



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

EDUCATION ACT TEACHER DISCIPLINE REGULATIONS

PLEASE NOTE

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For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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**EDUCATION ACT****Chapter E-.02****TEACHER DISCIPLINE REGULATIONS**

Pursuant to section 107 of the *Education Act* R.S.P.E.I. 1988, Cap. E-.02, Council made the following regulations:

1. Definitions

In these regulations,

- (a) “**Act**” means the *Education Act* R.S.P.E.I. 1988, Cap. E-.02;
- (b) “**appeal board**” means the appeal board appointed by the Minister under section 8;
- (c) “**review committee**” means the review committee established by the Minister under section 3. (EC535/16)

2. Nature of cause

- (1) For the purposes of section 102 of the Act, cause includes, but is not limited to,
 - (a) professional incompetence of a teacher;
 - (b) conduct on the part of a teacher in this or another province or a jurisdiction outside of Canada that, in the opinion of the Registrar, gives rise to concerns about the teacher and the safety of children or other persons in a school;
 - (c) a conviction of a teacher for an offence under the *Criminal Code* (Canada) or the *Controlled Drugs and Substances Act* (Canada) if, based on the nature of the offence, the Registrar reasonably believes that the teacher’s presence in a school would endanger the health, safety or well-being of students or other persons;
 - (d) a misrepresentation by a teacher of his or her qualifications in an application for a teacher’s license under section 98 of the Act;
 - (e) failure of the teacher to possess the qualifications required under the Act at the time the teacher’s license was issued.

Contents of notice

- (2) The notice to the teacher required under subsection 102(8) of the Act shall specify
 - (a) where the teacher’s license is suspended,
 - (i) the period during which the suspension is in effect, and
 - (ii) the Registrar’s reasons for deciding to impose the suspension on an interim basis until the review committee has concluded its investigation under subsection 102(3) of the Act;

- (b) where conditions are imposed on the teacher's license,
 - (i) a description of the conditions,
 - (ii) the period during which the conditions remain in effect, and
 - (iii) the Registrar's reasons for deciding to impose the conditions on an interim basis until the review committee has concluded its investigation under subsection 102(3) of the Act.

Supporting documentation

- (3) The Registrar shall attach a copy of any supporting documentation to the notice referred to in subsection (2). *(EC535/16)*

3. Review committee

- (1) The Minister shall establish a review committee for the purposes of conducting investigations under section 102 of the Act.

Composition

- (2) The review committee shall be composed of three persons, including at least one person who is a teacher.

Chairperson

- (3) The Minister shall designate a member of the review committee as the chairperson of the review committee.

Quorum

- (4) Two members of the review committee, one of whom shall be a teacher, constitute a quorum.

Member, conflict of interest

- (5) A member of the review committee who has a conflict of interest in respect of a matter that is before the review committee shall
 - (a) immediately disclose the nature of the conflict of interest to the review committee; and
 - (b) refrain from attempting to influence the disposition of the matter or participating in consideration of the matter.

Temporary replacement

- (6) The Minister may appoint a person to act temporarily in the position of a member of the review committee where
 - (a) the position is vacant;
 - (b) the member is absent or unable to act for any reason, including illness, incapacity or a conflict of interest in respect of a matter; or
 - (c) the member gives prior notice of a temporary absence or resignation. *(EC535/16; 329/25)*

4. Types of assessment

For the purposes of subsections 102(3) and (9) of the Act, the review committee or the Registrar, as the case may be, may request the teacher to undergo an assessment of one or more of the following types:

- (a) psychiatric assessment;

- (b) psychological assessment;
- (c) addictions assessment;
- (d) an assessment of medical condition, with respect to the teacher's medical fitness to carry out the responsibilities of a teacher. (EC535/16)

5. Contents of notice

- (1) The notice the Registrar is required to provide to a teacher for the purposes of subsection 102(1) of the Act shall contain
 - (a) the Registrar's reasons for suspending the teacher's license or revoking the teacher's license, as the case may be;
 - (b) the effective date of the suspension or revocation, as the case may be;
 - (c) in the case of a suspension, the period during which the suspension is in effect;
 - (d) in the case of a suspension where the Registrar has specified conditions or a requirement for the holder of the suspended teacher's license to undergo an assessment pursuant to subsection 102(9) of the Act, the details of the conditions or the type of assessment required, as the case may be.

Supporting documentation

- (2) The Registrar shall attach a copy of any supporting documentation to the notice referred to in subsection (1). (EC535/16)

6. Personal service or registered mail

- (1) For the purposes of subsections 102(1) and (8) and 105(2) of the Act, the notice to be provided by the Registrar to a teacher or the holder of a temporary permit shall be
 - (a) in writing; and
 - (b) served on the teacher or the holder of a temporary permit either
 - (i) personally, or
 - (ii) by registered mail.

Deemed receipt

- (2) Notice served by registered mail on a teacher or the holder of a temporary permit, as the case may be, in accordance with subclause (1)(b)(ii), is deemed to have been received 5 days after the notice was mailed. (EC535/16)

7. Notice of appeal

- (1) A teacher may commence an appeal under subsection 104(1) of the Act by sending a written notice of appeal accompanied with the appeal fee, to the Minister not later than 15 working days after the date of the suspension, revocation or imposition of terms or conditions by the Registrar under section 102 of the Act.

Information required

- (2) The teacher shall attach to the notice of appeal referred to in subsection (1)
 - (a) a copy of the notice received by the teacher pursuant to subsection 2(2) or 5(1), as the case may be, and any attachments;
 - (b) a description of the basis of the appeal; and
 - (c) a copy of any additional supporting documentation.

Fee

- (3) The fee for an appeal under section 102 of the Act of a decision of the Registrar is \$200. (EC535/16)

8. Appeal board

- (1) The Minister shall appoint an appeal board to hear an appeal under subsection 104(1) of the Act.

Composition

- (2) The appeal board shall be composed of the following:
- (a) a person who is a member in good standing of the Law Society of Prince Edward Island, who shall be the chairperson of the appeal board;
 - (b) a teacher;
 - (c) a person with experience, or an interest, in education.

Appeal documents

- (3) The Minister shall provide to the appeal board a copy of the notice of appeal and any attached documents referred to in subsection 7(2).

Conflict of interest, appeal board

- (4) A member of the appeal board who has a conflict of interest in respect of a matter that is before the appeal board shall
- (a) immediately disclose the nature of the conflict of interest to the appeal board; and
 - (b) refrain from attempting to influence the disposition of the matter or participating in consideration of the matter.

Temporary replacement

- (5) The Minister may appoint a person to act temporarily in the position of a member of the appeal board where
- (a) the position is vacant;
 - (b) the member is absent or unable to act for any reason, including illness, incapacity or a conflict of interest in respect of a matter; or
 - (c) the member gives prior notice of a temporary absence or resignation. (EC535/16; 329/25)

9. Powers of appeal board

The appeal board has the power

- (a) to hear and determine the teacher's appeal;
- (b) to administer oaths and affirmations; and
- (c) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence, and to produce documents. (EC535/16)

10. Appeal board determines own procedure

- (1) Except where otherwise provided in these regulations, the appeal board may determine its own procedure respecting the hearing.

Opportunity to be heard

- (2) The appeal board shall give the teacher the opportunity to be heard and to be represented by counsel.

Notice of hearing

- (3) The chairperson of the appeal board shall give notice to the teacher and the Registrar of the date, time and place of the hearing.

Quorum

- (4) The three members of the appeal board constitute a quorum.

Procedure

- (5) The decision of a majority of the members of the appeal board shall govern on questions of procedure, admissibility of evidence and other matters which arise during the hearing but, lacking a majority decision, the decision of the chairperson shall govern. (EC535/16)

11. Powers respecting conditions on license

- (1) Where the hearing is in respect of the imposition of conditions on a teacher's license, the appeal board may
- (a) confirm the decision of the Registrar;
 - (b) vary one or more conditions imposed on the teacher's license by the Registrar; or
 - (c) order that the conditions imposed on the teacher's license by the Registrar be removed.

Powers respecting suspension of license

- (2) Where the hearing is in respect of a suspension of a teacher's license, the appeal board may
- (a) confirm the suspension of the teacher's license;
 - (b) reduce or increase the period of suspension of the teacher's license; or
 - (c) order the reinstatement of the teacher's license.

Powers respecting revocation of license

- (3) Where the hearing is in respect of the revocation of a teacher's license, the appeal board may
- (a) confirm the revocation of the teacher's license;
 - (b) substitute a period of suspension of the teacher's license for the revocation; or
 - (c) order the reinstatement of the teacher's license.

Suspension, terms and conditions

- (4) Where the hearing is in respect of a decision of the Registrar under subsection 102(8) of the Act, the appeal board shall order the reinstatement of the teacher's license with or without conditions if, in the opinion of the appeal board, the suspension of the license or imposition of conditions on an interim basis was not required to ensure the health, safety or well-being of students. (EC535/16)

12. Benefits

- (1) If the decision of the appeal board under subsection 11(2) or (4) is to reduce the period of suspension of the teacher's license or reinstate the teacher's license, the appeal board shall, if the teacher is employed by an education authority, credit the teacher with the benefits that

would have accrued to the teacher for the period if the teacher's license had not been suspended.

Idem

- (2) If the decision of the appeal board under subsection 11(3) is to reinstate a teacher's license that has been revoked, the appeal board may, if the teacher was employed by an education authority at the date of revocation, credit the teacher with the benefits that would have accrued to the teacher if the teacher's license had not been revoked. (EC535/16)

13. Written reasons

- (1) The appeal board shall render its decision in writing within 30 days of the completion of the hearing, and shall provide copies of its decision to the Registrar and the teacher.

Majority decision

- (2) A decision of the majority of members of the appeal board shall be the decision of the appeal board.

Minority report

- (3) A member of the appeal board may submit a minority decision to the Registrar and the teacher. (EC535/16)

14. Revocation

The *School Act* Instructional Personnel Regulations (EC481/98) are revoked. (EC535/16)