



Province of Alberta

TEACHING PROFESSION ACT

Revised Statutes of Alberta 2000
Chapter T-2

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Office Consolidation

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2021 cC-18.8 s87 repeals and substitutes ss6(2) and 13, amends s24.

Regulations

The following is a list of the regulations made under the *Teaching Profession Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	<i>Amendments</i>
Teaching Profession Act		
Dispute Resolution Process Bylaw.....	168/97	251/2001, 202/2009
Teacher Membership Status Election.....	260/2004	9/2005, 16/2005, 201/2011, 170/2016, 28/2018, 81/2019

TEACHING PROFESSION ACT

Chapter T-2

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “association” means The Alberta Teachers’ Association;
- (b) “bylaws” means the bylaws of the association;
- (c) “Department” means the Department administered by the Minister;
- (d) “executive council” means the Provincial Executive Council of the association;
- (e) “executive secretary” means the chief executive officer of the association or a person designated by the chief executive officer;
- (f) “member” means a member in good standing of the association;
- (g) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (h) “school board” means a board as defined in the *Education Act*;
- (i) “superintendent” means a superintendent appointed by a school board pursuant to the *Education Act* and the teacher, if any, who is appointed by the school board to be the superintendent’s chief deputy;
- (j) “teacher” means a person holding a permanent or temporary certificate of qualification as a teacher issued by the Minister under the *Education Act*.

RSA 2000 cT-2 s1;2012 cE-0.3 s287

The Alberta Teachers' Association

Constitution of Alberta Teachers' Association

2 There is hereby constituted a corporation with the name "The Alberta Teachers' Association".

RSA 1980 cT-3 s2

Objects of association

3(1) The association may take any measure that is not inconsistent with this Act or any Act or regulation of Alberta and that it considers necessary in order to give effect to any policy adopted by it with respect to any question or matter directly or indirectly affecting the teaching profession.

(2) The association may acquire by gift, purchase or otherwise, and may sell, mortgage, lease or otherwise dispose of real and personal property, for the purpose of carrying into effect and of promoting the objects and designs of the association.

RSA 1980 cT-3 s3

Powers

4 The objects of the association are

- (a) to advance and promote the cause of education in Alberta;
- (b) to improve the teaching profession
 - (i) by promoting and supporting recruitment and selection practices that ensure capable candidates for teacher education,
 - (ii) by promoting and supporting adequate programs of preservice preparation, internship and certification,
 - (iii) by promoting the establishment of working conditions that will make possible the best level of professional service,
 - (iv) by organizing and supporting groups that tend to improve the knowledge and skill of teachers,
 - (v) by meetings, publications, research and other activities designed to maintain and improve the competence of teachers,
 - (vi) by advising, assisting, protecting and disciplining members in the discharge of their professional duties and relationships, and
 - (vii) by assessing the professional competence of its members by means of a professional practice review

process provided for under the bylaws of the association;

- (c) to arouse and increase public interest in the importance of education and public knowledge of the aims of education, financial support for education, and other education matters;
- (d) to co-operate with other organizations and bodies in Canada and elsewhere having the same or like aims and objects.

RSA 2000 cT-2 s4;2004 c27 s2

Membership

Compulsory active membership

5(1) Subject to this section, the employment of a teacher by a school board is conditional on the teacher being and continuing to be an active member of the association except in the following cases:

- (a) a teacher who is a superintendent;
- (b) a teacher who
 - (i) is engaged in carrying out central office administrative functions for the school board,
 - (ii) is not engaged in carrying out teaching functions, and
 - (iii) is designated or otherwise described by or under the regulations as a teacher who is eligible to make an election under section 5.1;
- (c) a teacher who
 - (i) is designated by the school board to an administrative, supervisory or consultative position, and
 - (ii) under section 204(2) of the *Education Act*, is excluded from the teachers on whose behalf the association is bargaining.

(2) When a school board employs a teacher, other than as a superintendent, the board shall notify the association in writing of the name of the teacher, the date of commencement of employment and the amount of salary to be paid and, notwithstanding subsection (1), the employment of the teacher by the school board is valid until the association notifies the school board in writing that the teacher is not an active member.

(3) When a teacher who is employed by a school board, other than as a superintendent, ceases to be an active member, the board may continue to employ the teacher until the association notifies the board in writing that the teacher is not an active member.

(4) Subsections (2) and (3) do not apply to a teacher referred to in subsection (1)(b) or (c) if that teacher is not an active member of the association.

RSA 2000 cT-2 s5;2004 c27 s3;2012 cE-0.3 s287

Options re membership of certain teachers

5.1(1) A teacher referred to in section 5(1)(b) or (c) may elect one of the following:

- (a) to be an active member of the association;
- (b) to be an associate member of the association;
- (c) not to be a member of the association.

(2) Where a teacher to whom this section applies makes an election under subsection (1),

- (a) the association shall, except where directed or permitted by the Minister to do otherwise, act in accordance with that election, and
- (b) the election may not, unless otherwise permitted by the Minister, be revoked or amended during the period of time that the teacher remains employed in the circumstances referred to in section 5(1)(b) or (c) in respect of which the election is made.

2004 c27 s4

Classes of membership

6(1) The membership of the association is composed of active, associate, life, honorary and student members.

(2) Only teachers who are employed by school boards, other than as superintendents, may be active members of the association.

(3) The association may grant associate, honorary, life or student membership to any person who meets the conditions prescribed by the bylaws.

RSA 1980 cT-3 s6

Voting rights

7(1) Active members have the right to vote and, subject to the bylaws, have the right to hold office in the association.

(2) Associate members have the right to vote and, subject to the bylaws, have the right to hold office in the association, but are not subject to the disciplinary provisions contained in this Act or the bylaws.

(3) Life, honorary and student members do not have the right to vote or to hold office in the association and are not subject to the disciplinary provisions contained in this Act or the bylaws.

RSA 1980 cT-3 s7;1995 c36 s3

Governance of Association

Bylaws

8(1) The association in general meeting may pass bylaws not inconsistent with this Act or any Act or regulation of Alberta concerning

- (a) the election of the executive council and officers of the association;
- (b) the formation, government, management and dissolution of local associations;
- (c) the management of its property and affairs and its own internal organization and administration;
- (d) the maintenance of the association and the fixing and collecting of annual and other fees;
- (e) the time, place and conduct of the annual and other meetings of the association;
- (f) a code of professional conduct;
- (g) discipline proceedings, including the following:
 - (i) the appointment of members or acting members of the Professional Conduct Committee, the Complainant Appeal Committee, the Professional Conduct Appeal Committee and a hearing committee established under section 18;
 - (ii) setting a term of office for members of the Professional Conduct Committee, the Complainant Appeal Committee and the Professional Conduct Appeal Committee;
 - (iii) the designation of a chair and vice-chair for a committee referred to in subclause (i);
 - (iv) establishing the number of members that constitutes a quorum for a committee referred to in subclause (i);

- (v) setting fees and expenses payable to members of a committee referred to in subclause (i) for attending to the business of the association;
 - (vi) respecting publication of an order made by a committee referred to in subclause (i);
 - (vii) determining costs of an investigation, hearing or appeal for the purpose of section 43(1)(a) or 54(2);
 - (viii) providing for the suspension or cancellation of a person's membership in the association for non-payment of fees, dues or levies that are payable to the association;
 - (ix) providing for the reinstatement of a person's membership in the association;
- (g.1) the competence of its members, including the assessment of the professional competence of its members by means of a professional practice review process;
- (h) all other matters that are considered necessary or convenient for the management of the association and the promotion of its welfare or the conduct of its business.
- (2)** Without restricting the generality of subsection (1)(g.1), a bylaw passed under subsection (1)(g.1) may
- (a) provide for and govern
 - (i) the establishment of a Professional Practice Review Hearing Committee and procedures with respect to hearings before it;
 - (ii) the establishment of a Professional Practice Review Appeal Committee and procedures with respect to appeals before it;
 - (iii) with respect to matters before a committee referred to in this clause,
 - (A) the attendance before and the production of material to the committee;
 - (B) the taking of evidence;
 - (C) the assessing of costs and other payments to be made;
 - (D) the orders or decisions that may be made concerning

- (I) matters relating to the hearing or the process;
 - (II) a teacher's professional competence;
 - (II.1) a member's professional competence in carrying out leadership duties related to a leadership certificate issued under the *Education Act*;
 - (III) membership in the association;
 - (E) the recommendations that may be made to the Minister respecting a teacher's certificate of qualification under the *Education Act*;
 - (E.1) the recommendations that may be made to the Minister respecting one or more of the member's leadership certificates under the *Education Act*;
 - (F) any other matter not referred to in this subclause that relates to a hearing or any other functions of the committee;
- (b) adopt in whole or in part, or with any modification, any regulation made under the *Education Act* that deals with those matters referred to in subsection (1)(g.1) or clause (a);
 - (c) provide for the functions or duties, or both, to be performed by the association in matters concerning the competency of its members and the carrying out of a professional practice review process.
- (3)** Notwithstanding subsection (1), the executive council may make bylaws under subsection (1)(g.1) on behalf of the association.
- (4)** A bylaw made under subsection (1)(g.1) does not come into effect until it is approved by the Minister and remains in effect only during the time that the approval is in effect.
- (5)** The approval of the Minister under subsection (4) is revocable, and the approval or revocation may
- (a) be general;
 - (b) be restricted, conditional or unconditional;
 - (c) be applicable only to a specific period of time;
 - (d) be applicable only to specific cases;

- (e) be subject to terms or conditions;
- (f) provide for transitional matters concerning the coming into effect of the bylaw or the revocation of the approval, including the disposition of any matter that was being dealt with at the time of the approval or revocation.

RSA 2000 cT-2 s8;2004 c27 s5;2012 cE-0.3 s287

Annual general meeting

9 The Association shall be governed by an annual general meeting, which shall be held during Easter week of each year or at any other time that the executive council considers expedient.

RSA 1980 cT-3 s9

Meeting composed of officers, etc.

10 The annual general meeting shall be composed of the officers, the executive council and, as provided by the bylaws, the delegates from local associations.

RSA 1980 cT-3 s10

Executive council

11(1) The business of the association shall be transacted and carried on by the executive council.

(2) The executive council shall be composed of the officers of the association and at least 7 other persons who shall be elected by districts.

RSA 1980 cT-3 s11

Fees

12 Every active, associate and student member shall pay the fees fixed by bylaw.

RSA 1980 cT-3 s12

Deduction of membership fees

13 Every school board shall deduct the membership fee to the association from the salary of every teacher it employs, other than as a superintendent, and shall pay the membership fees and furnish a list of teachers in its employ each month to the association.

RSA 1980 cT-3 s13

Separate schools

14 Nothing in this Act shall be deemed to interfere with the rights of separate schools as provided in the *Education Act*.

RSA 2000 cT-2 s14;2012 cE-0.3 s287

Annual report

15(1) The executive council shall submit annually to the Minister, in a form satisfactory to the Minister, a report on those matters of the business and affairs of the association that the Minister requires.

(2) The Minister shall, on receipt of the annual report, lay it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next sitting.

1995 c36 s5

Discipline

Definitions

16 In this section and sections 17 to 65,

- (a) “Appeal Committee” means the Professional Conduct Appeal Committee established under section 20;
- (b) “complaint” means a complaint made in writing about the conduct or alleged conduct of a member or about a former member if section 24(4) applies, signed by the person making it;
- (c) “conduct” includes an act or omission;
- (d) “hearing committee” means a hearing committee established in accordance with section 18;
- (e) “indictable offence” means an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada), the *Food and Drugs Act* (Canada) or the *Youth Criminal Justice Act* (Canada) that proceeds by indictment;
- (f) “investigated person” means
 - (i) a member, or
 - (ii) if section 24(4) applies, a former memberwith respect to whose conduct an investigation is conducted or a hearing is held under this Act;
- (g) “investigator” means the person appointed by the executive secretary to conduct a preliminary investigation under this Act;
- (h) “Registrar” means the Registrar appointed under the regulations made under the *Education Act*.

RSA 2000 cT-2 s16;2003 c41 s4(32);2020 c23 s18

Professional Conduct Committee established

17 There is hereby established the Professional Conduct Committee composed of

- (a) not fewer than 17 members of the association who are appointed by the executive council in accordance with the bylaws, and
- (b) 3 members of the public who are not members of the association and who are appointed by the Lieutenant Governor in Council after the Minister has consulted with the executive council.

1995 c36 s6

Hearing committees

18(1) The executive secretary may establish any hearing committees the executive secretary considers necessary.

(2) If a hearing committee is to deal with a complaint relating to a member who is charged with an indictable offence, the hearing committee must be composed of

- (a) not fewer than 2 and not more than 4 members of the Professional Conduct Committee appointed under section 17(a), and
- (b) one member of the Professional Conduct Committee appointed under section 17(b).

(3) A hearing committee that is to deal with any other type of complaint must be composed of not fewer than 3 and not more than 5 members of the Professional Conduct Committee appointed under section 17(a).

(4) A hearing committee referred to in subsection (3) may include one member of the Professional Conduct Committee appointed under section 17(b) and in that event one fewer member is to be appointed under subsection (3) to that committee.

(5) Each member of a hearing committee must be appointed by the executive secretary in accordance with the bylaws.

1995 c36 s6

Complainant Appeal Committee

19(1) There is hereby established the Complainant Appeal Committee composed of

- (a) not fewer than 2 members of the association who are appointed by the executive council in accordance with the bylaws, and
- (b) one member of the public who is not a member of the association and who is appointed by the Lieutenant Governor in Council after the Minister has consulted with the executive council.

(2) A person who is appointed as a member of the Professional Conduct Committee is not eligible to be appointed as a member of the Complainant Appeal Committee.

1995 c36 s6

Professional Conduct Appeal Committee

20(1) There is hereby established the Professional Conduct Appeal Committee composed of

- (a) not fewer than 3 and not more than 5 persons, the majority of whom are members of the association, appointed by the executive council in accordance with the bylaws, and
- (b) one member of the public who is not a member of the association and who is appointed by the Lieutenant Governor in Council after the Minister has consulted with the executive council.

(2) A person who is appointed as a member of the Professional Conduct Committee is not eligible to be appointed as a member of the Professional Conduct Appeal Committee.

1995 c36 s6

Public members

21(1) A member of the public appointed to the Professional Conduct Committee, the Complainant Appeal Committee or the Professional Conduct Appeal Committee continues to hold office after the expiry of the member's term until the member is reappointed or a successor is appointed.

(2) The Minister may pay to a member of the public appointed to a committee referred to in subsection (1) travelling and living expenses incurred by that member for attendance at a meeting of the committee away from the member's usual place of residence and fees in an amount prescribed by the Minister.

(3) The Lieutenant Governor in Council may, after the Minister has consulted with the executive council, revoke the appointment of a member of the public.

(4) The powers, duties and operation of a committee referred to in subsection (1) are not affected by

- (a) the fact that no member of the public is appointed as a member of the committee,
- (b) the revocation of the appointment of a member of the public, or
- (c) the resignation from the committee of a member of the public.

(5) Subject to the bylaws prescribing a quorum, the failure of a member of the public appointed to a committee referred to in subsection (1) to attend a meeting of the committee does not affect or restrict the committee in exercising any powers or performing any duties under this Act or the bylaws at that meeting.

1995 c36 s6

Continuation of term to conclusion of a hearing

22 A member of the Professional Conduct Committee, the Complainant Appeal Committee or the Professional Conduct Appeal Committee whose term of office expires before the committee concludes the hearing or review of a matter, as the case may be, shall continue to act as a member of the committee until that matter is concluded, notwithstanding that in the meantime another person has been appointed to fill that member's position on that committee.

1995 c36 s6

Unprofessional conduct

23(1) Any conduct of a member that, in the opinion of a hearing committee,

- (a) is detrimental to the best interests of
 - (i) students as defined in the *Education Act*,
 - (ii) the public, or
 - (iii) the teaching profession,
- (b) contravenes sections 16 to 65 or a bylaw made under section 8(f) or (g), or
- (c) harms or tends to harm the standing of teachers generally,

whether or not that conduct is disgraceful or dishonourable, may be found by a hearing committee to constitute unprofessional conduct.

(2) If a member has been convicted of an indictable offence,

- (a) the conduct of the member on which the conviction is based is deemed to constitute unprofessional conduct, and
- (b) the member shall forthwith inform the association of the conviction.

(3) The association shall not use sections 16 to 65 to discipline a member for conduct that relates to

- (a) collective bargaining,
- (b) the administration of a collective agreement, or

- (c) any matter under the jurisdiction of the Labour Relations Board

or that arises under sections 204 to 212 or section 220(1) of the *Education Act*.

RSA 2000 cT-2 s23;2012 cE-0.3 s287

Making a complaint

24(1) Any person may make a complaint to the executive secretary and the complaint shall be dealt with in accordance with this Act and the bylaws.

(2) A superintendent who has reason to believe that a member has been or may have been convicted of an indictable offence shall

- (a) make a complaint to the executive secretary relating to that belief, and
- (b) advise the Registrar of that belief.

(3) Notwithstanding anything contained in the bylaws, a member who believes that another member is guilty of conduct that contravenes sections 16 to 65 shall make a complaint forthwith to the executive secretary relating to that conduct.

(4) If after a person's membership in the association lapses or has been suspended or cancelled

- (a) a complaint is made about the former member, and
- (b) the complaint relates to conduct occurring before the lapse, suspension or cancellation,

the complaint may be dealt with under this Act as if the lapse, suspension or cancellation had not occurred, if the complaint is made to the executive secretary within 5 years after the date of the lapse, suspension or cancellation.

(5) In subsection (2), "superintendent" does not include a teacher appointed by a school board as the chief deputy of the superintendent.

1995 c36 s6

Referral to investigator

25 The executive secretary shall, not later than 30 days after receiving a complaint, refer the complaint to an investigator.

1995 c36 s6

Preliminary investigation

26(1) An investigator shall, within 30 days after receiving a complaint from the executive secretary, commence a preliminary investigation of the complaint.

(2) An investigator may require the investigated person or any other member to produce any records in the investigated person's or member's possession or under the investigated person's or member's control and may require the attendance of the investigated person or any other member or an employer or employee of any of them at the investigation.

(3) The association may apply ex parte to the Court of Queen's Bench for an order

- (a)** directing any person referred to in subsection (2) to produce to an investigator any records in the person's possession or under the person's control if it is shown that the person failed to produce them when required by the investigator, or
- (b)** directing any person to produce to an investigator any records that are or may be relevant to a complaint being investigated.

(4) If a member does not co-operate with an investigator, the investigator may make a complaint to the executive secretary, and the failure or refusal to co-operate may be found by a hearing committee to constitute unprofessional conduct.

(5) An investigator may investigate any other matter relating to the conduct of the investigated person that arises in the course of a preliminary investigation, whether associated with the original complaint or investigation or not.

(6) If the member who is the subject of the complaint is alleged to have been convicted of an indictable offence, the investigator shall attempt to confirm whether the member has, in fact, been convicted of an indictable offence and immediately on doing so shall prepare a report to that effect.

1995 c36 s6

Investigator's report considered

27(1) The investigator, on concluding a preliminary investigation and preparing a report, shall provide the report to the executive secretary.

(2) On reviewing the report, the executive secretary

- (a)** may, except in a case where it has been confirmed that a member has been convicted of an indictable offence, refer

the matter to a mediator or to another dispute resolution process provided for in the bylaws,

- (b) may refer the matter to a hearing committee whether or not there has been a referral or a settlement reached under clause (a), or
- (c) may direct that the matter will not be referred to a hearing committee if the executive secretary is of the opinion that
 - (i) the matter is frivolous, vexatious or without merit,
 - (ii) there is insufficient evidence of unprofessional conduct to warrant a referral to a hearing committee, or
 - (iii) there has been a settlement reached through mediation or another dispute resolution process provided for in the bylaws and there is no need to refer the matter to a hearing committee.

(3) In a case where it has been confirmed that a member has been convicted of an indictable offence, the executive secretary shall forthwith refer the matter to a hearing committee.

(4) The executive secretary shall serve on the investigated person a notice of the executive secretary's decision and shall notify the complainant of the executive secretary's decision.

1995 c36 s6

Bylaws

28(1) The association may make bylaws

- (a) prescribing other dispute resolution processes for the purposes of section 27;
- (b) prescribing the conditions, rules and procedures that apply to a dispute resolution process prescribed under clause (a).

(2) A bylaw made under subsection (1) does not come into force unless

- (a) it is approved by the association in accordance with the bylaws made under section 8, and
- (b) it is approved by the Lieutenant Governor in Council.

1995 c36 s6

Complainant's request for review

29(1) The complainant, within 30 days after receiving notice that the matter will not be referred to a hearing committee, may by

notice in writing to the executive secretary request a review of that decision by the Complainant Appeal Committee.

(2) A request under subsection (1) must include

- (a) reasons why the complainant believes the matter should be referred to a hearing committee, and
- (b) a fee in the amount established by the executive council.

(3) On receiving notice under subsection (1), the executive secretary must notify the investigated person and the Complainant Appeal Committee that the executive secretary has received a request for a review.

(4) The Complainant Appeal Committee shall, on receiving notice under subsection (1), review the decision of the executive secretary and determine whether the matter should be referred to a hearing committee.

(5) The Complainant Appeal Committee shall notify the complainant and the investigated person

- (a) of the date, time and location of the review, and
- (b) of their right to make representations to the Complainant Appeal Committee.

(6) If new information is available to the Complainant Appeal Committee that was not available to the investigator who conducted the preliminary investigation, the Committee may in making its decision consider the relevance of the new information.

(7) The Complainant Appeal Committee shall notify the complainant, the investigated person and the executive secretary in writing of its decision.

RSA 2000 cT-2 s29;2004 c27 s6

Temporary suspension

30(1) Notwithstanding anything in this Act, the executive secretary may suspend a person's membership in the association pending the conclusion of a preliminary investigation or the decision of a hearing committee.

(2) An investigated person whose membership in the association is suspended under subsection (1) may, by filing an application with the Court of Queen's Bench and serving a copy on the executive secretary, apply for an order staying the decision of the executive secretary until the conclusion of a preliminary investigation or the decision of a hearing committee.

(3) When a membership in the association is suspended under this section, the executive secretary shall notify the superintendent, the Registrar and the investigated person in writing of the suspension.

(4) In subsection (3), “superintendent” does not include a teacher appointed by a school board as the chief deputy of the superintendent.

RSA 2000 cT-2 s30;2009 c53 s176

Notice of hearing

31(1) A hearing committee shall, on referral to it of a matter in accordance with this Act, hold a hearing.

(2) A hearing under subsection (1) shall be commenced within 120 days after the date on which the matter is referred to the hearing committee or within any other period set by the executive council, unless subsection (4) applies.

(3) At least 15 days before the date set for a hearing, the executive secretary shall serve on the investigated person a notice stating

- (a) the date, time and location of the hearing, and
- (b) reasonable particulars of the matter to be heard.

(4) A hearing that relates to the conviction of a member of an indictable offence must be held forthwith and in that event the 15-day period required under subsection (3) does not apply.

1995 c36 s6

Representation before hearing committee

32(1) The investigated person may be represented by counsel at a hearing before a hearing committee.

(2) A hearing committee and the association may each be represented by counsel at a hearing before a hearing committee.

1995 c36 s6

Public hearing

33 A hearing before a hearing committee must be open to the public unless

- (a) the complainant requests that the hearing be held in private because of the confidential nature of the matters to be heard, or
- (b) in the opinion of the hearing committee, the interest of any person other than the investigated person may be detrimentally affected if the hearing is not held in private.

1995 c36 s6

Further investigation

34 If any other matter concerning the conduct of the investigated person arises in the course of an investigation or hearing, the hearing committee may

- (a) hear the other matter, but in that event the hearing committee shall declare its intention to hear the other matter and shall permit the investigated person reasonable opportunity to prepare an answer to the other matter, or
- (b) adjourn the hearing to allow the association to assess the other matter and make recommendations concerning it to the hearing committee.

1995 c36 s6

Evidence

35 Evidence may be given before a hearing committee in any manner that the hearing committee considers appropriate, and the hearing committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

1995 c36 s6

Compellable witness

36(1) Subject to section 41(3), the investigated person and any other person who, in the opinion of the hearing committee, has knowledge of the matter being heard are compellable witnesses in any proceeding under this Act.

(2) A witness may be examined under oath on anything relevant to the hearing before a hearing committee and shall not be excused from answering any question on the ground that the answer might tend to

- (a) incriminate the witness,
- (b) subject the witness to punishment under this Act, or
- (c) establish the witness's liability
 - (i) to a civil proceeding at the instance of the Crown or of any other person, or
 - (ii) to prosecution under any Act,

but if the answer so given tends to incriminate the witness, subject the witness to punishment or establish the witness's liability, it shall not be used or received against the witness in any civil proceedings, in a prosecution under section 66 or in any proceedings under any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

1995 c36 s6

Commission evidence

37 For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court of Queen's Bench, on an ex parte application by the association, may order the obtaining of the evidence of the witness in the manner provided under the *Alberta Rules of Court* for the taking of the evidence of a person outside Alberta.

RSA 2000 cT-2 s37;2009 c53 s176

Notice to attend and produce records

38(1) The attendance of witnesses before a hearing committee and the production of records may be enforced by a notice issued by the executive secretary requiring the witness to attend and stating the date, time and location at which the witness is to attend and the records, if any, that the witness is required to produce.

(2) On the written request of the investigated person or that person's counsel or agent, the executive secretary shall, without charge, issue and deliver to that person or that person's counsel or agent any notices that that person requires for the attendance of witnesses or the production of any record.

(3) A witness, other than the investigated person, who has been served with a notice to attend or a notice for the production of any record under subsection (1) or (2) is entitled to be paid the same fees, expenses and allowances as are payable to a witness in an action in the Court of Queen's Bench.

RSA 2000 cT-2 s38;2009 c53 s176

Civil contempt proceedings

39(1) Proceedings for civil contempt of court may be brought against a witness

- (a) who fails
 - (i) to attend before a hearing committee in compliance with a notice to attend, or
 - (ii) to produce records in compliance with a notice to produce them,

or

- (b) who refuses to be sworn or to answer any question that the witness is directed by a hearing committee to answer.

(2) The chair of a hearing committee may make a complaint with respect to the failure or refusal of a member under subsection (1), and the failure or refusal may be found by a hearing committee to constitute unprofessional conduct.

1995 c36 s6

Proceedings in absence of investigated person

40 A hearing committee, on proof of service in accordance with this Act of the notice of hearing on the investigated person, may

- (a) proceed with the hearing in the absence of the investigated person, and
- (b) act and decide on the matter being heard in the same way as if the investigated person were in attendance.

1995 c36 s6

Finding of hearing committee

41(1) A hearing committee may find that the conduct of an investigated person constitutes or does not constitute unprofessional conduct.

(2) Where the investigated person has been convicted of an indictable offence, a hearing committee must determine the question of penalty and has no authority

- (a) to find that the conduct of the member on which the conviction is based does not constitute unprofessional conduct, or
- (b) to investigate the conduct of the member on which the conviction is based except for the purpose of deciding the penalty.

(3) No person shall require the attendance as a witness at a hearing before the hearing committee of any person who attended as a witness at the court that convicted the member of the indictable offence.

1995 c36 s6

Orders of hearing committee

42(1) If a hearing committee finds that the conduct of an investigated person constitutes unprofessional conduct, the hearing committee may do any one or more of the following:

- (a) cancel the investigated person's membership in the association;

- (b) suspend the investigated person's membership in the association for any period it considers proper;
- (c) recommend that the Minister cancel or suspend one or more certificates issued to the investigated person under the *Education Act*;
- (d) make any further or other order it considers appropriate.

(2) If a hearing committee is satisfied that an investigated person has contravened an order made under subsection (1)(d), it may, without the necessity of a further hearing, cancel or suspend the investigated person's membership in the association, subject to any terms it considers appropriate.

(3) If the decision of a hearing committee

- (a) relates to an investigated person who has been convicted of an indictable offence, and
- (b) does not contain a recommendation that the Minister cancel or suspend the teaching certificate of the investigated person,

the decision must include reasons why that recommendation has not been made.

RSA 2000 cT-2 s42;2012 cE-0.3 s287

Costs and fines

43(1) A hearing committee may, in addition to dealing with the conduct of an investigated person in accordance with section 42, order that the investigated person pay

- (a) all or part of the costs of the investigation, hearing or appeal determined in accordance with the bylaws,
- (b) a fine not exceeding \$10 000 for each finding of unprofessional conduct, or
- (c) costs under clause (a) and a fine under clause (b),

to the association within the time and in accordance with the conditions set by the order.

(2) Where the investigated person's membership in the association has been suspended, a hearing committee may, in addition to an order under subsection (1), order that the membership remain suspended until the fine or costs, or both, have been paid.

1995 c36 s6

Publication of decision

44(1) If the investigated person's membership in the association has been cancelled or suspended, notice of the cancellation or suspension shall be published in the form and manner prescribed in the bylaws.

(2) No notice shall be published in accordance with subsection (1) until

- (a) an appeal has been heard and a decision made on the appeal, or
- (b) if no appeal is commenced, the time for commencing an appeal has expired.

1995 c36 s6

Fine and costs are debt

45 A fine or costs ordered to be paid by an investigated person under this Act are a debt due to the association and may be recovered by the association by civil action for debt.

1995 c36 s6

Written decision

46 A hearing committee shall, within 60 days after the conclusion of a hearing, make a written decision on the matter, in which it shall

- (a) describe each finding of unprofessional conduct made by it,
- (b) state the reasons for each finding made by it, and
- (c) state any order made by it.

1995 c36 s6

Service of decision

47(1) A hearing committee shall forward to the executive secretary

- (a) the decision, and
- (b) the record of the hearing, consisting of all evidence presented before it, including
 - (i) all exhibits,
 - (ii) all documents, and
 - (iii) all testimony given before it, whether recorded electronically, mechanically or in handwritten form.

(2) The executive secretary shall, on receiving the decision of a hearing committee and the record of the hearing referred to in subsection (1),

- (a) serve a copy of the decision on the investigated person,
- (b) forward a notice of the decision to the complainant,
- (c) forward a notice of the decision to the executive council, and
- (d) forward a copy of the decision to the Registrar.

(3) The investigated person and the executive council may examine the record or any part of the record of the proceedings before a hearing committee and hear any recording or examine any mechanical or handwritten record of evidence given before the hearing committee.

(4) The decision of a hearing committee must be available to the public on request and free of charge.

1995 c36 s6

Order remains in effect

48(1) The decision of a hearing committee remains in effect until the Appeal Committee makes a decision on an appeal.

(2) An investigated person may apply to the executive secretary for a stay of the order of a hearing committee, and if the executive secretary considers it appropriate the executive secretary may stay the implementation of the hearing committee's order pending the conclusion of an appeal to the Appeal Committee.

1995 c36 s6

Appeals to Appeal Committee

49(1) An investigated person or the executive council may by notice in writing to the executive secretary appeal a finding or order, or both, of a hearing committee to the Appeal Committee.

(2) A notice of appeal under subsection (1) must

- (a) describe the finding or order, or both, being appealed,
- (b) state the reasons for the appeal, and
- (c) include a deposit in the amount set by the executive secretary, not to exceed the costs of the appeal as anticipated by the executive secretary.

(3) A notice of appeal under this section must be served on the executive secretary within 30 days after the date on which the decision of a hearing committee is

- (a) served on the investigated person, if the investigated person appeals the decision, or
 - (b) forwarded to the executive council, if the executive council appeals the decision.
- (4)** On receiving a notice of appeal under this section, the executive secretary shall
- (a) send a copy of it to the investigated person, if the executive council is the appellant,
 - (b) send a copy of it to the executive council, if the investigated person is the appellant, and
 - (c) give to each member of the Appeal Committee a copy of the notice of appeal and make the decision of the hearing committee and the record of the hearing available to each member of the Appeal Committee.

RSA 2000 cT-2 s49;2004 c27 s7

Notice of appeal hearing

50(1) The Appeal Committee shall begin hearing an appeal within 90 days after the service of the notice of appeal in accordance with section 49(3) or within a longer period that is agreed to by the appellant, unless subsection (3) applies.

(2) At least 15 days before the date set for the hearing of the appeal, the executive secretary shall serve on the investigated person and the executive council a notice stating the date, time and location of the hearing.

(3) A hearing that relates to the conviction of a member of an indictable offence must be held forthwith and in that event the 15-day period required under subsection (2) does not apply.

1995 c36 s6

Representation before appeal hearing

51 The investigated person, the executive council and the Appeal Committee may each be represented by counsel at a hearing before the Appeal Committee.

1995 c36 s6

Public hearing

52 A hearing before the Appeal Committee must be open to the public unless, in the opinion of the Appeal Committee, the interests of any person other than the investigated person may be detrimentally affected if the hearing is not held in private.

1995 c36 s6

Powers of Appeal Committee

53(1) The appeal to the Appeal Committee must be founded on the decision of the hearing committee and the record of the proceedings before the hearing committee.

(2) The Appeal Committee may

- (a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the Appeal Committee,
- (b) on granting special leave for the purpose, receive further evidence, and
- (c) draw inferences of fact and make a decision or finding that, in its opinion, ought to have been made by the hearing committee.

(3) Sections 35 to 40 apply to proceedings before the Appeal Committee.

1995 c36 s6

Decision on appeal

54(1) The Appeal Committee shall, after the conclusion of all proceedings before it,

- (a) make any finding or order that in its opinion ought to have been made by the hearing committee,
- (b) quash, vary or confirm a finding or order of the hearing committee or substitute or make a finding or order of its own, or
- (c) refer the matter back to the hearing committee for further consideration in accordance with any direction that the Appeal Committee may make.

(2) The Appeal Committee may make an award as to the costs of an appeal determined in accordance with the bylaws subject to the following:

- (a) if an appeal by an investigated person is unsuccessful, the deposit made under section 49(2) is to be forfeited to the association;
- (b) if an appeal by an investigated person is successful, the deposit made under section 49(2) is to be returned to the investigated person unless otherwise ordered by the Appeal Committee;

- (c) if an appeal by an investigated person is partially successful, the Appeal Committee may make any order with respect to the forfeiture of the deposit made under section 49(2) that it considers appropriate;
 - (d) if the deposit made under section 49(2) exceeds the amount of the awarded costs, the excess amount is to be returned to the investigated person.
- (3) Section 42(3) applies to a decision of the Appeal Committee.

RSA 2000 cT-2 s54;2004 c27 s8

Written decision

55(1) The Appeal Committee shall, within 60 days after the conclusion of the proceedings before it, make a written decision on the matter and shall forward the decision to the executive secretary.

(2) The executive secretary shall, on receiving the decision of the Appeal Committee,

- (a) serve a copy of the decision on the investigated person,
- (b) forward a copy of the decision to the executive council, and
- (c) forward a copy of the decision to the Registrar.

(3) There is no appeal from the decision of the Appeal Committee.

(4) The decision of the Appeal Committee must be available to the public on request and free of charge.

1995 c36 s6

Notice of decision to Minister

56 The executive secretary shall in each case forward to the Minister the decision of the Appeal Committee or, if there has been no appeal to the Appeal Committee, the decision of a hearing committee where

- (a) the decision includes a recommendation that the Minister cancel or suspend one or more certificates issued to the investigated person under the *Education Act*, or
- (b) the decision relates to an investigated person who has been convicted of an indictable offence.

RSA 2000 cT-21 s56;2012 cE-0.3 s287

Decisions and judicial review

57(1) In this section,

- (a) “committee” means

- (i) a hearing committee as defined in section 16;
- (ii) the Appeal Committee as defined in section 16;
- (iii) a Professional Practice Review Hearing Committee referred to in section 8(2);
- (iv) a Professional Practice Review Appeal Committee referred to in section 8(2);

(b) “decision” means the decision of a committee.

(2) A decision made by a committee is final and binding on the parties in respect of whom the decision is made and, subject to subsection (3), shall not be questioned, reviewed or restrained by any proceeding in the nature of an application for judicial review or otherwise in any court.

(3) On a question of jurisdiction only, a decision is reviewable on an application for judicial review of the decision.

(4) An application referred to in subsection (3) for judicial review of a decision must be commenced within 15 days from the day the decision is made.

RSA 2000 cT-2 s57;2004 c27 s9

Reinstatement

58 If the investigated person’s membership in the association has been cancelled, the membership shall not be reinstated except by order of the executive council or by a court of competent jurisdiction.

1995 c36 s6

Employer to recognize sanctions

59 No employer or other person shall knowingly require the investigated person to perform a service or undertake any work that would result in the contravention by the investigated person of an order or direction of a hearing committee or the Appeal Committee.

1995 c36 s6

Notice to employer

60 When the investigated person’s membership in the association is suspended or cancelled, the executive secretary shall forthwith notify the investigated person’s employer of the suspension or cancellation.

1995 c36 s6

General Provisions

Delegation to table officers

61(1) The executive council may delegate any of its powers and duties under sections 16 to 65 to the table officers.

(2) In this section, “table officers” means the officers of the association as designated in the bylaws.

1995 c36 s6

Document of executive secretary

62 A document purporting to be signed by the executive secretary stating that a named person was or was not, on a specified day or during a specified period,

- (a) a member, or
- (b) an officer of the association or a member of the executive council or of a committee established under this Act or the bylaws,

shall be admitted as proof, in the absence of evidence to the contrary, of the facts stated in it without proof of the appointment or signature of the executive secretary.

1995 c36 s6

Protection from liability

63(1) No action lies against

- (a) the executive secretary, an investigator, a mediator or other person conducting a dispute resolution process provided for in the bylaws or a member of a committee established by or under this Act or the bylaws, the executive council or the association or any person acting on the instructions of any of them, or
- (b) any officer or employee of the association

for anything done by that person or body in good faith and in purporting to act under this Act or the bylaws.

(2) No action for defamation may be founded on a communication that consists of or pertains to an act or omission of a member if the communication is published to or by

- (a) the association or an officer of the association,
- (b) a member of the executive council or of a committee established by or under this Act,

- (c) an investigator, a mediator or another person conducting a dispute resolution process provided for in the bylaws, or
- (d) a person acting on the instructions of any person or entity referred to in clauses (a) to (c),

in good faith in the course of investigating the conduct or in the course of any proceeding under this Act or the bylaws relating to the conduct.

1995 c36 s6

Service of documents

64 When this Act or the bylaws require that a document or notice be served on any person, the document or notice is sufficiently served

- (a) if it is served personally on that person or sent to that person by registered mail or courier at the address last shown for that person on the records of the association, or
- (b) if personal service or service by mail is not reasonably possible, by publishing the document or notice at least twice, not more than a week apart, in a local newspaper circulated at or near the address last shown for that person on the records of the association.

1995 c36 s6

Commissioner for oaths

65 For the purpose of an investigation, hearing or review under this Act, an investigator and each member of the Professional Conduct Committee, a hearing committee, the Complainant Appeal Committee and the Appeal Committee are conferred with the powers of a commissioner for oaths under the *Notaries and Commissioners Act*.

RSA 2000 cT-2 s65;2013 cN-5.5 s32

Regulations

65.1 The Minister may make regulations

- (a) designating or otherwise describing, or providing for the designation or description of, teachers referred to in section 5(1)(b) who are eligible to make an election under section 5.1;
- (b) respecting membership in the association of teachers who are eligible to make an election under section 5.1.

2004 c27 s10

Offences and Penalties**Penalties**

66(1) Every person and every officer, employee or agent of a corporation or firm who contravenes this Act is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$2000,
- (b) for a 2nd offence, to a fine of not more than \$4000, and
- (c) for a 3rd and every subsequent offence, to a fine of not more than \$6000 or to imprisonment for a term of not more than 6 months or to both fine and imprisonment.

(2) A prosecution under this section may be commenced within 2 years after the commission of the alleged offence, but not afterwards.

1995 c36 s6



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