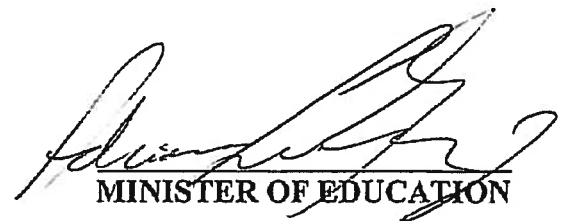


ALBERTA REGULATION 92/2019  
FILED ON August 16 2019

GOVERNMENT OF ALBERTA  
DEPARTMENT OF EDUCATION  
MINISTERIAL ORDER (# 026 / 2019 )

I, Adriana LaGrange, Minister of Education, pursuant to Sections 201 and 224 of the **Education Act**, make the Order set out in the attached Appendix, being the *Practice Review of Teachers and Teacher Leaders Regulation*.

DATED at Edmonton, Alberta August 15, 2019.

  
MINISTER OF EDUCATION

# APPENDIX

## Education Act

### PRACTICE REVIEW OF TEACHERS AND TEACHER LEADERS REGULATION

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**Interpretation**

**1(1)** In this Regulation,

(a) "administrator" means

- (i) in the case of a school operated by a board, Francophone regional authority or operator of a charter school,
  - (A) the superintendent of schools appointed under the Act for the board, Francophone regional authority or charter school, or
  - (B) in respect of a matter that relates to the superintendent,
    - (I) the chair of the board or Francophone regional authority, or
    - (II) the operator of the charter school,
- (ii) in the case of an early childhood services program operated by a private operator, the early childhood services program private operator,
- (iii) in the case of a private school, the operator of the private school,
- (iv) in the case of a First Nation school,
  - (A) the director of education, or

(B) if there is no director of education, the person designated by the Registrar as the administrator of the First Nation school for the purposes of this Regulation,

or

(v) in the case of an institution approved by the Minister, the person designated by the Registrar as the administrator of the institution for the purposes of this Regulation;

(b) “certificate” means a certificate as defined in the *Certification of Teachers and Teacher Leaders Regulation*;

(c) “complaint” means

(i) a complaint under section 11(1),

(ii) a notice of termination that the Registrar treats as a complaint under section 12(2), or

(iii) a matter that, under section 16(3), constitutes a complaint;

(d) “conduct” includes an act or omission;

(e) “First Nation school” means a structured learning environment through which an education program is offered by

(i) a council of a band as defined in the *Indian Act* (Canada),

(ii) a person authorized by the council of a band as defined in the *Indian Act* (Canada), or

(iii) the Government of Canada;

(f) “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 is prosecuted by indictment;

- (g) “investigator” means a person appointed to conduct an investigation under this Regulation or whose appointment under the former regulation continues under section 35(6);
- (h) “leadership certificate” means a leadership certificate as defined in the *Certification of Teachers and Teacher Leaders Regulation*;
- (i) “Leadership Quality Standard” means the Leadership Quality Standard adopted by the Minister under section 18(2)(b) of the Act, as amended from time to time;
- (j) “practice review appeal committee” means a committee established under section 8;
- (k) “practice review complainant appeal committee” means a committee established under section 6;
- (l) “practice review general panel” means the panel established by section 5;
- (m) “practice review hearing committee” means a committee established under section 7;
- (n) “professional conduct requirements” means the professional conduct requirements set out in the Schedule;
- (o) “Registrar” means the individual appointed under section 4;
- (p) “superintendent leadership certificate” means a superintendent leadership certificate as defined in the *Certification of Teachers and Teacher Leaders Regulation*;
- (q) “Superintendent Leadership Quality Standard” means the Superintendent Leadership Quality Standard adopted by the Minister under section 18(2)(b) of the Act, as amended from time to time;
- (r) “teacher” means
  - (i) an individual who holds a teaching certificate but is not subject to the *Teaching Profession Act*, or
  - (ii) an individual who once held but no longer holds a teaching certificate;

- (s) “teacher leader” means
  - (i) an individual who holds a leadership certificate or superintendent leadership certificate but is not subject to the *Teaching Profession Act*, or
  - (ii) an individual who once held but no longer holds a leadership certificate or superintendent leadership certificate;
- (t) “teaching certificate” means a teaching certificate as defined in the *Certification of Teachers and Teacher Leaders Regulation*;
- (u) “Teaching Quality Standard” means the Teaching Quality Standard adopted by the Minister under section 18(2)(b) of the Act, as amended from time to time;
- (v) “unprofessional conduct” means conduct described in section 2.

(2) This Regulation applies notwithstanding that a teacher or teacher leader no longer holds a certificate.

(3) For greater certainty, this Regulation does not apply to a teacher or teacher leader to whom the *Teaching Profession Act* applies.

### **Unprofessional conduct**

#### **2 Conduct that**

- (a) is detrimental to the best interests of students, the public, teachers or teacher leaders generally,
- (b) does not meet the professional conduct requirements, or
- (c) is the basis for a conviction for an indictable offence

constitutes unprofessional conduct.

### **Unskilled or incompetent in teaching or leadership duties**

**3(1)** Failure to meet the requirements of the Teaching Quality Standard constitutes unskilled or incompetent teaching.

**(2)** Failure to meet the requirements of the Leadership Quality Standard constitutes being unskilled or incompetent in carrying out the leadership duties related to a leadership certificate.

(3) Failure to meet the requirements of the Superintendent Leadership Quality Standard constitutes being unskilled or incompetent in carrying out the leadership duties related to a superintendent leadership certificate.

### **Administrative Matters**

#### **Registrar**

4(1) The Minister may, in writing, appoint an individual to act as the Registrar for the purposes of this Regulation.

(2) The Registrar may delegate to any employee under the Minister's administration any power or duty conferred on the Registrar by this Regulation.

#### **Practice review general panel**

5(1) The practice review general panel is established.

(2) The Minister may

- (a) in accordance with subsection (3), appoint the members of the practice review general panel, and
- (b) designate the chair and one or more vice-chairs from among the members.

(3) The practice review general panel

- (a) must consist of at least 15 members,
- (b) must have a majority of members who are teachers referred to in section 1(1)(r)(i) or teacher leaders referred to in section 1(1)(s)(i),
- (c) must include at least 3 members of the public who do not hold and have not held a certificate, and
- (d) may include one or more members who are teachers or teacher leaders to whom the *Teaching Profession Act* applies.

#### **Practice review complainant appeal committee**

6(1) On receiving a notice of appeal under section 17(2)(b), the chair of the practice review general panel

- (a) must determine whether the appeal was delivered in the time provided for by section 17(2)(b) and, if not, may dismiss the appeal, and
- (b) if the chair does not dismiss the appeal under clause (a), must
  - (i) establish a practice review complainant appeal committee to hear the appeal,
  - (ii) in accordance with subsection (2), appoint the members of the practice review complainant appeal committee from the members of the practice review general panel, and
  - (iii) designate a member of the committee as the chair.

**(2) A practice review complainant appeal committee**

- (a) must consist of at least 3 members,
- (b) must have a majority of members who are teachers referred to in section 1(1)(r)(i) or teacher leaders referred to in section 1(1)(s)(i),
- (c) must include at least one member of the public who does not hold and has not held a certificate, and
- (d) may include one or more members who are teachers or teacher leaders to whom the *Teaching Profession Act* applies.

**Practice review hearing committee**

**7(1)** On receiving a direction under section 16(1)(c) or (2), 17(9)(d), 19(1)(c) or 32(1)(c), the chair of the practice review general panel must

- (a) establish a practice review hearing committee to hear the matter,
- (b) in accordance with subsection (2), appoint the members of the practice review hearing committee from the members of the practice review general panel, and
- (c) designate a member of the committee as the chair.

**(2) A practice review hearing committee**



- (a) must consist of at least 3 and not more than 5 members,
- (b) must have a majority of members who are teachers referred to in section 1(1)(r)(i) or teacher leaders referred to in section 1(1)(s)(i),
- (c) must include at least one member of the public who does not hold and has not held a certificate, and
- (d) may include one or more members who are teachers or teacher leaders to whom the *Teaching Profession Act* applies.

**Practice review appeal committee**

**8(1)** On receiving an appeal under section 29(2), the chair of the practice review general panel

- (a) must determine whether the appeal was delivered in the time provided for by section 29(2)(a) or (b), as the case may be, and, if not, may dismiss the appeal, and
- (b) if the chair does not dismiss the appeal under clause (a), must
  - (i) establish a practice review appeal committee to hear the appeal,
  - (ii) in accordance with subsection (2), appoint the members of the practice review appeal committee from the members of the practice review general panel, and
  - (iii) designate a member of the committee as the chair.

**(2)** The practice review appeal committee

- (a) must consist of at least 3 members,
- (b) must have a majority of members who are teachers referred to in section 1(1)(r)(i) or teacher leaders referred to in section 1(1)(s)(i),
- (c) must include at least one member of the public who does not hold and has not held a certificate, and

- (d) may include one or more members who are teachers or teacher leaders to whom the *Teaching Profession Act* applies.

**Limits on service**

**9(1)** The chair of the practice review general panel may conduct a resolution process under section 18, provide assistance as referred to in section 18(2) or serve as a member of a practice review complainant appeal committee, practice review hearing committee or practice review appeal committee with respect to a matter, but if the chair does so, any functions of the chair of the practice review general panel with respect to the same matter must be exercised by a vice-chair of the panel.

**(2)** A member of the practice review general panel who serves in one of the following capacities with respect to a complaint relating to a teacher or teacher leader may not serve in any of the other following capacities with respect to the complaint:

- (a) conducts a resolution process under section 18;
- (b) provides assistance to a person appointed to conduct a resolution process as referred to in section 18(2);
- (c) serves as a member of a practice review complainant appeal committee;
- (d) serves as a member of a practice review hearing committee;
- (e) serves as a member of a practice review appeal committee.

**Powers of committee chair**

**10** A chair of a practice review complainant appeal committee, practice review hearing committee or practice review appeal committee may

- (a) deal with any preliminary or procedural matters incidental to a hearing or an appeal,
- (b) arrange for matters to be set down before the committee,
- (c) adjourn matters before the committee, and

- (d) perform the administrative functions necessary to enable the committee to carry out its duties.

## **Complaint**

### **Complaint**

**11(1)** Any individual may make a complaint to the Registrar

(a) that

- (i) a teacher or teacher leader is unskilled or incompetent in teaching, or
- (ii) a teacher leader is unskilled or incompetent in carrying out the leadership duties related to a leadership certificate or a superintendent leadership certificate,

or

- (b) about alleged unprofessional conduct of a teacher or teacher leader.

**(2)** A complaint under subsection (1) must be in writing.

**(3)** If an administrator has reason to believe that a teacher or teacher leader has been or may have been convicted of an indictable offence at a time when the teacher or teacher leader held a certificate or was eligible for the reissuance of a certificate, the administrator must make a complaint under this section relating to that belief.

**(4)** A complaint that a teacher or teacher leader is unskilled or incompetent in teaching may be made not later than 2 years after the teacher or teacher leader ceases to engage in the practice of teaching.

**(5)** A complaint that a teacher leader is unskilled or incompetent in carrying out leadership duties related to a leadership certificate or superintendent leadership certificate may be made not later than 2 years after the teacher leader ceases to engage in carrying out leadership duties related to the certificate.

**(6)** A complaint may be made about the alleged unprofessional conduct of a teacher or teacher leader at any time.

(7) If the Registrar receives a complaint under subsection (1) that relates to a teacher or teacher leader who is subject to the *Teaching Profession Act*, the Registrar must refer the complaint to the executive secretary of The Alberta Teachers' Association to be dealt with in accordance with the *Teaching Profession Act*.

#### **Termination of contract as complaint**

**12(1)** If the employer of

- (a) a teacher referred to in section 1(1)(r)(i), or
- (b) a teacher leader referred to in section 1(1)(s)(i)

terminates the contract of employment of the teacher or teacher leader on grounds related to the teacher or teacher leader being unskilled or incompetent in teaching or in carrying out duties related to a leadership certificate or superintendent leadership certificate or the alleged unprofessional conduct of the teacher or teacher leader, the employer must forward a copy of the notice of termination and the grounds for the termination to the Registrar.

(2) The Registrar may treat a notice of termination received under subsection (1) as a complaint, but the employer is not considered to be a complainant for the purposes of this Regulation.

(3) The Registrar must not take any action under section 13 with respect to the complaint until

- (a) any appeal to the Board of Reference or to the Court of Appeal relating to the termination of the contract of employment has been heard and disposed of, or
- (b) the time for commencing an appeal to the Board of Reference or to the Court of Appeal relating to the termination of the contract of employment has expired without an appeal being commenced.

#### **Registrar's actions**

**13(1)** Subject to section 12(3), within 30 days after receiving a complaint, the Registrar must

- (a) serve on the teacher or teacher leader who is the subject of the complaint a notice setting out the nature of the complaint,

- (b) notify the administrator in writing of the nature of the complaint, and
- (c) make any preliminary inquiries relating to the complaint that the Registrar considers appropriate.

(2) Subject to subsection (3), within 30 days after making preliminary inquiries under subsection (1)(c), the Registrar must

- (a) decide not to take any further action with respect to a complaint, if the Registrar is of the opinion that the matter is frivolous, vexatious or without merit,
- (b) in the case of a complaint
  - (i) that a teacher or teacher leader is unskilled or incompetent in teaching, direct that the complainant address the matter with
    - (A) the teacher or teacher leader,
    - (B) the principal of the school where the teacher or teacher leader is teaching, if the principal is not the subject of the complaint, and
    - (C) the administrator,

or

- (ii) that a teacher leader is unskilled or incompetent in carrying out leadership duties related to a leadership certificate or superintendent leadership certificate, direct that the complainant address the matter with
  - (A) the teacher leader,
  - (B) the principal of the school where the teacher leader is carrying out leadership duties related to a leadership certificate, if the principal is not the subject of the complaint, and
  - (C) the administrator,
- (c) if the complaint is about the alleged unprofessional conduct of a teacher or teacher leader and the Registrar determines that the complaint does not necessarily warrant an investigation,

(i) direct the chair of the practice review general panel to appoint a member of the panel to conduct a resolution process under section 18 with respect to the complaint, and

(ii) refer the complaint to the member,

or

(d) appoint an investigator and refer the complaint to the investigator.

(3) If the Registrar decides to appoint an investigator with respect to a complaint relating to

(a) a teacher or teacher leader being unskilled or incompetent in teaching, or

(b) a teacher leader being unskilled or incompetent in carrying out the leadership duties related to a leadership certificate or superintendent leadership certificate

and the Registrar is aware that the teacher's or teacher leader's employer is investigating the matter, the Registrar must appoint an investigator within 30 days after being advised that the employer's investigation has been concluded.

(4) The Registrar may suspend an investigation at any time if, in the Registrar's opinion, the investigation should be suspended pending the completion of another proceeding relating to the complaint.

(5) The Registrar must serve on the complainant and on the teacher or teacher leader a notice setting out

(a) the decision of the Registrar,

(b) the reasons for the decision, and

(c) if the decision is that no further action will be taken, the complainant's right to appeal the decision under section 17.

(6) The Registrar must send the notice referred to in subsection (5) to the administrator.

**Registrar's authority in absence of complaint**

**14(1)** Subject to subsection (6), the Registrar may, in the absence of a complaint, make any preliminary inquiries that the Registrar considers appropriate about, and appoint an investigator and refer to the investigator, any matter relating to

- (a) a teacher or teacher leader being unskilled or incompetent in teaching,
- (b) a teacher leader being unskilled or incompetent in carrying out the leadership duties related to a leadership certificate or superintendent leadership certificate, or
- (c) the alleged unprofessional conduct of a teacher or teacher leader.

**(2)** If the Registrar decides to appoint an investigator with respect to a matter relating to

- (a) a teacher or teacher leader being unskilled or incompetent in teaching, or
- (b) a teacher leader being unskilled or incompetent in carrying out the leadership duties related to a leadership certificate or superintendent leadership certificate

and the Registrar is aware that the teacher's or teacher leader's employer is investigating the matter, the Registrar must not appoint an investigator until after being advised that the employer's investigation has been concluded.

**(3)** The Registrar may suspend an investigation at any time if, in the Registrar's opinion, the investigation should be suspended pending the completion of another proceeding relating to the matter being investigated.

**(4)** If the Registrar appoints an investigator under subsection (1), the Registrar must

- (a) serve on the teacher or teacher leader a notice setting out the nature of the matter being investigated, and
- (b) notify the administrator in writing of the nature of the matter being investigated.

- (5) When the Registrar takes an action under subsection (1), the Registrar is not considered to be a complainant for the purposes of this Regulation.
- (6) The Registrar must not take an action under subsection (1)
- (a) with respect to a matter referred to in subsection (1)(a) more than 2 years after the teacher or teacher leader ceases to engage in the practice of teaching, and
  - (b) with respect to a matter referred to in subsection (1)(b) more than 2 years after the teacher leader ceases to carry out leadership duties related to
    - (i) a leadership certificate, in the case of a matter relating to a leadership certificate, or
    - (ii) a superintendent leadership certificate, in the case of a matter relating to a superintendent leadership certificate.

#### **Investigation**

**15(1)** Within 30 days after receiving a matter that has been referred by the Registrar, the investigator must commence an investigation of the matter.

- (2) An investigator may
- (a) request any person, including, without limitation,
    - (i) the teacher or teacher leader who is the subject of the investigation, and
    - (ii) the employer or former employer of the teacher or teacher leader who is the subject of the investigation and any employee of the employer or former employerto answer any questions and to produce to the investigator any records and documents relevant to the investigation, and
  - (b) copy and keep copies of any records and documents produced under clause (a).
- (3) An investigator must conduct the investigation in a manner that the investigator considers most suitable in the circumstances.



- (4) An investigator may investigate any other matter related to the matter being investigated that arises in the course of the investigation.
- (5) An investigator must send to the Registrar, forthwith on concluding the investigation, a written report, including copies of all materials related to the investigation.
- (6) If the teacher or teacher leader who is the subject of the investigation is alleged to have been convicted of an indictable offence, the investigator must attempt to confirm whether the teacher or teacher leader has, in fact, been convicted of an indictable offence and immediately on doing so must prepare a report to that effect.

**Registrar's decision respecting investigation**

**16(1)** Subject to subsection (2), on reviewing a report from an investigator, the Registrar must forthwith

- (a) decide not to take any further action with respect to a complaint, if the Registrar is of the opinion that
    - (i) the matter is frivolous, vexatious or without merit, or
    - (ii) there is insufficient evidence to warrant
      - (A) a resolution process under section 18, or
      - (B) a hearing before a practice review hearing committee,
  - (b) if the matter relates to the alleged unprofessional conduct of a teacher or teacher leader and the Registrar determines that the matter does not necessarily warrant a hearing,
    - (i) direct the chair of the practice review general panel to appoint a member of the practice review general panel to conduct a resolution process under section 18, and
    - (ii) refer the matter to the member,
- or
- (c) direct the chair of the practice review general panel to establish a practice review hearing committee to hear the matter and refer the matter to the practice review hearing committee for a hearing.

- (2) If it has been confirmed that the teacher or teacher leader who has been investigated has been convicted of an indictable offence, the Registrar must direct the chair of the practice review general panel to establish a practice review hearing committee to hear the matter and refer the matter to the practice review hearing committee.
- (3) A referral under subsection (1)(b) or (c) of a matter that the Registrar dealt with under section 14 constitutes a complaint, but the Registrar is not considered to be a complainant for the purposes of this Regulation.
- (4) The Registrar must serve on the complainant, if any, and on the teacher or teacher leader who is the subject of the investigation, a notice setting out
- (a) the decision of the Registrar,
  - (b) the reasons for the decision, and
  - (c) if the decision is not to take any further action, the complainant's right to appeal the decision under section 17.
- (5) The Registrar must send the notice referred to in subsection (4) to the administrator.
- (6) The Registrar must send to the teacher or teacher leader who is the subject of the investigation a copy of the report prepared by the investigator under section 15.

**Appeal of Registrar's decision**

- 17(1)** A complainant may appeal a decision of the Registrar under section 13(2)(a) or 16(1)(a) not to take any further action with respect to a complaint.
- (2) An appeal under subsection (1) must
- (a) be in the form of a notice in writing that includes the reasons the complainant believes the matter should be referred to
    - (i) a member of the practice review general panel under section 13(2)(c) or 16(1)(b), or

(ii) a practice review hearing committee under section 16(1)(c),

and

(b) be delivered to the chair of the practice review general panel within 15 days after the day the complainant was served with the notice under section 13(5) or 16(4).

(3) On receiving an appeal, the chair of the practice review general panel must notify the following persons of the appeal:

- (a) the Registrar;
- (b) the teacher or teacher leader;
- (c) the administrator.

(4) On the establishment of a practice review complainant appeal committee under section 6(1)(b) to hear the appeal, the chair of the committee must forthwith set the date, time and location of the appeal hearing.

(5) At least 15 days before the date set for the appeal hearing, the chair of the practice review complainant appeal committee must notify the complainant, the Registrar and the teacher or teacher leader who is the subject of the complaint

- (a) of the date, time and location of the appeal hearing, and
- (b) of their rights under subsection (6).

(6) At the hearing of an appeal under this section, the complainant, the Registrar and the teacher or the teacher leader who is the subject of the complaint may

- (a) appear and be represented by counsel or any other individual,
- (b) make written and oral representations, and
- (c) at the request of the practice review complainant appeal committee, provide clarification of any matter.

(7) If information is available to the practice review complainant appeal committee that was not available to the investigator or the Registrar, the practice review complainant appeal committee may, in making its decision, consider the relevance of that information.

**(8)** Proceedings before the practice review complainant appeal committee must be held in private.

**(9)** Not later than 15 days after hearing an appeal, the practice review complainant appeal committee must make one of the following decisions and provide reasons for the decision:

- (a) confirm the decision of the Registrar;
- (b) direct the Registrar to
  - (i) appoint an investigator and refer the complaint to the investigator, or
  - (ii) continue the investigation;
- (c) if the complaint relates to the alleged unprofessional conduct of a teacher or teacher leader, direct the chair of the practice review general panel to appoint a member of the practice review general panel to conduct a resolution process under section 18 with respect to the complaint and refer the complaint to the member;
- (d) direct the chair of the practice review general panel to establish a practice review hearing committee to hear the matter and refer the matter to the practice review hearing committee for a hearing.

**(10)** The chair of the practice review complainant appeal committee must forthwith serve a notice of the practice review complainant appeal committee's decision and the reasons for the decision on

- (a) the complainant, and
- (b) the teacher or teacher leader.

**(11)** The chair of the practice review complainant appeal committee must send the notice referred to in subsection (10) to

- (a) the Registrar, and
- (b) the administrator.

## **Resolution Process**

### **Resolution process**

**18(1)** If a matter is referred to a member of the practice review general panel to conduct a resolution process, the member must endeavour to

- (a) review the facts,
- (b) identify any concerns of students, the public, teachers or teacher leaders generally with respect to the matter,
- (c) assist in the resolution of the matter, and
- (d) provide advice to the teacher or teacher leader, if appropriate.

**(2)** The member of the practice review general panel who is appointed to conduct a resolution process with respect to a matter may draw on the assistance of any other member of the panel in conducting the resolution process.

**(3)** A resolution process conducted in respect of a matter must be conducted informally and in private.

**(4)** A resolution process and all statements disclosed during a resolution process are without prejudice and confidential and may not be disclosed to any person other than the Registrar or used in any other proceedings without the consent of the parties.

**(5)** The member of the practice review general panel who conducts a resolution process must provide a report to the Registrar that includes the member's opinion as to whether the matter should be considered resolved or an investigation or hearing should be conducted.

**(6)** The Registrar must provide a copy of the report under subsection (5) to the teacher or teacher leader and the complainant for comment before making a decision under section 19.

### **Registrar's decision respecting resolution process**

**19(1)** On reviewing a report under section 18(5), the Registrar may

- (a) decide not to take any further action with respect to the complaint, if the Registrar is of the opinion that the matter

has been effectively resolved through the resolution process,

- (b) appoint an investigator and refer the matter to the investigator, or
  - (c) direct the chair of the practice review general panel to establish a practice review hearing committee to hear the matter and refer the matter to the practice review hearing committee for a hearing.
- (2) A decision of the Registrar under subsection (1) is final.

### **Hearing Before Practice Review Hearing Committee**

#### **Setting of hearing before practice review hearing committee**

**20(1)** On the establishment of a practice review hearing committee under section 7(1) to hear a matter, the chair of the practice review hearing committee must forthwith set the date, time and location of the hearing.

(2) At least 15 days before the date set for the hearing, the chair of the practice review hearing committee must serve on the Registrar and the teacher or teacher leader who is the subject of the hearing a notice stating

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

#### **Proceedings at hearing**

**21(1)** The Registrar and the teacher or teacher leader who is the subject of the hearing may appear and be represented by counsel or any other individual at a hearing before the practice review hearing committee.

(2) A hearing before a practice review 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 practice review hearing committee, the interests of any person other than the teacher or

teacher leader who is the subject of the hearing may be detrimentally affected if the hearing is not held in private.

(3) The practice review hearing committee may grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the practice review hearing committee.

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

#### **Compellable witnesses**

**22(1)** Subject to subsection (3), the chair of the practice review hearing committee, at the request of the Registrar, teacher or teacher leader, may issue a notice requiring the teacher or teacher leader or any other individual who, in the opinion of the chair, may have knowledge of the matter

- (a) to appear as a witness before the practice review hearing committee, or
- (b) to produce any records or documents to the practice review hearing committee.

(2) At least 15 days before the date of the hearing, the chair of the practice review hearing committee must serve a notice issued under subsection (1) on the person who is the subject of the notice.

(3) If the teacher or teacher leader has been convicted of an indictable offence, no person shall require the attendance as a witness at a hearing before the practice review hearing committee of any person who attended as a witness at the court that convicted the teacher or teacher leader of the indictable offence.

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

- (a) incriminate the witness,
- (b) subject the witness to a penalty under an enactment, 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 enactment,

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

#### **Civil contempt proceedings**

**23** The chair of a practice review hearing committee may direct the Registrar to initiate proceedings for civil contempt of court before the Court of Queen's Bench against a person

- (a) who fails
  - (i) to comply with a notice to attend a proceeding before the practice review hearing committee as a witness, or
  - (ii) to comply with a notice to produce records or documents,

or

- (b) who refuses to be sworn or to affirm or to answer any question the person is directed to answer by the practice review hearing committee.

#### **Proceedings in absence of teacher or teacher leader**

**24** The practice review hearing committee may, on proof of service of the notice of hearing on the teacher or teacher leader who is the subject of the hearing,

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



**Finding — unskilled or incompetent in teaching or leadership duties**

**25** The practice review hearing committee may find one or more of the following with respect to the teacher or teacher leader who is the subject of the hearing:

- (a) that the teacher or teacher leader
  - (i) is unskilled or incompetent in teaching if, in the opinion of the practice review hearing committee, the teacher or teacher leader does not meet the requirements of the Teaching Quality Standard, or
  - (ii) is not unskilled or incompetent in teaching;
- (b) that the teacher leader
  - (i) is unskilled or incompetent in carrying out the leadership duties related to a leadership certificate if, in the opinion of the practice review hearing committee, the teacher leader does not meet the requirements of the Leadership Quality Standard, or
  - (ii) is not unskilled or incompetent in carrying out the leadership duties related to a leadership certificate;
- (c) that the teacher leader
  - (i) is unskilled or incompetent in carrying out the leadership duties related to a superintendent leadership certificate if, in the opinion of the practice review hearing committee, the teacher leader does not meet the requirements of the Superintendent Leadership Quality Standard, or
  - (ii) is not unskilled or incompetent in carrying out the leadership duties related to a superintendent leadership certificate.

**Finding — unprofessional conduct**

**26(1)** The practice review hearing committee

- (a) may find the conduct of the teacher or teacher leader who is the subject of the hearing to constitute unprofessional conduct if, in the opinion of the practice review hearing committee, the teacher's or teacher leader's conduct

- (i) is detrimental to the best interests of students, the public, teachers or teacher leaders generally, or
  - (ii) does not meet the professional conduct requirements,
- (b) must find the conduct of the teacher or teacher leader who is the subject of the hearing to constitute unprofessional conduct if the teacher's or teacher leader's conduct is the basis for a conviction for an indictable offence, or
- (c) if clauses (a) and (b) do not apply, may find that the conduct of the teacher or teacher leader who is the subject of the hearing does not constitute unprofessional conduct.

(2) If a teacher or teacher leader has been convicted of an indictable offence, a practice review hearing committee must make a recommendation to the Minister under section 27(3) and has no authority to investigate the conduct of the teacher or teacher leader on which the conviction is based except for the purpose of making a recommendation to the Minister.

**Recommendations of practice review hearing committee**

**27(1)** The practice review hearing committee may recommend that the Minister dismiss the complaint if the practice review hearing committee does not find

- (a) that the teacher or teacher leader who is the subject of the hearing is
  - (i) unskilled or incompetent in teaching,
  - (ii) unskilled or incompetent in carrying out the leadership duties related to a leadership certificate, or
  - (iii) unskilled or incompetent in carrying out the leadership duties related to a superintendent leadership certificate,

or

- (b) that the conduct of the teacher or teacher leader constitutes unprofessional conduct.

(2) The practice review hearing committee may make a recommendation to the Minister under subsection (3) if the practice review hearing committee finds

- (a) that the teacher or teacher leader who is the subject of the hearing is
  - (i) unskilled or incompetent in teaching,
  - (ii) unskilled or incompetent in carrying out the leadership duties related to a leadership certificate, or
  - (iii) unskilled or incompetent in carrying out the leadership duties related to a superintendent leadership certificate,

or

- (b) that the conduct of the teacher or teacher leader constitutes unprofessional conduct.

(3) The practice review hearing committee may recommend that the Minister do one or more of the following:

- (a) serve a letter of reprimand on the teacher or teacher leader;
- (b) suspend one or more of the certificates of the teacher or teacher leader, with or without conditions;
- (c) cancel one or more of the certificates of the teacher or teacher leader or cancel the certificate and issue a certificate of a different class, with or without conditions;
- (d) order that the teacher or teacher leader be ineligible for one or more certificates for a definite or indefinite period of time, with or without conditions.

(4) If the decision of a practice review hearing committee

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

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

**Written decision**

**28(1)** Not more than 45 days after the conclusion of a hearing, the practice review hearing committee must make a written decision on the matter.

**(2)** A written decision referred to in subsection (1) must include

- (a) each finding made by the practice review hearing committee,
- (b) the reasons for each finding, and
- (c) the recommendation of the practice review hearing committee.

**(3)** The chair of the practice review hearing committee must forthwith

- (a) serve a copy of the decision on the teacher or teacher leader, and
- (b) send to the Registrar a copy of the decision and the record of the hearing that consists of all evidence before the practice review hearing committee, including all
  - (i) exhibits,
  - (ii) records and documents, and
  - (iii) testimony given before the practice review hearing committee, whether recorded in electronic, mechanical or handwritten form.

**(4)** The teacher or teacher leader and any person representing the teacher or teacher leader may examine the record or any part of the record of the proceedings before the practice review hearing committee and hear any recording or examine any mechanical or handwritten record of evidence given before the practice review hearing committee.

**(5)** If the teacher or teacher leader requests a transcript of all or part of the hearing, the teacher or teacher leader must pay the cost of the preparation of the transcript.

**(6)** If no appeal is commenced within the period set out in section 29(2), the chair of the practice review hearing committee must

forthwith, on the expiry of that period, send a copy of the decision of the practice review hearing committee to the Minister.

### **Appeal to Practice Review Appeal Committee**

#### **Appeal**

**29(1)** The teacher, teacher leader or Registrar may appeal a finding or a recommendation, or both, of a practice review hearing committee to a practice review appeal committee.

**(2)** To commence an appeal under subsection (1), the teacher, teacher leader or Registrar must submit a written notice of appeal to the chair of the practice review general panel not more than

**(a)** 15 days after the date on which the decision of the practice review hearing committee is served on the teacher or teacher leader, in the case of a teacher or teacher leader, or

**(b)** 15 days after the Registrar receives the decision, in the case of the Registrar.

**(3)** A notice under subsection (2) must

**(a)** describe the finding or recommendation, or both, being appealed, and

**(b)** state the reasons for the appeal.

**(4)** On receiving a notice of appeal under subsection (2), the chair of the practice review general panel must notify the following persons that the appeal has been received:

**(a)** the teacher or teacher leader, in the case of an appeal by the Registrar;

**(b)** the Registrar, in the case of an appeal by a teacher or teacher leader;

**(c)** the administrator.

**(5)** On the establishment of a practice review appeal committee to hear an appeal, the chair of the practice review hearing committee must forthwith set the date, time and location of the appeal hearing.

(6) At least 15 days before the date of the appeal hearing, the chair of the practice review appeal committee must notify the teacher or teacher leader and the Registrar

- (a) of the date, time and location of the appeal hearing, and
- (b) of their rights under section 30(1).

**Proceedings at appeal**

**30(1)** At the hearing before a practice review appeal committee, the teacher or teacher leader and the Registrar may

- (a) appear and be represented by counsel or any other individual,
- (b) make written and oral representations, and
- (c) at the request of the practice review appeal committee, provide clarification of any matter under consideration by the practice review appeal committee.

(2) The appeal to the practice review appeal committee must be founded on the decision of the practice review hearing committee and the record of the proceedings before the practice review hearing committee.

(3) Sections 21(3) and (4) and 22 to 24 apply to proceedings before the practice review appeal committee.

**Public hearing**

**31** A hearing before the practice review appeal committee must be open to the public unless, in the opinion of the practice review appeal committee, the interests of any person other than the teacher or teacher leader who is the subject of the hearing may be detrimentally affected if the hearing is not held in private.

**Decision on appeal**

**32(1)** Not more than 30 days after the conclusion of the proceedings before it, the practice review appeal committee must do one or more of the following:

- (a) quash, vary or confirm a finding or recommendation of the practice review hearing committee, or substitute a finding or recommendation of its own;

- (b) refer the matter back to the practice review hearing committee for further consideration, if the practice review appeal committee is satisfied that new evidence is available;
  - (c) direct the chair of the practice review general panel to establish a new practice review hearing committee and refer the matter to the practice review hearing committee for a new hearing.
- (2) The practice review appeal committee must make a written decision on the appeal that includes its reasons.
- (3) The chair of the practice review appeal committee must forthwith
- (a) serve a copy of the decision on the teacher or teacher leader,
  - (b) send to the Registrar a copy of the decision and the record of the hearing that consists of all evidence before the practice review appeal committee, including all
    - (i) exhibits,
    - (ii) records and documents, and
    - (iii) testimony given before the practice review hearing committee, whether recorded in electronic, mechanical or handwritten form,
- and
- (c) send a copy of the decision to the Minister.

### **Minister's Decision**

#### **Powers of the Minister**

**33(1)** On receiving the decision of a practice review hearing committee or practice review appeal committee, the Minister may examine the record or any part of the record of the proceedings before the practice review hearing committee or practice review appeal committee and hear any recording or examine any electronic, mechanical or handwritten record of evidence given before the practice review hearing committee or practice review appeal committee.

**(2)** On receiving the decision of a practice review hearing committee or practice review appeal committee, the Minister may do one or more of the following, whether or not that is the recommendation of the practice review hearing committee or practice review appeal committee:

- (a) dismiss the complaint;
- (b) serve a letter of reprimand on the teacher or teacher leader;
- (c) suspend one or more of the certificates of the teacher or teacher leader, with or without conditions;
- (d) cancel one or more of the certificates of the teacher or teacher leader or cancel one or more of the certificates and issue one or more certificates of a different class, with or without conditions;
- (e) order that the teacher or teacher leader be ineligible for one or more certificates for a definite or indefinite period of time, with or without conditions.

**(3)** A decision to take an action under subsection (2) must be in writing and must include the reasons for the decision.

**(4)** The Minister must

- (a) serve a copy of the decision on the teacher or teacher leader, and
- (b) send a copy of the decision to
  - (i) the Registrar,
  - (ii) the complainant, if any, and
  - (iii) the administrator.

**(5)** A decision under this section is final.

**(6)** The Minister may take whatever action the Minister considers appropriate to

- (a) implement a decision under this section, and
- (b) make public a decision under this section.



## General

### Service

**34(1)** When this Regulation requires that a document or notice be served on an individual, the document or notice is sufficiently served

- (a) if it is served personally on the individual or sent to the individual by recorded mail,
  - (i) in the case of a teacher or teacher leader, at the address last shown for the teacher or teacher leader on the registry under the *Certification of Teachers and Teacher Leaders Regulation*, or
  - (ii) in the case of any other individual, at the individual's last known address,

or

- (b) if it is sent to the individual at an address the individual has provided as an address to which information or data may be transmitted by electronic means and
  - (i) the electronic means used results in the receipt of a document in a form that is usable for subsequent reference, and
  - (ii) the sender obtains or receives a confirmation that the transmission to the address of the person to be served was successfully completed.

**(2)** Service is effected under subsection (1)(b) when the sending electronic agent obtains or receives confirmation of the successfully completed transmission.

**(3)** In this section,

- (a) "electronic" means electronic as defined in the *Electronic Transactions Act*;
- (b) "electronic agent" means electronic agent as defined in the *Electronic Transactions Act*;
- (c) "recorded mail" means a form of document delivery by mail or courier in which receipt of the document must be acknowledged in writing.

**Transitional**

**35(1)** In this section and in section 1(1)(g), “former regulation” means the *Practice Review of Teachers Regulation* (AR 11/2010).

(2) On the coming into force of this Regulation, the members of

- (a) the practice review general panel,
- (b) the practice review complainant appeal committee, and
- (c) the practice review appeal committee

established under the former regulation who hold office immediately before the coming into force of this Regulation are members of the practice review general panel under this Regulation until their terms of office expire or until other members are appointed to replace them.

(3) If a proceeding before the practice review complainant appeal committee under the former regulation has not been concluded on the coming into force of this Regulation, then, on the coming into force of this Regulation, the members of the practice review complainant appeal committee under the former regulation continue as members of the practice review complainant appeal committee for the purpose of continuing and concluding the proceeding under this Regulation and the practice review complainant appeal committee is deemed to have been established under section 6 of this Regulation.

(4) If a proceeding before a practice review hearing committee under the former regulation has not been concluded on the coming into force of this Regulation, then, on the coming into force of this Regulation, the members of the practice review hearing committee under the former regulation continue as members of the practice review hearing committee for the purpose of continuing and concluding the proceeding under this Regulation and the practice review hearing committee is deemed to have been established under section 7 of this Regulation.

(5) If a proceeding before the practice review appeal committee under the former regulation has not been concluded on the coming into force of this Regulation, then, on the coming into force of this Regulation, the members of the practice review appeal committee under the former regulation continue as members of the practice review appeal committee for the purpose of continuing and

concluding the proceeding under this Regulation and the practice review appeal committee is deemed to have been established under section 8 of this Regulation.

(6) For greater certainty, if an investigation commenced under the former regulation has not been concluded on the coming into force of this Regulation, the appointment of the investigator continues under this Regulation and the investigation continues under this Regulation.

(7) For greater certainty, if a resolution process commenced under the former regulation has not been concluded on the coming into force of this Regulation, the appointment of the person to conduct the resolution process continues under this Regulation and the resolution process continues under this Regulation.

(8) A complaint under the former regulation that is not disposed of before the coming into force of this Regulation must be continued under and dealt with in accordance with this Regulation.

### **Repeal and Expiry**

#### **Repeal**

**36** The *Practice Review of Teachers Regulation* (AR 11/2010) is repealed.

#### **Expiry**

**37** For the purposes of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on August 31, 2024.

### **Coming into Force**

#### **Coming into force**

**38** This Regulation comes into force on September 1, 2019.

### **Schedule**

#### **Professional Conduct Requirements for Teachers and Teacher Leaders**

The conduct of teachers and teacher leaders, both on and off duty, bears directly on the community's perception of the ability of teachers and teacher leaders to fulfill their unique position of trust and influence. Society and the school community hold teachers and teacher leaders to a high standard of conduct. Teachers and teacher leaders are expected to conduct themselves with due regard to the

honour, dignity, welfare, rights and best interests of students, parents, colleagues, their employer and the teaching profession.

These are minimum professional conduct requirements for teachers and teacher leaders who are not subject to the *Teaching Profession Act*. It is not an exhaustive list of requirements.

A teacher or teacher leader who is not subject to the *Teaching Profession Act* and who is alleged to have violated the standards of the profession, including these requirements, may be subject to a complaint of alleged unprofessional conduct under the *Practice Review of Teachers and Teacher Leaders Regulation*.

1 In relation to students,

- (a) the teacher or teacher leader is required to teach in a manner in keeping with
  - (i) the Teaching Quality Standard,
  - (ii) applicable legislation, and
  - (iii) the policies of Alberta Education,
- (b) the teacher leader is required to lead in a manner in keeping with
  - (i) the Leadership Quality Standard, if applicable,
  - (ii) the Superintendent Leadership Quality Standard, if applicable,
  - (iii) applicable legislation, and
  - (iv) the policies of Alberta Education,
- (c) the teacher or teacher leader is required to teach or lead, as the case may be, in a manner that respects the dignity and rights of all persons and is considerate of their circumstances,
- (d) the teacher or teacher leader is required not to disclose information received about a student in confidence or in the course of performing the teacher's or teacher leader's professional duties except
  - (i) as required by law, or
  - (ii) where
    - (A) in the teacher's or teacher leader's judgment, it would be in the best interests of the student to disclose the information, and
    - (B) the disclosure of the information is permitted by law,

and

- (e) the teacher or teacher leader is required not to
  - (i) profit from

- (A) any learning activities of students in the school in which the teacher or teacher leader is employed, or
- (B) the sale of goods or services to students in the school in which the teacher or teacher leader is employed,

or

- (ii) accept pay for tutoring students in the school in which the teacher or teacher leader is employed.

**2** In relation to parents of students, the teacher or teacher leader is required

- (a) to strive to establish a relationship of trust with parents,
- (b) to provide parents with candid evaluations of their child's progress,
- (c) to treat information received from parents with discretion,
- (d) to be respectful in communications with and about parents, and
- (e) not to discuss other students except where the matters being discussed are relevant to their child and then only to the extent that, in the teacher's or teacher leader's judgment, is necessary.

**3** In relation to colleagues, the teacher or teacher leader is required

- (a) not to undermine the confidence of students in other teachers or teacher leaders, including teachers or teacher leaders to whom the *Teaching Profession Act* applies,
- (b) not to criticize the professional competence or professional reputation of another teacher or teacher leader, including a teacher or teacher leader to whom the *Teaching Profession Act* applies, except
  - (i) in confidence to appropriate officials and after informing the other teacher or teacher leader of the criticism, subject only to section 24 of the *Teaching Profession Act*,
  - (ii) in making a complaint about the unprofessional conduct of a teacher or teacher leader under section 11 of the *Practice Review of Teachers and Teacher Leaders Regulation* or section 24 of the *Teaching Profession Act*, or
  - (iii) as reasonably necessary, in the case of a superintendent as defined in section 1(i) of the *Teaching Profession Act* or an administrator acting in the course of the superintendent's or administrator's leadership duties with respect to the teacher or teacher leader,

and

- (c) not to take any steps to secure the discipline or dismissal of another teacher or teacher leader, including a teacher or teacher leader to whom the *Teaching Profession Act* applies, where the motivation of the teacher or the teacher leader in taking the steps is the teacher's or the teacher leader's personal advantage or animosity toward the other teacher or teacher leader.

4 In relation to the teacher's or teacher leader's employer, the teacher or teacher leader is required

- (a) to respect the authority of the employer and the members of the school administration,
- (b) to express any concerns that the teacher or teacher leader has about the employer or the members of the school administration or the operation of the school through appropriate channels as outlined in applicable policies and in an appropriate manner,
- (c) to protest through appropriate channels any administrative policies or practices that the teacher or teacher leader cannot in good conscience accept,
- (d) to express his or her opinions and bring forward suggestions regarding the employer, the members of the school administration or the operation of the school through appropriate channels and in an appropriate manner,
- (e) to foster and maintain open and honest communication with the employer and the members of the school administration,
- (f) without limiting clauses (b) to (d), to be supportive of the employer and members of the school administration,
- (g) to fulfill the terms of his or her contract of employment, and
- (h) in the case of a teacher to bring it to the attention of members of the school administration, or in the case of a teacher leader to bring it to the attention of the administrator, if the teacher or teacher leader is
  - (i) assigned duties that the teacher or teacher leader is not qualified to carry out, or
  - (ii) required to work in conditions that make it difficult for the teacher or teacher leader to teach or for the teacher leader to carry out duties related to a leadership certificate or superintendent leadership certificate.

5 In relation to the teaching profession, the teacher or teacher leader is required

- (a) to conduct himself or herself in a manner that maintains the honour and dignity of the profession, and
- (b) not to engage in activities that adversely affect the quality of the teacher's or teacher leader's professional service.

**6** In relation to the school community as a whole, the teacher or teacher leader is required

- (a) to conduct himself or herself in a manner that maintains the good reputation of the school and the employer,
- (b) to be knowledgeable about and able to communicate accurately the philosophy, mission and policies of the school and the employer, and
- (c) to conduct himself or herself in a manner that is respectful of the norms and values of the school community.