

The background of the cover is a photograph of the British Columbia Parliament Building, a grand neoclassical structure with a large central dome and several smaller domes. The building is set against a bright, hazy sky, and the foreground is filled with tall, golden grass. A large blue semi-circle is positioned at the top of the page, containing the title text.

GUIDE TO
School Legislation
in British Columbia

PART VII

**THE MINISTRY
OF EDUCATION**

BCSTA

British Columbia
School Trustees
Association

GUIDE TO SCHOOL LEGISLATION IN BRITISH COLUMBIA

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PART VII

THE MINISTER AND MINISTRY OF EDUCATION

Part VII reviews the appointment, roles and responsibilities of the minister and the Ministry of Education. Also outlined are the current organization of the ministry, the structure and purposes of the Provincial Education Advisory Council, and the intent and status of the province's current "Mandate for the School System."

70.0 Appointment of Minister And Ministry

70.1 Minister of Education

Section 167(1) *School Act* provides that "there shall continue to be a ministry of the public service of the province called the Ministry of Education over which the minister shall continue to preside and have direction." Clearly, the minister of education is to be held responsible for the ministry's operations.

The minister of education is appointed by the Lieutenant Governor, along with other members of the executive council (provincial cabinet) including the premier, under BC's *Constitution Act*. In practice, all ministers are appointed or dismissed by the premier, and hold office "during pleasure." Invariably, they are serving MLAs who are members of the governing party.

Periodically, the provincial cabinet is reorganized and responsibility for various areas of government gets shifted. For example, in 1995, the Ministries of Education and Advanced Education were combined and then in 1998 were separated again. As of June 2005, the minister of education became responsible for public schools, independent schools, early learning and literacy, as well as for the provincial public library service (OIC 450/2005).

70.2 Ministry of Education

The appointment of a deputy minister and other employees of the Ministry of Education under the *Public Service Act* is provided for in section 167(2) of the *School Act*. Many appointments to senior positions within the ministry are made from existing staff. Alternatively, new appointments are made from professional teachers/administrators, accountants, engineers, etc., who may already be employed as school district officials; individuals may be seconded from district positions to the ministry.

Appointments to the positions of deputy and assistant deputy minister may be made, following a change of government, from persons outside the ministry and school system who are known to share the government's objectives.

In 2007, the ministry employed approximately 320 full-time staff. Reorganizations are usually orchestrated by the deputy minister and are not uncommon.

The divisions and their responsibilities include:

- Education Programs
- Learning
- Resource Management
- Services and Technology
- Governance and Analytics.

71.0 Jurisdiction of the Minister

71.1 Minister's Duties in School Act

The minister of education is responsible to the Legislature for administering the *School Act*.

The *School Act* empowers the minister to issue orders “for the purpose of carrying out any of the minister’s powers, duties or functions under this Act...” (see Guide 71.3 on Minister’s Orders).

Section 168(1)(b) *School Act* requires the minister to advise the Lieutenant Governor in Council (provincial cabinet) on all matters relating to education in BC, including the issuance and amendment of *School Act* regulations by orders in council.

Section 168(1)(c) *School Act* provides that the minister may designate a member of the public service (presumably the deputy or an assistant deputy minister of education) to act on behalf of the minister. It should be noted, however, that the Lieutenant Governor in Council periodically issues lists of first-acting ministers and second-acting ministers, all being cabinet members, who act for a minister in case of sickness, absence from Victoria or a conflict of interest.

In addition to the minister of education’s overall responsibility to administer and implement the *School Act*, several specific responsibilities are spelled out in the Act, for example, under section 142 the minister is required to approve each board’s capital plan before it may be implemented.

71.2 School Act Regulations

As stated above, the minister of education is required to advise the provincial cabinet on regulations made under the *School Act*. Such regulations are issued by orders in council, signed by the Lieutenant Governor, the minister of education or acting minister, and the premier or acting premier. They have the force of law.

Regulations must be within the scope provided by the Act to which they relate. Regulations may not break new ground, nor be contrary in effect to any section of the Act. Moreover, they may not negate or remove a power specifically granted in the Act.

There are a general regulation, called the School

Regulation (BC Regulation 265/89), and numerous other specific regulations, such as the School Calendar Regulation (BC Regulation 114/02) and the Francophone Education Authorities Regulation (BC Regulation 286/97). In addition, other specific powers to issue regulations are distributed throughout the *School Act*, for example, section 138 of the *School Act* authorizes regulations governing referenda under section 112, and section 175 empowers the Lieutenant Governor in Council to vary the dates set in the Act for the establishment of annual board of education operating budgets (see Guide Part VIII). A complete collection of current regulations made under the *School Act*, and other relevant regulations and orders, appears in the Ministry of Education’s *Manual of School Law*. The Manual is available online.

71.3 Minister's Orders

The minister of education is empowered to issue orders “for the purpose of carrying out any of the minister’s powers, duties or functions under this Act” (section 168(2) *School Act*).

For example, cabinet (the Lieutenant Governor in Council) sets the standard school calendar, including the maximum number of non-instructional days, but the minister is given the power to require that one or more of those days be used for a specific purpose (section 168(2)(m) *School Act*). The minister has exercised this power in the Designation of Purpose for Non-Instructional Day Order (M122/93). Other examples include the Graduation Requirements Order, the School Board Fees Order and the Special Needs Students Order.

71.4 Special Advisor

Section 171.1 of the *School Act* allows the minister, on any grounds, to appoint a special advisor to a school district, determine the advisor’s remuneration, duties and term and order the board to pay for the advisor, as well as for anyone else whom the advisor appoints (with the minister’s approval) as a deputy special advisor or other employees and specialists and consultants.

The minister rarely appoints special advisors but will do so when requested by a board of education to assist with local problems, or when a board appears to be in need of outside assistance to solve issues such as financial or community relations problems.

71.5 District Review Teams

As part of the Ministry of Education's "Accountability Cycle," each year up to 16 school districts are visited by a district review team made up of parents, teachers and other school district staff (including principals and other administrators) from various school districts, as well as Ministry of Education staff. A practising or recently retired superintendent or assistant superintendent of schools chairs the teams.

The district review team meets with the senior district staff, trustees, partner groups, school planning councils and other groups (such as Aboriginal education or special needs coordinators). The team reviews district and school achievement data, school plans, the Aboriginal Enhancement Agreement, if applicable, and other pertinent documentation. The team provides oral observations and recommendations for improvement to the district at the end of the review. When the report of the district review team is finalized, it is presented to the board of education and made public.

Decisions about the districts to be reviewed each year are made by the ministry in the spring and fall.

71.6 Annual Report to Legislature

The minister of education is required to report annually to the Legislature on the "state of education in British Columbia including the effectiveness of educational programs" (section 169(1)(2) *School Act*). In recent years the minister's report has taken the form of the Annual Service Plan Report, available on the government's website.

71.7 Administrative Directives

Bill 20, 2007, added the ability of the minister to issue an "administrative directive" to one or more boards if the minister believes that the board is failing to meet its obligations under an achievement contract or if "it is in the public interest to do so" (section 79.4 *School Act*).

Failure of a board to follow an administrative directive of the minister is grounds for the appointment of an official trustee (section 172(1)(f) *School Act*). It remains to be seen how the minister will use this new, and sweeping, power.

71.8 Superintendents of Appeals

A parent or student who is not satisfied with a decision of the board made on an appeal from a decision of a board employee that significantly affects the student's education, health or safety, may appeal the board's decision to a superintendent of appeals. The superintendent of achievement decides whether to remit the appeal to a mediator or adjudicator or summarily dismiss all or part of an appeal (section 11.1 *School Act*). See Guide 20.21.

Superintendents of appeals (SOAs) will likely be executive educators with significant experience in the field.

72.0 Provincial Educational Policies

72.1 Education Advisory Council

Section 171 of the *School Act* states that the minister of education may appoint one or more Education Advisory Council (EAC) members to advise the minister on education policy matters. Originally, 23 representatives of community groups and stakeholders were named to the EAC. This group ceased to meet in 1995 and its functions were to some extent taken over by a smaller group known as the Provincial Education Committee. The Education Advisory Council was revived in 1999. The EAC as it formerly existed has not met in recent years. The Ministry of Education has established other committees including the Sector Advisory Council, which includes representatives from the BC School Trustees Association, the BC Association of School Business Officials, the BC School Superintendents Association, the BC Principals' and Vice-Principals' Association and the Federation of Independent School Associations in BC.

72.2 Education Policy Statement

Section 169(3) *School Act* provides that, subject to provincial cabinet approval, the minister of education shall issue from time to time a statement of education policy for British Columbia. Such a policy statement was approved and issued on September 1, 1989 by Order in Council 1280/89. Entitled *Mandate for the School System*, it includes a mission statement describing the purpose of the BC school system, some general policies and some specific goals for public schools, and broad descriptions of the duties, rights and responsibilities of students, parents, teachers, principals, boards of education, district officials, the College of Teachers, the community, and the Ministry of Education, other BC government ministries and agencies and the public. There is also a policy statement on independent schools and home schooling.

More Information

Manual of School Law

<https://www2.gov.bc.ca/gov/content/education-training/k-12/administration/legislation-policy/manual-of-school-law>

Accountability Framework

www.bced.gov.bc.ca/policy/policies/accountability_framework.htm

Minister of Education Annual Service Plan

<https://www.bcbudget.gov.bc.ca/2019/sp/pdf/ministry/educ.pdf>