

## **Bill 21, *Teaching Profession (Teacher Registration) Amendment Act, 2007* and Bill 22, *Education Statutes Amendment Act, 2007***

On March 27 and March 29, 2007, respectively, the provincial government introduced further legislation affecting public school boards. Both bills are currently in first reading.

### **Bill 21, *Teaching Profession (Teacher Registration) Amendment Act, 2007***

Introduced on Tuesday March 27, Bill 21, *Teaching Profession (Teacher Registration) Amendment Act, 2007*, will create a teacher employment registry and a teacher discipline registry, both to be administered by the BC College of Teachers (BCCT). Bill 21 will also amend the duty to report:

- any suspension or dismissal
- any conduct or competence in breach of the BCCT standards
- any discipline of a member of the BCCT, or a teacher certified by the inspector of independent schools, for misconduct that involved the emotional, physical or sexual abuse of a student or minor.

Following is a summary of the legislation and discussion of employment-related implications that will arise out of the proposed changes.

#### **1. Teacher Employment Registry (Employers List)**

Section 1 of Bill 21 amends the *Teaching Profession Act* (TPA) by including provisions that require the BCCT to create and maintain a list that identifies the employers of every member and allows prospective employers to inspect the list. In order to create the list, employers (school boards and independent school authorities) must submit to the BCCT, on or before October 15 of each year, information that identifies the members employed by the employer during the previous 12-month period.

Prospective employers who inspect the list must keep the information confidential.

This section will impose annual reporting requirements on school boards. However, it will allow school boards to access the names of a potential employee's current and/or former employers. It is necessary to clarify whether the information on the employers list may only be accessed and used during the hiring process. When the legislation is enacted we will provide direction on this point.

#### **2. Public Notification and Online Registry**

Section 2 of Bill 21 introduces provisions requiring the BCCT registrar to notify the public of members, or holders of letters of permission, who have been disciplined by the council. Such notification may be made by posting a notice on the BCCT website.

Section 2 also provides for the establishment of an online public registry by the BCCT, which will make the following information accessible to the public:

- The name of the member or holder of a letter of permission
- The current status of the member's certificate of qualification or letter of permission
- A record of any suspensions or cancellations of the member's certificate of qualification or letter of permission
- A record of disciplinary action (including reasons) taken by the council with regard to the member or a holder of letter of permission for misconduct involving physical harm, sexual abuse or emotional harm of a student or minor, or conduct or competence that breached the council's standards of professional conduct or competence.

### 3. Amendments to Section 28 and 36 of the TPA

Section 3(c) of Bill 21 deletes the following sections of the TPA:

28(4.1) If a grievance has been taken under the terms of a collective agreement respecting a dismissal, suspension or other disciplinary action reported under section 16 of the *School Act*, the council or disciplinary committee must not proceed under subsection (4) [conduct a preliminary investigation] in response to the report until the grievance procedure has been concluded.

28(4.2) If a grievance has been taken under the terms of a collective agreement respecting a dismissal, suspension or other disciplinary action reported under section 166.28 of the *School Act*, the council or disciplinary committee must not proceed under subsection (4) [conduct a preliminary investigation] in response to the report until the grievance procedure has been concluded.

The deletion of the above sections of the TPA will have procedural implications for employers as a result of the BCCT discipline process being able to proceed before the grievance and arbitration process is completed. BCPSEA will provide clarification on this point following enactment and case-specific advice regarding grievances and arbitrations arising out of disciplinary actions taken by a board.

Section 3(c) of Bill 21 amends section 36 of the TPA to require the BCCT registrar to notify each school board, the minister and make a record of the notification, when a member is reprimanded or the certificate of qualification of a member is suspended or cancelled.

### 4. Amendments to Reporting Provisions in the *School Act*

Section 6 of Bill 21 amends section 16 of the *School Act*. Under the current section 16, school boards are obligated to report the dismissal, suspension or discipline of a member of the BCCT, or a person holding a letter of permission, or the resignation of such a person if it is in the public interest to do so. Under the proposed amendments, the obligation to report is placed on the superintendents. Further, a superintendent who fails to report in accordance with section 16 commits an offence (except in the case of reporting a breach of the BCCT standards of professional conduct or competence).

If a superintendent suspends a member or a holder of a letter of permission, he/she must send a report (including reasons) regarding the suspension to the BCCT. If the school board suspends or dismisses a member or a holder of a letter of permission or disciplines such a

person for misconduct that involves physical harm, sexual abuse or significant emotional harm to a student or minor, the school board must notify the superintendent. It is the superintendent who is obligated to send the report (including reasons) to the BCCT. The superintendent must also send a copy of the report to the individual who was suspended, dismissed or disciplined. A superintendent who fails to report to the BCCT in these circumstances commits an offence.

If a superintendent considers any conduct by, or competence of, a member or a holder of a letter of permission to be in breach of the BCCT standards of professional conduct or competence, the superintendent must send the BCCT a report of the conduct or competence if it is in the public interest to do so. The superintendent must also send a copy of the report to the individual. It is not an offence to fail to report under these circumstances.

A superintendent must also report the resignation of a member or a holder of a letter of permission to the BCCT if it is in the public interest to do so. The superintendent must also send a copy of the report to the individual who has resigned. A superintendent who fails to report such a resignation commits an offence.

A superintendent who has made a report under section 16 must, after being requested to do so by the BCCT, provide the BCCT with all of the records available to the superintendent that touch on the matter in respect of which the report was made and send a copy of those records to the individual. The requirement to provide records currently exists in section 16(3) of the *School Act*. However, it currently is an obligation of the school board. Bill 21 will shift that obligation to the superintendent.

Where it is the superintendent who is suspended, dismissed or disciplined (for the same reasons set out above) or who resigns, the school board must send the report to the BCCT, with a copy to the superintendent. Further, the school board must, at the request of the BCCT, provide the BCCT with all the records available to the board that touch on the matter in respect of which the report was made and send a copy to the superintendent. Failure to report in these circumstances is not an offence.

Finally, Bill 21 authorizes the minister to appoint a special advisor to investigate the circumstances surrounding a superintendent's failure to make a report under section 16, a board's failure to notify or report under section 16, and the failure of the board to submit to the BCCT the information required by the employers list provisions.

These proposed changes will have significant employment-related issues. As stated above, the obligation to report will be shifted to the superintendents in the case of dismissal, suspension or discipline of a member or a holder of a letter of permission. Under the proposed amendments in Bill 21, a superintendent who fails to report (except in the case of a breach of the BCCT standards of professional conduct or competence) commits an offence.

Further, the deletion of the sections of the TPA that require the BCCT to wait until a grievance procedure is concluded before it conducts an investigation may have an impact on the superintendent's obligation to provide records to the BCCT and the individual when a report is made.

**Bill 22 – Education Statutes Amendment Act, 2007**

Introduced on Thursday March 29, Bill 22, *Education Statutes Amendment Act, 2007*, revises the *Independent School Act*, the *School Act*, the *Teaching Profession Act*, and a number of related amendments to other statutes. Following is a summary of the legislation.

- All Boards of Education will be required to have a code of conduct for students which complies with provincial standards established by the minister.
- The provincial funding announcement date is changed from February 1 to March 15.
- There are a number of changes to the *School Act* regarding the operation of school district business companies; e.g., the majority of directors must be at arm's length from the school board, they must appoint auditors and prepare financial statements, they must issue annual reports, and they must hold annual general meetings that are open to the public.
- The provision permitting school district business companies to issue diplomas with the approval of the minister is repealed and the minister is given the express authority to issue such diplomas.
- There are changes to the provisions regarding Personal Education Numbers.
- There are changes to the terms used for directors and officers of the Conseil Scolaire Francophone; i.e., directors will be renamed "Regional Trustees," the title chief executive officer will be changed to "directeur general," and the title chief financial officer will be changed to "secretaire tresorier."
- The minister will have the authority to designate educational activities or categories of educational activities for the purpose of reimbursing expenses incurred for instruction, examination or certification in those educational activities and to establish the amount a student or child will be reimbursed.
- The BCCT will be required to hold its Annual General Meeting between September 1 and December 31.
- The BCCT will be required to distribute information to its members at the Minister's request.

Once the legislation is enacted, BCSPEA will provide specific advice to districts regarding employment-related implications.

**Questions**

If you have any questions about the legislation, please contact:

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