

TEACHING PROFESSION ACT

[RSBC 1996] CHAPTER 449

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Definitions

1 In this Act:

"authority" means

- (a) a society incorporated under the *Society Act*,
- (b) a corporation incorporated under the *Business Corporations Act* or a private Act,
or
- (c) a person designated, by regulation, as an authority
that operates or intends to operate an independent school as defined in section 1 of the
Independent School Act;

"board" means a board of school trustees and a francophone education authority as defined by
the *School Act*;

"certificate holder" means a person who holds a certificate of qualification;

"certificate of qualification" means a certificate of qualification issued under this Act;

"college" means the College of Teachers continued by this Act;

"council" means the council of the college;

"hearing" means a hearing held in accordance with this Act for the purposes of an inquiry
authorized by section 28;

"letter of permission" means a letter from the college authorizing a person to give tuition or
instruction without being a member;

"member" means a member of the college;

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

"register of members" means the register of members kept by the registrar under this Act;

"zone" means a zone established by regulation under section 6 (1).

[1997-29-35 effective Aug. 1/97 BC Reg. 272/97; 1997-52-72 effective Aug. 1/97, BC Reg. 287/97; 2003-43-1, effective May 29, 2003; 2004-54-1, effective May 20, 2004; 2003-43-1(b), effective May 7, 2004; 2007-46-17, effective May 16/08 BC Reg 103/2008]

College of Teachers continued

2 The College of Teachers is continued as a corporation that, for the purposes of this Act, has all the powers and capacity of a natural person of full capacity.

Membership

3 (1) The members of the college are the certificate holders.

(2) The council may publish a notice at least once in each of 4 consecutive weeks in at least one newspaper having general circulation in British Columbia stating

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- (a) the date, on or before the first publication of the notice, that will be used in the calculation of a certificate holder's arrears for the purposes of paragraph (b), and
- (b) the date, at least 90 days after the fourth week of publication of the notice, on which the certificates of qualification will be cancelled for all certificate holders for whom fees required to be paid under section 23 (1) (h), calculated as of the date referred to in paragraph (a), remain in arrears.

(3) If a certificate holder to whom a notice under subsection (2) applies has not paid the arrears applicable to the certificate holder by the date referred to in subsection (2) (b), the certificate of qualification of the certificate holder is cancelled without further notice or a hearing.

(4) The notice under subsection (2) need not name individual certificate holders and must be considered to adequately identify each certificate holder under subsection (1) to whom it applies for the purposes of subsection (2) (b) if it states that it applies to all certificate holders under subsection (1) for whom fees required to be paid under section 23 (1) (h) are in arrears as of the applicable date referred to in subsection (2) (a).

(5) If a person whose certificate of qualification is cancelled under subsection (3) was not in fact in arrears or paid the arrears by the date referred to in subsection (2) (b), the college must reinstate the person's certificate of qualification without recourse to sections 25 and 26.

(6) Subject to subsection (5), sections 25 and 26 apply to a person whose certificate of qualification is cancelled under this section.

(7) A member may relinquish their certificate of qualification by giving written notice to the registrar.

[2004-54-2, effective May 20, 2004]

Object

4 It is the object of the college to establish, having regard to the public interest, standards for the education, professional responsibility and competence of certificate holders and applicants for certificates of qualification and, consistent with that object, to encourage the professional interest of certificate holders in those matters.

[2004-54-3, effective May 20, 2004]

Council

- 5**
- (1) The college is to be governed by the council in accordance with this Act.
 - (2) The council consists of the following:
 - (a) 12 members elected to serve on the council as the representatives of the zones;
 - (b) 7 persons appointed by the Lieutenant Governor in Council on the recommendation of the minister, at least 3 of whom must be members;

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- (c) one person, nominated jointly by the deans of the faculties of education in British Columbia, who is appointed by the minister to hold office during pleasure.
- (3) Before making a recommendation under subsection (2) (b), the minister must consult with persons who the minister considers are representative of
 - (a) authorities,
 - (b) public school principals and vice principals,
 - (c) superintendents, and
 - (d) parents.

[2003-43-2, effective May 29, 2003; 2004-54-5, effective May 20, 2004]

Zones

6 (1) The Lieutenant Governor in Council by regulation may establish zones in British Columbia and specify the school districts in each zone.

(2) In each zone, one member must be elected to serve on the council as the representative for that zone.

(3) A regulation under subsection (1) that is made before September 30, 1997 may be retroactive to a date on or after March 1, 1997 and, if made retroactive, is conclusively deemed to have come into force and have effect

- (a) on and after the date specified, and
- (b) for the purposes of an election held on or after that date.

[1997-29-36 effective Aug. 1/97 BC Reg. 272/97]

Candidates

7 A member is not eligible to be a candidate for election to the council as the representative of a zone unless

- (a) the member's chief place of employment by a board is in that zone, or if not employed by a board, the member's principal residence is in that zone,
- (b) the member's nomination in writing is proposed by 10 members of the college each having his or her place of employment by a board in that zone or, if not employed by a board, having his or her principal residence in that zone, and
- (c) written consent of the member for the nomination has been filed with the registrar by April 15 of the year in which the election is to take place.

No opposing nomination

8 If in a zone there is only a single candidate nominated, the registrar must declare that the candidate is elected as the council member for that zone.

Elections and term of office

9 (1) The college must hold elections for the persons referred to in section 5 (2) (a) during the period from the date this subsection comes into force to November 30, 2004.

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(2) Persons elected to the council under subsection (1) for zones 1, 3, 8 and 10 serve for a term ending July 31, 2005.

(3) Persons elected to the council under subsection (1) for zones 2, 7, 9 and 12 serve for a term ending July 31, 2006.

(4) Persons elected to the council under subsection (1) for zones 4, 5, 6 and 11 serve for a term ending July 31, 2007.

(5) The college must hold elections during the period of April 15 to June 7 to fill the vacancies on council arising that year at the end of the terms of the persons referred to in subsections (2), (3) and (4) respectively.

(6) As vacancies arise on council at the end of the terms of the persons elected under subsection (5) or this subsection, the college must hold elections during the period of April 15 to June 7 to fill the vacancies.

(7) The term of office of persons elected as described in subsection (5) or (6) is 3 years from August 1 following the date of the election.

[1997-29-37 effective Aug. 1/97 BC Reg. 272/97; 2004-54-5, effective May 20, 2004]

Oath of Office

9.1 (1) Before taking office, a person elected or appointed to the council must take and sign, by oath or solemn affirmation, a prescribed oath of office within the following applicable time limit:

- (a) in the case of a person elected by acclamation, within 45 days after the date set for voting day had an election by voting been required;
- (b) in the case of a person elected by voting, within 45 days after the declaration of the results of the election;
- (c) in the case of a person appointed to office, within 45 days after the effective date of the appointment.

(2) The oath must be taken before a judge of the Court of Appeal, Supreme Court or Provincial Court, a justice of the peace, the secretary treasurer of a school board or the registrar of the college and the person taking the oath must obtain the completed oath or a certificate of it from the person administering it.

(3) A person appointed or elected to the council must present the completed oath required by subsection (1) or a certificate of it to the registrar of the college within the applicable time limit under subsection (1) (a), (b) or (c) and before the person takes office on the council.

(4) If a person appointed or elected to the council does not take and sign the oath required by subsection (1) or does not comply with subsection (3) within the time limits set by

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those subsections, the office to which that person was appointed or elected is vacant and the vacancy

- (a) may be filled under section 5 if the person was appointed under section 5 (2) (b) or (c),
- (b) subject to section 11 (3), must be filled under section 11 if the person was elected under section 9 or 11 (1), and
- (c) must be filled under section 13 if the person was appointed under section 13 (1).

(5) After reasonable notice to a member of the council, the council, by resolution passed by the vote of at least 2/3 of the other council members voting on the resolution, may reprimand, suspend or remove a member of council described by section 5 (2) (a) from the council if the council is satisfied that the person has contravened a term of the oath required by subsection (1).

(6) If a person is suspended from the council under subsection (5), the person may not participate as a member of the council unless the suspension is lifted.

(7) If a person is removed from the council under subsection (5), the person ceases to be a member of the council and section 11 applies.

[2004-54-5, effective May 20, 2004]

Elections

10 (1) Subject to subsection (2), the council may make bylaws that it considers necessary or advisable respecting the election of members of the council.

(2) At an election of a member of the council to represent a zone, the vote must be by secret ballot of the members of the college who have their place of employment by a board in that zone or, if not employed by a board, who have their principal residence in that zone.

By-elections

11 (1) If an elected council member ceases to hold office before the member has served 30 months of his or her term, the council must promptly hold an election to choose a successor.

(2) Section 10 (2) and the bylaws made under section 10 (1) apply to an election held under subsection (1) of this section.

(3) If an elected council member ceases to hold office after the member has served 30 months or more of his or her term, the council may appoint an eligible member from the same zone to fill the vacancy.

(4) A council member elected under subsection (1) or appointed under subsection (3) holds office for the remainder of the term of the member whom he or she replaces.

[2004-54-6, effective May 20, 2004]

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Council members to be college members

12 If an elected council member ceases to be a member of the college, that council member ceases to hold office, and section 11 applies.

Failure to elect

13 (1) In the case of failure at an election to elect from any zone the required council member, the council may appoint from the same zone an eligible member of the college to be a council member.

(2) A member appointed under subsection (1) holds office as though he or she were elected at an election.

Annual meeting of the college

14 (1) A meeting of the college must be held at the time and place set by the council between September 1 and December 31 in every calendar year.

(2) If default is made in holding any annual meeting, the Supreme Court, on the application of a member, may call or direct the calling of an annual meeting of the college.

(3) The council, at any time of its own motion, may call a meeting of the college.

(4) The council, on the written request of at least 5% of the members of the college or of 11 members of the council, must call a meeting of the college, and the meeting must be held within 6 weeks after the registrar receives the request.

(5) The registrar must, at least 21 days before any meeting of the college, send notice of the meeting by mail to every member in good standing at the member's address last recorded in the records of the college.

(6) The council may and, on the written request of at least 5% of the members of the college, must take a vote of the members of the college by letter ballot, in the manner provided by the bylaws of the college, on any matter that under this Act or the bylaws can be voted on at a meeting of the college.

(7) A vote taken under subsection (6) has the same force as if the vote had been taken at a meeting of the college.

[2007-22-32, effective July 1, 2007, BC Reg. 194/07]

Council meetings

15 The meetings of the council must be held at the places and times set by the council.

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Election of officers

16 (1) In each year, the persons who will be members of the council on August 1 of that year must, during June or July of that year, elect one of their number to be the chair to hold office and to be the head of the college for one year from that August 1.

(2) A person may be elected as chair under this section for a second or subsequent term.

(3) If a chair is unable to assume office or the office becomes vacant, the council must elect another person who will be a member of the council over the term of the vacancy to be the chair for the remainder of that term.

(4) The council may set the salaries or fees to be paid to persons elected under this section or appointed under section 17.

Appointment of registrar

17 (1) The council must appoint from among the members a registrar of the college who holds office during the council's pleasure.

(2) The council may appoint deputy registrars who have all the powers and duties of the registrar under this Act unless the council otherwise directs.

Special meetings

18 The chair of the college or 5 council members may call a meeting of the council and must give the members of the council appropriate notice of that meeting.

[2003-43-3 effective May 29, 2003]

Expenses

19 A reasonable allowance to defray the expenses of a council member, any member of a committee appointed by the council and any member of a subcommittee appointed under sections 26 (1.1), 27 (1.1) and 28 (1.1) incurred in attending meetings or on authorized business may be made and paid out of the funds of the college.

[2000-9-58 effective July 7, 2000, B.C. Reg. 243/00]

Service of documents

20 A document to be served on the college or on the council is sufficiently served if

- (a) left at or mailed by registered mail to the principal office of the college, or
- (b) served personally on the chair, registrar or a deputy registrar of the college.

General powers of the council

21 Subject to this Act, the council must govern and administer the affairs of the college and, without limiting that duty, the council may do the following:

(a) employ persons it considers necessary for the conduct and management of the business of the college, and assign duties to them;

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- (b) appoint an employee of the college as an evaluator with authority to evaluate and decide whether persons applying for a certificate of qualification have complied with this Act and the bylaws of the college;
- (c) delegate to a committee of the college the authority set out in paragraph (b), either in addition to or in substitution for one or more evaluators appointed under that paragraph;
- (d) authorize the registrar to refer specific applications for certificates of qualification to either
 - (i) an evaluator appointed under paragraph (b), or
 - (ii) a committee referred to in paragraph (c);
- (e) appoint committees it considers necessary and delegate to those committees, with the limitations or conditions it considers appropriate, any powers or duties of the council, except those relating to
 - (i) fees payable by members, or
 - (ii) matters allocated to the discipline committee, qualifications committee or teacher education committee;
- (e.1) appoint as a member of any committee a member of the college who is not a member of the council;
- (f) take action and incur expense it considers necessary for the promotion, protection, interest or welfare of the college;
- (g) determine the wages and benefits of officers and employees of the college;
- (h) establish and maintain a system of continuing teacher education;
- (i) approve, for certification purposes, the program of any established faculty of teacher education or school of teacher education.

[2000-9-59 effective July 7, 2000, B.C. Reg. 243/00; 2004-54-7, effective May 20, 2004]

Distribution of information to members

21.1 (1) The college must distribute information requested by the minister to the members at the time and in the manner requested by the minister.

(2) The minister must reimburse the college for costs reasonably incurred by the college in distributing the information referred to in subsection (1).

[2007-22-33, effective July 1, 2007, BC Reg. 194/07]

Former members

22 (1) *REPEALED 2004-54-8, effective May 20, 2004*

(2) For the purposes of determining whether a former member has been guilty of professional misconduct or other conduct unbecoming a member of the college, section 23 (1) (c) and (n) and (3), 27.1, 28 (4) and (5), 30 (2), 32 (1), 33, 34 and 40 apply to that former member as if the member were a member.

(3) *REPEALED 2004-54-8, effective May 20, 2004*

(4) If any adverse determination respecting a former member is made under section

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34 (b), the council, by a resolution passed by the vote of a majority of the council members present at a duly constituted meeting of the council, may

- (a) reprimand the former member, or
- (b) direct that, for a set or indeterminate period, the former member may not be issued a certificate of qualification.

(5) If the council has given a reprimand or made a direction under subsection (4), the registrar must, unless otherwise directed by the council,

- (a) notify each board and authority in British Columbia,
- (b) notify the minister, and
- (c) record the reprimand or direction in the register of members.

[1997-29-38 effective Aug. 1/97 BC Reg. 272/97; 2003-43-5, effective May 29, 2003; 2004-54-8, effective May 20, 2004]

Bylaws

- 23** (1) The council may make bylaws consistent with this Act and the *School Act* as follows:
- (a) respecting the carrying out of the administration of the affairs of the college and the maintenance of its standards, including bylaws for the purpose of implementing section 25 (1);
 - (b) respecting the election of the council and the conduct of those elections;
 - (c) respecting inquiries into the conduct of members and implementing the powers of the council and the discipline committee with respect to inquiries;
 - (d) respecting the training and qualifications of teachers and establishing standards, policies and procedures with respect to the training and qualifications including, but not limited to, professional, academic and specialist standards, policies and procedures;
 - (e) respecting the issue of certificates of qualification and classifying certificates of qualification into one or more types;
 - (f) respecting the standards of fitness of persons to whom the council may issue a certificate of qualification;
 - (g) respecting the powers of the qualifications committee appointed under section 26;
 - (h) requiring fees to be paid to the college for the issue of certificates of qualification, to maintain certificates of qualification and for other purposes incidental to the purposes of the college, prescribing the amount of the fees and providing for the suspension or cancellation of certificates of qualification for default in payment of fees;
 - (i) respecting the implementation of the powers of the teacher education committee;
 - (j) respecting the conduct of meetings of the council and committees appointed by it and the procedures to be followed during elections of the council;
 - (k) respecting the determination of whether or not a person is a member in good standing of the college;
 - (l) giving effect to and implementing the powers of the council set out in this Act;
 - (m) providing forms to be used for the purposes of this Act;

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- (n) respecting the costs of proceedings before the discipline committee or a subcommittee of that committee, including bylaws requiring members in respect of whom an adverse finding is made to pay all or part of those costs;
- (o) providing for the delegation of the council's powers of appointment and delegation under sections 21 (e.1), 26 (1.1), 27 (1.1) and 28 (1.1) to the chair of the college with the limitations and conditions the council considers appropriate.

(2) The council may make bylaws consistent with this Act for the discipline of members, the commencement and conduct of hearings and all other related matters.

(3) Bylaws made under subsection (2) must provide for a written report by the discipline committee of the facts as found by the discipline committee and a written report to the council of the result of a hearing by the discipline committee.

(4) Bylaws made under subsection (2) may provide that the discipline committee may exercise the discipline powers of the council, except those under section 22 (4) and (5).

(5) The fact that a council member is a member of the discipline committee or a subcommittee of the discipline committee does not prevent the council member from sitting as a council member on the consideration of a report of that committee or subcommittee.

[2000-9-60 & 61 effective July 7, 2000, B.C. Reg. 243/00; 2003-43-6, effective May 29, 2003; 2003-54-9, effective May 20, 2004]

Ratification of bylaws

24 (1) The registrar of the college must file with the minister a copy of each bylaw made by the council, certified under the seal of the college, within 10 days after it is made.

(2) The Lieutenant Governor in Council may disallow a bylaw within 60 days after the filing of it under subsection (1).

(3) A bylaw comes into force 60 days after the filing of it under subsection (1) unless the Lieutenant Governor in Council disallows the bylaw.

[1997-29-39 effective Aug. 1/97 BC Reg. 272/97; 2003-43-7, effective May 29, 2003]

Admission and certification of members and issue of letter of permission

25 (1) The college must not do any of the following:

- (a) issue a certificate of qualification to a person unless the person has met the relevant standards established by bylaw under section 23;
- (b) issue a certificate of qualification to a person unless the person
 - (i) meets the standards of qualification and the standards of fitness established by bylaw under section 23, and
 - (ii) satisfies the council that the person is of good moral character and is otherwise fit and proper to be granted a certificate of qualification;
- (c) if a person fails to authorize a criminal record check under the *Criminal Records Review Act* or the deputy registrar under that Act has determined the person presents a risk of physical or sexual abuse to children and that determination has

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not been overturned by the registrar under that Act, admit the person as a member until the college has taken the failure or the determination into account.

- (2) The council may
 - (a) issue a letter of permission to teach to a suitable person who is not a member and whose services in the opinion of the council are required for a special purpose and for a specified time, and
 - (b) place those conditions on the permission to teach that the council considers appropriate.

(3) *REPEALED 2004-54-10, effective May 20, 2004*

(4) The issue to a person of a letter of permission under subsection (2) does not make the person a member.

[2002-52-37, effective July 15, 2002, 2004-54-10, effective May 20, 2004]

Employers list

25.1 (1) In this section:

"aboriginal educator" means any of the following:

- (a) a first nation, as defined in the *School Act*, that is operating an educational institution;
- (b) a Community Education Authority, established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), that is operating an educational institution;
- (c) a treaty first nation that is operating a school under its own laws;

"employer" means a board or an authority that employs a member in the member's capacity as a member;

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

"prospective employer" means either of the following that is considering becoming an employer:

- (a) a board;
- (b) an authority.

(2) On or before October 15 of each year, an employer must submit to the college information that identifies the members employed by the employer during the previous 12-month period, including information that identifies the members currently so employed, if any, and the college must maintain the information for at least 10 years.

(3) From the information submitted and maintained under subsection (2), the college must create and maintain a list that identifies the employers of every member, and a prospective

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employer of a member or an aboriginal educator that is considering hiring a member may inspect that list.

(4) A prospective employer or an aboriginal educator that inspects a list under subsection (3) must keep confidential the information obtained from the list.

[2007-21-01 effective July 1, 2007, BC Reg. 231/07; 2007-46-17, effective May 16/08 BC Reg 103/2008; 2007-41-176, effective Apr 3/08 BC Reg55/2009]

Qualifications committee

26 (1) The council must appoint a qualifications committee and must designate 2 council members as chair and vice chair of the committee.

(1.1) The council may appoint in accordance with the bylaws one or more subcommittees of the qualifications committee and may delegate to a subcommittee so appointed any powers or duties of the committee under the Act or bylaws.

(1.2) A person appointed to a subcommittee under subsection (1.1) may not sit on another subcommittee appointed under subsection (1.1) with respect to the same matter.

(2) Each member of the council is eligible to sit on the qualifications committee.

(3) The quorum of the qualifications committee is 3 committee members.

(4) The qualifications committee may inquire into applications for certification, renewal of certification and reinstatement of certification.

(4.1) Bylaws under section 23 (1) (g) must provide for a written report by the qualifications committee of the facts as found by that committee and a written report to the council of the result of an inquiry by the qualifications committee.

(4.2) Bylaws made under section 23 (1) (g) may provide that the qualifications committee may exercise the qualification powers of the council.

(5) For the purposes of an inquiry under subsection (4), the qualifications committee or a subcommittee appointed under subsection (1.1) may request the registrar of the college or any member of the qualifications committee to make preliminary investigations.

(5.1) For the purposes of an inquiry under subsection (4) of this section, sections 34 (3) and (4), 48 and 49 of the *Administrative Tribunals Act* apply to the qualifications committee and a subcommittee appointed under subsection (1.1) of this section.

(6) If an inquiry is held under subsection (4), the council or the qualifications committee, if authorized by the bylaws made under section 23 (1) (g), must immediately after an inquiry

(a) accept all or any part of the findings and recommendations,

(b) conduct a further inquiry concerning all or any part of the findings and recommendations not accepted by it, or

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- (c) refer all or any part of the findings and recommendations back to the qualifications committee, or a subcommittee appointed under subsection (1.1), for further consideration.

(7) For the purposes of an inquiry under subsection (6) (b) of this section, sections 34 (3) and (4), 48 and 49 of the *Administrative Tribunals Act* apply to the council.

(8) If a member of the qualifications committee ceases to be a council member, he or she may, with the consent of the committee chair, continue to be a member of the qualifications committee or a subcommittee appointed under subsection (1.1) for the purpose of completing any inquiry in which he or she has been involved.

(9) The fact that a council member is a member of the qualifications committee or a subcommittee appointed under subsection (1.1) does not prevent the council member from sitting as a council member on the consideration of a report of that committee or subcommittee.

[2000-9-62 effective July 7, 2000, B.C. Reg. 243/00; 2003-43-8, effective May 29, 2003; 2003-43-9, effective May 29, 2003; 2004-54-11, effective May 20, 2004; 2007-06-64, effective July 11/07, BC Reg. 226/07]

Teacher education committee

27 (1) The council must appoint a teacher education committee and must designate 2 council members as chair and vice chair of the committee.

(1.1) The council may appoint in accordance with the bylaws one or more subcommittees of the teacher education committee and may delegate to a subcommittee so appointed any powers or duties of the committee under the Act or bylaws.

(1.2) A person appointed to a subcommittee under subsection (1.1) may not sit on another subcommittee appointed under subsection (1.1) with respect to the same matter.

(2) Each member of the council is eligible to sit on the teacher education committee.

(3) The quorum of the teacher education committee is 3 committee members.

- (4) The teacher education programs committee may
- (a) cooperate with teacher education institutions in the design and evaluation of teacher education programs leading to certification by the college, and
 - (b) in cooperation with the qualifications and discipline committees, develop specific programs to assist individual teachers.

[2000-9-63 effective July 7, 2000, B.C. Reg. 243/00; 2003-43-8, effective May 29, 2003; 2004-54-12, effective May 20, 2004]

Duty to report professional misconduct

- 27.1** (1) In this section, "**student**" means
- (a) a student as defined in the *School Act*,
 - (b) a student as defined in the *Independent School Act*,
 - (c) a child registered under section 13 of the *School Act*, or

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- (d) a child participating in a kindergarten to grade 12 program of studies provided by a treaty first nation under its own laws
- (1.1) A member who has reason to believe that another member is guilty of professional misconduct that involves any of the following must promptly provide to the registrar a written and signed report on the matter:
- (a) physical harm to a student;
 - (b) sexual abuse or sexual exploitation of a student;
 - (c) significant emotional harm to a student.
- (2) Subsection (1.1) applies even if the information on which the belief is based
- (a) is privileged, except as a result of a solicitor-client relationship, or
 - (b) is confidential and its disclosure is prohibited under another Act.
- (3) A person who knowingly reports false information under subsection (1.1) commits an offence.
- (4) No action for damages lies or may be brought against a person for reporting information under this section unless the person knowingly reported false information.

[2003-43-11, effective May 29, 2003; 2004-54-13, effective May 20, 2004; OIC 840/06, Effective Dec 1/06; 2007-46-18 effective May 16/08 BC Reg 103/2008; 2007-177-157, effective Apr 3/08 BC Reg55/2009]

Public notification

27.2 (1) Subject to subsection (2), the registrar must notify the public of

- (a) the name
 - (i) of a member, or
 - (ii) of a person to whom a letter of permission has been issued under section 25 who has been disciplined by the council, and
- (b) the reasons why the disciplinary action was taken.

(2) The registrar must withhold notification of the reasons referred to in subsection (1) (b) if the council considers that notification of the reasons would cause significant hardship to a person who was harmed, abused or exploited by the member or by the person to whom a letter of permission was issued under section 25.

(3) The notification required under subsection (1) may be made by posting a notice on the council's web site.

[2007-21-02 effective July 1, 2007, BC Reg. 231/07]

Online registry

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

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- (a) a person who is a member, or
 - (b) a person to whom a letter of permission has been issued under section 25.
- (2) The council must establish and the registrar must maintain an online registry for the purpose of providing the public with the following information about each authorized person:
- (a) the authorized person's name;
 - (b) the current status of the authorized person's certificate of qualification or letter of permission;
 - (c) a record of any suspensions or cancellations of the authorized person's certificate of qualification or letter of permission;
 - (d) a record of disciplinary action taken by the council with regard to the authorized person for
 - (i) misconduct that involved
 - (A) physical harm to a student or minor,
 - (B) sexual abuse or sexual exploitation of a student or minor, or
 - (C) significant emotional harm to a student or minor, or
 - (ii) conduct or competence that breached the council's standards of professional conduct or competence.
- (3) Subject to subsection (4), the record in the online registry of the matters referred to in subsection (2) (d) must state the reasons why the disciplinary action was taken.
- (4) The council may withhold or remove from the registry a statement of the reasons referred to in subsection (3) if the council considers that the statement, if included in the registry, would cause significant hardship to a person who was harmed, abused or exploited by the authorized person.
- (5) Subject to subsection (6), after a record referred to in subsection (2) (d) has been on the registry for at least 5 years, the authorized person whose misconduct is recorded under subsection (2) (d) may apply to the council to have that record removed from the registry, and the council may remove that record from the registry if it is in the public interest to do so.
- (6) Subsection (5) does not apply to a record of any suspensions or cancellations of an authorized person's certificate of qualification or letter of permission.

[2007-21-02 effective July 1, 2007, BC Reg. 231/07]

Discipline committee and inquiry

28 (1) The council must appoint a discipline committee and must designate 2 council members as chair and vice chair of the committee.

(1.1) The council may appoint in accordance with the bylaws one or more subcommittees of the discipline committee and may delegate to a subcommittee so appointed any powers or duties of the committee under the Act or bylaws.

(1.2) A person appointed to a subcommittee under subsection (1.1) may not sit on another subcommittee appointed under subsection (1.1) with respect to the same matter.

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- (2) Each member of the council is eligible to sit on the discipline committee.
- (3) The quorum of the discipline committee is 3 committee members.
- (4) If the college receives.
 - (a) in respect of a member, a report under section 16 or 16.1 of the *School Act*,
 - (b) in respect of a member or other person, a report from an authority under section 7 or 7.2 of the *Independent School Act* or from the inspector under section 7.3(4) of that Act,
 - (b.1) in respect of a member, a report from the minister responsible for the administration of the *School Act* that the minister received under section 171.1 of that Act,
 - (c) a complaint in writing signed by 5 members about the conduct of a member,
 - (c.1) a written complaint about the conduct of a member, signed by a person and referred to the council by the registrar for the purposes of a preliminary investigation, or
 - (d) a report from the registrar relating to the conduct of a member,the council or discipline committee may, after considering the report or complaint, make or cause to be made a preliminary investigation into the conduct or competence of the member in respect of whom the report or complaint is made.

(4.1) *REPEALED*, 2007-21-03, effective July 1, 2007

(4.2) *REPEALED*, 2007-21-03, effective July 1, 2007

(5) The council or discipline committee may, whether or not it has conducted a preliminary investigation under subsection (4), inquire into the conduct or competence, or both, of any member in respect of whom a report or complaint referred to in subsection (4) is made.

(6) If a member of the discipline committee ceases to be a council member, he or she may, with the consent of the committee chair, continue to be a member of the discipline committee or a subcommittee appointed under subsection (1.1) for the purpose of completing any hearings in which he or she has been involved.

(7) For the purposes of subsection (4), the registrar may make reports in accordance with the directions of the council.

[1997-29-40 effective Aug. 1/97 BC Reg. 272/97; 1997-52-73 effective Aug. 1/97, BC Reg. 287/97; 2000-9-64 effective July 7, 2000, B.C. Reg. 243/00; 2003-43-8, effective May 29, 2003; 2003-43-12, effective May 29, 2003; 2007-21-03 effective July 1, 2007, BC Reg. 231/07; 2008-33-72 effective October 30, 2008, BC Reg. 203/08]

Criminal Records Review Act

29 If a member fails to authorize a criminal record check under the *Criminal Records Review Act* or the deputy registrar under that Act has determined that a member presents a risk of physical or sexual abuse to children and that determination has not been overturned by the

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registrar under that Act, the council or discipline committee must inquire into the conduct or the competence of the member.

[2002-52-37, effective July 15, 2002]

Citation

30 (1) An inquiry under section 28 or 29 must be commenced by a citation issued at the direction of any 3 council members or the chair of the discipline committee, and for the purposes of the inquiry the council or the discipline committee must hold a hearing.

(2) A citation must be served on the member to whom it relates and may be served personally on the member or by registered mail addressed to the member at his or her most recent address according to the records of the college.

(3) A citation to be served by registered mail must be delivered to an office of the Canada Post Office for that purpose at least 14 days before the hearing.

(4) A citation served personally must be served at least 10 days before the hearing.

(5) The citation must state the nature of the acts or omissions, or both, to be inquired into.

[2003-43-13, effective May 29, 2003]

Suspension pending hearing

31 (1) If a citation of a member has been issued, any 3 council members may, in accordance with the bylaws of the college, suspend the membership and certificate of qualification of the member until the conclusion of the hearing.

(2) Notice of a suspension under subsection (1) must be served on the suspended member as soon as possible by registered mail or personally, and if served by registered mail, the service is deemed to have been made on the 14th day after the notice is delivered to an office of the Canada Post Office for that purpose.

(3) The council may, if cause is shown, rescind or vary a suspension made under subsection (1).

[2003-43-13, effective May 29, 2003]

Conduct of hearing

32 (1) If an inquiry is made under section 28 or 29 respecting a member, the member may appear personally or with counsel at the hearing.

(2) The discipline committee or the council may employ legal or other assistance it considers necessary for the purpose of a citation or a hearing.

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(3) For the purposes of an inquiry under section 28 (5) or 29 of this Act, sections 34 (3) and (4), 48 and 49 of the *Administrative Tribunals Act* apply to the council, the discipline committee and a subcommittee.

[2000-9-65 effective July 7, 2000, B.C. Reg. 243/00; 2007-06-65, effective July 11/07, BC Reg. 226/07]

Failure to attend

33 If the member fails to attend the hearing, the council or the discipline committee may, on proof of service of the citation, proceed with the hearing and may, without further notice to the person cited, make a report of its findings or take any other action it is authorized to take under this Act.

Action after hearing

34 The council or the discipline committee, if authorized by the bylaws made under section 23, may after a hearing, and for the purpose of determining whether to take action in respect of the member under section 35,

- (a) dismiss the citation,
- (b) determine whether a member has been guilty of professional misconduct or other conduct unbecoming a member of the college,
- (c) determine whether a member has been or is incompetent to carry out the member's professional duties and responsibilities, or
- (d) make any other report to the council respecting the citation that it considers proper.

[2003-43-14, effective May 29, 2003; 2008-33-73 effective October 30, 2008, BC Reg. 203/08]

Action by council

35 (1) If an adverse determination respecting a member is made under section 34 (b), the council may, by a resolution passed at a duly constituted meeting,

- (a) reprimand the member,
- (b) suspend the membership and certificate of qualification of the member for a fixed or indeterminate period, or
- (c) terminate the membership of the member in the college and cancel his or her certificate of qualification.

(2) If an adverse determination respecting a member is made under section 34 (c), the council may, by resolution passed at a duly constituted meeting, do one or more of the following:

- (a) suspend the membership and certificate of qualification of the member until the member has completed to the satisfaction of the council a course of study designated by the council;
- (b) suspend the membership and certificate of qualification of the member until the member has appeared before a board of examiners appointed by the council and has satisfied the board of examiners that the member is competent to carry out the member's professional duties and responsibilities;
- (c) require that the member successfully complete a course of study designated by the council and, on his or her failure to complete the designated course to the

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satisfaction of the council, suspend the membership and certificate of qualification of the member for a fixed or indeterminate period;

- (d) require the member to appear, within a period of time designated by the council, before a board of examiners appointed by the council, and satisfy the board of examiners that the member is competent to carry out the member's professional duties and responsibilities and, on his or her failure to satisfy the board of examiners, suspend the membership and certificate of qualification of the member for a fixed or indeterminate period;
- (e) suspend the membership and certificate of qualification of the member until the member has appeared before a board of examiners appointed by the council and has satisfied the board of examiners that the member's competence to carry out the member's professional duties and responsibilities is not adversely affected by a physical or mental disability or addiction to alcohol or drugs;
- (f) require the member to appear, within a period designated by the council, before a board of examiners appointed by the council and satisfy the board of examiners that his or her competence to carry out his or her responsibilities as an employee of the board or authority is not adversely affected by a physical or mental disability or addiction to alcohol or drugs and, on his or her failure to satisfy the board of examiners that the member's competence to carry out the member's professional duties and responsibilities is not adversely affected by such disability or addiction, suspend the membership and certificate of qualification of the member for a fixed or indeterminate period.

(3) *REPEALED 2004-54-14, effective May 20, 2004*

(4) A resolution proposed at a duly constituted meeting under this section may be duly passed by the majority present at the meeting.

[2003-43-15, effective May 29, 2003; 2004-54-14, effective May 20, 2004; 2008-33-74 effective October 30, 2008, BC Reg. 203/08]

Action by registrar

36 If a member is reprimanded, or the certificate of qualification of a member is suspended or cancelled, the registrar must

- (a) notify each board and authority in British Columbia,
- (b) notify the minister, and
- (c) record the fact in the register of members.

[2003-43-16, effective May 29, 2003; 2004-54-15, effective May 20, 2004; 2007-21-03 effective July 1, 2007, BC Reg. 231/07]

Effect of suspension

37 Suspension of a certificate of qualification of a member has effect only for the purposes of

- (a) section 19 or 166.28 of the *School Act*, and
- (b) other purposes the bylaws of the college specify.

[1997-52-74 effective Aug. 1/97, BC Reg. 287/97; 2004-54-16, effective May 20, 2004]

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Cancellation of a letter of permission

38 (1) The council may, for just and reasonable cause, cancel or suspend a letter of permission.

(2) Section 32 applies for the purposes of a proceeding under subsection (1) as though an inquiry under section 28 (5) were being conducted.

Reinstatement

39 (1) On the application of a person who has ceased to be a member of the college, the council may, by resolution passed by the vote of a majority of the council members voting on the resolution, restore the person to membership in the college if the person's certificate of qualification is renewed or reinstated.

(2) Unless the council with the consent of the applicant otherwise directs, the registrar of the college must give notice of reinstatement to each board in British Columbia, and to the minister.

(3) Notice in writing of an application for reinstatement must be given by the applicant to those persons that the council or the registrar of the college directs.

(4) The persons notified under subsection (3) may appear before the council in person, with or without counsel, and be heard on the application.

[2004-54-17, effective May 20, 2004]

Appeals

40 A member may appeal to the Supreme Court any decision, determination or order of the qualifications committee, discipline committee, a subcommittee of either, or the council that affects the member and, from a decision, determination or order of the Supreme Court, may appeal to the Court of Appeal with leave of a justice of that court.

[2000-9-66 effective July 7, 2000, B.C. Reg. 243/00]

Register

41 The registrar of the college must maintain a register of all members.

Protection against actions

42 (1) An action for damages does not lie against the college, the council, a member, an officer or employee of the college, or any other person, for anything done or omitted by him or her in good faith while acting or purporting to act on behalf of the college or the council under this Act.

(2) The college must indemnify any individual referred to in subsection (1) for any costs or expenses incurred by him or her in any legal proceedings taken against him or her for anything done or omitted by him or her in good faith while acting or purporting to act on behalf of the college under this Act.

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[2007-06-66, effective July 11/07, BC Reg. 226/07]

Annual reports

- 43** (1) The council must annually report to the minister, by a date specified by the minister, on the financial affairs and administration of the college, the performance and competence of members, educational matters generally and other matters
- (a) on which the council considers it should report, or
 - (b) that the minister has directed be included in the annual report.

(1.1) The council may request an authority or a board to supply the council with information necessary to make a report under subsection (1), including information respecting the number of reports that have been made within a stated period of time that

- (a) evaluate the performance or competence of a member or class of members,
- (b) indicate that the performance or competence of a member or class of members is less than satisfactory, and
- (c) are not otherwise required to be submitted to the council under this Act or another enactment.

(1.2) An authority or board that receives a request under subsection (1.1) must supply the council with the information that is in the authority's or board's control by the date stated in the request.

(2) The minister, within 45 days of receiving a report under subsection (1), must make the report public.

(3) Subject to subsection (1), the council must comply with any guidelines the minister issues concerning the form of the reports and the matters to be addressed by those reports.

[2003-43-17, effective May 29, 2003; 2006-21-26, effective May 18, 2006]

Schedule

[Repealed 1997-29-41 effective Aug. 1/97]

TEACHING PROFESSION AMENDMENT ACT, 2003

Transitional

18 [Repealed 2004-54-20, effective May 20, 2004]

TEACHING PROFESSION AMENDMENT ACT, 2004

Transitional

21 (1) For elections or appointments to the council under the *Teaching Profession Act*, R.S.B.C. 1996, c. 449, in 2004, persons elected or appointed under that Act take office immediately on producing the completed oath or certificate to the registrar.

(2) The time limits set out in section 9.1 (1) of the *Teaching Profession Act*, as enacted by section 5 of this Act, apply for the purposes of subsection (1) of this section.

(3) On the coming into force of section 9 of the *Teaching Profession Act*, as enacted by section 5 of this Act, section 16 (1) of the *Teaching Profession Act* ceases to apply until a date the minister specifies by order, and during the period when section 16 (1) does not apply, the chair of the council under that Act is to be a member of the council elected as chair by the council on a date to be specified by the minister by order.

(4) For the purposes of election to the council under the *Teaching Profession Act* in 2004 only, section 7 (c) of that Act does not apply, and the written consent of the member for the nomination must be filed with the registrar within 7 days after the date set by the college for the close of nominations.

(5) For the purposes of the election referred to in subsection (4), the time limits established by bylaws of the college have no effect and the registrar must establish appropriate time limits for the purposes of that election.

(6) This section is repealed by regulation of the Lieutenant Governor in Council.

[2004-54-21, effective May 20, 2004]