

2021 Bill 55

Second Session, 30th Legislature, 70 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 55

COLLEGE OF ALBERTA SCHOOL SUPERINTENDENTS ACT

THE MINISTER OF EDUCATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 55

2021

COLLEGE OF ALBERTA SCHOOL SUPERINTENDENTS ACT

(Assented to , 2021)

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

Interpretation

1(1) In this Act,

(a) “administrator” means

(i) in respect of a matter relating to a superintendent,

(A) the chair of the school board or Francophone
regional authority, as the case may be, if the

superintendent is employed by a school board or Francophone regional authority, or

- (B) the operator of a charter school, if the superintendent is employed by the operator of a charter school,

and

- (ii) in respect of a matter relating to a regulated member, other than a superintendent, employed by a school board, Francophone regional authority or operator of a charter school, the superintendent appointed under the *Education Act* for the school board, Francophone regional authority or operator of the charter school, as the case may be;
- (b) “bylaws” means the bylaws of the College made under section 77;
 - (c) “certificate” means a certificate as defined in the *Certification of Teachers and Teacher Leaders Regulation* (AR 84/2019);
 - (d) “charter school” means a charter school as defined in the *Education Act*;
 - (e) “chief deputy superintendent” means the teacher leader employed as the chief deputy of a superintendent;
 - (f) “College” means the College of Alberta School Superintendents;
 - (g) “complainant review committee” means a complainant review committee established under section 27(2);
 - (h) “complaint” means
 - (i) a complaint made under section 34(1),
 - (ii) a notice of termination that the executive director treats as a complaint under section 35(2), or
 - (iii) a matter that, under section 39(3), constitutes a complaint;
 - (i) “conduct” includes an act or omission;

- (j) “executive director” means the executive director of the College appointed under section 9(1);
- (k) “Francophone regional authority” means a Francophone regional authority as defined in the *Education Act*;
- (l) “hearing committee” means a hearing committee established under section 26;
- (m) “hearing review committee” means a hearing review committee established under section 28(2);
- (n) “investigator” means a person appointed to conduct an investigation under this Act;
- (o) “leadership certificate” means a leadership certificate as defined in the *Certification of Teachers and Teacher Leaders Regulation* (AR 84/2019);
- (p) “Leadership Quality Standard” means the Leadership Quality Standard adopted by the Minister under section 18(2)(b) of the *Education Act*, as amended from time to time;
- (q) “make the required election” means elect not to be a member of The Alberta Teachers’ Association or elect to be an associate member of The Alberta Teachers’ Association under section 5.1 of the *Teaching Profession Act*;
- (r) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (s) “non-regulated member” means an individual who holds a membership of a type established under the bylaws within the class of non-regulated membership in the College;
- (t) “officer” means an officer of the College appointed under the bylaws and includes a member of the board of directors;
- (u) “Registrar” means the Registrar as defined in the *Certification of Teachers and Teacher Leaders Regulation* (AR 84/2019);

- (v) “regulated member” means an individual who holds regulated membership in the College;
- (w) “resolution process” means a resolution process conducted under section 41;
- (x) “school board” means a board of trustees of a school division;
- (y) “school division” means a school division established under section 112 of the *Education Act*;
- (z) “superintendent” means a superintendent appointed by a school board, Francophone regional authority or operator of a charter school under the *Education Act*;
- (aa) “superintendent leadership certificate” means a superintendent leadership certificate as defined in the *Certification of Teachers and Teacher Leaders Regulation* (AR 84/2019);
- (bb) “Superintendent Leadership Quality Standard” means the Superintendent Leadership Quality Standard adopted by the Minister under section 18(2)(b) of the *Education Act*, as amended from time to time;
- (cc) “teacher” means a teacher as defined in the *Certification of Teachers and Teacher Leaders Regulation* (AR 84/2019);
- (dd) “teacher leader” means a teacher leader as defined in the *Certification of Teachers and Teacher Leaders Regulation* (AR 84/2019);
- (ee) “teaching certificate” means a teaching certificate as defined in the *Certification of Teachers and Teacher Leaders Regulation* (AR 84/2019).

(2) This Act applies notwithstanding that a regulated or non-regulated member no longer holds a certificate.

Separate school rights

2 Nothing in this Act shall be deemed to interfere with the rights of separate schools as provided in the *Education Act*.

Part 1 College

Division 1 Governance

Continuation of corporation

3 The society incorporated under the *Societies Act* known as the College of Alberta School Superintendents, Society is continued as a corporation under the name “College of Alberta School Superintendents”.

Powers of College

4(1) The College may take any measure that is not inconsistent with this Act or any Act or regulation of Alberta and that it considers necessary in order to give effect to any policy adopted by it with respect to any question or matter directly or indirectly affecting the teaching profession and leadership of the education system.

(2) The College may acquire by gift, purchase or otherwise, and may sell, mortgage, lease or otherwise dispose of real and personal property, for the purposes of carrying into effect and of promoting the objects and designs of the College.

Objects of College

5 The objects of the College are

- (a) to advance and promote the cause of education in Alberta,
- (b) to improve the teaching profession and leadership of the education system by
 - (i) developing and implementing continuing education programs and resources to improve the knowledge and skills of members,
 - (ii) carrying out research and publishing materials designed to maintain and improve the competence of members,

- (iii) assessing and disciplining regulated members with respect to being unskilled or incompetent in carrying out leadership duties, and
- (iv) assessing and disciplining regulated members with respect to unprofessional conduct,
- (c) to increase public interest in the importance of education and public knowledge of the aims of education, educational leadership, financial support for education and other educational matters, and
- (d) to cooperate with other organizations and bodies in Canada and elsewhere having the same or similar aims and objects.

Restrictions on College

6(1) The College must not negotiate employment agreements, including compensation, on behalf of any or all of its regulated or non-regulated members.

(2) The College or a committee of the College established under this Act or the bylaws must not be a certified bargaining agent as defined in the *Labour Relations Code*.

Board of directors

7(1) The governing body of the College is the board of directors.

(2) The board of directors consists of

- (a) members of the board of directors who are members of the College in the numbers prescribed in the bylaws, each of whom shall be elected by the members of the College in accordance with the bylaws, and
- (b) public members of the board of directors appointed by the Minister, after the Minister has consulted with the members of the board of directors elected under clause (a), in the following numbers:
 - (i) 1, when the number of members of the board of directors elected under clause (a) does not exceed 10;

- (ii) 2, when the number of members of the board of directors elected under clause (a) exceeds 10 but does not exceed 20;
- (iii) 3, when the number of members of the board of directors elected under clause (a) exceeds 20.

(3) A public member of the board of directors continues to hold office after the expiry of the public member's term of office until the public member is reappointed or the public member's successor is appointed.

(4) The appointment of a public member of the board of directors may be revoked only after the Minister consults with the board of directors.

(5) The Minister may make orders respecting the payment to a public member of

- (a) travelling and living expenses incurred by that public member for the public member's attendance at any meeting of the board of directors while away from the public member's usual place of residence, and
- (b) fees.

Role of board of directors

8 The board of directors manages and conducts the business and affairs of the College and exercises the powers of the College in the name of and on behalf of the College.

Executive director

9(1) The board of directors shall appoint in writing and in accordance with the bylaws an individual to act as the executive director for the purposes of this Act.

(2) The executive director is the chief executive officer of the College.

(3) The executive director may delegate to any employee under the board of director's administration any power or duty conferred on the executive director by this Act or the bylaws.

Annual general meeting

10(1) The College shall hold an annual general meeting each year in accordance with the bylaws.

(2) The College shall hold an annual general meeting within 60 days after the coming into force of this Act.

Annual report

11(1) The board of directors shall submit annually to the Minister, in a form satisfactory to the Minister, an annual report that contains the information requested by the Minister.

(2) The Minister shall, on receipt of the annual report, lay it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next sitting.

Delegation

12 The board of directors may delegate any of its powers or duties under Part 2 to the officer or officers designated for that purpose in the bylaws.

**Division 2
Membership****Classes of membership**

13 The membership of the College is composed of the following classes:

- (a) regulated membership;
- (b) non-regulated membership.

Non-regulated membership

14 If an individual meets the conditions prescribed by the bylaws with respect to a type of non-regulated membership, the College may grant that type of non-regulated membership to the individual.

Regulated membership

15(1) The College shall grant regulated membership only to an individual employed in a position referred to in section 17(1).

- (2) An individual is automatically granted regulated membership,
- (a) if the individual is employed in a position referred to in section 17(1)(a) or (b), effective the date of commencement of employment, or
 - (b) if the individual is employed in a position referred to in section 17(1)(c), effective the later of
 - (i) the date of commencement of employment, or
 - (ii) the date on which the individual elected not to be a member or elected to be an associate member of The Alberta Teachers' Association under section 5.1 of the *Teaching Profession Act*.

Notification of employment

16(1) Where an individual commences employment in a position referred to in section 17(1)(a) or (b), the individual shall provide the following information to the College within 30 days after the date of commencement of employment:

- (a) the individual's name;
- (b) the position in which the individual is employed;
- (c) the date of commencement of employment.

(2) Where an individual who has made the required election commences employment in a position referred to in section 17(1)(c) or where a teacher leader employed by a school board or Francophone regional authority makes the required election, the individual shall provide the following to the College within 30 days after the date of commencement of employment or the date of election, as applicable:

- (a) the individual's name;
- (b) the position in which the individual is employed;
- (c) the date of commencement of employment;
- (d) evidence satisfactory to the executive director that the individual has made the required election.

(3) If an individual fails to provide the required information to the College under subsection (1) or (2), as the case may be, the executive director may send a written request to the individual to provide the required information.

(4) An individual who receives a request under subsection (3) shall provide the required information to the executive director within 30 days after receiving the request.

(5) An individual who is employed in a position referred to in section 17(1)(a) or (b) on the coming into force of this section shall provide the information referred to in subsection (1) to the College within 30 days after the coming into force of this section.

(6) An individual who has made the required election and is employed in a position referred to in section 17(1)(c) on the coming into force of this section shall provide the information and evidence referred to in subsection (2) to the College within 30 days after the coming into force of this section.

Compulsory regulated membership

17(1) Subject to this section, the employment of an individual in one of the following positions is conditional on the individual being a regulated member of the College:

- (a) a superintendent;
- (b) a chief deputy superintendent;
- (c) a teacher leader who
 - (i) is employed by a school board or Francophone regional authority, and
 - (ii) makes the required election.

(2) Where the employment contract of an individual employed in a position referred to in subsection (1) expires or is terminated by the individual or the school board, Francophone regional authority or operator of a charter school that employs the individual,

- (a) the individual ceases to be a regulated member effective the date of expiry or termination of the employment contract, and

(b) the individual shall forthwith notify the College of the expiry or termination of the employment contract.

(3) An individual employed in a position referred to in subsection (1) ceases to be a regulated member if the individual's membership is cancelled or suspended as a result of a proceeding under Part 2 or under bylaws made under section 77(1)(s) or temporarily suspended under section 66, and the College shall notify the school board, Francophone regional authority or operator of a charter school that employs the individual that the individual has ceased to be a regulated member.

Authority

18 In complying with this Act, a superintendent employed by a school board, Francophone regional authority or operator of a charter school shall respect the authority of the superintendent's employer under the *Education Act* and the superintendent's contract of employment.

Voting rights

19(1) Regulated members have the right to vote and, subject to the bylaws, the right to hold office in the College.

(2) The rights of non-regulated members to vote and hold office in the College are as set out in the bylaws.

Fees

20 Every member shall pay the fees fixed by the bylaws.

Part 2 Professional Conduct and Competence

Definitions

21 In this Part,

(a) "indictable offence" means an offence under the *Criminal Code (Canada)*, the *Controlled Drugs and Substances Act (Canada)*, the *Food and Drugs Act (Canada)* or the *Youth Criminal Justice Act (Canada)* that is prosecuted by indictment;

- (b) “professional conduct requirements” means the professional conduct requirements established by the Minister under section 22;
- (c) “unprofessional conduct” means conduct described in section 23.

Professional conduct requirements

22 The Minister may establish professional conduct requirements for regulated members.

Unprofessional conduct

23 Conduct

- (a) that is detrimental to the best interests of students, the public, teachers, teacher leaders or the teaching profession,
- (b) that does not meet the professional conduct requirements, or
- (c) that is the basis for a conviction for an indictable offence

constitutes unprofessional conduct.

Unskilled or incompetent in leadership duties

24(1) Failure to meet the requirements of the Leadership Quality Standard constitutes being unskilled or incompetent in carrying out the leadership duties related to a leadership certificate.

(2) Failure to meet the requirements of the Superintendent Leadership Quality Standard constitutes being unskilled or incompetent in carrying out the leadership duties related to a superintendent leadership certificate.

Division 1 Panel and Committees

Practice review general panel

25(1) The practice review general panel is established.

(2) The board of directors shall

- (a) appoint the non-public panel members in accordance with subsection (3), and
 - (b) designate the chair and one or more vice-chairs from among the panel members.
- (3)** The practice review general panel
- (a) must consist of at least 15 panel members,
 - (b) must have a majority of panel members who are teacher leaders with regulated or non-regulated membership,
 - (c) must include at least 3 public panel members appointed by the Minister who do not hold and have not held a teaching certificate, leadership certificate or superintendent leadership certificate, and
 - (d) may include one or more panel members who are teachers or teacher leaders to whom the *Teaching Profession Act* and the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019) apply.

Hearing committee

26 On receiving a direction from the executive director, complainant review committee or hearing review committee under section 39(1)(c) or (2), 40(9)(d), 42(1)(c) or 58(1)(c), the chair of the practice review general panel shall

- (a) establish a hearing committee to hear the complaint or matter,
- (b) appoint the members of the hearing committee from among the members of the practice review general panel in accordance with section 29, and
- (c) designate a member of the hearing committee as the chair.

Complainant review committee

27(1) On receiving a request for review made under section 40(1), the chair of the practice review general panel shall determine whether the request for review was delivered in the time provided for by section 40(2)(b) and, if not, may dismiss the request for review.

(2) If the chair of the practice review general panel does not dismiss a request for review under subsection (1), the chair shall

- (a) establish a complainant review committee to hear the review,
- (b) appoint the members of the complainant review committee from among the members of the practice review general panel in accordance with section 29, and
- (c) designate a member of the complainant review committee as the chair.

Hearing review committee

28(1) On receiving a request for review made under section 55(1), the chair of the practice review general panel shall determine whether the request for review was delivered in the time provided for by section 55(2) and, if not, may dismiss the request for review.

(2) If the chair of the practice review general panel does not dismiss a request for review under subsection (1), the chair shall

- (a) establish a hearing review committee to hear the review,
- (b) appoint the members of the hearing review committee from among the members of the practice review general panel in accordance with section 29, and
- (c) designate a member of the hearing review committee as the chair.

**Division 2
Chair and Members**

Composition of committees

29 A hearing committee, complainant review committee and hearing review committee

- (a) must consist of at least 3 committee members,
- (b) must have a majority of committee members who are teacher leaders with regulated or non-regulated membership,

- (c) must include at least one public committee member who does not hold and has not held a teaching certificate, leadership certificate or superintendent leadership certificate, and
- (d) may include one or more committee members who are teachers or teacher leaders to whom the *Teaching Profession Act* and the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019) apply.

Powers of committee chair

30 The chair of a hearing committee, complainant review committee or hearing review committee may

- (a) deal with any preliminary or procedural matters incidental to a hearing or review, as the case may be,
- (b) arrange for matters to be set down before the committee,
- (c) adjourn matters before the committee, and
- (d) perform the administrative functions necessary to enable the committee to carry out its duties.

Public members of panel and committees

31(1) A public member of the practice review general panel continues to hold office after the expiry of the public member's term of office until the public member is reappointed or the public member's successor is appointed.

(2) The Minister may, after consulting with the board of directors, revoke the appointment of a public member of the practice review general panel.

(3) The Minister may make orders respecting the payment to a public member of the practice review general panel who is appointed to a hearing committee, complainant review committee or hearing review committee of

- (a) travelling and living expenses incurred by that public member for the public member's attendance at any meeting of the committee while away from the public member's usual place of residence, and

(b) fees.

(4) The powers, duties and operation of a hearing committee, complainant review committee or hearing review committee are not affected by

- (a) the fact that no member of the public is appointed as a committee member,
- (b) the revocation of the appointment of a public committee member, or
- (c) the resignation from the committee of a public committee member.

(5) Subject to the bylaws prescribing a quorum, the failure of a public member appointed to a hearing committee, complainant review committee or hearing review committee to attend a meeting of the committee does not affect or restrict the committee in exercising any power or performing any duties under this Act or the bylaws at that meeting.

Limits on service

32(1) The chair of the practice review general panel may serve in only one of the following capacities with respect to a complaint or matter if the functions of the chair with respect to the complaint or matter are exercised by a vice-chair of the practice review general panel:

- (a) conducting a resolution process;
- (b) providing assistance under section 41(2) to a person appointed to conduct a resolution process;
- (c) serving as a member of a hearing committee, complainant review committee or hearing review committee.

(2) A member of the practice review general panel may serve in only one of the following capacities with respect to a complaint or matter relating to a regulated member:

- (a) conducting a resolution process;
- (b) providing assistance under section 41(2) to an individual appointed to conduct a resolution process;

- (c) serving as a member of a hearing committee;
- (d) serving as a member of a complainant review committee;
- (e) serving as a member of a hearing review committee.

Continuation of term to conclusion of hearing

33 A member of the practice review general panel who is appointed to a hearing committee, complainant review committee or hearing review committee, and whose term of office expires before the committee concludes the hearing or review of a matter, as the case may be, shall continue to act as a member of the committee until that matter is concluded, notwithstanding that in the meantime another person has been appointed to fill that member's position on the committee.

**Division 3
Complaints, Investigations
and Resolution Process**

Complaints

34(1) Any individual may make a complaint in writing to the executive director

- (a) that a regulated member is unskilled or incompetent in carrying out leadership duties related to a leadership certificate or superintendent leadership certificate, or
- (b) respecting the alleged unprofessional conduct of a regulated member.

(2) An administrator who has reason to believe that a regulated member has been or may have been convicted of an indictable offence shall

- (a) make a complaint to the executive director relating to that belief, and
- (b) advise the Registrar of that belief.

(3) Subject to subsection (4), a complaint under subsection (1)(a) must be made no later than 2 years after the date on which the last incident of lack of skill or incompetence forming the basis of the complaint occurred.

(4) If, after a person's membership in the College lapses or has been suspended or cancelled,

- (a) a complaint under subsection (1)(a) is made about the former regulated member and
 - (i) the complaint relates to the former regulated member's skill or competence before the lapse, suspension or cancellation, and
 - (ii) the complaint is made no later than 2 years after the date of the lapse, suspension or cancellation,

or

- (b) a complaint under subsection (1)(b) is made about the former regulated member and
 - (i) the complaint relates to conduct occurring before the lapse, suspension or cancellation, and
 - (ii) the complaint is made no later than 5 years after the date of the lapse, suspension or cancellation,

the complaint may be dealt with under this Act as if the lapse, suspension or cancellation had not occurred.

(5) If a complaint is made relating to

- (a) a regulated member who was subject to the *Teaching Profession Act* at the time the behaviour forming the basis of the complaint occurred, the executive director shall refer the complaint to the executive secretary of The Alberta Teachers' Association to be dealt with in accordance with the *Teaching Profession Act*,
- (b) a regulated member who was subject to the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019) at the time the behaviour forming the basis of the complaint occurred, the executive director shall refer the complaint to the Registrar to be dealt with in accordance with the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019),
- (c) a teacher or teacher leader who is currently subject to the *Teaching Profession Act* and who was subject to the *Teaching Profession Act* at the time the behaviour

forming the basis of the complaint occurred, the executive director shall refer the complaint to the executive secretary of The Alberta Teachers' Association to be dealt with in accordance with the *Teaching Profession Act*, or

- (d) a teacher or teacher leader who is currently subject to the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019) and who was subject to that regulation at the time the behaviour forming the basis of the complaint occurred, the executive director shall refer the complaint to the Registrar to be dealt with in accordance with the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019).

Termination of contract as complaint

35(1) If the employer of a regulated member terminates the contract of employment of the regulated member on the grounds referred to in section 34(1)(a) or (b), the employer shall send a copy of the notice of termination and the grounds for termination to the executive director.

(2) The executive director may treat a notice of termination received under subsection (1) as a complaint but the employer is not considered to be a complainant for the purposes of this Act.

Executive director's powers on receipt of complaint

36(1) The executive director shall

- (a) within 14 days after receiving a complaint, notify the Registrar in writing of the nature of the complaint, and
- (b) within 30 days after receiving a complaint,
 - (i) serve on the regulated member who is the subject of the complaint a notice setting out the nature of the complaint,
 - (ii) notify the administrator in writing of the nature of the complaint, and
 - (iii) make any preliminary inquiries relating to the complaint that the executive director considers appropriate.

(2) Subject to subsection (3), within 30 days after making any preliminary inquiries under subsection (1)(b)(iii), the executive director shall,

- (a) if the executive director is of the opinion that the complaint is frivolous, vexatious or without merit, decide not to take any further action with respect to a complaint,
- (b) in the case of a complaint that a member is unskilled or incompetent in carrying out leadership duties related to a leadership certificate or superintendent leadership certificate, direct that the complainant address the complaint with the regulated member or administrator,
- (c) in the case of a complaint respecting the alleged unprofessional conduct of a regulated member where the executive director determines that the complaint does not warrant an investigation,
 - (i) direct the chair of the practice review general panel to appoint a member of the practice review general panel to conduct a resolution process with respect to the complaint, and
 - (ii) refer the complaint to the member appointed under subclause (i),

or

- (d) appoint an investigator and refer the complaint to the investigator.

(3) If the executive director decides to appoint an investigator with respect to a complaint referred to in section 34(1)(a) and the executive director is aware that the regulated member's employer is investigating the matter that forms the basis of the complaint, the executive director shall appoint an investigator within 30 days after being advised that the employer's investigation has been concluded.

(4) The executive director may suspend an investigation at any time if, in the executive director's opinion, the investigation should be suspended pending the completion of another proceeding relating to the complaint.

(5) After making a decision under subsection (2), the executive director shall serve on the regulated member and the complainant, if any, a notice setting out

- (a) the decision of the executive director under this section,
- (b) the reasons for the decision, and
- (c) the complainant's right to a review of the decision under section 40 if the executive director's decision is that no further action be taken.

(6) The executive director shall send the notice

- (a) to the administrator, and
- (b) to the Registrar, if the executive director makes a decision under subsection (2)(a).

Executive director's authority in absence of complaint

37(1) Subject to subsection (6), the executive director may, in the absence of a complaint, make any preliminary inquiries that the executive director considers appropriate and appoint an investigator and refer to the investigator any matter relating to

- (a) a regulated member being unskilled or incompetent in carrying out leadership duties related to a leadership certificate or superintendent leadership certificate, or
- (b) the alleged unprofessional conduct of a regulated member.

(2) If the executive director decides to appoint an investigator with respect to a matter referred to in subsection (1)(a) and the executive director is aware that the regulated member's employer is investigating the matter, the executive director shall not appoint an investigator until after being advised that the employer's investigation has been concluded.

(3) The executive director may suspend an investigation at any time if, in the executive director's opinion, the investigation should be suspended pending the completion of another proceeding relating to the matter being investigated.

(4) If the executive director appoints an investigator under subsection (1), the executive director shall

- (a) serve on the regulated member a notice setting out the nature of the matter being investigated, and
 - (b) notify the administrator and Registrar in writing of the nature of the matter being investigated.
- (5) When the executive director takes an action under subsection (1), the executive director is not considered to be a complainant for the purposes of this Act.
- (6) Subject to subsection (7), the executive director shall not take an action under subsection (1)
- (a) with respect to a matter referred to in subsection (1)(a), more than 2 years after the date of the last incident of lack of skill or incompetence to which the matter relates occurred, and
 - (b) with respect to a matter referred to in subsection (1)(b), more than 5 years after the date on which the conduct to which the matter relates occurred.
- (7) If, after a person's membership in the College lapses or has been suspended or cancelled,
- (a) the executive director takes an action under subsection (1) with respect to a matter referred to in subsection (1)(a) with respect to the former regulated member and
 - (i) the matter relates to the former regulated member's skill or competence before the lapse, suspension or cancellation, and
 - (ii) the action is taken no later than 2 years after the date of the lapse, suspension or cancellation,
- or
- (b) the executive director takes an action under subsection (1) with respect to a matter referred to in subsection (1)(b) with respect to the former regulated member and
 - (i) the matter relates to conduct occurring before the lapse, suspension or cancellation, and
 - (ii) the action is taken no later than 5 years after the date of the lapse, suspension or cancellation,

the complaint may be dealt with under this Act as if the lapse, suspension or cancellation had not occurred.

Investigation

38(1) Within 30 days after a complaint or matter has been referred by the executive director to an investigator, the investigator shall commence an investigation of the complaint or matter.

(2) The investigator may

- (a)** request that any individual, including the regulated member who is the subject of the investigation, the employer or former employer of the regulated member who is the subject of the investigation and any employee of the employer or former employer, answer any questions and produce to the investigator any records or documents relevant to the investigation, and
- (b)** copy and keep copies of any records or documents produced under clause (a).

(3) The investigator shall conduct the investigation in a manner that the investigator considers most suitable in the circumstances.

(4) The investigator may investigate any other matter relating to the complaint or matter being investigated that arises in the course of the investigation.

(5) The investigator must send to the executive director forthwith on concluding the investigation a written report that includes copies of all materials relating to the investigation.

(6) If the regulated member who is the subject of the investigation is alleged to have been convicted of an indictable offence, the investigator must attempt to confirm whether the regulated member has in fact been convicted of an indictable offence and upon doing so must forthwith prepare a written report to that effect.

Executive director's decision respecting investigation

39(1) Subject to subsection (2), on reviewing a report received from an investigator under section 38(5) with respect to a complaint or matter, the executive director shall forthwith

- (a) decide not to take any further action with respect to the complaint or matter, if the executive director is of the opinion that
 - (i) the complaint is frivolous, vexatious or without merit, or
 - (ii) there is insufficient evidence to warrant conducting a resolution process or a hearing before a hearing committee,
- (b) in the case of a complaint or matter respecting the alleged unprofessional conduct of a regulated member where the executive director determines that the complaint or matter does not warrant a hearing,
 - (i) direct the chair of the practice review general panel to appoint a member of the practice review general panel to conduct a resolution process with respect to the complaint or matter, and
 - (ii) refer the complaint or matter to the member appointed under subclause (i),

or

- (c) direct the chair of the practice review general panel to establish a hearing committee to hear the complaint or matter and refer the complaint or matter to the hearing committee for a hearing.

(2) If it has been confirmed under section 38(6) that the regulated member who is the subject of an investigation has been convicted of an indictable offence, the executive director must direct the chair of the practice review general panel to establish a hearing committee to hear the complaint or matter and refer the complaint or matter to the hearing committee for a hearing.

(3) A referral under subsection (1)(b) or (c) of a matter that the executive director dealt with under section 37 constitutes a complaint, but the executive director is not considered to be a complainant for the purposes of this Act.

(4) The executive director shall serve on the complainant, if any, and on the regulated member who is the subject of the investigation, a notice setting out

- (a) the decision of the executive director under this section,
 - (b) the reasons for the decision, and
 - (c) the complainant's right to request a review of the decision under section 40 if the decision is not to take any further action.
- (5)** The executive director shall send the notice
- (a) to the administrator, and
 - (b) the Registrar, if the executive director makes a decision under subsection (1)(a).
- (6)** The executive director shall send to the regulated member who is the subject of the investigation a copy of the report prepared by the investigator under section 38(5).

Complainant's request for review of decision

- 40(1)** A complainant may request a review of a decision of the executive director under section 36(2)(a) or 39(1)(a) not to take any further action with respect to a complaint.
- (2)** A request for review under subsection (1) must
- (a) be in the form of a notice in writing that includes the reasons the complainant believes the complaint should be referred to
 - (i) a member of the practice review general panel under subsection (9)(c), or
 - (ii) a hearing committee under subsection (9)(d),
 - (b) be delivered to the chair of the practice review general panel within 15 days after the date on which the complainant was served with the notice under section 36(5) or 39(4), and
 - (c) be accompanied by a fee in the amount established by the board of directors.
- (3)** On receiving a request for review, the chair of the practice review general panel shall notify the following persons of the request for review:

- (a) the executive director;
- (b) the regulated member who is the subject of the complaint;
- (c) the administrator;
- (d) the Registrar.

(4) On the establishment of a complainant review committee under section 27 to hear the review, the chair of the complainant review committee must forthwith set the date, time and location of the review hearing.

(5) At least 15 days before the date set for the review hearing, the chair of the complainant review committee shall notify the complainant, executive director and regulated member who is the subject of the complaint of

- (a) the date, time and location of the review hearing, and
- (b) their rights under subsection (6).

(6) At a review hearing, the complainant, executive director and regulated member who is the subject of the complaint may

- (a) appear and be represented by counsel or any other individual,
- (b) make written and oral representations, and
- (c) provide clarification of any matter at the request of the complainant review committee.

(7) If information is available to the complainant review committee that was not available to the investigator or executive director, the complainant review committee may, in making its decision, consider the relevance of that information.

(8) A review hearing before the complainant review committee must be held in private.

(9) Not later than 15 days after hearing a review, the complainant review committee must make one of the following decisions and provide reasons for the decision:

- (a) confirm the decision of the executive director;

- (b) direct the executive director to
 - (i) appoint an investigator and refer the complaint to the investigator, or
 - (ii) continue the investigation;
- (c) if the complaint relates to the alleged unprofessional conduct of a regulated member, direct the chair of the practice review general panel to appoint a member of the practice review general panel to conduct a resolution process with respect to the complaint and refer the complaint to that member of the practice review general panel;
- (d) direct the chair of the practice review general panel to establish a hearing committee to hear the complaint and refer the complaint to the hearing committee for a hearing.

(10) The chair of the complainant review committee shall forthwith serve a notice of the complainant review committee's decision and the reasons for the decision on the complainant and the regulated member who is the subject of the complaint.

(11) The chair of the complainant review committee shall send the notice and reasons for the decision

- (a) to the Registrar, if the complainant review committee makes a decision under subsection (9)(a), and
- (b) to the executive director and administrator, if the complainant review committee makes a decision under subsection (9)(a) to (d).

Resolution process

41(1) If a complaint or matter is referred to a member of the practice review general panel under section 36(2)(c), 39(1)(b) or 40(9)(c) to conduct a resolution process, the member of the practice review general panel shall

- (a) review the facts,
- (b) identify any concerns of students, the public, teachers, teacher leaders or members of the College generally with respect to the complaint or matter,

- (c) assist in the resolution of the complaint or matter being referred, and
 - (d) provide advice to the regulated member who is the subject of the complaint or matter being referred, if appropriate.
- (2) The member of the practice review general panel who is appointed to conduct a resolution process with respect to a complaint or matter may be assisted by any other member of the practice review general panel in conducting the resolution process.
- (3) A resolution process conducted with respect to a complaint or matter
- (a) must be conducted informally and in private, and
 - (b) is without prejudice and confidential.
- (4) Any statement disclosed during a resolution process is without prejudice and confidential and must not be disclosed to any person other than the executive director or used in any other proceedings without the consent of the parties.
- (5) The member of the practice review general panel who conducts the resolution process shall provide a written report to the executive director that includes the opinion of the member of the practice review general panel as to whether the matter should be considered resolved or an investigation or hearing should be conducted.
- (6) The executive director shall, before making a decision under section 42, send a copy of the written report referred to in subsection (5) to the regulated member who is the subject of the complaint or the matter with respect to which the resolution process is being conducted.

Executive director's decision respecting resolution process

- 42(1)** On reviewing a report referred to in section 41(5), the executive director may
- (a) decide not to take any further action with respect to the complaint or matter, if the executive director is of the opinion that the complaint or matter has been effectively resolved through the resolution process,

- (b) appoint an investigator and refer the complaint or matter to the investigator, or
 - (c) direct the chair of the practice review general panel to establish a hearing committee to hear the complaint or matter and refer the complaint or matter to the hearing committee for a hearing.
- (2) A decision of the executive director under subsection (1) is final.
- (3) The executive director shall send notice of the executive director's decision under subsection (1)(a) and the reasons for the decision to the Registrar.

Division 4

Hearings Before Hearing Committee

Notice of hearing

- 43(1)** On the establishment of a hearing committee under section 26 to hear a complaint or matter, the chair of the hearing committee shall forthwith set the date, time and location of the hearing.
- (2) At least 15 days before the date set for the hearing, the chair of the hearing committee shall serve on the executive director and the regulated member who is the subject of the hearing a notice stating
- (a) the date, time and location of the hearing, and
 - (b) reasonable particulars of the complaint or matter to be heard.

Proceedings at hearing

- 44(1)** The executive director and the regulated member who is the subject of the hearing may appear and be represented by counsel or any other individual at a hearing before the hearing committee.
- (2) A hearing before a hearing committee must be open to the public unless
- (a) the complainant requests that the hearing be held in private because of the confidential nature of the complaint or matter, or

(b) the interests of any individual other than the regulated member who is the subject of the hearing may be detrimentally affected if the hearing is not held in private, in the opinion of the hearing committee.

(3) The hearing committee may grant adjournments of the proceedings or reserve the determination of the complaint or matter before it for a future meeting of the hearing committee.

(4) Evidence may be given before a hearing committee in any manner that the hearing committee considers appropriate, and the hearing committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

Compellable witnesses

45(1) Subject to subsection (3), the chair of the hearing committee may, at the request of the executive director or regulated member who is the subject of the hearing, issue a notice requiring the regulated member or any other individual who, in the opinion of the chair, may have knowledge of the complaint or matter to

- (a) appear as a witness before the hearing committee, or
- (b) produce any records or documents to the hearing committee.

(2) At least 15 days before the date of the hearing, the chair of the hearing committee shall serve a notice issued under subsection (1) on the individual who is the subject of the notice.

(3) If the regulated member who is the subject of the hearing has been convicted of an indictable offence, no person shall require the attendance as a witness at a hearing before the hearing committee of any person who attended as a witness at the court that convicted the regulated member of the indictable offence.

(4) A witness may be examined under oath on anything relevant to the hearing before a hearing committee and shall not be excused from answering any question on the ground that the answer might

- (a) incriminate the witness,
- (b) subject the witness to a penalty under an enactment, or
- (c) establish the witness's liability to

- (i) a civil proceeding at the instance of the Crown or of any other person, or
- (ii) prosecution under any enactment,

but if the answer so given tends to incriminate the witness, subject the witness to a penalty or establish the witness's liability, it shall not be used or received against the witness in any civil proceedings or in any proceedings under any enactment, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

Commission evidence

46 For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court of Queen's Bench of Alberta may, on an application by the College without notice, order the evidence of the witness to be obtained in the manner provided under the *Alberta Rules of Court* (AR 124/2010) for the taking of evidence of a person outside Alberta.

Civil contempt proceedings

47 The chair of a hearing committee may direct the executive director to initiate proceedings for civil contempt of court before the Court of Queen's Bench against an individual

- (a) who fails to comply with
 - (i) a notice to appear as a witness before the hearing committee, or
 - (ii) a notice to produce records or documents to the hearing committee,

or

- (b) who refuses to be sworn or to affirm or to answer any question the individual is directed to answer by the hearing committee.

Proceedings in absence of regulated member

48 A hearing committee may, on proof of service of the notice of hearing under section 43(2) on the regulated member who is the subject of the hearing,

- (a) proceed with the hearing in the absence of the regulated member, and
- (b) act, decide and report on the complaint or matter being heard in the same way as if the regulated member were in attendance.

Further investigation

49 If any other matter concerning the competency or conduct of the regulated member who is the subject of an investigation or hearing arises in the course of an investigation or hearing, the hearing committee may

- (a) hear the other matter, in which case the hearing committee shall declare its intention to hear the other matter and must permit the regulated member a reasonable opportunity to prepare an answer to the other matter, or
- (b) adjourn the hearing to allow the College to assess the other matter and make recommendations with respect to that matter to the hearing committee.

Finding — unskilled or incompetent

50 A hearing committee may find one or more of the following with respect to a regulated member who is the subject of a hearing:

- (a) that a regulated member who holds a leadership certificate is
 - (i) unskilled or incompetent in carrying out the leadership duties related to a leadership certificate if, in the opinion of the hearing committee, the regulated member does not meet the requirements of the Leadership Quality Standard, or
 - (ii) not unskilled or incompetent in carrying out the leadership duties related to a leadership certificate;
- (b) that a regulated member who holds a superintendent leadership certificate is
 - (i) unskilled or incompetent in carrying out the leadership duties related to a superintendent leadership certificate if, in the opinion of the hearing

committee, the regulated member does not meet the requirements of the Superintendent Leadership Quality Standard, or

- (ii) not unskilled or incompetent in carrying out the leadership duties related to a superintendent leadership certificate.

Finding — unprofessional conduct

51(1) A hearing committee

- (a) may find the conduct of the regulated member who is the subject of the hearing to constitute unprofessional conduct if, in the opinion of the hearing committee, the regulated member's conduct
 - (i) is detrimental to the best interests of students, the public, teachers, teacher leaders or members of the College generally, or
 - (ii) does not meet the professional conduct requirements,
- (b) must find the conduct of the regulated member who is the subject of the hearing to constitute unprofessional conduct if the regulated member's conduct is the basis for a conviction for an indictable offence, or
- (c) may find that the conduct of the regulated member who is the subject of the hearing does not constitute unprofessional conduct, if clauses (a) and (b) do not apply.

(2) Where the regulated member who is the subject of a hearing has been convicted of an indictable offence, the hearing committee must determine the question of penalty and has no authority

- (a) to find that the conduct of the regulated member on which the conviction is based does not constitute unprofessional conduct, or
- (b) to investigate the conduct of the regulated member on which the conviction is based except for the purpose of deciding the penalty.

Orders of hearing committee

52(1) If a hearing committee finds that a regulated member is unskilled or incompetent in carrying out leadership duties under section 50 or that the conduct of a regulated member constitutes unprofessional conduct under section 51, the hearing committee may do any one or more of the following:

- (a) cancel the regulated member's membership in the College;
- (b) suspend the regulated member's membership in the College for any period it considers proper;
- (c) make any further or other order it considers appropriate.

(2) If a hearing committee is satisfied that a regulated member has contravened an order made under subsection (1)(c) it may, without the necessity of a further hearing, cancel or suspend the regulated member's membership in the College, subject to any terms it considers appropriate.

(3) If a regulated member's membership is cancelled under subsection (1)(a) or (2), the hearing committee

- (a) shall recommend that the Minister cancel one or more certificates issued to the regulated member under the *Education Act*, and
- (b) may recommend that the Minister suspend one or more certificates issued to the regulated member under the *Education Act*.

(4) If a regulated member's membership in the College is suspended under subsection (1)(b) or (2), the hearing committee shall recommend that the Minister suspend one or more certificates issued to the regulated member under the *Education Act*.

(5) If the decision of a hearing committee

- (a) relates to a regulated member who has been convicted of an indictable offence, and
- (b) does not contain a recommendation that the Minister cancel or suspend the certificate or certificates issued to the regulated member under the *Education Act*,

the decision must include reasons why that recommendation has not been made.

Written decision

53 A hearing committee shall, within 60 days after the conclusion of a hearing, make a written decision on the matter, in which it shall

- (a) describe each finding made by the hearing committee under section 50 or 51,
- (b) state the reasons for each finding made by the hearing committee, and
- (c) state any order made by the hearing committee.

Service of decision

54(1) A hearing committee shall send to the executive director

- (a) the decision of the hearing committee, and
- (b) the record of the hearing, consisting of all evidence presented before the hearing committee, including
 - (i) all exhibits,
 - (ii) all documents, and
 - (iii) all testimony given before it, whether recorded electronically, mechanically or in handwritten form.

(2) The executive director shall, on receiving the decision of a hearing committee and the record of the hearing,

- (a) serve a copy of the decision on the regulated member who is the subject of the hearing,
- (b) send a copy of the decision to the Registrar, and
- (c) send a notice of the decision to the complainant, administrator and board of directors.

(3) The regulated member, the person representing the regulated member and the board of directors may examine the record or any part of the record of the proceedings before a hearing committee

and hear any recording or examine any mechanical or handwritten record of evidence given before the hearing committee.

(4) If the regulated member who is the subject of the hearing requests a transcript of all or part of the hearing, the regulated member must pay the cost of the preparation of the transcript.

(5) The decision of a hearing committee must be available to the public on request and free of charge.

Division 5 Review by Hearing Review Committee

Review

55(1) The executive director or a regulated member who is the subject of a decision of a hearing committee may request a review by the hearing review committee of a finding, order or recommendation of a hearing committee contained in that decision.

(2) A request for review must be submitted in writing to the chair of the practice review general panel not more than

- (a) 30 days after the date on which the executive director receives the decision of the hearing committee, in the case of a request for review made by the executive director, or
- (b) 30 days after the date on which the decision of the hearing committee is served on the regulated member, in the case of a request for review made by a regulated member.

(3) A request for review must

- (a) describe the finding, order or recommendation for which a review is being requested, and
- (b) state the reasons for which a review is being requested.

(4) On receiving a request for review, the chair of the practice review general panel shall notify the following individuals that a request for review has been received:

- (a) the regulated member who is the subject of the decision under review, in the case of a request for review made by the executive director;

- (b) the executive director, in the case of a request for review made by a regulated member;
- (c) the administrator;
- (d) the Registrar.

(5) On the establishment of a hearing review committee to hear a review, the chair of the hearing review committee shall forthwith set the date, time and location of the review hearing.

(6) At least 15 days before the date of the review hearing, the chair of the hearing review committee shall notify the executive director and the regulated member who is the subject of the decision under review of

- (a) the date, time and location of the review hearing, and
- (b) their rights under section 56(1).

Proceedings at review hearing

56(1) At the review hearing before a hearing review committee, the executive director and the regulated member who is the subject of the decision under review may

- (a) appear and be represented by counsel or any other individual,
- (b) make written and oral representations, and
- (c) provide clarification of any matter under consideration by the hearing review committee at the request of the hearing review committee.

(2) The review before the hearing review committee must be founded on the decision of the hearing committee and the record of the hearing before the hearing committee.

(3) Sections 44(3) and (4), 45, 47 and 48 apply to a review hearing before the hearing review committee.

Public hearing

57 A review hearing before a hearing review committee must be open to the public unless the interests of any individual other than the regulated member who is the subject of the review may be

detrimentally affected if the hearing is not held in private, in the opinion of the hearing review committee.

Decision on review

58(1) The hearing review committee shall, after the conclusion of all proceedings before it,

- (a) make any finding or order that in its opinion ought to have been made by the hearing committee,
- (b) quash, vary or confirm a finding or order of the hearing committee or substitute or make a finding or order of its own, or
- (c) refer the matter back to the hearing committee for further consideration in accordance with any direction that the hearing review committee may make.

(2) Section 52(5) applies to a decision of the hearing review committee.

Written decision

59(1) The hearing review committee shall, within 60 days after the conclusion of the proceedings before it, make a written decision on the matter and forward the decision to the executive director.

(2) The executive director shall, on receiving the decision of the hearing review committee,

- (a) serve a copy of the decision on the regulated member who is the subject of the decision under review,
- (b) send a copy of the decision to the Registrar, and
- (c) send a notice of the decision to the administrator and board of directors.

(3) The decision of the hearing review committee must be available to the public on request and free of charge.

Division 6 Decisions and Orders

Costs and fines

60(1) A hearing committee or hearing review committee may, in addition to making recommendations under section 52 or a decision under section 58, order that the regulated member who is the subject of the investigation, hearing or a decision under review pay to the College within the time and in accordance with the conditions set by the order

- (a) all or part of the costs of the investigation, hearing or review determined in accordance with the bylaws,
- (b) a fine not exceeding \$10 000 for each finding of unprofessional conduct, or
- (c) costs under clause (a) and a fine under clause (b).

(2) Where a regulated member's membership in the College has been suspended, a hearing committee may, in addition to an order made under subsection (1), order that the regulated member's membership remain suspended until the fine or costs, or both, have been paid.

(3) A fine or costs ordered to be paid by a regulated member under this Act are a debt due to the College and may be recovered by the College by civil action for debt.

Notice of decision to Minister

61 The executive director shall send to the Minister each decision of the hearing review committee or, if there has been no review, each decision of the hearing committee where

- (a) the decision includes a recommendation that the Minister cancel or suspend one or more certificates issued to a regulated member who is the subject of a complaint, matter or review, or
- (b) the decision relates to a regulated member who is the subject of a complaint, matter or review and who has been convicted of an indictable offence.

Powers of the Minister

62(1) On receiving the decision of a hearing committee or hearing review committee under section 61, the College shall, on the Minister's request,

- (a) provide to the Minister the record of hearing or any part of the record of hearing before the hearing committee or hearing review committee, and
- (b) allow the Minister to hear any recording or examine any electronic, mechanical or handwritten record of evidence given before the hearing committee or hearing review committee.

(2) On receiving the decision of a hearing committee or hearing review committee under section 61, the Minister may do one or more of the following, whether or not it is the recommendation of the hearing committee or hearing review committee:

- (a) suspend one or more certificates of the regulated member, with or without conditions;
- (b) cancel one or more of the certificates of the regulated member, or cancel one or more of the certificates and issue one or more certificates of a different class, with or without conditions;
- (c) order that the regulated member be ineligible for one or more certificates for a definite period of time, with or without conditions.

(3) A decision made under subsection (2) must be in writing and must include the reasons for the decision.

(4) The Minister must

- (a) serve a copy of the written decision on the regulated member, and
- (b) send a copy of the written decision to the Registrar.

(5) A decision to take an action under subsection (2) is final.

(6) The Minister may take whatever action the Minister considers appropriate to

- (a) implement a decision made under subsection (2), and

- (b) make public a decision made under subsection (2).

Judicial review of decisions

63(1) A decision made by a hearing review committee is final and binding on the parties in respect of whom the decision is made.

(2) An application for judicial review of a decision must be commenced within 15 days from the day the decision is made.

(3) On an application for judicial review, the standard of review is reasonableness.

Publication of decisions re cancellation or suspension

64(1) If a regulated member's membership in the College has been cancelled or suspended under section 52 or 58, notice of the cancellation or suspension must be published in the form and manner prescribed in the bylaws.

(2) No notice shall be published under subsection (1) in respect of a cancellation or suspension under section 52 until

- (a) a review has been heard and a decision made on the review, or
- (b) the time for commencing a review has expired, if no review is commenced.

Division 7 General

Powers of the Registrar

65 The Registrar may request and examine any information relating to

- (a) a notification of a complaint made under section 36(1)(a), from the executive director,
- (b) a notification of the appointment of an investigator under section 37(4)(b), from the executive director,
- (c) a notice and reasons for decision sent under section 40(11)(a), from the chair of a complainant review committee,

- (d) a decision referred to in section 54(2)(b), from the executive director, and
- (e) a decision referred to in section 59(2)(b), from the executive director.

Temporary suspension

66(1) Notwithstanding anything in this Act, the executive director may suspend an individual's membership in the College pending the executive director's decision under section 36 or the decision of a hearing committee.

(2) When a regulated member's membership in the College is suspended under this section, the executive director shall forthwith notify the administrator, Registrar and regulated member in writing of the suspension.

(3) A regulated member whose membership in the College is suspended under subsection (1) may, by filing an application with the Court of Queen's Bench and serving a copy on the executive director, apply for an order staying the decision of the executive director to suspend the regulated member's membership until a decision of the executive director under section 36 or a decision of the hearing committee has been made.

Notice to employer

67 When a regulated member's membership in the College is suspended or cancelled under section 52, 58 or 66, the executive director shall forthwith notify the regulated member's employer of the suspension or cancellation.

Reinstatement

68 If the regulated member's membership in the College has been cancelled, the membership shall not be reinstated except by order of the board of directors or by a court of competent jurisdiction.

Employer to recognize sanctions

69 No employer or other person shall knowingly require a regulated member to perform a service or undertake any work that would result in the contravention by the regulated member of an

order or direction of a hearing committee or hearing review committee.

Part 3 Miscellaneous

Continuing education requirements

70(1) The College shall establish continuing education requirements that support regulated members in meeting the Leadership Quality Standard or Superintendent Leadership Quality Standard.

(2) A regulated member shall meet any continuing education requirements established under subsection (1) in accordance with the bylaws.

(3) The College shall establish the requirements referred to in subsection (1) within 3 years after the date on which this section comes into force.

Protected words, abbreviations

71(1) No person or group of persons shall represent or imply that the person is a regulated member or that the group of persons consists of regulated members unless the person is a regulated member or the group of persons consists of regulated members.

(2) No person or group of persons shall use the name of the College, alone or in combination with other words, in a manner that states or implies that the person or group of persons is the College under this Act, unless the person or group of persons is the College under this Act.

(3) No person or group of persons shall use the words “system education leader”, alone or in combination with other words, in a manner that states or implies that the person or group of persons is a member of the College or that the group consists of members of the College unless the person is a member of the College or the group consists of members of the College.

Service of documents

72(1) In this section,

- (a) “electronic” means electronic as defined in the *Electronic Transactions Act*;
- (b) “electronic agent” means electronic agent as defined in the *Electronic Transactions Act*;
- (c) “recorded mail” means a form of document delivery by mail or courier in which receipt of the document must be acknowledged in writing.

(2) When this Act requires that a document or notice be served on an individual, the document or notice is sufficiently served

- (a) if it is served personally on the individual or sent to the individual by recorded mail,
 - (i) in the case of a member, at the address last shown for the member on the records of the College, and
 - (ii) in the case of any other individual, at the individual’s last known address,

or

- (b) if it is sent to the individual at an address the individual has provided as an address to which information or data may be transmitted by electronic means and
 - (i) the electronic means used results in the receipt of a document in a form that is usable for subsequent reference, and
 - (ii) the sender obtains or receives a confirmation that the transmission to the address of the person to be served was successfully completed.

(3) Service is effected under subsection (2)(b) when the sending electronic agent obtains or receives confirmation of the successfully completed transmission.

Document of executive director

73 A document purporting to be signed by the executive director stating that a named person was or was not, on a specified day or during a specified period,

- (a) a member of the College, or

- (b) an officer of the College or a member of the board of directors or of a committee established under this Act or the bylaws,

shall be admitted as proof, in the absence of evidence to the contrary, of the facts stated in it without proof of the appointment or signature of the executive director.

Protection from liability

74(1) No action lies against any of the following persons or bodies for anything done by that person or body in good faith and in purporting to act under this Act or the bylaws:

- (a) the executive director;
- (b) an investigator;
- (c) a person conducting a resolution process under this Act;
- (d) a member of a committee established by or under this Act or the bylaws;
- (e) the board of directors;
- (f) the College;
- (g) a person acting on the instructions of a person or body referred to in clauses (a) to (f).

(2) No action for defamation may be founded on a communication that consists of or pertains to an act or omission of a member if the communication is published by

- (a) the College or an officer of the College,
- (b) a member of the board of directors or of a committee established by or under this Act or the bylaws,
- (c) an investigator,
- (d) a person conducting a resolution process under this Act, or
- (e) a person acting in good faith on the instructions of a person or body referred to in clauses (a) to (d) in the course of investigating the competency or conduct of a

regulated member or in the course of any proceeding under this Act.

Offences and penalties

75 Every person who contravenes section 16 or 71 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$2 000,
- (b) for a 2nd offence, to a fine of not more than \$4 000, and
- (c) for a 3rd and every subsequent offence, to a fine of not more than \$6 000 or to imprisonment for a term of not more than 6 months, or to both a fine and imprisonment.

Limitation

76 No prosecution for an offence under this Act shall be commenced after the expiry of 2 years from the date of the alleged offence.

Bylaws

77(1) The board of directors may make bylaws not inconsistent with this Act or any Act or regulation of Alberta

- (a) respecting the governance of the College and the management and conduct of its business and affairs,
- (b) respecting the nomination, election and terms of the board of directors and the filling of vacancies on the board of directors,
- (c) subject to section 7, respecting the membership of the board of directors, including prescribing the number of members of the College to be elected to the board of directors,
- (d) respecting the powers and duties of the board of directors,
- (e) respecting the appointment, reappointment, termination, remuneration and term of office of officers and the filling of vacancies for officer positions,
- (f) respecting the powers and duties of officers,

- (g) designating officers to whom the powers or duties of the board of directors under Part 2 may be delegated,
- (h) respecting the disqualification of members of the College from holding office,
- (i) respecting the executive director, including the appointment and powers and duties of the executive director,
- (j) respecting the calling and conduct of annual general meetings and other meetings of the College,
- (k) respecting voting at meetings, including voting procedures and notice requirements,
- (l) establishing committees other than the committees referred to in sections 26 to 28, and prescribing the powers and duties of those committees,
- (m) prescribing the number of members of the board of directors or committee members that constitutes a quorum at meetings, including meetings of the board of directors and meetings of committees established under bylaws made under clause (l),
- (n) prescribing the number of committee members that constitutes a quorum at hearings with respect to the committees referred to in sections 26 to 28,
- (o) establishing types of non-regulated membership and the rights and obligations attached to those types of membership, including voting rights and rights to hold office,
- (p) respecting applications for non-regulated membership,
- (q) prescribing conditions that must be met for non-regulated membership,
- (r) respecting the fees payable to the College for membership, including the fixing and collection of such fees,
- (s) respecting sanctions that may be imposed for non-payment of fees payable to the College, failure to meet continuing education requirements or failure to

comply with the bylaws, including the suspension or cancellation of membership,

- (t) prescribing the form and manner in which notice of cancellation or suspension of membership must be published,
- (u) respecting the reinstatement of membership,
- (v) respecting fees and expenses payable to non-public members of the board of directors and the committees referred to in sections 26 to 28,
- (w) respecting non-public members of the board of directors and the practice review general panel,
- (x) respecting the appointment of members to the practice review general panel and designation of the chairs or vice-chairs of the practice review general panel, including setting terms of appointments or designations,
- (y) respecting the determination of costs of an investigation, hearing or review for the purposes of section 60,
- (z) respecting the publication of orders made by a hearing committee under section 64 with respect to cancellation or suspension,
- (aa) respecting the fees, expenses or allowances payable to witnesses appearing before committees in hearings or review hearings,
- (bb) respecting the use of the words “system education leader” by a person or group of persons,
- (cc) respecting continuing education requirements that support regulated and non-regulated members of the College in meeting the Leadership Quality Standard and Superintendent Leadership Quality Standard,
- (dd) respecting the development, approval and provision of professional development courses or resources for members of the College,
- (ee) respecting the amendment of bylaws, and

(ff) respecting any other matter that is considered necessary or convenient for the management of the College and the conduct of its business and affairs.

(2) A bylaw must be approved by a majority of the voting members of the College.

(3) The *Regulations Act* does not apply to bylaws under this section.

Part 4 Transitional Provisions

Definition

78 In this Part, “CASS Society” means the College of Alberta School Superintendents, Society.

Transitional regulations

79(1) The Lieutenant Governor in Council may make regulations

- (a) respecting the transition to the College of any of the powers, duties, functions, obligations, liabilities, rights or interests of the CASS Society;
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition of the CASS Society to the College.

(2) A regulation made under subsection (1) may be made retroactive to the extent set out in the regulation.

(3) A regulation made under subsection (1) is repealed 3 years after the regulation comes into force.

(4) The repeal of a regulation under subsection (3) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

(5) No regulation shall be made under subsection (1) that extends the 3-year period referred to in subsection (3).

Transitional — directors, executive director, officers

80 On the coming into force of this Act,

- (a) the members of the board of directors of the CASS Society continue as members of the board of directors of the College referred to in section 7(2)(a) for the same terms of office unless their appointments are revoked earlier under this Act,
- (b) the executive director of the CASS Society continues as the executive director of the College under this Act for the same term of office unless the term is terminated earlier under this Act, and
- (c) the table officers of the CASS Society continue as the officers of the College under this Act for the same terms of office unless their terms are terminated earlier under this Act.

Transitional — board of directors

81(1) Despite section 7(2), on the coming into force of this Act, the board of directors consists of

- (a) the members of the board of directors of the College continued under section 80(a), and
- (b) 2 public members of the board of directors of the College appointed by the Minister after the Minister has consulted with the directors referred to in clause (a).

(2) For greater certainty, section 7(3), (4) and (5) apply to a public member of the board of directors of the College appointed by the Minister under subsection (1)(b).

Transitional — membership

82(1) If an individual is a member of the CASS Society immediately before the coming into force of this Act and is not employed in a position referred to in section 17(1) on the coming into force of this Act, the individual is deemed to be a non-regulated member on the coming into force of this Act.

(2) Despite section 15(2), an individual who is employed in a position referred to in section 17(1) on the coming into force of this Act is deemed to be a regulated member on the coming into force of this Act.

Transitional — complaints

83(1) If, before the coming into force of this Act, a complaint has been made in respect of a regulated member under the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019) and the complaint has not been disposed of before the coming into force of this Act, the complaint must be continued and dealt with under that regulation.

(2) If, before the coming into force of this Act, a complaint has been made in respect of a regulated member under the *Teaching Profession Act* and the complaint has not been disposed of before the coming into force of this Act, the complaint must be continued and dealt with under that Act.

(3) The executive director may act under section 37 respecting lack of skill, incompetence or unprofessional conduct that occurred before the coming into force of this Act in respect of an individual who is a regulated member on or after the coming into force of this Act.

Transitional — investigations

84(1) If, before the coming into force of this Act, an investigation has commenced in respect of a regulated member under the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019) and the investigation has not concluded before the coming into force of this Act, the appointment of the investigator continues and the investigation must continue and conclude under that regulation.

(2) If, before the coming into force of this Act, an investigation has commenced in respect of a regulated member under the *Teaching Profession Act* and the investigation has not concluded before the coming into force of this Act, the appointment of the investigator continues and the investigation must continue and conclude under that Act.

Transitional — proceedings, resolution process

85(1) If, before the coming into force of this Act, a regulated member is subject to a proceeding or a resolution process has commenced in respect of a regulated member under the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019) and the proceeding or resolution process has not concluded before the coming into force of this Act, the proceeding or resolution process must continue and conclude under that regulation.

(2) If, before the coming into force of this Act, a regulated member is subject to a proceeding or a dispute resolution process has commenced in respect of a regulated member under the *Teaching Profession Act* and the proceeding or dispute resolution process has not concluded before the coming into force of this Act, the proceeding or dispute resolution process must continue and conclude under that Act.

Part 5 Related Amendments and Coming into Force

Related Amendments

Amends SA 2012 cE-0.3

86(1) The *Education Act* is amended by this section.

(2) Section 201(1) is amended

- (a) in clause (c) by adding** “or the *College of Alberta School Superintendents Act*” **after** “*Teaching Profession Act*”;
- (b) in clause (e) by adding** “or the *College of Alberta School Superintendents Act*” **after** “*Teaching Profession Act*”.

(3) Section 218 is amended

- (a) in subsection (1) by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):**
 - (a)** “executive director” means the executive director as defined in the *College of Alberta School Superintendents Act*;
- (b) by adding the following after subsection (4):**

(4.1) If a report made under subsection (2) is in respect of an individual who is employed by the board and who is

Explanatory Notes

Related Amendments

86(1) Amends chapter E-0.3 of the Statutes of Alberta, 2012.

(2) Section 201(1) presently reads in part:

201(1) The Minister may make regulations

- (c) providing for and governing the means of dealing with allegations that a teacher is unskilled or incompetent in teaching or that a principal or other individual who holds a leadership certificate is unskilled or incompetent in carrying out the leadership duties related to that leadership certificate, or the means of dealing with complaints about alleged unprofessional conduct of a teacher or of a principal or other individual who holds a leadership certificate, other than a teacher, principal or other individual who is subject to the disciplinary provisions set out under the Teaching Profession Act, including, without limitation, regulations*
- (e) authorizing the Minister to accept, reject or vary the recommendations of a committee established under the Teaching Profession Act to cancel or suspend one or more certificates, and authorizing the Minister to take any action necessary to implement the Minister's decision;*

(3) Section 218 presently reads in part:

218(1) In this section,

- (a) "executive secretary" means the executive secretary as defined in the Teaching Profession Act;*

(4) If a report made under subsection (2) is in respect of a teacher, principal or other individual who is employed by the board and who is subject to the disciplinary provisions set out under the Teaching Profession Act, the board must make a complaint about the teacher's, principal's or other individual's conduct pursuant to section 24 of the Teaching Profession Act.

subject to the disciplinary provisions set out under the *College of Alberta School Superintendents Act*, the board must make a complaint about the individual's conduct pursuant to section 34 of the *College of Alberta School Superintendents Act*.

(c) in subsection (5)

(i) in clause (a) by adding “or the *College of Alberta School Superintendents Act*” **after** “*Teaching Profession Act*”;

(ii) by repealing clause (c) and substituting the following:

(c) the operator of a charter school and who is not subject to the disciplinary provisions set out under the *College of Alberta School Superintendents Act*,

(d) in subsection (6) by striking out “the applicable regulation under section 224” **and substituting** “the disciplinary provisions set out under the *College of Alberta School Superintendents Act*”;

(e) in subsection (7) by adding the following after clause (d):

(d.1) the executive director;

(4) Section 222 is amended

(a) in subsection (1)

(i) by adding “or reappoint” **after** “shall appoint”;

(ii) by striking out “with the prior approval in writing of the Minister”;

(b) in subsection (1.2) by adding “or reappointed” **after** “who is appointed”;

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

(2) Where a board appoints or reappoints a superintendent of schools under subsection (1), the board must notify the

(5) If a report made under subsection (2) is in respect of a teacher, principal or other individual who is employed by

(a) a board and who is not subject to the disciplinary provisions set out under the Teaching Profession Act,

(c) the operator of a charter school,

the superintendent, the person responsible for the operation of the private school or the operator of the charter school must make a complaint about the teacher's, principal's or other individual's conduct pursuant to the applicable regulation made under sections 201 and 224.

(6) A board that makes a report under subsection (3) must make a complaint about the conduct of the superintendent pursuant to the applicable regulation under section 224.

(7) No action lies against any of the following in respect of any report made under subsection (2) or (3) in good faith when acting or purporting to act under this Act or the regulations:

(d) a person appointed as an official trustee;

(4) Section 222 presently reads in part:

222(1) Subject to the regulations, a board shall appoint an individual as a superintendent of schools for a period of not more than 5 years with the prior approval in writing of the Minister.

(1.2) A teacher who is appointed as an acting superintendent must hold a superintendent leadership certificate prescribed by the regulations and issued under this Act.

(2) Where a board applies for the Minister's approval under subsection (1), it must give to the Minister, in the form and containing the information required by the Minister, notice of its intention to appoint the superintendent.

Minister in the form and manner required by the Minister of the appointment or reappointment within 14 days after the date of the appointment or reappointment.

(5) Section 223 is amended

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

Contract of employment

223(1) A board may enter into a contract of employment or a contract renewing a contract of employment with an individual who is appointed as a superintendent only if the contract is in accordance with the regulations and includes a maximum term of not more than 5 years.

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

(3) If a contract referred to in subsection (1) is terminated by either party before the date of termination specified in the contract, the board must notify the Minister in writing of the termination.

- (c) by repealing subsections (4) to (7).**

(6) Section 224 is amended

- (a) in subsection (1)**

- (i) by striking out** “respecting superintendents of schools, including regulations”;
- (ii) in clause (d) by striking out** “a superintendent or other individual who holds a superintendent leadership certificate” **wherever it occurs and**

(5) Section 223 presently reads in part:

223(1) A board may enter into a contract of employment or a contract renewing a contract of employment with an individual who is appointed as a superintendent only if the contract includes a maximum term of not more than 5 years with no option to renew or extend the contract at the end of the term unless the individual is reappointed under this section.

(3) If a board intends to reappoint a superintendent named in a contract referred to in subsection (1), the board must, not less than 6 months before the contract ends, give to the Minister, in the form and containing the information required by the Minister, notice of its intention to reappoint the superintendent.

(4) A reappointment of a superintendent must be for a period of not more than 5 years.

(5) The Minister may approve or refuse to approve a reappointment under subsection (3), in any form the Minister considers appropriate, not more than one month after the Minister is notified under subsection (3).

(6) If the Minister refuses to approve a reappointment under subsection (3), the Minister shall give the board reasons in writing for the refusal.

(7) If the Minister refuses to approve a reappointment under subsection (3), the board must appoint another individual as superintendent of schools in accordance with section 222.

(6) Section 224 presently reads in part:

224(1) The Minister may make regulations respecting superintendents of schools, including regulations

(d) providing for and governing the means of dealing with allegations that a superintendent or other individual who holds a superintendent leadership certificate is unskilled or incompetent in carrying out the leadership duties related to that superintendent leadership certificate, or the means of

substituting “a superintendent leadership certificate holder”;

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

(3) In this section, “superintendent leadership certificate holder” means a teacher who holds a superintendent leadership certificate and to whom neither of the following apply:

- (a) Part 2 of the *College of Alberta School Superintendents Act*;
- (b) sections 16 to 60 of the *Teaching Profession Act*.

dealing with complaints about alleged unprofessional conduct of a superintendent or other individual who holds a superintendent leadership certificate, including, without limitation, regulations

- (i) governing what constitutes unprofessional conduct of a superintendent or other individual who holds a superintendent leadership certificate or unskilled or incompetent carrying out of the leadership duties related to a superintendent leadership certificate,*
- (ii) respecting the form and manner in which a complaint or allegation is to be made,*
- (iii) authorizing a complaint or allegation to be dealt with notwithstanding the fact that the individual who is the subject of the complaint or allegation may no longer hold a certificate under this Act, and respecting the circumstances under which that complaint or allegation may be dealt with,*
- (iv) respecting the investigation of complaints and allegations and the powers and duties of the person conducting the investigation or receiving the report of the person conducting the investigation, as the case may be,*
- (v) respecting the establishment of panels to deal with complaints and allegations and respecting the powers and duties of those panels,*
- (vi) respecting procedural and evidentiary matters in respect of the investigation of complaints and allegations and in respect of the business of the panels, including, without limitation, regulations*
 - (A) providing for the taking of evidence under oath,*
 - (B) providing for the compellability of witnesses,*
 - (C) requiring persons to produce records and documents relevant to the subject-matter of a complaint or allegation, and*
 - (D) authorizing proceedings for civil contempt of court to be brought against a person who fails to comply with a notice to attend a proceeding before a panel as a*

Amends RSA 2000 cT-2

87(1) The *Teaching Profession Act* is amended by this section.

(2) Section 6(2) is repealed and the following is substituted:

(2) Only teachers who are employed by school boards, other than teachers employed as superintendents and teachers who are

witness or a notice to produce records or documents, or who refuses to be sworn or to answer questions at a proceeding before a panel,

- (vii) authorizing a person conducting an investigation of a complaint or allegation to investigate any other matter related to the conduct of the individual who is the subject of the complaint or allegation that arises in the course of the investigation, and*
 - (viii) authorizing the Minister, on receipt of a panel's recommendation, to do one or more of the following, whether or not that is the panel's recommendation:*
 - (A) dismiss the complaint or allegation;*
 - (B) serve a letter of reprimand on the individual who is the subject of the complaint or allegation;*
 - (C) suspend one or more certificates of the individual who is the subject of the complaint or allegation, with or without conditions;*
 - (D) cancel one or more certificates of the individual who is the subject of the complaint or allegation, or cancel one or more certificates and issue a certificate of a different class, type or category;*
 - (E) order that the individual who is the subject of the complaint or allegation be ineligible for one or more certificates for a definite or indefinite time, with or without conditions;*
- (2) A regulation made under subsection (1) may be specific or general in its application.*

87(1) Amends chapter T-2 of the Revised Statutes of Alberta 2000.

(2) Section 6(2) presently reads:

(2) Only teachers who are employed by school boards, other than as superintendents, may be active members of the association.

regulated members of the College of Alberta School Superintendents, may be active members of the association.

(3) Section 13 is repealed and the following is substituted:

Deduction of membership fees

13 Every school board shall deduct the membership fee to the association from the salary of every teacher it employs, other than teachers employed as superintendents and teachers who are regulated members of the College of Alberta School Superintendents, and shall pay the membership fees and furnish a list of teachers in its employ each month to the association.

(4) Section 24 is amended

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

Making a complaint

24(1) Subject to subsections (6) and (7), any person may make a complaint to the executive secretary and the complaint shall be dealt with in accordance with this Act and the bylaws.

(b) by adding the following after subsection (5):

(6) If a complaint is made to the executive secretary under subsection (1) relating to a member who was subject to the *College of Alberta School Superintendents Act* at the time the behaviour forming the basis of the complaint occurred, the executive secretary shall refer the complaint to the executive director of the College of Alberta School Superintendents to be dealt with in accordance with the *College of Alberta School Superintendents Act*.

(7) If a complaint is made to the executive secretary under subsection (1) relating to a member who was not an active member of the association or a regulated member of the College of Alberta School Superintendents at the time the behaviour forming the basis of the complaint occurred, the executive secretary shall refer the complaint to the Registrar to be dealt with in accordance with the regulations under the *Education Act*.

Coming into force

88 This Act comes into force on Proclamation.

(3) Section 13 presently reads:

13 Every school board shall deduct the membership fee to the association from the salary of every teacher it employs, other than as a superintendent, and shall pay the membership fees and furnish a list of teachers in its employ each month to the association.

(4) Section 24 presently reads in part:

24(1) Any person may make a complaint to the executive secretary and the complaint shall be dealt with in accordance with this Act and the bylaws.

(5) In subsection (2), "superintendent" does not include a teacher appointed by a school board as the chief deputy of the superintendent.

88 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To