare Act* is deemed to be a resident student of the board of the district or division in which the foster parent resides.

(b) *by repealing subsection (5) and substituting the following:*

(5) A director under the *Child Welfare Act* may deem a student to be a resident student of a board that represents the faith of the student if

(a) the student is in the care of a foster parent under the *Child Welfare Act*,

(b) the faith of the student, whether Protestant or Roman Catholic, differs from the faith of the foster parent, and

(c) the foster parent resides in an area served by both a public and a separate school district or division.

(c) *by adding the following after subsection (5):*

(5.1) If a student is

(a) under 16 years of age,

(b) not the subject of an order or agreement under the *Child Welfare Act*, and

(c) the subject of an allowance under section 9(1) of the *Social Development Act*,

the student is a resident student of the board of the district or division in which the student resides.

(d) *in subsection (6)(c)(ii) by adding “or a group home prescribed by the Minister as an institution or a group home to which this clause applies” after “an institution”;*

(e) *in subsection (7)*

(i) *in clause (a) by adding “in writing” after “choose”;*

12 Section 27(2), (5), (6), (7) and (9) presently read:

(2) For the purposes of this section and section 34, a student who is the subject of a temporary or permanent guardianship order or in the custody of a director under the Child Welfare Act is deemed to be a resident student of the board of the district or division in which any foster parent in whose care the student is placed resides.

(5) A student who is not the subject of a guardianship order under the Child Welfare Act but who is placed in the care of a foster parent pursuant to that Act is a resident student of a separate school board if

(a) the faith of the student, whether Protestant or Roman Catholic, differs from the faith of the foster parent,

(b) the foster parent resides in an area served by the separate school district, and

(c) a director under the Child Welfare Act determines that the student is of the same faith as those who established the separate school district.

(6) The following students are resident students of the Government:

(a) a student who resides in unorganized territory and who is not an Indian residing on a reserve pursuant to the Indian Act (Canada);

(b) a student in custody under the Corrections Act, the Penitentiary Act (Canada), the Young Offenders Act (Canada) or the Young Offenders Act;

(c) a student

(i) who

(A) is in the custody of a director, or

(B) has a guardian appointed,

under the Child Welfare Act, and

(ii) who resides in an institution that is operated or approved by the Government;

(d) a student who is under long term medical care in an institution that is under the control, direction or administration of the Government.

(ii) by striking out “and” at the end of clause (b), by adding “, and” at the end of clause (c) and by adding the following after clause (c):

(d) either board may require that the choice of the parents under clause (a) shall remain in effect during the school year in respect of which it is made.

(f) in subsection (9)

(i) by striking out “residence of a student changes” and substituting “residence of the parent of a student changes”;

(ii) by striking out “of that student”.

13 Section 28(7) is repealed.

14 Section 30 is amended by adding the following after subsection (8):

(9) A parent or a board may request in writing that the Minister review a decision made by a Special Needs Tribunal under this section.

15 Section 32 is amended

(a) in subsection (2) by striking out “any student” and substituting “an individual”;

(7) If both parents have care and custody of a student and each parent is a resident of a different school district or division, as the case may be,

(a) the parents shall choose one of those school districts or divisions,

(b) the student is a resident student of the board of the chosen district or division, and

(c) the student shall attend the school he is directed to attend by the board of the chosen district or division.

(9) Notwithstanding section 236(c), if the residence of a student changes after the commencement of a school year, the parent of that student shall designate the student to be a resident student of one of the following for the balance of that school year:

(a) the board of the district or division in which the student resides after the change,

(b) the board of the district or division in which the student resided immediately before the change, or

(c) the Government if the student

(i) resides in unorganized territory after the change, or

(ii) resided in unorganized territory immediately before the change.

13 Section 28(7) presently reads:

(7) Subject to a decision of the Minister under section 105, a board is not required to provide any funds for the purpose of placing a student in a private school unless the board has given its approval to the student's being placed in the private school prior to the student's being registered in that private school.

14 Section 30(8) presently reads:

(8) For the purposes of carrying out its powers under this section, a Special Needs Tribunal and each of its members have the powers of a commissioner under the Public Inquiries Act.

15 Section 32(2) and (3) presently read:

(2) A board may charge tuition fees in respect of any student who attends a school operated by the board and who is not a resident student of the board.

(b) in subsection (3) by striking out “which the student” and substituting “which the individual”.

16 Section 33(2) is amended by adding “or other person” before “shall permit”.

17 Section 34(3) is repealed and the following is substituted:

(3) A board may charge the parent of a student receiving transportation provided by the board any fee determined by the board whether or not the transportation is provided under subsection (1).

18 Section 40(1) is amended

(a) by repealing clause (d);

(b) by repealing clause (f) and substituting the following:

(f) subject to section 25, the number of hours of instruction.

19 Section 44 is amended

(a) by repealing subsection (2)(a) and substituting the following:

(a) subject to section 25, develop, acquire or offer courses or programs;

(3) A tuition fee charged under subsection (2) shall not exceed the amount of the net average local cost per student of maintaining the education program in which the student is enrolled.

16 Section 33(2) presently reads:

(2) Where a teacher or other person providing religious or patriotic instruction receives a written request signed by a parent of a student that the student be excluded from religious or patriotic instruction or exercises, or both, the teacher shall permit the student

(a) to leave the classroom or place where the instruction or exercises are taking place for the duration of the instruction or exercises, or

(b) to remain in the classroom or place without taking part in the instruction or exercises.

17 Section 34(3) presently reads:

(3) A board may charge the parent of a student receiving transportation provided pursuant to subsection (1) any fee as determined by the board.

18 Section 40(1) presently reads:

40(1) A board shall specify the following:

(a) the school opening date;

(b) the number and the days of school operation;

(c) the length of the school day;

(d) the number of minutes of school operation in a school day;

(e) the number and length of recesses;

(f) subject to section 25, the number of minutes of classroom instruction.

19 Section 44(2) and (3) presently read:

(2) A board may

(a) subject to section 25, develop and offer courses, programs or instructional materials for use in programs or in schools;

(a.1) subject to section 25, develop or acquire instructional materials for use in programs or in schools;

(b) *in subsection (3) by adding the following after clause (a):*

(a.1) respecting activities sponsored or approved by the board;

20 *Section 45 is amended*

(a) *in subsection (1)(h) by adding “subject to section 86,” before “the power”;*

- (b) subject to section 17, provide for parental and community involvement in schools;*
 - (c) invest only in investments authorized by section 5 of the Trustee Act or as otherwise permitted by the Minister;*
 - (d) provide for the payment of travelling and other expenses and honoraria to*
 - (i) trustees, and*
 - (ii) persons appointed to committees of the board;*
 - (e) make payments, other than loans or grants, to another board;*
 - (f) make grants or payments, other than loans, to an association of school trustees or to a person or organization engaged in educational activities;*
 - (g) at its own expense or otherwise, arrange, undertake or sponsor for its students educational, cultural or recreational trips inside or outside its district or division;*
 - (h) establish committees and specify the powers and duties of the committees;*
 - (i) charge fees with respect to instructional supplies or materials;*
 - (j) make any banking arrangements necessary for the carrying out of its duties and powers.*
- (3) A board may make rules**
- (a) respecting the suspension and expulsion of students;*
 - (b) respecting the attendance of students at schools;*
 - (c) respecting the establishment, administration, management and operation of*
 - (i) schools operated by the board, or*
 - (ii) school buses used for the purposes of the board;*
 - (d) respecting any other matter under the jurisdiction of the board.*

20 Section 45 presently reads:

45(1) The board may authorize by resolution

(b) by repealing subsection (2).

21 The following is added after section 60:

60.1 A board shall provide the Minister with any information the Minister requests in writing.

22 Section 61(a) is repealed.

- (a) *any of its employees,*
- (b) *a committee of the board or that is established by the board,*
- (c) *a school council, or*
- (d) *a joint committee established under section 47,*

to do any act or thing or exercise any power that the board may or is required to do or exercise subject to the directions and limitations set out in the resolution, except

- (e) *the power to make a by-law under this Act,*
- (f) *the power to close a school or school building under section 42,*
- (g) *the power to requisition from a municipality,*
- (h) *the power to suspend the services of a teacher,*
- (i) *the power to terminate the services of a teacher, and*
- (j) *the power to hold a hearing under section 85.*

(2) Notwithstanding subsection (1)(h), a Superintendent may suspend the services of a teacher when the Superintendent is of the opinion that the welfare of the students is threatened by the presence of the teacher if the board by resolution authorizes the Superintendent to do so.

21 Requests to provide information.

22 Section 61 presently reads:

61 The Minister may make regulations

- (a) *respecting the provision of information to the Minister by a board, a trustee or an employee of a board;*
- (b) *governing the requirement of boards to*
 - (i) *acquire insurance, or*
 - (ii) *take part in schemes or arrangements to protect the board and its teachers and other employees with respect to loss or legal liability.*

23 Section 68(c) is amended by adding “of the district or division in respect of which the person was elected” after “elector”.

24 Section 77(1) is repealed and the following is substituted:

77(1) Subject to section 75, a board may appoint any person or designate a teacher to an administrative, supervisory or consultative position.

25 Section 78(3)(a)(i) is amended by striking out “Labour Relations Act” and substituting “Labour Relations Code”.

23 Section 68 presently reads:

68 If the person does not resign as required under section 67,

(a) the board may by resolution declare that person to be disqualified from remaining as a trustee and the seat on the board to be vacant,

(b) the board may apply by originating notice to the Court of Queen's Bench for

(i) an order determining whether or not the person is qualified to remain as a trustee, or

(ii) an order declaring the person to be disqualified from remaining as a trustee and the seat on the board to be vacant,

or

(c) an elector who

(i) files an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a trustee of the board, and

(ii) pays into court the sum of \$250 as security for costs,

may apply by originating notice to the Court of Queen's Bench for an order declaring the person to be disqualified from remaining as a trustee and the seat on the board to be vacant.

24 Section 77(1) presently reads:

77(1) A board may appoint or designate any person to an administrative, supervisory or consultative position.

25 Section 78(3) presently reads:

(3) Subject to subsection (2) and notwithstanding any other agreement to the contrary, the terms and conditions of a contract of employment between a board and a teacher shall comprise the following:

(a) except in the case of a teacher excluded under section 77(2), the terms and conditions

(i) negotiated under the Labour Relations Act, and

(ii) agreed to between the board and an organization representing teachers;

26 *Section 86 is amended*

(a) by adding the following after subsection (1):

(1.1) If a Superintendent is authorized in writing to do so by the board, the Superintendent may suspend a teacher from the performance of his duties without prior notice if the Superintendent is of the opinion that the welfare of the students is threatened by the presence of the teacher.

(1.2) The Superintendent shall advise the board forthwith of a suspension under subsection (1.1).

(1.3) The Superintendent shall advise the teacher forthwith in writing of the reasons for the suspension of the teacher.

(1.4) A suspension by a Superintendent under subsection (1.1) is deemed to be a suspension by the board under subsection (1) to which subsection (2)(a) does not apply.

(b) by adding the following after subsection (3):

(3.1) A board may reinstate a teacher who is suspended under subsection (1) or (1.1) notwithstanding an appeal of the suspension, and on reinstatement the teacher shall return to the performance of his duties.

(3.2) Reinstatement under subsection (3.1) does not affect an appeal of the suspension to the Board of Reference under section 114 or in the absence of an appeal the power of the Board to investigate or terminate the contract of employment of the teacher in accordance with subsection (5).

(c) in subsection (5) by adding “or terminate the contract of employment of the teacher in accordance with section 88” after “reinstate the teacher”.

27 *Section 88 is amended*

(a) by repealing subsection (1) and substituting the following:

88(1) Whether or not the board has suspended a teacher under section 86 and whether or not the suspension, if any, has been appealed to the Board of Reference, a board may terminate

(b) this section and sections 77 to 80 and 82 to 91;

(c) the terms and conditions agreed to between the board and the teacher.

26 Section 86(1), (3) and (5) presently read:

86(1) When a board has reasonable grounds for believing that a teacher has been guilty of gross misconduct, neglecting his duty or refusing or neglecting to obey a lawful order of the board, the board may suspend the teacher from the performance of his duties.

(3) If the Board of Reference under section 120 authorizes the board to terminate the contract of employment of a teacher, the board may terminate that contract and on so doing the board shall be deemed to have acted reasonably.

(5) If the teacher does not appeal the suspension to the Board of Reference, the board may make an investigation of the circumstances and may reinstate the teacher.

27 Section 88 presently reads:

88(1) A board may terminate

(a) a contract of employment with a teacher, or

(b) a designation of a teacher made pursuant to section 14, 76 or 77,

(a) a contract of employment with a teacher, or

(b) a designation of a teacher made pursuant to section 14, 76 or 77,

after giving the teacher written notice of termination not less than 30 days prior to the effective date of termination.

(b) in subsection (4) by adding “of employment” after “contract”;

(c) by repealing subsection (5) and substituting the following:

(5) A notice of termination of or the termination of a designation does not terminate a contract of employment.

(d) in subsection (6) by adding “of employment” after “contract”;

(e) by adding the following after subsection (6):

(7) If a teacher is served with notice of termination under subsection (1) and the teacher has been suspended under section 86 before the notice is served, an appeal, if any, to the Board of Reference in respect of the suspension shall not be proceeded with but is merged with the appeal, if any, to the Board of Reference in respect of the termination under this section.

28 Section 103 is amended by adding the following after subsection (2):

(2.1) For the purposes of this Act, a decision of an employee authorized by a board under section 45(1) to make the decision is deemed to be a decision of the board.

(2.2) A person who may review a student record under section 18 may appeal to a board a decision of an employee of the board respecting access to or the accuracy or completeness of the student record within a reasonable time from the date that the parent or student was informed of the decision.

29 Section 104 is amended

(a) by repealing subsection (1) and substituting the following:

104(1) If a board makes a decision on an appeal to it or otherwise with respect to

after giving the teacher written notice of the termination not less than 30 days prior to the effective date of the termination.

(2) In terminating a contract of employment or a designation, the board shall act reasonably.

(3) A notice of termination of a contract of employment or a designation shall specify the reasons for the termination.

(4) Where a teacher has been served with a notice of termination of a contract or a designation, the board may suspend the teacher from the performance of his duties in accordance with the notice.

(5) A notice of termination of a designation or the termination of the designation does not terminate a contract of employment.

(6) A teacher who has been suspended under this section shall be paid his salary until the effective date of the termination of the teacher's contract or the designation.

28 Section 103(2) presently reads:

(2) Where a decision of an employee of a board significantly affects the education of a student,

(a) the parent of the student, and

(b) in the case of a student who is 16 years of age or older, the student,

or either of them may within a reasonable time from the date that the parent or student was informed of the decision appeal that decision to the board.

29 Section 104 presently reads:

104(1) A person who may appeal a decision under section 103 may request in writing that the Minister review the decision of the board under section 103 respecting

(a) the placement of a student in a special education program,

- (a) the placement of a student in a special education program,
- (b) a matter referred to in section 5,
- (c) a home education program,
- (d) the expulsion of a student, or
- (e) the amount and payment of fees or costs,

the parent of a student affected by the decision or the student if he is 16 years of age or older may request in writing that the Minister review the decision of the board.

(b) in subsection (2)(a) by adding “to another board” after “board”;

(c) by repealing subsection (3) and substituting the following:

(3) A person who may review a student record under section 18 may request in writing that the Minister review a decision of the board, whether made on an appeal to it or otherwise, respecting access to or the accuracy or completeness of the student record.

30 Section 105(1) is repealed and the following is substituted:

105(1) The Minister may review a matter as requested in accordance with this Act in any manner he considers appropriate in the circumstances.

31 Sections 106 and 107 are repealed.

- (b) *a matter referred to in section 5,*
- (c) *a home education program,*
- (d) *the expulsion of a student,*
- (e) *access to and the accuracy or completeness of the student record, or*
- (f) *the amount and payment of fees and costs.*

(2) *Where a dispute arises*

- (a) *as to the amount of fees that are payable by a board under Part 3, or*
- (b) *as to which board is responsible for a student,*

a board or other person that is a party to the dispute may request in writing that the Minister review the matter.

(3) *A parent or a board may request in writing that the Minister review a decision of a Special Needs Tribunal made under section 30.*

30 Section 105(1) presently reads:

105(1) On reviewing a matter as requested under section 104, the Minister may

- (a) *investigate the matter,*
- (b) *advise the parties with respect to the dispute, and*
- (c) *through mediation between the parties to the dispute attempt to settle the matter.*

31 Sections 106 and 107 presently read:

106 The Minister may appoint a person, committee or tribunal to carry out, on behalf of the Minister, the Minister's functions under section 105 subject to the terms and conditions prescribed by the Minister.

107 The Minister may appoint a person, committee or tribunal to assist the Minister in carrying out the Minister's functions under section 105.

32 *Section 108 is repealed and the following is substituted:*

108(1) An Attendance Board may hear a matter referred to it pursuant to section 10 respecting the failure of a student to attend school as required under this Act.

(2) Before referring a matter respecting the attendance of a student to the Attendance Board, a board shall ensure

(a) that the student has been advised by the board or the attendance officer of the student's duty to attend school in accordance with section 8, and

(b) that all reasonable efforts have been made by the board or the attendance officer to enforce the student's attendance at school.

(3) Before referring a matter respecting the attendance of a student to the Attendance Board, the person responsible for the operation of a private school shall ensure

(a) that the student has been advised by that person of the student's duty to attend school in accordance with section 8, and

(b) that all reasonable efforts have been made by that person to enforce the student's attendance at school.

33 *Section 109 is amended*

(a) *by renumbering it as section 109(1);*

(b) *in subsection (1)*

(i) *in clause (c) by adding "or a person responsible for the operation of a private school" after "require a board";*

(ii) *in clause (d) by adding "or subsection (2) or (3)" after "clause (b) or (c)";*

(iii) *in clause (i) by striking out "counsel" and substituting "agent";*

(iv) *in clause (m)(ii) by adding "or an agent" after "counsel";*

(v) *in clause (n) by striking out "is entitled to" and substituting "may be paid";*

(c) *by adding the following after subsection (1):*

32 Section 108 presently reads:

108 An Attendance Board shall hear all matters referred to it under this Act with respect to the failure of a student to attend a school.

33 Section 109 presently reads in part:

109 For the purpose of conducting a hearing before the Attendance Board, the following apply:

(b) the Attendance Board has, with respect to the holding of a hearing, the same power as is vested in the Court of Queen's Bench for the trial of civil actions

(i) to summon and enforce the attendance of witnesses,

(ii) to compel witnesses to give evidence on oath or otherwise, and

(iii) to compel witnesses to produce documents, records and things;

(c) the Attendance Board may require a board to produce to the Attendance Board, prior to a hearing, copies of all reports, statements, correspondence or other documents or things relating to the matter being heard;

(d) if a person fails to attend, to answer questions or to produce an item as required under clause (b) or (c), the

(2) The Attendance Board may require the student or a parent of the student or both to attend proceedings before the Attendance Board.

(3) Any person other than the student and a parent of the student who, in the opinion of the Attendance Board, has knowledge of the matter before the Attendance Board is a compellable witness in proceedings before the Attendance Board.

34 *Section 110 is amended*

(a) by adding the following after subsection (1):

(1.1) Notwithstanding subsection (1), the Attendance Board may at any time during the proceedings

(a) make an interim order giving any directions to the student, a parent of the student, the board or the person responsible for the operation of the private school that the Attendance Board considers appropriate in the circumstances,

(b) adjourn the proceedings before it for a period set by the Attendance Board, and

(c) reconvene the proceedings to hear further evidence, if the Attendance Board considers it necessary to do so, consider the interim order and make a final order under subsection (1).

(b) in subsection (2) by adding “made under subsection (1)” after “order of the Attendance Board”.

Attendance Board may apply to the Court of Queen's Bench for an order committing that person for contempt in the same manner as if that person were in breach of an order or judgment of that Court;

(i) a person on whom notice of the hearing is served and his counsel are entitled to examine the record;

(m) a person who is likely to be affected by a hearing before the Attendance Board is entitled

(i) to appear before the Attendance Board,

(ii) to be represented by counsel, and

(iii) to make representations to the Attendance Board;

(n) a witness attending a proceeding before the Attendance Board is entitled to the same fees and allowances as a witness summoned to attend at the Provincial Court unless otherwise prescribed in the regulations;

34 Section 110(1) and (2) presently read:

110(1) On hearing a matter referred to it, the Attendance Board may, subject to any terms or conditions that the Attendance Board considers proper in the circumstances, make an order doing one or more of the following:

(a) directing the student to attend school;

(b) directing the parents of a student to send the student to school;

(c) subject to sections 23, 29 and 30, directing the student to take an education program, course or student program set out in the order;

(d) reporting the matter to a director under the Child Welfare Act;

(e) imposing on the student's parent a monetary penalty not exceeding \$100 per day up to a maximum of \$1000 to be paid to the Crown for each day that the student does not attend school;

(f) giving such other direction not referred to in clauses (a) to (e) as the Attendance Board considers appropriate in the circumstances.

35 *Section 111(2) is repealed.*

36 *Section 120 is amended by adding the following after clause (d):*

(d.1) confirming the suspension and authorizing the board to terminate the contract of employment of the teacher;

37 *Section 121 is amended by striking out “with respect to the appeal” and substituting “in respect of matters referred to in section 114”.*

38 *The following is added after section 124:*

124.1(1) A teacher or a board that is the subject of an order of the Board of Reference under section 120, 122 or 123 may appeal that order to the Court of Appeal.

(2) A copy of an order of the Attendance Board may be filed with the clerk of the Court of Queen's Bench in the judicial district in which the cause of the proceedings before the Attendance Board arose.

35 Section 111(2) presently reads:

(2) The members of the Attendance Board shall be paid the remuneration and expenses the Minister determines.

36 Section 120 presently reads:

120 In deciding the matter being appealed, the Board of Reference may make an order doing one or more of the following:

(a) confirming the termination, suspension or refusal to give an approval;

(b) changing the termination date of a contract of employment or of a designation;

(c) directing the board

(i) to reinstate the contract of employment or the designation of a teacher, or

(ii) to give the approval;

(d) removing the suspension;

(e) directing a board to pay to the teacher an amount of money equivalent to his salary for a specified period;

(f) authorizing a board not to pay salary to the teacher for a specified period;

(g) providing for any matter not referred to in clauses (a) to (f) that the Board considers just in the circumstances.

37 Section 121 presently reads:

121 The Board of Reference may proceed with an appeal under this Division notwithstanding any technical or procedural irregularity with respect to the appeal if the Board of Reference is of the opinion that none of the parties to the appeal were substantially affected by the technical or procedural irregularity.

38 Protection from liability.

(2) The appeal shall be commenced not more than 30 days after the date on which the order is filed under section 124

(a) by filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and

(b) by serving a copy of the notice of appeal

(i) on the relevant board if the appellant is a teacher,

(ii) on the relevant teacher if the appellant is a board, and

(iii) on the Board of Reference.

(3) The appeal shall be founded on the record, if any, of the evidence before the Board of Reference.

(4) The Alberta Rules of Court for appeals from a judgment or order of the Court of Queen's Bench apply to an appeal to the Court of Appeal under this section.

(5) The Court of Appeal on hearing the appeal may

(a) make any other finding that in its opinion ought to have been made on the evidence before it,

(b) quash, confirm or vary any order made by the Board of Reference,

(c) refer the matter to the Board of Reference for further consideration by it, or

(d) direct that a new trial of any mixed questions of law and fact relating to a finding or order or both of the Board of Reference made under this Act be held before the Court of Queen's Bench.

Division 4 Protection from Liability

124.2(1) No action lies against a member of the Attendance Board, a member of the Board of Reference, a member of a Special Needs Tribunal or a member of a panel or committee established under the *Practice Review of Teachers Regulation* (Alta. Reg. 153/87) for anything done by him in good faith and in purporting to act under this Act or the regulations.

(2) No action for defamation may be founded on a communication if the communication is published to or by an attendance officer, the Attendance Board, the Board of Reference or a Special Needs Tribunal or an investigator or a member of a

panel or committee established under the *Practice Review of Teachers Regulation* (Alta. Reg. 153/87) in good faith in the course of any proceeding under this Act.

39 *Section 125 is repealed and the following is substituted:*

125 In this Part,

(a) “auditor” means a person registered under the *Certified General Accountants Act*, the *Certified Management Accountants Act* or the *Chartered Accountants Act* or a firm or partnership of such persons;

(b) “person” includes a co-operative association.

125.1 A board shall appoint an auditor.

40 *Section 134(5)(a) and (b) are repealed and the following is substituted:*

(a) that the board of a separate school district claims that

(i) he is a resident of that district and his property that is located in the district is assessable for the purposes of the separate school district by virtue of his being Protestant or Roman Catholic, whichever is the faith of those who established the separate school district,

(ii) he is a resident of that district but does not hold property in the district, or

(iii) he does not reside in that district but his property that is located in the district is assessable for the purposes of the separate school district by virtue of his being Protestant or Roman Catholic, whichever is the faith of those who established the separate school district,

and

(b) that he will be recorded as a resident of the separate school district or as a non-resident property owner whose property is assessable for the purposes of the separate school district unless within 3 weeks from the date of the mailing of the notice he gives written notice to the municipality stating that he is not a member of the same faith as those who established the separate school district.

41 *Section 135 is amended*

(a) in subsection (1)(b) by striking out “, that none of the

39 Section 125 presently reads:

125 The board shall appoint an auditor.

40 Section 134(5) presently reads:

(5) On receiving the lists referred to in subsections (1) and (2), the municipality shall mail to each individual named on a list at his address shown on it a notice stating

(a) that the board of a separate school district claims that

(i) he is a resident of that district, and

(ii) his property that is located in that district is assessable for the purposes of the separate school district by virtue of his being Protestant or Roman Catholic, whichever is the faith of those who established the separate school district,

and

(b) that he will be recorded as a resident of the separate school district unless within 3 weeks from the date of the mailing of the notice he gives written notice to the municipality stating that he is not a member of the same faith as those who established the separate school district.

41 Section 135(1), (4), (5) and (6) presently read:

shareholders” *and substituting* “or a co-operative association, that none of the shareholders or members”;

(b) by repealing subsections (4) and (5) and substituting the following:

(4) If a person acquires ownership of a fee simple estate in land, the person shall complete the appropriate notice referred to in subsection (1) and give it to the municipality in which the land referred to in the transfer is located.

(5) If a municipality does not receive a notice in accordance with subsection (4) within 60 days after it is advised that the ownership of a fee simple estate in land has been transferred, the municipality shall send the transferee

(a) if the transferee is an individual, the appropriate form under subsection (1)(a), or

(b) if the transferee is a corporation or a co-operative association, the forms, if any, prescribed by the Minister for the purposes of subsection (1)(b) and section 136.

(5.1) A notice given by a corporation or co-operative association under this section shall state that the information in the notice has been approved by a resolution of the shareholders, the members or the directors, as the case may be.

(c) in subsection (6)

(i) by striking out “subsection (1) or (5)” *and substituting* “this section”;

(ii) by striking out “assessment purposes” *and substituting* “tax purposes”.

42 Section 136 is amended

(a) in subsection (1) by adding “or co-operative association” *after* “corporation”;

(b) by repealing subsection (3) and substituting the following:

(3) The notice under subsection (1) of a corporation that does not have shareholders or of a co-operative association shall designate to the separate school district the proportion of the property of the corporation or the co-operative

135(1) Any person may at any time give written notice to a municipality

(a) in the appropriate form set out in the Schedule that his property is assessable for public school or for separate school purposes,

(b) in the case of a corporation, that none of the shareholders are of the same faith as those who established the separate school district,

(c) that he is making a direction under section 132(4), or

(d) that he is a party to an interfaith marriage that is declared to be a unit under section 133,

and on receipt of the notice the municipality shall adjust its records to indicate that person's property as being assessable in accordance with the notice.

(4) If a municipality is advised that the ownership of a fee simple estate in land has been transferred, the municipality shall send the transferee

(a) in the case of a transferee who is an individual, the appropriate form under subsection (1)(a), or

(b) in the case of a transferee that is a corporation, the forms, if any, prescribed by the Minister for the purposes of subsection (1)(b) and section 136.

(5) If a person receives a notice form from a municipality under subsection (4), that person shall complete and return the notice to the municipality forthwith.

(6) When a person gives notice under subsection (1) or (5), any change in the assessment roll shall not be effective for assessment purposes until the year following the year in which the notice is given.

42 Section 136(1), (3) and (4) presently read:

136(1) When a separate school district exists, a corporation that has shareholders or members of the same faith as those who established the separate school district may, by giving notice to the proper officer of the municipality, require a portion of the property in respect of which it is assessable to be entered and assessed for separate school purposes.

(3) If the corporation does not have shareholders or is a co-operative association the notice under subsection (1) shall designate to the separate school district the proportion of the

association in the district that is assessable for school purposes that the number of members who are separate school supporters bears to the total number of members.

(c) by repealing subsection (4) and substituting the following:

(4) The notice given by a corporation or co-operative association shall state that the proportion of the property of the corporation or co-operative association designated in the notice has been approved by a resolution of the shareholders, the members or the directors, as the case may be.

43 The following is added after section 138:

138.1(1) If a separate school district is established under this Act, each municipality within which the separate school district lies shall notify each corporation and co-operative association holding property within the boundaries of the new separate school district that the corporation or co-operative association may give a notice referred to in section 135, 136, 137 or 138 and that, in the absence of a notice on the next December 31, the assessment of the property of the corporation or co-operative association shall be apportioned under section 142.

(2) If the Minister adds land to a separate school district under this Act, each municipality within which the added land lies shall notify each corporation and co-operative association holding property within the added land that the corporation or co-operative association may give a notice referred to in section 135, 136, 137 or 138 and that, in the absence of a notice on the next December 31, the assessment of the property of the corporation or co-operative association shall be apportioned under section 142.

(3) Subsection (2) does not apply if any property within the added land is assessable for separate school district purposes before the date on which the land is added.

44 Sections 139(b), 140, 141, 142(1), 148 and 149 are amended by adding "or co-operative association" after "corporation" wherever it occurs.

property of the corporation in the district that is assessable for school purposes that the number of members who are separate school supporters bears to the total number of members of the corporation.

(4) The notice given by a corporation shall state that the proportion of the property of the corporation designated in the notice has been approved by a resolution of the corporation or the board of directors of the corporation.

43 Notification by municipality of change in separate school district.

44 Sections 139, 140, 141, 142(1), 148 and 149 presently read:

139 A notice given under section 135, 136, 137 or 138 is prima facie proof

(a) of the contents of that notice, and

(b) that a corporation that gave the notice was properly empowered to give the notice.

140(1) A notice given by a corporation under section 135 or 136 shall be given to the proper officer of the municipality in which the property is situated and to the secretaries of the boards of the public and separate school districts or to the secretary of the board of the division if the public school district is within a division.

(2) When a person gives notice under section 135 or 136, any change in the assessment roll shall not be effective for assessment purposes until the year following the year in which the notice is given.

(3) The proper officer shall retain on file in his office each notice given to him by a corporation.

(4) The notice continues in force and shall be acted on until it is withdrawn, varied or cancelled by a subsequent notice given pursuant to a resolution of the corporation.

141 The proper officer of each municipality in each year shall, before the completion of the assessment and tax roll, examine each notice on file in his office and shall show in the assessment and tax roll the property of the corporation or the part of it that is designated by the notice as assessed for separate school purposes.

142(1) When a separate school district is situated wholly or partly within a municipality, the proper officer of the municipality shall apportion the assessment of the property situated in the district of a corporation that has not given notice under section 135 or 136 to the relevant public school district or division and the relevant separate school district in accordance with an agreement between the boards.

148 A false statement made in any notice respecting the assessment of property of a corporation that is given by a corporation does not relieve the corporation from taxes.

149(1) A corporation that fraudulently gives notice or makes a false statement in a notice is guilty of an offence and liable to a fine of not more than \$10 000.

(2) Any person

(a) who gives a notice on behalf of a corporation, and

(b) who fraudulently or wilfully inserts in that notice a false statement,

is guilty of an offence and liable to a fine of not more than \$10 000.

45 *Section 158 is amended by adding the following after subsection (7):*

(8) If it is determined on appeal under the *Municipalities Assessment and Equalization Act* that a municipality has paid an amount into the School Foundation Program Fund in excess of the sum that it is required to pay under subsection (2), the Minister may order the repayment of the excess to the municipality from the School Foundation Program Fund.

46 *Section 168(1)(b) is repealed and the following is substituted:*

(b) constructing, maintaining or providing services to buildings,
or

47 *Section 203(2) is amended*

(a) *in clause (a) by striking out “2 weeks prior” and substituting “14 days immediately prior”;*

(b) *in clause (b) by striking out “2 weeks prior to” and substituting “the 2 weeks prior to the week containing”.*

48 *Section 205 is amended by repealing clause (b) and substituting the following:*

(b) proof, in the form the Minister requires, of the posting, publication and service of the notice calling the meeting;

49 *Section 208 is amended by adding the following after subsection (1):*

45 Section 158(2) presently reads:

(2) Each municipality shall pay annually into the School Foundation Program Fund a sum equal to the amount that results from applying the mill rate established pursuant to subsection (1) to the equalized assessment of the municipality as established for the year by the Alberta Assessment Equalization Board under section 21(7) of the Municipalities Assessment and Equalization Act.

46 Section 168(1) presently reads:

168(1) A board may borrow by debenture on the security of the board for the purpose of

(a) securing, purchasing, adding to, extending or improving a site for a building,

(b) providing construction, maintenance or utility services to school buildings, or

(c) engaging in a school building project.

47 Section 203(2) presently reads:

(2) The notice referred to in subsection (1) shall be

(a) posted in 5 or more conspicuous places in the proposed separate school district for a period of at least 2 weeks prior to the date set out in the notice for the public meeting,

(b) published in a newspaper circulating within the proposed separate school district once a week for at least 2 weeks prior to the date set out in the notice for the public meeting, and

(c) served on the board of the public school district or division within the boundaries of which the proposed separate school district would be established at least 10 days prior to the date set out in the notice for the public meeting.

48 Section 205(b) presently reads:

205 The chairman of a meeting shall, within 10 days from the date of the meeting, send to the Minister the following:

(b) proof, in the forms the Minister may require, of the posting of the notices calling the meeting;

49 Section 208(1) presently reads:

208(1) A board of a separate school district

(1.1) The board shall conduct a plebiscite not more than 60 days after

(a) the date on which it resolves to conduct the plebiscite under subsection (1), or

(b) the date of receipt of a petition referred to in subsection (1)(b).

50 *Section 232 is amended*

(a) *in subsection (1)*

(i) *in clause (a) by adding “, who are also electors,” after “parents”;*

(ii) *in clause (b) by striking out “in the district” wherever it occurs;*

(b) *by repealing subsection (2)(b) and substituting the following:*

(b) *by a majority of the electors,*

51 *Section 235(1)(a) is amended by striking out “done by a board or” and substituting “done by a person, a board or an”.*

(a) may pass a resolution requesting the Minister to dissolve the separate school district, or

(b) may of its own volition or shall, if 25% of the separate school electors of the separate school district petition the board to dissolve the district, conduct a plebiscite to determine whether the separate school district should be dissolved.

50 Section 232(1) and (2) presently read:

232(1) When a board of a district situated wholly or partly within the boundaries of a city receives a petition calling for a public meeting that is signed

(a) by 25% of the parents of the students in a school, or

(b) by the lesser of

(i) 2000 electors in the district, and

(ii) 25% of the electors in the district,

the board shall within 21 days from the date that it receives the petition publish notice of the public meeting to be held under this section in accordance with section 233.

(2) When a board, other than a board of a district referred to in subsection (1), receives a petition calling for a public meeting signed

(a) by 100 electors, or

(b) by a majority of electors in the district or division,

whichever is the lesser, the board shall within 21 days from the date that it receives the petition publish notice of the public meeting to be held under this section in accordance with section 233.

51 Section 235(1) presently reads:

235(1) If anything

(a) is to be done by a board or employee of a board within a number of days or at a time fixed by or under this Act, and

(b) cannot be or is not so done,

the Minister may, by order, appoint a further or other time for doing the thing.

52 The Local Authorities Election Act is amended

(a) in section 21(2.1) by striking out “board of a school district” and substituting “board of a school district that is wholly or partly within the boundaries of a city”;

(b) in section 48(3) by adding “who owns and lives in his residence and” after “a person”.

53 The Northland School Division Act is amended in section 14 by striking out “sections 61, 63 to 65, 71, 221 and 222” and substituting “and sections 54 to 57, 60, 221 and 222”.

54 This Act comes into force on Proclamation.

52 Amends the Local Authorities Election Act.

53 Amends the Northland School Division Act.

54 Coming into force.