

Bill 12 - Repeal of *Teaching Profession Act* and end of the British Columbia College of Teachers

Bill 12, the *Teachers Act*, was introduced in the British Columbia legislature and received Royal Assent on November 14, 2011. Bill 12 – 2011 repeals the *Teaching Profession Act*¹ [RSBC 1996] Chapter 449. The new statute, entitled the *Teachers Act* creates a new structure for guiding teachers in BC, including the dissolution of the British Columbia College of Teachers (BCCT) and its replacement by means of a new British Columbia Teachers' Council (referred to as 'the Council').

There are nine parts to the new legislation:

- Definitions
- Commissioner and Director of Certification
- BC Teachers Council and Disciplinary Conduct Board
- Certification
- Responsibilities of Authorized Persons
- Disciplinary and Professional Conduct Inquiries and Certification Appeals
- Register and Employers List
- General
- Transitional

The objects of the Council are:

- To establish standards for the education of applicants for certificates of qualification
- To establish standards for the conduct and competence of applicants for certificates of qualification and certification

The *Teachers Act* sets up a new system to certify, regulate and discipline teachers through shared responsibility between the Provincial Government and the public education sector. A key part of the new structure will be a new Discipline and Professional Conduct Board to hear complaints made against teachers. As a result, the Minister of Education's intention is to restore a greater balance to disciplinary processes for the profession.

Structural Changes

The Minister of Education will appoint a new Commissioner. School Districts and Independent schools will now report issues related to conduct or competency of teachers to the Commissioner (rather than to the now dissolved BCCT). The Commissioner will have similar powers to those which previously resided in the BCCT Council related to compelling witness and requiring disclosure. The Commissioner will oversee a new Council and the Discipline and Professional Conduct Board.

¹ R.S.B.C. 1996, c.449 (as amended).

The Commissioner has the power to suspend certificates or letters of permission if the Commissioner believes there is a risk of:

- Physical harm to a student
- Sexual abuse or sexual exploitation of a student, or
- Significant emotional harm to a student²

The Commissioner can defer proceeding if there is another procedure underway and the Commissioner believes it is in the public interest to defer³. The Commissioner can also take action at any time⁴.

A new process for consensual resolution was introduced. The Commissioner may propose or accept a proposal from the person who is the subject of a report or complaint⁵. The agreement must contain one or more admission, the terms of the resolution and one or more consequences⁶. The effect of the consent resolution is the same as an order⁷. No further action will be taken unless the person does not comply with the terms of the agreement⁸. The consent resolution is not confidential and a copy will be sent to the complainant or generator of the report, unless the Commissioner decides otherwise⁹.

The new Council will have 15 voting members, including:

- Three teachers from the BCTF
- Five teachers elected by teachers on a regional basis (formerly there were twelve elected from twelve zones, there are now five zones)
- Seven members based on nominations from the following partner groups:
 - BC School Trustees Association;
 - BC School Superintendents' Association;
 - BC Principals' and Vice-principals Association;
 - BC Confederation of Parent Advisory Councils;
 - First Nations Education Steering Committee;
 - Federation of Independent School Associations;
 - Association of British Columbia Deans of Education.

The Council will also include one non-voting Government representative appointed by the Minister. The role of the Council will be to set standards for teachers in areas such as certification, conduct and competence. It will also have the authority to approve teacher education programs for the certification purposes.

The Disciplinary and Professional Conduct Board

The nine-member Disciplinary and Professional Conduct Board will consist of members drawn from the Council, and include four members from the BCTF¹⁰. The Government will appoint a Commissioner to receive complaints and reports about alleged teacher misconduct, conduct preliminary investigations and – where appropriate – assign members of the board to hold disciplinary hearings in three-member

² *Bill 12*, 2011, s.50(1).

³ *Ibid.*, s.46(1)

⁴ *Ibid.*, s.46(3).

⁵ *Ibid.*, s.46(3)(iii), s.53-55.

⁶ *Ibid.*, s.53(3)

⁷ *Ibid.*, s.53(4).

⁸ *Ibid.*, s.53(5).

⁹ *Ibid.*, s.53(8)

¹⁰ *Ibid.*, s.9(1)

panels¹¹. These panels will include one, but no more than one, BCTF member¹². Disciplinary hearings will now be held in public, subject to the panel's power to exclude "...if the panel considers that the desirability of avoiding disclosure in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public¹³."

The panels will have jurisdiction over fitness, conduct and competence and will have the power to revoke, suspend, grant or impose conditions on teaching certificates¹⁴. The majority decision of the panel is the decision of the panel¹⁵. The panel decides whether to dismiss a citation, determine the person is guilty of professional misconduct or conduct unbecoming a teacher, determine the person has been or is incompetent to carry out the duties of a teacher, or determine the person does not have the capacity to carry out professional duties as a teacher due to physical or mental disability¹⁶. The panel may also make any other report respecting the citation it feels is appropriate¹⁷. The panel determines the consequences of a finding ranging from a reprimand, limitations or conditions on the certificate, suspension or the cancelation of the certificate¹⁸. Written reasons to the person who is the subject of the complaint must be provided¹⁹. The reasons will be published and given to the person who sent the complaint or the report, unless it would cause significant hardship to a person who was harmed, abused or exploited²⁰. As in the past with the BCCT, in the case of decisions to cancel or suspend a certificate or letter of permission, notice will be given to boards and independent schools²¹.

Responsibilities of New Council Members and the Ministry of Education

The new Council members will have to take an oath of office²². They must act in good faith and they must put the public interest ahead of the interest of any other group with which they are affiliated²³. The Minister may remove any member from Council if they breach the oath²⁴.

The Council has the power and duty to establish the standards a person must meet to be issued and maintain a certificate²⁵. This includes training and qualifications for applicants and professional, academic and specialist standards. They have the duty to establish both competence standards and conduct standards²⁶. They can classify certificates of qualification into different types²⁷.

The Minister will be responsible for all appointments to the new structure, other than the selection of elected members²⁸. The Ministry of Education will take on the administrative functions of the former college, including issuing teaching certificates, maintaining employer and discipline registries and

¹¹ *Ibid.*, s.57(1).

¹² *Ibid.*, s.57(2)(a)

¹³ *Ibid.*, s.61(1) and (2)

¹⁴ *Ibid.*, s.64.

¹⁵ *Ibid.*, s.58(1).

¹⁶ *Ibid.*, s.63(1)(a) through (e).

¹⁷ *Ibid.*, s.63(1) (f)

¹⁸ *Ibid.*, s.64.

¹⁹ *Ibid.*, s.66(1).

²⁰ *Ibid.*, s.66(2) through (5).

²¹ *Ibid.*, s.67(a).

²² *Ibid.*, s.11(1).

²³ *Ibid.*, s.29(3).

²⁴ *Ibid.*, s.11(5).

²⁵ *Ibid.*, s.13(d)

²⁶ *Ibid.*, s.13(d)(i)

²⁷ *Ibid.*, s.13(e).

²⁸ *Ibid.*, s.9.

providing administrative support to the Council and Board²⁹. There will be a Director of Certification to deal with certification matters³⁰. The Director and staff will be employees under the Ministry of Education.

Independent school teacher certification, discipline and registries, currently under the authority of the Inspector of Independent Schools, will be amalgamated to create a single administrative structure for all BC teachers³¹.

Transitioning from the BCCT to the Council

There are transitional provisions in the new legislation³². The former bylaws of the BCCT will function as previously until some portions of the new act are operational through regulation in council³³.

The target date for the new Council is in early January. The BCCT web site has [a question and answer sheet](#) to deal with transition issues.

Of immediate significance are changes to the practising and non-practising fee structure. Teachers who are on leave, either personal or long term disability, or retired must pay a top up to the practising fee of \$120.00 by January 6, 2012. Teachers going on leaves of absence must be reminded to keep their fees up to date.

The requirement is the same for retired non-practising members as for any non-practising member. You will need to “top-up” to practicing status by paying an additional \$60. If you do not do so, you will lose your teaching certificate as of January 6, 2012. If you lose your teaching certificate because you do not pay the practicing fee of \$120 by January 6, 2012, you will have to reapply for your certificate and meet all the current requirements for certification.

The offices for Certification will remain at the same address as the BCCT. Applications for letter of permission would continue in the same fashion until there is notification of changes.

²⁹ *Ibid.*, s.87-89.

³⁰ *Ibid.*, s.6.

³¹ *Ibid.*, s.92-96, Part 4.2

³² See Part 9 of Bill 12.

³³ *Supra* note 2, s.90.