



## Your Legal Rights and Responsibilities

Medicine Hat Catholic Teachers Local #39  
www.ata39.org

Most teachers will run into a situation more than once during their careers where they will need to know where they stand on a legal question. In all likelihood, the first instance will occur in the first or second year of teaching. Therefore, it is in your best interests to bear in mind the following:

1. **This document is for informational purposes only. While every attempt is made to ensure information is current and accurate, this cannot be guaranteed.**
2. **Teachers should always seek advice from the Association at the earliest opportunity if they feel threatened in, or by, any aspect of their employment.**
3. **Immediately speak to your School ATA Representative who should be able to direct you to the person(s) who can provide you with accurate information and advice.**
4. **Legal questions and professional issues should never be communicated to, or from, the Board's E-mail system. Employees have no legal right to privacy when using an Employer's E-mail system.**
5. **You can also contact the Alberta Teachers Association directly. The toll free numbers are:**
  - a. Barnett House (Edmonton:): **1-800-232-7208**
  - b. (SARO) Southern Alberta Regional Office (Calgary): **1-800-332-1280**

### Introduction

The following information provides a **miniscule** overview of the legislation and regulations that directly or indirectly influence your teaching and professional career as a teacher. There are other Acts that may come into play such as the Charitable Fund-raising Act. However, over the course of your career, the two Acts that will have the most impact on your daily teaching lives are the School Act and the Teaching Profession Act which essentially gives the Code of Professional Conduct the status of a legal statute.

Teachers should also make an effort to become familiar with Board policies and Administration Procedures (AP's).

### Local

1. [School Board Policies](#)
2. [Administration Procedures](#)
3. Individual School Policies and Practises

### Provincial

1. School Act
2. [Teaching Profession Act](#)
3. [Code of Professional Conduct and Surveys](#)
4. Freedom of Information and Protection of Privacy Act
5. School Amendment Act 2000 (requires Boards to "develop and implement a written policy respecting student conduct".
6. Child, Youth and Family Enhancement Act
7. Student Financial Assistance Act, Student Financial Assistance Regulation (AR 298/2002), Student Loan Limits Order (AR 309/2002) (This legislation consolidates the previous Students Finance Act and Students Loan Act.)
8. Teacher's Pensions Act

## **Federal**

1. The Criminal Code Of Canada
2. Canadian Charter of Rights and Freedoms 1982
3. Youth Criminal Justice Act 2002
4. Divorce Act

## **Teacher Rights and Responsibilities**

- Teachers must act in loco parentis, treating students as a firm, kind and judicious parent would.
- Canadian Courts recognize 3 standards of procedural fairness: 1) duty of fairness, 2) natural justice, and 3) fundamental justice (law that signifies those basic procedural rights that are afforded anyone facing an adjudicative process or procedure that affects fundamental rights).
- The most important appears to be natural justice requiring prompt and clear notice of charges or accusation, an opportunity to be fully heard, and an unbiased decision maker.

## **School Act**

### **Teachers**

18(1) A teacher while providing instruction or supervision must

- (a) provide instruction competently to students;
- (b) teach the courses of study and education programs that are prescribed, approved or authorized pursuant to this Act;
- (c) promote goals and standards applicable to the provision of education adopted or approved pursuant to this Act;
- (d) encourage and foster learning in students;
- (e) regularly evaluate students and periodically report the results of the evaluation to the students, the students' parents and the board;
- (f) maintain, under the direction of the principal, order and discipline among the students while they are in the school or on the school grounds and while they are attending or participating in activities sponsored or approved by the board;
- (g) subject to any applicable collective agreement and the teacher's contract of employment, carry out those duties that are assigned to the teacher by the principal or the board.

(2) At any time during the period of time that a teacher is under an obligation to the board to provide instruction or supervision or to carry out duties assigned to the teacher by a principal or the board, a teacher must, at the request of the board,

- (a) participate in curriculum development and field testing of new curriculum;
- (b) develop, field test and mark provincial achievement tests and diploma examinations;
- (c) supervise student teachers.

### **Harassment of Teachers by Parents**

- The principal "must maintain order and discipline in the school and on the school grounds and during activities sponsored or approved by the board" Section 20(f).
- Schools are not public buildings.

## **School Act**

27(1) No person shall

- (a) disturb or interrupt the proceedings of a school,
- (b) disturb or interrupt the proceedings of a school meeting or board meeting, or
- (c) loiter or trespass in a school building or on property owned by a board.

### **Contracts of employment**

97(1) In this Division, "teaching day" means

- (a) a day on which instruction is given by a teacher,
- (b) a day on which a school is closed due to an emergency,
- (c) a day on which a school is closed by order of the Minister,
- (d) 2 days on which a teachers' convention authorized by the Alberta Teachers' Association is held,
- (e) holidays declared by a board, and
- (f) any other days that are approved by the Minister.

### Probationary contract

98(1) A board may employ a teacher under a probationary contract of employment for a complete school year if that teacher

- (a) was not employed by that board as a teacher in the school year prior to the school year in which the contract was entered into, or
- (b) was employed by that board in the school year prior to the school year in which the contract was entered into under section 100 or under a contract referred to in section 101.

(2) For the purposes of subsection (1), a teacher employed under section 103 is deemed to have been employed by the board under a probationary contract of employment if at the conclusion of a school year the total amount of time that the teacher taught for the board is at least equal to the amount of time the teacher would have been required to teach in a complete school year if the teacher had been employed by the board to teach on a full-time basis.

(3) A probationary contract of employment shall terminate on the June 30 next following the commencement date specified in the contract.

(4) Notwithstanding subsection (3), if evaluations of the teacher indicate to the board that a further probationary period is required and the teacher agrees, the probationary contract of employment may be extended for a further period ending no later than the June 30 next following the date of the renewal of the contract.

### Continuing contract

99 Subject to this Act, a contract of employment between a board and a teacher continues in force from year to year.

### Temporary contract

101(1) A teacher may be employed by a board under a temporary contract of employment when that teacher is employed for the purpose of replacing a teacher who is absent from the teacher's duties for a period of 20 or more consecutive teaching days.

(2) A temporary contract of employment entered into under subsection (1) shall

- (a) specify the date on which the teacher commences employment with the board, and
- (b) terminate
  - (i) on the June 30 next following the commencement date specified in the contract, or
  - (ii) on a date provided for in the contract, whichever is earlier.

(3) Notwithstanding anything contained in a temporary contract of employment, a party to a temporary contract of employment may terminate that contract by giving 30 days' written notice of the termination to the other party to the contract.

(4) Section 132 does not apply to the termination of a temporary contract of employment under this section.

### Interim contract

102(1) A board may employ a teacher for a period of not more than 360 teaching days under an interim contract of employment if that teacher

- (a) was not employed by that board as a teacher in the school year immediately prior to the school year in which the interim contract of employment commences, or
- (b) was employed under section 100 or under a contract referred to in section 101 by that board in the school year immediately prior to the school year in which the interim contract of employment commences.

(2) For the purposes of subsection (1), a teacher employed under section 103 is deemed to have been employed by the board under an interim contract of employment if at the conclusion of a school year the total amount of time that the teacher taught for the board is at least equal to the amount of time the teacher would have been required to teach in a complete school year if the teacher had been employed by the board to teach on a full-time basis.

(3) An interim contract of employment terminates on the June 30 next following the commencement date specified in the contract unless otherwise specified in the contract.

### Part-time contract

103(1) A board may employ a teacher under a part-time contract of employment for a period that includes all the teaching days in a school year

- (a) to teach on a part-time basis, and
- (b) to be paid only for the time that the teacher teaches.

**(2)** When the board employs a teacher under a part-time contract of employment, the board may, unless that teacher's contract provides otherwise, vary the amount of time that the teacher is required to teach in the subsequent semester or school year.

**(3)** If

(a) under subsection (2), a board varies the amount of time that a teacher is required to teach under a part-time contract of employment, and

(b) the teacher does not agree to teach for that amount of time as varied, the board may terminate that teacher's contract.

**(4)** Section 132 does not apply to the termination of a contract under subsection (3).

### **Transfer of teacher**

104**(1)** A superintendent may, at any time during a school year, transfer a teacher from one school operated by the board to another of its schools.

**(2)** Subject to this section, if a teacher is transferred, that transfer becomes effective not less than 7 days from the day on which the notice of transfer and reasons for the transfer are received by the teacher.

**(3)** When a teacher is given a notice of transfer, the teacher may, within 7 days from the day on which the teacher receives the notice of transfer, make a written request to the board to have a hearing before the board for the purpose of objecting to the transfer.

**(4)** The board may set a date and time for the hearing requested under subsection (3) that is not earlier than 14 days after the teacher receives notice of the transfer unless the teacher agrees in writing to an earlier date.

**(5)** Where a teacher makes a request to have a hearing before a board under subsection (3), that teacher shall not be transferred until after the hearing is held.

**(6)** Notwithstanding section 109, if a teacher has been given

(a) a notice of transfer and does not wish to transfer in accordance with the notice, or

(b) a hearing before the board under this section and does not wish to comply with the decision of the board,

that teacher may resign from the teacher's employment with the board on giving the board 30 days' written notice of the teacher's resignation.

**(7)** Notwithstanding that 30 days have not passed from the date that a teacher gave notice of the teacher's resignation under subsection (6), the contract of employment between that teacher and the board terminates on the board paying to the teacher the salary that the teacher would have been entitled to if the teacher had remained in the employ of the board for 30 days from the date of the giving of the teacher's notice of resignation.

## **Student Rights and Responsibilities**

### **School Act**

#### **Students**

12 A student shall conduct himself or herself so as to reasonably comply with the following code of conduct:

(a) be diligent in pursuing the student's studies;

(b) attend school regularly and punctually;

(c) co-operate fully with everyone authorized by the board to provide education programs and other services;

(d) comply with the rules of the school;

(e) account to the student's teachers for the student's conduct;

(f) respect the rights of others.

#### **Suspension**

24**(1)** A teacher or a principal may suspend a student in accordance with subsection (2) or (3) if in the opinion of the teacher or principal

(a) the student has failed to comply with section 12, or

(b) the student's conduct is injurious to the physical or mental well-being of others in the school.

**(2)** A teacher may suspend a student from one class period.

**(3)** A principal may suspend a student

(a) from school,

(b) from one or more class periods, courses or education programs, or

(c) from riding in a school bus.

**(4)** A principal may reinstate a student suspended under subsection (2) or (3).

**(5)** When a student is suspended under subsection (3), the principal shall

(a) forthwith inform the student's parent of the suspension,

(b) report in writing to the student's parent all the circumstances respecting the suspension, and

- (c) if requested, provide an opportunity to meet with the student's parent, and the student if the student is 16 years of age or older, to discuss the reasonableness of the suspension.
- (6)** If the student is not to be reinstated within 5 school days after the date of the suspension, the principal shall
  - (a) forthwith inform the board of the suspension, and
  - (b) report in writing to the board all the circumstances respecting the suspension and the principal's recommendations, and the student remains suspended until the board has made a decision under subsection (8).
- (7)** The principal may recommend that the board expel the student if
  - (a) the student has displayed an attitude of wilful, blatant and repeated refusal to comply with section 12, or
  - (b) the student's conduct is injurious to the physical or mental well-being of others in the school.
- (8)** The board shall within 10 school days after the date of the suspension
  - (a) reinstate the student, or
  - (b) expel the student from school in accordance with section 25.
- (9)** Before the board makes a decision under subsection (8), the student and the student's parent may make representations to the board with respect to the principal's recommendation to expel the student.

### **Expulsion**

- 25(1)** On considering the report provided to it under section 24(6)(b) and any representations made to it under section 24(9), the board may expel the student if
  - (a) the principal has recommended that the board expel the student, and
  - (b) the student has been offered another education program by the board.
- (2)** An expulsion must be for a period of more than 10 school days.
- (3)** When a student is expelled under this section, the board shall forthwith notify, in writing, the student's parent, and the student if the student is 16 years of age or older,
  - (a) of the expulsion, and
  - (b) of the right to request a review under section 124.
- (4)** The board may re-enrol a student who has been expelled.