



TSAWWASSEN FIRST NATION
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2009

EDUCATION, HEALTH AND
SOCIAL DEVELOPMENT ACT

Date Enacted: 3 April 2009

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Table of Legislative Changes

Name of Act	Bill Number	Date Enacted	Section(s) Amended	Comes Into Force Date
Education, Health and Social Services Amendment Act [2010]	003-2010	23/03/2010	s.5(3) added	23/03/2010
Education, Health and Social Services Amendment Act [2011]	002-2011	07/03/2011	s.10.1 added	07/03/2011
Education, Health and Social Development Amendment Act 2013	004-2014	29/05/2013	s.5(3) amended	29/05/2013
Clerical Amendments Act	004-2017	05/06/2017	s.2, s.21(3) amended	Jun 5 20117

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EDUCATION, HEALTH AND SOCIAL DEVELOPMENT ACT

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The Legislature of Tsawwassen First Nation enacts as follows:

Citation

1 This Act may be cited as the Education, Health and Social Development Act.

Definitions

2 (1) In this Act:

“**chief administrative officer**” means the person appointed to that position under the *Government Organization Act*;

“**non-Member**” means an individual who has reached the age of majority, who is ordinarily resident on Tsawwassen Lands, and who is not a Tsawwassen Member;

“**other aboriginal person**” means a person of aboriginal ancestry who is not a Tsawwassen Member;

[Amended by Bill 004-2017; Enacted on June 5 2017]

“**parent**” means, with respect to a Tsawwassen student, either his or her guardian, the person legally entitled to custody of the student or the person who usually has the care and control of the student;

“**person**” includes an individual, a partnership, a corporation, a trust, an unincorporated association or any other entity, and a government or any agency or political subdivision of that government;

“**school year**” means the period beginning on July 1 and ending on the following June 30;

“**Tsawwassen Child**” means a person under the age of majority who is a Tsawwassen Member;

“**Tsawwassen Lands**” means the lands set out in Appendix C-4 of the Tsawwassen First Nation Final Agreement as Tsawwassen Lands, as amended from time to time under that agreement;

“**Tsawwassen Member**” means a Tsawwassen individual who is enrolled as a member of Tsawwassen First Nation in accordance with Chapter 21 [*Eligibility and Enrolment*] of the Tsawwassen First Nation Final Agreement;

“**Tsawwassen Public Institution**” means a Tsawwassen public institution as defined in the Tsawwassen First Nation Final Agreement;

“**Tsawwassen student**” means a Tsawwassen Member of school age who is ordinarily resident on Tsawwassen Lands;

(2) In this Act, a Tsawwassen Member is of school age during the period between his or her fifth birthday and his or her sixteenth birthday.

(3) In this Act, a reference to an “educational program” provided by Tsawwassen First Nation means, in the case of learning activities provided by Executive Council, an organized set of learning activities that Executive Council believes will permit Tsawwassen students to

(a) become literate,

- (b) be full and active members of Tsawwassen First Nation, with knowledge and understanding of its culture and history,
- (c) develop their individual potential,
- (d) acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic and pluralistic society, and
- (e) participate in a prosperous and sustainable economy.

PART 1 – EDUCATION

Division 1 – Kindergarten to Grade 12

School attendance

- 3** (1) The parent of a Tsawwassen student must cause that student to enroll or be enrolled in and participate in
- (a) an educational program provided by Tsawwassen First Nation,
 - (b) an educational program provided under the School Act (British Columbia) or a school or educational institution referred to in section 3 (2) of that Act, or
 - (c) home schooling provided under the School Act (British Columbia) or by a parent of a Tsawwassen student if
 - (i) the home schooling provided by the parent meets the requirements of that Act, and
 - (ii) the parent notifies the chief administrative officer within 5 days of the beginning of each school year that the Tsawwassen student is to participate in home schooling.
- (2) A parent of a Tsawwassen student enrolled in an educational program described in subsection (1) that is not provided by the Tsawwassen Government must notify the chief administrative officer
- (a) of the student’s enrollment, within 10 days of the enrollment in the program, and
 - (b) within 30 days of the student ceasing to be enrolled or ceasing to participate in the program.
- (3) If a Tsawwassen student is 5 years old on the first school day of a school year, or will become 5 years old before December 31 of that year, his or her parent may defer his or her enrollment in an educational program until the first day of the school year in the following calendar year.

Right to culturally suitable educational programs

- 4** A Tsawwassen student is entitled to receive
- (a) culturally suitable educational programs appropriate to his or her needs, and
 - (b) tuition-free instructional services for those programs.

Instructional support services

- 5** (1) In accordance with the regulations, Executive Council must ensure that appropriate support services are provided to Tsawwassen students with respect to
- (a) language and cultural education,
 - (b) transportation,

- (c) student allowances,
 - (d) guidance and counseling, and
 - (e) such other support and ancillary services considered by Executive Council to be necessary for a Tsawwassen student's successful participation in an educational program.
- (2) The services described under subsection (1) may be provided by Executive Council, a Tsawwassen Public Institution or by a person under contract.
- (3) If the Executive Council considers it advisable, the Executive Council may, by regulation, extend the services described in subsection (1) to Tsawwassen Members of school age who are ordinarily resident in Canada or the United States.

[Amended by Bill 002-2011; Enacted on March 7, 2011]

[Amended by Bill 004-2013; Enacted on May 29, 2013]

Qualifications and standards

- 6** Every person who provides instructional services in an educational program provided by Tsawwassen First Nation must
- (a) be qualified as an instructor under the Teaching Profession Act (British Columbia) or the Independent School Act (British Columbia), and
[Amended by Bill 25-2009; Enacted on September 16, 2009]
 - (b) meet the standards for instruction required by the School Act (British Columbia) or the Independent School Act (British Columbia).

Eligibility of other aboriginal persons for services

- 7** Aboriginal persons of school age who are ordinarily resident on Tsawwassen Lands and who are not Tsawwassen students are eligible for the same instructional services and instructional support services provided to Tsawwassen students under this Act if a fiscal financing agreement between the government of Canada and Tsawwassen First Nation provides for the payment to Tsawwassen First Nation for those services.

Appeal process

- 8** Executive Council must by regulation, establish a procedure for the appeal of a decision not to provide, to discontinue or to reduce assistance, programs or services under this Part.

Attendance management

- 9** Executive Council may require the attendance of Tsawwassen students in educational programs.

Division 2 – Post-Secondary Education and Training Assistance

Eligibility for post-secondary and training assistance

- 10** Tsawwassen Members who are ordinarily resident in Canada are eligible for financial assistance to attend the post-secondary education or training institutions listed in regulations made under this Act, in accordance with criteria and requirements set out in those regulations.

Eligibility of Tsawwassen Indians

- 10.1** Aboriginal persons who are considered Tsawwassen Indians on the Indian Register maintained by Canada, who are non-members and who are ordinarily resident in Canada, are eligible for the programs and services referred to in this Division if a Fiscal Financing Agreement between the government of Canada and Tsawwassen First Nation provides for the payment of these programs and services.

[Amended by Bill 003-2010; Enacted on March 23, 2010]

Appeal process

- 11** Executive Council must by regulation establish a procedure for the appeal of a decision not to provide, to discontinue or to reduce assistance under section 10.

PART 2 – HEALTH SERVICES

Community health plan

- 12** Executive Council must by regulation
- (a) develop and adopt a community health plan designed to ensure equality of access to all those eligible for health programs and services under this Part,
 - (b) provide health services and programs in accordance with the community health plan, and
 - (c) deliver health services and programs in accordance with public health standards generally applicable in British Columbia.

Eligibility for health programs and services

- 13** In accordance with the regulations, Executive Council must provide Tsawwassen Members ordinarily resident on Tsawwassen Lands the following programs and services:
- (a) an immunization, communicable disease control, environmental health, and drinking water safety program;
 - (b) a community health and health prevention program;
 - (c) an in-home and community care program;
 - (d) a home-care nursing program;
 - (e) an aboriginal head-start programs.

Assistance for other aboriginal persons

- 14** Aboriginal persons who are ordinarily resident on Tsawwassen Lands and who are non-Members are eligible for the programs and services referred to this Part if a fiscal financing agreement between the government of Canada and Tsawwassen First Nation provides for the payment for those programs and services.

Reports on health status

- 15** (1) Executive Council must prepare a report at least every 5 years that describes and evaluates quantitative and qualitative measures to assess the outcomes and results of health programs and services provided by Tsawwassen First Nation and any changes and improvements that are needed to further improve the health status of those receiving the programs and services.
- (2) The report must be made available to
- (a) Tsawwassen Members, and non-Members residing on Tsawwassen Lands, and
 - (b) the governments of Canada and British Columbia.

Appeal process

- 16** Executive Council must by regulation establish a procedure for the appeal of a decision not to provide, to discontinue or to reduce assistance, programs or services under this Part.

PART 3 – SOCIAL DEVELOPMENT

Income and basic human needs assistance

- 17** (1) Tsawwassen Members ordinarily resident on Tsawwassen Lands are eligible, in accordance with the regulations, for
- (a) income assistance and services intended to meet basic human needs,
 - (b) financial assistance for those caring for or having custody of a Tsawwassen Child,
 - (c) assistance for those with special needs,
 - (d) non-insured health benefits for recipients of income assistance,
 - (e) training, education and support services to reduce reliance on income assistance,
 - (f) local community programs that contribute to physical, emotional and social well-being, including adult in-home care, family violence prevention and children's programs, and
 - (g) social housing.

Assistance to other aboriginal persons

- 18** Aboriginal persons and their family members who are ordinarily resident on Tsawwassen Lands and who are non-Members are eligible for the financial assistance and programs and services referred to in section 17 on the same basis as Members and Members' families if a fiscal financing agreement between the government of Canada and Tsawwassen First Nation provides for payment for that assistance and those programs and services.

Appeal process

- 19** Executive Council must by regulation establish a procedure for the appeal of a decision not to provide, to discontinue, or to reduce assistance under this Part.

PART 4 – FINANCING AGREEMENTS

Financing agreements

- 20** Executive Council is delegated authority, on behalf of Tsawwassen First Nation, to negotiate and attempt to reach financing agreements for education, health and social development programs and services with the governments of Canada and British Columbia, as set out in the Tsawwassen First Nation Final Agreement.

Regulations

- 21** (1) Executive Council may make regulations it considers advisable for the purposes of this Act, and, without limitation, may make regulations in respect of the following:
- (a) establishing eligibility criteria for instructional support services;
 - (b) setting out terms and conditions for providing and continuing to provide instructional support services;
 - (c) setting out reasons for suspending, reducing, terminating or reinstating instructional support services;
 - (d) establishing amounts of, and times at which, support services are to be provided and the manner in which they are to be provided;
 - (e) providing for enforcement of enrollment, participation and attendance of Tsawwassen students in an educational program;
 - (f) providing for education in the culture of Tsawwassen First Nation and the Hun'qum'i'num language provided by a Tsawwassen Institution or a person appointed by Tsawwassen First Nation on Tsawwassen Lands including
 - (i) the certification and accreditation of teachers in the culture of Tsawwassen First Nation and the Hun'qum'i'num language, and
 - (ii) the development of the curriculum for teaching the culture of Tsawwassen First Nation and the Hun'qum'i'num language.
 - (g) establishing types and amounts of financial assistance for post-secondary education or training for which Tsawwassen Members ordinarily resident in Canada are eligible;
 - (h) setting out criteria for eligibility for post secondary education or training financial assistance;
 - (i) establishing terms and conditions attached to the various forms of assistance;
 - (j) listing or describing the post-secondary educational or training institutions in respect of which financial assistance is available.
- (2) Executive Council may make regulations respecting benefits, describing
- (a) the types of assistance available,
 - (b) the rates of assistance, and
 - (c) the conditions and criteria for eligibility for assistance.
- (3) Any regulations under subsection (2) must uphold the principles of the *Canada Health Act*.
- [Amended by Bill 004-2017; Enacted on June 5 2017]
- (4) Executive Council may make regulations respecting the following:
- (a) setting out the procedure to apply for assistance and services;

- (b) establishing eligibility and criteria to determine the objective need for assistance and services, including income tests;
- (c) establishing a schedule specifying types of assistance and services available, the rates of assistance and any conditions of the assistance.

Interpretation

- 22** The Interpretation Act (British Columbia) applies to this Act and the regulations, unless the context or another Tsawwassen enactment otherwise requires.

Commencement

- 23** This Act comes into force on the date of enactment by Tsawwassen Legislature.