



GUIDE TO
School Legislation
in British Columbia

PART IV
**NON-TEACHING
EMPLOYEES**

BCSTA

British Columbia
School Trustees
Association

GUIDE TO SCHOOL LEGISLATION IN BRITISH COLUMBIA

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PART IV

ADMINISTRATIVE, SUPERVISORY AND NON-TEACHING EMPLOYEES

Part IV reviews the appointment and duties of board of education employees other than classroom teachers: principals, vice-principals and directors of instruction (all formerly called “administrative officers”), supervisory personnel, non-teaching staff and school district officials. Several of these positions require that the employee be a certified teacher.

40.0 Principals, Vice-Principals, and Directors Of Instruction

40.1 Status and Contracts of Employment

Principals, vice-principals and directors of instruction are all required to hold certificates of qualification as teachers (see Guide 31.0), (section 19(1) *School Act*), but because of the management responsibilities, are not governed by a collective agreement. They are excluded from membership in a trade union under the *Labour Relations Code* (section 20(2) *School Act*).

The board of education appoints and assigns a director of instruction, principal or vice-principal (herein called an “officer”) to a specific position usually after considering the recommendation of the superintendent of schools for the school district. The contract covering terms and conditions of employment may be a continuing appointment subject to termination on notice, or for a specified period such as three or five years with renewal possible at any time, or a combination, such as an initial three-year term that converts to a continuing appointment if satisfactory to both parties. In addition, the contract may provide that the board can reassign the officer to a different administrative position or school. The officer may resign before the contract term expires, or the board may discharge the officer by a majority vote of its serving members. Instead of an individual detailed contract, there may be

individual letters of appointment and a board policy that specifies terms and conditions of employment.

If an officer’s contract is not to be renewed, or the officer is to be discharged other than for cause (see Guide 33.2), the board must offer in advance a teaching position in the district (section 21 *School Act*). The officer is deemed to have accrued teaching seniority for the time spent as an officer.

Approximately 90 per cent of BC’s more than 2,700 principals, vice-principals and directors of instruction are voluntary members of the BC Principals’ and Vice-Principals’ Association (BCPVPA), which provides professional development, employment contract, legal and other services to its members. BCPVPA has developed a code of ethics and a code of professional practice.

As holders of certificates of qualification, they are subject to the discipline for professional misconduct or other conduct unbecoming to a certificate holder or for incompetence.

As exempt staff, their contracts of employment must comply with the Employment Termination Standards Regulation (BC Regulation 379/97) enacted under the *Public Sector Employers Act* and to the exempt compensation standards contained in the *Public Sector Employers Act*; and to the compensation plans of the BC Public School Employers’ Association (BCPSEA), approved by the Public Sector Employers’ Council (PSEC) and the minister of finance. (See Guide 42.2., 92.2 and Appendix).

40.2 Duties of Principals and Vice-Principals

Principals and vice-principals are appointed under section 20(1) of the *School Act*. Section 5 of the School Regulation includes the duties and powers of principals and vice-principals, including such major responsibilities as:

- administering and supervising the school, including responsibility for the general conduct of students at school and during extracurricular activities;
- advising the superintendent and the board;
- representing the board when meeting with the public;
- convening school staff meetings and school assemblies;
- evaluating and writing reports on teachers;
- administering, marking and ensuring the security of exams;
- ensuring regular reports to parents on student progress; and
- teaching in a classroom where so assigned by the board.

Student Suspension

A principal or vice-principal has the power to suspend a student in accordance with any board rules on student suspensions (section 26 *School Act*) – see Guide 4.6.

Preservation of Order

A principal and vice-principal are responsible for the preservation of order on school premises, including ordering a person to leave and calling in police help if necessary (section 177 *School Act*).

Evaluation and Reporting on Teachers

Principals and vice-principals are required by School Regulation section 5(6)(c) to evaluate teachers under their supervision, and report to the board. The commissioner (see Guide 31.0) can also require reports on teachers (section 5(2) School Regulation). An officer responsible for evaluating and reporting on a teacher in a specialized assignment may consult with a resource person with specialized technical knowledge (section 20(3) *School Act*).

40.3 Duties of Directors of Instruction

The primary function of a director of instruction is to improve instruction provided to students. For this purpose, the director of instruction has access to every school and classroom in the district to observe, check records and hold meetings to coordinate the educational programs, under the direction of the superintendent of schools. A director of instruction may also “evaluate learning situations” and issue reports on teachers, supervisory personnel, principals and vice-principals (sections 5(3), (4) and (5) School Regulation).

A director of instruction of a school also has authority to suspend students unless the board’s suspension rules provide otherwise (section 26 *School Act*).

41.0 Non-Teaching Staff

The *School Act* and Regulation make little direct reference to non-teaching staff employed within the public school system. The statutory authorization for boards of education to employ non-teaching employees is contained in *School Act* section 15(1):

A board may employ and is responsible for the management of those persons that the board considers necessary for the conduct of its operation.

Such necessary personnel may include building maintenance staff and school custodians, school bus drivers, school and school district clerical employees, teacher aides and other “support staff.”

Teaching assistants, working under the general supervision of a teacher or administrative officer, are specifically provided for in *School Act* section 18. (This avoids the implication that anyone assisting a teacher with teaching duties must be a certificate holder.)

Other statutes of a more general application are relevant to the hiring and employment conditions of these employees, in particular the *Labour Relations Code* and the *Employment Standards Act* – see the Appendix

to this Guide for overviews of those Acts. Many boards of education have collective agreements with their non-teaching staffs, who may be represented by locals of trade unions such as Canadian Union of Public Employees (CUPE, Teamsters, etc.). Under the *Public Education Labour Relations Act*, the BC Public School Employers’ Association – see Guide 92.2 – is the accredited bargaining agent for all board collective bargaining, including that with unions representing non-teaching staff. BCPSEA delegates this authority to individual boards of education, with BCPSEA playing a coordinating role through the use of compensation guidelines and a dual ratification process for non-teaching staff settlements.

Under the *Criminal Records Review Act* (see Guide, Appendix), the employer board of education is responsible for obtaining authorizations for conducting criminal records checks on all employees who work with children other than those who are professionals registered with a professional body that conducts the checks. Checks have to be done at the time of hiring. Checks must be re-done every five (5) years.

42.0 School District Officials

42.1 School Act's Hiring Requirements

The *School Act* requires each board of education to employ a superintendent of schools for the school district (section 22(1) *School Act*) and a secretary-treasurer of the board (section 23(1) *School Act*). The Act also requires boards to promptly notify the minister of education on the hiring or termination of a superintendent or secretary treasurer. There is no statutory requirement that the two offices be held by different persons, though the superintendent must be a certified teacher.

The board may also employ one or more persons qualified as teachers to be assistant superintendents of schools, to perform duties assigned by the superintendent (sections 19(1), 22(2) *School Act*).

Most school districts name the superintendent as the school district's chief executive officer; some use a "dual-headed" system, where both the superintendent and secretary-treasurer report directly to the board on their respective areas of responsibility.

42.2 Exempt Staff Contracts: Compensation and Termination

Contracts

For senior board officers, especially superintendents, detailed written contracts, negotiated individually, are common. They are often fixed-term contracts, with renewal provisions. Automatic rollover clauses are no longer permitted (BCPSEA Policy 95-6 s.3.1.1). Other management staff may be hired on a letter of appointment, with a board policy setting out benefits and working conditions.

Contracts of "senior" exempt staff (those making over \$125,000 base remuneration) are public documents (Public Sector Employers Acts 14.8, s.1 Senior Employee Base Salary Regulation, BC Reg. 319/2002).

Compensation

Compensation of board of education exempt staff is strictly controlled. There have been numerous compensation controls and guidelines restricting board of education exempt staff compensation.

Limits including a lengthy salary freeze were applied under the Compensation Fairness Program in the early 1990s. Compensation guidelines and a freeze of all salaries over \$100,000 were put in place by PSEC that continued until 1999 when government approved BCPSEA's sectoral plan for management of exempt compensation, BCPSEA Policy 95-06 "Compensation and Employment Standards for School District Employees Not Subject to a Collective Agreement."

The policy sets out standards that school districts are expected to follow regarding application of PSEC compensation mandates, term and renewal, retirement benefits, inappropriate compensation policies and expense procedures.

In October 2002, government enacted amendments to the *Public Sector Employers Act* through the *Public Sector Employers Amendment Act*. Under the changes to that Act, the K-12 public education sector had to comply with governmental standards with respect to administration and compensation for exempt employees. Payouts of sick leave banks were prohibited in new contracts; vacation banks were also regulated.

Termination

Termination of employment is governed by the Employment Termination Standards Regulation enacted under the *Public Sector Employers Act* (BC Regulation 379/97). (See Guide Appendix.) The regulation is deemed to be included in all contracts entered into, amended or renewed after the effective date of May 1, 1997 and any terms that are inconsistent with the regulation are void (section 14.4 Public Sector Employers Act). In October 2002 the Employment Termination Standards Regulation was amended to reduce the limits to the maximum amount of severance payments. The regulation deals with:

- when a notice period or severance is available;
- reassignment of employees during the notice period;
- the amount of severance that can be paid to employees;
- repayment of excessive severances;
- re-employment in the public sector;
- the length or term of employment contracts; and
- collection of severance information.

42.3 Superintendents of Schools - Powers and Duties

The superintendent is hired on an individual contract of employment with the board of education, which is empowered by *School Act* section 65(2)(c) to “delegate specific and general administrative and management duties to one or more of its employees.” Though under the general direction of the board, some of a superintendent’s duties and responsibilities are specified in the *School Act*, and its section 25 states that “powers or duties assigned to a person by a board shall not abridge or impair the powers assigned to the person by or under this Act.”

The superintendent has general direction and supervision over the educational staff and is responsible for the general organization, administration, supervision and evaluation of all educational programs, and for the operation of schools in the district. The superintendent is also responsible to the board for the improvement of student achievement in the school district (section 22(1) *School Act*).

Section 6 of the School Regulation makes the superintendent responsible both to the board and, in some respects, to the minister. A superintendent must:

- assist in making the Act and regulations effective and carry out a system of education in conformity with the orders of the minister;
- advise and assist the board in exercising its powers and duties under the *School Act*;
- investigate matters as required by the minister and report;
- perform duties assigned by the board;
- provide assistance as required by the minister of education;
- report on the work of a teacher, principal, vice-principal or director of instruction when required by the commissioner.

Superintendents also have the power to suspend a student in accordance with any board rules on student suspension (section 26 *School Act*), and to suspend school district employees whose presence poses, in the superintendent’s opinion, a threat to students’ welfare, subject to review by the board of education (section 15(5)-(7) *School Act*).

The superintendent is also responsible for reporting to the commissioner the dismissal, suspension or other discipline of an authorized person in the board’s employ. Discipline other than suspension must be reported only if it relates to misconduct involving: “physical harm to a student or minor; sexual abuse or exploitation of a student or minor; or significant emotional harm to a student or minor.” Resignations must also be reported “if it is in the public interest to do so.” Failure to report these issues is an offence (section 16 (1) through (10) *School Act*).

The superintendent also has a duty to report to the commissioner any conduct or competence of a member that in the superintendent’s view is in breach of the standards of professional conduct or competence “if it is in the public interest to do so.” See also Guide 33.5.

There are also statutory requirements that a superintendent report cases of school-age children not registered for or not receiving an educational program (see Guide Part XI, Home Schooling), and to advise the school medical officer annually of the name, location and projected enrollment for each school (section 6, Minister’s Order 149/89).

42.4 Secretary-Treasurers - Powers and Duties

Each school district must have a secretary-treasurer who is appointed by the board and acts as its corporate financial officer (section 23 *School Act*). The secretary-treasurer is responsible for the business and fiscal functions of the school district, such as accounting, payroll, purchase of supplies, records of board meetings, supervision of clerical and accounting staff, and in many cases for the school buildings and grounds (section 7 School Regulation). The board must arrange for the secretary-treasurer to be bonded for whatever amount the board believes adequate (section 23(1)(b) *School Act*).

The secretary-treasurer has many other duties and responsibilities specified in the *School Act*, such as certification of minutes of board meetings (section 72(1)(b) *School Act*) and of the board’s annual financial statements (section 157 *School Act*). At all times the secretary-treasurer must comply with accounting and administrative procedures specified by the minister of education (section 7(1)(a) School Regulation), and all

the school district's accounts and records are subject to inspection by the minister and by the province's comptroller general (section 7(2) School Regulation). The school district finances and accounting must be managed in compliance with Generally Accepted Accounting Principles (GAAP) for boards of education in accordance with the Accounting Practices Order, M33/09. Should the secretary treasurer's duties not be discharged satisfactorily, operating grants to the school district may be reduced (section 117(1)(a) *School Act*).

42.5 Other Supervisory and Management Personnel

In addition to the officers whose core duties are spelled out in the *School Act* and regulations, boards of education employ other managers with a variety of titles and duties, such as directors or managers of facilities, transportation, information technology, purchasing, human resources.

Some districts have “district principal” positions, comparable in level of responsibility and compensation to a school-based principal, but with defined responsibilities at a district level (e.g., special education). This position is not defined in the *School Act* and the job descriptions vary widely.