

1999 BILL 20

Third Session, 24th Legislature, 48 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 20

SCHOOL AMENDMENT ACT, 1999

THE MINISTER OF EDUCATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 20

1999

SCHOOL AMENDMENT ACT, 1999

(Assented to _____, 1999)

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

Amends SA
1988 cS-3.1

1 The *School Act* is amended by this Act.

2 Section 1(1) is amended

(a) by adding the following after clause (f):

(f.01) “expel” means to remove a student

(i) from school,

(ii) from one or more courses or education programs, or

(iii) from riding in a school bus

for a period of more than 10 school days in accordance with section 19.1;

(b) in clause (s) by striking out “or” at the end of subclause (ii), adding “or” at the end of subclause (iii) and adding the following after subclause (iii):

(iv) the building of access roads or site preparation for,

(c) by adding the following after clause (w):

(w.1) “suspend” means to remove a student

(i) from school,

Explanatory Notes

1 Amends chapter S-3.1 of the Statutes of Alberta, 1988.

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

1(1) In this Act,

(s) "school building project" means

*(i) the purchase, erection, relocation, renovation,
furnishing or equipping of,*

(ii) the making of structural changes in, or

(iii) the addition to or extension of,

a school building;

(ii) from one or more class periods, courses or education programs, or

(iii) from riding in a school bus

for a period of 10 school days or less in accordance with section 19;

3 The following is added after section 2:

Diversity in shared values

2.01(1) All education programs offered and instructional materials used in schools must reflect the diverse nature and heritage of society in Alberta, promote understanding and respect for others and honour and respect the common values and beliefs of Albertans.

(2) For greater certainty, education programs and instructional materials referred to in subsection (1) must not promote or foster doctrines of racial or ethnic superiority or persecution, religious intolerance or persecution, social change through violent action or disobedience of laws.

4 Section 19 is repealed and the following is substituted:

Suspension

19(1) A teacher or a principal may suspend a student in accordance with subsection (2) or (3) if in the opinion of the teacher or principal

(a) the student has failed to comply with section 7, or

(b) the student's conduct is injurious to the physical or mental well-being of others in the school.

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

(3) A principal may suspend a student

(a) from school,

(b) from one or more class periods, courses or education programs, or

(c) from riding in a school bus.

(4) A principal may reinstate a student suspended under subsection (2) or (3).

(5) When a student is suspended under this section, the principal shall

3 Common values and beliefs.

4 Section 19 presently reads:

19(1) In this section, “suspend” has the meaning given to it in the rules made by the applicable board.

(1.1) A student may be suspended or expelled

(a) if in the opinion of the teacher, the principal or the board, as the case may be, the conduct of the student does not comply with section 7, or

(b) for any other reason the teacher, the principal or the board, as the case may be, considers appropriate.

(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.

- (a) forthwith inform the student's parent of the suspension,
- (b) report in writing to the student's parent all the circumstances respecting the suspension, and
- (c) if requested, provide an opportunity to meet with the student's parent, and the student if the student is 16 years of age or older, to discuss the reasonableness of the suspension.

(6) If the student is not to be reinstated within 5 school days of the date of the suspension, the principal shall

- (a) forthwith inform the board of the suspension, and
- (b) report in writing to the board all the circumstances respecting the suspension and the principal's recommendations,

and the student remains suspended until the board has made a decision under subsection (8).

(7) The principal may recommend that the board expel the student if

- (a) the student has displayed an attitude of wilful, blatant and repeated refusal to comply with section 7, or
- (b) the student's conduct is injurious to the physical or mental well-being of others in the school.

(8) The board shall within 10 school days of the date of the suspension

- (a) reinstate the student, or
- (b) expel the student from school in accordance with section 19.1.

(9) Before the board makes a decision under subsection (8), the student and the student's parent may make representations to the board with respect to the principal's recommendation to expel the student.

Expulsion

19.1(1) On considering the report provided to it under section 19(6)(b) and any representations made to it under section 19(9), the board may expel the student if

- (3) *When a principal suspends a student, the principal shall*
- (a) *forthwith inform the student's parent of the suspension, and*
 - (b) *report in writing to the student's parent all the circumstances respecting the suspension.*
- (4) *If a student is not to be reinstated within 5 school days from the date of his suspension, the principal shall*
- (a) *forthwith inform the board of the suspension, and*
 - (b) *report in writing to the board all the circumstances of the suspension together with the principal's recommendations.*
- (5) *On receiving a report from a principal pursuant to subsection (4), the board shall reinstate or expel the student within 10 school days from the date of the student's suspension.*
- (6) *Prior to a board's making a decision under subsection (5), the parent of the suspended student and the suspended student may make representations to the board with respect to the suspension.*
- (7) *A board may re-enroll a student who has been expelled.*
- (8) *If a student is expelled, the board shall notify immediately, 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.*

- (a) the principal has recommended that the board expel the student, and
 - (b) the student has been offered another education program by the board.
- (2) An expulsion must be for a period of more than 10 school days.
- (3) When a student is expelled under this section, the board shall forthwith notify, in writing, the student's parent, and the student if the student is 16 years of age or older,
- (a) of the expulsion, and
 - (b) of the right to request a review under section 104.
- (4) The board may re-enrol a student who has been expelled.

5 Section 22(3) is amended by striking out “or” at the end of clause (a), adding “or” at the end of clause (b) and adding the following after clause (b):

- (c) if the operator of the school permits education programs or instructional materials that do not comply with section 2.01 to be offered or used in the school.

6 Section 24.1(1) is repealed and the following is substituted:

Application

24.1(1) A person or society may apply to a board or the Minister for the establishment of a charter school to be operated by a society incorporated under the *Societies Act* or a company registered under Part 9 of the *Companies Act*.

7 The following is added after section 24.2:

Restriction on operator

24.21 The operator of a charter school established by a board or the Minister must restrict its purposes to the operation of that charter school.

5 Section 22(3) presently reads:

(3) The Minister may cancel or suspend the registration or accreditation of a private school

(a) if the operator of the school does not comply, in the case of a private school, with subsection (1) and, in the case of an accredited private school, with subsections (1) and (2), or

(b) if in the opinion of the Minister, the students at the school are not achieving acceptable educational progress.

6 Section 24.1(1) presently reads:

24.1(1) A person or society may apply to a board or the Minister for the establishment of a charter school to be operated by a society incorporated under the Societies Act, a company registered under Part 9 of the Companies Act or a Provincial corporation as defined in the Financial Administration Act.

7 New section to limit activities of operator of charter school.

8 Section 24.5(1) is repealed and the following is substituted:

Application of Act

24.5(1) The following provisions and any regulations made under them apply to a charter school and its operation, and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to a person or society that operates a charter school or a member of the governing body of that person or society, as the case may be:

- (a) sections 1, 2 and 2.01;
- (b) Part 1;
- (c) Part 2 except sections 16(3), 22 and 23;
- (d) in Part 3, sections 32, 33, 35, 37, 40, 41, 44, 59, 60.1, 60.2, 61, 62 and 63, section 64 except subsections (1)(a) and (2), sections 65 to 67 and section 68 except clauses (b) and (c);
- (e) Part 4;
- (f) Part 5;
- (g) in Part 6, sections 125 to 130, 162 and 167;
- (h) Part 7 except section 186;
- (i) in Part 9, sections 235 to 243.

9 Section 28 is amended

(a) in subsection (4) by striking out “if the student is living in the district or division”;

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

(7) A board shall ensure that each student enrolled in a school operated by the board is provided with a safe and caring environment that fosters and maintains respectful and responsible behaviours.

8 Section 24.5(1) presently reads:

24.5(1) The following provisions and regulations made under them apply to a charter school and its operation, and a reference to a board or a trustee is deemed to include a reference to a person or society that operates a charter school or a member of the governing body of the person or society, as the case may be:

*sections 1, 2;
Part 1;
Part 2, except sections 16(3), 22, 23;
sections 33, 35, 37, 40, 41, 44, 59, 60.1;
Part 3, Division 3;
Part 4;
Part 5;
sections 125 to 130, 162, 167;
Part 7, except section 186;
Part 9.*

9 Section 28 presently reads:

28(1) A board shall ensure that each of its resident students is provided with an education program consistent with the requirements of this Act and the regulations.

(2) Subject to subsection (3) and section 8(2.01), a board shall direct a resident student of the board to enroll in and attend a particular school operated by the board.

(3) A board shall enroll a resident student of the board or of another board in the school operated by the board that is requested by the parent of the student if, in the opinion of the board asked to enroll the student, there are sufficient resources and facilities available to accommodate the student.

(3.1) Notwithstanding subsection (3), a board may direct a student who requests enrolment in a senior high school program beyond a third school year to attend a school designated by the board.

10 Section 34(4)(c) is repealed and the following is substituted:

- (c) the distance of a residence from a school or from a bus route is the shortest distance measured along a travelled road or public right of way between the school site or the bus route, as the case may be, and the nearest roadway access at the boundary of the quarter section or lot on which the student's parent resides.

11 Section 40(5) is amended by striking out "and" at the end of clause (a), adding "and" at the end of clause (b) and adding the following after clause (b):

- (c) the number of hours of instruction to be made available to students in the school year
 - (i) by grade, and
 - (ii) by school.

12 Section 44 is amended

(a) in subsection (1)

- (i) in clause (b) by striking out "in an amount and form prescribed by the Minister";**

- (ii) by adding the following after clause (d):**

- (e) make rules respecting the circumstances in which a student may be suspended or expelled and the circumstances in which an expelled student may be re-enrolled.

(b) in subsection (3) by repealing clause (a).

(4) A board shall enroll a resident student of the Government in a school operated by the board as requested by the Minister if the student is living in the district or division.

(5) A parent of a student enrolled in a school shall not request that the student be enrolled in another school during a school year unless the board operating the other school consents.

(6) A board shall provide to each student enrolled in a school operated by the board an education program consistent with the requirements of this Act and the regulations that will give the student the opportunity to meet the standards of education set by the Minister.

10 Section 34(4)(c) presently reads:

(4) In computing distances for the purposes of this section,

(c) the distance of a residence from a school or from a bus route shall be the shortest distance measured along a travelled road or public right of way between the boundary of the school site or the bus route, as the case may be, and the nearest boundary of the quarter section or lot on which the student's parent resides.

11 Section 40(5) presently reads:

(5) A board shall, before May 31 in each year, give notice to the Minister of

(a) the opening and closing dates of all schools under its jurisdiction for the 12-month period next following, and

(b) the dates of the vacation periods in the school year.

12 Section 44(1) and (3)(a) presently read:

44(1) A board must

(a) establish policies respecting the provision of educational services and programs;

(b) in respect of its operations

(i) keep in force a policy or policies of insurance,

(ii) with the approval of the Minister, participate in an arrangement under Part 15 of the Insurance Act, or

(iii) with the approval of the Minister, participate in an alternative arrangement acceptable to the Minister,

13 Section 46(1)(c) is amended by adding “another board, a non-profit organization or” after “with”.

14 Section 81 is amended by repealing subsection (2).

15 Section 82 is amended by repealing subsection (4).

for the purpose of indemnifying the board and its employees and school councils in respect of claims for

- (iv) damages for death or personal injury,*
 - (v) damages to property, and*
 - (vi) damages to property owned by the board in respect of which the board has an insurable interest*
 - (A) that the board has agreed to insure, or*
 - (B) for which the board otherwise has or may have assumed liability,*
- in an amount and form prescribed by the Minister;*
- (c) maintain, repair, furnish and keep in good order all its real and personal property;*
 - (d) make copies of the rules made by it available to those of its employees who are affected by the rules.*

(3) A board may make rules

- (a) respecting the suspension and expulsion of students;*

13 Section 46(1)(c) presently reads:

46(1) A board may, without the approval of the Minister,

- (c) enter into an agreement with a municipality concerning the promotion and development of recreation and community services.*

14 Section 81 presently reads:

81(1) A teacher may teach without a contract of employment that is in accordance with section 78 only when the teacher is employed

- (a) on a day to day basis, or*
- (b) to occupy a vacancy that is expected to be less than 20 consecutive teaching days in duration.*

(2) Neither a teacher who teaches without a contract of employment that is in accordance with section 78 nor the board employing the teacher may appeal to the Board of Reference.

15 Section 82 presently reads:

82(1) A teacher may be employed by a board under a temporary contract of employment when that teacher is employed for the purpose of replacing a teacher who is absent from his duties for a period of 20 or more consecutive teaching days.

16 Section 84 is amended by repealing subsection (4).

17 Section 86 is amended

(a) by repealing subsections (3), (3.1), (3.2) and (4);

(2) A temporary contract of employment entered into under subsection (1) shall

(a) specify the date on which the teacher commences employment with the board, and

(b) terminate

(i) on the June 30 next following the commencement date specified in the contract, or

(ii) on a date provided for in the contract,

whichever is earlier.

(3) Notwithstanding anything contained in a temporary contract of employment, a party to a temporary contract of employment may terminate that contract by giving 30 days' written notice of the termination to the other party to the contract.

(4) Section 114 does not apply to the termination of a temporary contract of employment under this section.

16 Section 84 presently reads:

84(1) A board may employ a teacher under a part-time contract of employment for a period that includes all the teaching days in a school year

(a) to teach on a part-time basis, and

(b) to be paid only for the time that the teacher teaches.

(2) When the board employs a teacher under a part-time contract of employment, the board may, unless that teacher's contract provides otherwise, vary the amount of time that the teacher is required to teach in the subsequent semester or school year.

(3) If

(a) under subsection (2), a board varies the amount of time that a teacher is required to teach under a part-time contract of employment, and

(b) the teacher does not agree to teach for that amount of time as varied,

the board may terminate that teacher's contract.

(4) Section 114 does not apply to the termination of a contract under subsection (3).

17 Section 86(3), (3.1), (3.2), (4) and (5) presently read:

(3) If the Board of Reference under section 120 authorizes the board to terminate the contract of employment of a teacher, the board may

- (b) in subsection (5) by striking out** “If the teacher does not appeal the suspension to the Board of Reference” **and substituting** “If the teacher does not refer a disagreement relating to the suspension to arbitration under section 91.1”.

18 Section 88 is amended

- (a) in subsection (1) by striking out** “appealed to the Board of Reference” **and substituting** “referred to arbitration under section 91.1”;
- (b) by repealing subsection (7) and substituting the following:**
 - (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 of termination is served, a referral of the suspension to arbitration under section 91.1 must be merged with the referral of the termination to arbitration under that section, if any.

19 Section 91 is repealed.

terminate that contract and on so doing the board shall be deemed to have acted reasonably.

(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).

(4) If

(a) the suspension is appealed to the Board of Reference, and

(b) the Board of Reference confirms the suspension,

the board may

(c) reinstate the teacher, or

(d) terminate the contract of employment of the teacher, and 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 or terminate the contract of employment of the teacher in accordance with section 88.

18 Section 88(1) and (7) presently read:

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

(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.

(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.

19 Section 91 presently reads:

20 The following is added before section 92:

Referral of
disagreements
to arbitration

91.1(1) A teacher employed under section 78 or a board may refer a disagreement between the teacher and the board

(a) relating to a suspension under section 86, or

(b) relating to a termination under section 88,

to arbitration under the *Labour Relations Code*.

(2) There is no authority for any person to refer a disagreement between a teacher and a board that arises pursuant to section 81, 82 or 84(3) to arbitration under the *Labour Relations Code*.

21 Sections 113 to 124.1 and the heading preceding section 113 are repealed.

22 Section 124.2 is repealed and the following is substituted:

Protection
from liability

124.2(1) No action lies against a member of the Attendance Board, a member of a Special Needs Tribunal, a person appointed as an official trustee or a person who conducts a review under section 104 on behalf of the Minister for anything done by that person 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, a member of a Special Needs Tribunal, a person appointed as an official trustee or a person who conducts a review under section 104 on behalf of the Minister in good faith in the course of any proceedings under this Act.

23 Section 126(2)(b) is amended by striking out “April 30” and substituting “May 31”.

91(1) Notwithstanding section 87(2), a teacher, on receipt of a notice of termination of a designation made pursuant to section 14, 76 or 77, may terminate his contract of employment by giving 30 days' written notice to the board of his intention to terminate that contract.

(2) No appeal may be made from a termination of a contract to the Board of Reference if the contract of employment is terminated pursuant to subsection (1).

20 Adds a new section to clarify which disagreements can be referred to arbitration.

21 Deletes sections that relate to the creation of the Board of Reference and its process.

22 Section 124.2 presently reads:

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.

23 Section 126(2)(b) presently reads:

(2) The board of a district or division shall do the following:

24 Section 235(5) is repealed and the following is substituted:

(5) This section does not apply to the time limits mentioned in connection with a contract or the termination of a contract of employment between a board and its teacher.

25 The *Board of Reference Regulation* (AR 93/98) is repealed.

26(1) Any matter that was referred to the Board of Reference but not concluded before the coming into force of this Act must be concluded under the former provisions as if this Act had not come into force, and the members of the Board of Reference continue as the Board of Reference until the matter is concluded.

(2) In subsection (1), “former provisions” means

- (a) sections 113 to 124.1 of the *School Act* as they read before the coming into force of this Act, and
- (b) the *Board of Reference Regulation* (AR 93/98) as it read before the coming into force of this Act.

(b) on or before April 30 in each year, prepare and submit to the Minister a budget for the fiscal year beginning on the next following September 1.

24 Section 235(5) presently reads:

(5) This section does not apply to

(a) the time limits mentioned in connection with a contract or the termination of a contract of employment between a board and its teacher, or

(b) the time limits mentioned in connection with an appeal to the Board of Reference.

25 Repeals regulation relating to fees and expenses of members of the Board of Reference.

26 Transitional.