

2021 Bill 85

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Second Session, 30th Legislature, 70 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 85**

**EDUCATION STATUTES (STUDENTS  
FIRST) AMENDMENT ACT, 2021**

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THE MINISTER OF EDUCATION

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 85

2021

### EDUCATION STATUTES (STUDENTS FIRST) AMENDMENT ACT, 2021

(Assented to \_\_\_\_\_, 2021)

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

#### College of Alberta School Superintendents Act

##### Amends SA 2021 cC-18.8

**1(1) The *College of Alberta School Superintendents Act* is amended by this section.**

**(2) Section 1(1) is amended**

**(a) in clauses (c) and (o) by striking out “*Certification of Teachers and Teacher Leaders Regulation (AR 84/2019)*” and substituting “regulations made under the *Education Act* with respect to the certification of teachers and teacher leaders”;**

**(b) by repealing clause (u) and substituting the following:**

(u) “Registrar” means the Registrar appointed under the regulations made under the *Education Act*;

**(c) in clauses (aa), (cc), (dd) and (ee) by striking out “*Certification of Teachers and Teacher Leaders Regulation (AR 84/2019)*” and substituting “regulations made under the *Education Act* with respect to the certification of teachers and teacher leaders”.**

## Explanatory Notes

### College of Alberta School Superintendents Act

1(1) Amends chapter C-18.8 of the Statutes of Alberta, 2021.

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

*1(1) In this Act,*

- (c) “certificate” means a certificate as defined in the Certification of Teachers and Teacher Leaders Regulation (AR 84/2019);*
- (o) “leadership certificate” means a leadership certificate as defined in the Certification of Teachers and Teacher Leaders Regulation (AR 84/2019);*
- (u) “Registrar” means the Registrar as defined in the Certification of Teachers and Teacher Leaders Regulation (AR 84/2019);*
- (aa) “superintendent leadership certificate” means a superintendent leadership certificate as defined in the Certification of Teachers and Teacher Leaders Regulation (AR 84/2019);*

**(3) Section 25(3)(d) is amended by striking out “Practice Review of Teachers and Teacher Leaders Regulation (AR 92/2019)” and substituting “regulations made under the Education Act with respect to the conduct and competence of teachers and teacher leaders”.**

**(4) Section 26 is repealed and the following is substituted:**

**Hearing committee**

**26** On receiving a direction from the executive director under section 39(1)(c) or (2) or 42(1)(c), the complainant review committee under section 40(9)(d) or the hearing review committee under section 58(1)(c) or a referral from the Minister under section 39.3(1)(a), 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.

**(5) Section 29(d) is amended by striking out “Practice Review of Teachers and Teacher Leaders Regulation (AR 92/2019)” and substituting “regulations made under the Education Act with**

- (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).

(3) Section 25(3)(d) presently reads:

- (3) *The practice review general panel*
  - (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.*

(4) Section 26 presently reads:

- 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.*

(5) Section 29(d) presently reads:

respect to the conduct and competence of teachers and teacher leaders”.

**(6) Section 34(5) is amended**

**(a) in clause (b)**

**(i) by striking out** “subject to the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019)” **and substituting** “subject to the regulations made under the *Education Act* with respect to the conduct and competence of teachers and teacher leaders”;

**(ii) by striking out** “in accordance with the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019)” **and substituting** “in accordance with those regulations”;

**(b) in clause (d)**

**(i) by striking out** “subject to the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019)” **and substituting** “subject to the regulations made under the *Education Act* with respect to the conduct and competence of teachers and teacher leaders”;

**(ii) by striking out** “in accordance with the *Practice Review of Teachers and Teacher Leaders Regulation* (AR 92/2019)” **and substituting** “in accordance with those regulations”.

**(7) Section 39 is amended by adding the following before subsection (1):**

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

(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.*

(6) Section 34(5)(b) and (d) presently read:

(5) *If a complaint is made relating to*

(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),*

(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).*

(7) Section 39 presently reads in part:

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*

**Executive director's decision respecting investigation**

**39(0.1)** In this section and section 39.1, "prescribed offence" means an offence prescribed by regulation under section 201 or 224 of the *Education Act*.

**(0.2)** This section does not apply where an investigator's report under section 38(6) confirms that the investigated person has been convicted of a prescribed offence referred to in section 39.1.

**(8) The following is added after section 39:**

**Where report confirms conviction  
for prescribed offence**

**39.1(1)** Where an investigator's report under section 38(6) confirms that the regulated member who is the subject of the investigation has been convicted of a prescribed offence that proceeded by indictment, the executive director shall

- (a) provide copies of the investigator's report to the Minister and the Registrar,
- (b) provide the Minister with the executive director's recommendation as to whether



- (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.*

(8) Section 39 presently reads:

*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,*

- (i) the matter should be referred to a hearing committee,  
or
- (ii) the Minister should cancel one or more certificates issued to the investigated person under the *Education Act* without referring the matter to a hearing committee,
- (c) serve the investigated person with a copy of the investigator's report and a notice of the recommendation being made to the Minister under clause (b)(i) or (ii),  
and
- (d) notify the Registrar of the executive director's recommendation under clause (b)(i) or (ii).

(2) A notice under subsection (1)(c) must include a statement that all certificates to which the recommendation relates are automatically suspended by operation of section 39.2.

(3) The executive director shall provide copies of the notice served under subsection (1)(c) to the Minister and the Registrar.

#### **Automatic suspension**

**39.2(1)** Where the executive director makes a recommendation under section 39.1(1)(b)(i) or (ii), all certificates held by the investigated person are automatically suspended on the investigated person being served with a notice under section 39.1(1)(c).

(2) An automatic suspension of a certificate under subsection (1) remains in place until

- (a) the Minister makes a decision under section 62, where the Minister refers the matter to a hearing under section 39.3(1)(a), or
- (b) the Minister cancels the certificate under section 39.3(1)(b).

(3) Subsections (1) and (2) apply notwithstanding any other provision of this Act, the regulations, the *Education Act*, any regulations under that Act, the issuance of any certificate under that Act or the length or terms of any suspension imposed under that Act.

*(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*

**Powers of Minister where report confirms conviction**

**39.3(1)** On receiving and considering a copy of an investigation report under section 39.1(1)(a), a recommendation from the executive director under section 39.1(1)(b)(i) or (ii) and a copy of the notice referred to in 39.1(1)(c), the Minister shall

- (a) refer the matter to a hearing, or
- (b) cancel one or more certificates issued to the investigated person under the *Education Act*, without referring the matter to a hearing committee.

**(2)** Before making a decision under subsection (1)(a) or (b), the Minister shall serve on the investigated person and provide to the Registrar a notice of the Minister's intent to make the decision.

**(3)** A notice under subsection (2) must

- (a) provide the investigated person with a period of 15 days to provide a written response setting out any reasons why the investigated person objects to the intended decision,
- (b) state the date by which the written response must be made, the form and manner in which it may be made and the address to which it may be sent, and
- (c) include a statement that all certificates to which the intended decision relates are automatically suspended by operation of section 39.2.

**(4)** The Minister shall consider the investigated person's response, if any, before making a decision under subsection (1)(a) or (b).

**(5)** After making a decision under subsection (1)(a) or (b), the Minister shall serve on the investigated person a notice of the Minister's decision, and the notice must state

- (a) the date of the decision,
- (b) the reasons for the decision, 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).*

(c) if the decision is to cancel one or more certificates, an identification of all the certificates being cancelled and the date on which each cancellation takes effect.

(6) The Minister must send the Registrar copies of any decision made under subsection (1)(a) or (b) and any notices served under this section.

(7) Any application for judicial review of a decision of the Minister under subsection (1)(a) or (b) must be commenced within 60 days from the date of the decision as stated in the notice served under subsection (5).

(8) The Minister may make regulations respecting applications for judicial review of decisions made under this section.

**(9) Section 46 is amended by striking out “(AR 124/2010)” and substituting “made under the *Judicature Act*”.**

**(10) Section 63 is amended**

(a) in subsection (1) by adding “by the Minister under section 62 or” after “made”;

(b) in subsection (2) by striking out “decision must” and substituting “decision made by a hearing review committee must”;

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

(2.1) An application for judicial review of a decision made by the Minister under section 62 must be commenced within 60 days from the day the decision is made.

**(11) Sections 83(1), 84(1) and 85(1) are amended by striking out “*Practice Review of Teachers and Teacher Leaders Regulation (AR 92/2019)*” and substituting “regulations made under the**

(9) Section 46 presently reads:

*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.*

(10) Section 63 presently reads:

*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.*

(11) Sections 83(1), 84(1) and 85(1) presently read:

*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)*

*Education Act* with respect to the conduct and competence of teachers and teacher leaders”.

**(12) This section comes into force on Proclamation.**

### **Education Act**

**Amends SA 2012 cE-0.3**

**2(1) The *Education Act* is amended by this section.**

**(2) Section 21 is amended by adding the following after subsection (5):**

**(5.1)** Section 229.1 applies in respect of an early childhood services program.

**(5.2)** For the purposes of section 229.1, a reference to a board is deemed to include a reference to a person who provides an early childhood services program.

**(3) Section 30(1)(f) is amended by striking out “and 218” and substituting “, 218 and 229.1”.**



*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.*

*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.*

*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.*

(12) Coming into force.

## **Education Act**

**2(1)** Amends chapter E-0.3 of the Statutes of Alberta, 2012.

(2) Section 21 presently reads in part:

*(5) Unless otherwise stated, if a child referred to in subsection (1) attends a program under this section, the child is not, by reason of attending that program,*

*(a) a resident student of the board, or*

*(b) entitled to any of the rights or benefits given to a student under this Act.*

(3) Section 30(1)(f) presently reads:

*30(1) The following provisions and any regulations made under them apply to a registered or accredited private school and its operation, and a reference in those provisions or those regulations*

**(4) Section 201(1)(c) is amended by adding the following after subclause (ix):**

- (x) providing for the automatic suspension, with or without conditions, of all certificates held by the individual who is the subject of the complaint or allegation, where an investigator's report confirms that the individual has been convicted of a prescribed offence that proceeded by indictment,
- (xi) authorizing the Minister, on receipt of an investigator's report confirming that the individual who is the subject of the complaint or allegation has been convicted of a prescribed offence that proceeded by indictment,
  - (A) to refer the matter to a panel, or
  - (B) to cancel one or more certificates of the individual without referring the matter to a panel or, if the matter is referred to a panel, regardless of any finding or recommendation of the panel,as the Minister considers appropriate,
- (xii) specifying offences under the *Criminal Code* (Canada) as prescribed offences for the purposes of subclauses (x) and (xi), and
- (xiii) respecting applications for judicial review of decisions made under regulations under this section;

*to a board or a trustee is deemed to include a reference to the person responsible for the operation of a private school or a member of the governing body of the operator of a private school, as the case may be:*

*(f) in Part 7, sections 201 and 218;*

(4) Section 201(1)(c) 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*

*(ix) 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;*

**(5) Section 224(1)(d) is amended by striking out “and” at the end of subclause (vii) and by adding the following after subclause (viii):**

- (ix) providing for the automatic suspension, with or without conditions, of all certificates held by the individual who is the subject of the complaint or allegation, where an investigator’s report confirms that the individual has been convicted of a prescribed offence that proceeded by indictment,
- (x) authorizing the Minister, on receipt of an investigator’s report confirming that the individual who is the subject of the complaint or allegation has been convicted of a prescribed offence that proceeded by indictment,
  - (A) to refer the matter to a panel, or
  - (B) to cancel one or more certificates of the individual without referring the matter to a panel or, if the matter is referred to a panel, regardless of any finding or recommendation of the panel,as the Minister considers appropriate,
- (xi) specifying offences under the *Criminal Code* (Canada) as prescribed offences for the purposes of subclauses (ix) and (x), and
- (xii) respecting applications for judicial review of decisions made under regulations under this section;

**(6) The following is added after section 225:**

**Online registry**

**225.1(1)** In this section,

- (a) “certificate” means a certificate of qualification as a teacher, a leadership certificate or a superintendent

(5) Section 224(1)(d) 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 dealing with complaints about alleged unprofessional conduct of a superintendent or other individual who holds a superintendent leadership certificate, including, without limitation, regulations*
- (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;*

(6) Online registry.

leadership certificate issued under this Act or a former Act;

- (b) “former Act” means
  - (i) the *School Act*, RSA 2000 cS-3 or any predecessor of that Act;
  - (ii) the *Department of Education Act*, RSA 1980 cD-17 or any predecessor of that Act;
- (c) “online registry” means a repository of information available to the public on a website maintained by the Department administered by the Minister.

**(2)** The Registrar must establish and maintain an online registry for the purpose of providing the public with the information authorized to be published under this section.

**(3)** The online registry must enable any member of the public to access the information referred to in subsection (2) by searching the name of a person who holds a certificate on or after the coming into force of this section or who held a certificate at a time referred to in subsection (4) or (5).

**(4)** Subject to subsections (7) and (8), the Minister shall publish or cause to be published in the online registry all of the following information about each person who holds a certificate on or after the coming into force of this section or who held a certificate on or after January 1, 1954:

- (a) the person’s current name and any previous name of that person that is known to the Registrar;
- (b) each certificate that is held by the person when the information is published in the online registry or that was held by the person on or after January 1, 1954;
- (c) the date that each certificate referred to in clause (b) was issued and the current status of the certificate.

**(5)** The Minister shall publish or cause to be published in the online registry all of the following information about each person in respect of whom information is required to be published under subsection (4):



- (a) in the case of a certificate that is suspended when the information is published in the online registry or that was suspended on or after January 1, 1990, other than where the certificate is automatically suspended by section 27.2 of the *Teaching Profession Act*, section 39.2 of the *College of Alberta School Superintendents Act* or a regulation made under section 201 or 224,
  - (i) the date the suspension became effective,
  - (ii) if the suspension has ended, the date on which it ended,
  - (iii) if the suspension is set to end on a future date, the future date on which it is set to end and whether it is subject to being ended earlier, and
  - (iv) whether the length of the suspension is subject to being extended;
- (b) in the case of a certificate that is cancelled when the information is published in the online registry, the date of the cancellation, unless the cancellation occurred before January 1, 1990;
- (c) in the case of a certificate that was cancelled by the Minister under
  - (i) section 27.3(1)(b) of the *Teaching Profession Act*,
  - (ii) section 39.3(1)(b) of the *College of Alberta School Superintendents Act*, or
  - (iii) a regulation made under section 201 or 224 that authorizes cancellation where an individual has been convicted of a prescribed offence that proceeded by indictment,
 an indication of that fact;
- (d) in the case of a certificate that is suspended or cancelled when the information is published in the online registry or that was suspended on or after January 1, 1990, an indication as to whether the suspension or cancellation was imposed after a hearing relating to alleged





unprofessional conduct or professional incompetence, or both, and whether there was a finding of unprofessional conduct or professional incompetence;

- (e) subject to subsections (7) and (8), in the case of a certificate that was suspended or cancelled on or after January 1, 1990 after a hearing relating to alleged unprofessional conduct or professional incompetence, or both, an indication as to whether there was a finding of unprofessional conduct or professional incompetence and a summary of the matters that led to the suspension or cancellation;
- (f) subject to subsections (7) and (8), in the case of a certificate that is expired when the information is published in the online registry, any finding of unprofessional conduct or professional incompetence, or both, of the person who held the certificate and a summary of the matters that led to the finding;
- (g) subject to subsections (7) and (8), in the case of a certificate referred to in clause (e) or (f),
  - (i) a copy of any decision of, or recommendation made to the Minister by, a hearing committee, a hearing review committee or an appeal committee after a hearing relating to alleged unprofessional conduct or professional incompetence, and
  - (ii) a copy of the Minister's decision, if any, to suspend or cancel the certificate.

**(6)** A summary referred to in subsection (5)(e) or (f) or a copy of a decision or recommendation referred to in subsection (5)(g)(i) or (ii) must not include personal information about any person other than the person whose certificate was suspended or cancelled or who was the subject of the finding of unprofessional conduct or professional incompetence.

**(7)** Subsections (4) and (5) do not apply where publishing the information would be contrary to any other enactment of Alberta or Canada or an order of a court of competent jurisdiction.

**(8)** The Minister may



- (a) decide not to publish information referred to in subsection (4) if the Minister is satisfied that publishing the information could cause injury or hardship to any person, or
- (b) decide not to publish a summary referred to in subsection (5)(e) or (f) or a copy of a decision or recommendation referred to in subsection (5)(g)(i) or (ii) if the Minister is satisfied that publishing the information could cause injury or hardship to any person, other than the person whose certificate was suspended or cancelled or who was the subject of the finding of unprofessional conduct or professional incompetence.

**(7) The following is added after section 229:**

**Criminal record and vulnerable sector checks**

**229.1(1)** Before a board enters into a contract of employment with an individual in a position that requires the individual to hold a certificate of qualification as a teacher, a leadership certificate or a superintendent leadership certificate,

- (a) subject to subsection (3), the individual must provide a criminal record check and vulnerable sector check to the board, and
- (b) the board must be satisfied that the results of those checks demonstrate that the individual is suitable for employment in the position.

**(2)** Where an individual is employed by a board in a position that requires the individual to hold a certificate of qualification as a teacher, a leadership certificate or a superintendent leadership certificate,

- (a) subject to subsection (3), the individual must provide a criminal record check and vulnerable sector check to the board every 5 years after the individual last provided a criminal record check and vulnerable sector check to the board, and
- (b) the board must be satisfied that the results of those checks demonstrate that the individual continues to be suitable for employment in the position.

(7) Criminal record and vulnerable sector checks.

(3) Where a board is of the opinion that it is not possible for an individual to provide a criminal record check or vulnerable sector check, the individual must provide evidence that is sufficient for the board to determine whether the individual is suitable for employment in the position.

(4) An individual referred to in subsection (2) who is employed by a board on the coming into force of this section and has not provided a criminal record check and vulnerable sector check to the board within 5 years before the coming into force of this section must provide a criminal record check and vulnerable sector check to the board within 16 months after the coming into force of this section.

**(8) The following is added after section 259:**

**Judicial review**

**259.1** An application for judicial review of

- (a) a decision made under a regulation under section 201 or 224 to issue, refuse to issue, suspend or cancel a certificate of qualification as a teacher, a leadership certificate or a superintendent leadership certificate, or
- (b) an order of the Minister made under a regulation under section 201 or 224 that an individual be ineligible for one or more certificates

must be commenced within 60 days from the day the decision or order is made.

**(9) This section comes into force on Proclamation.**

## **Teaching Profession Act**

**Amends RSA 2000 cT-2**

**3(1) The *Teaching Profession Act* is amended by this section.**

**(2) Section 1 is amended**

- (a) by renumbering clause (a) as clause (a.2) and by adding the following before clause (a.2):

(8) Judicial review.

(9) Coming into force.

### **Teaching Profession Act**

**3(1)** Amends chapter T-2 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads in part:

*1 In this Act,*

*(a) “association” means The Alberta Teachers’ Association;*

(a) “appeal committee” means an appeal committee established under section 18(3);

(a.1) “appeal committee member” means a panel member appointed to an appeal committee;

**(b) by adding the following after clause (b):**

(b.1) “complainant appeal committee” means a complainant appeal committee established under section 18(1);

(b.2) “complainant appeal committee member” means a panel member appointed to a complainant appeal committee;

**(c) by adding the following after clause (e):**

(e.1) “hearing committee” means a hearing committee established under section 18(2);

(e.2) “hearing committee member” means a panel member appointed to a hearing committee;

(e.3) “leadership certificate” means a leadership certificate as defined in the regulations made under the *Education Act* with respect to the certification of teachers and teacher leaders;

**(d) by adding the following after clause (g):**

(g.1) “panel member” means an individual appointed to the professional conduct and practice review general panel under section 17;

(g.2) “professional conduct and practice review general panel” means the professional conduct and practice review general panel established under section 17(1);

**(e) by adding the following after clause (j):**

(k) “teacher leader” means a teacher leader as defined in the regulations made under the *Education Act* with respect to the certification of teachers and teacher leaders;

(l) “teaching certificate” means a teaching certificate as defined in the regulations made under the *Education Act*



- (b) *“bylaws” means the bylaws of the association;*
- (e) *“executive secretary” means the chief executive officer of the association or a person designated by the chief executive officer;*
- (g) *“Minister” means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act;*
- (j) *“teacher” means a person holding a permanent or temporary certificate of qualification as a teacher issued by the Minister under the Education Act.*

with respect to the certification of teachers and teacher leaders.

**(3) Section 8 is amended**

**(a) in subsection (1)**

**(i) by repealing clause (g) and substituting the following:**

- (g) discipline proceedings, including the following:
  - (i) the appointment of non-public panel members;
  - (ii) setting a term of office for non-public panel members;
  - (iii) the designation of the chair and vice-chairs of the professional conduct and practice review general panel;
  - (iv) the designation of chairs of complainant appeal committees, hearing committees and appeal committees;
  - (v) establishing the number of committee members that constitutes a quorum for complainant appeal committees, hearing committees and appeal committees in respect of conduct matters;
  - (vi) setting fees and expenses payable to non-public complainant appeal committee members, hearing committee members and appeal committee members for attending to the business of the association;
  - (vii) respecting the publication of orders made by hearing committees and appeal committees;
  - (viii) determining the costs of investigations, hearings or appeals for the purposes of section 43(1)(a) or 54(2);
  - (ix) providing for the suspension or cancellation of a person's membership in the association for

(3) Section 8 presently reads in part:

*8(1) The association in general meeting may pass bylaws not inconsistent with this Act or any Act or regulation of Alberta concerning*

*(g) discipline proceedings, including the following:*

- (i) the appointment of members or acting members of the Professional Conduct Committee, the Complainant Appeal Committee, the Professional Conduct Appeal Committee and a hearing committee established under section 18;*
  - (ii) setting a term of office for members of the Professional Conduct Committee, the Complainant Appeal Committee and the Professional Conduct Appeal Committee;*
  - (iii) the designation of a chair and vice-chair for a committee referred to in subclause (i);*
  - (iv) establishing the number of members that constitutes a quorum for a committee referred to in subclause (i);*
  - (v) setting fees and expenses payable to members of a committee referred to in subclause (i) for attending to the business of the association;*
  - (vi) respecting publication of an order made by a committee referred to in subclause (i);*
  - (vii) determining costs of an investigation, hearing or appeal for the purpose of section 43(1)(a) or 54(2);*
  - (viii) providing for the suspension or cancellation of a person's membership in the association for non-payment of fees, dues or levies that are payable to the association;*
  - (ix) providing for the reinstatement of a person's membership in the association;*
- (g.1) the competence of its members, including the assessment of the professional competence of its members by means of a professional practice review process;*

non-payment of fees, dues or levies that are payable to the association;

- (x) providing for the reinstatement of a person's membership in the association;

**(ii) by repealing clause (g.1) and substituting the following:**

(g.1) the competence of its members, including the following:

- (i) the assessment of the professional competence of its members by means of a professional practice review process;
- (ii) establishing the number of non-public committee members that constitutes a quorum for complainant appeal committees, hearing committees and appeal committees in respect of professional competence matters;

**(b) in subsection (2)(a)**

**(i) by repealing subclauses (i) and (ii) and substituting the following:**

- (i) procedures with respect to complainant appeals before complainant appeal committees;
- (ii) procedures with respect to hearings before hearing committees;
- (ii.1) procedures with respect to appeals before appeal committees;

**(ii) in subclause (iii)(E) by striking out “teacher’s certificate of qualification under the *Education Act*” and substituting “teaching certificate”.**

*(2) Without restricting the generality of subsection (1)(g.1), a bylaw passed under subsection (1)(g.1) may*

*(a) provide for and govern*

*(i) the establishment of a Professional Practice Review Hearing Committee and procedures with respect to hearings before it;*

*(ii) the establishment of a Professional Practice Review Appeal Committee and procedures with respect to appeals before it;*

*(iii) with respect to matters before a committee referred to in this clause,*

*(E) the recommendations that may be made to the Minister respecting a teacher's certificate of qualification under the Education Act;*

**(4) Section 16(a) and (b) are repealed and the following is substituted:**

- (a) “association member” means a member in good standing of the association;
- (b) “complaint” means a complaint made under section 24 or a matter referred to in section 25;

**(5) Sections 17 to 22 are repealed and the following is substituted:**

**Application to professional competence**

**16.1(1)** For the purposes of a hearing or appeal under the bylaws relating to professional competence, a complainant appeal committee, hearing committee or appeal committee may be established under section 18 to deal with the hearing or appeal in accordance with the bylaws.

(2) Sections 23 to 56 and 58 to 65 do not apply in respect of a committee, hearing or appeal referred to in subsection (1).

**Professional conduct and practice review general panel**

**17(1)** The professional conduct and practice review general panel is established.

(2) The executive council shall

- (a) appoint non-public panel members to the professional conduct and practice review general panel in accordance with subsection (3) and the bylaws, and
- (b) designate the chair and one or more vice-chairs from among the panel members in accordance with the bylaws.

(3) The professional conduct and practice review general panel

- (a) must consist of at least 15 panel members,

(4) Section 16 presently reads in part:

*16 In this section and sections 17 to 65,*

- (a) "Appeal Committee" means the Professional Conduct Appeal Committee established under section 20;*
- (b) "complaint" means a complaint made in writing about the conduct or alleged conduct of a member or about a former member if section 24(4) applies, signed by the person making it;*

(5) Sections 17 to 22 presently read:

*17 There is hereby established the Professional Conduct Committee composed of*

- (a) not fewer than 17 members of the association who are appointed by the executive council in accordance with the bylaws, and*
- (b) 3 members of the public who are not members of the association and who are appointed by the Lieutenant Governor in Council after the Minister has consulted with the executive council.*

*18(1) The executive secretary may establish any hearing committees the executive secretary considers necessary.*

*(2) If a hearing committee is to deal with a complaint relating to a member who is charged with an indictable offence, the hearing committee must be composed of*

- (a) not fewer than 2 and not more than 4 members of the Professional Conduct Committee appointed under section 17(a), and*
- (b) one member of the Professional Conduct Committee appointed under section 17(b).*

*(3) A hearing committee that is to deal with any other type of complaint must be composed of not fewer than 3 and not more than 5 members of the Professional Conduct Committee appointed under section 17(a).*

- (b) must have a majority of panel members who are association members,
- (c) must include at least 3 public panel members appointed by the Minister who do not hold and have not held a teaching certificate, and
- (d) may include one or more panel members who are teachers or teacher leaders to whom the *College of Alberta School Superintendents Act* or the regulations made under the *Education Act* with respect to the conduct and competence of teachers and teacher leaders applies.

**Establishment of committees**

**18(1)** If the chair of the professional conduct and practice review general panel does not dismiss a request for complainant appeal under section 29(3) or the bylaws, the chair shall

- (a) establish a complainant appeal committee to hear the appeal,
- (b) appoint the complainant appeal committee members from among the panel members in accordance with section 19, and
- (c) designate a complainant appeal committee member as the chair.

**(2)** If the chair of the professional conduct and practice review general panel receives a direction from the executive secretary under section 27(2)(b), the Minister under section 27.3(1)(a), a complainant appeal committee under section 29(5)(b), an appeal committee under section 54(1)(c) or under the bylaws, the chair shall

- (a) establish a hearing committee to hear the complaint,
- (b) appoint the hearing committee members from among the panel members in accordance with section 19, and
- (c) designate a hearing committee member as the chair.



*(4) A hearing committee referred to in subsection (3) may include one member of the Professional Conduct Committee appointed under section 17(b) and in that event one fewer member is to be appointed under subsection (3) to that committee.*

*(5) Each member of a hearing committee must be appointed by the executive secretary in accordance with the bylaws.*

*19(1) There is hereby established the Complainant Appeal Committee composed of*

- (a) not fewer than 2 members of the association who are appointed by the executive council in accordance with the bylaws, and*
- (b) one member of the public who is not a member of the association and who is appointed by the Lieutenant Governor in Council after the Minister has consulted with the executive council.*

*(2) A person who is appointed as a member of the Professional Conduct Committee is not eligible to be appointed as a member of the Complainant Appeal Committee.*

*20(1) There is hereby established the Professional Conduct Appeal Committee composed of*

- (a) not fewer than 3 and not more than 5 persons, the majority of whom are members of the association, appointed by the executive council in accordance with the bylaws, and*
- (b) one member of the public who is not a member of the association and who is appointed by the Lieutenant Governor in Council after the Minister has consulted with the executive council.*

*(2) A person who is appointed as a member of the Professional Conduct Committee is not eligible to be appointed as a member of the Professional Conduct Appeal Committee.*

*21(1) A member of the public appointed to the Professional Conduct Committee, the Complainant Appeal Committee or the Professional Conduct Appeal Committee continues to hold office after the expiry of the member's term until the member is reappointed or a successor is appointed.*

(3) If the chair of the professional conduct and practice review general panel does not dismiss a request for appeal under section 49(4) or the bylaws, the chair shall

- (a) establish an appeal committee to hear the appeal,
- (b) appoint the appeal committee members from among the panel members in accordance with section 19, and
- (c) designate an appeal committee member as the chair.

#### **Composition of committees**

**19** A complainant appeal committee, hearing committee and appeal committee

- (a) must, subject to the bylaws, consist of at least 3 committee members,
- (b) must have a majority of committee members who are association members,
- (c) must include at least one public committee member who does not hold and has not held a teaching certificate, and
- (d) may include one or more committee members who are teachers or teacher leaders to whom the *College of Alberta School Superintendents Act* or the regulations made under the *Education Act* with respect to the conduct and competence of teachers and teacher leaders applies.

#### **Public members of panel and committees**

**20(1)** A public panel member continues to hold office after the expiry of the public panel member's term of office until the public panel member is reappointed or a successor is appointed.

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

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

*(2) The Minister may pay to a member of the public appointed to a committee referred to in subsection (1) travelling and living expenses incurred by that member for attendance at a meeting of the committee away from the member's usual place of residence and fees in an amount prescribed by the Minister.*

*(3) The Lieutenant Governor in Council may, after the Minister has consulted with the executive council, revoke the appointment of a member of the public.*

*(4) The powers, duties and operation of a committee referred to in subsection (1) are not affected by*

*(a) the fact that no member of the public is appointed as a member of the committee,*

*(b) the revocation of the appointment of a member of the public, or*

*(c) the resignation from the committee of a member of the public.*

*(5) Subject to the bylaws prescribing a quorum, the failure of a member of the public appointed to a committee referred to in subsection (1) to attend a meeting of the committee does not affect or restrict the committee in exercising any powers or performing any duties under this Act or the bylaws at that meeting.*

*22 A member of the Professional Conduct Committee, the Complainant Appeal Committee or the Professional Conduct Appeal Committee 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 that committee.*

(b) fees.

(3) The Minister may, after consulting with the executive council, revoke the appointment of a public panel member.

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

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

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

**Powers of committee chair**

**21** The chair of a complainant appeal committee, hearing committee or appeal committee may

- (a) deal with any preliminary or procedural matters incidental to a hearing or appeal, 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.

**Limits on service**

**21.1(1)** The chair of the professional conduct and practice review general panel may serve as a member of a complainant appeal committee, hearing committee or appeal committee with respect to a complaint or appeal if the functions of the chair with



respect to that complaint or appeal are exercised by a vice-chair of the professional conduct and practice review general panel.

**(2)** A panel member may serve in only one of the following capacities with respect to a complaint or matter:

- (a) serving as a complainant appeal committee member;
- (b) serving as a hearing committee member;
- (c) serving as an appeal committee member.

**Continuation of term to conclusion of hearing**

**22** A panel member appointed to a complainant appeal committee, hearing committee or appeal committee whose term of office expires before the committee concludes the hearing or appeal before the committee, 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 the member's position on the professional conduct and practice review general panel.

**(6) Section 23(1)(b) is amended by striking out “8(f) or (g)” and substituting “8(1)(f) or (g)”.**

**(7) 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 about

- (a) the conduct or alleged conduct of a member, or
- (b) a former member, if subsection (4) applies.

(6) Section 23 presently reads:

*23(1) Any conduct of a member that, in the opinion of a hearing committee,*

*(b) contravenes sections 16 to 65 or a bylaw made under section 8(f) or (g), or*

(7) 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.*

*(3) Notwithstanding anything contained in the bylaws, a member who believes that another member is guilty of conduct that contravenes sections 16 to 65 shall make a complaint forthwith to the executive secretary relating to that conduct.*

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

**(1.1)** The executive secretary shall deal with the complaint in accordance with this Act and the bylaws.

**(1.2)** A complaint must be in writing and signed by the complainant.

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

**(3.1)** The executive secretary 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 person who is the subject of the complaint a notice setting out the nature of the complaint, and
  - (ii) make any preliminary inquiries relating to the complaint that the executive secretary considers appropriate.

**(3.2)** Within 30 days after making any preliminary inquiries under subsection (3.1)(b)(ii), the executive secretary shall,

- (a) if the executive secretary is of the opinion that the complaint is frivolous, vexatious or without merit, decide not to take any further action with respect to the complaint,
- (b) if the executive secretary determines that the complaint does not warrant an investigation, refer the matter to a mediator or another dispute resolution process provided for in the bylaws, or
- (c) if the executive secretary determines that the complaint warrants an investigation, appoint an investigator and refer the complaint to the investigator.

**(3.3)** After making a decision under subsection (3.2), the executive secretary shall serve on the person who is the subject of the complaint and the complainant, if any, a notice setting out





- (a) the decision of the executive secretary under this section,
- (b) the reasons for the decision, and
- (c) the complainant's right to an appeal of the decision under section 29 if the executive secretary's decision is that no further action be taken.

**(3.4)** The executive secretary shall send the notice to the Registrar if the executive secretary makes a decision under subsection (3.2)(a).

- (c) in subsection (5) by striking out "In subsection (2)" and substituting "In this section".**

**(8) Section 25 is repealed and the following is substituted:**

**Executive secretary's authority in absence of complaint**

**25(1)** The executive secretary may, in the absence of a complaint, make any preliminary inquiries that the executive secretary considers appropriate and refer to an investigator any matter that would otherwise properly be the subject of a complaint.

**(2)** If the executive secretary appoints an investigator under subsection (1), the executive secretary shall

- (a) serve on the person who is the subject of the complaint a notice setting out the nature of the matter being investigated, and
- (b) notify the Registrar in writing of the nature of the matter being investigated.

**(3)** Subject to subsection (4), the executive secretary shall not take an action under subsection (1) more than 5 years after the date on which the conduct to which the matter relates occurred.

**(4)** If, after a person's membership in the association lapses or has been suspended or cancelled, the executive secretary takes an action under subsection (1) with respect to the former member and

- (a) the matter relates to conduct occurring before the lapse, suspension or cancellation, and

(8) Section 25 presently reads:

*25 The executive secretary shall, not later than 30 days after receiving a complaint, refer the complaint to an investigator.*

- (b) the action is taken no later than 5 years after the date of the lapse, suspension or cancellation,

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

(5) A matter referred under this section is considered a complaint for the purposes of this Act.

(6) Where the executive secretary refers a matter under this section, the executive secretary is not considered to be a complainant for the purposes of this Act.

**(9) Section 26 is amended by adding the following after subsection (6):**

(7) The investigator, on concluding a preliminary investigation and preparing a report, shall provide the report to the executive secretary.

**(10) Section 27 is amended**

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

**Actions after considering investigator's report**

**27(1)** In this section and section 27.1, "prescribed offence" means an offence prescribed by regulation under section 201 or 224 of the *Education Act*.

**(1.1)** This section does not apply where an investigator's report confirms that the investigated person has been convicted of a prescribed offence referred to in section 27.1.

- (b) **in subsection (2)(b) by striking out** "may refer the matter to a hearing committee" **and substituting** "may direct the chair of the professional conduct and practice review general panel to establish a hearing committee to hear the matter and refer the matter to the hearing committee";

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

(9) Section 26(6) presently reads:

*(6) If the member who is the subject of the complaint is alleged to have been convicted of an indictable offence, the investigator shall attempt to confirm whether the member has, in fact, been convicted of an indictable offence and immediately on doing so shall prepare a report to that effect.*

(10) Section 27 presently reads in part:

*27(1) The investigator, on concluding a preliminary investigation and preparing a report, shall provide the report to the executive secretary.*

*(2) On reviewing the report, the executive secretary*

*(b) may refer the matter to a hearing committee whether or not there has been a referral or a settlement reached under clause (a), or*

*(4) The executive secretary shall serve on the investigated person a notice of the executive secretary's decision and shall notify the complainant of the executive secretary's decision.*

(4) The executive secretary shall

- (a) serve on the investigated person a notice of the executive secretary's decision and the reasons for the decision, and
- (b) notify the following of the executive secretary's decision:
  - (i) the complainant;
  - (ii) the Registrar, if the executive secretary makes a decision under subsection (2)(c).

(5) If the executive secretary makes a decision under subsection (2)(c)(iii), the notice to the Registrar must include the reasons for the decision.

**(11) The following is added after section 27:**

**Where report confirms conviction  
for prescribed offence**

**27.1(1)** Where an investigator's report confirms that the investigated person has been convicted of a prescribed offence that proceeded by indictment, the executive secretary shall

- (a) provide copies of the investigator's report to the Minister and the Registrar,
- (b) provide the Minister with the executive secretary's recommendation as to whether
  - (i) the matter should be referred to a hearing committee, or
  - (ii) the Minister should cancel one or more certificates issued to the investigated person under the *Education Act* without referring the matter to a hearing committee,
- (c) serve the investigated person with a copy of the investigator's report and a notice of the recommendation being made to the Minister under clause (b)(i) or (ii), and

(11) Where report confirms conviction for prescribed offence; automatic suspension; powers of Minister where report confirms conviction.

(d) notify the Registrar of the executive secretary's recommendation under clause (b)(i) or (ii).

(2) A notice under subsection (1)(c) must include a statement that all certificates to which the recommendation relates are automatically suspended by operation of section 27.2.

(3) The executive secretary shall provide copies of the notice served under subsection (1)(c) to the Minister and the Registrar.

#### **Automatic suspension**

**27.2(1)** Where the executive secretary makes a recommendation under section 27.1(1)(b)(i) or (ii), all certificates held by the investigated person are automatically suspended on the investigated person being served with a notice under section 27.1(1)(c).

(2) An automatic suspension of a certificate under subsection (1) remains in place until

(a) the Minister directs otherwise after a hearing, if the Minister directs a hearing under section 27.3(1)(a), or

(b) the Minister cancels the certificate under section 27.3(1)(b).

(3) Subsections (1) and (2) apply notwithstanding any other provision of this Act, the regulations, the *Education Act*, any regulations under that Act, the issuance of any certificate under that Act or the length or terms of any suspension imposed under that Act.

#### **Powers of Minister where report confirms conviction**

**27.3(1)** On receiving and considering a copy of an investigation report under section 27.1(1)(a), a recommendation from the executive secretary under section 27.1(1)(b)(i) or (ii) and a copy of the notice referred to in section 27.1(1)(c), the Minister shall

(a) direct the chair of the professional conduct and practice review general panel to establish a hearing committee in accordance with section 18(2) to hear the matter, or

(b) cancel one or more certificates issued to the investigated person under the *Education Act*, without referring the matter to a hearing committee.





**(2)** Before making a decision under subsection (1)(a) or (b), the Minister shall serve on the investigated person and provide to the Registrar a notice of the Minister's intent to make the decision.

**(3)** A notice under subsection (2) must

- (a) provide the investigated person with a period of 15 days to provide a written response setting out any reasons why the investigated person objects to the intended decision,
- (b) state the date by which the written response must be made, the form and manner in which it may be made and the address to which it may be sent, and
- (c) include a statement that all certificates to which the intended decision relates are automatically suspended by operation of section 27.2.

**(4)** The Minister shall consider the investigated person's response, if any, before making a decision under subsection (1)(a) or (b).

**(5)** After making a decision under subsection (1)(a) or (b), the Minister shall serve on the investigated person a notice of the Minister's decision, and the notice must state

- (a) the date of the decision,
- (b) the reasons for the decision, and
- (c) if the decision is to cancel one or more certificates, an identification of all the certificates being cancelled and the date on which each cancellation takes effect.

**(6)** The Minister must send the Registrar copies of any decision made under subsection (1)(a) or (b) and any notices served under this section.

**(7)** Any application for judicial review of a decision of the Minister under subsection (1)(a) or (b) must be commenced within 60 days from the date of the decision as stated in the notice served under subsection (5).



(8) The Minister may make regulations respecting applications for judicial review of decisions made under this section.

**(12) Section 29 is repealed and the following is substituted:**

**Request for appeal by complainant**

**29(1)** A complainant may request an appeal of a decision of the executive secretary under section 24(3.2)(a) not to take any further action or a direction of the executive secretary under section 27(2)(c) that a complaint not be referred to a hearing committee.

(2) A request for complainant appeal must be

- (a) a notice in writing that includes the reasons the complainant believes the complaint should be referred to a hearing committee,
- (b) delivered to the chair of the professional conduct and practice review general panel within 30 days after the date on which the complainant is notified under section 24(3.3) or 27(4)(b)(i), as applicable, of the executive secretary's decision, and
- (c) accompanied by a fee in the amount established by the executive council.

(3) On receiving a request for complainant appeal, the chair of the professional conduct and practice review general panel shall

- (a) notify the investigated person, the executive secretary and the Registrar that a request for complainant appeal has been received, and
- (b) determine whether
  - (i) the request for complainant appeal was delivered in the time provided for in subsection (2)(b), and
  - (ii) the fee referred to in subsection (2)(c) has been paidand, if not, may dismiss the request for complainant appeal.

(12) Section 29 presently reads:

*29(1) The complainant, within 30 days after receiving notice that the matter will not be referred to a hearing committee, may by notice in writing to the executive secretary request a review of that decision by the Complainant Appeal Committee.*

*(2) A request under subsection (1) must include*

*(a) reasons why the complainant believes the matter should be referred to a hearing committee, and*

*(b) a fee in the amount established by the executive council.*

*(3) On receiving notice under subsection (1), the executive secretary must notify the investigated person and the Complainant Appeal Committee that the executive secretary has received a request for a review.*

*(4) The Complainant Appeal Committee shall, on receiving notice under subsection (1), review the decision of the executive secretary and determine whether the matter should be referred to a hearing committee.*

*(5) The Complainant Appeal Committee shall notify the complainant and the investigated person*

*(a) of the date, time and location of the review, and*

*(b) of their right to make representations to the Complainant Appeal Committee.*

*(6) If new information is available to the Complainant Appeal Committee that was not available to the investigator who conducted the preliminary investigation, the Committee may in making its decision consider the relevance of the new information.*

*(7) The Complainant Appeal Committee shall notify the complainant, the investigated person and the executive secretary in writing of its decision.*

(4) On establishing a complainant appeal committee under section 18(1), the chair of the professional conduct and practice review general panel shall notify the complainant and the investigated person of

- (a) the date, time and location of the appeal hearing, and
- (b) their right to make representations to the complainant appeal committee.

(5) The complainant appeal committee shall review the direction of the executive secretary under section 27(2)(c) and may

- (a) confirm the direction of the executive secretary, or
- (b) direct the chair of the professional conduct and practice review general panel to establish a hearing committee and refer the complaint to the hearing committee.

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

(7) The chair of the complainant appeal committee shall notify the following of the committee's decision:

- (a) the complainant, the investigated person and the executive secretary, and
- (b) the Registrar, if the committee confirms the direction of the executive secretary.

**(13) Section 31 is repealed and the following is substituted:**

**Hearing**

**31(1)** On the establishment of a hearing committee under section 18(2), the chair of the hearing committee shall, at least 15 days before the date set for the hearing, serve notice on the investigated person and the executive secretary of

- (a) the date, time and location of the hearing, and
- (b) the reasonable particulars of the complaint to be heard.

(13) Section 31 presently reads:

*31(1) A hearing committee shall, on referral to it of a matter in accordance with this Act, hold a hearing.*

*(2) A hearing under subsection (1) shall be commenced within 120 days after the date on which the matter is referred to the hearing committee or within any other period set by the executive council, unless subsection (4) applies.*

*(3) At least 15 days before the date set for a hearing, the executive secretary shall serve on the investigated person a notice stating*

(2) Subject to subsection (3), a hearing must be commenced within 120 days after the date on which a direction was made to refer the complaint to a hearing committee under section 27(2)(b), 27.3(1)(a), 29(5)(b) or 54(1)(c) or within any other period set by the executive council.

(3) A hearing that relates to the conviction of a member of an indictable offence must be held forthwith and in that event the 15-day period required under subsection (1) does not apply.

**(14) Section 48(1) and (2) are amended by striking out “the Appeal Committee” and substituting “an appeal committee”.**

**(15) Sections 49 and 50 are repealed and the following is substituted:**

**Request for appeal**

**49(1)** An investigated person or the executive council may request an appeal of a finding or order, or both, of a hearing committee.

(2) A request for appeal under subsection (1) must

- (a) be a notice in writing to the chair of the professional conduct and practice review general panel,
- (b) describe the finding or order for which an appeal is being requested,
- (c) state the reasons for the appeal, and
- (d) be accompanied by a deposit in an amount set by the chair of the professional conduct and practice review



(a) *the date, time and location of the hearing, and*

(b) *reasonable particulars of the matter to be heard.*

(4) *A hearing that relates to the conviction of a member of an indictable offence must be held forthwith and in that event the 15-day period required under subsection (3) does not apply.*

(14) Section 48 presently reads:

*48(1) The decision of a hearing committee remains in effect until the Appeal Committee makes a decision on an appeal.*

*(2) An investigated person may apply to the executive secretary for a stay of the order of a hearing committee, and if the executive secretary considers it appropriate the executive secretary may stay the implementation of the hearing committee's order pending the conclusion of an appeal to the Appeal Committee.*

(15) Sections 49 and 50 presently read:

*49(1) An investigated person or the executive council may by notice in writing to the executive secretary appeal a finding or order, or both, of a hearing committee to the Appeal Committee.*

*(2) A notice of appeal under subsection (1) must*

*(a) describe the finding or order, or both, being appealed,*

*(b) state the reasons for the appeal, and*

*(c) include a deposit in the amount set by the executive secretary, not to exceed the costs of the appeal as anticipated by the executive secretary.*

*(3) A notice of appeal under this section must be served on the executive secretary within 30 days after the date on which the decision of a hearing committee is*

*(a) served on the investigated person, if the investigated person appeals the decision, or*

general panel that must not exceed the anticipated costs of appeal as determined by the chair of the panel.

**(3)** A request for appeal under this section must be served on the chair of the professional conduct and practice review general panel within 30 days after the date on which the decision of a hearing committee is

- (a) served on the investigated person under section 47(2)(a), in the case of a request for appeal made by the investigated person, or
- (b) forwarded to the executive council under section 47(2)(c), in the case of a request for appeal made by the executive council.

**(4)** On receiving a request for appeal under this section, the chair of the professional conduct and practice review general panel shall determine whether

- (a) the request for appeal was served in the time provided for in subsection (3), and
- (b) the deposit required to be paid under subsection (2)(d) has been paid

and, if not, may dismiss the request for appeal.

**(5)** On establishing an appeal committee under section 18(3), the chair of the professional conduct and practice review general panel shall send a copy of the request for appeal to the Registrar and to

- (a) the investigated person, if the request for appeal was made by the executive council, or
- (b) the executive council, if the request for appeal was made by the investigated person.

**(6)** The chair of the appeal committee shall, at least 15 days before the date set for the appeal hearing, serve notice on the investigated person and the executive council of the date, time and location of the appeal hearing.

*(b) forwarded to the executive council, if the executive council appeals the decision.*

*(4) On receiving a notice of appeal under this section, the executive secretary shall*

*(a) send a copy of it to the investigated person, if the executive council is the appellant,*

*(b) send a copy of it to the executive council, if the investigated person is the appellant, and*

*(c) give to each member of the Appeal Committee a copy of the notice of appeal and make the decision of the hearing committee and the record of the hearing available to each member of the Appeal Committee.*

*50(1) The Appeal Committee shall begin hearing an appeal within 90 days after the service of the notice of appeal in accordance with section 49(3) or within a longer period that is agreed to by the appellant, unless subsection (3) applies.*

*(2) At least 15 days before the date set for the hearing of the appeal, the executive secretary shall serve on the investigated person and the executive council a notice stating the date, time and location of the hearing.*

*(3) A hearing that relates to the conviction of a member of an indictable offence must be held forthwith and in that event the 15-day period required under subsection (2) does not apply.*

(7) Subject to subsection (9), an appeal must be commenced within 90 days after the date on which the request for appeal was served on the chair of the practice review and professional conduct general panel under subsection (3) or within a longer period that is agreed to by the appellant.

(8) The chair of the professional conduct and practice review general panel shall provide to each member of the appeal committee a copy of the request for appeal and make the decision of the hearing committee and the record of the hearing available to each member of the appeal committee.

(9) An appeal hearing that relates to the conviction of a member of an indictable offence must be held forthwith and in that event the 15-day period required under subsection (6) does not apply.

**(16) Section 51 is amended**

- (a) **by striking out** “and the Appeal Committee” **and substituting** “and an appeal committee”;
- (b) **by striking out** “before the Appeal Committee” **and substituting** “before the appeal committee”.

**(17) Section 52 is amended**

- (a) **by striking out** “before the Appeal Committee” **and substituting** “before an appeal committee”;
- (b) **by striking out** “in the opinion of the Appeal Committee” **and substituting** “in the opinion of the appeal committee”.

**(18) Section 53 is amended**

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

**Powers of appeal committee**

**53(1)** An appeal to an appeal committee must be founded on the decision of the hearing committee and the record of the proceedings before the hearing committee.

- (b) **in subsection (2)**

(16) Section 51 presently reads:

*51 The investigated person, the executive council and the Appeal Committee may each be represented by counsel at a hearing before the Appeal Committee.*

(17) Section 52 presently reads:

*52 A hearing before the Appeal Committee must be open to the public unless, in the opinion of the Appeal Committee, the interests of any person other than the investigated person may be detrimentally affected if the hearing is not held in private.*

(18) Section 53 presently reads in part:

*53(1) The appeal to the Appeal Committee must be founded on the decision of the hearing committee and the record of the proceedings before the hearing committee.*

*(2) The Appeal Committee may*

*(a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the Appeal Committee,*

*(3) Sections 35 to 40 apply to proceedings before the Appeal Committee.*

- (i) **by striking out** “The Appeal Committee may” **and substituting** “An appeal committee”;
- (ii) **in clause (a) by striking out** “Appeal Committee” **and substituting** “appeal committee”;
- (c) **in subsection (3) by striking out** “the Appeal Committee” **and substituting** “an appeal committee”.

**(19) Section 54 is amended**

- (a) **in subsection (1)**
  - (i) **by striking out** “The Appeal Committee” **and substituting** “An appeal committee”;
  - (ii) **in clause (c)**
    - (A) **by striking out** “refer the matter back” **and substituting** “direct the chair of the professional conduct and practice review general panel to establish a hearing committee to hear the matter and refer the matter to the hearing committee”;
    - (B) **by striking out** “Appeal Committee” **and substituting** “appeal committee”;
- (b) **in subsection (2)**
  - (i) **by striking out** “The Appeal Committee” **and substituting** “An appeal committee”;
  - (ii) **in clauses (b) and (c) by striking out** “Appeal Committee” **and substituting** “appeal committee”;
- (c) **in subsection (3) by striking out** “the Appeal Committee” **and substituting** “an appeal committee”.

**(20) Section 55 is amended**

- (a) **in subsection (1) by striking out** “The Appeal Committee” **and substituting** “An appeal committee”;
- (b) **in subsections (2) to (4) by striking out** “Appeal Committee” **and substituting** “appeal committee”.

(19) Section 54 presently reads in part:

*54(1) The Appeal Committee shall, after the conclusion of all proceedings before it,*

*(c) refer the matter back to the hearing committee for further consideration in accordance with any direction that the Appeal Committee may make.*

*(2) The Appeal Committee may make an award as to the costs of an appeal determined in accordance with the bylaws subject to the following:*

*(b) if an appeal by an investigated person is successful, the deposit made under section 49(2) is to be returned to the investigated person unless otherwise ordered by the Appeal Committee;*

*(c) if an appeal by an investigated person is partially successful, the Appeal Committee may make any order with respect to the forfeiture of the deposit made under section 49(2) that it considers appropriate;*

*(3) Section 42(3) applies to a decision of the Appeal Committee.*

(20) Section 55 presently reads:

*55(1) The Appeal Committee shall, within 60 days after the conclusion of the proceedings before it, make a written decision on the matter and shall forward the decision to the executive secretary.*

*(2) The executive secretary shall, on receiving the decision of the Appeal Committee,*

**(21) Section 56 is amended by striking out “the Appeal Committee” wherever it occurs and substituting “an appeal committee”.**

**(22) Section 57(1)(a) is repealed and the following is substituted:**

- (a) “committee” means a complainant appeal committee, hearing committee or appeal committee;

**(23) The following is added after section 57:**

**Powers of the Registrar**

**57.1(1)** The Registrar may request from the executive secretary and examine any information relating to

- (a) a notification of a complaint under section 24,
- (b) a notification of the referral of a complaint to an investigator under section 24 or 25,



- (a) *serve a copy of the decision on the investigated person,*
- (b) *forward a copy of the decision to the executive council, and*
- (c) *forward a copy of the decision to the Registrar.*
- (3) *There is no appeal from the decision of the Appeal Committee.*
- (4) *The decision of the Appeal Committee must be available to the public on request and free of charge.*

(21) Section 56 presently reads in part:

*56 The executive secretary shall in each case forward to the Minister the decision of the Appeal Committee or, if there has been no appeal to the Appeal Committee, the decision of a hearing committee where*

(22) Section 57(1) presently reads in part:

*57(1) In this section,*

- (a) *“committee” means*
  - (i) *a hearing committee as defined in section 16;*
  - (ii) *the Appeal Committee as defined in section 16;*
  - (iii) *a Professional Practice Review Hearing Committee referred to in section 8(2);*
  - (iv) *a Professional Practice Review Appeal Committee referred to in section 8(2);*

(23) Powers of the Registrar.

- (c) a notification of the executive secretary's decision under section 27(2)(c),
- (d) a decision of a hearing committee referred to in section 47, or
- (e) a decision of an appeal committee referred to in section 55.

**(2)** The Registrar may request from the chair of the professional conduct and practice review general panel and examine any information relating to a request for complainant appeal made under section 29.

**(24) Section 59 is amended by striking out “the Appeal Committee” and substituting “an appeal committee”.**

**(25) Section 64 is amended by renumbering it as section 64(1) and by adding the following after subsection (1):**

**(2)** Despite subsection (1)(b), no document or notice required to be served under section 27.1 or 27.3 shall be published in any newspaper.

**(26) Section 65 is repealed and the following is substituted:**

**Commissioner for oaths**

**65** For the purposes of an investigation, hearing or appeal under this Act, an investigator and each member of a complainant appeal committee, hearing committee or appeal committee are

(24) Section 59 presently reads:

*59 No employer or other person shall knowingly require the investigated person to perform a service or undertake any work that would result in the contravention by the investigated person of an order or direction of a hearing committee or the Appeal Committee.*

(25) Section 64 presently reads:

*64 When this Act or the bylaws require that a document or notice be served on any person, the document or notice is sufficiently served*

- (a) if it is served personally on that person or sent to that person by registered mail or courier at the address last shown for that person on the records of the association, or*
- (b) if personal service or service by mail is not reasonably possible, by publishing the document or notice at least twice, not more than a week apart, in a local newspaper circulated at or near the address last shown for that person on the records of the association.*

(26) Section 65 presently reads:

*65 For the purpose of an investigation, hearing or review under this Act, an investigator and each member of the Professional Conduct Committee, a hearing committee, the Complainant Appeal Committee and the Appeal Committee are conferred with the powers*

conferred with the powers of a commissioner for oaths under the *Notaries and Commissioners Act*.

**(27) The following is added after section 66:**

**Transitional Provisions**

**Transitional**

**67(1)** In this section,

- (a) “former Act” means the *Teaching Profession Act* as it read immediately before the coming into force of this section;
- (b) “former bylaws” means the bylaws as they read immediately before the coming into force of this section;
- (c) “former committee” means
  - (i) the Professional Conduct Committee, Complainant Appeal Committee and Professional Conduct Appeal Committee established under the former Act, and
  - (ii) the Professional Practice Complainant Appeal Committee, Professional Practice Review Committee and Professional Practice Appeal Committee established under the former bylaws.

**(2)** On the coming into force of this section, a public member of a former committee who holds office immediately before the coming into force of this section continues as a member of the professional conduct and practice review general panel under this Act until the panel member’s term of office expires.

**(3)** On the coming into force of this section, a member of a former committee who is a member of the association and who holds office immediately before the coming into force of this section continues as a member of the professional conduct and practice review general panel under this Act until the panel member’s term of office expires, the member is reappointed or a successor is appointed in accordance with the bylaws.

**(4)** If a complaint made under the former Act or the former bylaws has not been disposed of on the coming into force of this section,

*of a commissioner for oaths under the Notaries and Commissioners Act.*

(27) Transitional Provisions.

the complaint must be continued and disposed of in accordance with the former Act or the former bylaws, as applicable.

**(5)** If an investigation commenced under the former Act or the former bylaws has not been concluded on the coming into force of this section,

- (a) the appointment of the investigator continues under the former Act and the investigation must be continued under the former Act, or
- (b) the investigation must be continued under the former bylaws.

**(6)** If a proceeding before a former committee has not been concluded on the coming into force of this section, the members of the former committee continue as members of the former committee and the proceeding must be continued and concluded under the former Act or the former bylaws, as applicable.

**(28) This section comes into force on Proclamation.**

(28) Coming into force.

**RECORD OF DEBATE**

Stage	Date	Member	From	To
		<b>Interventions</b>	<b>From</b>	<b>To</b>
<b>Stage</b>	<b>Date</b>	<b>Member</b>	<b>From</b>	<b>To</b>
		<b>Interventions</b>	<b>From</b>	<b>To</b>
<b>Stage</b>	<b>Date</b>	<b>Member</b>	<b>From</b>	<b>To</b>
		<b>Interventions</b>	<b>From</b>	<b>To</b>
<b>Stage</b>	<b>Date</b>	<b>Member</b>	<b>From</b>	<b>To</b>
		<b>Interventions</b>	<b>From</b>	<b>To</b>
<b>Stage</b>	<b>Date</b>	<b>Member</b>	<b>From</b>	<b>To</b>
		<b>Interventions</b>	<b>From</b>	<b>To</b>