



## **PLEASE NOTE**

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the [Table of Public Acts](#).

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## CHAPTER S-2.1

### SCHOOL ACT

#### PART I DEFINITIONS

- 1. In this Act**
- |  | Definitions               |
|--|---------------------------|
| (a) “administrative position” with respect to instructional personnel includes the position of principals, vice-principals, and such other administrative staff of a school board as the Minister may designate after consultation with school boards; | administrative position   |
| (b) “Agency” means, the Education Negotiating Agency constituted under section 110;  | Agency                    |
| (c) “authorized representative” means  | authorized representative |
| (i) in the case of instructional personnel, the union or association which represents them for the purposes of collective bargaining,  |                           |
| (ii) in the case of non-instructional personnel, the union which represents them for the purposes of collective bargaining;  |                           |
| (d) “Chief Health Officer” means the person so designated or appointed pursuant to the <i>Public Health Act</i> R.S.P.E.I. 1988, Cap. P-30;  | Chief Health Officer      |
| (e) repealed by 1994, c.56, s.1;   | Commission                |
| (f) “Department” means the Department of Education;  | Department                |
| (g) “Director of Child Welfare” means the person appointed to that office pursuant to the <i>Child Protection Act</i> R.S.P.E.I. 1988, Cap. C-5.1;   | Director of Child Welfare |
| (g.1) “eligible parent” means a resident of the province who, under section 23 of the <i>Canadian Charter of Rights and Freedoms</i> , has the right to have his or her children receive French first language instruction in the province;            | eligible parent           |
| (h) “English school board” means a school board created to administer schools in the English school system;  | English school board      |
| (i) “English school system” means the administrative system in which English is used as the language of instruction and in which French is taught as a second language or by means of a French immersion program;                                      | English school system     |

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| expulsion                                 | (j) “expulsion” means exclusion from a school until the end of the school year in which the exclusion occurs;   |
| French first language instruction         | (k) “French first language instruction” means primary and secondary school instruction in French as a first language, but does not include a French immersion program;  |
| French school board                       | (l) “French school board” means a school board created to administer schools and classes in the French school system;   |
| French school system                      | (m) “French school system” means the administrative system in which French is used as the language of instruction and in which English is taught as a second language;  |
| instructional personnel                   | (n) “instructional personnel” means a person who has been issued a license under subsection 3(1) and such other employees of a school board as the Minister may designate;  |
| Minister                                  | (o) “Minister” means the Minister of Education;   |
| non-instructional personnel               | (p) “non-instructional personnel” means members of the transportation group, members of the property maintenance group, members of the school secretaries administrative support group, members of the school board office administration support group, teacher assistants and such other persons as the Minister may designate, but excludes supervisory personnel; |
| notifiable, nuisance or regulated disease | (q) “notifiable”, “nuisance” or “regulated disease” has the meaning prescribed by the <i>Public Health Act</i> ;  |
| parent                                    | (r) “parent” includes a guardian and a person who has custody of or access to a student under an enactment or by virtue of any court order but in Part X does not include a foster parent or the Director of Child Welfare;   |
| principal                                 | (s) “principal” means a teacher appointed by the school board to exercise educational leadership and supervisory and administrative responsibilities for a school;  |
| Provincial Superintendent school          | (t) repealed by 1994, c.56, s.1;<br>(u) “school” means a building or a part of a building which is designated as a school;  |
| school board                              | (v) “school board” means a board of school trustees of a school unit, appointed or elected in accordance with this Act;   |
| school unit or unit                       | (w) “school unit” or “unit” means the geographical area that is administered by a school board;   |

- (x) “school year” means a period beginning and ending on such dates as may be prescribed in the regulations; school year
- (y) “student” means a person student  
 (i) enrolled in an educational program authorized by this Act, or  
 (ii) required under section 69 to attend school;
- (z) “student teacher” means a person engaged in practice teaching while enrolled in a teacher education program recognized by the Minister; student teacher
- (aa) “supervisory personnel” supervisory personnel  
 (i) with respect to instructional personnel, includes such supervisory staff of a school board as the Minister may designate, after consultation with the school boards,  
 (ii) with respect to non-instructional personnel, includes such supervisory staff of school boards as the Minister may designate, after consultation with the school boards;
- (bb) “teacher” means a person holding a valid and subsisting license to teach issued by the Minister and in Part VII includes a member of the instructional personnel who does not hold a license to teach; teacher
- (bb.1) “Treasury Board” means the Treasury Board constituted under subsection 8(1) of the *Executive Council Act* R.S.P.E.I. 1988, Cap. E-12; Treasury Board
- (cc) “trustee” means a person elected or appointed under this Act as a member of a school board in the province; trustee
- (dd) “Unit Superintendent” means the person appointed as the chief executive officer of a school board; Unit Superintendent
- (ee) repealed by 2006,c.39,s.1. 1993,c.35,s.1; 1994,c.56,s.1; 1995,c.8,s.1; 2000(2nd),c.3,s.62; 2003,c.43,s.1; 2006,c.39,s.1. where numbers warrant

## PART II MINISTER

### A. Administration and Delegation of Powers

2. (1) The Minister is responsible for the administration of this Act, for ensuring the provision of educational services through the Department, and the school boards, and for overall leadership of the educational system in the province. Administration

(2) The Minister may delegate to employees of the Department any of the powers, responsibilities and functions of the Minister as the Minister considers advisable. 1993, c.35, s.2; 1994, c.56, s.2. Delegation

### B. Instructional Licenses and Authorizations

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| Minister issues instructional licenses                     | <b>3.</b> (1) The Minister may issue an instructional license to a person based upon the standards and criteria recommended by the Certification and Standards Board and approved by the Minister.   |
| Minister may refuse to issue instructional license         | (1.1) The Minister may refuse to issue an instructional license to a person on the grounds <ul style="list-style-type: none"> <li>(a) that the person held an instructional license or its equivalent in another province that was revoked;</li> <li>(b) that the person does not meet the standards and criteria approved under subsection (1); or</li> <li>(c) set out in the regulations.</li> </ul>  |
| Minister may suspend, revoke instructional license         | (2) The Minister may suspend or revoke an instructional license for cause in accordance with the regulations.  |
| School board not to pay where license suspended or revoked | (3) Notwithstanding any other provision of this Act, where the Minister has suspended or revoked an instructional license pursuant to this section, a school board shall not pay the person concerned for any period beyond the date of suspension or revocation of that person's instructional license.   |
| Notice   | (4) The Minister shall give notice to every provincial and territorial teacher certification authority in Canada of <ul style="list-style-type: none"> <li>(a) the suspension or revocation of an instructional license for cause;</li> <li>(b) the expiry of an instructional license or the retirement of a teacher if the Minister believes on reasonable grounds that the expiry or the retirement resulted from concerns about the teacher and the safety of children or other persons; and</li> <li>(c) the reinstatements of instructional licenses that were suspended, revoked or expired in any of the circumstances listed in clauses (a) and (b).</li> </ul> |
| Notice to Unit Superintendents                             | (5) The Minister shall provide a copy of any notice given under subsection (4) to the Unit Superintendent of every school board in the province. 1993, c.35, s.3; 2006,c.39,s.2.   |
| Authorization to substitute for a teacher                  | <b>4.</b> (1) The Minister may issue or refuse to issue an authorization to a person to substitute for a teacher based upon the standards and criteria recommended by the Certification and Standards Board and approved by the Minister.  |
| Minister may suspend or revoke authorization               | (2) The Minister may suspend or revoke an authorization and the Minister's decision under this subsection may not be appealed.   |

(3) The Minister shall give notice to every provincial and territorial teacher certification authority in Canada of

Notice

(a) the suspension or revocation of an authorization to substitute for a teacher if the suspension or revocation of the authorization resulted from concerns about the substitute teacher and the safety of children or other persons; and

(b) the expiry of an authorization to substitute for a teacher if the Minister believes on reasonable grounds that the expiry resulted from concerns about the substitute teacher and the safety of children or other persons.

(4) The Minister shall provide a copy of any notice given under subsection (3) to the Unit Superintendent of every school board in the province. 1993, c.35, s.4; 2006,c.39,s.3.

Notice to Unit Superintendents

**5. (1)** A person

Appeal

(a) who is refused an instructional license under clause 3(1.1)(b) or (c); or

(b) whose instructional license is suspended or revoked under subsection 3(2),

may appeal the refusal, suspension or revocation to a board established under the regulations to hear such appeals.

(1.1) The Minister's refusal to issue an instructional license under clause 3(1.1)(a) may not be appealed.

No appeal

(2) The decision of the board is final and binding on the parties and no appeal lies therefrom. 1993, c.35, s.5; 2006,c.39,s.4.

Decision on appeal final

### **C. Salary Scales and Benefits**

**6. (1)** Salary scales and other benefits for instructional personnel shall be negotiated by the Agency and the authorized representative.

Salary scales, instructional personnel

(2) The Minister, after consultation with the school boards and with the approval of the Treasury Board, shall establish salary scales and benefits for all supervisory personnel not covered by a collective agreement. 1993,c.35,s.6; 1994,c.56,s.3; 2003,c.43,s.2.

Minister establishes salary scales, benefits for supervisory personnel

### **D. Minister's Responsibilities**

**7. (1)** The Minister shall

Duties

(a) define the goals, standards, guidelines, policies and priorities applicable to the provision of education in Prince Edward Island;

(b) research and assess changing needs, trends and approaches in education and develop and implement strategic plans;

- (c) provide leadership and coordination in developing curriculum, define curriculum, articulate curriculum standards and assess and evaluate programs at each level;
- (d) establish expected outcomes and standards of performance and assess the extent to which outcomes are achieved and standards are met;
- (e) establish policies for the provision of special education services;
- (f) establish rules respecting the granting of credits, provincial certificates and diplomas;
- (g) establish the school calendar in accordance with the regulations;
- (h) establish an accountability framework for the school system.

## Powers

- (2) The Minister may
- (a) approve and establish courses of study, including the amount of instruction time;
  - (b) approve educational programs and instructional material for use in the schools and educational resource materials in support of educational programs;
  - (c) prohibit, where the Minister considers it necessary, the use of educational programs or instructional materials in schools;
  - (d) approve the conduct of pilot, experimental or local programs in schools;
  - (e) establish such policies respecting educational services as the Minister considers necessary;
  - (f) establish policies respecting the assessment and evaluation of students;
  - (g) establish classes and categories of instructional licenses and authorizations to substitute for teachers;
  - (h) determine the number and type of positions in each school board;
  - (i) take such action as the Minister may consider necessary for the purpose of carrying out the Minister's powers, responsibilities or functions under this Act. 1993, c.35, s.7; 1994, c.56, s.4; 1996, c.40, s.1.

**E. Minister's Directives**

## Directives

**8.** (1) The Minister may issue such directives as the Minister considers necessary to carry out the Minister's responsibilities under this Act.

## Directives of Minister to provide and coordinate educational and administrative services by school boards

- (2) The Minister may, after consultation with school boards, develop and issue directives respecting policies, guidelines and rules for the provision and coordination of educational and administrative services by school boards, with respect to
- (a) the administration of collective agreements;

- (b) the roles and responsibilities of trustees, principals and supervisory personnel of school boards;
- (c) recruitment, hiring procedures and mobility of school board employees;
- (d) performance evaluation procedures and criteria for all school board employees;
- (e) assessment and coordination of staff and leadership development needs;
- (f) procedures and criteria for the evaluation of schools;
- (g) capital expenditure needs and priorities;
- (h) utilization of school board facilities, equipment and services;
- (i) the making of agreements with governments;
- (j) the development of combined or shared services for school boards;
- (k) such other matters as the Minister considers necessary to carry out the Minister's responsibilities under this Act. 1994, c.56, s.5.

#### **F. Request for Information**

**9.** (1) Notwithstanding any other provision of this Act, the Minister may request and a school board shall provide information respecting any matter related to the administration and provision of elementary and secondary education in the province. Minister's request for information

(2) Notwithstanding any other provision of this Act, the Minister may request and a board of directors or person responsible shall provide information respecting any matter related to the administration and provision of elementary and secondary education by private schools and by persons providing home schooling in the province. 1993, c.35, s.9; 1994, c.56, s.6. Request for information, private schools, home schools

#### **G. Report to the Legislative Assembly**

**10.** The Minister shall prepare an annual report and shall ensure that the report and the annual reports of each school board are laid before the Legislative Assembly during the next ensuing session. 1993, c.35, s.10; 1994, c.56, s.7. Annual report to Legislative Assembly

#### **H. Certification and Standards Board**

**11.** (1) The Minister shall establish a Certification and Standards Board, in accordance with the regulations. Certification and Standards Board

(2) The Certification and Standards Board shall make recommendations to the Minister respecting instructional licenses, including the qualifications for, and the classes and categories of licenses Idem



and authorizations to substitutes for teachers in accordance with the regulations. 1993, c.35, s.11.

### **I. Miscellaneous**

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| Advisory groups,<br>committees   | <b>12.</b> The Minister may establish such advisory groups or committees as the Minister considers appropriate. 1993, c.35, s.12.   |
| School designation<br>Classes for those<br>unable to attend<br>schools | <b>13.</b> The Minister may designate schools. 1993, c.35, s.13.<br><br><b>14.</b> The Minister may establish and conduct any classes for those persons unable to attend schools established under this Act or may provide for the education of those persons in such programs as the Minister considers advisable. 1993, c.35, s.14. |
| Minister's right to<br>intervene in<br>proceedings                     | <b>15.</b> The Minister has the right to appear and intervene and to be heard in any proceedings under this Act or in any proceedings involving the interpretation of this Act. 1993, c.35, s.15.   |

## PART III EDUCATIONAL SERVICES COMMISSION

Sections **16 to 26** repealed by 1994, c.56, s.8.

## PART IV SCHOOL BOARDS

### **A. Establishment of School Boards**

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| Minister may<br>establish school<br>boards | <b>27.</b> (1) The Minister may establish such school units as the Minister considers necessary, each of which shall have the boundaries prescribed by the regulations and shall be administered by a school board in accordance with this Act.                           |
| Trustees                                   | (2) A school board for each school unit shall consist of not fewer than nine trustees or such larger number as determined by the Minister.  |
| School board, body<br>corporate            | (3) Subject to the limitations contained in this Act and the regulations, a school board is a company with the powers granted to a body corporate by the <i>Companies Act</i> R.S.P.E.I. 1988, Cap. C-14.   |
| Interim board                              | (4) When a new school unit is established under this section, the Lieutenant Governor in Council may appoint the initial members of the school board for that unit for a term not exceeding two years. 1993, c.35, s.27; 1994, c.56, s.8; 1996, c.40, s.2; 2006,c.39,s.5. |

### AA Changes in Constitution and Boundaries of School Units

**27.1** (1) Where the Minister establishes new school units or changes school unit boundaries, the Minister shall issue directives respecting

Directives, school units or boundaries changed

- (a) allocation between the school boards of assets and liabilities, including contracts with school boards;
- (b) allocation of instructional and non-instructional personnel and employment contracts between the school boards;
- (c) any other matters that the Minister considers necessary for implementing the establishment of new boards or the change in unit boundaries.

(2) Notwithstanding any other provision of this Act, the Minister may transfer assets, liabilities or contractual obligations to the Department as part of the changes implemented under this section.

Transfer to Department

(3) All legal proceedings and rights of action by or against the school boards that existed prior to a change under this section, may be brought or continued against the new school board as determined by subsection (1) or the Minister as determined by subsection (2). 1994, c.56, s.10.

Continuation of legal proceedings

### B. Trustee Qualifications

**28.** (1) Subject to subsection (2) and to section 29, a candidate for school trustee shall meet the following qualifications to run in a school board election:

Qualifications for school trustee

- (a) the candidate shall be a Canadian citizen, eighteen years of age or more on election day; and
- (b) the candidate shall have been ordinarily resident in the school unit for at least six months prior to the date of the election.

(2) The following persons are not eligible to run as candidates in a school board election:

Ineligibility as candidates

- (a) persons who are not qualified pursuant to subsection (1);
- (b) employees of any school board; and
- (c) employees of the Department who are considered by the Minister to have a potential conflict of interest. 1993, c.35, s.28; 1994, c.56, s.11.

**29.** A candidate for school trustee for a French school board shall meet one of the following additional qualifications:

Additional qualifications, candidates for French school board

- (a) the candidate must be the parent of a student who is receiving French first language instruction in the province;
- (b) the candidate must be eligible to have a child receive French first language instruction; or

(c) the candidate would be eligible to have a child receive French first language instruction if the candidate had a child. 1993, c.35, s.29.

### C. Trustee Elections and Appointments

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| Electoral zones   | <b>30.</b> Repealed by 1994, c.56, s.12.  |
| Elections held every third year   | <b>31.</b> Subject to the regulations, elections for all school boards of the province shall be held in every third year on the date fixed by the Minister. 1993, c.35, s.31; 1996, c.40, s.3.  |
| Eligibility to vote   | <b>32.</b> (1) Subject to subsection (2), Canadian citizens who are at least eighteen years of age on the date of the election and have been resident in the unit for at least six months are eligible to vote in a school board election for that unit.<br><br>(2) Voters in an election for a French school board must also meet one of the qualifications set out in section 29. 1993, c.35, s.32. |
| Additional qualification, voters for French school board<br>Trustees, term of three years | <b>33.</b> (1) Subject to subsection (2) and to sections 34, 35.1 and 38, school trustees shall be elected in accordance with the regulations for a term of three years.  |
| Trustee appointments  | (2) Where an election produces fewer than the prescribed number of trustees of a school board, the Lieutenant Governor in Council shall appoint from those persons eligible to be candidates the additional members necessary to bring the number of trustees to the total. 1993, c.35, s.33; 1996, c.40, s.4.  |
| Change participation between school systems   | <b>34.</b> (1) Persons who wish to change their participation in school board elections from an English school board to a French school board, or conversely, shall do so in the manner determined by the Chief Electoral Officer.  |
| Offence to vote for more than one school board  | (2) It is an offence under this Act for any person to vote more than once or to participate in elections for more than one school board in any school board election year. 1993, c.35, s.34; 1996, c.40, s.5.   |

### D. Trustee Appointments

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| Replacement for vacant trustee position | <b>35.</b> (1) The Lieutenant Governor in Council may appoint a replacement for a trustee position which becomes vacant. |
| Replacements serve balance of term      | (2) Trustees appointed under this section shall serve the balance of the term of the trustee replaced. 1993, c.35, s.35. |
| Number of terms                         | <b>35.1</b> Repealed by 1999,c.14,s.1.   |

### E. First Meeting of School Board

**36.** (1) Trustees shall begin their term of office on July 1 following the election and continue until the term expires on June 30 of a school board election year, or until the trustee is disqualified under section 38. Term of office begins

(2) The Unit Superintendent of the school board shall convene the first meeting of the new school board by giving two weeks written notice of meeting to the trustees. First meeting of new school board

(3) Each school board shall at its first meeting following an election elect a chairperson and vice chairperson who shall serve for the term determined by the school board, so long as that person continues as a trustee and has not resigned or been removed by resolution of the school board. 1993, c.35, s.36; 1996, c.40, s.7. Elect chairperson of school board

### F. Resignation or Disqualification of Trustees

**37.** A trustee may resign from office by giving notice in writing to the chairperson or vice chairperson of the school board. 1993, c.35, s.37. Resignation of trustee

**38.** (1) A trustee is disqualified from holding office and a trustee position is deemed to be vacant if the trustee Disqualification of trustee

- (a) resigns;
- (b) is found guilty of or convicted of an indictable offence, for which an absolute discharge or a pardon has not been granted;
- (c) becomes ill, so as to become incapable of acting as a trustee;
- (d) ceases to be resident of the school unit for which the trustee was elected;
- (e) becomes an employee of any school board, or a designated employee of the Department;
- (f) has a financial interest in a contract with the school board other than
  - (i) a contract of employment with the trustee's spouse, child, parent or spouse's parent, or
  - (ii) a contract approved pursuant to disclosure; or
- (g) becomes disqualified under subsection (2).

(2) A school board may disqualify a trustee by resolution, if the trustee has been absent without reasonable cause from three consecutive regular school board meetings of which the trustee received proper notice. Trustee disqualified for absence

(3) On receiving written notice of a resolution passed pursuant to subsection (2), a trustee is disqualified for the remainder of the trustee's term of office. 1993, c.35, s.38; 1994, c.56, s.13. *Idem*

### G. Responsibilities of Trustees

Individual trustee responsibilities

**39.** School trustees have the following responsibilities:

- (a) to attend meetings of the school board and exercise the powers and duties of a trustee in good faith;
- (b) to comply with the requirements of the regulations respecting conflict of interest;
- (c) to comply with all other requirements of this Act, the regulations and Minister's directives. 1993, c.35, s.39.

### H. Trustee Remuneration

Trustee remuneration

**40.** Subject to the regulations, a school board shall provide school trustees with such remuneration as the Minister may determine and reimbursement of reasonable expenses incurred in discharging their responsibilities as trustees. 1993, c.35, s.40.

### I. School Board Meetings

Policies for conduct of meetings

**41.** (1) A school board shall make policies regarding the conduct of its meetings and shall permit any person to inspect those policies.

Regular school board meetings published

(2) A school board shall publish the date, time and location of all regular school board meetings.

Annual meeting of school boards

(3) A school board shall hold an annual public meeting prior to the submission of its annual report to the Minister. 1993, c.35, s.41.

Regular meetings open to public

**42.** (1) Subject to subsection (2), regular school board meetings shall be open to the public.

Exclusion from meeting

(2) If, in the opinion of the majority of the school board, the public interest so requires, persons other than trustees may be excluded from a meeting or a part of a meeting.

Resolutions at meetings held in private

(3) When a school board meeting is held in private, the school board does not have the power to approve a policy or resolution at that meeting, except as provided in subsection (4).

*Idem*

(4) A school board may pass the following resolutions at a school board meeting held in private:

- (a) the resolution necessary to revert to an open meeting; or
- (b) resolutions on matters affecting individual students or individual employees. 1993, c.35, s.42.

Quorum

**43.** (1) The quorum of a school board is a majority of the trustees.

(2) No act, resolution or proceeding of a school board is binding unless it is adopted at a meeting at which a quorum of the school board is present. Binding resolution requires quorum

(3) A policy, resolution or other proceeding of a school board shall not be quashed, set aside or declared invalid by reason only that a person sitting or voting as a member of the school board is not qualified as a trustee or was disqualified or not qualified at the time of the trustee's election or appointment or thereafter ceased to possess that qualification or otherwise became unqualified. 1993, c.35, s.43. Resolution not valid, when

44. Subject to section 46, a school board may establish committees of the school board and shall record the composition, powers and responsibilities of each committee. 1993, c.35, s.44. Committees of school board

#### **J. Access to Information**

45. (1) Any person may, at any reasonable time, inspect any one or more of the following items: Inspection

- (a) the agenda, minutes and resolutions of any public meeting of the school board;
- (b) policies adopted by the school board;
- (c) budgets adopted by the school board;
- (d) financial statements of the school board.

(2) Student records and contracts with or records of individual employees are confidential and are not available for inspection under this section. 1993, c.35, s.45. Exceptions

#### **K. Delegation by School Board**

46. (1) A school board may, by resolution and subject to subsections (2) and (3), authorize a trustee, a committee of the school board or an employee to do any act or thing or exercise any power that the school board may or is required to do or exercise. Delegation by school board

- (2) A school board may not delegate School board not to delegate, when
- (a) the power to make policies;
  - (b) the power to close a school or a school building for more than ten consecutive school days.

(3) The power to hold a hearing under this Act shall not be delegated to a school board employee or to one school trustee. 1993, c.35, s.46. Idem

### **L. Management of School Board Property**

Management of schools and property

**47.** (1) A school board is responsible for the management of the schools in its unit and for the custody, maintenance, repair and safe keeping of all real or personal property owned, leased or in use by the school board.

Other uses of schools

(2) A school board may permit the school buildings or lands to be used for any educational or other lawful purpose that the school board considers proper.

Use of school buses, etc.

(3) A school board may permit school buses and other personal property owned or leased by the school board to be used for any educational or other lawful purpose in accordance with the regulations. 1993,c.35,s.47; 1997,c.46,s.1.

### **M. Annual Reports**

Annual reports

**48.** Every school board shall submit an annual report to the Minister in accordance with Minister's directives. 1993, c.35, s.48.

### **N. Responsibilities of School Boards**

School board responsibilities

**49.** A school board shall, subject to the regulations and Minister's directives,

- (a) provide for instruction in an educational program to all persons who are enrolled in its schools and eligible in accordance with the Act and the regulations;
- (b) provide for the recruitment, employment, management and evaluation of staff of the school board and identification of staff development needs;
- (c) provide for and manage such facilities and equipment as may be necessary for the safe and effective operation of the school unit;
- (d) provide for the transportation of students;
- (e) provide for effective and efficient management of the financial affairs of the school board;
- (f) monitor and evaluate effectiveness of schools;
- (g) ensure the development of and approve school improvement plans;
- (h) encourage good relations among schools, parents and the community and promote family and community awareness of the importance of education. 1993, c.35, s.49; 1994, c.56, s.14.

School board policies

**50.** A school board may, in carrying out its responsibilities under section 49, develop policies for the effective operation of the unit and, in particular,

- (a) respecting the provision of educational programs and services;

- (b) respecting the administration and management of
  - (i) staff employed by the school board,
  - (ii) facilities and equipment owned or used by the school board,
  - (iii) the financial affairs of the school board;
- (c) respecting suspension of students and expulsion of students;
- (d) respecting student attendance;
- (e) respecting the educational assessment of students;
- (f) enabling teachers to assist in the development, implementation and evaluation of pilot or local programs in the schools;
- (g) respecting the management of volunteer services. 1993, c.35, s.50.

#### **O. Attendance and Placement of Students**

**51.** (1) A school board shall admit students to schools in its unit in accordance with this Act and the regulations. Admission of students to schools

(2) A school board shall determine the placement of students in the various classes and schools in accordance with the students' needs, their educational attainments, the facilities of the unit and any school attendance plan currently in effect in the unit. 1993, c.35, s.51. Placement of students

**52.** Subject to Minister's directives, a school board may recognize for placement or grant credit for Recognition of educational activities not provided by school boards

- (a) educational activities provided by a licensed private school or through a home education program; or
- (b) other educational activities not provided by the school board. 1993,c.35,s.52; 2003,c.43,s.3.

**53.** A school board shall regulate the attendance of students and is responsible for the enforcement of the attendance provisions of this Act. 1993,c.35,s.53. Attendance of students

#### **P. Disturbances on School Premises**

**54.** (1) Any person who creates or attempts to create a disturbance on school premises may be excluded from the premises by any staff person of the school. Disturbances on school premises

(2) Subsection (1) does not apply during school hours to a student enrolled in that school who is not suspended or expelled from that school. 1993, c.35, s.54. Exception

**55.** Repealed by 2006,c.39,s.6. 1993, c.35, s.55; 1994, c.56, s.14; 2006,c.39,s.6. Student records



### R. Student Teachers

Practice teaching **56.** If a school board receives a request from a recognized teacher training institution for permission for student teachers to practise and observe teaching, the school board may permit student teachers enrolled at that institution to have reasonable access to classrooms in accordance with the regulations and school board policies and procedures respecting practice teaching. 1993, c.35, s.56.

### S. Closure of Schools

Permanent closure of schools **57.** (1) Subject to the regulations and with the prior approval of the Lieutenant Governor in Council, a school board may close a school permanently.

Temporary closure (2) Subject to the regulations, a school board may close a school for a specified period. 1997, c.46, s.2.

### T. School Board Employees

Employment and management of personnel **58.** (1) Subject to this Act and the regulations and Minister's directives, a school board may employ and is responsible for the management of instructional and non-instructional personnel.

Competitions (2) Employees of any school board and the Department are eligible to compete for school board positions.

Terms and conditions of employment (3) A school board may prescribe terms and conditions of employment for instructional and non-instructional personnel, but such terms and conditions of employment shall not conflict with this Act or the regulations or a current collective agreement between the Agency and the authorized representative for instructional personnel or for non-instructional personnel. 1993, c.35, s.58; 1994, c.56, s.14.

Contracts with employees **59.** Each school board shall enter into contracts with its employees in accordance with this Act and the regulations. 1993, c.35, s.59.

Sabbatical leaves for instructional personnel **60.** A school board may grant sabbatical leaves to instructional personnel in accordance with the regulations. 1993, c.35, s.60.

### U. Unit Superintendent

Unit Superintendent **61.** (1) Each school board shall appoint an Unit Superintendent who shall be the chief executive officer of the school board.

Unit Superintendent responsibilities (2) Subject to the direction of the school board, the Unit Superintendent shall

- (a) exercise general supervision and management over the employees of the school board;
- (b) be responsible for the general organization, administration and supervision of educational programs and services;
- (c) be responsible for the operation of the schools in the unit; and
- (d) fulfil such other responsibilities as are set out in the regulations or assigned by the school board. 1993, c.35, s.61.

## V. Limitation of Actions and Indemnification

**62.** (1) In this section a reference to a trustee, officer or employee of a school board includes a former trustee, officer or employee of a school board.

Trustee, officer  
employee, reference  
to

(2) No action for damages lies or shall be instituted against a school board or a trustee, officer or employee of a school board for anything said or done or omitted to be said or done by that person in the performance or intended performance of responsibilities or in the exercise of power or for any alleged neglect or default in the performance or intended performance of the responsibility or exercise of the power.

No action for  
performance of  
responsibilities

(3) Subsection (2) does not provide a defence to an action for damages where

Exceptions

- (a) the trustee, officer or employee has in relation to the conduct that is the subject matter of the action been guilty of dishonesty, gross negligence or malicious or wilful misconduct;
- (b) the cause of action is libel or slander; or
- (c) the cause of action arises from the relationship of employer and employee. 1993, c.35, s.62.

**63.** (1) A school board, in accordance with policy adopted by the school board, may indemnify a trustee, an officer or an employee of the school board

Indemnification of  
trustee

- (a) against a claim for damages against the trustee, an officer or employee arising out of that person's responsibilities for or on behalf of the school board; or
- (b) where an inquiry under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31 or other proceeding involves the administration and conduct of the business of the school board.

(2) Indemnification under subsection (1) may include costs and fees necessarily incurred in proceedings arising out of the claim or inquiry or other proceedings.

Includes costs and  
fees

Indemnify where prosecution  
 (3) A school board may, by a majority vote indemnify a trustee, an officer or an employee of the school board for the costs and fees necessarily incurred where a prosecution arises out of the performance of that person's school board responsibilities.

School board not indemnified  
 (4) A school board shall not seek indemnity against a trustee, an officer or employee of the school board in respect of any action of the trustee, officer or employee of the school board, except  
 (a) where the claim for damages against the school board arises out of the gross negligence of the trustee, officer or employee; or  
 (b) where, in relation to the action that gave rise to the claim for damages against an officer or employee, the officer or employee wilfully acted contrary to the terms of that person's employment or to an order of a superior. 1993, c.35, s.63.

Transitional  
**64.** Repealed by 2006,c.39,s.7. 1993, c.35, s.64; 2006,c.39.7.

Interim school board  
**65.** Repealed by 2006,c.39,s.7. 1993, c.35, s.65; 2006,c.39,s.7.

#### PART V SCHOOL COUNCILS

School council  
**66.** (1) Parents of students attending a school may establish a school council for the school.

Members  
 (2) The majority of the members of the school council of a school must be parents of students attending that school.

Policies  
 (3) The Minister shall make policies respecting the establishment of a school council, the election of members and the dissolution of the school council.

Procedure  
 (4) The school council shall determine its own procedure.

Home and School Association  
 (5) A Home and School Association in any school can be considered a council. 1993, c.35, s.66; 1994, c.56, s.14.

Functions  
**67.** The functions of the Council are  
 (a) to advise the school principal on various matters related to school operations and administration, including the following:  
 (i) repealed by 1996, c.40, s.8,  
 (ii) scheduling, calendar for that school, school opening and closing hours, noon hour policies, timing of exams and other events,  
 (iii) extracurricular activities, field trips, winter carnival, dances,  
 (iv) student discipline and behaviour management approaches,  
 (v) fund-raising,

- (vi) community access to school facilities,
  - (vii) school-based services including social, health, and nutrition services,
  - (viii) parent-school communications and parental access to information on their children,
  - (ix) any other matters that have a significant impact on the day-to-day life or financial resources of the family or the quality of life of the student in the school;
- (b) to provide a channel of communication between the school and the community, and to build awareness among parents of school programs, activities, and issues;
- (c) to advise, where required by the school board, with respect to the development of the school improvement plan;
- (d) to advise, where requested by the school board, with respect to the selection of a principal for the school. 1993, c.35, s.67; 1996, c.40, s.8.

## PART VI STUDENTS AND PARENTS

### A. Free School Privileges

**68.** Persons between the ages of six and twenty years who

- (a) are residents of the province;
- (b) have not graduated from high school; and
- (c) are not excused from attending school under section 70,

have the right to free school privileges in the public schools of the province, as defined by the regulations and as provided in accordance with this Act. 1993, c.35, s.68.

Right to free school  
privileges

### B. Compulsory School Age

**69.** (1) For the purposes of this Act, “compulsory school age” in relation to a person means a person from seven to sixteen years, and includes a person who will reach the age of seven by the date prescribed by the regulations.

Compulsory school  
age

(2) Subject to sections 70, 74 and 75, all persons of compulsory school age residing in the province, who have not graduated from high school shall attend school.

Compulsory  
attendance at school

(3) The parent of a person required to attend school under this section shall cause the person to attend school.

Duty of parent

(4) For the purposes of this section, attendance at school includes attendance at

Attendance

- (a) a public school or an education program provided by the school board;
- (b) a licensed private school;
- (c) a home education program; or
- (d) an education program authorized by the Minister.

Offence for parent not to send to school

(5) A parent who fails or neglects to comply with subsection (3) is guilty of an offence. 1993,c.35,s.69; 2003,c.43,s.4.

### C. School Absences

Student excused from attending

**70.** A student is excused from attending school on an instructional day if

- (a) the student is unable to attend school because of illness or through other cause which has been reported to and approved by the principal;
- (b) the day is recognized as a religious holiday by the religious denomination to which the student belongs; or
- (c) the Minister certifies in writing to the school board that the student
  - (i) is exempt from attending school, or
  - (ii) is taking part in a home education program. 1993,c.35,s.70; 2003,c.43,s.5.

Frequent absence from school

**71.** (1) Where it appears to the principal of any school that a student is frequently absent from school without satisfactory explanation, the principal shall report the matter to the Unit Superintendent.

Unit Superintendent investigates

(2) On receipt of a report under this section, the Unit Superintendent shall investigate the report and take such action as may be required by the regulations. 1993, c.35, s.71.

### D. Student Responsibilities

Student responsibilities

**72.** Students enrolled in a school have the following responsibilities:

- (a) to observe the code of conduct and other rules and policies of the school board and of the school;
- (b) to attend classes regularly and punctually and participate in the educational programs in which the student is enrolled;
- (c) to be diligent in pursuing the student's studies;
- (d) to respect the rights of others. 1993, c.35, s.72.

### E. Discipline of Students

Corporal punishment prohibited

**73.** (1) The manner in which a student is disciplined while attending school or school-sponsored activities shall be similar to that administered

by a kind, firm and judicious parent, but shall not include corporal punishment.

(2) Subsection (1) does not preclude reasonable action by a school staff member or authorized adult to restrain a student who is creating an immediate danger to the student or to others or is creating significant damage to property. 1993, c.35, s.73.

Reasonable restraint  
where danger

#### **F. Suspension or Expulsion of Student**

74. (1) Subject to the policy of a school board,

(a) a teacher may suspend a student for a period not exceeding one half day;

(b) a principal or a Unit Superintendent may suspend a student from

(i) one or more class periods,

(ii) one or more courses or school programs,

(iii) riding on a school bus,

(iv) participating in an activity approved or sponsored by the school or the school board, or

(v) school and from all school activities.

Suspension of  
student

(2) The principal or the Unit Superintendent who suspended a student under clause (1)(b) may reinstate the student.

Reinstatement

(3) Where a student is suspended under clause (1)(b), the person suspending the student shall forthwith report the circumstances to the parent of the student in accordance with the regulations.

Report to parents

(4) Where a student is suspended for more than five consecutive instructional days

Report

(a) if a principal orders the suspension, he or she shall report it forthwith to the Unit Superintendent;

(b) if the Unit Superintendent orders the suspension, he or she shall report it forthwith to the school board.

(5) Where a student is suspended for more than 5 consecutive instructional days, the school board shall hold a hearing respecting the suspension, at the parent's request, or it may hold a hearing of its own initiative. 1993, c.35, s.74; 1994, c.56, s.19; 1996, c.40, s.9.

Hearing

75. (1) A school board may suspend or expel a student in accordance with the regulations.

School board may  
suspend, expel

(2) If a school board is considering a suspension or expulsion, the school board shall, in accordance with the regulations, hold a hearing and make a decision in accordance with the regulations. 1993, c.35, s.75.

School board to  
hold hearing

- Student, parent, have right to be heard  
Loss of free school privileges
- 76.** (1) The student and a parent of the student have the right to be heard at a hearing regarding suspension or expulsion of the student.
- (2) Students who have been suspended or expelled from school have, for the period of suspension or expulsion, lost their right to free school privileges under section 68. 1993, c.35, s.76.

### G. Student Records

- Student records
- 77.** (1) A school board shall ensure that schools under its jurisdiction establish and maintain, for the prescribed period, a record for each student enrolled at a school.
- Procedures
- (2) Subject to the regulations, a school board shall establish written procedures respecting the storage, retrieval and appropriate use of student records.
- Idem*
- (3) Student records are the property of the school board.
- Disclosure requirements
- (4) No person shall knowingly disclose to any person any information from a student record that identifies a student, unless the disclosure complies with the regulations and is
- (a) made with the written consent of
    - (i) the student's parent, or
    - (ii) in the case of a student who is of the age of majority, the student;
  - (b) made to a school board employee or other person consulting with or providing services, assessment or advice regarding the student to the student's teacher, principal, the school board or to an educational institution;
  - (c) approved by the principal or the Unit Superintendent for release to an educational institution, an individual or organization that
    - (i) is considering acceptance or placement of the student in one of its programs, or
    - (ii) provides scholarships, bursaries or services to a student;
  - (d) authorized by the Unit Superintendent if the Unit Superintendent believes on reasonable grounds that the disclosure will avert or minimize an imminent danger to the health or safety of any person;
  - (e) made to the Director of Child Welfare for the purposes of an investigation under the *Child Protection Act* R.S.P.E.I. 1988, Cap. C-5.1;
  - (f) made to a police or corrections agency;
  - (g) required by or under an enactment of the province or of Parliament; or
  - (h) required by a court order.

(5) Notwithstanding subsection (3), the Minister and employees of the Department

Minister

- (a) shall have access to information contained in the student records of school boards;
- (b) may compile and maintain student records; and
- (c) shall not disclose information from student records except in the manner provided by subsection (4).

(6) Every person who fails to comply with subsection (4) is guilty of an offence under this Act.

Offence

**77.1** (1) Subject to section 81, a parent may, in accordance with the regulations, examine the student records kept by a school or a school board respecting the child of that parent.

Parent may examine student records

(2) A person who is at least 16 years old may, in accordance with the regulations, examine the student records kept by a school or a school board respecting that person.

Person 16 or older may examine own records

**77.2** Nothing in this Act authorizes the release of information from any record kept under this Act to any person in a manner contrary to the *Youth Criminal Justice Act* (Canada) or the *Youth Justice Act* R.S.P.E.I. 1988, Cap. Y-3. 1993, c.35, s.77; 2006,c.39,s.8.

Not contrary to *Youth Criminal Justice Act*

## H. Liability For Damage To Property

**78.** (1) If property of a school board or of a government department or other publicly funded agency is destroyed, damaged, lost or converted by the intentional or negligent act of a student, the student and the student's parents are jointly and severally liable to the school board or to the government department or publicly funded agency with respect to the act of the student.

Liability for property damage

(2) Subsection (1) does not apply to the parent of a student who is eighteen years of age or older. 1993, c.35, s.78.

Not applicable to parent of adult student

## I. Appeal of Decision Affecting Student

**79.** (1) Where a decision of a school board employee significantly affects the education, health or safety of a student, a parent of the student may appeal the decision to the school board in accordance with the regulations.

Significant decision affecting student

(2) The parent shall have the right to be heard on an appeal under this section.

Parent's right to be heard



- Decision final (3) The decision of the school board on the appeal shall be final and binding on the student and the student's parent and no further appeal lies therefrom.
- Includes failure to make decision (4) For the purposes of this section, a decision from which an appeal may be taken includes a failure to make a decision.
- Employee not to hear appeal (5) Notwithstanding any other provision of this Act, the power to hear an appeal under this section shall not be delegated to a school board employee. 1993, c.35, s.79.

### J. Parents

- Parents to be informed **80.** (1) A parent of a student attending a school is entitled to be informed of the student's attendance, behaviour and progress in the school.
- Parent's responsibility (2) A parent of a student has the responsibility to encourage the student in the pursuit of learning. 1993, c.35, s.80.
- Parent's rights abrogated, where **81.** Notwithstanding any other provision of this Act, any rights given to a parent do not apply to a parent who is prohibited from access to a student
  - (a) by any court order made or recognized in Prince Edward Island;
  - or
  - (b) by the Director of Child Welfare, where the student is in the care of the Director. 1993, c.35, s.81.

## PART VII INSTRUCTIONAL PERSONNEL

### A. Instructional Contracts

- Permanent contract **82.** (1) A school board may hire a teacher under a permanent contract.
- Permanent contract of employment (2) A permanent contract of employment is a contract entered into by the school board with a teacher
  - (a) who has satisfactorily completed the probationary period in the previous school year; or
  - (b) who held a permanent contract in the previous school year with any school board in the province.
- Permanent contract from year to year (3) A permanent contract of employment of a teacher shall continue in force from school year to school year and shall not be terminated except in accordance with this Act. 1993, c.35, s.82; 1994, c.56, s.20.
- Probationary contract **83.** (1) A school board may hire a teacher under a probationary contract.

(2) Subject to the other provisions of this section, a teacher who has completed two probationary contracts in two different school years shall be eligible for a permanent contract with a school board. Probationary period

(3) The probationary contracts under subsection (2) shall be executed within a period of five consecutive school years, provided that the last contract is for the school year immediately preceding the execution of a permanent contract with a school board. *Idem*

(4) Notwithstanding any other provision of this Act, probationary contracts must be effective for a period equivalent to at least 50% of the school year, or for a period of at least one semester. Qualifying period

(5) A probationary contract shall Terms of contract  
 (a) specify the date of commencement of employment;  
 (b) terminate on June 30 in the school year of employment or on the date specified in the contract, whichever is earlier. 1995, c.37, s.1; 1996, c.40, s.10.

**84.** (1) A school board may hire a teacher under a fixed term contract. Fixed term contract

(2) A fixed term contract *Idem*  
 (a) shall specify the date of commencement of employment;  
 (b) shall terminate on June 30 in the school year of employment or on the date specified in the contract, whichever is earlier;  
 (c) repealed by 1994, c.56, s.22.

(3) Two consecutive full-time full-year fixed term contracts shall fulfil the probationary requirements for a permanent position, provided that the fixed term contracts are Probation, full-time contracts  
 (a) for a period of not less than 190 school days; and  
 (b) executed in the two years immediately preceding the execution of a permanent contract. 1993, c.35, s.84; 1994, c.56, s.22; 1995, c.37, s.2.

**85.** (1) A school board shall credit time served under a probationary or permanent contract with another school board within the province or the Commission for the purpose of calculating the probationary period under section 83 and eligibility for benefits. Credit for service with other school board

(2) Where a teacher has Deemed contract  
 (a) contracted with a school board to work at least 50% of a school year;  
 (b) been employed by the Department in the year immediately preceding the contract referred to in clause (a); and  
 (c) has previously held a permanent contract with a school board in the province

the teacher shall be deemed to have entered a permanent contract for all purposes with the school board. 1993, c.35, s.85; 1998,c.102,s.1.

### **B. Instructional Licenses**

Teacher must have license **86.** (1) No person may be employed by a school board to teach unless that person has a valid and subsisting license issued by the Minister under this Act.

Not applicable to substitutes (2) Subsection (1) does not apply to substitutes for teachers. 1993, c.35, s.86.

### **C. Substitutes for Teachers**

Substitute for a teacher **87.** (1) A substitute for a teacher is a person who is brought into a school from time to time for short periods to replace a teacher.

Substitute must have authorization (2) No person may be employed as a substitute for a teacher unless that person has an authorization issued by the Minister under section 4. 1993, c.35, s.87.

### **D. Termination of Instructional Contracts**

Termination of teacher contract **88.** The employment contract of a teacher may be terminated  
 (a) by the mutual consent of the school board and of the teacher;  
 (b) in accordance with the termination date specified in the contract;  
 (b.1) in the case of a permanent contract, at the end of a school year by the teacher giving written notice to the school board not later than April 30;  
 (c) in accordance with section 90; or  
 (d) by a school board for cause or for unsatisfactory service.  
 1993,c.35,s.88; 1996,c.40,s.11; 2003,c.43,s.6.

No appeal, where **89.** No appeal lies from a termination of contract of employment of a teacher pursuant to section 83 or 84. 1993, c.35, s.89.

Termination of contract where fewer teachers required **90.** Notwithstanding any other provision of this Act, where a school board determines that the number of instructional personnel required in a unit is less than the number of instructional personnel presently employed by the school board, the school board may terminate the contract of a teacher at the end of the school year by notice in writing hand delivered or sent by registered mail not later than April 30. 1993, c.35, s.90.

### E. Discipline of Instructional Personnel

**91.** (1) A school board, or its designate, may suspend a teacher at any time for cause or for unsatisfactory service. Suspension for cause etc.

(2) The Unit Superintendent shall suspend a teacher, with pay, where the Unit Superintendent is satisfied that Investigation

- (a) the welfare or safety of students, staff or other persons at the school is threatened by the presence in the school of the teacher; or
- (b) time is required to investigate a possible disciplinary matter involving the teacher.

(3) Where a teacher

- (a) has been suspended under subsection (2) by a Unit Superintendent;
- (b) has been suspended for cause or for unsatisfactory service under subsection (1) by a school board or its designate; or
- (c) has his or her contract terminated under clause 88(d),

Notice to Minister where safety issue

the school board that employs or employed the teacher shall notify the Minister in writing of the suspension or termination and its reasons for the suspension or termination, if any, within 15 days of the suspension or termination.

(4) A school board shall send a written report to the Minister respecting the resignation or retirement of a teacher if, in the opinion of the school board, the resignation or retirement may have been related to the suitability of the teacher to hold an instructional license, including concerns about the safety of children or other persons. 1993,c.35,s.91; 1994,c.56,s.23; 2003,c.43,s.7; 2006,c.39,s.9. Report to Minister

Sections **92** to **96** repealed by 2003,c.43,s.8.

### H. Supervisory or Administrative Positions

**97.** No person shall be employed by a school board to supervise a person who holds a license to teach, unless the person to be employed holds or qualifies for an instructional teaching license under this Act. 1993, c.35, s.97. Supervisor must have instructional license

**97.1** (1) A school board may hire a teacher or a person eligible to hold a teacher's license for a supervisory instructional position for a term not exceeding three years. Supervisory contracts, term

(2) A supervisor hired under this section shall be deemed to hold a teacher contract for the purposes of determining whether the supervisor has a permanent or probationary teacher's contract under section 82 or 83. Effect on status ex

Renewal (3) Nothing in this section prevents a school board from renewing a supervisory instructional contract, provided that renewal of the contract may be made only within the last five months of the contract. 1995, c.37, s.3; 1998,c.102,s.2.

### **I. Responsibilities of Teachers**

Responsibilities of teachers **98.** Every teacher shall, in accordance with the Act, the regulations, the teacher's contract of employment and the collective agreement

- (a) teach the educational programs that are prescribed, approved or authorized pursuant to this Act and assigned to the teacher by the principal or the school board;
- (b) encourage students in the pursuit of learning;
- (c) consult with parents where necessary and encourage parents to co-operate with and encourage their children's participation in school programs and activities;
- (d) assist in developing co-operation and co-ordination of effort among staff members of the school;
- (e) maintain, under the direction of the principal, order and discipline in the school, on school property and during activities sponsored or approved by the school board;
- (f) attend to the health, comfort and safety of students under the teacher's supervision;
- (g) immediately report to the principal the possibility that a student has a regulated, notifiable or nuisance disease;
- (h) conduct classes and carry out such other responsibilities as are assigned to the teacher by the principal or by the school board;
- (i) keep up to date on the content and pedagogy of the fields in which they teach;
- (j) deliver class attendance and other records, the school key and other school property in the teacher's possession to the school board on demand, or when the teacher's employment ceases for any reason.

1993, c.35, s.98.

### **J. Responsibilities of Principals**

Responsibilities of principal **99.** The principal of a school shall, subject to the Minister's directives and the policies of the school board

- (a) be responsible for such school as may be assigned by the school board;
- (b) provide educational leadership in the school;
- (c) ensure that the instruction provided by teachers employed at the school is consistent with the courses of study and education programs prescribed, approved or authorized pursuant to this Act;

- (d) perform the supervisory, management and other duties required or assigned by the Unit Superintendent or the school board;
- (e) evaluate or make provision for the evaluation of teachers under the principal's supervision and report to the Unit Superintendent respecting the evaluation;
- (f) perform teaching duties as assigned by the school board;
- (g) maintain proper order and discipline in the school and on the school property and during activities sponsored or approved by the school board;
- (h) foster co-operation and co-ordination of effort among staff members of the school;
- (i) ensure records are maintained in respect of each student enrolled in the school in accordance with the regulations and school board policy;
- (j) ensure that teachers conduct such assessments as are appropriate to determine the progress and promotion of students, as required by the Minister or the school board;
- (k) consult with teachers and promote such students as the principal considers proper and cause to be issued to students such statements, report cards or certificates as are appropriate;
- (l) report to the Unit Superintendent or to the school board as required on matters concerning the school;
- (m) attend to the health, comfort and safety of the students;
- (n) report notifiable, nuisance and regulated diseases to the Chief Health Officer;
- (o) encourage the establishment of and consult the School Council on matters relevant to its functions;
- (p) initiate the development of a school improvement plan. 1993, c.35, s.99; 1994, c.56, s.24.

**100.** (1) A student teacher who is practice teaching in a school has the same responsibility as a teacher with respect to the discipline and order of students under the student teacher's supervision. Responsibility of student teacher

(2) Clauses 98(a), (b), (e) and (f) apply to student teachers. 1993, c.35, s.100. *Idem*

**101.** A substitute for a teacher has the same responsibilities pursuant to section 98 as a teacher. 1993, c.35, s.101. Responsibilities of substitute for teacher

## PART VIII NON-INSTRUCTIONAL PERSONNEL

### A. Termination of Non-Instructional Contracts

Sections **102** to **109** repealed by 1997,c.46,s.3.

### E. Term of Supervisory Contracts

|                             |  |
|-----------------------------|--|
| Supervisory contracts, term | <b>109.1</b> (1) A school board may hire a person for a supervisory non-instructional position for a term not exceeding three years.   |
| Renewal                     | (2) Nothing in this section prevents a school board from renewing a supervisory non-instructional contract, provided that renewal of the contract may be made only within the last five months of the contract. 1995, c.37, s.4; 1998,c.102,s.3. |

## PART IX

### I. EDUCATION NEGOTIATING AGENCY

|                                       |  |
|---------------------------------------|--|
| Education Negotiating Agency          | <b>110.</b> (1) There is hereby constituted an Education Negotiating Agency, which shall be composed of representatives of the Minister, the Treasury Board and school boards, appointed in accordance with the regulations.   |
| Function                              | (2) Subject to sections 6, 7 and 8, the Agency is responsible for conducting collective bargaining governing employment of all instructional and non-instructional personnel, except supervisory personnel and persons excluded by law from collective bargaining units.   |
| Approval, Management Board            | (3) The Agency shall not make an offer having financial implications without the prior approval of the Treasury Board. 1994, c.56, s.26; 2003,c.43.s.9; 2006,c.39,s.10.  |
| Signatories                           | <b>111.</b> (1) The Agency and the authorized representatives for the instructional or non-instructional personnel shall be signatories to the collective agreement.   |
| Collective agreement                  | (2) Where the Agency enters into a collective agreement with the authorized representatives for instructional or non-instructional personnel, the agreement is binding on all school boards, the Agency, the Minister, the Treasury Board, and each employee represented by the authorized representatives, as if the employee were personally privy to the agreement. |
| Enforcement                           | (3) Collective agreements under this Part are enforceable by the Minister, school boards and the authorized representative. 1993, c.35, s.111; 1994, c.56, s.27; 1997,c.46,s.4; 2003,c.43.s.10.  |
| <i>Arbitration Act</i> does not apply | <b>111.1</b> The <i>Arbitration Act</i> R.S.P.E.I. 1988, Cap. A-16 does not apply to proceedings before a grievance review board established under a collective agreement. 2003,c.43,s.11.   |

PART X  
FRENCH FIRST LANGUAGE INSTRUCTION

- 112.** An eligible parent may enrol his or her school-aged child with the French school board in accordance with the regulations. 1993, c.35, s.112; 2006,c.39,s.11. Enrolment with  
French school board
- 113.** (1) Subject to this Act and the regulations, any student resident in the province may be registered in the English school system. Any student may be  
registered in  
English school  
system
- (2) Transfers of students between school systems may be effected in accordance with this Act and the regulations. 1993, c.35, s.113. Transfers between  
school systems
- 114.** The Lieutenant Governor in Council may make regulations, in addition to the regulations made under section 147, with respect to the French school system and, in particular, Regulations *re*  
French school  
system
- (a) prescribing the method for determining those who are entitled to receive French first language instruction in the province;
- (b) establishing procedures for determining the demand for French first language instruction in the province;
- (c) – (i) repealed by 2006,c.39,s.12;
- (j) providing for the administration of French first language instruction in the province;
- (k) – (n) repealed by 2006,c.39,s.12;
- (o) generally providing for the provision and administration of French first language instruction in the province. 1993, c.35, s.114; 2006,c.39,s.12.

PART XI  
HEALTH AND SAFETY

- 115.** (1) A principal may, where it appears necessary in the interest of the students, immediately exclude a student from the school until the student has been examined by a health officer appointed pursuant to the *Public Health Act*. Student excluded  
for health reasons
- (2) A principal shall notify the office of the Chief Health Officer of the occurrence of a notifiable, nuisance or regulated disease, where required to do so by the *Public Health Act*. Principal notifies  
Chief Health  
Officer
- (3) Subject to subsection (1), a student who has a notifiable, nuisance or regulated disease shall not be excluded from the school for that reason except by order of a health officer. Student excluded  
only by health  
officer
- (4) School board employees and trustees shall maintain confidentiality respecting students reported or excluded under this section. Confidentiality



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| When excluded student may return                | (5) A health officer shall determine when an excluded student may return to school. 1993, c.35, s.115.   |
| Report child abuse                              | <b>116.</b> (1) A teacher or other school staff member who has reasonable and probable cause to suspect that a student has been deserted, abandoned or abused shall forthwith report or cause to be reported the matter to the Director of Child Welfare in accordance with the <i>Child Protection Act</i> .  |
| Disclosure to Director of Child Welfare allowed | (2) Nothing in this Act shall be construed to preclude the disclosure to the Director of Child Welfare or a child care worker of information indicative of child abuse or relevant to a report of child abuse or to an investigation pursuant to the <i>Child Protection Act</i> . 1993, c.35, s.116;2000(2nd),c.3,s.62.   |
| Injury or medical emergency                     | <b>117.</b> (1) Where a student is injured or there is a medical emergency, teachers and school staff shall provide assistance to the student and obtain medical treatment where necessary.  |
| Costs of medical treatment                      | (2) Costs of medical treatment, including ambulances, shall be borne by the student or the parent. 1993, c.35, s.117.  |
| Consent to activities off school property       | <b>118.</b> Teachers shall obtain the consent of parents for the participation of students in authorized school activities off the school property. 1993, c.35, s.118.   |
| Courses, programs off school property           | <b>119.</b> (1) A student may attend a course or program conducted off school premises with the approval of the school board.  |
| Injury or death, approved outside program       | (2) If bodily injury or death is caused to a student registered in a program approved pursuant to subsection (1), during or as a result of the course or program, no cause of action for loss or damage suffered by the student accrues to the student or to any person against the school board or any of the trustees, if it is shown that the members of the school board believed, upon reasonable grounds, that the person with whom the student was placed was competent to give instruction and that the premises and equipment were such as to provide reasonable safeguards against injury or death. 1993, c.35, s.119. |
| School patrol, liability                        | <b>120.</b> Where property damage, bodily injury or death is caused to any person instructed, directed or controlled by a school patrol in the course of acting as such, no cause of action arises or accrues by reason of or in respect thereof against any school board, trustee, employees, servants or agents of the school board or any student or parent of the student or any volunteer involved in the school patrol program. 1993, c.35, s.120.   |

PART XII  
FINANCE

**A. School Board Budgets**

- 121.** (1) The Minister shall establish a school board funding program. School board funding program
- (2) Each school board shall submit to the Minister budget information in accordance with the regulations and Minister's directives. School board budget information
- (3) The Minister shall meet annually with school boards to discuss budget matters. Annual budget meetings
- (4) On or before the date fixed by Minister's directives, the Minister shall approve a budget for each school board with such recommendations or conditions as the Minister considers necessary. Minister approves school board budgets
- (5) Each school board shall prepare and submit to the Minister a projected budget for more than one year where requested to do so by the Minister. 1993, c.35, s.121. Projected budget for more than one year on request
- 122.** (1) A school board's fiscal year shall end on June 30. Fiscal year
- (2) A school board shall not budget for a current deficit in any fiscal year if such deficit would create an accumulated deficit. No accumulated deficit
- (3) Where a school board has incurred a deficit, the deficit shall be a first call on the school board's grant for the second fiscal year following and the school board shall budget accordingly. Deficit first call on grant
- (4) Where a school board shows a surplus on its financial statement for a fiscal year, the surplus shall remain with the school board. 1993, c.35, s.122. Surplus remains with school board
- 123.** The Minister may approve a revised or amended budget subject to such terms and conditions as the Minister considers necessary. 1993, c.35, s.123. Revised budget

**B. Administration and Finance**

- 124.** Each school board shall maintain administrative and operating control systems and safeguards as prescribed by the Act and the regulations. 1993, c.35, s.124. Administrative and operating control systems
- 125.** A school board may maintain accounts in such types of financial institutions as may be authorized by Minister's directives. 1993, c.35, s.125. Accounts in financial institutions

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| Information from auditors                     | <b>126.</b> (1) The Minister may require any information or explanation from a school board or its auditors respecting the finances or accounting methods of the school board.   |
| Monthly interim financial statements          | (2) Each school board shall submit monthly interim financial statements to the Minister in accordance with Minister's directives.  |
| Annual audited financial statements           | (3) Each school board shall provide the Minister with annual audited financial statements on the date set by Minister's directives. 1993, c.35, s.126.   |
| School board incurs liabilities, expenditures | <b>127.</b> A school board shall not knowingly incur any liability or make any capital expenditure or any other expenditure, unless <ul style="list-style-type: none"> <li>(a) the liability or expenditure can be provided for out of the school board's annual budget or out of other monies available to the school board for the purpose;</li> <li>(b) the liability or expenditure is included in an amended budget approved by the Minister under section 123; or</li> <li>(c) the liability or expenditure is approved by the Lieutenant Governor in Council. 1993, c.35, s.127.</li> </ul> |

### C. Construction and Location of Schools

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| Construction and capital additions to schools | <b>128.</b> (1) The Minister after consultation with the school board concerned, may recommend to the Minister of Transportation and Public Works <ul style="list-style-type: none"> <li>(a) the purchase, rental or acceptance of gifts of land or buildings for school purposes;</li> <li>(b) the construction and furnishing of school buildings; and</li> <li>(c) capital additions to school buildings.</li> </ul> |
| Location of school buildings                  | (2) A school board, with the Minister's approval, shall determine the location of school buildings.   |
| Transfer of real property to school board     | (3) The Minister of Transportation and Public Works may transfer real property to a school board upon completion of a building project. 1993, c.35, s.128; 1994, c.56, s.27.  |

### D. Real Property

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| Disposal of real property by school board | <b>129.</b> (1) A school board may dispose of its real property in accordance with the guidelines issued by the Lieutenant Governor in Council.           |
| Minister's approval for leases            | (2) School boards shall obtain the approval of the Minister before entering into any lease agreements respecting real property owned by the school board. |

(3) School boards shall obtain the Minister's approval for capital construction projects in accordance with the regulations and Minister's directives. 1993, c.35, s.129.

Minister's approval  
for capital  
construction  
projects

#### **E. Insurance**

**130.** (1) A school board shall, in respect of its operations, keep in force policies of insurance as required by the regulations for the purpose of indemnifying the school board, its employees, agents and others acting on its behalf, including volunteers, in respect of claims for

Insurance

- (a) damages for death, bodily injury, personal injury or property damage;
- (b) damages to owned property; and
- (c) damages to property not owned by the school board in respect of which the school board has an insurable interest
  - (i) that the school board has agreed to insure, or
  - (ii) for which the school board otherwise has or may have assumed liability.

(2) Proceeds of an insurance claim payable to a school board shall be used to replace the property insured or in such other manner as the Minister may authorize. 1993, c.35, s.130; 1996, c.40, s.12.

Insurance proceeds

#### **F. Salary Scales and Benefits**

**131.** Each school board shall pay instructional, non-instructional, administrative and supervisory personnel only those amounts specified in the salary scales and benefits established by a collective agreement or if there is no applicable collective agreement, by Minister's directive. 1993, c.35, s.131; 1994, c.56, s.27.

Salary scales

#### **H. Bonding**

**132.** Each school board shall maintain a fidelity bond in accordance with the regulations to cover its signing officers who shall be responsible for authorizing all expenditures made by their respective school boards. 1993, c.35, s.132.

Fidelity bonds

### PART XIII MISCELLANEOUS PROVISIONS

#### **A. Private Schools**

**133.** The Minister may grant a license to a private school that provides elementary or secondary school programs in accordance with the regulations. 1993, c.35, s.133.

Private school  
licenses

- Suspension or cancellation of private school license
- 134.** The Minister may suspend or cancel a private school license if
- (a) the private school fails to comply with or maintain any of the standards required by the regulations;
  - (b) the private school employs unqualified instructional personnel or administrators; or
  - (c) in the opinion of the Minister, the students registered at the private school are not achieving acceptable educational progress.
- 1993, c.35, s.134.
- Private school inspectors
- 135.** The Minister may appoint persons as private school inspectors to assess instructional personnel, educational programs, and instructional materials and to inspect schools, and school buildings and to fulfil such other responsibilities as may be required by Minister's directives. 1993, c.35, s.135.
- Minister may order compliance with Act
- 136.** (1) Where the Minister has grounds to suspend the license of a private school,
- (a) the Minister may order compliance with the Act within 30 days of the date of the order; and
  - (b) where a private school has not complied with the Minister's order under this section within 30 days, the Minister may suspend or revoke the license.
- (2) Where the grounds for suspension relate to health and safety standards under the regulations, the Minister may order immediate suspension or revocation of the license. 1993, c.35, s.136.
- Immediate suspension of license, health or safety issues
- Mandatory to have private school license
- 137.** No person shall operate a private school without or in contravention of a license issued under section 133. 1993, c.35, s.137.
- Offence, unlicensed private school
- 138.** A person who operates a private school that is unlicensed or for which the license has been suspended or revoked, is guilty of an offence and is liable to a fine of not less than \$500 for each day that the person continues to operate the private school. 1993, c.35, s.138.

## B. Home Education

- Notice of intention
- 139.** (1) A parent who intends to provide a home education program for his or her child shall, before the commencement of the school year, provide the Minister with
- (a) a notice of the parent's intention to provide a home education program; and
  - (b) a copy of the proposed home education program.
- Advice, comments by Department
- (2) The Department may provide to the parent advice and comments on the home education program.

(3) A student attending a home education program may attend courses offered by a school board as permitted by the regulations. 1993, c.35, s.139; 2003,c.43,s.12.

Attend courses offered by school board

**140.** Repealed by 2003,c.43,s.13.

Termination of home education program

### C. Youth Programs

**141.** (1) The Minister may authorize an educational program at a youth custody facility or other place at which a young person must be present under an order made by a youth justice court under the *Youth Criminal Justice Act* (Canada) or the *Youth Justice Act* R.S.P.E.I. 1988, Cap. Y-3.

Educational program

(2) Persons teaching in programs offered under subsection (1) must be eligible to hold an instructional license under this Act. 1993, c.35, s.141; 2006,c.39,s.13.

Must have teacher's license

### D. General

**142.** All public schools under this Act shall be non-sectarian. 1993, c.35, s.142.

Schools to be non-sectarian

**143.** (1) The exercise of any right or the receipt of any benefit under this Act is subject to those limitations that are reasonable in each circumstance under which the right is being exercised or the benefit is being received.

Rights limited as reasonable in circumstances

(2) Where by or under this Act any authority or right is vested in, or any obligation is imposed upon, a parent or a guardian of a student, such authority, right or obligation shall, where the student is an adult, be vested in or imposed upon the student. 1993, c.35, s.143.

Parent's right vest in adult student

### E. Offences

**144.** Where no punishment is provided for an offence under this Act, the punishment for that offence shall be a fine of not more than \$1,000 or imprisonment for a period of not more than six months, or both. 1993, c.35, s.144; 2006,c.39,s.14.

Offence

**145.** (1) No person shall disturb or interrupt the proceedings of a school or a school function without authority or reasonable cause to do so.

Disturbance or disruption prohibited

(2) No person shall canvass, sell or offer to sell goods, services or merchandise in a school or on school property without the prior permission of the principal and in accordance with school board policy.

Permission to sell on school property

- Person directed to leave school property (3) A person contravening subsection (1) or (2) who is directed to leave a school or school property by a staff member or a trustee  
 (a) shall immediately leave the school property; and  
 (b) shall not re-enter school property except with prior approval from the principal of the school or the superintendent of the school board.
- Offence (4) A person who contravenes subsection (1), (2) or (3) commits an offence.
- Assistance of peace officer (5) Where, for the purpose of this section the assistance of a peace officer is required to ensure the removal of an unauthorized person from the premises, it is the duty of a peace officer to provide assistance at the request of the staff member or trustee. 1993, c.35, s.145.

#### F. Local Financing

- Supplementary funding **146.** (1) Subject to subsection (2), when a regional school board desires to offer programs or services above and beyond those for which funding is provided by the Minister, it may seek supplementary funding in accordance with the terms of the *Real Property Tax Act* R.S.P.E.I. 1988, Cap. R-5.
- Idem*, requirements (2) Before seeking supplementary funding, the regional school board shall  
 (a) receive approval for the program or service from the Minister;  
 (b) publish the relevant facts about the program or service to be offered and the tax to be levied in a newspaper having general circulation within the regional administrative unit;  
 (c) conduct a plebiscite on the matter if, within thirty days following the publication under clause (b), five per cent or more of the eligible voters of the unit protest in writing to the school board against the implementation of the tax.
- Plebiscite (3) A property tax may be levied to raise supplementary funding for a program or service approved by the Minister  
 (a) if, within thirty days following the publication under clause (2)(a), less than five per cent of the eligible voters of the unit protest in writing to the school board against the implementation of the tax;  
 or  
 (b) when a majority of those who cast their ballots in a plebiscite concerning the supplementary funding do so in favour of the tax.
- Idem* (4) Where a plebiscite is to be held under this section it shall be held in accordance with the regulations.

(5) In this section “eligible voter” means a person who qualifies under section 32. eligible voter

(6) Each year a regional school board shall give account to the Minister for the expenditures of any supplementary funds made by that regional administrative unit. 1993, c.35, s.146. Report to Minister

#### PART XIV REGULATIONS

- 147.** The Lieutenant Governor in Council may make regulations Regulations
- (a) prescribing remuneration for school trustees;
  - (b) prescribing the manner in which trustees or employees of school boards shall be bonded;
  - (c) respecting school buildings or school building projects;
  - (d) establishing procedures for the closure of schools;
  - (e) respecting the requirement of school boards to obtain insurance or to participate in schemes or arrangements to protect the school board and its trustees and employees with respect to loss or legal liability;
  - (f) respecting the provision of information to the Minister by a school board;
  - (g) respecting the purchase and sale of vehicles by school boards;
  - (h) respecting insurance coverage required on school buses and other vehicles carrying students on school sponsored activities;
  - (h.1) respecting the use of school buses or other personal property owned or leased by a school board for purposes that are not directly related to services for students;
  - (h.2) respecting insurance coverage required for the use of school buses or other personal property pursuant to clause (h.1.);
  - (i) respecting the operation, maintenance, safety and inspection of school buses and other vehicles in which students are transported;
  - (j) respecting the age and the qualifications and responsibilities of school bus drivers;
  - (k) respecting medical examinations of school board employees;
  - (l) determining the process by which the authorized representative of the instructional personnel is ascertained;
  - (m) respecting the licensing and certification of instructional personnel, substitutes for teachers and the role of the Certification and Standards Board;
  - (n) respecting collective bargaining for instructional personnel;
  - (o) respecting the terms and conditions of employment for instructional personnel;
  - (p) respecting the terms and conditions of employment for non-instructional personnel;



- (q) providing for the manner of establishing salary scales and benefits for instructional personnel;
- (r) prescribing the form of contracts for instructional and non-instructional personnel;
- (s) respecting qualifications of supervisory and administrative personnel;
- (t) respecting grievance review boards established under a collective agreement;
- (u) providing for the suspension and dismissal of non-instructional personnel including appeal procedures;
- (v) providing procedures for the suspension and revocation of instructional licenses, including appeal procedures;
- (v.1) respecting the contents of notices that may be given under subsection 3(4) or 4(3);
- (w) defining the extent of free school privileges;
- (x) respecting exemption from attendance at school;
- (y) respecting student records;
- (z) respecting private schools, the qualifications of instructors, curriculum and other criteria for the licensing and operation of private schools;
- (aa) respecting home education programs;
- (bb) establishing the boundaries of Units;
- (cc) respecting supplementary funding;
- (dd) respecting all aspects of school board elections, including the establishment of electoral zones;
- (dd.1) respecting fees for any document provided or service performed under this Act or the regulations;
- (ee) defining any expression that is used but not defined in this Act;
- (ff) generally providing for the better administration of this Act. 1993, c.35, s.147; 1994, c.56, s.27; 1997,c.46,s.5; 2003, c.43,s.14, 2006,c.39,s.15.

PART XV  
GENERAL

Consequential  
amendments  
Repeal

**148.** Consequential amendments. 1993, c.35, s.148.

**149.** Act repealed. 1993, c.35, s.149.