

This Act is Current to May 7, 2014

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

SCHOOL ACT

[RSBC 1996] CHAPTER 412

Part 2 — Students and Parents

Division 1 — Students

Access to educational program

- 2** (1) Subject to section 74.1, a person is entitled to enroll in an educational program provided by the board of a school district if the person
- (a) is of school age, and
 - (b) is resident in that school district.
- (2) Subject to section 74.1, a person may enroll in an educational program provided by a board of a school district and attend any school in British Columbia if
- (a) the person is of school age,
 - (b) the person is resident in British Columbia, and
 - (c) the board providing the educational program determines that space and facilities are available for the person at the school in which the educational program is made available.

Entry to educational program

- 3** (1) Subject to subsections (2) and (3), a person who is resident in British Columbia must
- (a) enroll in an educational program
 - (i) provided by a board,
 - (ii) in the case of an eligible child, provided by a board or a francophone education authority, and
 - (iii) in the case of an immigrant child, provided by a board or, if the child is permitted to enroll with a francophone education authority under section 166.24, provided by that francophone

education authority,
on the first school day of a school year if, on or before
December 31 of that school year, the person will have reached the
age of 5 years, and

(b) participate in an educational program provided by a board or, in the
case of an eligible child or an immigrant child, by a board or a
francophone education authority until he or she reaches the age of
16 years.

(2) A parent of a child referred to in subsection (1) (a) may defer the enrollment of
his or her child until the first school day of the next school year.

(3) This section does not apply if the person

(a) is attending one of the following:

(i) an independent school;

(ii) a Provincial school;

(iii) an educational institution operated by the government of
Canada or by a 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),

(b) is registered under section 13, or

(c) is participating in a kindergarten to grade 12 program of studies
provided by a treaty first nation under its own laws.

Enrollment – distributed learning

3.1 (1) A student who is enrolled in an educational program provided by a board or a
francophone student who is enrolled in a francophone educational program
provided by a francophone education authority may, subject to section 2 (2), enroll
in one or more

(a) educational programs offered by another board or by an authority
under the *Independent School Act*, or

(b) francophone educational programs offered by another francophone
education authority

if at least one of the educational programs or francophone educational programs, as
applicable, is delivered, in whole or in part, through distributed learning.

(2) Despite subsection (1), a student does not acquire a right under this section to
enroll with a francophone education authority if the student is not otherwise entitled
or permitted under this Act to enroll with a francophone education authority.

Consultation

- 4 A student is entitled to consult with a teacher, principal, vice principal or director of instruction with regard to that student's educational program.

Language of instruction

- 5 (1) Every student is entitled to receive an educational program that is provided in the English language.
- (2) Students whose parents have the right under section 23 of the *Canadian Charter of Rights and Freedoms* to have their children receive instruction in a language other than English are entitled to receive that instruction.
- (3) Subject to the approval of the minister, a board may permit an educational program to be provided in a language other than as provided under subsections (1) and (2).
- (4) The Lieutenant Governor in Council may make regulations
- (a) respecting the provision of educational programs in languages other than English,
 - (b) to give effect to section 23 of the *Canadian Charter of Rights and Freedoms*, and
 - (c) determining the manner in which a power, duty or function of a board may be performed or exercised under this Act with respect to students referred to in subsection (2).
- (5) For the purposes of subsection (4), the Lieutenant Governor in Council may make different regulations for different circumstances.

Duties of students

- 6 (1) A student must comply
- (a) with the school rules authorized by the principal of the school or Provincial school attended by the student, and
 - (b) with the code of conduct and other rules and policies of the board or the Provincial school.
- (2) A student attending a school or a Provincial school must participate in an educational program as directed by the board or by the principal of the Provincial school.

Division 2 — Parents

Parents' entitlements and responsibilities

- 7 (1) A parent of a student of school age attending a school is entitled

- (a) to be informed, in accordance with the orders of the minister, of the student's attendance, behaviour and progress in school,
- (b) on request, to the school plan for the school and the achievement contract for the school district, and
- (c) to belong to a parents' advisory council established under section 8.

(2) A parent of a student of school age attending a school may, and at the request of a teacher, principal, vice principal or director of instruction must, consult with the teacher, principal, vice principal or director of instruction with respect to the student's educational program.

Parent volunteers

- 7.1** Subject to this Act, the regulations and any rules of a board, a parent of a student may provide volunteer services at or for a school.

Parents' advisory council

- 8** (1) Parents of students of school age attending a school or a Provincial school may apply to the board or to the minister, as the case may be, to establish a parents' advisory council for that school.
- (2) On receipt of an application under subsection (1), the board or minister must establish a parents' advisory council for the school or the Provincial school.
- (3) There must be only one parents' advisory council for each school or Provincial school.
- (4) A parents' advisory council, through its elected officers, may
- (a) advise the board and the principal and staff of the school or the Provincial school respecting any matter relating to the school or the Provincial school, other than matters assigned to the school planning council, and
 - (b) at the request of the school planning council, assist the school planning council in carrying out its functions under this Act.
- (5) A parents' advisory council, in consultation with the principal, must make bylaws governing its meetings and the business and conduct of its affairs, including bylaws governing
- (a) the dissolution of the parents' advisory council,
 - (b) the election of members to represent the parents' advisory council on the school planning council, and
 - (c) the election of a member to represent the parents' advisory council on the district parents' advisory council.

(6) Voting at an election referred to in subsection (5) (b) and (c) must be by secret ballot.

School planning council

- 8 . 1** (1) A board must establish a school planning council for each school, except a Provincial resource program, in its school district.
- (2) At the request of 3 parents of students attending a Provincial resource program, a board may establish a school planning council for the Provincial resource program.
- (3) A school planning council for a school consists of the following persons:
- (a) the principal of the school;
 - (b) one of the teachers at the school, elected annually by secret ballot by the teachers who teach at the school;
 - (c) 3 representatives of the parents' advisory council who are
 - (i) parents of students enrolled in the school, and
 - (ii) elected annually by the parents' advisory council;
 - (d) if the school enrolls students in grade 10, 11 or 12, one student of school age enrolled in one of those grades at the school, appointed annually by the principal of the school after consulting with the students enrolled in those grades at the school.
- (4) One of the representatives elected under subsection (3) (c) must be an elected officer of the parents' advisory council.
- (5) A board may appoint a person to fill a vacancy on a school planning council if
- (a) there is no parents' advisory council for the school,
 - (b) the parents' advisory council for the school does not elect 3 representatives under subsection (3) (c),
 - (c) the teachers at the school do not elect a representative under subsection (3) (b), or
 - (d) the principal of the school does not appoint a student under subsection (3) (d).
- (6) The term of office of a person appointed or elected under this section to the school planning council must not be more than one year.
- (7) An employee of any board is not eligible for election under subsection (3) (c) or an appointment in the circumstances referred to in subsection (5) (a) or (b).

Role of a school planning council

- 8 . 2** A board must consult with a school planning council in respect of the following:

- (a) the allocation of staff and resources in the school;
- (b) matters contained in the board's achievement contract relating to the school;
- (c) educational services and educational programs in the school;
- (d) school safety, including the installation and operation of video surveillance cameras.

School plan

- 8.3** (1) In each school year, a board must approve a school plan for every school in the school district.
- (2) By a date set by the board, a school planning council must prepare and submit to the board a school plan for the school in respect of improving student achievement and other matters contained in the board's achievement contract relating to that school.
- (3) A school planning council must consult with the parents' advisory council during the preparation of the school plan.
- (4) The board may approve, approve with modifications or reject a school plan submitted under subsection (2) or (6).
- (5) Before approving a school plan, the board may
- (a) consult with the school planning council about modifications to the school plan, or
 - (b) direct the school planning council to modify all or part of the school plan by a specified date.
- (6) The board may direct the principal of a school to prepare and submit to the board a school plan for the school by a specified date if
- (a) the school planning council does not submit a school plan under subsection (2),
 - (b) the school planning council does not comply with a direction of the board under subsection (5) (b), or
 - (c) the board rejects the school plan submitted under subsection (2).
- (7) A board must make a school plan approved under subsection (4) available to the parents of students attending that school.

District parents' advisory council

- 8.4** (1) A parents' advisory council, through its elected officers, may apply to the board for the establishment of a district parents' advisory council.
- (2) On receipt of an application under subsection (1), the board must establish a

district parents' advisory council for the school district consisting of representatives elected to the council under subsection (3).

(3) Each parents' advisory council in a school district may elect annually one of its members to be its representative on the district parents' advisory council for a term of not more than one year.

(4) There must be only one district parents' advisory council for each school district.

Purpose and operation of district parents' advisory council

8.5 (1) Subject to section 67 (5.1), the district parents' advisory council may advise the board on any matter relating to education in the school district.

(2) A district parents' advisory council must make bylaws governing its meetings and the business and conduct of its affairs, including bylaws governing the dissolution of the council.

(3) A superintendent of schools for the school district, a designate of the superintendent or a trustee of the school district may attend any meeting of the district parents' advisory council.

Division 3 – Joint Rights and Duties

Examination of student records

9 (1) A student and the parents of a student of school age are entitled,

(a) on request and while accompanied by the principal or a person designated by the principal to interpret the records, to examine all student records kept by a board pertaining to that student, and

(b) on request and on payment of the fee, if any, charged under subsection (2), to receive a copy of any student record that they are entitled to examine under paragraph (a).

(2) A board may, for any copies of student records provided under subsection (1) (b), charge a fee that does not exceed the cost to the board of providing the copies.

Liability for damage to property

10 If property of a board or a francophone education authority is destroyed, damaged, lost or converted by the intentional or negligent act of a student or a francophone student, that student and that student's parents are jointly and severally liable to the board or francophone education authority in respect of the act of that student.

Appeals

11 (1) In subsections (2) and (4), "**decision**" includes the failure of an employee to

make a decision.

(2) If a decision of an employee of a board significantly affects the education, health or safety of a student, the parent of the student or the student may, within a reasonable time from the date that the parent or student was informed of the decision, appeal that decision to the board.

(3) For the purposes of hearing appeals under this section, a board must, by bylaw, establish an appeal procedure.

(4) A board may refuse to hear an appeal under this section unless the appellant discusses the decision under appeal with one or more persons as directed by the board.

(5) A board may establish one or more committees for the purpose of investigating appeals under this section.

(6) A board may make any decision that it considers appropriate in respect of the matter that is appealed to it under this section and, subject to section 11.1 (1), the decision of the board is final.

(7) A board must

(a) make a decision under this section within 45 days of the date on which the board receives the appeal, and

(b) promptly report that decision to the person making the appeal.

Appeals to superintendent of achievement

11.1 (1) Subject to the regulations, a decision of a board made under section 11 (6) or a reconsideration by a board under section 11.5 may be appealed to a superintendent of achievement.

(2) An appeal under this section is a new hearing.

(3) An appeal under this section does not suspend the operation of a decision under appeal unless the superintendent of achievement otherwise orders under section 11.3.

Powers and duties of superintendent of achievement on appeal

11.2 (1) On receipt of an appeal under section 11.1, a superintendent of achievement may

(a) refer the matter for mediation or adjudication, to a mediator or adjudicator under contract with the minister or a person designated by the minister, or

(b) summarily dismiss all or part of the appeal.

(2) A superintendent of achievement must exercise the discretion under subsection

(1) in accordance with guidelines established by the minister.

(3) If a superintendent of achievement has referred a matter for mediation, the superintendent of achievement may refer the matter to an adjudicator for determination if

(a) mediation is unsuccessful in bringing about agreement between the parties, or

(b) a party so requests.

(4) A superintendent of achievement may, subject to the orders of the minister, establish practices and procedures for the purposes of subsection (1).

Board decision may be suspended

11.3 (1) A person who files an appeal under section 11.1 may request the superintendent of achievement to suspend the operation of the decision under appeal.

(2) The superintendent of achievement may, on his or her own initiative or at the request of a person under subsection (1), suspend the decision for the period and on the conditions the superintendent of achievement considers to be appropriate.

Adjudication of appeals

11.4 (1) On receipt of an appeal referred by a superintendent of achievement under section 11.2, an adjudicator may

(a) confirm, vary or revoke the decision under appeal,

(b) refer the matter back to the board for reconsideration, with or without directions, or

(c) dismiss all or part of the appeal.

(2) In adjudicating an appeal under subsection (1), an adjudicator must not make a decision that would result in a board being in breach of section 76.1 (2.1) or (2.4).

(3) An adjudicator may, subject to the orders of the minister, establish practices and procedures for the hearing of an appeal.

Reconsideration by board

11.5 If an adjudicator refers a matter back to a board under section 11.4 (1) (b), the adjudicator may

(a) request that the board review specific issues in its reconsideration, and

(b) require the board to complete its reconsideration by a certain date.

Decision final

11.6 A decision of a superintendent of achievement under section 11.2 (1) (b), or of an adjudicator under section 11.4 (1), is final and binding on the parties.

Application of the *Administrative Tribunals Act*

11.7 The following provisions of the *Administrative Tribunals Act* apply to a superintendent of achievement and adjudicator for the purposes of an appeal under section 11.1 of this Act as if the superintendent of achievement or adjudicator were a tribunal under the *Administrative Tribunals Act*:

- (a) section 29 [*disclosure protection*];
- (b) section 31 [*summary dismissal*];
- (c) section 34 (3) and (4) [*power to compel witnesses and order disclosure*];
- (d) section 36 [*form of hearing of application*];
- (e) section 38 [*examination of witnesses*];
- (f) section 44 [*tribunal without jurisdiction over constitutional questions*];
- (g) section 45 [*tribunal without jurisdiction over Canadian Charter of Rights and Freedoms*];
- (g.1) section 46.3 [*tribunal without jurisdiction to apply the Human Rights Code*];
- (h) section 58 [*standard of review if tribunal's enabling Act has privative clause*];
- (i) section 61 [*application of Freedom of Information and Protection of Privacy Act*].

Immunity protection for superintendent of achievement, mediator or adjudicator

11.8 Section 56 of the *Administrative Tribunals Act* applies to a superintendent of achievement, mediator or adjudicator for the purposes of an appeal under section 11.1 of this Act as if the superintendent, mediator or adjudicator were a tribunal under the *Administrative Tribunals Act*.

Division 4 — Home Education

Home education

12 A parent of a child who is required to enroll in an educational program under section 3

- (a) may educate the child at home or elsewhere in accordance with this Division, and
- (b) must provide that child with an educational program.

Registration

13 (1) A parent of a child who is required under section 12 to provide the child with an educational program must register the child on or before September 30 in each year with

- (a) a school of the parent's choice that is operating in British Columbia,
 - (a.1) if the child is an eligible child, a school referred to in paragraph (a) or (c), or a francophone school of the parent's choice that is operating in the francophone school district in which the parent resides,
 - (a.2) if the child is an immigrant child, a school referred to in paragraph (a) or (c), or a francophone school of the parent's choice that is operating in the francophone school district in which the parent resides but only if the francophone education authority responsible for that school permits the parent to register that child, or
- (b) [Repealed 2006-21-8.]
- (c) an independent school operating in British Columbia.

(2) If, in accordance with subsection (1), a parent is entitled to register his or her child with a school or, in the case of an eligible child or immigrant child, with a francophone school,

- (a) the board that has jurisdiction over the school must ensure that the principal, vice principal or director of instruction responsible for that school registers the child, or
- (b) the francophone education authority that has jurisdiction over the francophone school must ensure that the francophone principal, francophone vice principal or francophone director of instruction of that francophone school registers the child.

(3) A school or francophone school that registers a child under this section must provide the child with access to educational services in accordance with the regulations.

(4) A person who contravenes subsection (1) commits an offence.

Power to report

14 (1) A person who believes that a child who is required to be registered under section 13 is not so registered may report that belief to the superintendent of schools for the school district in which that child resides.

(1.1) A person who believes that a child who is being educated in accordance with section 12 is not receiving an educational program may report that belief

(a) in the case of a child registered under section 13 with a francophone school, to the directeur général of the francophone education authority for the francophone school district in which that child resides, and

(b) in the case of a child registered under section 13 with a school, an independent school or the minister, to the superintendent of schools for the school district in which that child resides.

(2) On receipt of a report under this section, the superintendent or directeur général must take such action as is required by the orders of the minister.

(3) No action lies against

(a) a person making a report under subsection (1) or (1.1), or

(b) the superintendent or directeur général in respect of an action taken under subsection (2)

unless the report is made or the action is taken maliciously.

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