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Legislative Assembly of British Columbia

BILL 25

**EDUCATION STATUTES
AMENDMENT ACT, 2021**

Honourable Jennifer Whiteside
Minister of Education

Explanatory Notes

SECTION 1: *[First Nations Education Act, section 2.1]* adds a commitment by the Province to assist the First Nations Education Authority with its certification and regulation of teachers, if requested.

SECTION 2: *[First Nations Education Act, section 3]* replaces a reference to British Columbia with a reference to the Province.

SECTION 3: *[Teachers Act, section 1]*

- adds definitions;
- makes a housekeeping amendment.

BILL 25 – 2021

EDUCATION STATUTES AMENDMENT ACT, 2021

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

First Nations Education Act

1 *The First Nations Education Act, S.B.C. 2007, c. 40, is amended by adding the following section:*

Assistance with teacher certification and regulation

2.1 If requested by the First Nations Education Authority, the Province will assist the First Nations Education Authority with the First Nations Education Authority's certification and regulation of teachers.

2 *Section 3 is amended by striking out "British Columbia" and substituting "The Province".*

Teachers Act

3 *Section 1 of the Teachers Act, S.B.C. 2011, c. 19, is amended*

(a) by adding the following definitions:

"coordination agreement" means the agreement described in section 80.1 [coordination agreement with First Nations Education Authority];

"First Nations Education Authority" has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);

"FNEA certified teacher" means a person who holds an FNEA teaching certificate;

"FNEA teaching certificate" means a teaching certificate issued by the First Nations Education Authority;

"participating First Nation" has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada); , **and**

(b) in the definition of "practising teacher" by striking out "his or her employment" and substituting "the certificate holder's employment".

SECTION 4: *[Teachers Act, section 5]* makes a housekeeping amendment.

SECTION 5: *[Teachers Act, section 9]*

- expands the membership of the British Columbia Teachers' Council by adding
 - one additional certificate holder to be nominated by the British Columbia Teachers' Federation and appointed by the minister, and
 - one person to be appointed by the First Nations Education Authority;
- provides that the term of office of the member appointed by the First Nations Education Authority is 3 years;
- adds authority for the First Nations Education Authority to appoint a member for a term of office other than 3 years if the appointment is to fill a vacancy.

SECTION 6: *[Teachers Act, section 11]*

- provides that the First Nations Education Authority may terminate the appointment of the member appointed to the British Columbia Teachers' Council by the First Nations Education Authority and sets out the consequences of termination;
- adds authority for the minister to appoint a person to fill a vacancy on the British Columbia Teachers' Council if, within 90 days after the office is terminated, the vacancy is not filled by the First Nations Education Authority.

- 4 Section 5 (1) (c) (i) is amended by striking out “he or she” and substituting “the commissioner”.**
- 5 Section 9 is amended**
- (a) in subsection (1) (a) by striking out “3 certificate holders” and substituting “4 certificate holders”,**
- (b) in subsection (1) by adding the following paragraph:**
- (a.1) one person appointed by the First Nations Education Authority in accordance with the regulations; ,
- (c) by adding the following subsection:**
- (3.1) Subject to subsection (4), the term of office of a council member appointed under subsection (1) (a.1) is 3 years. , **and**
- (d) in subsection (4) by striking out “The minister may” and substituting “The minister or the First Nations Education Authority, as applicable, may”.**
- 6 Section 11 is amended by adding the following subsections:**
- (6.1) The First Nations Education Authority may terminate the appointment of a council member appointed under section 9 (1) (a.1) if the First Nations Education Authority is satisfied that the person has contravened a term of the oath required by subsection (1) of this section.
- (9) If the appointment of a person is terminated under subsection (6.1), the person ceases to be
- (a) a council member,
- (b) a board member, if appointed as a board member under section 26, and
- (c) a panel member, if sitting on a panel,
- and the First Nations Education Authority may appoint a person under section 9 (1) (a.1) to fill the vacancy.
- (10) If, within 90 days after a termination under subsection (6.1), no appointment is made under subsection (9), the minister may appoint a person to fill the vacancy in accordance with the regulations.
- (11) For the purposes of this section and section 9, a person appointed under subsection (10) of this section is to be considered to have been appointed by the First Nations Education Authority under subsection (9) of this section.

SECTION 7: *[Teachers Act, section 20]* makes a housekeeping amendment.

SECTION 8: *[Teachers Act, section 23]* makes a housekeeping amendment.

SECTION 9: *[Teachers Act, section 25]* makes a housekeeping amendment.

SECTION 10: *[Teachers Act, section 27]* makes a housekeeping amendment.

SECTION 11: *[Teachers Act, section 29]* makes a housekeeping amendment.

SECTION 12: *[Teachers Act, heading to Division 4 of Part 6]* makes a housekeeping amendment.

SECTION 13: *[Teachers Act, section 79]* adds authority for the director of certification to include in the online registry information provided under section 80.2 (2) (a), as added by this Bill to the Act.

- 7 ***Section 20 (d) is repealed and the following substituted:***
(d) the certificate holder’s nomination in writing is proposed by 10 certificate holders who have their principal residence in that zone, and .
- 8 ***Section 23 is amended***
(a) ***in subsections (1) and (3) by striking out “his or her term” and substituting “the member’s term”, and***
(b) ***in subsection (4) by striking out “he or she” and substituting “the council member”.***
- 9 ***Section 25 (2) is amended by striking out “he or she” and substituting “the council member”.***
- 10 ***Section 27 (1) is amended by striking out “his or her” in both places and substituting “the board member’s”.***
- 11 ***Section 29 (1) is amended by striking out “his or her duties as a panel member” and substituting “the duties of a panel member”.***
- 12 ***The heading to Division 4 of Part 6 is repealed and the following substituted:***
Division 4 – Disciplinary and Professional Conduct Inquiries .
- 13 ***Section 79 is amended***
(a) ***by renumbering the section as section 79 (1), and***
(b) ***by adding the following subsection:***
(2) If the minister provides information to the director of certification under section 80.2 (2) (a) [*minister’s power to provide information for inclusion in online registry*], the director of certification must include that information in the online registry.

SECTION 14: *[Teachers Act, section 80]*

- replaces the definition of “aboriginal educator” with a definition of “First Nations school employer” and adds a definition;
- makes a housekeeping amendment;
- repeals the definition of “participating First Nation”, which is being relocated to section 1 of the Act.

14 Section 80 (1) is amended

(a) by repealing the definition of “aboriginal educator”,

(b) in the definition of “employer” by striking out “his or her capacity as” and substituting “the capacity of”,

(c) by adding the following definition:

“First Nations school employer” means any of the following that employs a certificate holder in the capacity of a certificate holder or that employs an FNEA certified teacher in the capacity of an FNEA certified teacher:

- (a) a first nation, as defined in section 1 [*definitions and interpretation*] of the *School Act*, that is operating an educational institution;
- (b) a Community Education Authority, as established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada), that is operating an educational institution;
- (c) a treaty first nation that is operating an educational institution under the treaty first nation’s laws;
- (d) a prescribed entity; ,

(d) by repealing the definition of “participating First Nation”, and

(e) by adding the following definition:

“prospective First Nations school employer” means any of the following that is considering becoming a First Nations school employer of a certificate holder or FNEA certified teacher:

- (a) a first nation, as defined in section 1 [*definitions and interpretation*] of the *School Act*;
- (b) a Community Education Authority, as established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);
- (c) a treaty first nation;
- (d) a prescribed entity.

SECTION 15: *[Teachers Act, section 80]*

- requires the director of certification to establish and maintain a list of persons who employ certificate holders and FNEA certified teachers;
- adds authority for a prospective employer or prospective First Nations school employer to inspect the list.

SECTION 16: *[Teachers Act, Part 7.1]*

- creates a new Part to authorize the minister to enter into an agreement with the First Nations Education Authority to provide assistance with the certification of applicants for an FNEA teaching certificate and the regulation of FNEA certified teachers, and adds the necessary authority for the minister to provide assistance at the request of the First Nations Education Authority under the agreement;
- adds authority for the minister to delegate the minister's powers under Part 7.1, as added by this Bill to the Act.

15 Section 80 (3) and (4) is repealed and the following substituted:

- (3) From the information submitted and maintained under subsection (2), the director of certification must establish and maintain a list that identifies the employers of every certificate holder.
- (4) If the minister provides information to the director of certification under section 80.2 (2) (b) [*minister's power to provide information for inclusion in list of employers*], the director of certification must
 - (a) include the information in the list, and
 - (b) maintain the information for at least 10 years.
- (5) A prospective employer or prospective First Nations school employer
 - (a) that is considering hiring a certificate holder or FNEA certified teacher may inspect the list maintained under subsection (4), and
 - (b) that inspects the list under paragraph (a) must keep confidential the information obtained from the list.

16 The following Part is added:

**PART 7.1 – TEACHER CERTIFICATION AND REGULATION
BY THE FIRST NATIONS EDUCATION AUTHORITY**

Coordination agreement with First Nations Education Authority

- 80.1** The minister may, on behalf of the government, enter into an agreement with the First Nations Education Authority to provide to the First Nations Education Authority assistance in respect of the certification of applicants for an FNEA teaching certificate and the regulation of FNEA certified teachers by the First Nations Education Authority.

Powers to assist First Nations Education Authority

- 80.2** (1) If the minister receives from the First Nations Education Authority a request for assistance under the coordination agreement, the minister may do the following:
- (a) assist with an investigation conducted by the First Nations Education Authority, or conduct an investigation on behalf of the First Nations Education Authority, to determine whether an applicant meets the criteria to be issued an FNEA teaching certificate;
 - (b) assist with an investigation conducted by the First Nations Education Authority, or conduct an investigation on behalf of the First Nations Education Authority, into the conduct or competence of an FNEA certified teacher;

SECTION 16: *[Teachers Act, Part 7.1 – continued]*

- (c) report to the First Nations Education Authority on an investigation described in paragraph (a) or (b);
 - (d) assist the First Nations Education Authority with the submission of, or submit on behalf of the First Nations Education Authority, criminal record check authorizations or criminal record check verification authorizations under the *Criminal Records Review Act* for applicants for an FNEA teaching certificate and for FNEA certified teachers;
 - (e) report to the First Nations Education Authority on information provided to the minister in response to the submission of the criminal record check authorizations or criminal record check verification authorizations referred to in paragraph (d);
 - (f) assist the First Nations Education Authority with the consideration of notifications, determinations and written reasons for determinations provided under the *Criminal Records Review Act* in relation to criminal record checks and criminal record check verifications for applicants for an FNEA teaching certificate and for FNEA certified teachers;
 - (g) provide advice in respect of the certification of applicants for an FNEA teaching certificate and the regulation of FNEA certified teachers.
- (2) The minister may
- (a) provide to the director of certification the following information for inclusion in the online registry established under section 79 [*online registry*]:
 - (i) the name of an FNEA certified teacher;
 - (ii) the current status of the FNEA certified teacher's FNEA teaching certificate;
 - (iii) any other prescribed information, and
 - (b) provide to the director of certification for inclusion in the list established and maintained under section 80 (3) [*list of employers and First Nations school employers*]:
 - (i) the name of each First Nations school employer, and
 - (ii) information that identifies any certificate holders or FNEA certified teachers employed by the First Nations school employer.

Power to compel witnesses and require disclosure

80.3 For the purposes of exercising the minister's powers under section 80.2 (1) (b), the minister has the same powers that the commissioner has under section 48 [*power to compel witnesses and require disclosure*] and may interview

- (a) any employee of the First Nations school employer of the FNEA certified teacher,
- (b) the FNEA certified teacher who is the subject of the investigation,

SECTION 16: *[Teachers Act, Part 7.1 – continued]*

SECTION 17: *[Teachers Act, section 81]* expands the minister's authority to make regulations, consequential to amendments made by this Bill to the Act.

SECTION 18: *[Teachers Act, section 83]* expands the authority of the Lieutenant Governor in Council to make regulations consequential to amendments made by this Bill to the Act.

- (c) if applicable, the person who sent to the First Nations Education Authority a written complaint in respect of the conduct or competence of the FNEA certified teacher, and
- (d) any other person the minister considers may have relevant information.

Personal information

- 80.4** (1) The minister may collect directly or indirectly, use and disclose personal information necessary for the following purposes:
- (a) responding under section 80.2 (1) [*powers to assist First Nations Education Authority*] to a request for assistance;
 - (b) providing to the director of certification information described in section 80.2 (2);
 - (c) any other prescribed purpose.
- (2) The First Nations Education Authority may collect, use and disclose to the minister personal information necessary for the following purposes:
- (a) requesting and receiving the assistance described in section 80.2 (1);
 - (b) providing the information referred to in section 80.2 (2);
 - (c) any other prescribed purpose.

Minister's power to delegate

- 80.5** The minister may delegate to any person any of the minister's powers under this Part, except the power
- (a) to delegate under this section, and
 - (b) to enter into an agreement under section 80.1 [*coordination agreement with First Nations Education Authority*].

17 Section 81 (1) is amended by adding the following paragraph:

- (a.1) respecting the appointment under section 9 (1) (a.1); .

18 Section 83 (2) is amended by adding the following paragraph:

- (b.1) respecting appointments under section 11 (10); .

SECTION 19: *[Teachers Act, section 83]* expands the authority of the Lieutenant Governor in Council to make regulations consequential to amendments made by this Bill to the Act.

SECTION 20: *[Teachers Act, section 85]* provides for payments made under the coordination agreement to be credited to the special account.

SECTION 21: *[Teachers Act, section 89]* makes a housekeeping amendment.

SECTION 22: *[Criminal Records Review Act, section 1]* adds definitions.

19 Section 83 (2) is amended by adding the following paragraphs:

- (e) prescribing an entity for the purposes of paragraph (d) of the definition of “First Nations school employer” or paragraph (d) of the definition of “prospective First Nations school employer” in section 80 (1) [*list of employers and First Nations school employers*];
- (f) prescribing information for the purposes of section 80.2 (2) (a) (iii) [*minister’s power to provide information for inclusion in online registry*];
- (g) prescribing a purpose for the purposes of section 80.4 (1) (c) or (2) (c) [*purposes for which personal information may be collected, used and disclosed*].

20 Section 85 (3) is amended by adding the following paragraph:

- (d) payments made by the First Nations Education Authority under the coordination agreement.

21 Section 89 (1) (b) is amended by striking out “his or her” and substituting “the”.

Consequential Amendments

Criminal Records Review Act

22 Section 1 of the Criminal Records Review Act, R.S.B.C. 1996, c. 86, is amended by adding the following definitions:

- “**First Nations Education Authority**” has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);
- “**FNEA certified teacher**” has the same meaning as in section 1 of the *Teachers Act*;
- “**FNEA teaching certificate**” has the same meaning as in section 1 of the *Teachers Act*; .

SECTION 23: ***[Criminal Records Review Act, section 4]*** adds requirements to provide to the First Nations Education Authority and the minister responsible for the administration of the *Teachers Act* information respecting the results of a criminal record check on an FNEA certified teacher or an applicant for an FNEA teaching certificate.

SECTION 24: ***[Criminal Records Review Act, section 5]*** adds a requirement to provide written reasons for a decision on reconsideration, if requested by the First Nations Education Authority or the minister responsible for the administration of the *Teachers Act*.

SECTION 25: ***[Criminal Records Review Act, section 6]*** adds a requirement for the minister responsible for the administration of the *Teachers Act* to provide records as ordered by the registrar or deputy registrar.

23 Section 4 is amended

(a) in subsection (2) (b) by adding the following subparagraph:

- (viii) the First Nations Education Authority and the minister responsible for the administration of the *Teachers Act*, if the individual is an FNEA certified teacher or an applicant for an FNEA teaching certificate. , **and**

(b) in subsection (5) by adding the following paragraph:

- (g) the First Nations Education Authority and the minister responsible for the administration of the *Teachers Act*, if the individual is an FNEA certified teacher or an applicant for an FNEA teaching certificate.

24 Section 5 (8) is amended by adding the following paragraph:

- (g) the First Nations Education Authority and the minister responsible for the administration of the *Teachers Act*, if the individual is an FNEA certified teacher or an applicant for an FNEA teaching certificate.

25 Section 6 (1) is amended by adding the following paragraph:

- (i) the minister responsible for the administration of the *Teachers Act*, if the individual is an FNEA certified teacher or an applicant for an FNEA teaching certificate.

Commencement

26 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 5 and 6	By regulation of the Lieutenant Governor in Council
3	Sections 17 and 18	By regulation of the Lieutenant Governor in Council