



Province of Alberta

EDUCATION ACT

# PRIVATE SCHOOLS REGULATION

## **Alberta Regulation 127/2022**

With amendments up to and including Alberta Regulation 9/2023

Current as of February 1, 2023

Office Consolidation

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Alberta King's Printer  
Suite 700, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952

E-mail: [kings-printer@gov.ab.ca](mailto:kings-printer@gov.ab.ca)  
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### **Note**

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(Consolidated up to 9/2023)

**ALBERTA REGULATION 127/2022**

**Education Act**

**PRIVATE SCHOOLS REGULATION**

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#### **Definitions**

**1(1)** In this Regulation,

- (a) “accredited private school” means a registered private school
  - (i) that is accredited under section 29(2) of the Act, and
  - (ii) whose registration and accreditation have not been cancelled or suspended under section 29(4) of the Act;
- (b) “Alberta Programs of Study” means the courses and programs of study prescribed by the Minister under section 18(1)(a) of the Act;

- (b.1) “at-home learning” means teacher-directed education programming provided by an operator of a registered private school, an accredited private school or a funded private school to a student on a temporary basis at the student’s residence or at a location other than the student’s regularly attended school;
- (c) “*Education Grants Regulation*” means the *Ministerial Grants Regulation* (AR 215/2022) or the former grant regulation to the extent that it continues to apply pursuant to section 12(2) of the *Ministerial Grants Regulation* (AR 215/2022);
- (d) “fiscal year” means the 12-month period beginning on September 1 and ending on the following August 31;
- (e) “funded private school” means an accredited private school that
- (i) is owned or operated by a society registered under the *Societies Act*, a non-profit company registered under Part 9 of the *Companies Act* or a non-profit corporation incorporated by or under an Act of the Legislature, and
  - (ii) receives a grant under the *Education Grants Regulation*;
- (f) “governing body” means the body responsible for the governance, including fiscal and organizational governance, of the operator of a private school;
- (g) “instructional day”, in respect of a private school, means a day on which instruction is provided by a teacher at the private school;
- (h) “instructional staff”, in respect of an accredited private school, means
- (i) teachers employed under section 9(1), and
  - (ii) any individuals employed under section 9(2) by the operator of the school;
- (i) “registered private school” means a school
- (i) that is registered as a private school under section 29(1) of the Act, and
  - (ii) whose registration has not been cancelled or suspended under section 29(4) of the Act.

(2) A reference in this Regulation to a ministerial order is to be interpreted as including a reference to the order as amended or replaced from time to time.

AR 127/2022 s1;225/2022;9/2023

## **Part 1**

### **Registered Private Schools**

#### **Application for registration**

**2(1)** An application under section 29(1) of the Act to register a school as a private school must include

- (a) the name and contact information of all owners of the school,
- (b) the name and mailing address of the school,
- (c) the location of the school if the location is not apparent from the mailing address,
- (d) the names and contact information of the operators of the school, if different from the owners referred to in clause (a),
- (e) if an operator of the school is a corporation, the names and contact information of the directors and officers of the corporation,
- (f) the proposed programs of study and, if different from the Alberta Programs of Study, a list of subjects proposed to be offered and an outline of the major skills and knowledge areas to be learned by students, which must be consistent with the requirements of orders made by the Minister under section 18(2) of the Act,
- (g) information demonstrating that the school will be able to ensure that students enrolled in the school have sufficient opportunity to achieve, to an acceptable level, the outcomes set out in orders made by the Minister under section 18(2) of the Act and, if applicable, the standards set out in the Alberta Programs of Study,
- (h) a description of the applicable provincial assessments under programs established by the Minister that are proposed to be used, or any alternative assessments acceptable to the Minister that are proposed to be used, which must consist of standards that are similar to the standards contained in provincial assessments,
- (i) where applicable, proof that the building to be used by the school complies with municipal zoning bylaws and

applicable municipal and provincial public health, safety, fire and building standards, and

- (j) any additional information required by the Minister relating to the operation of the school.

(2) If there are changes to the information referred to in subsection (1) after the application is submitted to the Minister, the changes must be submitted to the Minister forthwith.

### Requirements to operate

3 The operator of a registered private school shall ensure that students enrolled in the school have

- (a) the opportunity referred to in section 2(1)(g), and
- (b) the opportunity to write the applicable provincial assessments under programs established by the Minister.

### In-person learning

3.1(1) Subject to subsection (4), in fulfilling its responsibility to provide students with an education program consistent with the requirements set out in the Act and the regulations, the operator of a registered private school offering or providing in-person learning for some or all of grades 1 to 12 may offer or provide at-home learning only if the operator provides or continues to provide an option for in-person learning for each student at the student's regularly attended school for all grades for which that operator offers or provides at-home learning.

(2) Subject to subsection (4), the option for in-person learning must allow the student to continue with the same courses and education program that the student is enrolled in as of the date at-home learning is offered or provided.

(3) In fulfilling its responsibility to provide students with an education program consistent with the requirements set out in the Act and the regulations, the operator of a registered private school may not deny a student access to in-person learning if the student does not wear a face mask or other face covering for the primary purpose of preventing or limiting the spread of COVID-19 or any other communicable disease, as defined in the *Public Health Act*.

(4) The Minister, by order, may exempt the operator of a registered private school from the application of subsection (1) or (2), subject to any terms and conditions the Minister considers appropriate.

AR 225/2022 s3

**Operating plan**

**4(1)** The operator of a registered private school who intends to operate the school beyond the first year shall submit to the Minister an operating plan, in the form prescribed by the Minister, that includes

- (a) the number of students estimated to be enrolled in the school on the last instructional day in September of the school year for which the plan is to have effect, and
- (b) any changes to the information submitted under section 2(1) or (2).

**(2)** An operating plan must be submitted annually not later than May 15 preceding the school year for which the plan is to have effect.

**(3)** An operator of more than one registered private school may submit one operating plan that relates to all of those schools.

**Duty to inform parent**

**5** The operator of a registered private school that is not an accredited private school shall inform the parent of a prospective student of the school, in writing,

- (a) that a student who attends the registered private school may not necessarily be placed at the same grade level if the student registers in another school,
- (b) that the registered private school cannot grant credit for senior high school courses taken at that school,
- (c) of the operator's general liability insurance coverage for accidents and deaths, and
- (d) of the qualifications of the members of the instructional staff.

**Discipline, suspension and expulsion**

**6** The operator of a registered private school shall

- (a) make rules for the discipline of students and for the suspension and expulsion of students that incorporate the principles of fundamental justice, and
- (b) provide copies of the rules to the students enrolled in the school and their parents.



## Part 2

### Accredited Private Schools

#### Application for accreditation

**7** An application under section 29(2) of the Act to have a registered private school accredited as an accredited private school must include

- (a) the information listed in section 2(1), and
- (b) proof satisfactory to the Minister that the school meets the requirements of section 29(2)(b) of the Act.

#### Eligibility for grant

**8(1)** Subject to subsection (2), the operator of an accredited private school is eligible to receive a grant under the *Education Grants Regulation* in respect of that school if

- (a) at the time the grant is applied for, the private school has been in operation as an accredited private school for a period of at least one year, and
- (b) for a period of at least one year immediately preceding the time the grant is applied for, the accredited private school and the operator of the accredited private school have been in compliance with all requirements that a funded private school or the operator of a funded private school must meet under the Act and this Regulation.

**(2)** The operator of an accredited private school is eligible to receive a grant under the *Education Grants Regulation* in respect of an additional accredited private school operated by the operator if

- (a) at the time the grant is applied for in respect of the additional accredited private school, the operator has been operating the original accredited private school for a period of at least one year, and
- (b) for a period of at least one year immediately preceding the time the grant is applied for, the operator has been in compliance with
  - (i) all requirements that an accredited private school or the operator of an accredited private school must meet under the Act and this Regulation, with respect to all accredited private schools operated by the operator, and
  - (ii) all requirements that a funded private school or the operator of a funded private school must meet under

the Act and this Regulation, with respect to any funded private schools operated by the operator.

(3) The Minister may exempt the operator of an accredited private school from the application of subsection (1) or (2), as applicable.

#### **Instructional staff**

**9(1)** Subject to subsection (2), the operator of an accredited private school shall employ as a teacher only an individual who holds a teaching certificate.

(2) The operator of an accredited private school may employ a competent individual to teach a language, culture or religion in the school under the supervision of a teacher who holds a teaching certificate.

#### **Policies**

**10(1)** The operator of an accredited private school shall develop, maintain and review policies with respect to

- (a) the assessment of students,
- (b) the supervision, evaluation and professional growth of teachers,
- (c) safety for outdoor education and field trips, and
- (d) a health protocol.

(2) The operator of an accredited private school shall ensure that any policies developed, maintained and reviewed by the operator, including the policies referred to in subsection (1), are consistent with the policies of the Minister in respect of accredited private schools.

#### **Programs and standards**

**11** The operator of an accredited private school shall

- (a) ensure that students enrolled in the school have the opportunity to meet the requirements prescribed under section 18(1)(b) of the Act,
- (b) use the provincial assessments under programs established by the Minister, and
- (c) provide the Alberta Programs of Study, if the accredited private school is a funded private school.

**In-person learning**

**11.1(1)** Subject to subsection (4), in fulfilling its responsibility to provide students with an education program consistent with the requirements set out in the Act and the regulations, the operator of an accredited private school offering or providing in-person learning for some or all of grades 1 to 12 may offer or provide at-home learning only if the operator provides or continues to provide an option for in-person learning for each student at the student's regularly attended school for all grades for which that operator offers or provides at-home learning.

**(2)** Subject to subsection (4), the option for in-person learning must allow the student to continue with the same courses and education program that the student is enrolled in as of the date at-home learning is offered or provided.

**(3)** In fulfilling its responsibility to provide students with an education program consistent with the requirements set out in the Act and the regulations, the operator of an accredited private school may not deny a student access to in-person learning if the student does not wear a face mask or other face covering for the primary purpose of preventing or limiting the spread of COVID-19 or any other communicable disease, as defined in the *Public Health Act*.

**(4)** The Minister, by order, may exempt the operator of an accredited private school from the application of subsection (1) or (2), subject to any terms and conditions the Minister considers appropriate.

AR 225/2022 s4

## **Part 3**

### **Funded Private Schools**

**Definitions**

**12** In this Part,

- (a) “base salary” means the salary, exclusive of any benefits or other form of compensation, that a senior management employee is paid under a contract of employment;
- (b) “benefits” means other compensation, in addition to base salary, that is offered, paid or provided, in accordance with section 30, to or for the benefit of a senior management employee under a contract of employment;
- (c) “designated special education private school” means a school designated under section 14(1);
- (d) “related party”, with respect to the operator of a funded private school, means a related party within the meaning of the *CPA Canada Handbook — Accounting*, published by

the Chartered Professional Accountants of Canada, as amended from time to time;

- (e) “senior management contractor” means an individual engaged for services by the operator of a funded private school to plan, direct or control the management, administration and operation of the funded private school;
- (f) “senior management employee” means an individual employed by the operator of a funded private school to plan, direct or control the management, administration and operation of the funded private school;
- (g) “senior manager” means a senior management employee or a senior management contractor.

#### **Principal**

**13(1)** The operator of a funded private school shall designate an individual to act as the principal of the school.

**(2)** An individual who does not hold a leadership certificate is not eligible to be designated under subsection (1).

**(3)** The individual who is designated under subsection (1) to act as the principal of a funded private school shall not, at the same time, be the operator of the school or a voting member of the governing body of the school.

**(4)** The principal of a funded private school shall provide a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging.

#### **Designated special education private schools**

**14(1)** The Minister may designate a funded private school as a designated special education private school if

- (a) at the time the designation is made the school has been in operation for at least one year,
- (b) the school’s sole purpose is to serve students with a mild, moderate or severe disability, and
- (c) each of the students enrolled in the school is diagnosed with a disability referred to in clause (b).

**(2)** The operator of a designated special education private school shall meet

- (a) the standards set out in Ministerial Order No. 015/2004, *Standards for Special Education, Amended June 2004*, except the standards set out in section 16(e) of the Order, and
- (b) all other applicable standards adopted or approved by ministerial order under section 18(2)(b) of the Act, whether the ministerial order is made before, on or after the day this Regulation comes into force.

#### **Parent advisory council**

**15(1)** In this section, “parent advisory council”, in respect of a funded private school, means a group of parents of students enrolled in the school who provide advice to the principal of the school and the governing body of the funded private school respecting any matter relating to the school.

**(2)** The operator of a funded private school shall establish a parent advisory council if the parents of students enrolled in the school do not constitute a majority of the members of the governing body of the funded private school.

#### **Education plan and annual education results report**

**16(1)** The operator of a funded private school shall prepare an education plan and annual education results report as required by the Minister.

**(2)** Subsection (1) does not apply where the funded private school offers only heritage language programs or cultural programs, or both.

**(3)** The operator of more than one funded private school may include all of those schools in the same education plan and annual education results report.

#### **In-person learning**

**16.1(1)** Subject to subsection (4), in fulfilling its responsibility to provide students with an education program consistent with the requirements set out in the Act and the regulations, the operator of a funded private school offering or providing in-person learning for some or all of grades 1 to 12 may offer or provide at-home learning only if the operator provides or continues to provide an option for in-person learning for each student at the student’s regularly attended school for all grades for which that operator offers or provides at-home learning.

**(2)** Subject to subsection (4), the option for in-person learning must allow the student to continue with the same courses and education

program that the student is enrolled in as of the date at-home learning is offered or provided.

(3) In fulfilling its responsibility to provide students with an education program consistent with the requirements set out in the Act and the regulations, the operator of a funded private school may not deny a student access to in-person learning if the student does not wear a face mask or other face covering for the primary purpose of preventing or limiting the spread of COVID-19 or any other communicable disease, as defined in the *Public Health Act*.

(4) The Minister, by order, may exempt the operator of a funded private school from the application of subsection (1) or (2), subject to any terms and conditions the Minister considers appropriate.

AR 225/2022 s5

#### **Responsibility where student is expelled**

**17** Where a student is expelled from a funded private school, the operator of the school

- (a) continues to be responsible for the student's education program for the remainder of the school year, and
- (b) shall ensure that the student has access to an education program for the remainder of the school year.

#### **School closure**

**18** If the operator of a funded private school intends to close the school, the operator shall

- (a) provide 30 days' advance written notice to the parents of each student enrolled in the funded private school and to the Minister, and
- (b) endeavour to place the students in another school.

### **Financial and Governance Matters**

#### **Secretary, treasurer and auditor**

**19(1)** The operator of a funded private school shall appoint a secretary and a treasurer, or a secretary-treasurer, who is not the operator or the chair or president of the governing body of the school.

(2) The operator of a funded private school shall appoint as auditor of the funded private school a professional accounting firm registered under the *Chartered Professional Accountants Act* and authorized to perform an audit engagement.

(3) The operator of a funded private school shall provide to the Minister the contact information of the persons referred to in subsections (1) and (2).

#### **Financial statements**

**20(1)** The operator of a funded private school shall submit to the Minister annually on or before November 30, in a form and manner prescribed by the Minister,

- (a) the audited financial statements of the operator in respect of the funded private school for the fiscal year ending on the August 31 preceding that date, including an auditor's report signed by the auditor,
- (b) an audited statement of operations accounting with respect to all grants received by the operator under the *Education Grants Regulation* in respect of all funded private schools operated by the operator, and
- (c) copies of any written communications between the auditor and the operator respecting the operator's internal controls and accounting procedures.

(2) The financial statements referred to in subsection (1)(a) must be signed by

- (a) the operator or the chair of the governing body of the funded private school, and
- (b) the treasurer or secretary-treasurer appointed under section 19(1).

(3) The operator of more than one funded private school may, with the prior approval of the Minister, submit to the Minister audited financial statements, an audited statement of operations accounting and the written communications referred to in subsection (1) that relate to all of those funded private schools.

(4) The auditor shall, in accordance with the *CPA Canada Handbook — Assurance*, published by the Chartered Professional Accountants of Canada, as amended from time to time, perform the auditor's examination of and prepare the auditor's report on the financial statements prepared under this section and submit the report to the operator of the funded private school.

(5) The following persons shall give the auditor access to all records and documents of the operator of the funded private school at all times:

- (a) the operator;

- (b) the members of the operator's governing body;
- (c) the senior managers and employees of the operator;
- (d) any person engaged for services by the operator who has access to the records and documents of the operator.

**(6)** The auditor may request from the operator of a funded private school, the members of its governing body, its senior managers and employees and any persons engaged for services by the operator any information and explanations that in the auditor's opinion may be necessary to enable the auditor to report as required by subsection (4).

**(7)** An operator, the members of its governing body, its senior managers and employees and any persons engaged for services by the operator shall provide to the auditor the information and explanations requested by the auditor under subsection (6).

#### **Budget**

**21(1)** The operator of a funded private school shall submit to the Minister annually on or before May 31, in a form and manner prescribed by the Minister, the budget of the operator in respect of the funded private school for the fiscal year starting on the September 1 following that date.

**(2)** An operator of more than one funded private school may, with the prior approval of the Minister, submit to the Minister a budget under subsection (1) that relates to all of those funded private schools.

#### **Financial and governance policies**

**22(1)** The governing body of a funded private school shall develop, maintain and review policies with respect to

- (a) internal controls, including
  - (i) the segregation of duties,
  - (ii) capital assets,
  - (iii) the reimbursement of expenses, and
  - (iv) investments,
- (b) the roles and responsibilities of the governing body of the funded private school,



- (c) the roles and responsibilities of senior managers of the funded private school,
- (d) conflicts of interest, and
- (e) matters relating to the compensation of senior managers of the funded private school that are not addressed by this Regulation.

(2) An operator of a funded private school shall ensure that any policies developed, maintained and reviewed by the operator, including the policies referred to in subsection (1), are consistent with the policies of the Minister in respect of funded private schools.

#### **Transfer of grants**

**23(1)** The operator of a funded private school may transfer a grant or a portion of a grant received under the *Education Grants Regulation* only to

- (a) the Government of Alberta,
- (b) a society registered under the *Societies Act*, a non-profit company registered under Part 9 of the *Companies Act* or a non-profit corporation incorporated by or under an Act of the Legislature that
  - (i) operates a funded private school, or
  - (ii) provides program support services to a funded private school,

or

- (c) a board or the operator of a charter school.

(2) For greater certainty, a transfer under subsection (1) does not include the use of a grant or a portion of a grant to pay the costs and expenses of managing, administering or operating a funded private school.

#### **Related party agreements**

**24(1)** This section applies in respect of

- (a) an agreement to sell, purchase, lease, mortgage or otherwise acquire or dispose of real property or personal property, or
- (b) an agreement to engage services, other than an agreement to engage the services of a senior management contractor

that the operator of a funded private school enters into or proposes to enter into with a related party for the purposes of managing, administering or operating the funded private school.

(2) The amount payable under an agreement referred to in subsection (1)(a) for the acquisition by the operator of a funded private school of real property or personal property must be at or below fair market value.

(3) The amount receivable under an agreement referred to in subsection (1)(a) for the disposition by the operator of a funded private school of real property or personal property must be at or above fair market value.

(4) The value, including interest, of a mortgage under an agreement referred to in subsection (1)(a)

(a) must be at or above fair market value where the operator of the funded private school is the lender, and

(b) must be at or below fair market value where the related party is the lender.

(5) The amount payable under an agreement referred to in subsection (1)(b) must be at or below fair market value.

(6) For the purposes of subsections (2), (3) and (4), fair market value must be determined by a person who is designated as an Accredited Appraiser Canadian Institute (AACI) issued by the Appraisal Institute of Canada.

(7) For the purposes of subsection (5), fair market value may be determined by the Minister if the Minister is of the opinion that the agreement fails to comply with subsection (5).

#### **Insurance policy**

**25(1)** The operator of a funded private school shall keep in force, and provide the Minister on request with evidence of the existence of, a general liability insurance policy or other form of indemnification in an amount that is not less than \$2 million for each occurrence of loss or damage resulting from bodily injury to or the death of one or more persons, and for loss or damage to property, regardless of the number of claims arising from any one occurrence.

(2) The policy or other form of indemnification referred to in subsection (1) must provide coverage to the operator of the funded private school for all claims arising from

(a) a liability imposed by law on the operator of the funded private school, and

(b) a liability assumed under any agreement entered into by the operator of the funded private school.

(3) The operator of a funded private school shall ensure that in the policy or other form of indemnification referred to in subsection (1), the word “insured” is defined to include

(a) the named insured, and

(b) any employee, member of the operator’s governing body, agent or other person, whether receiving compensation or not, when acting within the scope of that person’s duties for the named insured.

#### **Fidelity bond**

**26** The operator of a funded private school shall maintain a fidelity bond in an amount acceptable to the Minister that covers the operator, the members of its governing body, its senior managers and its employees while carrying out duties relating to any money or security belonging to or held by the operator.

### **Compensation**

#### **Definition**

**27** In sections 28 to 32 and 34, “senior management employee” includes a member of the governing body of the operator of a funded private school who is an employee of the operator.

#### **Base salary**

**28(1)** The operator of a funded private school shall comply with this section with respect to any portion of the base salary of a senior management employee that is paid from a grant under the *Education Grants Regulation*.

(2) If the base salary or any portion of the base salary of a full-time senior management employee is paid or provided from a grant under the *Education Grants Regulation*, the amount of the base salary or portion of the base salary must not be greater than 70% of the maximum base salary applicable in respect of a level 5 board under Schedule 1 to the *Superintendent of Schools Regulation* (AR 98/2019).

(3) If the base salary or any portion of the base salary of a part-time senior management employee is paid or provided from a grant under the *Education Grants Regulation*, the amount of the base salary or portion of the base salary must not be greater than the prorated share of 70% of the maximum base salary applicable in respect of a level 5

board under Schedule 1 to the *Superintendent of Schools Regulation* (AR 98/2019).

(4) No operator of a funded private school shall offer, pay or provide any type of market modifier to the base salary or any portion of the base salary of a senior management employee that is paid or provided from a grant under the *Education Grants Regulation*.

(5) The operator of a funded private school may offer, pay or provide a base salary or portion of a base salary to a senior management employee that is greater than the amount under subsection (2) or (3) if the base salary or portion of the base salary is paid or provided from funds other than a grant under the *Education Grants Regulation*.

#### **Bonus, allowance or other incentive pay**

29 No operator of a funded private school shall offer, pay or provide to a senior management employee a bonus, allowance or other incentive pay if the bonus, allowance or other incentive pay is paid from a grant under the *Education Grants Regulation*.

#### **Benefits**

30(1) In this section, “administrative leave” means an entitlement to a period of temporary paid leave from a job assignment with salary and benefits intact that accrues to a senior management employee in accordance with the senior management employee’s contract of employment.

(2) Subject to subsection (5)(a), the operator of a funded private school may offer, pay or provide only the following benefits to or for the benefit of a senior management employee:

- (a) employer-paid contributions to a pension or retirement plan, in accordance with section 2 of Schedule 2 to the *Superintendent of Schools Regulation* (AR 98/2019);
- (b) employer-paid premiums for health and group insurance benefits, including
  - (i) group insurance for dental, medical and prescription drug expenses,
  - (ii) a health spending account, and
  - (iii) short-term or long-term disability benefits.

(3) The cost to the employer of the premiums referred to in subsection (2)(b) must not exceed 5% of the base salary or portion of

the base salary of the senior management employee that is paid from a grant under the *Education Grants Regulation*.

**(4)** Subject to subsection (5)(b), no operator of a funded private school shall offer, pay or provide the following classes of consideration, by whatever name called, to or for the benefit of a senior management employee:

- (a) administrative leave;
- (b) executive or private medical benefits or a reimbursement of expenses relating to executive or private medical benefits;
- (c) gym, fitness or other sports or club memberships or fees or a reimbursement of expenses relating to gym, fitness or other sports or club memberships or fees;
- (d) housing allowance, the use of accommodation, residences or housing or any reimbursement of expenses relating to housing.

**(5)** The operator of a funded private school may offer, pay or provide the following to or for the benefit of a senior management employee if they are paid or provided from funds other than a grant under the *Education Grants Regulation*:

- (a) benefits in addition to those referred to in subsection (2);
- (b) the classes of consideration referred to in subsection (4).

### **Severance pay**

**31(1)** In this section,

- (a) “continuous service” means employment without any interruption in service caused by a termination of that employment;
- (b) “severance period” means the period starting the day after termination and ending after the number of weeks determined under subsection (4) in respect of which the severance pay is payable.

**(2)** This section

- (a) applies to a senior management employee whose contract of employment is terminated without cause, and
- (b) does not apply in respect of any portion of severance pay, termination pay or separation pay that is paid or provided from funds other than a grant under the *Education Grants Regulation*.

(3) The operator of a funded private school shall comply with this section with respect to the portion of the severance pay of a senior management employee that is paid from a grant under the *Education Grants Regulation*.

(4) Subject to subsection (5), the severance pay or any portion of the severance pay that is paid or provided to a senior management employee from a grant under the *Education Grants Regulation* must not be greater than the sum of

- (a) 4 weeks of the base salary or portion of the base salary of the senior management employee that is paid from a grant under the *Education Grants Regulation*, and
- (b) an amount that is equal to the cost to the operator of the funded private school for 4 weeks of the benefits under section 30(2) that were paid from a grant under the *Education Grants Regulation* and that the senior management employee was receiving before termination, to a maximum of 16% of the amount referred to in clause (a),

for every year of continuous service with the operator of the funded private school, to a maximum of 52 weeks of the base salary or portion of the base salary of the senior management employee that is paid from a grant under the *Education Grants Regulation*.

(5) No operator of a funded private school shall offer, pay or provide severance pay from a grant under the *Education Grants Regulation* to a senior management employee unless the senior management employee agrees in writing that if the senior management employee becomes employed by a board, another funded private school or the Crown in right of Alberta during the severance period, the senior management employee will repay the operator of the funded private school an amount determined in accordance with subsection (6).

(6) The amount referred to in subsection (5) is equal to the amount of base salary, before mandatory statutory deductions and benefits, earned in respect of the senior management employee's new employment during the severance period, to a maximum of the amount of severance pay paid from a grant under the *Education Grants Regulation*, before mandatory statutory deductions, that is paid in respect of the portion of the severance period for which the senior management employee is employed by the board, another funded private school or the Crown in right of Alberta.

(7) If a senior management employee is employed by another funded private school during the severance period, the base salary referred to in subsection (6) is the base salary or portion of the base salary that is paid from a grant under the *Education Grants Regulation* by the other funded private school.

**(8)** No operator of a funded private school shall offer, pay or provide severance pay, termination pay or separation pay from a grant under the *Education Grants Regulation*, by whatever name called, to a senior management employee

- (a) in the event of termination for cause,
- (b) in the event of the non-renewal of a contract of employment,
- (c) on resignation or retirement, or
- (d) as a direct or indirect result of changes to compensation under this regulation.

#### **Senior management contractors**

**32(1)** The operator of a funded private school shall comply with this section with respect to the fee for service or any portion of the fee for service under an agreement to engage the services of a senior management contractor that is paid from a grant under the *Education Grants Regulation*.

**(2)** The fee for service or any portion of the fee for service of a senior management contractor that is paid or provided from a grant under the *Education Grants Regulation* must not be greater than the maximum base salary payable to a senior management employee under section 28.

**(3)** No operator of a funded private school shall enter into an agreement to engage the services of a senior management contractor in which the operator offers, pays or provides to the senior management contractor a bonus, allowance or other incentive pay if the bonus, allowance or other incentive pay is paid or provided from a grant under the *Education Grants Regulation*.

**(4)** Subject to subsection (5), a termination payment or any portion of a termination payment that is paid or provided to a senior management contractor from a grant under the *Education Grants Regulation* under the agreement to engage the services of the senior management contractor must not be greater than the sum of

- (a) an amount equivalent to 4 weeks of the base salary or portion of the base salary that is paid from a grant under the *Education Grants Regulation* that the senior management contractor would have received if the senior management contractor was a senior management employee, and
- (b) an amount equivalent to the cost to the operator for 4 weeks of the benefits under section 30(2) that were paid from a grant under the *Education Grants Regulation* and that the

senior management contractor would have received before termination if the senior management contractor was a senior management employee, to a maximum of 16% of the amount referred to in clause (a),

for every year of continuous service with the operator, to a maximum of an amount equivalent to 52 weeks of the base salary or portion of the base salary that is paid from a grant under the *Education Grants Regulation* and that the senior management contractor would have received if the senior management contractor was a senior management employee.

(5) Subsection (4) does not apply in respect of a termination payment that is paid or provided from funds other than a grant under the *Education Grants Regulation*.

## Information and Records

### Publication of information

**33(1)** Each year, the operator of a funded private school shall make the audited statement of operations accounting referred to in section 20(1)(b) publicly available.

(2) The operator of a funded private school shall make the policies referred to in sections 10 and 22 publicly available before the start of each school year.

### Request for information by parent

**34(1)** In this section, “total compensation” means the base salary and benefits payable to a senior management employee.

(2) On the request of a parent of a student enrolled in the funded private school, the operator of the funded private school shall provide to the parent who makes the request the following information relating to the most recently ended fiscal year:

- (a) with respect to the 10 senior management employees with the highest total compensation, the number of senior management employees in each of the ranges of total compensation determined by the Minister;
- (b) the audited financial statements referred to in section 20(1)(a), excluding any information or schedules relating to the compensation of individual employees or the fees paid to individuals under agreements to engage the services of those individuals.



**Record retention**

**35** The operator of a funded private school shall retain each of the following documents or records for a period of at least 6 years after the date on which it is created:

- (a) the policies referred to in sections 10 and 22;
- (b) all financial documents and records relating to the management, administration and operation of the funded private school.

**Compliance****Compliance assessment**

**36(1)** The Minister may require a compliance assessment to be conducted with respect to compliance by the operator of a funded private school with

- (a) requirements relating directly to funding under the *Education Grants Regulation*, including program requirements on which such funding is contingent,
- (b) the policies referred to in sections 10 and 22, and
- (c) the Act and the regulations.

**(2)** Where the Minister requires a compliance assessment under subsection (1), the operator of the funded private school shall retain as auditor a professional accounting firm registered under the *Chartered Professional Accountants Act* and authorized to perform an audit engagement to perform the compliance assessment.

**(3)** The auditor shall, in accordance with the *CPA Canada Handbook – Assurance*, published by the Chartered Professional Accountants of Canada, as amended from time to time, prepare a report with respect to the compliance assessment.

**(4)** The operator of a funded private school, the members of its governing body, its senior managers and its employees and any person engaged for services shall give the auditor access to all records and documents at all times.

**(5)** The auditor may request from the operator of a funded private school, the members of its governing body, its senior managers and employees and any person engaged for services by the operator any information and explanations that in the auditor's opinion may be necessary to enable the auditor to report as required by subsection (3).

(6) The operator of a funded private school, the members of its governing body, its senior managers and employees and any person engaged for services by the operator shall provide to the auditor the information and explanations requested by the auditor under subsection (5).

(7) After preparing the report under subsection (3), the auditor shall submit the report to the Minister.

#### **Failure to comply**

**37(1)** Where, based on a report under section 36 or on other reasonable grounds, the Minister is of the opinion that the operator of a funded private school has failed to comply with any requirements relating directly to funding under the *Education Grants Regulation*, including program requirements on which such funding is contingent, the policies referred to in sections 10 and 22, the Act or the regulations, the Minister may impose a probationary period on the operator, during which time the Minister may

- (a) require ongoing monitoring for compliance,
- (b) refuse to pay a grant or a portion of a grant under the *Education Grants Regulation* to the operator,
- (c) require the operator to repay a grant or a portion of a grant received under the *Education Grants Regulation*,
- (d) cancel the accreditation of the funded private school, or
- (e) take any other action the Minister considers necessary to ensure compliance.

(2) Before imposing a probationary period under subsection (1) or taking any action referred to in subsection (1)(a) to (e), the Minister shall provide written notice to the operator of the funded private school of the probationary period or the proposed action.

## **Part 4 Transitional Provisions, Repeal, Expiry and Coming into Force**

#### **Transitional — salary, benefits and severance**

**38(1)** Where an individual is a senior manager on the coming into force of this section and continues in the same position in the same contract of employment or agreement to engage services, then the senior manager's contract or agreement that is in effect on the coming into force of this section remains in effect, even if a term of the contract or agreement is inconsistent with sections 28 to 32.

- (2) A contract or agreement referred to in subsection (1) that is renewed on or after the coming into force of this section must comply with sections 28 to 32.
- (3) A contract or agreement referred to in subsection (1) that is in effect 2 years after the date on which this section comes into force must comply with sections 28 to 32 as of that date.
- (4) Notwithstanding subsection (3), the Minister may extend the time by which a contract or agreement referred to in subsection (1) is required to comply with sections 28 to 32.

#### **Transitional — related party agreements**

- 39(1)** Where the operator of a funded private school has entered into an agreement with a related party to which section 24 applies to sell, purchase, lease, mortgage or otherwise acquire or dispose of real property or personal property and the agreement is in effect on the coming into force of this section, the agreement remains in effect, even if the agreement does not comply with section 24.
- (2) Where the operator of a funded private school has entered into an agreement to engage services with a related party to which section 24 applies and the agreement is in effect on the coming into force of this section, the agreement remains in effect, even if the agreement does not comply with section 24.
- (3) An agreement referred to in subsection (1) or (2) that is renewed on or after the coming into force of this section must comply with section 24.
- (4) An agreement referred to in subsection (1) that is in effect 5 years after the date on which this section comes into force must comply with section 24 as of that date.
- (5) An agreement referred to in subsection (2) that is in effect 2 years after the date on which this section comes into force must comply with section 24 as of that date.
- (6) Notwithstanding subsections (4) and (5), the Minister may extend the time by which an agreement referred to in subsection (1) is required to comply with section 24.

#### **Repeal**

- 40** The *Private Schools Regulation* (AR 93/2019) is repealed.

#### **Expiry**

- 41** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be

repassed in its present or an amended form following a review, this Regulation expires on August 31, 2027.

**Coming into force**

**42(1)** This Regulation, except sections 22, 33 and 34, comes into force on the coming into force of section 4(3)(d) of the *Red Tape Reduction Statutes Amendment Act, 2022*.

**(2)** Sections 22 and 33(2) come into force on September 1, 2024.

**(3)** Sections 33(1) and 34 come into force on September 1, 2023.









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