

This Act is current to November 26, 2024

See the [Tables of Legislative Changes](#) for this Act's legislative history, including any changes not in force.

## School Act

### [RSBC 1996] CHAPTER 412

#### Part 6 — Boards of Education

#### Division 1 — Corporate Status and Meetings

#### **Board is a corporation**

**65** (1) The trustees elected or appointed under this Act for each school district and their successors in office constitute a board of education for the district and are continued as a corporation under the name of "The Board of Education of School District No. 5 (Southeast Kootenay)", or as the case may be.

(1.1) A board is responsible for the improvement of student achievement in the school district.

(2) A board may

- (a) establish committees and specify the functions and duties of those committees,
- (b) establish a district advisory council comprised of persons representing parents' advisory councils and other organizations in the community, and
- (c) delegate specific and general administrative and management duties to one or more of its employees.

(3) Committees of trustees or individual trustees may not exercise the rights, duties and powers of the board.

(4) Unless expressly required to be exercised by bylaw, all powers of a board may be exercised by bylaw or by resolution.

(5) A board may exercise a power with respect to the acquisition or disposal of property owned or administered by the board only by bylaw.

#### **Quorum**

**66** A quorum of a board is a majority of the trustees holding office at the time of the meeting of the board.

#### **Meetings and chair**

**67** (1) After the general local election of trustees in a school district, the secretary treasurer for that school district must convene a first meeting of the board as soon as possible and in any event within 30 days from the date that the new board begins its term of office.

(2) At the meeting convened by the secretary treasurer under subsection (1), the board must elect a chair and may elect a vice chair from among its members.

(3) A board must meet as often as is necessary to transact its business and in any event not less than once in every 3 months.

(4) A majority of the board may elect a new chair or vice chair at any time.

(5) A board must establish procedures governing the conduct of its meetings and must permit any person to inspect those procedures.

(5.1) Without limiting subsection (5), a board may establish procedures respecting the provision of advice by a district parents' advisory council to the board.

(6) A board may allow trustees to participate in or attend a meeting of the board by telephone or other means of communication if all trustees and other persons participating in or attending the meeting are able to communicate with each other.

(7) If a trustee participates in or attends a meeting of the board by telephone or other means of communication as provided under subsection (6), the trustee is to be counted for the purposes of establishing a quorum.

### **Passage of bylaws**

**68** (1) Before it is passed, a bylaw of the board must be given 3 distinct readings.

(2) Subject to subsection (3), at each of the readings of a bylaw, the bylaw must be read in full.

(3) A reading of a bylaw may, if a written or printed copy of a bylaw is in the possession of each trustee and is available to each member of the public in attendance at the meeting at which the bylaw is to be read, consist of a description of the bylaw by

(a) its title, and

(b) a summary of its contents.

(4) The board may not give a bylaw more than 2 readings at any one meeting unless the members of the board who are present at the meeting unanimously agree to give the bylaw all 3 readings at that meeting.

### **Attendance of public and secretary treasurer at meeting**

**69** (1) Subject to subsection (2), the meetings of the board are open to the public.

(2) If, in the opinion of the board, the public interest so requires, persons other than trustees may be excluded from a meeting.

(3) Despite subsection (2), the secretary treasurer or another employee designated by the board under subsection (4) must be present at the time that a decision of the board is rendered and must record any decision.

(4) If the secretary treasurer is unable to attend a meeting or if the meeting concerns the work performance or employment of the secretary treasurer, the board may designate another employee of the board to attend the meeting in place of the secretary treasurer to perform the duties of the secretary treasurer at the meeting.

### **Improper conduct at meetings**

**70** (1) The chair or other member presiding at a meeting of the board may expel from the meeting a person, other than a trustee, who the presiding member considers guilty of improper conduct.

(2) A majority of the trustees present at a meeting of the board may expel a trustee from the meeting for improper conduct.

(3) A person who disturbs, interrupts or disquiets the proceedings of a meeting of a board commits an offence.

### **Remuneration and expense allowance**

**71** (1) A board may

(a) authorize annually the payment of remuneration to the chair, vice chair and other trustees, and

(b) authorize annually the payment of a reasonable allowance for expenses necessarily incurred by trustees in the discharge of their duties.

(2) The board is responsible for any payments under subsection (1).

(3) The remuneration for the chair and vice chair may be greater than for the other trustees.

### **Minutes**

**72** (1) The minutes of the proceedings of all meetings of the board must be

(a) legibly recorded in a minute book,

(b) certified as correct by the secretary treasurer or other employee designated by the board under section 69 (4), and

(c) signed by the chair or other member presiding at the meeting or at the next meeting at which the minutes are adopted.

(2) Except for minutes of a meeting from which persons other than trustees or officers of the board, or both, were excluded, the minutes must be open for inspection at all reasonable times by any person, who may make copies and extracts on payment of a fee set by the board.

(3) A board must prepare a record containing a general statement as to the nature of the matters discussed and the general nature of the decisions reached at a meeting from which persons other than trustees or officers of the board, or both, were excluded, and the record must be open for inspection at all reasonable times by any person, who may make copies and extracts on payment of a fee set by the board.

(4) [Repealed 2000-11-43.]

### **Division 2 — Powers and Duties**

### **Establishment and closure of schools**

**73** (1) A board may

(a) subject to the orders of the minister, open, close or reopen a school permanently or for a specified period of time, and

(b) temporarily close a school building if the health or safety of the students is endangered.

(2) The board may operate more than one school in a single building or location.

### **Management of schools and property**

**74** (1) Subject to the orders of the minister, a board is responsible for the management of the schools in its school district and for the custody, maintenance and safekeeping of all property owned or leased by the board.

(2) A board must ensure that a principal, vice principal or director of instruction is responsible for each school in its school district.

### **Video surveillance cameras**

**74.01** (1) A board may install and operate a video surveillance camera in a school facility or on school land for the purposes of protecting

- (a) the safety of individuals in a school facility or on school land,
- (b) an individual's belongings in a school facility or on school land, or
- (c) school property

with the prior approval of the parents' advisory council for the school where the board proposes to install and operate a video surveillance camera.

(2) A parents' advisory council may make recommendations to a board to install and operate a video surveillance camera in a school facility or on school land for the purposes set out in subsection (1).

(3) If a board

- (a) has installed and operates a video surveillance camera in a school facility or on school land before the date this section comes into force, or
- (b) installs and operates a video surveillance camera in a school facility or on school land for the purposes set out in subsection (1),

the board must conduct an annual review that assesses if the installation and operation of the video surveillance camera is accomplishing a purpose set out in subsection (1).

(4) Subsections (1) to (3) do not apply to the installation and operation of a video surveillance camera in a school facility or on school land on a temporary basis for a specific investigative purpose.

(5) Subsection (1) does not apply to a video surveillance camera installed in a school facility or on school land before the date this section comes into force.

### **Enrolment in an educational program**

**74.1** (1) In this section:

"catchment area child" means a person

- (a) of school age, and
- (b) resident in the catchment area of the school;

"non-catchment area child" means a person

- (a) of school age,
- (b) resident in the school district, and
- (c) not resident in the catchment area of the school;

"non-school district child" means a person

- (a) of school age,
- (b) resident in British Columbia, and
- (c) not resident in the school district;

"previous school year" means the school year previous to the school year for which the person is applying to enrol in an educational program;

"school district child" means a catchment area child or a non-catchment area child.

(2) A board must enrol all persons who exercise their entitlement to enrol in an educational program under section 2 (1).

(3) A board may refuse to enrol a non-school district child under section 2 (2) if the child is

- (a) a student suspended by a board under section 85 (2) (d), or
- (b) a student to whom a board has refused to offer an educational program under section 85 (3).

(4) A board

- (a) for each school year, must establish a date by which an application to enrol a person in an educational program must be received by the board for the purposes of this section,
- (b) in respect of the date referred to in paragraph (a), may establish different dates for different grades, educational programs, schools or children defined in subsection (1), and
- (c) may dispense with the application referred to in paragraph (a) and establish an alternative procedure to enrol a school district child who was enrolled in an educational program in the school district in the previous school year.

(5) If a board establishes an alternative application procedure under subsection (4) (c), the enrolment of a school district child remains subject to the priorities set out in this section.

(6) If a board determines that space and facilities are available at the school in which the educational program is made available, a person whose application was received by the board by the date established under subsection (4) is entitled to enrol in that educational program in the following descending order of priority:

- (a) a catchment area child who, in the previous school year, attended the school at which the educational program is made available;
- (b) a catchment area child;
- (c) a non-catchment area child;
- (d) a non-school district child.

(6.1) Despite subsection (6), a board may, subject to subsection (6.2), give priority to

- (a) a catchment area child as if that child were a child described in subsection (6) (a) if, in the previous school year, the child attended a school from which the board reassigns students progressing through their educational program to the school at which the educational program is made available,
  - (b) a non-catchment area child or a non-school district child as if the child were a child described in subsection (6) (a) or (b) if the child, in the previous school year,
    - (i) attended the school at which the educational program is made available, or
    - (ii) attended a school from which the board reassigns students progressing through their educational program to the school at which the educational program is made available, and
  - (c) a sibling of a child described in subsection (6) (a) or paragraph (b) (i) of this subsection as if the sibling were a child described in subsection (6) (a) or (b) if the sibling does not attend school or attends a different school at the time the application under subsection (4) is made.
- (6.2) The board must establish rules governing the exercise of its discretion under subsection (6.1) and must make those rules publicly available.
- (7) If a board determines that space and facilities are available at the school in which the educational program is made available, a non-school district child referred to in subsection (6) is entitled to enrol in an educational program in priority to a school district child whose application was received by the board after the date established under subsection (4).
- (8) A board must establish rules for determining priority between 2 or more persons having the same priority under this section.
- (9) For the purposes of this section, a person's residency is determined as of the date the application to enrol the person is submitted to the board.

### **First nation schools of choice**

**74.2** (1) In this section:

"designated school" means a school designated by a first nation, a treaty first nation or the Nisga'a Nation under subsection (2);

"eligible first nation person" means a person

- (a) who may enrol, under this Act, in an educational program provided by a board,
- (b) who is a member of a first nation, a treaty first nation or the Nisga'a Nation,
- (c) who is ordinarily resident
  - (i) on a reserve as defined in section 2 (1) of the [Indian Act](#) (Canada),
  - (ii) on treaty lands,
  - (iii) on Nisga'a Lands, or
  - (iv) on shíshálh lands as defined in section 2 (1) of the [shíshálh Nation Self-Government Act](#) (Canada), and
- (d) for whom the government of Canada provides funding in relation to the person's educational programs and services;

"specialty academy" has the same meaning as in section 82.1.

(2) Despite sections 2, 74.1 (1), (2), (6) and (6.1) and 75 (4), if a first nation, a treaty first nation or the Nisga'a Nation designates, in accordance with subsection (3), a school in the school district of the board, the eligible first nation persons who meet the following residency requirements are entitled to attend the designated school in the next school year:

(a) the eligible first nation persons who are ordinarily resident of the first nation and are ordinarily resident or boarded in the school district;

(b) the eligible first nation persons who are ordinarily resident on the treaty lands of the treaty first nation and are ordinarily resident or boarded in the school district;

(c) the eligible first nation persons who are ordinarily resident on Nisga'a Lands and are ordinarily resident or boarded in the school district.

(3) A designation under subsection (2) must be made in writing to the board of the school district of the school

(a) by the date established under section 74.1 (4) (a), or

(b) if the board establishes different dates for different grades, education programs, schools or children under section 74.1 (4) (b), by the earliest of those dates.

(4) A designation under subsection (2) continues for each subsequent school year unless the first nation, the treaty first nation or the Nisga'a Nation revokes the designation.

(5) Despite subsection (2), if a board offers a specialty academy at a designated school, an eligible first nation person may only be enrolled in the specialty academy in the manner specified by the board for general enrolment in the specialty academy.

(6) For certainty, an eligible first nation person who is entitled to attend a designated school remains entitled to enrol in an educational program in accordance with sections 2, 74.1 (1), (2), (6) and (6.1) and 75 (4) provided by the board of a school district.

### **Provision of educational program**

**75** (1) Subject to the other provisions of this Act and the regulations and to any orders of the minister under this Act, a board must make available an educational program to all persons of school age who enrol in a school in the district.

(2) A board may provide an educational program to persons referred to in subsection (1)

(a) in its own school district, or

(b) with the consent of a parent of the person referred to in subsection (1), in another school district or in a francophone school district.

(3) A board complies with subsection (1) if

(a) the educational program is provided by the board,

(b) with the approval of the minister, the educational program is provided by a Provincial school, or

(c) with the agreement of one or more other boards or a francophone education authority, and with any consent required under subsection (2) (b), the educational program is provided

(i) in full by another board or by the francophone education authority, or

(ii) in part by one or more other boards or the francophone education authority, and the remainder of the educational program, if any, is provided by the board.

(4) Subject to section 74.1, a board may assign and reassign students to specific schools or to educational programs referred to in subsection (3).

(4.01) Subject to subsection (4.1) and the orders of the minister, a board may deliver all or part of an educational program through online learning.

(4.1) A board may deliver an educational program, or part of an educational program, through online learning to the following persons only if the board has approval to provide the educational program under an agreement with the minister:

(a) a student, as defined in the [Independent School Act](#);

(b) a student who is enrolled in an educational program provided by another board, or a francophone student;

(c) a student who is not resident in the board's school district;

(d) a child who is registered under section 13 with a school operated by another board, a francophone school or an independent school.

(5) [Repealed 2002-53-19.]

(6) A board may recognize as part of a student's educational program an educational activity that is not provided by the board.

(7) Subject to the regulations, a board

(a) is responsible for evaluating all of the educational programs and services provided by the board, including services provided under an agreement under section 86 (1) (a), and

(b) must have students assessed and evaluated by a certificate holder.

(8) A board may, in accordance with any terms and conditions specified by the board, permit a person who is older than school age

(a) to attend an educational program, or

(b) to enrol and receive instruction in an educational program sufficient to meet the general requirements for graduation.

## Catchment areas

**75.1** (1) A board must establish for each school in its school district, except for a Provincial resource program, a catchment area consisting of a geographical area around the school that includes all or part of the school district.

(2) A board may amend the catchment area established for a school under subsection (1).

## Conduct

**76** (1) All schools and Provincial schools must be conducted on strictly secular and non-sectarian principles.



(2) The highest morality must be inculcated, but no religious dogma or creed is to be taught in a school or Provincial school.

(3) The discipline of a student while attending an educational program made available by a board or a Provincial school must be similar to that of a kind, firm and judicious parent, but must not include corporal punishment.

### **Class size**

**76.1** (1) [Repealed 2012-3-14.]

(2) A board must ensure that the size of any primary grades class in any school in its school district does not exceed

(a) for kindergarten, 22 students, and

(b) for grades 1 to 3, 24 students.

(2.1) Subject to subsection (2.4), a board must ensure that the class size of any class for any of grades 4 to 12 in any school in its school district does not exceed 30 students unless

(a) in the opinions of the superintendent of schools for the school district and the principal of the school, the organization of the class is appropriate for student learning, or

(b) the class is in a prescribed category of classes.

(2.2) A board must provide additional compensation, as prescribed, to a teacher of a class that, under subsection (2.1) (a), exceeds 30 students.

(2.3) Subsection (2.2) does not apply with respect to a teacher in a prescribed category of teachers.

(2.4) A board must ensure that the class size of a class in a prescribed category of classes does not exceed the prescribed number of students.

(3) to (5) [Repealed 2012-3-14.]

### **Repealed**

**76.2-76.7** [Repealed 2012-3-15.]

### **Authority of vice principal under section 76.1**

**76.8** If authorized by the principal of a school, the vice principal of the school may perform any duties of the principal under section 76.1.

### **Repealed**

**77** [Repealed RS1996-412-77 (3).]

### **Repealed**

**78** [Repealed RS1996-412-78 (6).]

## Repealed

**78.1** [Repealed 2012-3-17.]

## Student records

**79** (1) Subject to the orders of the minister, a board must

(a) establish written procedures regarding the storage, retrieval and appropriate use of student records, and

(b) ensure confidentiality of the information contained in the student records and ensure privacy for students and their families.

(1.1) Subsection (1) applies also in respect of records referred to in paragraph (d) of the definition of "student record", even though those records are excluded from that definition.

(2) Despite subsection (1), a board must, if required by the orders of the minister, permit a person providing health services, social services or other support services access to information in student records required to carry out that service.

(3) Subject to the orders of the minister, a board must establish and maintain a record for each student and for each child registered with the board's schools under section 13.

## Transmitting records

**79.1** (1) Despite section 79 (1), if a francophone education authority enters into an agreement with a board or with another francophone education authority for the provision of services, including the provision of all or part of an educational program or a francophone educational program, each party to the agreement must provide to the other party access to information in those student records that are necessary for the other party to satisfactorily perform the contract.

(2) Despite section 79 (1), if a student is enrolled with more than one board, each board must provide to the other access to information in those student records that is necessary for the other board to satisfactorily perform its obligations under this Act.

(3) Despite section 79 (1), if a student is enrolled

(a) in an independent school, but takes one or more courses through a school or francophone school by means of online learning, or

(b) in a school or francophone school, but takes one or more courses through an independent school by means of online learning,

each board, francophone education authority and authority of an independent school with which the student is enrolled must provide to the other access to information in those student records and permanent student records that is necessary for the other board, francophone education authority or authority of the independent school to satisfactorily perform its obligations under this Act or the [Independent School Act](#), as applicable.

## Repealed

**79.2-79.4** [Repealed 2015-24-14.]

## Repealed

**80** [Repealed 2002-53-22.]

## Reports

**81** A board must prepare and submit to the minister reports and statements in the form, with the information and at the time required by the minister.

## Repealed

**81.1** [Repealed 2015-24-14.]

## Fees and deposits

**82** (1) A board must provide free of charge to every student of school age resident in British Columbia and enrolled in an educational program in a school operated by the board,

(a) instruction in an educational program sufficient to meet the general requirements for graduation,

(b) instruction in an educational program after the student has met the general requirements for graduation, and

(c) educational resource materials necessary to participate in the educational program.

(2) For the purposes of subsection (1), a student is resident in British Columbia if the student and the student's guardian are ordinarily resident in British Columbia.

(2.1) Subject to subsection (2.2), if a board permits a student who is older than school age and is ordinarily resident in British Columbia to enrol in an educational program leading to graduation, the board must provide free of charge to that student

(a) instruction in an educational program sufficient to meet the general requirements for graduation, and

(b) educational resource materials necessary to participate in the educational program.

(2.2) Subsection (2.1) does not apply to a student who has

(a) already met the general requirements for graduation, or

(b) completed the requirements for graduation from a secondary school or high school in another jurisdiction.

(3) Subject to subsections (1) and (2.1), section 82.4 and the orders of the minister, a board may charge fees for goods and services provided by the board.

(4) A board may require a deposit for educational resource materials provided to students and to children registered under section 13.

(5) If a board requires a deposit under subsection (4), it must refund all or part of the deposit to the student or child on return of the educational resource materials.

(6) A board must publish a schedule of the fees to be charged and deposits required and must make the schedule available to students and to children registered under section 13 and to the parents of those students and children before the beginning of the school year.

(7) Except as provided in an agreement under section 75 (4.1), a board is not responsible to pay for any educational activity undertaken by a student that is not provided by the board.

## Specialty academies

**82.1** (1) In this section, "specialty academy" means an educational program that emphasizes a particular sport, activity or subject area and meets the prescribed criteria set out in the regulations.

(2) A board may offer a specialty academy if

(a) the board has consulted with the parents' advisory council for the school where the board proposes to offer the specialty academy, and

(b) the board is of the opinion that there is sufficient demand for the specialty academy.

(3) A board that offers a specialty academy must

(a) make available sufficient instruction for students enrolled in the specialty academy to meet the general requirements for graduation, and

(b) continue to offer a standard educational program in the school district.

(4) Despite section 82, but subject to section 82.4, a board may charge a student enrolled in a specialty academy fees relating to the direct costs incurred by the board in providing the specialty academy that are in addition to the costs of providing a standard educational program.

(5) On or before July 1 of each school year, a board that offers a specialty academy must

(a) establish a schedule of fees to be charged under subsection (4), and

(b) make the schedule of fees available to the public.

(6) Before establishing a schedule of fees under subsection (5), a board must

(a) consult with the parents' advisory council for the school where the specialty academy is offered, and

(b) obtain the approval of that parents' advisory council for the schedule of fees.

## Trades programs

**82.2** (1) In this section, "trades program" means an educational activity that is designed to certify a student for a particular occupation, and includes an apprenticeship for students registered with SkilledTradesBC under the [Skilled Trades BC Act](#).

(2) Despite section 82, but subject to section 82.4, a board may do the following in relation to a student enrolled in an educational program that has a trades program component:

(a) charge fees for the purchase or rental of tools, equipment and materials necessary for the student's participation in the trades program;

(b) require the student to provide their own tools, equipment and materials necessary for the student's participation in the trades program.

## Musical instruments

**82.3** (1) Despite section 82, but subject to section 82.4, a board may do the following in relation to a student described in subsection (2) of this section:

- (a) charge fees for the purchase or rental of a musical instrument for the student's personal use;
  - (b) require the student to provide their own musical instrument.
- (2) Subsection (1) applies to a student participating in, as part of an educational program,
- (a) a music class, course or program, or
  - (b) a fine arts class, course or program with a music component.

### **International Baccalaureate**

**82.31** (1) In this section and section 178, "International Baccalaureate program" means an educational program based on a curriculum developed and standards set by the International Baccalaureate Organization, a registered extraprovincial non-share corporation as defined in section 167 of the [Societies Act](#).

- (2) A board that offers an International Baccalaureate program must
- (a) make available sufficient instruction for students enrolled in the International Baccalaureate program to meet the general requirements for graduation, and
  - (b) continue to offer a standard educational program in the school district.
- (3) Despite section 82, but subject to section 82.4, a board may charge a student enrolled in an International Baccalaureate program fees relating to the direct costs incurred by the board in providing the International Baccalaureate program that are in addition to the costs of providing a standard educational program.
- (4) If a board that offers an International Baccalaureate program charges fees under subsection (3), the board must, on or before July 1 of each school year,
- (a) establish a schedule of fees to be charged under subsection (3), and
  - (b) make the schedule of fees available to the public.

### **Requirement for financial hardship policy**

**82.4** Sections 82 (3), 82.1 (4), 82.2, 82.3 and 82.31 (3) apply only to a board that has established policies and procedures to facilitate participation by students of school age ordinarily resident in British Columbia who would otherwise be excluded from the course, class or program because of financial hardship.

### **Financial assistance**

- 83** (1) A board may
- (a) assist in paying the cost of transportation, board or lodging of a student, or
  - (b) subject to the orders of the minister, assist in paying the cost of transportation, board, lodging or tuition fees of a person attending an educational institution outside of British Columbia.
- (2) If a student is enrolled in an educational program that is delivered, in whole or in part, through online learning, the board may provide any financial assistance to the student that is authorized under an agreement under section 75 (4.1).

### **Insurance**

**84** (1) A board must maintain insurance in accordance with this Act and the regulations.

(2) A board may maintain insurance, other than insurance referred to in subsection (1), that the board considers necessary.

(3) Subject to the regulations, if the board maintains insurance, the board must be the named beneficiary of the insurance.

### **Power and capacity**

**85** (1) For the purposes of carrying out its powers, functions and duties under this Act, a board has the power and capacity of a natural person of full capacity.

(1.1) Without limiting subsection (1), a board must, subject to this Act and the regulations, and in accordance with Provincial standards established by the minister, establish a code of conduct for students enrolled in educational programs provided by the board.

(2) Without limiting subsection (1), a board may, subject to this Act and the regulations, do all or any of the following:

(a) determine local policy for the effective and efficient operation of schools in the school district;

(b) subject to the orders of the minister, approve educational resource materials and other supplies and services for use by students;

(c) make rules

(i) [Repealed 2007-16-4.]

(ii) respecting suspension of students and the provision of educational programs for suspended students,

(iii) respecting attendance of students in educational programs provided by the board,

(iv) respecting the establishment, operation, administration and management of

(A) schools operated by the board and educational programs provided by the board, and

(B) transportation equipment used for the purposes of the board,

(v) respecting the provision of volunteer services,

(vi) respecting the management of student housing facilities and the supervision of students accommodated in them, and

(vii) respecting any other matter under the jurisdiction of the board;

(d) suspend students, in accordance with the rules under paragraph (c) (ii), so long as the board continues to make available to those students an educational program;

(e) if approved by the council of the municipality in which the school is located, provide a system of traffic patrols to assist in the control of motor vehicle traffic on highways or elsewhere in that municipality so far as the traffic may affect students going to or from school;

(f) provide housing accommodation for students;

- (g) subject to the orders of the minister, permit persons other than students to utilize board facilities, equipment and personnel;
  - (h) subject to the orders of the minister, evaluate and recognize educational activities of an educational program undertaken by a student outside of the school;
  - (i) develop and offer local programs for use in schools in the school district;
  - (j) subject to the orders of the minister, cause an educational assessment to be made of students or groups of students;
  - (k) establish loan funds or bursaries for students enrolled in an educational program in the school district and spend money received by donation.
- (3) Despite any other provision of this Act, a board may refuse to offer an educational program to a student 16 years of age or older if that student
- (a) has refused to comply with the code of conduct, other rules and policies referred to in section 6, or
  - (b) has failed to apply themselves to their studies.
- (4) A rule made under subsection (2) (c) (v) must not permit volunteers to provide services that would result in the displacement of an employee.
- (5) A rule that conflicts or is inconsistent with subsection (4) is void.

### **Policies respecting child care programs**

**85.1** (1) In this section and in sections 85.2, 85.3 and 85.4:

"board property", in relation to a board, means land or improvements

- (a) that are owned or leased by the board,
- (b) that are within the board's school district, and
- (c) that are, have been or are intended to be used for educational activities;

"business day" means a day other than Saturday or a holiday;

"educational activities" means the provision of educational programs, early learning programs and extracurricular school activities;

"licensee", in relation to a child care program, means the person licensed under the [Community Care and Assisted Living Act](#) to provide the child care program.

(2) A board must establish a policy that

- (a) promotes the use of board property by licensees, between the hours of 7 a.m. and 6 p.m. on business days, for the purpose of providing a child care program, and
- (b) addresses the matters set out in any orders of the minister.

### **Boards may provide child care programs**

**85.2** (1) A board may provide a child care program on board property to students enrolled with the board if both of the following apply:

(a) the board is a licensee;

(b) the child care program is provided only on school days before or after school hours.

(2) If a board provides a child care program referred to in subsection (1), the board may charge fees to a student to whom the child care program is provided if the fees are not more than the direct costs incurred and to be incurred by the board in providing that child care program.

### **Child care programs provided by others**

**85.3** (1) A board may permit a licensee to use board property for the purpose of providing a child care program.

(2) If a board permits a licensee to use board property for the purpose of providing a child care program, the board must ensure that any revenue obtained by the board from that use is not more than the direct and indirect costs incurred and to be incurred by the board in making the board property available to the licensee for that use.

### **Use of board property for child care programs**

**85.4** If a child care program is provided on board property by the board or by a licensee other than the board, the board must ensure

(a) that the child care program is provided in accordance with the board's policy established under section 85.1 (2) and any orders of the minister, and

(b) that the provision of the child care program does not disrupt or otherwise interfere with educational activities.

### **Agreements**

**86** (1) A board may, subject to this Act, the regulations and the orders of the minister,

(a) enter into an agreement to purchase or provide procurement, managerial, administrative or other services,

(a.1) enter into an agreement to purchase educational services that will be under the general supervision of an employee of the board who is a certificate holder, and

(b) enter into an agreement concerning the promotion, development or operation of recreational and community services.

(1.1) A board may, subject to this Act, the regulations and the orders of the minister, enter into an agreement with a francophone education authority to provide all or part of a francophone educational program and health and support services, including busing and educational resources, to one or more francophone students enrolled with that authority.

(1.2) A board may, subject to this Act, the regulations and the orders of the minister, enter into an agreement with one or more boards to provide health and support services, including busing and educational resources, to one or more students enrolled with that board.



(2) With the approval of the minister, a board may enter into an agreement with the government of Canada or any agency of the government of Canada with respect to the education of

(a) Indian children, or

(b) children of members of the Canadian Forces or other persons employed by the government of Canada.

(3) A board may enter into an agreement,

(a) with respect to the education of Indian children, with

(i) a council of a band as defined in the [Indian Act](#) (Canada), or

(ii) the council of an Indian band established by another Act of the government of Canada, and

(b) with respect to matters relating to education, with

(i) a participating First Nation or a Community Education Authority established by one or more participating First Nations under the [First Nations Jurisdiction over Education in British Columbia Act](#) (Canada), or

(ii) the First Nations Education Authority.

(3.01) In subsection (3) (b), "education" has the same meaning as in the [First Nations Jurisdiction over Education in British Columbia Act](#) (Canada).

(3.1) A board may enter into an agreement with the Nisga'a Nation with respect to the education of

(a) a Nisga'a citizen, or

(b) a student who

(i) is not a Nisga'a citizen, and

(ii) is attending an educational institution operated by the Nisga'a Lisims Government.

(3.2) [Repealed 2014-32-57.]

(3.3) A board may enter into an agreement with a treaty first nation with respect to the education of

(a) a treaty first nation member or constituent of the treaty first nation, or

(b) a student who is

(i) not a treaty first nation member or constituent of the treaty first nation, and

(ii) attending an educational institution operated by the treaty first nation under its own laws.

(4) A board may operate a Provincial resource program in accordance with an agreement with the minister.

(5) A board may operate an early learning program with the prior agreement of the minister.

(6) For the purposes of subsection (1), if the minister has made an applicable order under section 168 (2) (s.3), a board may enter into an agreement only with a designated service provider.

### **Model local education agreement**

**86.1** (1) In this section and sections 86.2 to 86.6:

"eligible first nation person" means a person

- (a) who may enrol, under this Act, in an educational program provided by a board,
- (b) who is a member of a first nation, a treaty first nation or the Nisga'a Nation, and
- (c) for whom the government of Canada provides funding in relation to the person's educational programs and services;

"model agreement" means a model local education agreement specified by regulation under subsection (2).

(2) The minister may specify, by regulation, any of the following:

- (a) a model local education agreement as a model agreement that includes terms and conditions related to
    - (i) the purchase of educational programs and services by a first nation, a treaty first nation or the Nisga'a Nation from a board,
    - (ii) improving first nation, treaty first nation and Nisga'a Nation student achievement, and
    - (iii) developing relationships between a first nation, a treaty first nation or the Nisga'a Nation and a board;
  - (b) requirements in relation to the form and manner for a first nation, a treaty first nation or the Nisga'a Nation to require a model agreement to apply to the first nation, the treaty first nation or the Nisga'a Nation and a board;
  - (c) information that must be included by the first nation, the treaty first nation or the Nisga'a Nation in the model agreement.
- (3) The term of a model agreement starts on July 1 of the year specified in the model agreement.

### **First nation and board model agreement as contract**

**86.2** (1) Subject to section 86.5, a first nation may, by delivering written notice to the minister and a board, require a model agreement to apply to the first nation and the board.

(2) If a first nation requires a model agreement to apply to the first nation and a board in accordance with subsection (1) and any regulation under section 86.1 (2) (b), the model agreement is deemed to be a contract between the first nation and the board as parties and the terms and conditions of the model agreement apply as if it was a contract entered into by the parties.

### **Treaty first nation and board model agreement as contract**

**86.3** (1) Subject to section 86.5, a treaty first nation may, by delivering written notice to the minister and a board, require a model agreement to apply to the treaty first nation and the board.

(2) If a treaty first nation requires a model agreement to apply to the treaty first nation and a board in accordance with subsection (1) and any regulation under section 86.1 (2) (b), the model agreement is deemed to be a contract between the treaty first nation and the board as parties and the terms and conditions of the model agreement apply as if it was a contract entered into by the parties.

### **Nisga'a Nation and board model agreement as contract**

**86.4** (1) Subject to section 86.5, the Nisga'a Nation may, by delivering written notice to the minister and a board, require a model agreement to apply to the Nisga'a Nation and the board.

(2) If the Nisga'a Nation requires a model agreement to apply to the Nisga'a Nation and a board in accordance with subsection (1) and any regulation under section 86.1 (2) (b), the model agreement is deemed to be a contract between the Nisga'a Nation and the board as parties and the terms and conditions of the model agreement apply as if it was a contract entered into by the parties.

### **Conditions required for model agreement**

**86.5** A first nation, a treaty first nation or the Nisga'a Nation may only require a model agreement to apply to the first nation, the treaty first nation or the Nisga'a Nation and a board if

(a) an eligible first nation person of the first nation, the treaty first nation or the Nisga'a Nation is enrolled in or will reasonably be expected to enrol in an educational program provided by the board, and

(b) no other agreement relating to the purchase of educational programs and services with government of Canada funding is in effect between, as applicable,

(i) the first nation and the board,

(ii) the treaty first nation and the board, or

(iii) the Nisga'a Nation and the board.

### **Amendments to model agreement**

**86.6** (1) If a model agreement is amended by ministerial regulation, the amended model agreement does not apply to a contract that is in effect under section 86.2, 86.3 or 86.4 on the date the amended model agreement comes into force.

(2) If a model agreement is amended by ministerial regulation, the first nation, the treaty first nation or the Nisga'a Nation must give at least 60 days' written notice to the minister and the board that the amended model agreement applies.

(3) If a model agreement is amended by ministerial regulation and notice is provided in accordance with subsection (2),

(a) the amended model agreement takes effect on the next July 1, and

(b) the term of the model agreement is amended and starts on the date that the amended model agreement takes effect.

### **Training of student teachers**

**87** (1) If a board receives a request from a university established under the [University Act](#) or an institution for the training of teachers established under any other Act for permission for student teachers to practise and observe teaching, the board must permit student teachers enrolled at the university or institution reasonable access to all classrooms and other school accommodation in accordance with arrangements made by the superintendent of schools for the purposes of practising teaching, supervising, observing teaching and any related duties.

(2) A student teacher engaged in any of the duties referred to in subsection (1) has the same disciplinary authority as a teacher in the school.

## Division 2.01 — Indigenous Education Councils

### **Purposes of Indigenous education councils**

**87.001** (1) Each board must establish and maintain an Indigenous education council, for the following purposes:

- (a) advising the board respecting any matter relating to the following:
    - (i) providing comprehensive and equitable educational programs and services to Indigenous students;
    - (ii) improving Indigenous student achievement;
    - (iii) integrating into learning environments Indigenous world views and perspectives, in particular those of the first nations, the treaty first nations or the Nisga'a Nation in whose traditional territory the board operates;
  - (b) advising on grants provided under this Act in relation to Indigenous students;
  - (c) approving plans, spending and reporting related to grants as set out in section 87.002;
  - (d) advising the board in relation to the distinct languages, cultures, customs, traditions, practices or history of the first nations, the treaty first nations or the Nisga'a Nation in whose traditional territory the board operates, through advice from the Indigenous education council members representing those first nations, treaty first nations or the Nisga'a Nation.
- (2) For certainty, an Indigenous education council is not a committee of a board under section 65 (2) (a) of this Act.

### **Approval of targeted grants — plans, spending and reporting**

**87.002** If the minister provides a direction for a targeted grant under section 106.4 and the targeted grant is related to Indigenous students, the Indigenous education council must,

- (a) before the grant is spent by the board, approve the board's plan for the grant and the board's spending of the grant, and
- (b) after the grant is spent, approve the board's report, if any, on the grant's spending.

### **Minister may order board to consult with Indigenous education councils**

**87.003** The minister may specify, by order, that a board must consult with the Indigenous education council or specified members of the Indigenous education council on a matter specified by the minister.

### **Ministerial orders in relation to Indigenous education councils**

**87.004** (1) Subject to this section, the minister may specify, by order, any of the following in relation to an Indigenous education council:

- (a) establishment and composition of a council;
- (b) the process to appoint council members;
- (c) voting rights of council members;

- (d) terms of reference in relation to a council;
  - (e) rules governing the conduct of the business of a council.
- (2) The following individuals may not be members with voting rights of an Indigenous education council:
- (a) a trustee;
  - (b) a board employee.
- (3) The minister may specify in an order under subsection (1) that different members of an Indigenous education council may have different voting rights in respect of different matters.

### **Indigenous education councils establish governance rules**

**87.005** An Indigenous education council may make rules governing the following, but may not make a rule if that rule is inconsistent with this Act, the regulations or the orders of the minister:

- (a) the process to appoint members of a council;
- (b) the conduct of a council's business;
- (c) terms of reference in relation to a council.

### Division 2.1 — School Calendars

#### **School calendar**

**87.01** (1) In this section, "school calendar year" means either of the following:

- (a) the school year;
  - (b) subject to subsection (4), a period of 12 consecutive months covered by a school calendar, if the school calendar is not based on the school year.
- (2) A board must, in accordance with the regulations of the minister, prepare a school calendar for each school in its school district for each school calendar year.
- (3) A school calendar prepared by a board under subsection (2)
- (a) need not be based on the school year but, subject to subsection (4), must cover a period of 12 consecutive months,
  - (b) must set out all of the information prescribed by the minister,
  - (c) may include variations for one or more groups of students in a school, and
  - (d) may include any other information that the board considers necessary.
- (4) A school calendar must cover a period of more than 12 consecutive months if necessary to ensure that it applies immediately on the expiration of the previous school calendar.
- (5) A board must submit to the minister a school calendar prepared under subsection (2) at least 3 months before the expiration of the current school calendar unless the board has made available to the public a school calendar under subsection (9) for the next school calendar year.

(6) A board may, at the same time, submit to the minister up to 3 school calendars prepared under subsection (2) for each of up to 3 consecutive school calendar years.

(7) Before submitting a school calendar or school calendars, as applicable, under subsection (5) or (6), the board must, in accordance with the regulations of the minister, consult with parents of the students enrolled in the school and representatives of employees of the board assigned to the school.

(8) If, in the opinion of the minister, a school calendar or school calendars, as applicable, submitted by a board under subsection (5) or (6) do not comply with the regulations of the minister, the minister

(a) may amend the school calendar or school calendars, as applicable, within 30 days of receiving the school calendar or school calendars, as applicable, under subsection (5) or (6), and

(b) must notify the board of any amendments made under paragraph (a) as soon as practicable.

(9) Subject to subsection (10), a board must, at least one month before the expiration of the current school calendar, make available to the public the school calendar or school calendars, as applicable, submitted to the minister under subsection (5) or (6).

(10) If the minister amends a school calendar under subsection (8), a board must, at least one month before the expiration of the current school calendar, make available to the public the school calendar amended under that subsection.

(11) Subsections (9) and (10) do not apply to a board if the board has previously made available to the public a school calendar under subsection (9) for the next school calendar year.

### **School calendar — amendment**

**87.02** (1) A board may, in accordance with the regulations of the minister, amend a school calendar made available to the public by the board under section 87.01 (9) or (10) if, in the opinion of the board, an amendment is necessary.

(2) A school calendar amended under subsection (1) must comply with section 87.01 (3) and the regulations of the minister.

(3) The board must, as soon as practicable and, in any event, within 30 days of amending a school calendar under subsection (1), make available to the public the amended school calendar.

### **Requirement to comply with school calendar**

**87.03** A board must operate each school in its district in accordance with the following:

(a) the applicable school calendar made available to the public under section 87.01 (9) or (10);

(b) if the board amended the school calendar under section 87.02, the amended school calendar made available to the public under section 87.02 (3).

### **Division 3 — Health and Other Support Services**

#### **Definitions for this Division**

**87.1** In this Division:

"minister of health" means the minister responsible for the administration of the [Public Health Act](#);

"school medical officer" means a medical health officer under the [Public Health Act](#) who is designated as a school medical officer under section 89 (1) of this Act.

### **Support services for schools**

**88** (1) A board must provide health services, social services and other support services for schools in accordance with any orders made by the minister.

(2) [Repealed 2008-28-156.]

### **School medical officer**

**89** (1) Each regional health board under the [Health Authorities Act](#) must designate a school medical officer for each school district.

(2) The minister of health may appoint persons other than school medical officers to perform any duties that the minister considers advisable in respect of the health inspection of schools, francophone schools and the students and francophone students of those schools.

(3) A school medical officer designated under subsection (1) has the same rights, powers and duties in respect of francophone schools located in the school district as that medical officer has for other schools in that district.

### **Inspection and closure of school**

**90** (1) A school medical officer must, as required by the minister of health, cause an inspection to be made of school buildings and school surroundings and must report to the board and the minister of health fully and in detail the result of all examinations and set out any recommendations in the report.

(2) A school medical officer may require a board to close a school when the school medical officer considers that the health or safety of students is at risk.

### **Examinations and reports by school medical officer**

**91** (1) A school medical officer may and when required by the minister of health must examine or cause examinations to be made as to the general health of students of the schools in the school district.

(2) If the school medical officer considers that the health condition of any student is such as to endanger the health or welfare of the students of a school or the employees of the board, the school medical officer must so report to the board, giving the name of the student concerned.

(3) The board must promptly act on a report under subsection (2) and must remove from a school a student whose health condition is reported by the school medical officer as being dangerous.

(4) A student who is removed from a school under subsection (3) must not be permitted to return to the school until the student delivers to the board a certificate signed by the school medical officer permitting the student to return to the school.

(5) If a teacher, principal, vice principal or director of instruction suspects a student is suffering from a communicable disease or other physical, mental or emotional condition that would endanger the health or welfare of the other students, the teacher, the principal, the vice principal or the director of instruction

(a) must report the matter to the school medical officer, to the school principal and to the superintendent of schools for the district, and

(b) may exclude the student from school until a certificate is obtained for the student from the school medical officer, a private medical practitioner or a private nurse practitioner permitting the student to return to the school.

(6) If a student is removed or excluded from school under subsection (3) or (5), the board must continue to make available to the student

(a) if the student is enrolled in more than one educational program, the educational program for which the board is responsible, or

(b) in any other case, an educational program.

### **Board may require employee to undergo examination**

**92** (1) In this section, "contractor" means a person who is not an employee of a board and

(a) is present at a school, or

(b) has contact with one or more students,

because of a contract with a board.

(2) On the advice of the school medical officer, a board may, by notice to an employee of the board or to a contractor, require the employee or the contractor to undergo an examination

(a) by a medical practitioner, and to submit to the school medical officer a certificate signed by the medical practitioner setting out the medical practitioner's conclusions regarding the physical, mental and emotional health of the employee or contractor, or

(b) by a qualified person designated by the minister of health, and to submit to the school medical officer a certificate signed by the person conducting the examination setting out the person's conclusions regarding the physical, mental and emotional health of the employee or contractor.

(3) If an employee fails without reasonable excuse to take the examination required under subsection (2) within 14 days from the date of receiving notice from the board under that subsection, the board may summarily dismiss the employee.

(4) If a certificate submitted to the school medical officer under subsection (2) shows that the physical, mental or emotional health of the employee examined is such as to endanger the health or welfare of the students of the school, the board must

(a) suspend the employee and not permit the employee to return to the employee's duties until the board receives from the employee a certificate signed by the school medical officer permitting the employee to return to the employee's duties, and

(b) if the employee is a certificate holder, report the circumstances to the commissioner.

(5) An employee who fails to take an examination required under subsection (2) or who is suspended under subsection (4) must not be offered or accept a position with a board or a francophone education authority until the employee submits to the board or francophone education authority a medical certificate satisfactory to the board or francophone education authority or, if the employee is a certificate holder, satisfactory to the director of certification.

(6) An employee who is granted a superannuation allowance on medical evidence of total and permanent disability must not be offered or accept a position with a board or a francophone education authority until the



employee submits to the minister a medical certificate, satisfactory to the minister, that the disability no longer exists.

(7) If a contractor fails to take the examination required under subsection (2) within 14 days from the date of receiving notice from the board under that subsection, the board may require the person who entered into the contract with the board to provide a replacement contractor.

(8) Expenses necessarily incurred by a board under this section must be included in the operating expenses of the board.

#### Division 4 — Limitation of Actions and Indemnification

### Interpretation

**93** In this Division, a reference to a trustee, officer, employee or member of an Indigenous education council includes a former trustee, officer, employee or member of an Indigenous education council.

### Actions against board

**94** (1) No action for damages lies or may be instituted against any of the following persons for anything said or done or omitted to be said or done by the person in the performance or intended performance of the person's duty or the exercise of the person's power or for any alleged neglect or default in the performance or intended performance of the duty or the exercise of the power:

- (a) a trustee of a board;
- (b) an officer of a board;
- (c) an employee of a board.

(1.1) No action for damages lies or may be instituted against a volunteer for anything said or done or omitted to be said or done by the volunteer in the provision of volunteer services for a board, or for any alleged neglect or default in the provision of volunteer services for the board by the volunteer.

(2) Subsections (1) and (1.1) do not provide a defence if

- (a) the trustee, officer, employee or volunteer has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct, or
- (b) the cause of action is libel or slander.

(3) No action may be brought against a trustee, an officer or an employee of a board or a student or volunteer in respect of personal or other injuries sustained by a person arising out of the operation by the board of traffic patrols.

(4) Subsections (1), (1.1) and (3) do not absolve a board from vicarious liability arising out of a tort committed by a trustee, officer, or employee of the board, a student or a volunteer for which the board would have been liable had subsections (1), (1.1) and (3) not been in force.

### Indemnification against proceedings

**95** (1) A board may, by bylaw, provide that the board will indemnify a trustee, an officer or an employee of the board or a member of an Indigenous education council

(a) against a claim for damages against a trustee, officer or employee of the board or a member of an Indigenous education council arising out of performance of the trustee's, officer's, employee's or member's duties, or

(b) if an inquiry under the [Public Inquiry Act](#) or other proceeding involves the administration and conduct of the business of the school district

and, in addition, may pay legal costs incurred in proceedings arising out of the claim or inquiry or other proceeding.

(2) A board may, by an affirmative vote of not less than 2/3 of all its members, pay

(a) any sum required to indemnify a trustee, an officer or an employee of the board or a member of an Indigenous education council if a prosecution arises out of the performance of the trustee's, officer's or employee's board duties or the member's council duties, and

(b) costs necessarily incurred,

but the board must not pay a fine imposed on a trustee, officer, employee or member as a result of the trustee's, officer's, employee's or member's conviction.

(3) A board must not seek indemnity against a trustee, an officer or an employee of the board or a member of an Indigenous education council in respect of any action of the trustee, officer, employee or member that results in a claim for damages against the board, but the board may seek indemnity

(a) against a trustee, officer, employee or member if the claim for damages arises out of the gross negligence of the trustee, officer, employee or member, or

(b) against an officer or employee if, in relation to the action that gave rise to the claim for damages against an officer or employee, the officer or employee wilfully acted contrary to

(i) the terms of the officer's or employee's employment, or

(ii) an order of a superior.

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