

## FIRST NATIONS EDUCATION AUTHORITY

### RULES FOR THE CERTIFICATION AND REGULATION OF TEACHERS

#### BACKGROUND

- A. Under section 19(2) of the First Nations Jurisdiction over Education in British Columbia Act (Canada), FNEA is required to provide a teacher certification process for teachers providing educational instruction in schools operated by a participating First Nation on First Nation land, other than teachers who teach only the language and culture of the Participating First Nation (PFN).
- B. The purpose of these Rules is to provide a teacher certification process applicable to PFN schools.

#### 1.0 GENERAL

##### *Definitions*

##### 1.1 In these Rules:

- a) “Annual Practice Fee” means the annual practice fee set by resolution of the Board;
- b) “Appeal Panel” means members of the Roster who have been appointed to hear an appeal of a certification decision;
- c) “Application” means an application for an FTC;
- d) “Application Fee” means the fee for an Application set by resolution of the Board;
- e) “BC Teaching Authorization” means a certificate of qualification, letter of permission or independent school teaching certificate issued under the Teachers Act;
- f) “Board” means the FNEA Board of Directors;
- g) “CRRRA” means the Criminal Records Review Act, [RSBC 1996] Chapter 86;
- h) “CRRP” means the BC Government’s Criminal Records Review Program pursuant to the CRRRA;
- i) “Disciplinary Hearing Panel” means a panel comprising members of the Roster who have been appointed by the Board to conduct a disciplinary hearing regarding the competence, conduct or capacity of an FNEA Certified Teacher;
- j) “FCD Committee” means the FTC Certification and Discipline Committee;
- k) “First Stage Initial Assessment” means the assessment of an applicant’s competence carried out by the FNEA Designate under s. 3.4;
- l) “FNEA” means the First Nations Education Authority;
- m) “FNEA Certified Teacher” means a teacher that has been issued an FTC by the FCD Committee;
- n) “FNEA Designate” means the individual designated by the Board under s. 3.1;
- o) “FNEA Senior Staff Member” means the executive director of FNEA;
- p) “FTC” or “FNEA Teaching Certificate” means the teaching certificate issued by the FCD Committee on behalf of FNEA and includes an interim certificate;
- q) “FTC Registry” means the FNEA Teaching Certificate registry maintained by the FNEA Senior Staff Member under s. 3.36;
- r) “Investigator” means an investigator assigned by the Minister at the request of the FCD Committee;
- s) “Minister” means the BC Government’s Minister of Education;

- t) “Ministry” means the British Columbia Ministry of Education and Child Care;
- u) “Performance Standards” means the Performance Standards for Teachers in First Nations Schools adopted by the Board from time to time;
- v) “PFN” means a Participating First Nation;
- w) “PFN School” means a school operated by or on behalf of a PFN;
- x) “PFN School Governing Authority” means the authority that has responsibility for operating a PFN School;
- y) “Professional Growth Plan” means the growth plan which has been developed, maintained and updated by the FNEA Certified Teacher, with the approval of the FNEA Designate, in accordance with any policies approved by the Board with respect to Professional Growth Plans;
- z) “Roster” means the list of individuals who may be appointed as members of an Appeal or Discipline Hearing Panel;
- aa) “s.” and “ss.” refers to a section or sections of these Rules; and
- bb) “Second Stage Consideration” means consideration of an applicant’s moral character and capacity to carry out the duties of an educator under s. 3.6 and may include an investigation initiated by the FCD Committee under s. 3.7.

#### *Other capitalized terms*

- 1.2 Any other capitalized term used in these Rules and not defined in this Definitions section has the meaning given to it under the CRRRA.

#### *Authorization to Teach in a PFN School*

- 1.3 Subject to ss. 1.4 and 1.5, individuals who hold the following are authorized to teach in PFN Schools:
- a) an FTC issued in accordance with these Rules;
  - b) a BC Teaching Authorization; or
  - c) a valid teaching certificate issued by another provincial education ministry or a recognized Canadian teacher certification authority.

#### *Early Childhood Educator*

- 1.4 An early childhood educator working in a K4 (kindergarten for four-year olds) classroom is not required to hold an authorization referred to in s. 1.3.

#### *Prohibition against holding an FTC and BC Teaching Authorization Concurrently*

- 1.5 An individual may not hold an FTC issued in accordance with these Rules and a BC Teaching Authorization concurrently.

#### *Authority to enter into coordination agreement*

- 1.6 The Board may, on behalf of FNEA, enter into an agreement with the Minister, on behalf of the Government of British Columbia, to enable the Ministry to provide FNEA with assistance in respect of the certification of applicants for an FTC and the regulation of FNEA Certified Teachers by FNEA.

### *Establishment of the FTC Certification and Discipline Committee (FCD Committee)*

- 1.7 The Board will appoint the FCD Committee by resolution, consisting of a minimum of three and a maximum of five individuals with strong expertise in First Nations education or other experience the Board considers to be relevant, for such terms as the Board considers appropriate.

### *Termination of Appointment to FCD Committee*

- 1.8 The Board may terminate the appointment of a member of the FCD Committee for any reason.

### *Responsibilities of the FCD Committee*

- 1.9 The FCD Committee is responsible for:
- a) reviewing applications for, and issuing, FTCs;
  - b) conducting investigations to determine whether an applicant meets the criteria for being issued an FTC;
  - c) decisions regarding upgrading of interim FTCs and renewal of FTCs;
  - d) reviewing complaints, reports and other information and conducting investigations respecting the competence or conduct of an FNEA Certified Teacher pursuant to the provisions of these Rules;
  - e) issuing citations for disciplinary hearings; and
  - f) carrying out other duties that:
    - i. are set out in these Rules; or
    - ii. it has agreed to carry out at the written request of the Board.

### *Making Recommendations*

- 1.10 The FCD Committee may provide recommendations to the Board in respect of:
- a) any matter related to the process for applying for or renewing an FTC; and
  - b) the processes and procedures for the investigation of FTC applicants and FNEA Certified Teachers and discipline of FNEA Certified Teachers.

## **2.0 DELEGATION OF AUTHORITY AND RESPONSIBILITIES**

### *Delegation of Authority by the FCD Committee*

- 2.1 Subject to s. 2.2, the FCD Committee may delegate in writing any of its authority and responsibilities under these Rules to a specified employee of, or contractor engaged by, FNEA.

### *Authority With No Delegation*

- 2.2 The FCD Committee may not delegate its authority to decide whether to advance an application to a second stage consideration under s. 3.5, to issue an FTC under s. 3.14, initiate an investigation under or determine whether a person is able to carry out their professional duties and responsibilities under ss.3.7, 3.19, or 3.29, upgrade an interim FTC under s. 3.22, renew an FTC under s. 3.34, rescind an FTC under s. 5.1, extend an interim FTC under s. 3.18 or a full FTC under s. 3.33, grant an extension of time under s. 5.5, suspend an FTC under s. 10.14, vary or rescind a suspension under s. 10.16, take further action under s. 10.18(10.18a) or 10.19, issue a

citation under s. 11.1, amend or rescind a citation under s. 11.5, or make a decision under s. 11.13(e).

*Delegation of Authority and Responsibilities by the FNEA Senior Staff Member*

- 2.3 The FNEA Senior Staff Member may delegate in writing any of their authority or responsibilities under these Rules to another employee of, or contractor engaged by, FNEA.

**3.0 ISSUING FNEA TEACHING CERTIFICATES (FTCs)**

*Designation of FNEA Designate*

- 3.1 The Board must designate an individual, who need not be an employee of FNEA, as the FNEA Designate to carry out those duties that are set out in these Rules and Board policies, and other duties as may be required to fulfill their obligations under these Rules or those policies.

*Application for FNEA Teaching Certificate (FTC)*

- 3.2 An Application for an FTC must be in the form required by the Board and include:
- a) the required Application Fee;
  - b) the applicant's Criminal Record Check Authorization for the CRRP to conduct a criminal record check under the provisions of the CRRP;
  - c) the applicant's authorization for FNEA, with the assistance of the Minister, to conduct a review of their Application and an investigation to determine whether the applicant meets the criteria for being issued an FTC;
  - d) the applicant's authorization for the Ministry to inform FNEA if the applicant has been issued or has applied for a BC Teaching Authorization;
  - e) in the case of an applicant who is a holder of BC Teaching Authorization, the applicant's written commitment to relinquish their BC Teaching Authorization if they receive confirmation from FNEA that it intends to issue them an FTC; and
  - f) confirmation from a PFN School Governing Authority that it intends to hire the applicant to work as a teacher in a PFN school.

*Forwarding of Application to FNEA Designate*

- 3.3 If an Application is not complete, the FNEA Senior Staff Member will advise the applicant what is needed to meet the requirements of s. 3.2. Once the FNEA Senior Staff Member determines that an Application is complete, they will forward the Application to the FNEA Designate. An Application will not be considered complete and FNEA must not issue an FTC to an applicant who does not provide a Criminal Record Check Authorization.

*First Stage Initial Assessment – Competence Review*

- 3.4 After receipt of an Application, the FNEA Designate will:
- a) confirm that the applicant has met pre-application professional development requirements in accordance with any policy and procedures adopted by the Board;
  - b) assess the applicant's competence in accordance with the Performance Standards and any policy and procedures adopted by the Board; and
  - c) provide their written assessment to the FCD Committee.

### *Request for Clarification*

- 3.5 Following a review of the FNEA Designate's assessment, the FCD Committee may make a written request for clarification from the FNEA Designate regarding their assessment and will determine whether to advance the Application to a second stage consideration for an interim FTC or a full FTC or to deny the Application.

### *Second Stage Consideration – Criminal Record Check and Background Review*

- 3.6 If the Application advances to the second stage, the FCD Committee will:
- a) determine if the applicant has been issued a BC Teaching Authorization and, if so, whether the applicant has agreed in writing that they will relinquish their BC Teaching Authorization if they receive confirmation from the FCD Committee that they will be issued an FTC;
  - b) consider the applicant's moral character and capacity to carry out the duties of an educator;
  - c) provide the applicant's Criminal Record Check Authorization to the Minister and request in writing that the Minister initiate the criminal record check process with the CRRP for the applicant; and
  - d) provide the applicant's Application to the Ministry, if the FCD Committee requires the Ministry's assistance under section 80.2 of the Teachers Act with respect to an application.

### *Second Stage Consideration – Initiating an Investigation*

- 3.7 Following a review of the information provided in an application, and upon being notified of the findings of the Deputy Registrar or the Registrar in respect of an applicant's Criminal Record Check or upon receiving any other relevant information, the FCD Committee may initiate an investigation by requesting in writing that the Minister appoint an Investigator and setting the scope of the investigation in relation to the information received about the Criminal Record Check, Application review or any other matters of concern.

### *Notification to Applicant*

- 3.8 Upon initiating an investigation under s. 3.7, the FCD Committee will provide written notification to the applicant.

### *Second Stage Consideration – Monitoring of Investigation*

- 3.9 The FCD Committee may provide direction to the Investigator regarding the investigation and may review and revise the scope of the investigation from time to time.

### *Second Stage Consideration – Report on Investigation*

- 3.10 The Investigator will provide a report to the FCD Committee setting out the results of the investigation. Upon receiving the report, the FCD Committee may request in writing that the Investigator conduct additional investigation.

### *FCD Committee Authority to Share and Redact Investigator's Report*

- 3.11 Upon receiving the report from the Investigator, the FCD Committee will determine whether the report can be shared with the applicant, and may redact the report prior to sharing it.

### *Criteria for Approval of Applications*

- 3.12 In reviewing all Applications, the FCD Committee must determine whether the applicant:
- a) in the case of an applicant who holds a current BC teaching authorization, has agreed in writing to relinquish their BC Teaching Authorization if the applicant receives confirmation from the FCD Committee that they will be issued an FTC;
  - b) has met pre-application professional development requirements in accordance with any policy and procedures adopted by the Board;
  - c) has demonstrated reasonable competence in accordance with the Performance Standards;
  - d) has demonstrated good moral character and capacity to carry out the duties of an educator;
  - e) has committed to submitting and making progress towards a Professional Growth Plan;
  - f) either (i) has received a clearance ("no offence") letter from the CRRP; (ii) upon adjudication by the Deputy Registrar, has been determined to not present a risk to children or vulnerable adults by the Deputy Registrar; or (iii) on reconsideration by the Registrar, had their determination of risk overturned with a direction that they do not present a risk to children or vulnerable adults; and
  - g) has met any other criteria established by the Board from time to time.

### *FCD Committee Review of Application*

- 3.13 The FCD Committee may, at any time, seek the advice or assistance from anyone the FCD Committee may wish to consult in order to assess whether to issue an FTC, including the FNEA Designate.

### *FCD Committee Decision on Application*

- 3.14 Subject to s. 3.16, after a second stage consideration has occurred, the FCD Committee will decide whether to:
- a) issue a full FTC valid for five years;
  - b) issue an interim FTC valid for one year; or
  - c) deny the Application.

### *Written Reasons to be Provided*

- 3.15 If the FCD Committee decides to issue an interim FTC or to deny the Application, then the FCD Committee will provide written reasons to the applicant. The FCD Committee will notify the Minister when it has issued an FTC.

### *Where Applicant holds a BC Teaching Authorization*

- 3.16 In the case of an applicant who holds a BC Teaching Authorization, the FCD Committee:

- a) will notify the applicant if they intend to issue them an FTC and request that the applicant take the necessary steps to relinquish their BC Teaching Authorization; and
- b) may not issue an FTC to the applicant until the FCD Committee has confirmed that the applicant has relinquished their BC Teaching Authorization.

#### *Upgrading an Interim FNEA Teaching Certification (FTC)*

- 3.17 At least 60 days prior to the expiry of an interim FTC, the FNEA Designate will:
- a) review the FNEA Certified Teacher's progress towards meeting the requirements of their Professional Growth Plan; and
  - b) provide a written assessment to the FCD Committee regarding whether the FNEA Certified Teacher's interim FTC should be upgraded to a full FTC in accordance with FNEA policy.

#### *Extension of Interim FTC*

- 3.18 At the written request of the holder of an interim FTC or on its own initiative, the FCD Committee may extend that FTC for a period of no longer than one year if it determines that there are circumstances that would justify this decision. If the FCD Committee extends an interim FTC, it will notify the Minister of the extension and the period for which it is extended.

#### *Upgrading – Initiating an Investigation*

- 3.19 Upon receiving an assessment regarding the upgrade of an FNEA Certified Teacher's interim FTC to a full FTC and after considering any relevant information it has received regarding the FNEA Certified Teacher, the FCD Committee may initiate an investigation by requesting in writing that the Minister appoint an Investigator and setting the scope of the investigation in relation to any matters of concern. The FCD Committee may review and revise the scope of the investigation from time to time.

#### *Upgrading – Report on Investigation*

- 3.20 The Investigator will provide a report to the FCD Committee setting out the results of the investigation. Upon receiving the report, the FCD Committee may request in writing that the Investigator conduct additional investigation.

#### *Interim FTC holder may make Submissions*

- 3.21 Where the FCD Committee has determined that it may not upgrade an interim FTC to a full FTC, it will notify the holder of the interim FTC and invite them to provide written submissions regarding the upgrade of their interim FTC within 30 days from the date the notice is issued.

#### *Upgrading – Decision*

- 3.22 The FCD Committee will:
- a) consider the assessment received from the FNEA Designate, any new information received regarding the FNEA Certified Teacher's moral character and capacity to carry out the duties of an educator, including any report received from an Investigator, and

- any complaint or report received, or action being undertaken, under s. 10.0 or disciplinary hearing under s. 11.0;
- b) consider whether a new Outstanding Charge or Conviction for a Relevant or Specified Offence has been identified in relation to the applicant;
- c) consider any written submissions provided by the interim FTC holder;
- d) consider whether the FNEA Certified Teacher has demonstrated:
  - i. reasonable competence in accordance with the Performance Standards; and
  - ii. good moral character and capacity to carry out the duties of an educator;
- e) obtain confirmation that the teacher continues to be employed by a PFN School Governing Authority; and
- f) then decide whether the teacher's interim FTC should be upgraded to a full FTC.

#### *Issuance of Upgraded Full FTC*

- 3.23 If the FCD Committee decides to upgrade an FNEA Certified Teacher's interim FTC to a full FTC, the FCD Committee will issue a full FTC to the teacher that expires five years from the date of the issuance of their initial interim FTC.

#### *If Interim FTC is not Upgraded*

- 3.24 If the FCD Committee decides that the teacher's interim FTC should not be upgraded, the FCD Committee will provide written reasons for its decision to the teacher and their interim FTC will expire at the end of its term. An individual whose interim FTC is not upgraded may reapply for a new FTC at a later date.

#### *Notification to Minister*

- 3.25 The FCD Committee will notify the Minister of its determination under s. 3.23 or 3.24 regarding the upgrading of an interim FTC.

#### *Renewal of Full FTC*

- 3.26 An FNEA Certified Teacher who wishes to renew their full FTC will advise the FNEA Designate in writing that they wish to do so at least six months before the expiry of their FTC and in accordance with s. 4.6(b), provide the FCD Committee with a Criminal Record Check Authorization for the CRRP to conduct a Criminal Record Check under the provisions of the CRRP. FNEA must not renew a full FTC for an FNEA Certified Teacher who does not provide a Criminal Record Check Authorization.

#### *Renewal Process*

- 3.27 Upon receiving notification in writing provided in accordance with the Board's policies and procedures with respect to renewals that an FNEA Certified Teacher wishes to renew their full FTC, the FNEA Designate will:
- a) review the FNEA Certified Teacher's progress towards meeting their Professional Growth Plan, which has been developed, maintained and updated pursuant to the requirements set out in the Board's policies and procedures;
  - b) provide a written assessment to the FCD Committee regarding whether the FNEA Certified Teacher has made progress towards their Professional Growth Plan; and



- c) provide the FCD Committee with clarification with respect to their assessment, if requested in writing.

#### *Renewal – Criminal Record Check*

- 3.28 Upon receiving a Criminal Record Check Authorization from an FNEA Certified Teacher under s. 3.26, the FCD Committee will provide the Criminal Record Check Authorization to the Minister and request in writing that the Minister initiate the Criminal Record Check process with the CRRP for the FNEA Certified Teacher.

#### *Renewal – Initiating an Investigation*

- 3.29 Upon receiving a CRRP notification from the Deputy Registrar or the Registrar regarding the Criminal Record Check or any other relevant information in respect of an FNEA Certified Teacher, the FCD Committee may initiate an investigation by requesting in writing that the Minister appoint an Investigator and setting the scope of the investigation in relation to the information received about the Criminal Record Check or any other matters of concern.

#### *Renewal – Monitoring of Investigation*

- 3.30 The FCD Committee may provide direction to the Investigator regarding the investigation within the scope of the investigation initiated by the FCD Committee and may review and revise the scope of the investigation from time to time.

#### *Renewal – Report on Investigation*

- 3.31 The Investigator will provide a report to the FCD Committee setting out the results of the investigation. Upon receiving the report, the FCD Committee may request in writing that the Investigator conduct additional investigation.

#### *FNEA Certified Teacher may Make Submissions*

- 3.32 Where the FCD Committee has determined that it may not renew an FNEA Certified Teacher's full FTC, it will notify the FNEA Certified Teacher of the reasons FNEA may not renew the FTC and invite them to provide written submissions regarding the renewal of their FTC within 30 days from the date the notice is issued.

#### *Extension of Full FTC*

- 3.33 At the written request of the holder of a full FTC or on its own initiative, the FCD Committee may extend that FTC for one or more periods, each of which may be no longer than one year, if it determines that there are circumstances that would justify this decision. If the FCD Committee extends a full FTC, it will notify the FNEA Certified Teacher, PFN School, and Minister of the extension and the period for which it is extended.

#### *Renewal – Decision*

- 3.34 The FCD Committee will:

- a) consider the assessment received from the FNEA Designate, any new information received regarding the FNEA Certified Teacher's moral character and capacity to carry out the duties of an educator, the final outcome of the Criminal Record Check as set out in this s.3.34(d), any report received from an Investigator, and any complaint or report received, or action being undertaken, under s. 10.0 or disciplinary hearing under s. 11.0;
- b) consider any submissions provided by the FNEA Certified Teacher;
- c) consider whether the FNEA Certified Teacher has demonstrated:
  - i. reasonable competence in accordance with the Performance Standards; and
  - ii. good moral character and capacity to carry out the duties of an educator;
- d) confirm that the FNEA Certified Teacher has either (i) received a clearance ("no offence") letter from the CRRP; (ii) upon adjudication by the Deputy Registrar, been determined to not present a risk to children or vulnerable adults by the Deputy Registrar; or (iii) on reconsideration by the Registrar, had their determination of risk overturned with a direction that they do not present a risk to children or vulnerable adults;
- e) obtain confirmation that the teacher continues to be employed by a PFN School Governing Authority;
- f) then decide whether the teacher's full FTC should be renewed for five years; and
- g) notify the Minister of its decision.

#### *Reasons to be Provided for Non-renewal*

- 3.35 If the FCD Committee decides not to renew a full FTC, then the FCD Committee will provide written reasons to the FNEA Certified Teacher.

#### *Recording of FTCs*

- 3.36 The FNEA Senior Staff Member will maintain the FTC Registry, which will include:
- a) the name of each FNEA Certified Teacher together with the type of teaching certificate which is held by that person and the expiry date of their current FTC, a record of any FTCs that they have previously held, and a summary of any consent resolution agreement or disciplinary findings and consequences in respect of them;
  - b) the name of each person whose application for an FTC was denied, rescinded or whose FTC was not renewed or not upgraded from an interim to a full FTC and a summary of any consent resolution agreement or any disciplinary findings and consequences in respect of that person; and
  - c) the name of each person whose FTC was suspended or cancelled together with a summary of any consent resolution agreement or disciplinary findings and consequences in respect of them.

#### *Obligation to Take FNEA Policies into Account*

- 3.37 In making a decision regarding the issuance or denial of a full FTC or an interim FTC under s.3.5 or s. 3.14, the upgrading of an interim FTC under s. 3.22 or the renewal of a full FTC under s. 3.34, the FCD Committee must take into account any policies that have been adopted by the Board regarding the issuance of FTCs.

## **4.0 CRIMINAL RECORD CHECK PROCESS**

### *Application of CRRA*

- 4.1 For the purpose of providing a teacher certification process that incorporates the framework of the CRRA to conduct criminal record checks upon Application, renewal and any other circumstance wherein the requirement to undergo a CRRA criminal record check is triggered under these Rules, the following provisions of that Act apply: Sections 1 (Definitions) and 2 (Purpose) of Part 1, Part 2 (Criminal Record Check and Reconsideration), Part 6 (General), and Schedules 1, 2 and 3, as may be amended from time to time, and subject to the following:
- a) any reference in the CRRA to the *Freedom of Information and Protection of Privacy Act* applies only in relation to information in the custody or under the control of the Province.

### *Equivalent CRRA process*

- 4.2 In addition to the provisions of the CRRA referred to under s. 4.1, FNEA will incorporate into these Rules and apply the requirements set out in this Part 4.0 in relation to Applications, renewals, and any other CRRA criminal record check triggering circumstance referred to at s. 4.1, as if governed by the CRRA under a dedicated Part of that Act applicable specifically to FNEA, consistent with the existing scheme of that Act.

### *Coordination Agreement*

- 4.3 This Part is to be read and applied in conjunction with the coordination agreement referred to at s. 1.6.

### *Duty of FNEA*

- 4.4 The FCD Committee must ensure that every individual who applies for an FTC and every FNEA Certified Teacher whose FTC is being considered for renewal undergoes a Criminal Record Check in accordance with these Rules.

### *FTC may not be Issued in Case of Risk Determination*

- 4.5 If the Deputy Registrar has determined, in a Criminal Record Check, that an applicant for an interim or a full FTC presents a risk of physical or sexual abuse to Children or a risk of physical, sexual or financial abuse to vulnerable adults and that determination has not been overturned by the Registrar under that Act, the FCD Committee must not issue an FTC to the applicant.

### *Existing FNEA Certified Teachers*

- 4.6 An FNEA Certified Teacher must:
- a) undergo a Criminal Record Check at least once every 5 years, and
- b) provide to FNEA a Criminal Record Check Authorization at least once every 5 years after the date on which the FNEA Certified Teacher provided to FNEA the FNEA Certified Teacher's last Criminal Record Check Authorization.

### *Obligation to Report*

- 4.7 If an FNEA Certified Teacher is charged with or convicted of a Relevant Offence or Specified Offence subsequent to a Criminal Record Check, the FNEA Certified Teacher must promptly report the Outstanding Charge or Conviction to FNEA and provide to FNEA a Criminal Record Check Authorization for a further Criminal Record Check.

### *Requirement for Further Criminal Record Check*

- 4.8 When FNEA becomes aware that an FNEA Certified Teacher has an Outstanding Charge for, or has been Convicted of, a Relevant Offence or Specified Offence, FNEA must require the person to provide a Criminal Record Check Authorization for a further Criminal Record Check.

### *Suspension for Failure to Provide Further Criminal Record Check*

- 4.9 If an FNEA Certified Teacher does not provide a Criminal Record Check Authorization as required by s. 4.6, or does not authorize a further Criminal Record Check as required under s. 4.7 or s. 4.8, the FCD Committee must suspend the FNEA Certified Teacher's FTC.

### *Cancellation for Failure to Provide Further Criminal Record Check*

- 4.10 If, within the 6-month period following a suspension under s. 4.9, the FNEA Certified Teacher does not authorize a Criminal Record Check under the CRRA, the FCD Committee must cancel the FNEA Certified Teacher's FTC effective 6 months after the date of suspension.

### *Cancellation or Non-Renewal in Case of Risk Determination*

- 4.11 If the Deputy Registrar has determined, in a Criminal Record Check, that an FNEA Certified Teacher presents a risk of physical or sexual abuse to children or a risk of physical, sexual or financial abuse to vulnerable adults and that determination has not been overturned by the Registrar under that Act, the FCD Committee must cancel the FNEA Certified Teacher's FTC and, in the case of an application for the renewal of an FTC, the FCD Committee must not renew the FNEA Certified Teacher's FTC.

### *Notification of Suspension or Cancellation of Certificate*

- 4.12 If the FCD Committee suspends or cancels an FTC under this Part, the FCD Committee must notify:
- a) the FNEA Certified Teacher;
  - b) the PFN School Governing Authority that employs the FNEA Certified Teacher; and
  - c) the Minister.

## **5.0 RESCISSION AND CANCELLATION OF FNEA TEACHING CERTIFICATES (FTCs)**

### *Rescission of FNEA Teaching Certificate (FTC)*

- 5.1 If the FCD Committee receives information relating to the competence or conduct of an FNEA Certified Teacher that occurred prior to the issuance of the FTC that was not disclosed to or considered by the FCD Committee prior to the FCD Committee issuing the FTC, and the FCD

Committee considers that this information could have affected the decision to issue an FTC, the FCD Committee will review the information. If the FCD Committee determines that the FNEA Certified Teacher did not meet the requirement for the issuance of the FTC when the FTC was issued, the FCD Committee will rescind the FTC.

#### *Written Submissions*

- 5.2 Before deciding whether to rescind an FTC, the FCD Committee will notify the FNEA Certified Teacher:
- a) of the information referred to in s. 5.1 and its intention to consider rescission of the FTC; and
  - b) that the teacher may provide a written submission to the FCD Committee within 45 days of the date of the notification.

#### *Reasons and Information*

- 5.3 In deciding whether to rescind an FNEA Certified Teacher's FTC, the FCD Committee will consider the information referred to in s. 5.1 and any written submission it receives under s. 5.2(5.2b). If the FCD Committee rescinds an FTC, the FCD Committee must:
- a) provide written reasons to the FNEA Certified Teacher;
  - b) notify the PFN School Governing Authority that employs the teacher of the rescission; and
  - c) notify the Minister.

#### *Cancellation of FNEA Teaching Certificate (FTC) if not employed by PFN School Governing Authority*

- 5.4 Subject to s. 5.5, if the FCD Committee becomes aware that an FNEA Certified Teacher is no longer employed as a teacher by a PFN School Governing Authority and has not obtained employment as a teacher with another PFN School Governing Authority within 12 months of leaving their position, the FCD Committee will cancel the FNEA Certified Teacher's FTC and notify the Minister.

#### *Extension to timeline*

- 5.5 The FCD Committee may grant an extension to the 12-month period referred to in s. 5.4 in accordance with a policy approved by the Board that describes the circumstances under which such an extension may be granted.

#### *Cancellation of FNEA Teaching Certificate (FTC) for holders of a BC Teaching Authorization*

- 5.6 If the FCD Committee becomes aware that an FNEA Certified Teacher holds a current BC Teaching Authorization, the FCD Committee will cancel the FNEA Certified Teacher's FTC and notify the Minister.

## **6.0 APPEAL AND DISCIPLINE HEARING ROSTER**

### *Establishment*

- 6.1 The Board will appoint the members of the Roster from time to time and for terms the Board considers appropriate, consisting of persons with strong expertise in First Nations education, relevant experience dealing with administrative hearings or appeals, or other experience the Board considers appropriate.

### *Termination of appointment*

- 6.2 The Board may terminate the appointment of a member of the Roster for any reason.

### *Roster Member Duties*

- 6.3 A member of the Roster must:
- a) faithfully, honestly, and impartially perform their duties as member of the Roster and when appointed as a member of an Appeal Panel or a Disciplinary Hearing Panel, and except in the proper performance of those duties, must not disclose to any person any information obtained as a member of the Roster, an Appeal Panel, or a Disciplinary Hearing Panel; and
  - b) participate in any training or education programs as may be directed by the Board from time to time.

## **7.0 CERTIFICATION, RENEWAL, EXTENSION AND SUSPENSION APPEALS**

### *Definitions for this Part*

- 7.1 In this part:
- a) “Appeal” means an appeal commenced under s. 7.3;
  - b) “Appellant” means a person who has standing to commence an appeal under s. 7.3; and
  - c) “Certification Decision” means a decision of the FCD Committee:
    - i. not to issue an FTC under s. 3.5 or 3.14;
    - ii. to issue an interim FTC instead of a full FTC under s. 3.14;
    - iii. not to extend an interim FTC under s. 3.18 or a full FTC under s. 3.33;
    - iv. not to upgrade an interim FTC to a full FTC under s. 3.22;
    - v. not to renew an FTC under s. 3.34;
    - vi. to rescind or cancel an FTC under s. 5.1 or 5.4;
    - vii. not to grant an extension of time under s. 5.5;
    - viii. to suspend an FTC under s. 10.14;
    - ix. to vary a suspension of an FTC under s. 10.16; and
    - x. not to terminate a suspension under s. 11.13e).

### *Procedural Rules*

- 7.2 The Board may make additional rules respecting practice and procedure for the management of an Appeal, including hearings conducted by an Appeal Panel.

### *Commencing an Appeal*

- 7.3 A person may appeal a Certification Decision to the Appeal Panel where they are:
- a) the applicant for; or
  - b) the holder or former holder of

an FTC that is the subject of the Certification Decision.

### *Grounds of Appeal*

- 7.4 An Appeal may be brought if, in making its Certification Decision, the FCD Committee:
- a) was biased or followed an unfair procedure; or
  - b) erred in fact or law.
- 7.5 The Appeal Panel does not have jurisdiction over constitutional questions or to apply the *Human Rights Code* [RSBC 1996, c. 20].

### *Form of Appeal*

- 7.6 An Appeal must:
- a) be in writing in the form required by the Board;
  - b) be based solely on the grounds of appeal in s. 7.4;
  - c) include an explanation of the grounds for the Appeal; and
  - d) be delivered to FNEA within 30 days of the date of the Certification Decision appealed from.

### *Preliminary Review*

- 7.7 If FNEA receives an Appeal, the FNEA Senior Staff Member must:
- a) acknowledge receipt of the Appeal, and
  - b) conduct a preliminary review of the Appeal to confirm it complies with s. 7.6.

### *Summary Dismissal*

- 7.8 After completing a preliminary review, the FNEA Senior Staff Member may notify the Appellant that one or more of the matters raised in the Appeal do not comply with s. 7.6, following which:
- a) the Appellant may provide written submissions or additional information within 30 days of the date the FNEA Senior Staff Member's notification is issued, and
  - b) the FNEA Senior Staff Member, after considering any submissions provided by the Appellant pursuant to paragraph 7.8(a), may summarily dismiss one or more of the matters raised in the Appeal on the basis of failing to comply with s. 7.6.

### *Summary Dismissal – Exclusive Jurisdiction*

- 7.9 The FNEA Senior Staff Member has exclusive jurisdiction to summarily dismiss an appeal in accordance with s.7.8.

### *Summary Dismissal - Reasons*

- 7.10 If the FNEA Senior Staff Member dismisses the Appeal, the FNEA Senior Staff Member must provide written reasons to:
- a) the Appellant, and
  - b) the FCD Committee.

*Referral to Hearing*

- 7.11 If the FNEA Senior Staff Member does not dismiss an Appeal after a preliminary review, the FNEA Senior Staff Member:
- a) must refer the Appeal to an Appeal Panel for a hearing,
  - b) must notify the Appellant and the FCD Committee of the referral,
  - c) must recommend to the Board three members of the Roster for appointment to the Appeal Panel that will hear the Appeal;
  - d) must determine whether the hearing will be by way of an oral hearing or written submissions and:
    - i. if the hearing is by way of an oral hearing, set the time and place of the hearing, or
    - ii. if the hearing is by way of written submissions, set the timelines for submissions, and
  - e) may make any other orders the FNEA Senior Staff Member considers necessary to facilitate the just and timely resolution of the Appeal.

*Appointment of Appeal Panel*

- 7.12 After reviewing the recommendations provided by the FNEA Senior Staff Member, the Board will appoint three members from the Roster to the Appeal Panel, who need not be the members that were recommended to them.
- 7.13 If a member of an Appeal Panel is unable for any reason to complete the member's duties:
- a) the Board may appoint another member as a replacement, or
  - b) the remaining members, with consent of the Board, may continue to hear and determine the Appeal;
- and the replacement or vacancy does not invalidate the proceeding.

*Ability of FCD Committee to vary/rescind a decision*

- 7.14 The FCD Committee may rescind or vary a Certification Decision under appeal at any time before the commencement of the hearing of an Appeal and, with leave of the Appeal Panel, during the hearing of an Appeal.

*Summary Dismissal*

- 7.15 The Appeal Panel may decide to dismiss, prior to a hearing, one or more of the matters raised in an Appeal if the Appeal Panel determines that any of the following apply:
- a) the Certification Decision was rescinded or varied in a manner that renders the Appeal moot;
  - b) the matter is not within the jurisdiction of the Appeal Panel, or
  - c) there is no reasonable prospect the Appeal will succeed.



### *Summary Dismissal - Notice*

- 7.16 Before summarily dismissing one or more of the matters in the Appeal, the Appeal Panel will notify the Appellant of the Appeal Panel's intention, following which:
- a) the Appellant may provide written submissions or additional information within 15 days of the date the Appeal Panel's notification is issued, and
  - b) the Appeal Panel, after considering any submissions provided by the Appellant pursuant to paragraph 7.16(a), may summarily dismiss one or more of the matters raised in the Appeal.

### *Conduct of Hearing*

- 7.17 Subject to s. 7.18, an Appeal Panel must conduct hearings in accordance with:
- a) the Board's rules of practice and procedure, and
  - b) any orders made by the FNEA Senior Staff Member.

### *Ability to Vary Rules*

- 7.18 If an Appeal Panel considers it necessary and appropriate to facilitate the just and timely resolution of one or more matters in the Appeal, that Appeal Panel:
- a) may make determinations about the application of the Board's rules of practice and procedure and may vary the rules, and
  - b) may request the FNEA Senior Staff Member to schedule an oral or written hearing.

### *Not Open to Public*

- 7.19 Appeal hearings will not be open to the public.

### *New Evidence*

- 7.20 In making a determination, an Appeal Panel may not consider evidence that was not before the FCD Committee unless the Appeal Panel is satisfied that the new evidence:
- a) was not before the FCD Committee despite the exercise of due diligence by the appellant; and
  - b) is relevant and credible and, when taken together with the other evidence before the Appeal Panel, is likely to affect the Appeal Panel's determination.
- 7.21 If the Appeal Panel considers evidence under s. 7.20 from a party to the appeal, the FNEA Senior Staff Member may, on behalf of the FCD Committee, provide additional evidence to the Appeal Panel.

### *Findings After Hearing*

- 7.22 After an Appeal hearing, the Appeal Panel may:
- a) confirm, vary or reverse the Certification Decision;
  - b) refer the matter back to the FCD Committee, with or without directions; or
  - c) make any other order it considers appropriate in the circumstances.

### *Majority Decision*

- 7.23 A decision of the majority of the Appeal Panel members hearing the appeal is the decision of the Appeal Panel.

### *Written Reasons*

- 7.24 The Appeal Panel must give written reasons for its decision to the Appellant and to the FCD Committee.

### *Amending Reasons*

- 7.25 The Appeal Panel and FNEA Senior Staff Member may, within 30 days of the date of providing written reasons for a decision, amend a decision to:
- a) correct a typographical or another similar error in the decision; or
  - b) correct an obvious error or omission in the decision.

### *Exclusive Jurisdiction*

- 7.26 Subject to s. 7.9, the Appeal Panel has exclusive jurisdiction to hear and determine all matters and questions of fact, law and discretion arising or required to be determined in an Appeal and to make any order permitted to be made.

### *Final and Binding Decisions*

- 7.27 A decision or order of the Appeal Panel, FNEA Senior Staff Member, or Disciplinary Hearing Panel on a matter in respect of which the Appeal Panel, FNEA Senior Staff Member, or Disciplinary Hearing Panel has exclusive jurisdiction is final and conclusive and is not open to question or review by any court.

### *Submissions on Reconsideration*

- 7.28 Where the Appeal Panel refers a matter back to the FCD Committee for reconsideration:
- a) the FCD Committee will comply with any direction of the Appeal Panel regarding the issuance, extension, upgrading, renewal or reinstatement of an FTC, an extension of the 12-month period under s. 3.18 or 5.5, or the rescission, termination, or variance of a suspension; and
  - b) the Appellant may make new submissions to the FCD Committee.

### *Notification*

- 7.29 If the FCD Committee decides upon a reconsideration to issue, extend, upgrade, renew or reinstate an FTC, extend the 12-month period under s. 3.18 or 5.5, or rescind, terminate or vary a suspension following its reconsideration, the FCD Committee will notify the Minister accordingly.

## **8.0 RESPONSIBILITIES OF FTC HOLDERS**

### *Duties to FNEA*

- 8.1 An FNEA Certified Teacher must:
- a) continue to meet and maintain the Performance Standards and continue to demonstrate reasonable competence in accordance with the Performance Standards and good moral character and capacity to carry out the duties of an educator;
  - b) continue to make progress towards their Professional Growth Plan;
  - c) cooperate with the FCD Committee in any investigation into their competence or conduct;
  - d) provide updated contact information, if applicable;
  - e) advise the FCD Committee if they have applied for or received a BC Teaching Authorization;
  - f) immediately advise the FCD Committee if there has been a change in their employment status; and
  - g) advise the FCD Committee of any change in circumstances that may make them ineligible to hold an FTC, including if they are charged with or convicted of a Relevant Offence or Specified Offence within the meaning of the CRRA.
- 8.2 An FNEA Certified Teacher who has self-reported in accordance with s.8.1(g) must provide FNEA with a Criminal Record Check Authorization for a further Criminal Record Check.

### *Annual Practice Fee*

- 8.3 An FNEA Certified Teacher must pay the Annual Practice Fee set by the Board on or before May 31 each year unless the fee is paid by the applicable PFN School Governing Authority.

### *Non-payment of Practice Fee Payment*

- 8.4 If a person has not paid the Annual Practice Fee by May 31, the FNEA Senior Staff Member must give notice to that person and the applicable PFN School Governing Authority that the Annual Practice Fee is due and payable no later than June 30.

### *Non-payment after First Notice*

- 8.5 If the Annual Practice Fee has not been paid by June 30, the FCD Committee will suspend the person's FTC effective July 1 and notify the Minister of that suspension. A second notice will be given to the person and the applicable PFN School Governing Authority that the Annual Practice Fee is due and payable no later than October 31.

### *Non-payment after Second Notice*

- 8.6 If the person receiving the second notice has not paid the Annual Practice Fee by October 31, the FCD Committee will cancel their FTC effective November 1 and notify the PFN Governing Authority that employs the teacher and the Minister of that cancellation.

### *Duty to Report Professional Misconduct*

- 8.7 An FNEA Certified Teacher must promptly provide to the FCD Committee a written and signed report if that person has reason to believe that another FNEA Certified Teacher or the holder of a BC Teaching Authorization has engaged in conduct that involves any of the following:
- a) physical harm to a student;
  - b) sexual abuse or sexual exploitation of a student; or
  - c) significant emotional harm to a student.

### *Criminal Record Check Authorization*

## **9.0 RESPONSIBILITIES OF PFN SCHOOL GOVERNING AUTHORITIES**

### *Duty to Report Discipline, Suspension, and Dismissal*

- 9.1 If a PFN School Governing Authority or its delegate:
- a) suspends or dismisses an FNEA Certified Teacher, or
  - b) disciplines an FNEA Certified Teacher for misconduct that involves:
    - i. physical harm to a student;
    - ii. sexual abuse or sexual exploitation of a student or a minor; or
    - iii. significant emotional harm to a student or a minor.

The PFN School Governing Authority must without delay notify the FCD Committee of the suspension, dismissal, or disciplinary action.

### *Duty to Report Resignation*

- 9.2 If an FNEA Certified Teacher resigns from their employment at a PFN school, the PFN School Governing Authority must without delay notify FNEA of the circumstances of the resignation.

### *Duty to Report Concerns Regarding Competence or Conduct*

- 9.3 If a PFN School Governing Authority or its delegate considers any conduct by, or the competence of, an FNEA Certified Teacher to be a breach of the Performance Standards, the PFN School Governing Authority must without delay notify FNEA if it is in the interest of PFNs, other First Nations or in the interest of students attending a PFN School or other First Nation school to do so.

### *Form of Report*

- 9.4 A report referred to in ss. 9.1 to 9.3 must:
- a) be in writing;
  - b) be signed by an authorized representative of the PFN School Governing Authority; and
  - c) include reasons for the action taken.

### *PFN School Governing Authority to Provide Records*

- 9.5 If a report referred to in ss. 9.1 to 9.3 is made to FNEA, the PFN School Governing Authority must, without delay after being requested in writing to do so by FNEA, provide FNEA with all of

the records available to the PFN School Governing Authority that relate to the matter in respect of which the report was made.

## **10.0 COMPLAINTS, REPORTS AND DISCIPLINE**

### *Complaints*

- 10.1 Any person may make a written and signed complaint about the competence or conduct of an FNEA Certified Teacher to the FCD Committee.

### *Preliminary Review*

- 10.2 If FNEA receives any complaints or reports related to the competence or conduct of an FNEA Certified Teacher, including information about criminal proceedings involving an FNEA Certified Teacher, the FCD Committee must:
- a) acknowledge receipt of the report or complaint, where applicable; and
  - b) conduct a preliminary review of the matters raised.

### *Decision Not to Take Further Action*

- 10.3 Following its preliminary review, the FCD Committee may decide not to take further action in respect of one or more of the matters raised if it determines that any of the following apply:
- a) the matter has been satisfactorily dealt with by the employer of the FNEA Certified Teacher;
  - b) the matter is not within the jurisdiction of the FCD Committee;
  - c) the matter is frivolous, vexatious, or trivial, or gives rise to an abuse of process;
  - d) the report or complaint was made in bad faith or filed for an improper purpose or motive;
  - e) there is no reasonable prospect the report or complaint will result in an adverse finding; or
  - f) the matter has not been pursued in a timely manner.

### *Reasons for Taking no Further Action*

- 10.4 If the FCD Committee decides not to take further action, it must provide written reasons to the following:
- a) the FNEA Certified Teacher who is the subject of the report or complaint; and
  - b) the person who sent the report or complaint.

### *Awaiting Conclusion of Another Process*

- 10.5 The FCD Committee may decide not to take further action until another process that is addressing one or more matters raised in a complaint or a report has been concluded.

### *Notification*

- 10.6 Where the FCD Committee has decided not to take further action until another process has been concluded, it will provide notification to the following:
- a) the FNEA Certified Teacher who is the subject of the report or complaint; and

- b) the person who sent the report or Complaint.

#### *Steps to be Taken at Conclusion of Other Process*

- 10.7 At the conclusion of the other process, the FCD Committee must make a determination under s. 10.8.

#### *FCD Determination*

- 10.8 If the FCD Committee decides that a complaint or report should be considered or it becomes aware of information of concern related to the competence or conduct of an FNEA Certified Teacher, the FCD Committee must do any one or more of the following:
- a) determine that a culturally appropriate alternative dispute resolution process is appropriate in all the circumstances and implement such a process after conferring with anyone the FCD Committee may determine is appropriate in order to make the decision as to the appropriateness and nature of the alternative dispute resolution process;
  - b) authorize an investigation to be conducted by an Investigator as directed by the FCD Committee in respect of the competence or conduct of an FNEA Certified Teacher;
  - c) make or accept a proposal for a consent resolution agreement with an FNEA Certified Teacher;
  - d) issue a citation; or
  - e) take no further action.

#### *Considerations in Making Determination*

- 10.9 In making its determination under s. 10.8, the FCD Committee may consider any of the following:
- a) previous decisions not to take further action;
  - b) previous investigations;
  - c) previous consent resolution agreements; and
  - d) previous findings or orders.

#### *Investigations*

- 10.10 The FCD Committee will notify, in writing, the following of any investigation authorized under s. 10.8(b):
- a) the FNEA Certified Teacher who is the subject of the investigation;
  - b) in the case of a report or complaint, the person who sent the report or complaint; and
  - c) the PFN School Governing Authority that employs the teacher.

#### *FNEA Investigation Authority*

- 10.11 The FCD Committee has the authority to do one or more of the following:
- a) inspect any record of a PFN school;
  - b) conduct an investigation into the competence or conduct of an FNEA Certified Teacher; and
  - c) interview:
    - i. any employee at a PFN School;
    - ii. the FNEA Certified Teacher who is the subject of the investigation;

- iii. the person who sent the report or complaint; and
- iv. any other person who may have relevant information.

#### *Investigator Authorization*

- 10.12 The FCD Committee may authorize an Investigator to carry out one or more of the actions described in s. 10.11, in addition to any other information gathering powers an Investigator may have under provincial legislation.

#### *Notification of FNEA Certified Teacher and PFN Governing Authority*

- 10.13 Upon authorizing an investigation under s. 10.12, the FCD Committee will provide written notification to:
- a) the FNEA Certified Teacher who is the subject of the investigation;
  - b) the person who sent a report or complaint to FNEA that led to the investigation, in the case of a report or complaint; and
  - c) the PFN School Governing Authority that employs the FNEA Certified Teacher.

#### *Suspension*

- 10.14 At any time between the receipt of a report or complaint or the authorization of an investigation and the resolution of the report, complaint, or investigation, or a Disciplinary Hearing Panel has issued its decision, the FCD Committee may suspend the FTC of the holder who is the subject of the report, complaint, or investigation or disciplinary hearing until the report, complaint, or investigation is resolved or a Disciplinary Hearing Panel has issued its decision if there is a risk of:
- a) physical harm to a student;
  - b) sexual abuse or sexual exploitation of a student; or
  - c) significant emotional harm to a student.

#### *Notice of Suspension*

- 10.15 The FCD Committee must deliver a notice of suspension to the following:
- a) the holder of the FTC being suspended;
  - b) the PFN School Governing Authority that employs the holder of the suspended FTC; and
  - c) the Minister.

#### *Variation or Rescission*

- 10.16 The FCD Committee may vary or rescind a suspension made under s. 10.14 at the written request of the FNEA Certified Teacher who was suspended or upon receiving new information.

#### *Notice of Variation or Rescission*

- 10.17 The FCD Committee must notify all persons listed in s. 10.15 of any variation or rescission.

### *Actions of FCD Committee*

- 10.18 After the completion of an investigation, the Investigator will submit their report to the FCD Committee and, after considering the report, the FCD Committee may take one or more of the following actions:
- a) decide not to take further action;
  - b) decide that a culturally appropriate alternative resolution process should be pursued and, if consent is obtained from the FNEA Certified Teacher who is the subject of the report or complaint and the PFN School Governing Authority that employs the FNEA Certified Teacher, implement such process;
  - c) make or accept a proposal for a consent resolution agreement; or
  - d) issue a citation for a disciplinary hearing under s. 11.1.

### *Decision Not to Take Further Action After Investigation*

- 10.19 The FCD Committee may decide not to take further action in respect of one or more of the matters related to an investigation after the investigation is concluded if the FCD Committee determines that any of the following apply:
- a) the complaint or report was not substantiated;
  - b) there is no reasonable prospect of an adverse finding by a Disciplinary Hearing Panel;
  - c) it is not in the public interest or the interest of the PFN community where the FNEA Certified Teacher works to take further action in respect of the matter;
  - d) the matter was satisfactorily dealt with by the employer of the FNEA Certified Teacher;
  - e) the matter is not within the jurisdiction of the FCD Committee;
  - f) the matter is frivolous, vexatious, or trivial, or gives rise to an abuse of process; or
  - g) the report or complaint was made in bad faith or filed for an improper purpose or motive.

### *Notice*

- 10.20 If the FCD Committee decides not to take further action, the FCD Committee must provide written reasons to the FNEA Certified Teacher who is the subject of the report or complaint, the person who sent the report or complaint and the PFN School Governing Authority that employs the FNEA Certified Teacher.

### *Alternative Resolution Notice*

- 10.21 If FCD Committee decides to implement a culturally appropriate resolution process, it must notify the person who sent the report or complaint to the FCD Committee.

### *Consent Resolution Agreement*

- 10.22 At any time between the FCD Committee's receipt of a report or complaint or the authorization of an investigation and the resolution of the report, complaint, or investigation, the FCD Committee may make a written proposal to or accept a written proposal from the FNEA Certified Teacher who is the subject of the report, complaint, or investigation to enter into a consent resolution agreement and, if the proposal is accepted, enter into such agreement.



### *Factors Considered*

- 10.23 In deciding whether to make or accept a written proposal under s. 10.22, the FCD Committee may consider any of the following:
- a) previous decisions not to take further action;
  - b) previous investigation reports;
  - c) previous consent resolution agreements;
  - d) previous findings or orders; and
  - e) any other matter that the FCD Committee considers relevant.

### *Form of Consent Resolution Agreement*

- 10.24 A consent resolution agreement must contain:
- a) the terms set out in the proposal made by the FCD Committee, or the terms set out in the proposal made by FNEA Certified Teacher if they are accepted by the FCD Committee;
  - b) one or more admissions by the FNEA Certified Teacher in relation to one or more of the matters raised in the report or complaint or related to the investigation; and
  - c) one or more of the consequences that a Disciplinary Hearing panel may order under s.11.13.

### *Effect of Consent Resolution Agreement*

- 10.25 A consent resolution agreement has the same effect as an order. After a consent resolution agreement is entered into under s. 10.22, no further action may be taken with respect to the matters contained in the consent resolution agreement, unless the FNEA Certified Teacher does not comply with one or more of the terms of the consent resolution agreement.

### *Evidence of a Proposal Being Made*

- 10.26 If a consent resolution proposal is made but not accepted, the members of the Disciplinary Hearing Panel at any subsequent disciplinary hearing must not consider admissions made or information provided in relation to that proposal, apart from information collected in an investigation separate from the proposal for a consent resolution agreement.

### *Copy to Person Who Made Report or Complaint*

- 10.27 In the case of a report or complaint, the FCD Committee must provide a copy of the consent resolution agreement to the person who sent the report or complaint, unless the FCD Committee decides not to make the consent resolution agreement public.

### *Copy to PFN School Governing Authority*

- 10.28 The FCD Committee must provide a copy of the consent resolution agreement to the PFN School Governing Authority that employs the FNEA Certified Teacher who is the subject of the consent resolution, unless the FCD Committee decides not to make the consent resolution agreement public.

### *Notice of Suspension or Cancellation of an FTC*

- 10.29 If an FTC is suspended or cancelled as an outcome of a culturally appropriate alternative resolution or as a term of a consent resolution agreement, the FCD Committee must:
- a) notify every PFN School Governing Authority and the Minister of the suspension or cancellation; and
  - b) record the suspension or cancellation in the FTC Registry.

## **11.0 DISCIPLINARY HEARINGS**

### *Citation for a Disciplinary Hearing*

- 11.1 After completing a preliminary review under s. 10.2 or an investigation under s. 10.8(, the FCD Committee may issue a citation to an FNEA Certified Teacher, which includes a description of the matters to be considered by the members of a Disciplinary Hearing Panel at a disciplinary hearing and a statement of the material facts upon which the citation is based.

### *Recommend Names for Disciplinary Hearing Panel*

- 11.2 If the FCD Committee issues a citation under s. 11.1, the FNEA Senior Staff Member will recommend three members of the Roster to the Board for appointment to the Disciplinary Hearing Panel.

### *Appointment of Disciplinary Hearing Panel*

- 11.3 After reviewing the recommendations provided by the FNEA Senior Staff Member, the Board will appoint three members from the Roster to the Disciplinary Hearing Panel, who need not be the members that were recommended to them.
- 11.4 If a member of a Disciplinary Hearing Panel is unable for any reason to complete the member's duties:
- a) the Board may appoint another member as a replacement, or
  - b) the remaining members, with consent of the Board, may continue to hear and determine the Disciplinary Hearing;

and the replacement or vacancy does not invalidate the proceeding.

### *Effect of Citation*

- 11.5 If the FCD Committee issues a citation, it must:
- a) deliver a copy of the citation to the last known address of the FNEA Certified Teacher who is the subject of the citation;
  - b) notify the PFN School Governing Authority that employs the FNEA Certified Teacher who is the subject of the citation; and
  - c) notify, in the case of a report or complaint, the person who sent the report or complaint.

### *Amendment or Rescission of Citation*

- 11.6 The FCD Committee may amend or rescind a citation at any time before the conclusion of the disciplinary hearing before the Disciplinary Hearing Panel if the FCD Committee receives new information relevant to the citation.

### *Hearing Procedure*

- 11.7 The Board may create procedural rules for disciplinary hearings conducted by a Disciplinary Hearing Panel. A Disciplinary Hearing Panel must take into account, but may choose to vary, such procedural rules. A Disciplinary Hearing Panel may also establish further processes or procedures for the management of the disciplinary hearing. A Disciplinary Hearing Panel may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. Disciplinary hearings will not be open to the public.

### *Majority Decisions*

- 11.8 A decision of the majority of the members present at the disciplinary hearing is the decision of the Disciplinary Hearing Panel.

### *Authority to Compel Witnesses and Order Disclosure*

- 11.9 At any time before or during a disciplinary hearing, a Disciplinary Hearing Panel may make an order requiring a person to:
- a) attend a disciplinary hearing to give evidence, on oath or affirmation or in any other manner, that is relevant to a matter before the Disciplinary Hearing Panel, or
  - b) produce for the Disciplinary Hearing Panel a document or other thing in the person's possession or control that is relevant to a matter before the Disciplinary Hearing Panel.

### *Application for Order to Comply*

- 11.10 The FCD Committee may apply to the Provincial Court of British Columbia, or any other court of competent jurisdiction, for an order directing a person to comply with an order made by a panel under s. 11.8.

### *Failure to Attend*

- 11.11 If the person who is the subject of a citation fails to attend the disciplinary hearing, on proof that a copy of the citation was delivered to their last known address, the Disciplinary Hearing Panel may proceed with the hearing and may take, without further notice, any action it considers to be appropriate and make any order that could have been made in the presence of that person.

### *Findings After Hearing*

- 11.12 After a disciplinary hearing, the Disciplinary Hearing Panel may make any of the following findings:
- a) dismiss the citation;

- b) determine that the person who is the subject of the citation has been guilty of professional misconduct, or conduct unbecoming an FNEA Certified Teacher;
- c) determine that the person who is the subject of the citation has been or is incompetent or does not otherwise have the capacity to carry out the duties of an FNEA Certified Teacher; or
- d) make any other report respecting the citation that the Disciplinary Hearing Panel considers appropriate to the Board, the FCD Committee and PFN School Governing Authority.

#### *Considerations in Making Findings*

- 11.13 In making its findings, the Disciplinary Hearing Panel may consider any information the Disciplinary Hearing Panel determines to be appropriate including:
- a) previous decisions not to take further action;
  - b) previous investigations;
  - c) previous consent resolution agreements; and
  - d) previous findings or orders.

#### *Consequences After Disciplinary Hearing*

- 11.14 If a finding is made under s. 11.11(b) or 11.11(c), the Disciplinary Hearing Panel may make an order setting out one or more of the following:
- a) a reprimand;
  - b) specifying conditions which must be fulfilled and that, if such conditions are not fulfilled, the FTC may be suspended or cancelled by the FCD Committee;
  - c) requiring the FCD Committee to suspend the FTC for a fixed period;
  - d) requiring the FCD Committee to suspend the FTC until conditions imposed by the Disciplinary Hearing Panel have been completed;
  - e) requiring the FCD Committee to suspend the FTC until the FCD Committee is satisfied, based on evidence provided by the person who is the subject of the citation, that they are able to carry out their professional duties and responsibilities;
  - f) requiring the FCD Committee to cancel the FTC; or
  - g) a consequence to be determined by the Disciplinary Hearing Panel in collaboration with the PFN School Governing Authority that employs the FNEA Certified Teacher, consistent with appropriate cultural practices.

#### *Written Reasons*

- 11.15 The Disciplinary Hearing Panel must give written reasons for their decision after a disciplinary hearing and provide it to the following:
- a) the person who is the subject of the citation;
  - b) the PFN School Governing Authority that employs the person who is the subject of the citation; and
  - c) the FCD Committee.

#### *Notice of Suspension or Cancellation*

- 11.16 If an order is made to suspend or cancel an FTC, the FCD Committee must:
- a) notify every PFN School Governing Authority of the suspension or cancellation;

- b) record the suspension or cancellation in the FTC Registry; and
- c) notify the Minister of the suspension or cancellation.

#### *Amending Decisions*

- 11.17 The FCD Committee, within 30 days of the date of a decision by the FCD Committee or by a Disciplinary Hearing Panel, may amend a decision to:
- a) correct a typographical, an arithmetical or another similar error in the decision, and
  - b) correct an obvious error or omission in the decision.
- 11.18 The Disciplinary Hearing Panel has exclusive jurisdiction to hear and determine all matters and questions of fact, law and discretion arising or required to be determined in a disciplinary hearing and to make any order permitted to be made.

### **12.0 IMMUNITY PROTECTION FOR DECISION MAKERS**

#### *No Proceedings may be Brought*

- 12.1 Subject to s. 12.2, no legal proceeding for damages lies or may be commenced or maintained against a member of the FCD Committee, an Appeal Panel, or a Disciplinary Hearing Panel because of anything done or omitted:
- a) in the performance or intended performance of any duty under these Rules or policies made under these Rules, or
  - b) in the exercise or intended exercise of any authority under these Rules.

#### *Exception*

- 12.2 Section 12.1 does not apply to a person referred to in that section in relation to anything done or omitted by that person in bad faith.

### **13.0 GENERAL**

#### *Policies and Procedures – Mandatory*

- 13.1 The Board must develop and approve policies and procedures, which may be amended from time to time, with respect to the following matters:
- a) the process for assessing an applicant's competence in accordance with the Performance Standards;
  - b) the process and requirements for the FCD Committee to apply in considering an Application;
  - c) the process by which an FNEA Certified Teacher participates in the development of, and the requirement to comply with, a Professional Growth Plan;
  - d) the requirements for an acceptable Professional Growth Plan;
  - e) the process for upgrading an interim FTC to a full FTC;
  - f) the process for renewing an FTC; and
  - g) the circumstances under which an extension may be granted to an FNEA Certified Teacher who is no longer employed by a PFN School Governing Authority prior to cancelling their FTC.

### *Policies and Procedures – Other*

- 13.2 The Board may develop and approve policies and procedures with respect to any matters related to the implementation of these Rules, which may be amended from time to time.

### *Forms and Fees*

- 13.3 The Board must establish the following by resolution:
- a) the form for making an Application to be submitted by an applicant;
  - b) the form for appealing a decision of the FCD Committee;
  - c) the Application Fee;
  - d) the Annual Practice Fee; and
  - e) any penalty for the late payment of fees.

### *Notices to FNEA*

- 13.4 Unless otherwise specified, any notice, application, form, or report to be given to FNEA pursuant to these Rules is to be provided to the FNEA Senior Staff Person at the FNEA office by way of courier, registered mail, or by email to the posted email address of the FNEA Senior Staff Person.
- 13.5 All notices, applications, forms or reports given to FNEA:
- a) by courier or registered mail shall be deemed received on the date that FNEA actually receives them, not on the date they are sent, and
  - b) by email to the posted email address shall be deemed received on the business day they are sent, if sent before 5pm pst or on the next business day if sent after 5pm.

## **14.0 AMENDMENT AND POSTING OF RULES**

### *Authority to Amend Rules*

- 14.1 The Board may amend these Rules by resolution passed in accordance with:
- a) the process provided for in any co-management agreement between a PFN and FNEA; and
  - b) any process adopted by the Board regarding the development and approval of FNEA rules.

### *Rules Posted on FNEA Website*

- 14.2 The Board must ensure that a current version of these Rules and the policies, forms and fees referred to in section 13.0 are posted on the FNEA website.