



# Control, Regulation and Scope of Practice in the Teaching Profession: An Environmental Scan of Selected Canadian Jurisdictions

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# Contents

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Preface.....	3
Introduction.....	5
Section 1: What influences have led to increased teacher regulation? .....	7
Neo-liberalism and new managerialism .....	7
The erosion of trust in the public sector.....	13
What constitutes a professional and are teachers professional? .....	18
Accountability in public education systems .....	22
Teacher autonomy: Rights and Responsibilities .....	25
Section 2: Teacher Certification and Regulation.....	28
Certification.....	28
Regulation.....	29
Section 3: Teacher Standards.....	60
Section 4: Comparing teacher regulation with regulation in other professions .....	71
Nursing and health care professions: British Columbia .....	72
Law Profession: Alberta.....	74
Professional Engineers: Ontario .....	75
Physicians and Surgeons: Saskatchewan .....	79
Section 5: Discussion.....	82
References.....	87



## Preface

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This publication represents the culmination of a two-year effort to assess the impact of the increasing focus on the development and implementation of teacher regulation and standards of practice for teachers and school leaders across Canada. The renewed interest in regulation and practice standards was signalled here in Alberta this past February with the Minister of Education signing off on the new Teaching Quality Standard (2018) alongside newly developed standards for school and school jurisdiction leaders (Leadership Quality Standard 2018) and superintendents (Superintendent Leadership Quality Standard 2018). The three standards define the competencies expected of all educators in the province of Alberta and became mandatory in September 2018.

The impetus for this study was twofold: first, to contextualize the global influences that have led to the development of regulation and practice standards across Canada as well as here in Alberta; second, to assess the impacts that such efforts have had in recent years in selected jurisdictions across Canada. As with any major research undertaking, the involvement and expertise of a number of contributors is key. Special thanks goes to Charlie Naylor, PhD, formerly with the British Columbia Teachers' Federation (BCTF) and a well-respected researcher, who led the study. A number of university and teacher federation researchers from across the country provided their insights, including experts from Nova Scotia, Ontario, Saskatchewan, Alberta and British Columbia. J-C Couture, who oversees the Association's research, coordinated the project, and Lindsay Yakimyshyn oversaw the final publication of this report.

The commissioning of this study speaks to the commitment of the Association to lead positive educational development while considering both the research evidence and the intents of policy players driving educational change. For example, through our network of international school partnerships in Finland, Norway and New Zealand, we have learned how accountability and regulatory policies, including practice standards and frameworks for school leadership, have migrated across jurisdictions or have met with skepticism. Yet regulation, control apparatuses and growing bureaucracies continue to increase globally, for teaching as with other professions.

Twenty years ago, the Organisation for Economic Co-operation and Development (OECD) first advanced quality teaching, and later school leadership, framed through clearly identifiable competencies as a powerful lever for improving student outcomes as measured by the Programme for International Student Assessment (PISA). These efforts are also increasingly linked to the Teaching and Learning International Survey (TALIS), which attempts to ascertain the relationship between various externally measurable constructs of teacher and school leader performance and student outcomes.

The effort to sustain the policy handshake between teacher competencies and student outcomes has been the subject of much scrutiny and debate. Yet, as this study shows, the policy impetus to regulate and control practice standards cuts across ideology and political party lines. These policies also produce unforeseen and nettlesome downstream results, such as the growth of regulatory certification bodies and cumbersome bureaucracies. For example, Naylor points to Ontario and a 2015 analysis of the College of Teachers' \$38 million budget (generated by teachers' annual certification fees) to deal with 103 cases of culpable behaviour, representing a mere 0.04 per cent of Ontario teachers (Naylor 2018, 32).

While establishing or increasing teacher regulation and defining a profession's scope of practice and applicable standards are laudable aspirations for any professional group, the case studies in this report illustrate very real risks associated with their development and implementation. The risks in both regulation and standards include laying the foundation for dividing the profession through decontextualized and stratified layers of constructs such as competencies, and augmenting the uncertainties related to the vagaries of governments that attempt to leverage control over teachers. In short, the well-intended efforts by professional groups to be proactive and to pre-empt efforts to define the policy space of transparency and accountability can easily provide the rationale for neoliberal reformers to divide the teaching profession and its organizations through bureaucratic credentialling requirements and other efforts that diminish public confidence in teachers.

Teacher regulation and the development of practice standards are evolving phenomena, and there may have been changes in some provinces since this research was undertaken. However, this environmental scan and its critical assessment of the long-term implications of the growing focus on practice standards will serve to support the work of the Association as it advocates on behalf of the province's teachers for a sound approach to building the capacity of the profession. Such an approach must continue to resonate with the Association's longstanding motto, *Magistri Neque Servi*—"Masters not servants."

J-C Couture  
Associate Coordinator Research

## Introduction

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To better understand the nature, status and control of the teaching profession in Canadian provinces, and how each may be changing, this report focuses on conceptual thinking, contextual settings and evolutionary trends in education. To encourage reflection and analysis, several papers and authors are employed as proponents of the key issues that might encourage focus and discussion for stakeholders.

In the conceptual focus, much of the literature included here references the evolution of neo-liberalism and its impact on the teaching profession. For instance, Lessard and Brassard's landmark paper (2005) articulates these concepts and also locates them within Canadian contexts, allowing for some thinking about individual provincial education systems, how they compare and how they have changed. Similarly, research by Peters (2004; 2005) opens up consideration of neo-liberal approaches with an exploration of how regulatory frameworks have become part of neo-liberal government strategies, thereby allowing governments to maintain control while at the same time appearing to transfer professional oversight to regulatory bodies.

The erosion of trust in public services (O'Neill 2002; Whitty and Wisby 2006) provides another way of understanding how some jurisdictions have increased their focus on accountability and regulation. Governments' increasing accountability demands and expectations have created environments in which the government is the self-proclaimed guardian of the public purse and of all those (except themselves) employed in the public sector. Such guardianship comes with significant focus on the accountability of those who work in the public sector.

The research noted above contains the essence of the case made here, namely that:

- many changes in the control and regulation of teachers' work has occurred where neo-liberal, market-oriented practices are fundamental parts of government philosophies;
- such policies may vary between provinces and countries and can evolve or change over time;
- the erosion of trust in the public sector has been an implicit component of government actions to increasingly control and regulate the work of teachers; and
- governments that increase regulation and control over the teaching profession do so by legislative means that establish what might appear to be a neutral and/or self-regulating professional body, but that, in most cases, retains government control over teachers.

The story of reduced trust, increased accountability, changing governance and regulatory systems is—while complex in its detail—an essentially simple one. In many countries, teachers are increasingly subject to greater regulation and control. Three Canadian provinces (BC, Ontario and Saskatchewan) appear to have shifted toward greater regulation and control since 2003, with

## 6

a fourth (Nova Scotia) about to follow. What often is categorized by governments as enabling or progressive approaches to teaching standards and colleges of teachers have, in some instances, become controlling, invasive and expensive measures for teachers who are then subjected to increased surveillance and disciplinary procedures. At the same time, teachers in some provinces are paying for regulatory structures they did not request and over which they have little or no control. Such surveillance and disciplinary procedures represent a different approach to regulation than that practised by most provincial governments in Canada when they legislate forms of regulation for other professions.



## Section 1: What Influences Have Led to Increased Teacher Regulation?

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### NEO-LIBERALISM AND NEW MANAGERIALISM

Where it has occurred, increased control over and regulation of the teaching profession has largely been implemented by governments adhering to neo-liberal philosophies. Neo-liberalism has been widely explored and discussed. Peters (2005) discussed the shift in the UK from the post-World War II welfare state to what he termed “cultures of consumption.” Such cultures reflected neo-liberal philosophies that emphasized privatization, fiscal de-regulation and austerity in terms of government spending and which Margaret Thatcher (in the UK) and Ronald Reagan (in the USA) epitomized and exemplified. In Canada, the provincial governments of Ralph Klein in Alberta and Mike Harris in Ontario also shared neo-liberal ideologies; Brad Wall’s Saskatchewan party offers a more recent example, as does, to a lesser extent, BC’s Liberal government in power between 2001 and 2017.

Direct connections between neo-liberalism and public schooling can be seen in multiple policies and approaches, including:

- fiscal austerity negatively impacting education funding (Ontario under Harris, BC in the early years of the Gordon Campbell Liberal government);
- increased teacher regulation in provinces with neo-liberal governments (Ontario, BC, Saskatchewan);
- teacher unions becoming the specific targets of government attacks with initiatives, such as teacher testing (Ontario under Harris).

Peters (2005) argues that the shift toward neo-liberalism was accompanied by structures established by government with devolution of administrative control to other agencies or institutions—ostensibly not government agencies—that set up and enforce rules and regulations. These structures have direct relevance to the teaching profession in terms of regulations and the introduction of teacher “standards.” A brief part of Peters’ argument, quoted below, discusses how “risk management” of government has shifted with neo-liberalism, and how the emerging agencies are linked to a suspicion by neo-liberal governments of those with “expert knowledge” associated with the welfare state, including teachers. The notion of “risk”, Peters argues, is linked to the many educational reports and analyses, including “A Nation at Risk.” Where such “risk” exists, neo-liberal governments deal with their perception of the risk by, first, the establishment of a climate of suspicion. In the case of “A Nation at Risk” the central theme was that the US education system was failing. Next, a series of reforms were initiated including greater accountability and increased

managerial control over teachers in public schools, including increased and more intrusive forms of teacher regulation:

The key elements of the risk management program grew out of the shift from the Keynesian welfare state and compulsory social insurance to neo-liberalism (or the culture of consumption) and a form of private insurance constructed through choice. Within this new regime (re/de)regulation represents an intensive jurisdiction, a legal liberation and optimism based on confidence in rules. In this model, the well-governed society is committed to the coherence of a framework of rules, a codification, which allows the government to step back more from actual involvement in state activities, which now devolve to agencies, institutions or regions... Understood as a risk management regime, neo-liberalism involves the distrust of expert knowledges, especially those traditionally associated with the welfare state (such as the expertise of social workers and teachers)... Under neo-liberalism the trend has been toward creating a uniform structure of expert knowledge that is based on the calculating sciences of actuarialism and accountancy, thus explaining the label, the 'audit society.' (Peters 2005, 130)

Peters (2005, 135) quoted a Tony Blair speech made in 2001 in which the then-British Prime Minister spoke of public service reform (the term implying that such "reform" was necessary to correct perceived problems with services currently provided) and outlined the key principles that would guide it:

First, high national standards and full accountability. Second, devolution to the front line to encourage diversity and local creativity. Third, flexibility of employment so that staff are better able to deliver modern public services. Fourth, the promotion of alternative providers and greater choice. All four principles have one goal—to put the consumer first. We are making the public services user-led, not producer or bureaucracy-led, allowing for greater freedom and incentives for services to develop as users want.

While a set of principles, Blair's comments might also be considered rationales—an explanation of why change or reform was necessary. Such rationales are designed to elicit an empathic public response by their use of positive terminology. In the above quote, Blair speaks of creativity, choice, freedom and incentives. At the same time he stresses how government is both raising the bar in terms of standards and establishing accountability to authority—the government—and how much better all this will be for the user or consumer of the public services, including education. The rationale is the sales pitch, and such sales pitches have served neo-liberal governments well. However, they are not supported by evidence of what the initial problem might be and why the new approach is likely to improve matters. Nor do they establish the same accountability structures or expectations for the new approaches as they did for the old; therefore, the "promotion of alternative providers" (often private rather than public) are not subject to inspection, reporting and auditing to the same levels as their public counterparts. The notion of "rationale" and its connection to evidence is important in terms of teacher regulation, for, as will be shown, the rationales which are provided when regulation is being promoted are extensive, but often the evidence for the articulation of such rationales is weak.

Blair echoed much of Thatcher's rhetoric, although his "New Labour" government attempted to ameliorate the harsh Conservative tone in what has been termed "the third way" with "carrots" including additional funding, with the "stick" being continued insistence on tight government control alongside claims of "devolution to the front line." Curiously, little changed in rhetorical terms when in the UK a Conservative government replaced Labour. In a review of teacher standards, Goepel (2012, 498) reported that the Conservative Prime Minister David Cameron and coalition Liberal-Democrat Deputy Prime Minister Nick Clegg, "stressed the importance of raising the status of teaching and devolving power to the front line while at the same time retaining high levels of accountability."

The consequences of actions following each of Blair's four principles and other neo-liberal statements can be seen across international K–12 public education systems. Accountability proposals are often linked to student testing, and assessments such as the Programme for International Student Assessment (PISA). Devolution to the front line can be seen in the removal or reduction in the numbers and power of school boards or districts at various levels in different jurisdictions and to self-managed schools competing for students. "Flexibility of employment" is usually at the expense of the employed and has resulted in fewer full-time contracts and fragmented teaching positions in some jurisdictions. The promotion of alternatives is evident from the proliferation of charter schools, academies and free schools in North America, England and Europe.

Similar themes to those discussed by Peters were articulated by Quebec academics Lessard and Brassard (2005, 3) who also linked post-welfare state neo-liberal approaches to new forms of governance that in theory saw the state shifting some of its control to agencies established and monitored by government—a stated move away from centralization to decentralization:

Governance, as Van Haecht (2004) underscores, would cover on the descriptive level a group of phenomena revealing the loss of legitimacy and centrality of the public sphere and the least effective and efficient public action. Thus, in terms of prescription, "good" governance shows a way out of the crisis for the Welfare State, thereafter seen as "ungovernable." This good governance would have the State give up a part of its competencies to other actors, to work as a mediator and as part of a network. As well, according to Merrien (1998,63), "the new 'good' governance is characterized by the movement from guardianship to contracts, from centralization to decentralization, from the State as redistributor to the State as regulator, from the management of public service to management according to market principles, from public 'guidance' to cooperation between the public and private actors, etc.

Lessard and Brassard's paper explored differences in levels of collaboration and confrontation in K–12 public school systems in Canadian provinces. They also asked whether the neo-liberal tide was overwhelming and ubiquitous, or whether provinces might still form governance and structural decisions based on their own philosophy, contexts and history, rather than exist as one component in the ideological wave of neo-liberalism:

Are we facing an inevitable evolution, with the same orientations, that will be imposed on all States in the same manner? Is it possible for States to continue to develop from their own characteristics, anchored in their history and making certain options possible or impossible? (Lessard and Brassard 2005, 3).

This question is of particular significance for Alberta as the Alberta Teachers' Association (ATA) seeks ways to pursue a future in terms of teachers' scope of practice with very clear differences between ATA policies and approaches to the principles and policies of neo-liberal governments. This paper will demonstrate that understanding and considering the concepts and evolution of teacher professionalism and teacher regulation in different contexts will enable the ATA to consider actions not only in the current Alberta context, with an empathic New Democratic Party (NDP) government, but in the event that the NDP is replaced at some stage with a potentially less supportive United Conservative provincial government under the leadership of Jason Kenney.

Ideology affects educational policies and policies affect teachers, either positively or negatively. The fact that teachers within union membership are employed in the public sector is important, as public and private sector contexts are significantly different, one (private) favoured and less regulated within the ideology of neo-liberalism, while the other (public) is subject to different rules and different scrutiny and control:

The ideals of businesses and NGOs do not translate directly to public sector organizations. First, for public sector organizations, the environment is political, what affects resources, personnel and goals. Public sector structures are more complex, diverse and uncertain about objectives and decision-making criteria. The public sector is less open to market competition with less incentive to reduce costs and less concern with consumer preferences. Second, public sector organizations are more constrained by legal and regulatory frameworks than corporations; they are more subject to public scrutiny and required to have a high degree of accountability to constituencies. Finally, the diversity and multiplicity of publics and stakeholders exceeds that of corporations (see Canel and Sanders 2013). In sum, public sector organizations have to operate under different constraints, and to balance political guidelines, national guidelines, international cooperation, ideologies management, the bureaucratic culture of administration and current citizen and stakeholder feedback. (Canel and Vilma Luoma-aho 2015, 7)

Neo-liberal governments focused on the idea that teachers' work should be subject to closer managerial control which in turn changed the concept of what might be considered "professional." New managerialism not only assumes that teachers' work needs to be "managed", but that the work itself is of less worth than other professions, so that teachers can be directed into ways of working that both increases their accountability and at the same time reduces their autonomy. Both reduce professionalism because teachers when more closely managed have less opportunity to make judgments as professionals, a key factor of autonomy.

The analysis and debate over "new managerialism" and its impact on education has been international, reflecting the global reach and extent of neo-liberal policies.

Goepel (2012, 492) stated:

By being subject to the rigours of the market, as well as ensuring economic viability, the pressure for management decisions to be driven towards commercial rather than educational or social considerations was created (Gewirtz, Ball and Bowe 1995, 91–2). This devolution and decentralization of teachers' work moved teacher professionalism into 'managerial professionalism' (Sachs 2000, 79) or 'organizational professionalism' (Evetts 2009, 23). Managerialism does not allow teachers to direct and shape their own work; instead it places an emphasis on standards, measures of performance and outcomes (Whitty 2000, 286). Teaching can therefore be considered to be 'redefined as a supervisory task' where teachers operate within a team with an appointed leader or manager to ensure their work relates to overall school management policy (Lawn 1996, 69). The managers in the culture of marketization may gain enhanced status; however, teachers who continue to try to operate within the traditional or residual mode of professionalism find themselves no longer fully trusted by the state or the public.

In Australia, Tuinamuana (2011, 77) argued:

The 'new managerialism' in education is a form of management that emphasizes efficiency and effectiveness using techniques and values appropriated from the business sector. It functions in support of a neo-liberal economic agenda (Sultana, 2005; Apple, 2001; Smyth, 2006; Hartley, 1997) and appropriates the technicist language typically used in the business sector. The following example, from Australia, quite vividly demonstrates this issue:

... there has been an increasingly 'taken-for-granted' assumption that managerial principles and entrepreneurial strategies are the means to revitalise schooling. Indeed, the language—one of the central components of an ideology—of educational reform is heavily infused with terms derived directly from the business sector. There is an overall perception—often expressed as 'just common sense'—that schools should be more like businesses...even to the extent, as recently advocated by the Minister in New South Wales, of allowing corporate advertising on school uniforms (Cocklin 1992, 246)...The effect of this form of managerialism on the work of teachers has been strongly felt in the push for increased accountability. As discussed, this need for accountability and the production of 'evidence' of quality could be seen as a necessary part of professionalism for teachers.

Similarly, in Ireland, Lynch (2014, 968) stated:

With the rise of neo-liberalism as a system of values, there is an increasing attempt to off-load the cost of education, health care and public services generally, on to the individual. Allied to this, there is a growing movement to privatize those areas of public services that could be run for profit, including higher education...New managerialism represents the organizational arm of neo-liberalism. It is the mode of governance designed to realize the neo-liberal project through the institutionalizing of market principles in the governance of organizations. While Taylorism and scientific management have been employed extensively to for-profit businesses for many decades, what makes new managerialism 'new' is the deployment of managerialist principles in both public

sector bodies (Lynch, Grummell and Devine, 2012), and, increasingly, in non-governmental organizations (McCrea, 2014).

Managerialism has also altered the relationships between professionals and the state, especially in the public sector. The traditionally powerful position of professionals in public sector organizations has been strongly challenged through systems of surveillance, regulation and accountability that have been established under managerialism.

Torres and Weiner (2018, 1) stated:

While teacher professionalism remains a contested topic, scholars increasingly acknowledge the field has entered a “new professionalism” wherein its parameters are dictated by management and the organization rather than those within the occupation.

Thus, in a number of countries, similar managerial approaches have been fostered and developed under the guiding ideology of neo-liberalism. They imply that those who work in the public sector are not to be trusted and that the increased surveillance that governments propose will ensure that the public interest is protected. Governments that have emphasized market approaches stressed efficiency, challenged the nature of professionalism in teaching, argued for reduced autonomy and created new forms of accountability. In some cases the expression of teachers as “lesser professionals” fitted managerial models of control as “lesser” professionals could be “managed” more readily than “full” professionals. And, fitting well with neo-liberal ideologies, the costs of regulation have also been downloaded onto teachers as teachers pay fees for what have often become bloated bureaucratic structures with minimal utility for either the profession or the public good.

One interesting example illustrating the different approaches of governments to public and private sectors occurred recently in BC. With housing in Vancouver escalating rapidly in price, and considerable public concern over affordability, the real estate industry’s self-regulated profession came under increased scrutiny for practices that appeared to privilege their own interests above either their clients or the public good. When some realtors’ practiced “shadow-flipping” (inflating prices by reassigning sales contracts before closing dates) and the same realtor representing both buyer and seller, increased public concern led to strong critiques of the real estate industry in Vancouver. However, until public disquiet became apparent, there had been little government interest in increasing regulation; subsequent steps toward greater regulation were to some extent forced by public concerns and investigations by the BC Financial Commission. A report published in late June 2016 by the head of the BC Financial Commission called for an end to real estate self-regulation, which the government of the day accepted, as reported in the *Globe and Mail* (Tomlinson 2016):

BC Premier Christy Clark has put the province’s real-estate industry under government oversight, declaring the industry’s self-regulating body has failed to protect the public from cut-throat and illegal practices and has lost the public’s confidence in its ability to police itself.

Supporters of the BC Liberal government argued that the government’s actions protected the public interest, reducing self-regulation when necessary. Critics suggested that the government reluctantly reined in realtors’ self-regulation only when public disquiet forced them to act.



### Trust, Professionalism, Accountability and Autonomy: The interconnected Threads

In order to gauge and understand the level of control of any given profession, teacher unions may need to consider themes of trust, accountability and professionalism, as individual concepts, but more importantly as interconnected. If they are well understood and considered in current and evolving contexts, then it may be possible to formulate teacher union policy and strategy decisions that might preserve or regain a union's ability to influence or counter government actions that negatively impact teachers' work and professional status.

How might teacher unions build trust and create a broad consensus among the public that they are professionals in the same way that medical doctors or engineers might be considered professional? Can such public trust counter potentially regressive government actions? Just what is accountability and might teachers voluntarily "giving an account" of their work and actions (as in the ATA's "Rich Accountability" approach (ATA 2017)) be received positively by citizens and governments? How might the notion of autonomy be nuanced so that responsibility is accepted and communicated as part of both individual teacher autonomy and of the profession's collective autonomy?

*What we have learned about trust in teachers' work is that (a) it is a very powerful aspect of teacher leadership; (b) it often becomes a crucial element of professional capital; and (c) in most cases it is a condition for enhanced collective autonomy in schools. What has also become clear is that trust in the teaching profession can only be built by purposeful and concrete deeds that change the power relationship in teachers' daily work. Therefore, I see that a shift toward a more self-regulating teaching profession in Alberta is probably the most effective way to strengthen trust between the government and the teachers.*

—Pasi Sahlberg, 2016<sup>1</sup>

## THE EROSION OF TRUST IN THE PUBLIC SECTOR

Trust is a part of the societal expectation that teachers can be trusted with children, and also a part of the analysis of relationships between organizations like teacher unions and governments, where trust levels may be high, low or changing. Some efforts to define trust, as relevant to this discussion, are highlighted by Billington (2011, 3):

Trust is a quality which brings about a confidence in the honest behaviour of another. Trust when fully realized expects that promises will be fulfilled, that relationships can be depended upon. Sanctions and rewards are not part of the relationship of trust. (Goepel 2012, 494)

Trust has been studied from a variety of perspectives and consequently subject to many definitions. For philosophers, trust concerns moral and justifiable behaviour (Baier 1986; Hosmer 1995); in

<sup>1</sup> See Couture in the references list.

economic terms, however, trust is viewed as a rational calculation of costs and benefits (Coleman, 1990; Williamson, 1993). At the level of the individual, trust is conceptualized as the extent to which people are prepared to make themselves vulnerable to others (Frost, Stimpson, & Maughan, 1978; Rotter, 1967). From an organizational perspective, trust is a collective judgment that another group will not behave opportunistically, is honest in transactions, and acts in accordance with commitments (Bradach & Eccles, 1989, Cummings & Bromily, 1996).

A connecting concept in understanding the policy changes that have impacted teachers' work and scope of practice are the efforts to erode trust in public sector services. O'Neill's widely-referenced Reith Lectures of 2002 linked the erosion of trust with increased accountability demand from government in terms of the public sector:

The diagnosis of a crisis of trust may be obscure: we are not sure whether there is a crisis of trust. But we are all agreed about the remedy. It lies in prevention and sanctions. Government, institutions and professionals should be made more accountable. And in the last two decades, the quest for greater accountability has penetrated all our lives, like great draughts of Heineken's, reaching parts that supposedly less-developed forms of accountability did not reach.

For those of us in the public sector the new accountability takes the form of detailed control. An unending stream of new legislation and regulation, memoranda and instructions, guidance and advice floods into public sector institutions. Perhaps the present revolution in accountability will make us all trustworthier. Perhaps we shall be trusted once more. But I think this is a vain hope—not necessarily because accountability is undesirable or unnecessary, but because currently fashionable methods of accountability damage rather than repair trust. If we want greater accountability without damaging professional performance, we need intelligent accountability which requires more attention to good governance and fewer fantasies about total control.

O'Neill's statement that the forms of accountability imposed by neo-liberal governments "damage rather than repair" trust identifies one starting point for deteriorating government-teacher profession relationships. She argues that too much control characterized by less than intelligent accountability structures damages professional performance, so that the accountability measures may counter-act the professed intent of accountability to improve performance. If such measures negatively impact teachers' work, then teachers' reactions to the government actions through their unions generate friction, a pattern not unfamiliar in many jurisdictions where reduced trust and increased accountability have resulted in significant conflict between governments and teacher unions.

Diminished levels of trust in the public sector appeared to be fundamental to the core beliefs within neo-liberal governments of the last 40 years, with Harris (Ontario) as the most obvious and explicit proponent of public sector distrust in Canada. Such expressions either of distrust (or statements of the need for increased accountability, implying distrust) formed part of the rationale for increased monitoring of public sector work. Just as neo-liberal ideology favoured the private sector and market



solutions, a focus on the “untrustworthy” teachers, and the universities training them, provided the justification for increased centralized control:

The so-called liberal educational establishment principally comprising teachers, the local authorities that employed them, and the universities that trained them, came to be regarded by governments as left-leaning and favouring what in their view were highly questionable progressive or ‘child-centred’ approaches to teaching. Together, lack of competitive discipline and ‘progressive’ teaching methods were blamed for a leveling down of standards. The effect of these attacks was to erode trust in teachers, thereby facilitating subsequent educational reform. (Whitty and Wisby 2006, 29).

Cheng (2012, 1–2) argued that reduced trust by government in higher education institutions increased control and encroached on professionalism:

Quality evaluation is perceived to have produced one-way accountability that provides ‘rituals of verification’ (Power, 1997, p. 8). Instead of fostering trust, the rituals of verification have produced high opportunity costs and could be detrimental to innovative teaching and learning (Findlow, 2008). There is a view that evaluation-related accountability has further enhanced government control over higher education (Brown, 2004; Findlow, 2008; Harvey, 2005; Hoecht, 2006).

Accountability is widely considered to have encroached on academics’ professionalism (Morley, 2003). For example, academics felt they had to comply with the requirements of evaluation, which as a result threatened their professional judgment.

One example of the “rituals of verification” can be found in BC’s auditing of Special Education funds. Each year, a number of school districts are audited by the Ministry of Education to check whether the funds claimed and provided for educational services for students with special needs are being spent appropriately. In order to prepare for audits, most school districts spend inordinate amounts of time preparing documentation to prove that services are being provided. The time spent in demonstrating accountability means less time in providing service to students. Failure to show the required documentation can result in a significant reduction or removal of funds to districts. This “ritual of verification” recurs every year in spite of a ministry promise some years ago to review it—an example of how difficult it seems to be to remove even the most problematic accountability process.

Billington (2011, 6) identified six core factors that influenced trust in public institutions:

1. keeping promises
2. learning from mistakes
3. what friends and family say about the service
4. staff treating people well
5. whether those working in public institutions are interested in other people’s views on the services they provide
6. the quality of public leaders and managers.

Billington’s research is useful for any teacher union considering how to build, maintain or extend the public’s trust in the teaching profession. Her research could be used to consider how both the individual teacher and a provincial teacher union might develop approaches and strategies to build trust and

respect for the teaching profession. Does a teacher union learn from its mistakes and, if so, how? Might union leaders consider how they are viewed by both their members and the wider community? How does or might a teacher “treat people well” and thereby engender empathy and trust in the community? How might teachers listen to and discuss parents’ or others’ perspectives on the education system in which they work? Such questions require genuine reflection, a willingness to accept and learn from both criticism and mistakes, and—in some cases—a willingness to be open to changing some approaches and attitudes within teacher unions. It may also require building dialogic skills and capacity, including the ability to suspend judgment while listening to alternative and sometimes oppositional views.<sup>22</sup>

Billington also argues that high-profile mistakes can have a serious and detrimental impact on the public’s trust in public institutions. Within the teaching profession examples of such “mistakes” might be serious and proven misconduct by individual teachers are often widely publicized by the media. A recent media focus in Canada occurred in April 2016 with the CBC’s *Marketplace* program entitled “Report Card: How accountable are the provinces for teacher misconduct?” Alberta, incidentally, scored grades of D (How much can the public learn?), B (How much could the CBC learn?) and C (How independent is the disciplinary process?). Focusing on one teacher’s physical assault on a student and another teacher’s efforts to engage in inappropriate sexual online contacts with students, the program argued that teachers were not held accountable for unprofessional or illegal actions in most Canadian provinces, and that information was not available to parents or the public regarding discipline of teachers. With its tone of moral outrage, the program based its case for more public information about teachers and its judgment of disciplinary processes on a few cases without any counter-narrative of situations where unjustified, unsupported claims of teacher misconduct damaged teachers’ reputations. Nor did they choose to compare teachers’ disciplinary processes with those of other professions. The two cases highlighted hardly provide a balanced, thoughtful or comparative perspective on teachers’ professionalism, regulation and disciplinary processes.

Similarly, the Avison Report (2010, 10) commissioned by the BC Liberal government argued that the BCTF ignored high-profile abuse cases (eg, the 1986 Noyes case) and linked this to reduced trust in existing disciplinary processes:

Gone from much of the discussion is any reference to the now infamous case of Robert Noyes. Noyes was convicted in 1986 on 19 counts of sexual offences against students. Those offences, committed in several different BC communities, involving more than 600 incidents from 1970 to 1985, took place when Noyes was either a teacher or a school principal. Noyes would ultimately be declared a dangerous offender, a decision that was subsequently upheld by the BC Court of Appeal.

The Noyes case, quite rightly, generated a substantial amount of public concern and was a profoundly significant factor in the decision by government to consider the development of an entity like the College of Teachers.

2 As J A Bradford notes, “‘Suspending judgment’ does not mean ‘withholding judgment’. It just means holding judgment back long enough to be able to understand what’s being expressed. Good judgment has to be used in making intelligent, informed decisions. Tough decisions have to be made. But good judgment is most effective after issues have been clearly stated, fully explored and rationally understood, not before.” (How to Build Effective Teams through Critical and Creative Thinking. <http://www.cct.umb.edu/susjudgement.html>)

The power of the individual case of misconduct to influence policy can be significant when media highlight the misconduct and suggest a profession's inability or unwillingness to deal with it. Media reports of teacher misconduct can incite public concerns, if not outrage, and governments respond with the imposition of greater control and regulation, thereby being seen to act in the public interest.

But the individual case can also be a convenient rationale for government action. Does one or a series of offences justify new accountability or regulatory approaches? In some cases, yes, but with specific reforms to address the identified problems. Sexual predators and any people employed in education systems who assault children should be removed from schools, but the case for major changes to teacher regulation required to address individual misconduct has not been proven. In provinces with increased teacher regulation where cases of misconduct serve as one justification for change, informed public discussions have not occurred. Rather than engage in public discourse, governments often appoint an individual to investigate options for action. Some governments use commissioned reviews, then legislate in ways that selectively accept some aspects of a report, but go well beyond the actual recommendations made.

This analysis suggests that neo-liberal and occasional social democratic governments invoke both general rationales (invoking the public interest, protecting children) and individual and often sensational cases (Noyes) to justify increased teacher regulation, rather than provide concrete evidence that teachers unions do not serve the public interest.

## WHAT CONSTITUTES A PROFESSIONAL AND ARE TEACHERS PROFESSIONAL?

There is no consensus in terms of defining teacher professionalism. Heltebran (2008, 124) has argued that “the literature does not support a universally accepted definition of teacher professionalism.” In the medical literature, Swick (2000, 612) has argued “There is no common understanding of what is meant by the word ‘professionalism.’ Whitty and Wisby (2011, 27) referenced Millerson (1964) who identified four criteria, all of which could apply to teachers:

1. the use of skills based on theoretical knowledge
2. education and training in those skills certified by examination
3. a code of professional conduct oriented towards the public good
4. a powerful professional organization.

Sahlberg (2007, 155) states that the status of teachers is equal to other professions in Finland:

Some societies do confer teachers with a status similar to other professionals. Today the Finnish teaching profession is on a par with other professional workers; teachers can diagnose problems in their classrooms and schools, apply evidence-based and often alternative solutions to them and evaluate and analyze the impact of implemented procedures. Parents trust teachers as professionals who know what is best for their children.

While there may not be an exact and universally agreed upon definition of professionalism, there is considerable literature that seeks to identify those components which constitute professionalism. Schön (1983) articulated the concept of professionals reflecting on and improving their practice as a crucial component of being a professional. Such a concept is or has been a component of many teachers’ professional development, whether in Alberta’s former Alberta Initiative for School Improvement (AIS) project or the Ontario Teacher Leadership and Learning Program (TLLP)—both, incidentally, successful because of the participation and leadership of teacher unions.

The concept of professionalism is fundamental in considering teachers’ scope of practice. Increased focus on accountability in a number of jurisdictions, accompanied by greater regulation, has coincided with efforts by some governments or their agents to argue that teachers are “lesser professionals” when compared to professions such as medical doctors. Yet medical doctors have also felt their professionalism challenged by increased regulation, and have stated their own view of what constitutes professionalism. The quote below (in a paper by Goepel 2012, 501) is from David Hall, UK President of the Royal College of Pediatrics and Child Health, as part of a Foreword to a document titled “Good medical practice in pediatrics and child care”:

Professionalism comes from within ourselves, from our working relationship with our peers and we hope from our organization. It cannot be imposed, but it can be and is being eroded by outside forces such as unjustified media attacks ... and the imposition of tight controls on working hours. The fundamental element of good medical practice has always been, and will always be, absolute commitment to the good of one’s patients at all times—without this we are no longer professionals.

Hall encapsulates the notion that professionalism is intrinsic and not something articulated in documentation or regulation. Hall also argued that doctors' professionalism was under attack by both media and "outside forces," which included government efforts to cut costs with control of working hours.

The discussion on teachers' professionalism is not static, but has and will likely continue to evolve and may vary in different contexts. Hargreaves (2000, 153) examined the development of teacher professionalism, outlining four phases:

- (1) *The pre-professional age*: Teaching is seen as managerially demanding but technically simple. Teachers gained personal reward through service. This phase of professionalism remains in many East Asian countries.
- (2) *The age of the autonomous professional*: Teachers had unprecedented autonomy over curriculum development and decision making. The status and standing of teachers in many countries improved as did their salary.
- (3) *The age of the collegial professional*: Teachers are required to develop strong professional communities in order to find common purpose and meet the increasing uncertainty due to the proliferation of teaching methods and other educational reforms.
- (4) *The post-professional age*: Teachers are caught in the struggle between different groups and forces that are seeking to define and redefine teacher professionalism, as well as dealing with a diverse and complex clientele.

Hargreaves' comments connect to Lessard's question concerning the "neo-liberal wave" sweeping over some provinces and countries. While Lessard questioned whether the wave was so dominant as to dominate and pervade all jurisdictions, he also asked if it could be resisted or other approaches developed, appropriate to specific cultures. The answer is clearly that it can and has been resisted, and often in countries with enviable educational outcomes. In considering the range of Canadian provinces, the "wave" has, in some cases, come and gone (Ontario under Harris, Alberta under Klein), while in others it is perhaps still emerging (Saskatchewan). One lesson from the work of both Hargreaves and Lessard is that policies and systems can change as governments change. With a collaborative government, teachers' professionalism is more likely to be respected. With a government focused on narrowly-defined accountability and performance, teachers' professionalism is more likely to come under attack.

As external accountability increases, professionalism can decline because the individual teacher's ability to make decisions may be reduced by increased accountability demands. The more autonomous teachers are in their work, the more professional they are, in part because they are using judgment without external managerial control. The move to de-professionalize teachers is disguised in the language of accountability, but it essentially involves greater levels of control over the work teachers do. The more external control, the less teacher judgment is required. With less judgment comes reduced professionalism. The less professionalism, potentially, the less status in society and lesser pay comparative to other professions—attractive to some neo-liberal thinkers reminding

voters that teachers pay comes from the public purse. A “lesser professional” view of the teaching profession also encourages the introduction of schemes like “Teach for America,” wherein untrained teachers are recruited, at lower cost to school districts, reinforcing the view that “anyone can teach,” especially if the work is defined and controlled through more pervasive management approaches (requiring less judgment).

Biesta (2005) considered that the use of judgment was a fundamental aspect of teacher professionalism and linked teachers’ judgment to values and ideals. Biesta (2005, 4) makes the case that teaching is a profession that considers the “ends” of education (“the educated person in a good society”) and not just the means that might be considered the act of teaching a given subject or skill:

Teachers’ professional judgment is not only about whether particular means are desirable but also about whether they are educationally desirable. To make such judgments, teachers need to have ideas about what is educationally worthwhile, ideas about what it means to be an educated person, ideas about ‘the good life,’ and ideals about ‘the good society.’ They need, in other words, educational ideals.

Biesta argues that teachers have a wider perspective than simply implementing whatever task they are given within a highly-managed system. As professionals, they not only teach, but also assess whether what they teach contributes to the creation of a good and worthwhile life, and to the good of society. Separating the “ends” (what is worthwhile) from the “means” (the act of teaching a given topic or lesson) and concentrating solely on the “means” reduces teacher professionalism.

Biesta’s argument is crucial to any understanding of autonomy and professionalism because it takes the task of teaching beyond the immediacy of the act of teaching and into the purposes of education. It is not just the judgment critical in multiple exchanges every day with students (complex and difficult as they may be) that is important to recognize and retain, but also teachers’ judgment about the worth of what is taught to the individual’s life and for the benefit of society. Teacher judgment, therefore, is a component within the autonomy literature and connects to the “ends” or purpose of education in the creation of citizens able to participate in a democracy.

The journey from Biesta’s philosophy to collective bargaining is short and unpleasant for some living in BC. The mindset of the BC Public School Employers’ Association (BCPSEA) in 2011 did not consider Biesta’s work (or any academic literature) in its attack on teacher professionalism and its demands for reduced autonomy. BCPSEA argued that teachers are different from other professionals:

Do teachers have professional autonomy? Of all the criteria that are said to define a profession (which generally include shared standards of practice, monopoly over service, long periods of training, etc), a high degree of professional autonomy is the one criterion that is most at odds with the education profession. By the very nature of their position, teachers have less autonomy than other professionals. Educators work in a regulated work environment, must generally follow a prescribed centralized curriculum, and are often asked to administer specific assessments of students on behalf of their school, district, or ministry of education.

Some may regard discussions of issues like professionalism and autonomy as cryptic. They are not. Rather, they are fundamental components of teachers' professional status that neo-liberal governments and their agents wish to reduce or eliminate. Unless concepts like autonomy and professionalism are understood and the neo-liberal assaults on them are recognized, the ability to resist is limited. Unless teacher unions can explain the importance of autonomy and professionalism to the public and to their own members, their ability to coalesce and to resist—let alone to offer any counter-narrative—is strictly limited.

A first step in countering those forces wishing to increase managerial control, increase accountability and reduce professionalism and autonomy is to have a clear grasp of the concepts, how they intersect, and how they result in policies which impact teachers' work and teaching as a profession. Second steps might include appropriate and targeted analyses, ranging from the academic to the highly accessible for a range of audiences: teachers, parents or others in the community. Third steps might include not only counter-narratives but also counter-proposals, such as the ATA's "Rich Accountabilities for Public Assurance: Moving Forward Together for a Great School for All", which accepts the concept of accountability.

Teachers are accountable. But, by redefining the concept and the approach to a different form of accountability, neo-liberal approaches can be challenged.



## ACCOUNTABILITY IN PUBLIC EDUCATION SYSTEMS

**Accountability is a relationship in which an individual or agency is held to answer for performance that involves some delegation of authority to act.**

—Romzek and Dubnick, 2000 (quoted in Cheng 2012)

Levitt et al (2008, 27) identified five types of accountability:

1. **Organizational** (with superior/subordinate relationships with defined authority and responsibility)
2. **Political** (relying on democratic institutions and processes to create accountability)
3. **Legal** (using courts and other institutions to protect rights and address wrongs)
4. **Professional** (“promulgated through codes of conduct or practice and systems of regulation designed and operated by peers”)
5. **Moral or Ethical** (relying on the internalized values to which the individual voluntarily adheres).

In most private companies and many public-sector workplaces, organizational accountability is common. Within hierarchies, individuals become accountable to one or more people senior to them in the hierarchy. The political and legal forms might be seen in a Charter of Rights challenge, with the Charter articulating concepts of rights and the courts functioning as a system that judges accountability to the Charter. The fourth and fifth types of accountability identified by Levitt et al (2008) are most relevant to the focus of this paper, linking most closely to the notion of professionalism.

The moral or ethical approach either assumes or states that a professional has values which drive their professionalism and their vocational beliefs. With professional accountability, the individual moves beyond the “private” space of individual professionalism to a wider collective notion of being professional, where peers within the same profession articulate and monitor appropriate practices, state regulations, and judge disciplinary cases. The “regulation designed and operated by peers” is of importance here, as in several provinces regulations governing teachers have neither been designed nor operated by peers in the same way that regulations have been created and sustained in other professions.

Levitt et al (2008) state that accountability is an ethical concept, a statement that could be challenged when some forms of accountability are considered. In its purest form, accountability is ethical (when, for example, a teacher’s duty to do the best for students in his or her care). However, some forms of accountability can hardly be described as ethical. Where well-regarded and competent teachers have been fired for one set of low test scores (as might happen in some jurisdictions), such actions can hardly be considered ethical by most objective measures unless whatever managerial dictate made is considered to be ethical simply because it has the managerial authority.



Levitt et al discuss Boven's (2005) argument that accountability depends on the relationship between the "actor" and the "stakeholder." In an education setting, the actor is the individual teacher, while the stakeholder is most often an employer, a government, or its agents, which include Colleges of Teachers and Teacher Regulation Branches. Levitt et al (2008, vii) link accountability and autonomy together as two powerful features of all working relationships:

Autonomy and control are especially relevant to mass public services that rely on the expertise and experience of trained professional workers. Levels of autonomy or control in any given circumstances will reflect the level of trust that exists between the actor and their stakeholders.

When trust is relatively low, managerial controls are likely to be stronger. Where trust is relatively high, professional autonomy is likely to be stronger.

Levitt makes the connection between levels of trust, autonomy and accountability, echoing O'Neill's arguments about the erosion of trust in the public sector.

Mausethagen (2013) encapsulates the tensions inherent when accountability is imposed. His articulation of internal accountability echoes David Hall (referenced earlier in this document) when speaking of medical doctors, whose primary accountability he stated is toward patients. Such internal accountability embodies a form of professionalism that enables the individual professional to consider and adhere to and strive for a professional commitment to clients, whether students or patients:

Teacher responsibility can be conceptualized as teachers' 'internal accountability' in terms of informal, relational and emotional sanctioning, and attending to the more democratic aspect of being accountable to students, parents and the wider public. (Mausethagen 2013, 425)

Mausethagen (2013, 426) then contrasts internal and external accountability:

While internal accountability connotes responsibility and entails a looser and more general meaning, external accountability often refers to a formal and rather sharply-defined technical meaning. The latter emphasizes the managerial use of the term and the duty to present audible accounts of activities. External accountability in education is mostly imposed from above, from policy makers, for example, through the use of performance targets and measurement of outcomes...holding schools, principals and teachers accountable for externally-set standards of student performance, usually defined as measured achievement on tests.

Mausethagen (2013, 426) then describes the tensions and the likely conflict when professionals with a high sense of commitment and moral value (in the sense that they put the interests of children and patients first) are faced with an external form of imposed accountability that insinuates that such internal accountability is not only suspect, but will be subsumed into whatever form of external accountability governments deem appropriate:

However, such mechanisms are often questioned or resisted, as external control imposed by policy makers to increase teachers' efficacy and legitimacy often is seen to downplay professional values and relational aspects of teacher work as well as to weaken or redefine teacher professionalism.

With external accountability, government is the key policy-maker, while the actual external manager is in many cases an agency established by government to "manage" accountability. In England, this

is in part reflected in the work of the Office for Standards in Education (OFSTED) which inspects and grades schools (a system incidentally linked to a number of teacher and principal suicides). In Ontario, this links to the Education Quality and Accountability Office (EQAO), which administers system-wide testing at specific grade levels.

## TEACHER AUTONOMY: RIGHTS AND RESPONSIBILITIES

The concept of teacher autonomy is not well understood in the discourse between teacher unions and governments. Unions on occasion demand autonomy without defining the concept and, in doing so, appear to demand rights without articulating responsibilities. At the same time, governments often reject teacher autonomy, as they feel it reduces or removes their ability to manage education systems and the teachers who work in schools. While some teacher unions have accessed the literature on autonomy and invited academics to share their knowledge, governments appear loath to venture into any academic analysis, choosing not to avail themselves of the wide range of literature.

This literature makes the case that autonomy is a basic human need, that it involves both rights and responsibilities, requires judgment and discernment, and may involve both individual and collective reflections. Further, research suggests that if education systems exist to develop autonomous citizens, then its teachers must have the same autonomy that they wish to foster in students.

Pitt and Phelan (2008, 189) reinforce Biesta's ideas about judgment in their consideration of teacher autonomy:

Autonomy refers to thinking for oneself in uncertain and complex situations in which judgment is more important than routine. For teachers, the nature of their work and its social context complicates this definition. Teaching involves placing one's autonomy at the service of the best interests of children.

Pitt and Phelan, in defining autonomy by stating a need to serve the best interests of children, articulate a need for autonomy to include responsibility. Teachers' judgment and actions resulting from judgment exist not to serve the interests of teachers, but to serve the needs of their students.

Eagleton (2003, 332) implied a more collective view of autonomy, where teachers moved out of isolation and into greater collective reflection and discourse with peers:

(Professional) autonomy should not be taken to mean teachers exercising professional judgment in isolation from their peers, but rather that they develop their professional learning through systematic investigation, rather than by fiat.

His perspective of teachers acting as a collective to develop and discuss autonomy reinforces the case made by a number of authors that the nature of building and maintaining professionalism is not and should not be an individualistic exercise, but one that engages the individual in the company of peers, so that both judgment and autonomy are considered, discussed and extended in collegial, but challenging ways. Such a view of the collective is also fundamental to many professions' regulatory bodies, where peer judgment is crucial.

Hyslop-Margison and Sears (2010, 12) made the case that if a society wants autonomous citizens prepared and ready to participate in civil society and democratic institutions, then students must be taught by autonomous teachers:

Teachers cannot be expected to prepare autonomous, reflective and politically engaged citizens unless they possess the professional autonomy and political freedom to act as role models for their students. Professional autonomy for teachers is not merely a fundamental requirement of quality education, but for creating students who become engaged and politically active democratic citizens. In the final analysis, the neo-liberal policies seeking to de-professionalize teaching are actually creating an inefficacious and unethical situation that undermines teacher confidence, vocational ownership and the advancement of robust democratic schooling.

Randi and Zeichner (2004, 503) also promoted the autonomy of teachers in terms of choices and approaches to their professional development:

The significance of active teacher autonomy in professional development opportunities cannot be overstated. In one study of teacher development, (Sandholtz 1999) found that experiences that provide teachers with autonomy, choice, and active participation were critical to effective professional development.

Attempts to erode teacher autonomy have also been linked to shifts in policies in various provinces and countries. Sahlberg (2007, 152) outlined three policy shifts in various countries designed to raise student achievement:

1. Standardization of education
2. Increased focus on literacy and numeracy
3. Consequential accountability.

Standardization forces compliance (in itself a challenge to autonomy), occasionally with ludicrous and detrimental effects. Achinstein and Ogawa (2006) chillingly offer one example of standardization and describe how some US school districts have demanded “fidelity” to district mandates that implemented the Open Court reading program. “Fidelity” essentially means compliance, with no dissent tolerated and no alternative approach to teaching reading and developing literacy allowed. Achinstein and Ogawa describe how every teacher in a district was expected to teach the same program in the same way at the same time. Two teachers, both positively evaluated, and achieving excellent student outcomes, argued that Open Court approaches did not meet the needs of their students, and taught reading in ways that in their views did meet individual but diverse student needs. One was fired and the other resigned and moved to a district that did not use Open Court:

Thus teachers who question state-authorized and district-adopted programs are deemed resistant and deviant, and are pushed out of the profession or compelled to leave the school. Use of the term ‘fidelity’ to characterize adherence to the literacy program suggests that dissent is an expression of ‘infidelity’. Instructional policy environments that define professionalism in terms of fidelity and, thus, infidelity, do not leave room for dissent and disagreement. (Achinstein and Ogawa 2006, 56)

Teachers’ autonomy is challenged and reduced when imposed accountability agendas dominate, yet there are other views of what constitutes accountability, some from highly-regarded educational systems. Sahlberg (2007, 155) offers an alternative, which he labels intelligent accountability:

Finland has not followed the global accountability movement in education that assumes that making schools and teachers more accountable for their performance is the key to raising student achievement. Traditionally, evaluation of student outcomes has been the responsibility of each Finnish teacher and school. The only standardized, high-stakes assessment is the Matriculation Examination at the end of general upper secondary school, before students enter tertiary education. Prior to this culminating examination, no external high-stakes tests are either required or imposed on Finnish classrooms. As a consequence of decentralized education management and increased school autonomy, education authorities and political leaders have been made accountable for their decisions, making implementation of policies possible. This has created a practice of reciprocal, intelligent accountability in education system management where schools are increasingly accountable for learning outcomes and education authorities are held accountable to schools for making expected outcomes possible. Intelligent accountability in the Finnish education context preserves and enhances trust among teachers, students, school leaders and education authorities in the accountability processes and involves them in the process, offering them a strong sense of professional responsibility and initiative.

Hargreaves and Fink (2006) and Hargreaves and Shirley (2009) are among those authors who have criticized the excessive and narrow focus on teaching and testing literacy and numeracy in schools, arguing for a widening of areas of focus to include creativity, communication, engagement with new technologies, understanding cultural differences, and building environmental sustainability. Such approaches might be possible in Finland, where greater autonomy exists, but are more limited where high-stakes testing is imposed and autonomy is reduced.

Consequential accountability, as its name suggests, implies that there are consequences for educators if found wanting when accountability structures and processes imposed by governments or districts result in less-than-satisfactory exam or test scores. Sahlberg (2007, 151) described it in the following way:

The third global trend is introduction of consequential accountability systems for schools. School performance—especially raising student achievement—is closely tied to processes of accrediting, promoting, inspecting, and, ultimately, rewarding or punishing schools and teachers. Success or failure of schools and their teachers is often determined by standardized tests and external evaluations that only devote attention to limited aspects of schooling, such as student achievement in mathematical and reading literacy, exit examination results or intended teacher classroom behaviour.

## Section 2: Teacher Certification and Regulation

*Professionals exercise many of their decisions alone, but they make the basis of those decisions together. Professionals, therefore, are collectively responsible for the standards of judgments and service that are provided to those they serve. To date, most attempts at professional self-regulation in teaching have not achieved the highest standards of collective responsibility. They have either used members' fees to pay for professional registration, exercised procedures and oversight for misconduct, and set out standards that are enforced at the professional preparation and entry stage but are merely advisory and optional after that.*

—Andy Hargreaves, 2016

### CERTIFICATION

There is some consistency in provinces across Canada in the way that teachers are certified. While processes and authorizing bodies may reflect differences, provincial ministries of education certify teachers in the provinces once candidates have successfully completed an approved teacher education program or possess accepted qualifications from other jurisdictions. In those three provinces where Colleges of Teachers or Teacher Regulation Boards/Branches have been established, they also certify teachers. In BC, for instance, the Director of Certification (within the Teacher Regulation Branch) issues, suspends or cancels Certificates of Qualification and Letters of Permission. In Saskatchewan certificates have been issued by the Saskatchewan Professional Teachers Regulatory Board since the 2015 *Registered Teachers' Act* was passed, and in Ontario they are certified by the Ontario College of Teachers.

In some cases, there are overt links between teacher standards and initial certification, as in BC:

As new educators become certified to teach in BC, they will be required to sign a commitment that their practice will be governed by the ethics and principles as outlined in the Standards. By agreeing to abide by the Standards, an educator makes a commitment to the public in which parents can confidently send their children into an educator's care. (BC Ministry of Education 2012)

This perhaps reflects what might be considered an early indication that such standards may be less concerned with exploration and improvement of a teacher's professional work than with compliance to explicit standards which might be monitored and potentially used in disciplinary processes. Teachers' practice "will be governed." If a person wishes to teach they must sign a document saying they agree to "abide" by the standards, and the new teacher "makes a commitment" to the public. Thus, the notion of internal accountability discussed in the earlier section of this paper appears subsumed to external accountability with standards which are defined and potentially measurable

in what purports to be in the public interest. However, in some jurisdictions (eg, Scotland), standards are only linked to competency assessment during the initial certification process. Scotland's Teacher Standards are also discussed later in this report.

Teacher Standards in BC, initially promoted as stimulants to professional discourse, have become increasingly linked to disciplinary processes.

## REGULATION

*External regulation, by policy makers, for example, reveals an absence of trust in the profession. Worse, it places the profession and policy makers in opposing camps, and teachers are positioned to build barricades and defend at all costs colleagues who are accused of transgressing professional standards. In a self-regulated profession, all teachers share the responsibility to monitor and maintain professional standards, and they can do this.*

—Simon Goodchild, 2016

BC, Ontario and Saskatchewan are the three provinces where teacher regulations have significantly changed in Canada, although Saskatchewan's legislation appears to have been implemented with less draconian effects than the legislation allows. A fourth province, Nova Scotia, appears ready to introduce greater teacher regulation. All are reflective of neo-liberal policies which combine some of the key factors explored in the conceptual section of this paper:

1. Less trust shown by governments towards the public sector in general and the teaching profession in particular
2. Increased accountability demands
3. The establishment of supposedly independent bodies such as Teacher Regulation Boards/Branches or Colleges of Teachers which in some cases are tightly controlled by legislation and where the self-governing capacity is removed or significantly reduced.
4. An explicit or implicit promotion of the idea that teachers are 'lesser professionals' and that their work can be subject to increased regulation and control.

### Teacher Regulation in BC

BC was the first Canadian province to establish a College of Teachers in 1987 with the *Teaching Profession Act*, passed during a period of considerable government-union friction, which some would consider one of the more constant factors in BC's K–12 education system over most of the years since.

Subsequent legislation included:

1. Amendment of the *Teaching Profession Act*, 1993, removing sections dealing with teachers' professional development

2. Bill 51, *Teaching Profession Amendment Act*, 2003, and Bill 55, *Teaching Profession Amendment Act*, 2004, amending the College Board composition
3. Bill 12, *Teachers' Act*, 2011, abolishing the College of Teachers and constituting the Teacher Regulation Branch within the Ministry of Education.

Teacher Standards were developed by the College in 2003 and amended several times in subsequent years.

With the New Democrats in power between 1991 and 2001 (and nine ministers of education during that time), there were few government initiatives affecting the College other than the 1993 legislation. This changed with the election of the Liberal government in 2001. The 2003 and 2004 legislation (see the BC Teacher Standards section for more details) signalled the intent of the new government to address the College's structure and governance. But, it was not until 2010 that there began a more significant drive by the provincial government to impose regulatory control over BC's teachers.

The BC Liberal government commissioned the Avison Report (2010) which was prefaced by the following statement arguing the College was dysfunctional because of BCTF influence:

In April of 2010, 11 members of the 20 member Council of the British Columbia College of Teachers (the College) wrote to the Minister of Education indicating that, in their opinion, extraordinary action was required from government to address fundamental governance issues within the College that impaired the capacity of that entity to properly discharge the responsibilities assigned to it by the Legislature.

...The signatories to the letter stated that, from the time the College was established in 1988 to the present, it had been hampered by "the ongoing influence of the British Columbia Teachers' Federation".

The Avison report was challenged by the BCTF, with the federation's President Susan Lambert stating that "In a meeting with BCTF leaders, Don Avison clearly and emphatically told us he found no evidence to support the allegation that the BCTF interfered with proper discipline processes" (BCTF 2010).

Regardless of the dichotomous positions reflected by Avison's report and the BCTF's reaction, the report provided the Liberal government with the basis to proceed with the abolition of the College and the formation of the Teacher Regulation Branch with the passing of the *Teachers Act* of 2011. The act established the Teacher Regulation Branch as a branch of the Ministry of Education with five components:

1. BC Teachers' Council
2. Independent Schools Teaching Certificate Standards Committee
3. Director of Certification
4. Commissioner for Teacher Regulation
5. Disciplinary and Professional Conduct Board

Within these structures, the government's appointment of a commissioner included the power to appoint three members to hearing panels to consider evidence and submissions at a discipline hearing.

The Teachers' Council has 15 voting members. Five are elected from among the teachers of the province, three are appointed directly by the Minister based on nominations from the



BC Teachers' Federation, and the remaining seven are appointed by the Minister from other education partner groups' nominations.

The Council has no role in discipline but is responsible for the creation and revision of teacher standards.

The Disciplinary and Professional Conduct Board includes nine BC Teachers' Council members appointed by the Minister. In addition to these nine members selected and appointed by the Minister "the Commissioner draws from this group, as well as a pool of lay people with legal/adjudicative experience to serve on three-member hearing panels." (BC Commissioner for Teacher Regulation Annual Report 2014–15).

His 2014/15 report also states:

The *Teachers Act* sets up a Disciplinary and Professional Conduct Board (DPCB), which provides the *Commissioner for Teacher Regulation* with a group of individuals who can serve on disciplinary hearing panels. The DPCB consists of nine members of the BC Teachers' Council, five of whom must be non-BCTF members from other education partner groups.

Thus the control of which teachers/other educator partners sit on disciplinary panels in BC is not a decision made by the profession, but by the government through legislation and its appointed and "independent" agent, the Commissioner. An indication of the Commissioner's stance is offered in one section of his report where he insists on more punitive discipline and wider publicity than might be considered necessary:

Claims of sick leave to permit attendance at sports events, holidays, or to attend social events appear to be less common now than they were at the time the *Act* came into force. I have been subjected to frequent criticism for insisting in most cases that instances of fraudulent claims reported by school districts be the subject of published consent resolution agreements or citations rather than decisions not to take any action. The policy of insisting on public resolution of those claims is based on my view of the seriousness of that behaviour. . . I continue to be satisfied that fraudulent claims of sick benefits are a serious matter and should be publicly sanctioned in most cases. (p 24)

The Commissioner's report indicated that in BC:

The *School Act* and the *Independent School Act* require superintendents, school boards or independent school principals to notify my office of a number of situations, including when a teacher is suspended, disciplined for serious misconduct or dismissed. Those reports trigger the discipline process. (p 8)

Given the statement concerning alleged sick leave abuse, it would appear that the number of situations that must be reported to the commissioner include far less serious allegations than "serious misconduct." With both serious and somewhat minor reports and complaints combined, the average number of reports received by the Teacher Regulation Branch (TRB) over a four-year period (2011–2014) averaged 111.6 per year, and the number of complaints in the same period averaged 39 per year. Curiously, the Commissioner argues the trend for reports and complaints is increasing, although complaints were essentially the same in 2014 as they were in 2011. While correctly stating that disciplinary matters involve "less than 1.0 per cent of public school teachers," he might more accurately

have reported that (using his own data) fewer than 0.45 per cent of BC's public school teachers were involved in disciplinary cases (based on 35,000 certificate holders more likely to be teaching or Teachers Teaching on Call (TTOC) rather than the 70,000 actual certificate holders the Commissioner uses in his report). Given these miniscule numbers, which include all reports and allegations and publication of minor infractions, one might question whether the perceived problems of the earlier College of Teachers have in fact been addressed by the new Teacher Regulation Branch and at what cost.

In an examination of the 2014 and 2015 Unaudited Financial Statements and recent statistics from the BC Teacher Regulation Branch, fees and other revenues for the branch total \$6,492,345, generated in part from a total of 69,682 certificate holders. If fees that teachers pay to the TRB are \$80 per year, then the 2015 revenue from fees is \$5,574,456, suggesting revenues of \$917,885 from other sources, likely government grants. TRB staff salaries and benefits comprise over 65 per cent of expenses in 2015, while the complaints and discipline process consumes less than 11 per cent of the expenses. With a hefty \$3,897,844 Account Balance at the end of 2015, the Teacher Regulation Branch also seems to be holding assets beyond what appears necessary to function at its current level. With a total revenue of over \$6,000,000, the TRB in 2015 oversaw a grand total of 254 disciplinary cases, of which just 28 resulted in some form of disciplinary action; 24 of those were either suspension (4) or reprimands (20), while 4 were "issuance bans" and none were certificate cancellations. Such information supports the following contentions:

- The costs of regulation are excessive given the evidence of very low numbers of proven misconduct.
- Costs are mandatory and incurred by teachers who have minimal control over the institution for which they pay.
- The number of actual discipline cases resulting in discipline being imposed is minute and the per case costs are excessive.
- With a large number of cases reported or investigated, but few resulting in any further action, surveillance may be more stringent than necessary.
- With TRB staff salaries and benefits comprising over 65 per cent of the TRB's revenue, teachers' TRB funds are supporting an expensive bureaucracy rather than creating an institution that supports the profession.
- The substantial surplus may be grounds for concern that the mandate of the TRB may expand into areas such as "managing" teachers' professional development, which may then become another government control tool in terms of teachers' professional lives and learning.
- There is little evidence that the increased accountability measures in BC's teacher regulation processes actually work. Given the rhetoric of the need to reform an earlier system, one might expect major increases in reports and complaints. Instead, there appears to be some increase in reports (but wider categories of what needs to be reported) and a static level of complaints, both with such small numbers to make statistical analysis unreliable.

## Teacher Regulation in Ontario

Ontario's College of Teachers was established with the passing of the *Ontario College of Teachers Act* in 1996 and began its work in 1997, when Mike Harris's "Common Sense Revolution" epitomized neo-liberal ideals with 30 per cent provincial tax cuts, major reductions in government public sector spending (including a 22 per cent cut to social assistance rates) and a series of confrontations with teachers that led to a teacher strike in 1997. The establishment of the province's College of Teachers was an early effort to manage and control Ontario's teachers by its government. "Upholding the public interest" was stressed, as was the fact that teachers must be "fit to undertake that enormous trust" of teaching the province's children.

However, the notion of a self-governing body did not originate with the Harris government, but was proposed in the province's Royal Commission on Learning's final report "For the Love of Learning" (1994) under the NDP government of Bob Rae (Brown 2014). This suggests that teacher regulation is not a focus only for neo-liberal governments but that its accountability focus also appeals to what are ostensibly social-democratic governments. Chapter 12 of the Royal Commission report stated:

In order to promote teaching to full professional status, we propose that a provincial self-regulatory body, a College of Teachers, be established. The College would be responsible for determining standards of teaching practice, regulating initial and ongoing teacher certification, and accrediting teacher education programs, both pre-service preparation and on-going professional development. A majority of members of the College would be professional educators selected by their peers, but there would be substantial representation from the public, that is, non-educators. The fuller details of membership should be determined by the Ministry and education stakeholders, with the aim of achieving a balance between education providers and consumers. (np)

The Royal Commission report was clear in its definition of "self-regulating" and proposed a model similar to that of Scotland:

We see two crucial features in the way the SGTC (Scottish General Teaching Council) is constituted: first, a clear majority of councillors are registered teachers, ensuring that the Council and thus the profession are truly self-regulatory. The second is that significant representation is accorded to representatives of other educational stakeholders and to the community at large. This ensures that the Council serves the professional interests of its teacher members and the broader community they serve. Both these conditions would have to be met in a College of Teachers in Ontario. (np)

The 2015 Ontario College of Teachers Annual Report stated that 243,204 teachers were members in good standing with the College. The report states:

The College's mandate is to regulate and govern the teaching profession in Ontario in the best interests of the public. The College:

- sets standards of practice and ethical standards
- issues teaching certificates and may suspend or revoke them
- accredits teacher education programs and courses

- investigates and hears complaints about individual members.

The College is also mandated to communicate with the public on behalf of the profession.... The College has a duty to serve and protect the public interest. College policies and initiatives are developed to maintain and improve excellence in teaching. The College is accountable for how it carries out its responsibilities. Standards of practice and ethical standards highlight the public interest. (p 1)

In terms of its governance, the College is governed by a 37-member Council, with 23 members elected (but not all by teachers) and 14 appointed by the provincial government. Teacher interest in electing College members appears minimal, with teacher voter turnout declining from 32 per cent of members voting in 1997 to just 2.45 per cent of members voting in 2015.

The 1996 legislation<sup>3</sup> mandates the various committees' compositions:

**Composition of Investigation Committee**

25. (1) The Council shall appoint at least seven of its members to the Investigation Committee.
- (2) At least two of the members of the Investigation Committee shall be persons who were appointed to the Council by the Lieutenant Governor in Council.
- (3) No person who is a member of the Discipline Committee or the Fitness to Practise Committee shall be a member of the Investigation Committee.

**Composition of Discipline Committee**

27. (1) The Council shall appoint at least 11 of its members to the Discipline Committee.
- (2) At least four of the members of the Discipline Committee shall be persons who were appointed to the Council by the Lieutenant Governor in Council.

**Chair of Committee**

- (3) The Council shall appoint one of the members of the Discipline Committee as the Chair. 1996, c. 12, s. 27.

**Composition of Fitness to Practice Committee**

28. (1) The Council shall appoint at least five of its members to the Fitness to Practise Committee.
- (2) At least one of the members of the Fitness to Practice Committee shall be a person who was appointed to the Council by the Lieutenant Governor in Council.

In terms of discipline, the College has a two-step process. The first step involves an Investigation Committee where College staff consider whether or not there are sufficient grounds to proceed to refer a case to a Discipline Committee which has the power to discipline teachers and revoke licences. A third committee, the Fitness to Practice Committee, also considers members' physical or mental conditions in terms of whether they are able to teach and under what terms.

Both the Discipline and the Fitness to Practice committees have a majority of elected members, with government-appointed members a minority. In 2015, 385 complaints were referred to the

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3 Ontario College of Teachers Act, 1996. The Act is available online at <https://www.ontario.ca/laws/statute/96o12>

Investigation Committee. Of those complaints, 91 were then referred to the Discipline Committee, and 12 to the Fitness to Practice Committee. With 243,204 members, the 385 complaints reflect complaints made against 0.16 per cent of the total College membership. With over 73 per cent of those complaints requiring no disciplinary process, only 0.04 per cent of Ontario teachers were subject to disciplinary processes. Teacher regulation in Ontario therefore appears an excessive instrument to address a barely significant problem.

An examination of the College's financial reports for 2015 showed revenue from membership and other fees totalling \$38.38 million. The College's employees' salaries and benefits totaled over \$20 million, over 53 per cent of the total expenditure, giving credence to Brown's claim that the College in part has developed a significant bureaucracy rather than serving the interests of the profession. With a total of 385 complaints in 2015, the safeguarding of the public interest comes with a hefty bill, paid by teachers. But this likely explains why the College sees the need to expand its mandate into professional development—a budget of \$38,000,000 to deal with 103 cases of culpable behaviour is difficult to defend. But the low number of cases also begs the question of just what the problem was that the College was intended to solve? If so few cases are reported, and even fewer have any substance, is a \$38,000,000 budget necessary to deal with them, or does the College need to find other areas of interest to justify its existence?

The Ontario College has been less of a focal point for union-government friction since the departure of the Harris government in 2002. However, a report by Christine Brown for the Ontario Teachers' Federation, reflects growing union concern over the College, and Brown's report makes a case that the Ontario College has a "creeping mandate" in that it seeks to expand its sphere of operations, particularly in terms of not just accrediting but delivering teachers' professional development. Brown (2014) argues that "the costs of regulation shifted from the province to working teachers" and that with a 2013 revenue of approximately \$37,000,000, the College has sufficient funds for expansion of its role to manage and arguably control teachers' professional development, thereby potentially negatively impacting teachers' autonomy and the role of the teacher unions in delivering professional development in the province."

As mentioned elsewhere in this report, several Canadian teacher unions have a successful record of providing and supporting teachers' professional development. Both the former Alberta Initiative for School Improvement (AISI) and the Ontario Teacher Leadership and Learning Program (TLLP) have enviable records in unions leading and partnering for teachers' professional development, while the BCTF's Provincial Specialist Associations (PSAs) offer a huge range of conferences and other professional development activities. It should also be noted that the initial Ontario Royal Commission recommendation in 1994 was for the proposed College to accredit, not deliver, professional development to teachers.

There have also been other indications that both Conservative and Liberal Ontario governments have ensured greater level of government rather than professional control. With the amendment of the

*College of Teachers Act* in 2006, the government established the Public Interest Committee, which “advises the College Council with respect to the duty of the College to serve and protect the public interest in carrying out the College’s objects” (LeSage 2012). A report by LeSage (2012, 66–67) stated:

With respect to the need for a Public Interest Committee, it is interesting to note that, prior to the legislative changes in 2006, the majority of members of Council were College Members in a variety of positions (classroom teachers, supervisory officers, principals/vice-principals, etc). When this was changed so that the majority of Council were now unionized classroom teachers, the Public Interest Committee was created. The members are not Council members, but they are a Committee of Council. Their sole role is to provide advice to Council on matters relating to the “public interest.”

This stress on the “public interest” is common in jurisdictions aiming to strengthen government, rather than professional control over teachers. The Public Interest Committee members, all government appointees, appear to be a counter-balance to the slim teacher majority on the Council. Le Sage’s comments also differentiate between members of the profession and members of unions. In Ontario and BC, school administrators were removed from teacher unions by legislation, so that the profession of teaching in Ontario and BC includes unionized and non-unionized members, unlike other provinces where teachers and administrators are members of the same union.

There are differing perspectives on the 2006 legislation. For some, the balance between elected and appointed suggests an elected majority, while others see the elected majority to be marginal, with the government ready to step in and exercise control if necessary. While LeSage sees the change of a majority of unionized members in the College as an issue, it is worth examining the changes themselves.

College Council Composition prior to 2005–06	College Council Composition as of June 2006
<p><b>Council Size:</b> 31 (13 elected teachers; 4 elected designated educators (non-public or non-teachers); 14 appointees)</p> <p><b>System Representation (Total: 7)</b>  <i>Public</i>—1 elementary, 1 secondary  <i>Catholic</i>—1 elementary, 1 secondary  <i>French</i>—1 Catholic elementary, 1 Catholic secondary, 1 public</p> <p><b>Regional Representation (Total: 6)</b>            6 regions x 1 teacher</p> <p><b>Designated Members (Total: 4)</b>            1 principal            1 private school            1 Faculty of Education            1 Supervisory Officer</p> <p><b>Government Appointees:</b> 14</p>	<p><b>Council Size:</b> 37 (19 elected teachers; 4 elected designated educators (non-public or non-teachers); 14 appointees)</p> <p><b>System Representation (Total: 7)</b>            7 full time</p> <p><b>Regional Representation (Total: 12)</b>            6 regions x 1 teacher (full or part time, the part time to enable retirees, occasional teachers to apply)            6 regions x 1 teacher (full time)</p> <p><b>Designated Members (Total: 4)</b>            principal/vice principal, supervisory officer, faculty of education, private school</p> <p><b>Government Appointees:</b> 14</p>

Before June 2006, while a majority of Council members were elected, not all were elected from positions that were unionized (eg, school administrators, private schools) or from positions outside the K–12 sector (eg, university faculties of education). In the *College of Teachers' Act*<sup>4</sup>, anyone with a teacher union position was excluded from eligibility for nomination in the Election Regulation. Ontario regulation 293/00 Section 7.1 Eligibility to be Nominated. 7.1(7) states:

A position with one of the organizations listed in Schedule 1 is prohibited if it is a position that imposes duties or obligations that would conflict or appear to conflict with the duties of a Council member. *O. Reg. 270/06, s. 1.*

The list includes all Ontario teacher unions.

LeSage argued for almost totally open disciplinary processes. While he compared teacher disciplinary hearing to court procedures he failed to compare teacher disciplinary hearings in other professions which allow for greater discretion to hold 'in camera' hearings or to limit public access or publicly-shared information about proceedings:

Courts, be they Family, Civil or Criminal, deal with very sensitive issues each and every day, yet it is extremely rare that they are closed for that reason. Regulatory hearings should be governed by those same principles. The overriding principle must be transparency and openness. All hearings must be open unless there are exceptional circumstances which require otherwise.

He also included two recommendations affecting teacher unions:

**Recommendation 48:** Members of the Investigation, Discipline and Fitness to Practise Committees should be prohibited from attending the caucus meetings, which are held between elected Council members and their unions/associations when the Council agenda is discussed.

**Recommendation 49:** Members of the Investigation, Discipline and Fitness to Practise Committees should be prohibited from holding any elected or appointed union/association positions during their tenure on those Committees.

Three other provincial government actions over time clearly illustrate the fact that both Liberal and Conservative governments have created legislation which required the College of Teachers to initiate new regulations. Such regulations generally reinforce the notion that the College of Teachers is not controlled by the profession, but acts on the direction from any government with a mind to legislate new requirements either for teachers in schools or for teacher education programs.

In the first instance, the mandatory system of professional development and recertification that was initiated by the Harris government was introduced by the government and the College forced to implement and manage it. The College raised its fees to pay for the Professional Learning Program (PLP), hired staff and leased additional space to house the bureaucracy required to administer it. The decision to introduce mandatory recertification was not a Council decision, but that of the Government.

The corollary of this is that there is some belief in the Ontario unions that the Public Interest Committee at the College would be happy to introduce a system of mandatory professional

<sup>4</sup> *Ontario College of Teachers Act 1996, SO 1996, c 12*



development and tracking of professional development by teachers, but the current Liberal Government will not allow this. Thus, depending on the government, the regulatory body may be more aggressive in following a (Harris-style) government, but be more constrained in the current (Kathleen Wynne) government. But governments often act quickly under the pressure of media scrutiny and perceived public concern.

The second example of where the Government has taken control is in the area of initial teacher education (pre-service). The College ran an extensive consultation over many years, looking at the length of the pre-service program. At the end of this process, the College concluded that the pre-service program should be 10 months in length (or equivalent), with 60 days of practicum. About two years ago, the Liberal government ran its own consultation on this matter and, in spite of the fact that almost all stakeholders felt that 10–12 months should be sufficient (especially with an effective Induction Program in place), the government unilaterally decided to change the certification requirements to a four-semester (ie, two-year) program, with 80 days of practicum. This was mostly motivated by an over-supply of teachers in Ontario, rather than focusing on what was really required for initial teacher education—once again illustrating the willingness of the provincial government to impose its will on the College.

A third, and maybe even more telling instance, was when the *Toronto Star* reporter, Kevin Donovan (2011), ran a series of articles in September 2011 about so-called “rogue teachers” whose certificates had not been revoked by the College or whose identities were being “protected” because their cases were not published on the Internet. At the same time that the *Toronto Star* articles were published, the College commissioned Justice Patrick LeSage to look into the question of transparency and reporting of cases. Before the Justice had completed his investigation or reported on his findings, then-Minister of Education Laurel Broten imposed changes to the way the College publicized discipline cases. These changes, approved by the College of Teachers without a Council vote, meant that as of January 2012 information concerning all disciplinary cases would be published, including those cases where there was insufficient evidence to proceed with discipline.

There have also been a number of more recent media reports in 2017 and 2018 that claimed credit for forcing changes to regulation in the Health Sector, including Gibson (2018):

...after a Star campaign last year made revocation of a licence mandatory if an individual engaged in forms of sexual touching or groping of patients.

Currently, those are not grounds for automatic revocation of a teacher’s licence in Ontario.

Under the *Protecting Students Act*, a 2016 amendment to the *Ontario College of Teachers Act* and the *Early Childhood Educators Act*, if a teacher engages in intercourse, masturbation, child pornography, or any of the following contact—genital-to-genital, genital-to-oral, anal-to-genital, and oral-to-anal—their licence must be revoked.



But if a teacher gropes a student, touches them in other sexual ways, or makes sexual comments toward a student, their licence isn't automatically revoked. The amendments planned by the Ontario government would be within the *Ontario College of Teachers Act*.

Media reports have a significant effect on government, especially when a provincial election is imminent. The Ontario government's proposed changes were reported by the Ontario College of Teachers (2018):

**College of Teachers welcomes government's plans to strengthen our role of protecting students**

The Ontario College of Teachers welcomes the Ministry of Education's plans to strengthen our ability to protect students from sexual abuse by teachers.

The Ministry announced its plans to amend the definition of sexual abuse resulting in mandatory revocation in the *Ontario College of Teachers Act*.

The new definition will bring our Act into alignment with the government's recent changes to the *Regulated Health Professions Act*.

The College looks forward to working with the government in strengthening the penalties for sexual abuse in order to protect students and maintain public confidence in our work.

Media reports, including those from the *Toronto Star*, illustrate how high-profile cases and sensationalist reporting, extensively featured by media, can lead to increased regulation and control. Media cases heighten government sensitivity to negative public reaction, but may result in over-reaction by government. The publication of all disciplinary processes means that government protection of the public interest includes the identification of any teacher reported or investigated, regardless of whether there is any foundation to allegations, a situation different to the regulation of most other professions in Canada.

One further lesson from the Ontario experience concerns the philosophy and approach of the provincial government towards teacher regulation. While such approaches are often swayed by sensationalist media reporting, the current Liberal government appears less likely than its Conservative predecessor to seize every chance for increased control. An example of this may be found in the LeSage report. Two of his 49 recommendations suggest that Council members not be permitted to meet with union officers, a clear implication of undue influence (though no evidence was provided to justify this). No action by the government has been taken since these recommendations were made, although, perhaps disturbingly for teacher unions, the College members voted unanimously to accept the LeSage report. The cause for concern from a teacher union perspective is that union members in a College of Teachers are, in the perception of the union, voting against their own interests and against the interests of other teachers.

## Teacher Regulation in Saskatchewan

In Lessard and Brassard's paper on confrontation and collaboration in education systems in different Canadian provinces, Saskatchewan was considered more collaborative in terms of relations between government and educators. Such collaboration might be seen partly

*The culture of schools in Saskatchewan is collegial, not managerial.*

—Saskatchewan Teachers Federation, 2014. *Public Assurance, Professional Commitment, Teaching Quality*

as cultural and partly because successive provincial governments had not pursued neo-liberal policies. However, with the election of the Saskatchewan Party and its leader Brad Wall in 2007, change was imminent. The years following Wall's election saw a significant resource boom in the province with oil and gas exploration and production significant contributors. The Saskatchewan Party increased its popular vote and was reelected in 2011. In recent years, the three pillars of the province's economy—food, fuel and fertilizer—have all seen declines that may have stabilized with some predictions for modest improvement in the immediate future. Whether changing economic fortunes affect other areas of government actions like teacher regulation is beyond the scope of this paper; however, it could be possible that in “good” times there is reduced impetus to address issues of public sector accountability, including increased teacher regulation, while in a more depressed period diverting the public's attention towards areas other than the economy might be of interest.

The Saskatchewan Party was formed in 1997, but struggled to make an impact until the leadership was assumed by Brad Wall in 2004. Prior to winning the 2007 election, the party had a mainly rural backing. Policy reforms (and more moderate policies) made the party more attractive to urban voters, and in 2007 it won a majority with 38 of the 58 seats in the legislature.

In 2011, Beland's (2011) analysis of the government's general stance stated:

The Saskatchewan Party remains on the right of the political spectrum, something especially visible in the field of labour relations. Since taking office, the Wall government has antagonized the powerful provincial labour movement on a number of occasions, over issues such as union certification and essential services. Beyond these issues, however, that government has, under most circumstances, refused to adopt a radical conservative agenda that could have alienated larger segments of the population. For example, Wall has not even discussed the possible large scale privatization of the province's Crown corporations, in large part a legacy of previous NDP governments. Interestingly, when Wall acted like a genuine conservative and embraced a comprehensive tax cut agenda, he did so in a way that the provincial NDP could not argue with.

As Murray Mandryk from the *Regina Leader-Post* puts it, “The only real big tax cut has been the increase of the basic personal income tax exemption that benefits low-income earners more than higher earners. That hardly constitutes a declaration of war on socialism.” Beyond the field of labour relations, it is undeniable that the Wall government has not launched any type of overtly

ideological and political crusade to erase the legacy of social democratic province-building in Saskatchewan.

While this may indicate that some of the province's cultural norms may still be a factor, the Canadian Centre for Policy Alternatives (CCPA) (2018) argued that privatization had significantly increased, with government support for public-private partnerships shown in the creation of the P3 Secretariat, support for private suppliers of energy, the sale of crown assets and entities, the outsourcing of government work to private companies, and the potential sale of liquor stores. The CCPA published an eight-page list of privatization in the province and its analysis of the "Saskatchewan First" policy argued that the policy imposed constraints on the ability of the Crown to expand the scope of their business and gave priority to private companies in provincial government initiatives.

There is a history of proposals for teacher regulation in the province, much of it described in the Saskatchewan Teachers' Federation (STF) document "Teacher Professionalism in Saskatchewan: Strengthening Regulation" published in September 2013. The document outlined successive approaches to amend the regulatory framework by government, including legislation proposed in 1989 by the Grant Devine Conservative government not only affecting teachers, but all professions in the province:

In 1989 the Government of Saskatchewan proposed legislative changes which could have dramatically altered how professions were regulated provincially....The Federation objected to the policy on a number of grounds, most notably its underlying purpose of limiting the powers and responsibilities of professions. But the Federation also observed that the generalizations made by the government to justify the policy were largely groundless, especially in the case of teachers. Public confusion and skepticism about the teaching profession was minimal, making it difficult to accept the notion that major legislative intervention was necessary. Lastly, the suggestion that the collective bargaining function of professional organizations be separated from their disciplinary and licensing functions was unacceptable to the Federation. The Federation's position on the matter, in short, was premised on a stark lack of evidence that the Federation, as a unitary organization, had somehow failed to live up to its mandate and objectives as described in legislation, or that any irreconcilable conflicts of interest existed with the public. (p 6)

However, the government's efforts were ameliorated, and the STF's mandate to deal with ethical and competency issues, and to discipline its members, was confirmed and legislated in 2006. The legislation clearly left the STF in control of matters of competency and discipline for the province's teachers:

*The Teachers' Federation Act, 2006* was passed, giving the Federation a mandate to establish and maintain standards of professional ethics and competency. Basic definitions of both professional misconduct and professional incompetence were embedded into the legislation. The legislation also empowered the Federation to formulate bylaws for "prescribing procedures for the review, investigation, hearing and disposition of complaints alleging that a member is guilty of professional misconduct, conduct not becoming to a teacher or professional incompetence." (Government of Saskatchewan)

The STF response pointed to one key area of weakness in the various provinces' arguments for increased regulation: where was the evidence of ineffective or overly protective systems in need of reforms which increases external regulation over teachers? While a number of rationales have been provided for increased regulation (public trust and confidence, perceived conflict of interest when teacher unions deal with discipline, etc), the evidence to support the various rationales has generally been limited or non-existent. Has a theoretical union conflict of interest resulted in cases where abusers are protected? Is public trust in teachers low, and how do we know whether it is or not? We cannot find those answers in reports proposing increased regulation. Rather, we find they are intimidated, so that one rationale is that one province needs to ensure public trust, regardless of whether it already exists. Another province claims that it needs to remove any potential conflict of interest in teacher unions, without providing any evidence to show that such conflict exists and has resulted in unfit teachers continuing to teach.

In 2013, Dennis Kendel was appointed to review teacher regulation in the province. The STF responded to this review with statements that arguably epitomized Lessard and Brassard's perspective of greater levels of collaboration in Saskatchewan compared to other provinces. The STF welcomed the review in its 2013 "Teacher professionalism in Saskatchewan" report and referenced the positive relationship between educational partners:

In summary, the Federation believes that a process of engagement in the reshaping of the regulatory system for Saskatchewan teachers will serve the interests of the broader educational community and public.

By travelling that road, we not only maximize the potential for endowing the system with additional positive attributes, but we also preserve the historic network of positive relationships among the educational partners that is so necessary for the advancement of educational initiatives in the sector.

Through such a process, the partners in education can develop a regulatory environment that avoids the pitfalls associated with the history of teacher regulation in British Columbia and builds on positive aspects of other systems. The intention will be to create a professionally led regulatory system that is truly a made-in-Saskatchewan model, one that supports and sustains teaching and learning and maximizes confidence in our shared stewardship of the public trust. (p 15)

This optimistic and trusting message is perhaps somewhat surprising in retrospect, as an observation of the Wall government's approach to labour unions in general might have generated some caution in terms of the government's intent. Did the Wall government intend to "avoid the pitfalls" of BC? Might a "professionally led" regulatory system be established that was still "professional," but removed control from the STF? As part of the STF report's conclusion, its optimism, perhaps based on previous successes when facing government reforms, was repeated in its view of an alternative to direct regulation:

The Federation recognizes that professionally led regulation is a privilege, not a right. In a democratic society, government is the repository of the public trust and it cannot shed that

responsibility. However, as an alternative to direct regulation, governments may delegate the responsibility to the profession in light of its unique knowledge and skills and based on the government's assessment of the ability of the profession to serve the public interest. (p 18)

The report "For the sake of students: A report prepared by Dr Dennis Kendel on current and future teacher regulation in the province of Saskatchewan," was published in September 2013. Kendel (2013, 6) made clear statements about teacher professionalism:

Teachers are unequivocally professionals. They must complete a rigorous academic program of study to master teaching skills, and also a practicum through which they learn to apply those skills in real classroom settings. They are committed to lifelong learning to ensure that their knowledge and skills keep pace with changes in the art and science of teaching.

He also distinguished between the organizational structures of the teaching and medical professions, arguing that while medical associations acted like unions, they were not unions, had no compulsory membership and could not force their members into strike action. This distinction was nuanced by his admission of how associations essentially act like unions in bargaining, supports and advocacy. Just how the union/association "differences" necessitated a new regulatory system was explained in part by perceived public perception of conflict of interest if a union controlled regulation of its members. However, Kendel, a member of the medical profession, appeared to see no problem with his own professional association—which he stated "acted like a union"—in terms of any potential conflict of interest in terms of doctors' handling of discipline cases. Therefore, if teachers are, in his terms, unequivocally professionals, they should have the same self-regulation as the medical profession. While this is what he actually recommended, his articulation of the union/association differences and potential conflict of interest likely provided the provincial government with enough justification to go beyond what he recommended in terms of self-regulation and draft legislation that reflects an externally-regulated system.

Kendel proposed a new College of Teachers and recommended a process of dialogue with the STF implying that the generation of a new regulatory system might be collaborative. He also stated in his report (2013, 9) that, were a new governing body to be established, at least one-third of the governing board should "be comprised of public members and that they have precisely the same powers and responsibilities as the professional members of the board." The one-third public participation broadly reflects other professional bodies' regulatory governing boards and implies that any governing board for teacher regulation in Saskatchewan would have a majority of education professionals rather than appointees.

Kendel made five recommendations:

**Recommendation 1:**

I recommend that the Government of Saskatchewan immediately engage in dialogue with the STF to ascertain whether the STF is prepared to support transition to a College of Teachers Model for future regulation of the teaching profession in Saskatchewan, if broad education sector and public

consultations culminate in a government position that such a model would best serve and protect the interests of students and parents.

**Recommendation 2:**

If dialogue with the STF affirms the STF's openness and commitment to such transformational change in the future regulatory framework for the teaching profession in Saskatchewan, I recommend that the Government of Saskatchewan agree to defer legislative action until the fall of 2014 and undertake a board consultation process to determine what regulatory model would best serve and protect the interests of students and parents.

**Recommendation 3:**

I recommend that the consultation process focus on the following goals:

1. Creating a teacher regulatory system that exists to serve and protect the interests of students and parents, is understood by them and accessible to them, and works for them;
2. Eliminating regulatory fragmentation by bringing regulatory authority and public accountability for all teachers under a single statute;
3. Eliminating real and perceived conflicts of interest inherent in professional advocacy/collective bargaining functions and professional regulatory function being vested in a single organization;
4. Assuring optimal public transparency and accountability of all regulatory policies, processes and outcomes; and
5. Assuring substantial public engagement in regulatory processes at all levels including complaint adjudication and disposition, regulatory policy development, and regulatory governance.

**Recommendation 4:**

I recommend that the Government of Saskatchewan organize a visit to the Ontario College of Teachers by a delegation which includes education sector leaders from Saskatchewan as well as some students and parents to determine the factors contributing to the success of that regulatory model and apply those lessons in Saskatchewan.

**Recommendation 5:**

I recommend that the government complete this consultation and study process in a timely manner so that it is able to table legislation in the fall of 2014 to create a new framework for regulation of the teaching profession in Saskatchewan.

The proposed Saskatchewan Professional Teachers Regulatory Board was a different body than a College of Teachers, but was similar to the BC Teachers Regulation Branch. Just as the Saskatchewan legislation's title mirrored the title of similar regulation in BC, so did the Act's language and intent, as will be shown below. So, far from "avoiding the mistakes of BC," as the earlier STF report had proposed, the Saskatchewan government's legislation actually emulated the BC model.

In 2015, the provincial government passed the *Registered Teachers' Act*, which introduced new regulatory controls over the teaching profession in the province with the creation of the Saskatchewan Professional Teachers Regulatory Board, reflecting other province's focus on the perceived need to serve the public interest:

The Saskatchewan Professional Teachers Regulatory Board is established as a corporation.

**Duty and objects of regulatory board 4**

(1) It is the duty of the regulatory board at all times:

- (a) to serve and protect the public; and
- (b) to exercise its powers and discharge its responsibilities in the public interest.

(2) The objects of the regulatory board are to establish and administer the professional certification and standards of professional conduct and competence of teachers for the purposes of serving and protecting the public.

The composition of its Board of Directors was defined as follows:

(1) The board of directors shall manage and regulate the affairs and business of the regulatory board.

(2) The board of directors consists of:

- a. the following members appointed or elected in accordance with the bylaws:
  - (i) three members appointed or elected by the Saskatchewan Teachers' Federation;
  - (ii) one member appointed or elected by the League of Educational Administrators, Directors and Superintendents;
- b. three members appointed by the minister, only one of whom may be a member of the Saskatchewan Teachers' Federation; and
- c. two members appointed by the Lieutenant Governor in Council pursuant to section 7.

An explanation of the two members appointed by the Lieutenant Governor in Council states:

**Public appointees 7** (1) Subject to subsections (2) and 6(3), the Lieutenant Governor in Council may appoint two persons as directors.

(2) No teacher is eligible to be appointed as a director pursuant to subsection (1).

(3) If the Lieutenant Governor in Council appoints a person as a director, the term of office of that person is not to exceed three years.

(4) Subject to subsection 6(4), a director appointed pursuant to this section holds office until that person's successor is appointed and is eligible for reappointment, but is not eligible to hold office for more than two consecutive terms.

(5) A director appointed pursuant to this section may exercise rights and serve as a member of committees to the same extent as other directors.

Thus, the Board of Directors has a total of nine members, with the government appointees having a majority. Following the lead of BC and Ontario, the government of Saskatchewan instituted a regulated but not self-regulating body to oversee teacher certification, professional practices and discipline. The legislation reflects, in some ways, the intent of the Kendel report which clearly recommended a majority of the Board be from the profession, yet it also potentially ensures government control depending on how 'teachers' are defined, and how the composition and selection of Board members is conducted. At the time of writing, the actual composition of the Board is worth



closer examination. The STF nominates four teachers, and at present all four are members of the Board, so that the Minister currently accepts the STF's fourth nomination. The Minister's other two appointees can be teachers but must not (according to the legislation) be STF members. One member is elected or appointed from Saskatchewan's 'League of Educational Administrators, Directors and Superintendents' (LEADS), so that appointee is a teacher by certification. So, technically, seven members of the Board are teachers, but only four are STF members because the LEADS appointee is not an STF member. This provides a majority (5 to 4) to non-STF members while still maintaining a majority of certified teachers on the Board. Thus, the control of the Board can be said to be both in the control of the profession (but not the STF) and, depending on government actions, be subject to greater levels of government control.

Based on a reading of its web site at the time of writing this report, the Saskatchewan Teachers' Federation to date appears to have moderated possible impacts of the legislation and stated that the Federation had created its own standards:

Public assurance in the education system is important to all of us. We understand both the individual and collective impact that our decisions and actions can have on students and the integrity of the teaching profession. That is why the Federation has developed high standards of professional ethics and practice to guide the behaviour and practices of our members.

These standards and our disciplinary processes for our members are part of a teacher professional regulatory system in Saskatchewan that includes the additional checks and balances of the employment policies of school boards or conseil scolaire and the certification, registration and discipline of teachers by the Saskatchewan Professional Teachers Regulatory Board established by the Government of Saskatchewan in October 2015. We work collaboratively with these partners in education to promote exemplary teaching practices and foster healthy school environments for all. (Saskatchewan Teachers' Federation Teacher Regulation)

If the experiences of teachers in BC and Ontario offer any lessons, the current moderate approach to teacher regulation in the province could change, as the legislation not only mirrors the BC legislation but also counters the collaborative language and intent that characterized the STF reports and responses to government. It also suggests, referring back to the Lessard and Brassard paper, that levels of collaboration can and do change with a shift in government, so that the traditional collaboration inherent in Saskatchewan education may be changing to a model more familiar to teachers in Ontario and BC. However, government announcements appeared benign when announcing the new Teacher Regulation Board:

"Our government is pleased that we have moved one step closer to providing Saskatchewan teachers with the same authority and responsibility as other self-regulated professions in the province, resulting in a more transparent and clear process," said Education Minister Don Morgan in a news release.

"The education stakeholders who have worked with us throughout this transition deserve credit for having the leadership and vision to come together and help establish the SPTRB, which will

not only protect the integrity of the teaching profession but continue to protect our most valuable resource—the students,” he said. (*CBC News* 2015)

It would be a wise tactical move for a government to appear conciliatory and collaborative while establishing regulatory structures as this may reduce resistance to them. While the composition of the Board appears to have seven registered teachers, and two appointees, this composition could be changed at the will of government within the legislation establishing the Board. The appointees of government and Lieutenant-Governor clearly provide a majority of votes controlled by the government. The structures for greater control are in place and can be utilized in less benevolent ways at any time of this or future governments' choosing. However, at this time the Saskatchewan government does not appear intent on maximizing its potential level of control and there still appears to be significant levels of the historical prairie collaboration between the provincial government and the STF. A further indication of this level of collaboration is that to date there has also been no efforts to remove administrators from the STF.

In the first discipline case heard by the Board, a teacher was ordered to pay \$10,000 of the reported costs of his discipline hearing (the total costs of the case were reported as being \$54,288) when he admitted to throwing a white board marker at a disruptive student (see Saskatchewan Professional Teachers Regulatory Board). Failure to pay within 30 days would result in the suspension of his teaching licence.

The official report of the case from the Regulation Board indicated the involvement of four Counsel, two of whom were Queen's Counsel sitting on a case where no facts were in doubt, where culpability was admitted and where the teacher had made immediate apologies for his actions. The report wryly noted that: “In the future it is hoped that a relatively straightforward matter such as this can be expeditiously resolved without the need for costly discipline proceedings” (see Saskatchewan Professional Teachers Regulatory Board 2017).

Not perhaps the most laudable start to the new era of discipline and teacher regulation in the province of Saskatchewan.

### Teacher Regulation in Nova Scotia

In 2015, the Province of Nova Scotia also appeared to be considering the introduction of teacher standards as part of new and increased regulation of its teachers. One impetus for government action came from the Atlantic Institute for Marketing Studies (AIMS), which professes itself to be “a voice for market solutions” (much like the western Canadian Fraser Institute). It appears something of a contradiction for a market-oriented institute to demand greater regulation when most such institutes vigorously oppose the concept. However, such a demand offers an opportunity to implant greater managerial control and a version of externally-imposed accountability on parts of the public sector, both concepts dear to neo-liberal governments.

The AIMS produced a 2014 report authored by Paul Bennet and Karen Mitchell entitled “Maintaining Spotless Records: Professional Standards, Teacher Misconduct and the Teaching Profession.” Curiously, it posed the question “Whatever happened to teaching standards?” without providing any evidence of their apparent disappearance or demise, after which the authors state that the analysis and report will “tackle the question” (p 5). Tackle the question they certainly do, but whether the question should have been asked in the first place is a moot point. Has Nova Scotia suffered from an epidemic of low-performing teachers? Have serious issues of teachers abusing students occurred and been ignored? If either situation exists, then no evidence is produced in the AIMS report. Rather, one is expected to interpret the initial question as a signal that standards are either unacceptably low or non-existent. As in those provinces where Colleges of Teachers or the equivalent exist, the assumption implies that reform is needed, but the evidence for change is not provided. In addition, the “market” approach, whose proponents want some public sector professions to be regulated while dismissing any potential regulation of private enterprise, appears more ideologically driven than evidence based.

The AIMS policy paper “makes the case for adopting a more robust policy regime to ensure the highest teaching standards as well as to weed out underperforming teachers and so-called ‘bad apples’ who pose risk to students” (p 5). Just to ensure nobody mistakes the intent of the document they propose:

- the creation of legislation, with a title suggested—the *Teaching Standards and Regulation Act*
- a Board with “assured self-governance,” but with members appointed to allow for “fair representation” (with such fairness to be decided by the government through Order-in-Council, thereby likely ensuring that the Board reflects a regulated and not a self-regulated entity which controls the profession rather than enabling the profession to control itself)
- the public disclosure of all proceedings and decisions
- the removal of principals and supervisory officers from the current bargaining unit (the Nova Scotia Teachers Union) (NSTU), thereby making principals the agents of government and likely the intended policing officers for new regulatory controls, and bringing Nova Scotia into line with Ontario and BC, but not with the rest of Canada.

The AIMS report simply assumes its proposed direction is an obvious and commonsense solution, but for what actual problems is unclear.

The AIMS report, however, was simply the start of a series of documents, all of which appear to point in very similar directions: changes to teacher certification, the adoption of teacher standards, increased efforts to “weed out bad apples” in the teaching profession, and the removal of school administrators from the NSTU. The common ideological perspective of the AIMS report and two subsequent reports suggests some form of central direction rather than independent analyses of the Nova Scotia education system.

The first report after the AIMS publication is the Minister’s Panel on Education’s 2014 report “Disrupting the Status Quo: Nova Scotians Demand a Better Future for Every Student.” Once

again, a hyperbolic title signals the contents of the report. A six-member panel was appointed by the minister, one indication of control when compared to examples like a Royal Commission on Education in which a wide range of study might be initiated. While it is doubtful that a minister of any sitting government will appoint a majority of critics of that government's education policies to consider its preferred educational futures, they might consider a wider engagement with a range of educational research in addition to soliciting the views of their citizens in surveys like the one conducted for this panel.

While this report listed several concerns from survey respondents concerning the NSTU's perceived power and control over discipline processes, it was hard to gauge whether such comments were widespread or isolated. Evidence to support recommendations 2.6 and 2.7 (below), other than generally-worded statements about concerns regarding the NSTU, was not apparent. Nor was there any effort to identify whether there was evidence to support the perceptions. A recommendation to address the hiring and firing of teachers, and to consider the removal of administrators from the union was made in Recommendations 2.6 and 2.7:

**Recommendation 2.6:** Implement a provincial performance management system that recognizes teaching excellence, supports professional growth, and empowers school boards to dismiss teachers when performance issues warrant.

**Recommendation 2.7:** Consider if supervisory staff—including principals, supervisors, directors, and superintendents of school boards—should be members of the same union as teachers. 31, <https://www.ednet.ns.ca/docs/disrupting-status-quo-nova-scotians-demand-better.pdf>

The rationale for these recommendations stated:

At present, personnel in the education sector are managed through a system where many supervisory staff (e.g., principals, supervisors, directors, and superintendents of school boards) are members of the same union as teachers. The effectiveness of any managerial system is ultimately dependent upon the skills of individual managers. The panel observes, however, that the practice of supervisory staff being members of the same bargaining unit as the employees they supervise is unusual by accepted labour relations practices.

A more effective approach to managing the system would call for a model where supervisory staff are not active members of the same union as teachers. This, in turn, would provide a more structured approach to issues of hiring, work assignments, professional development, and performance management. 31, <https://www.ednet.ns.ca/docs/disrupting-status-quo-nova-scotians-demand-better.pdf>

The “accepted labour relations practices” referenced in this rationale ignores those accepted labour practices in the majority of Canadian provinces (and, until recently, all provinces’) K–12 education systems, where teachers and administrators are in the same union.

Following the Minister's Panel came the Education Action Plan of 2015. This plan contained a grand total of seven academic references, perhaps indicating a propensity to prefer action to any academic

rigour or analysis. Once again, the minimal exploration of any academic literature by government agents masks the complexity and scope of perspectives on a range of issues, including governance and teacher professionalism. While Institutes like AIMS might avoid accessing research that might offer a challenge to existing thinking or ideology, a case can be made that governments should not mirror such narrow ideological constraints but should make their case on the best available evidence.

The Education Action Plan identified a number of areas to address with the NSTU.

Coming out of the Minister's Panel on Education are issues that relate to legislation and collective agreements. The following issues were slated to be resolved through cooperation or negotiation with the NSTU:

- Changes to the school year, including the scheduling of teacher professional development
- Allocation of professional development funding
- Improved program delivery in the Nova Scotia Virtual School to provide students with more flexible options and teaching support
- Removal of principals and school board administrators from the NSTU
- Creation of a robust system for teacher performance management
- Generation of new requirements for teacher certification
- Linking of teacher assignment directly to credentials and experience
- Strengthening of the process for addressing poor teaching performance (p 17).

The majority of these directions would hardly be areas in which any teacher union would be amenable to cooperate. The proposal for a “robust system for teacher performance management” implies that current systems are less than robust and will be controlled externally. “Addressing poor teacher performance” implies such performances are in need of stronger action. The Minister's Panel recommended “considering” the removal of administrators from the union. However, the action plan removes any sense of “consideration,” but initiates a focus on removal of administrators from the union. A statement by the Nova Scotia premier indicated a willingness to compensate the NSTU for the legislated removal of many of their members from the union, but this short-term payoff barely compensates for the actions proposed when fundamental changes impacting the union are being legislated (Doucette 2018).

Suggesting that these are potential areas of cooperation appears a cynical expression masking an exercise of political power and control. So, if one assumes some lack of “cooperation” by the NSTU in acceding to government directions, “negotiations” would appear to be the next step. Should such negotiations not bring about government's desired results they could simply legislate, and, if the experiences of BC and Ontario are examples, they are likely to do so.

Timelines were subsequently introduced to implement the directions identified in the Education Action Plan:

- **2015–2017:** Generate new requirements for teacher certification that are aligned with the new teaching standards and certify teachers based on those standards.

**2015–2017:** Design a performance management system based on the teaching standards.

**2015–2017:** Design and implement a new provincial template for teacher performance appraisal.

**2015–2017:** Provide all school administrators with training in teacher performance appraisal using the provincial template.

**2015–2017:** Designate common requirements in credentials, professional experience and/or leadership training for hiring Principals in Nova Scotia schools. For example, training in teacher performance appraisal will be mandatory. (p 38)

These details firmly place the Nova Scotia government's agenda within the neo-liberal ideology familiar to many in Ontario, BC and Saskatchewan at various points in the last 20 years. Certification is linked to standards, to be monitored and managed. Teachers are to be appraised and such appraisals are to be done in part by their school administrators. Administrators are to be trained in monitoring teacher performance. These approaches suggest a top-down, heavily managed and a heavy-handed system of control over a profession, rather than any attempt at self-governance by those in the profession. They reduce teacher professionalism and increase managerial approaches. Teachers become employees rather than professionals when management control is paramount and autonomy is eroded. Administrators, as management agents, may have reduced roles as instructional leaders if their management and monitoring responsibilities are increased.

By 2017, the government had either authored or authorized the two reports discussed above that set directions for imposing neo-liberal agendas in the Nova Scotia public education system. External observers might have concluded that two reports—however poorly researched, ideologically-driven and minimally-referenced—might well be enough for a government that appeared focused in one direction with regard to the control of the teaching profession, but not so. The report “Raise the Bar: A Coherent and Responsive Education System for Nova Scotia” was commissioned by the government in 2017 and published early in 2018. It was written by Avis Glaze, at a cost of \$75,000, adding to the growing list of documents and action plans to support the direction already established as preferred by the government of Nova Scotia. The choice of Glaze, with significant academic credentials and an impressive career in education systems, might have been seen as a more credible analyst compared with previous Nova Scotia authors who addressed change in the public education system. She is.

However, Glaze's report is strong on rhetoric and rationales but light on evidence to make her case. The title of her report “Raise the Bar” perpetuates the implication from AIMS, the Minister's Panel and the Education Action Plan that much is wrong with K–12 education in Nova Scotia. The bar, she states, must be raised, thus implying it's currently at a low level, just as the Minister's Panel's report title (“Disrupting the Status Quo”) implied serious problems with the current status quo. There could be good reasons to “raise the bar” and to “disrupt the status quo” when analyzing a range of systems, whether educational or otherwise. But it does not follow that the steps and processes proposed in the Education Action Plan or in the Glaze report, are based on sound evidence from either the current K–12 system in Nova Scotia, from the academic research base, or from evidence from other



Canadian or international systems. In several issues, Glaze's link from perceived issue to assertion and recommendation based on evidence is flimsy or non-existent. One example of this occurs in her analysis of trust compared to her recommendations for change which, if implemented, almost certainly reduce or destroy trust. Another is when she links changes in governance to international assessments, accepting that there exists no research-based link, but making the link none the less. Both of these examples are explored below.

Glaze cannot be faulted on the number of her consultations and an impressive list of references, which make her work a more serious effort than the AIMS Report or the Education Action Plan. Yet, the references include a number of authors who are not referenced in or linked to her arguments in the report. Some of those she references counter the essential case that Glaze is making. As an example, Glaze references Diane Ravitch's "Why public schools need democratic governance." Consider Ravitch's opening statements in her paper:

Every time some expert, public official, or advocate declares that our public schools are in crisis, stop, listen, and see what he or she is selling. In the history of American education, crisis talk is cheap. Those who talk crisis usually have a cure that they want to promote, and they prefer to keep us focused on the dimensions of the "crisis" without looking too closely at their proposed cure.

The crisis talkers today want to diminish the role of local school boards and increase the privatization of public education. They recite the familiar statistics about mediocre student performance on international tests, and they conclude that bold action is needed and there is no time to delay or ponder. Local school boards insist on deliberation; they give parents and teachers a place to speak out and perhaps oppose whatever bold actions are on the table. So, in the eyes of some of our current crop of school reformers, local school boards are the problem that is blocking the reforms we need. The "reformers" want action, not deliberation. (p 24)

For those unfamiliar with Diane Ravitch, she was appointed to public office by United States presidents George H W Bush and Bill Clinton. She served as assistant secretary of education under Secretary of Education Lamar Alexander from 1991–1993. Her transformation from a senior role within these presidencies to an outspoken analyst and critic of "reform" movements supported by neo-liberal governments has garnered international recognition of her work.

Glaze proposes the removal of school boards without any challenge to the cases made by Ravitch in support of democratic structures rather than managerial systems. If she has an argument with which to counter Ravitch, she does not make it, but relies in part on what she considers underwhelming voting participation for school board elections. Indeed, the only mention of Ravitch is in the reference section. Other voices likely to counter Glaze's arguments, including David Berliner, are also found in her references but do not appear elsewhere in the report. The point here is that there are multiple perspectives within the research literature on issues like governance, teacher standards, and teacher regulation which offer counters to Glaze's analysis and recommendations, but their perspectives are not explored.



In terms of the role of school boards, voter participation patterns are a concern to Glaze, but whether reduced voter participation should lead to an elimination of democratic processes may be worth greater discussion. The voter turnout in Nova Scotia for general elections, as reported by Elections Nova Scotia 2017, has been in decline for some time (see Elections Nova Scotia 2017). Still, there have been no suggestions that provincial elections be ended and managers appointed because of low voter turnout. Rather, the turnout concerns, it is argued, should be addressed rather than eliminate the fundamental structures of a functioning democracy. In the 2017 Nova Scotia General Election, the Liberals captured 39.6 per cent of the votes cast, and barely half of the eligible population voted. So, the Government of Nova Scotia was voted in by just over one-third of that half of the population who voted. Taking a hypothetical population of 100 people eligible to vote in the province, 54 actually did, and 21 of them voted for the ruling party; 79 of 100 people, therefore, did not. This suggests the overall democratic processes in Nova Scotia might be of some concern. However, in the Glaze report, only school boards are subject to any significant proposal for change. While provincial electoral processes were clearly not part of Glaze's mandate, the Canadian and provincial Nova Scotian voting contexts are important when changes to school district's democratic processes are being considered.

One possible explanation for a provincial Liberal government's support for actions usually emanating from more conservative parties might be found in part from the result of the 2017 general election, in which the Liberal seats declined from 33 to 27, an 18 per cent drop, while the major opposition party, the Progressive Conservatives saw seats rise from 11 to 17, a 55 per cent increase. The percentage of the popular vote also indicated growing support for the PCs, with their share of the vote being 35.7 per cent compared to the Liberals 39.6 per cent. These results may have encouraged the governing Liberals to boost some traditionally conservative approaches like increased accountability for the public sector.

As mentioned above, one curious aspect of the Glaze report is her frequent articulation of the need for trust in a province in which she reports that mistrust has been prevalent in recent years. She even states that it would be advantageous to pause in terms of initiating new changes to Nova Scotia's education system in order to rebuild trust:

Many people said after the pace and volume of changes to the curriculum, combined with the labour dispute of the previous school year, it would be wise to just...pause. There is wisdom there. I suggest there should be a kind of cooling-off period, a slowing-down of new initiatives to let the system heal, to rebuild trust, and let people adjust. Moreover, there has to be time to build individual and system capacity if new initiatives are to succeed. (Glaze 2018, 21)

But, she quickly rejects her own reflections and argues for immediate action:

However, it is clear for Nova Scotian students and educators that staying with the same approaches to governance is not in their best interests. Changes must be made now for the good of the system as a whole and to improve outcomes for students specifically. (Glaze 2018, 22)

The issue of trust deserves a much fuller exploration than that offered by Glaze. Tantalizingly, she opens up the discussion when she states:

Relationships matter. Trust matters. Mutual respect matters. We must change structures and we must change the culture. Two experts on education structure, Fullan and Quinn (2016), offer their perspective:

“...when it comes to system changes, beware of an inordinate focus or total dependence on structural change. What counts is not changes in structure, but changes in culture. If changes in structure are considered, make sure that culture is the driver. Changes in the number of school boards, for example, (change in structure), will not lead to anything worthwhile per se. Put another way, no progress can be made unless relationships between and among the sectors, especially those of teachers, the school boards, and the government change to develop joint solutions.” (Glaze 2018, 42)

Glaze quotes Fullan and Quinn but then goes in an opposite direction, arguing for the imposition of structural change without any effort to pause, to rebuild trust. She seems to believe that trust can be rebuilt by the forced and mandated imposition of change and appears naïve to expect that “cooperation and negotiation” will improve trust between government and union when government-proposed changes are fundamentally opposed by the NSTU. She does not attempt to explain how trust might be demonstrated with school boards when she advocates their removal.

Her focus on trust is encapsulated in her “Catalyst 4”: increase trust, accountability, and transparency, an incongruous mix of concepts. The literature on trust, as Fullan and Quinn (2016, 66) argued, is fundamentally about relationships. Trust is built over time, requires cultural shifts if trust has been absent. Trust requires that diverse perspectives be heard in dialogue and acceptable solutions found. It does not feature in systems with high managerial accountability systems, and where administrators are the gatekeepers, monitors and evaluators of teachers’ professional learning rather than being instructional leaders supporting teachers’ autonomous learning. It is not present when a government uses its power to force legislation upon a profession which removes the control of the profession away from the profession and places teachers’ professional learning and regulation within the control of a Regulatory Board established, directed and controlled by government. While Glaze argues for trust, her recommendations are unlikely to create it.

The Glaze Report has not gone unchallenged. In an article entitled “Opinion: What crisis? NS students do very well” (February 10, 2018), Michael Corbett of Acadia University said:

So when consultant Avis Glaze made her case for urgent change, she invoked the persona of a parent or grandparent who would not and should not tolerate the poor quality of education on offer in Nova Scotia today. Yet the actual evidence cited in *Raising the Bar*, as analyst Grant Frost has pointed out, are national and international testing results that place Nova Scotia pretty much in the middle of the pack nationally. Canadian national results in the Programme for International Student Assessment, which is the gold standard international academic skills assessment, are very close to the best in the world... Nova Scotia’s performance is fifth in Canada and similar to that of Korea, Japan, Ireland, and Norway. Nova Scotia’s performance is also better in terms of statistical significance than that of Australia, Denmark, Sweden, Macao-China,

Germany and a host of developed nations. In fact, if Nova Scotia were a nation, only four countries in the world perform at a level that is significantly higher: Singapore, Hong Kong-China, Finland and Canada. The results in science are similar. If Nova Scotia were a nation, we'd only (sic) be significantly outperformed by seven nations: Macao-China, Canada, Chinese-Taipei, Estonia, Finland, Japan and Singapore.

Let's take a deep breath. First, the sky is not falling. There is no crisis and the very evidence that Glaze presents in "Raising the Bar" actually supports this conclusion<sup>5</sup>.

Second, promoting the idea of a crisis will simply lead us to make quick and radical changes that might lead to lasting chaos and damage to democratic franchise, labour relations and public confidence in the central institutional structure that prepares the future of our society: our politics and our economy.

In terms of the Glaze Report's focus on teachers' scope of practice, three recommendations should be considered:

**Recommendation 7:** Create a provincial College of Educators, an independent body to license, govern, discipline and regulate the teaching profession, helping to improve public confidence in the education system across the province. (p 33)

Glaze recommends a fully independent College of Educators. Yet, she references two systems (Ontario and Scotland) that are totally different. Ontario aims to control teachers through its College and Scotland enables them. Which one is she suggesting Nova Scotia should follow? While this preference is not stated, it likely would not matter much to government as they can follow the general direction of Glaze's recommendation by creating a College controlled not by the profession but by government, as was the case in some other Canadian jurisdictions. This is one area where the details of understanding existing models become crucial, and such an understanding, if it exists, is not present in Glaze's analysis. She therefore opens the door to a College controlled by government without actually recommending it.

When she states:

The number of participants and groups to make up the College needs to be determined. It should operate at arm's length, with no single interest group having undue influence on the operations and functioning of the College. (p 33)

Glaze's recommendations on the College might be considered similar to the recommendations made by Kendel in his report to the Saskatchewan government some years before. While he recommended an independent college similar to the one enjoyed by his own profession, the government accepted his recommendation for a college, but adopted the BC model of government control, rather than control by the profession. That the 'number of participants and groups to make up the college needs to be determined' allows the Nova Scotia government free rein to adapt the vague wording and ambiguity of Glaze's recommendation to its own ideology and preferences. While Glaze perhaps relies on trusting the Nova Scotia government, educators and their union likely will not.

<sup>5</sup> <http://thechronicleherald.ca/opinion/1544394-opinion-what-crisis-n.s.-students-do-very-well>

**Recommendation 8:** Remove principals and vice-principals from the Nova Scotia Teachers Union (NSTU) and into a new professional association. Seniority, pension, benefits must not be impacted and there should be an option for those administrators who may wish to return to teaching and the NSTU. (p 34)

In most Canadian provinces, school administrators are members of the provincial teacher union or unions. In the two provinces where they are not, Ontario and BC, legislation to remove them from the union was initiated by provincial governments with strong antipathy to teacher unions. The effect was to make school administrators management agents of government to be directed and controlled as government wanted, while removing members, cohesion and revenue from teacher unions. Support for the concept is provided by a representative of the Ontario Principals' Council, but no mention is made of the opposition from other sources to the move. Glaze's rationale and justification for this shift are that:

This model would establish a coherent management-educator model, instead of the conflict of interest that currently exists with both management and employee in the same union.

The recent labour dispute in schools brought this issue to the fore and was a significant challenge, particularly during work to rule. It is worth noting that the Freeman Report ("Disrupting the Status Quo") made a similar recommendation in 2014.

I hasten to add that this association would not be designed to be another union. It would be a professional association to enhance the profession and build public confidence. It is a long-overdue change that would put Nova Scotia principals in step with their peers elsewhere. (p 34)

These assertions place both teachers and administrators firmly in the non-professional "manager-employee" frame, rather than the frame of a profession. Her assertion that the change is long overdue is unsubstantiated by any evidence. Further, the claim that the change puts "Nova Scotia in step with their peers elsewhere" applies only to those two provinces, Ontario and BC, rather than the majority of provinces where teachers and administrators are members of the same union. While either a naïve or a misleading statement, this statement allows a government to claim they are merely emulating other provinces, whereas their actions, should they carry out this recommendation, fail to reflect the situation across most of Canada.

The union/association distinction is also intended to prevent administrator unionization and force principals into a structure where they are the agents of government, unable to unionize and placed into management roles. Evidence that such a step will "enhance the profession and build public confidence" is not provided. Glaze used the term "confidence" six times in her report, yet offers no analysis of how public confidence in the teaching profession is less in provinces like Alberta where teachers and administrators are in the same union. Nor does she attempt to explain why Alberta scores so high in international assessments (which might imply high confidence) with its existing union structures and affiliations.

Glaze states, “While student performance may not immediately be linked to administration and governance, I strongly believe it is. If the system is in a state of conflict or dysfunction, that can only have a negative effect on students” (p 14). Glaze appears to concede that there is no evidence to link administration/governance to student achievement; however, she then asserts the link exists, simply because she believes it to be so. Dan Perrin’s (2016, 9) report on educational governance for the Saskatchewan government would have been useful for Glaze to consider:

School boards form only one element of the context in which learning occurs and thus it is challenging to isolate the impact of school board governance on student achievement. For example, provincial and/or federal actions, teacher education programs and the quality of classroom teaching, and students’ socio-economic and family characteristics may significantly impact learning. There appears to be more research on broader questions of school leadership than there is research focused on the impact of school boards on learning. School boards create or contribute to the conditions in which teaching and learning occur in order to promote the most advantageous growing/learning environment.

She also assumes that her recommendations to remove Administrators from the NSTU will reduce conflict, not increase it. Yet the evidence from Ontario and BC, when the same actions were taken, prefaced considerable government-union conflict, periods of high mistrust and repeated labour disputes. Glaze’s recommendation to remove administrators from the NSTU, based on the evidence from other provinces, is likely to achieve the opposite effect that she intends.

**Recommendation 12:** Create a coordinated professional development system for teachers and principals, tied directly to teaching standards, student achievement, curriculum priorities, such as math, literacy and culturally responsive teaching, and learning strategies that can be readily implemented in their classrooms.

The first mention of Teacher Standards appears on page 37 of the report and is a quote from an Ontario figure with a vested interest in the promotion and use of standards. There is no articulation of why standards are important, how they should be used, and what examples might be considered. While Glaze’s biography states that she advised the development of New Zealand’s Teacher Standards, and was appointed to support educational change in Scotland, neither of these experiences or examples are offered as a reason to support Teacher Standards. There appears to be an implicit assumption that Teacher Standards are positive, an assertion that is contested in jurisdictions like BC where standards have become tied to evaluation and discipline. There is also a persuasive argument that standards have led to checklists to be monitored, rather than encouraging individual and peer reflection on practice, essential components of professionalism. However, Teacher Standards in Scotland are accessed voluntarily by teachers, and are used for individual and collaborative reflection. They are not supervised or monitored by school administrators. Despite Glaze’s connections with the Scottish and New Zealand education systems, she fails to articulate the key differences between how Teacher Standards have been used in different systems, or which system she is recommending.

The control of teachers' professional learning is another example of increased government surveillance, monitoring and control that reduces the professionalism of teachers. The "coordination" that Glaze articulates is in fact not a coordination of existing approaches, but a new managerial approach to control teachers' professional learning and subsume it into what system managers think teachers need to learn. Such a shift ignores the significant debate on the need to balance teacher classroom/site learning with systems-level approaches to professional learning. It also ignores the question of how to maintain professionalism by respecting teacher autonomy while also enabling system-supported learning. Glaze avoids any consideration and discussion of teacher autonomy by simply not mentioning it at all at any stage of the report. Hence, one key component defining a professional is ignored in the push for greater system and managerial control of the teaching profession in Nova Scotia.

Over the last four years, the reports discussed above have sent a coordinated and simplistic message to the province's population: that Nova Scotia's public education system is in dire straits and is in urgent need of change and renewal. From a free-market institute's musings through a government-appointed Minister's Panel, to a proposed Education Plan and the Glaze Report, rationales are strong and evidence minimal, non-existent or in some cases contradictory to the preferred directions. The failure at different times over these four years to access, discuss or utilize the existing literature base does little credit to a government that appears to have a set agenda and simply needs some justification from authors or consultants it feels confident will reinforce its preferred direction. The provincial education scene, at the time of writing, appears set not for an era of increased trust but for a period of conflict.

### Reflections on Certification and Regulation

While initial teacher certification appears similar across Canada, teacher regulation shows stark provincial differences.

Neo-liberal ideology and managerial approaches are key features of the regulatory models adopted in Ontario, BC and Saskatchewan, and possibly to be adopted in Nova Scotia. They suggest low trust in teachers, imply lesser professionalism, aim to reduce teacher autonomy, and increase accountability. The regulatory policies in these provinces are controlling rather than enabling the teaching profession. There are examples, notably Scotland, where the reverse is true.

Legislation that introduces and frames teacher regulation appears to have a minimal evidentiary base but a significant ideological influence. Much is implied but little is proven. Rationales abound but the evidence for change is not shared. The connection between rationales and evidence appears minimally explored and could be a basis for teacher unions challenging intrusive external regulation. It appears that several governments have provided similar rationales for reforming or regulating the public sector in general and the teaching profession in particular. Yet once the reforms have been initiated, there appears to be little interest in ascertaining whether they are an improvement on

previous processes and whether they are cost effective. The stated rationales for regulation appear not to be evaluated or linked to any data or evidence such as the number of cases proving professional misconduct after regulation is introduced or extended.

In Ontario, BC, Saskatchewan (and likely Nova Scotia), the forms of regulation, while claiming to be legislation forming a self-regulating teaching profession, are not self-regulating because the appointed members of their Boards and Disciplinary Committees outnumber the elected teachers. Thus, government—not the profession—controls the regulatory bodies.

One key lesson from the provinces of BC and Ontario is that the regulatory enablement of legislation can both lead to a substantial and expensive bureaucracy (Ontario) or to disciplinary processes controlled outside the profession (BC) with both jurisdictions facing the possible encroachment of the regulatory body into teachers' professional development activities. The substantial revenues of the College in Ontario and the Teacher Regulation Branch in BC lend credence to theories of potential future expansion or “mandate creep” into areas of teachers' professional development.



## Section 3: Teacher Standards

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Teacher standards are at the heart of the issue of teachers' scope of practice because they have been used as measures to control and manage the profession when teachers' performance linked to standards are externally measured and evaluated. Teacher standards link to the conceptual issues discussed earlier in this report: trust, accountability, professionalism, and teacher autonomy.

Most people would agree that schools and society need good teachers, and those who support the formation of standards would argue that standards provide benchmarks that can guide professional thinking, discourse and actions. When used as a starting point for reflection and discourse, and for initial certification, standards have some utility for teachers in reflecting on and improving practice. Critics of standards have argued that such benchmarks often become tools used for accountability purposes, with teachers externally evaluated in terms of whether or not they meet the standards, with the potential for discipline if they do not. This relates to the dichotomy evident in the two forms of accountability discussed earlier: internal (where the teacher intrinsically accepts ethical and pedagogical responsibility) and external (where some external body articulates standards, monitors and evaluates a teacher using the standards as benchmarks).

One potential result of using external standards is the possible reduction or elimination of a teacher's propensity for internal reflection. Why should a teacher reflect on his or her work when an external body is both monitoring a teacher's performance and is authorized to inform the teacher regarding the standards to which he or she must comply? Compliance with external demands reduces the internal capacity for reflection, especially if such demands are linked to evaluation. Using Schön's concept that a professional reflects on and improves his or her practice, the imposition of external evaluation therefore reduces the notion of teacher as professional. It also reduces autonomy if teachers are discouraged from internal reflection, but are required to submit to external monitoring and evaluation.

Goepel (2012, 497) synthesized the two key motivations for the creation of teacher standards, while also linking standards to regulation, teachers' autonomy and professional learning:

Debate concerning the purpose of teacher standards focuses on whether professional standards have been concerned with improving performance or with reforming the profession (Sachs 2003, 37). Additionally, further tensions arise concerning the determining and monitoring of standards. Standards that are developed and imposed by the government are seen as a regulatory tool and a means of providing accountability. On the other hand, standards developed and monitored by the profession itself provide much greater scope for professional autonomy and further professional learning (Groundwater-Smith and Sachs 2002, 348).

Standards negatively affect teacher autonomy when they are externally imposed or significantly influenced by agents outside a profession, and become one part of a regulatory framework that is either managed externally or by agents within professions who are bound by government statutes or rules, and therefore become agents of government control. However, most teacher standards have been created with teacher input, and in some cases, with significant input from teacher unions. This is the case in Alberta, where the intent is clearly linked to Goepel's linking standards created within the profession to promote greater autonomy and professional learning. While such involvement reflects the aims of unions involved to build professionalism, the transition in some provinces from standards for reflection, discourse and improvement to standards for monitoring, evaluation and discipline begs the question: might such trust demonstrated by teacher unions be a prelude to subsequent government actions that reflect minimal trust in the teaching profession by the increased monitoring of standards and their link to evaluation and discipline?

Teacher standards in some jurisdictions have become part of the externally-imposed regulation referred to by Goepel. Goepel (2012, 503) argued for the promotion of trust which might allow teachers to develop their professionalism voluntarily, a plea largely ignored by those governments bent on increasing accountability through standards and regulation:

This paper argues that the upholding of public trust so valued by the coalition government in the UK cannot be reinstated and maintained by holding teachers to account through externally imposed regulation, but by engaging in risk which allows teachers the scope to exercise professional qualities such as respect, understanding and integrity. By these means, teachers will express their professionalism not by being required to be accountable, but by accountability which is volunteered and maintained through relationships of trust.

Evidence to support the claim that at least one province has changed its wording and intent with teacher standards to reflect greater levels of monitoring, evaluation and discipline can be found in BC, and is described in the next section of this report.

### The Evolution of Teacher Standards in BC

The first BC teacher standards were created in 2003 after the Liberal government and its then Education Minister Christy Clark passed Bill 51, the *Teacher Profession Amendment Act*. The Act initially removed the elected majority of Council members, instated a majority (12) of government-appointed College Council members and a minority (8) of elected members, though these numbers were reversed in Bill 55, which amended Bill 51 in 2004.

Glegg (2013, 53) stated:

In May, 2003, significant amendments were made to the *Teaching Profession Act*, some directly affecting teachers, and others more concerned with teacher education. The number of elected members of the council was cut from 15 to eight, the right to make bylaws "respecting the training and qualification of teachers" had the word "training" deleted, and the power of the Teacher

Education Programs Committee was reduced by the removal of any reference to evaluation from the description of their involvement with the universities' programs.

Glegg (2013, 54) noted that BCTF actions, including a member vote to withhold College dues: prompted the government to amend the legislation once again, this time making provision for the council to have a majority of 12 members “democratically elected by all members of the college including independent and public school teachers, principals, vice-principals and superintendents.” The wording used was clearly a reminder to the BCTF that not all members of the College are also members of the union, a message underlined by the new requirement for an oath of office to “ensure that all members of the College council put the public interest first—above all other interests” [emphasis in original]. Thus, although the BCTF-sponsored elected members would again be in the majority, they still would not have the two-thirds majority needed to change the all-important bylaws, and would have to convince at least two of the other eight members of the council to vote with them. The aims of the legislation were summarized by Christy Clark, Minister of Education and Deputy Premier, in December, 2003:

“We had three goals when we introduced Bill 51: First, the college must be independent . . . second, there must be clear standards of competence for teachers . . . third, there must be a formal complaint process, just like there is for doctors, nurses and lawyers.”

The 2003 legislation signaled the Liberals' initial intentions to establish greater control over the College and Teacher Standards. Its insistence that formal complaint processes should be mirrored on the three other professions listed has not resulted in the forms of self-regulation enjoyed by those professions but, rather, in processes tightly controlled by the government since the inception of the Teacher Regulation Branch in 2012.

The Council approved the 2003 standards with an explicit intent “to honour and advance the profession by highlighting the complex and varied nature of teachers' work” (see full quote from the 2003 standards below). They were published in October 2003 and revised in May 2004. The 2004 Standards include 10 categories that relate to the education and competence of members and three that relate to the conduct of members. Despite indication otherwise, the 2003 and 2004 Standards included standards linked to teacher conduct.

#### November, 2003 (BC College of Teachers) First Edition

- 10 Standards (and 64 subcategories) “for the education and competence of Educators in British Columbia”
- 4 Standards (and 23 subcategories) “for the professional conduct of educators in British Columbia”

*Total of 14 Standards and 87 subcategories*

Four years after the 2003 Standards were introduced, a group from the University of British Columbia produced a paper (Coulter et al 2007) that critiqued the standards. The following is an extract and the two recommendations offered by the group:

We are concerned that the current version of the Standards will soon foreclose needed discussion about what counts as good teaching in a pluralist democratic society such as British Columbia. The history of the implementation of teaching standards in other jurisdictions leads us to believe that standards quickly become minimal requirements to be monitored rather than ideals for educational teaching. We sorely need professional and public dialogue about good teaching and the current document impedes this possibility.

We are disturbed by the limited and limiting conversation about teaching and accountability characteristic of the current version of the Standards. We believe that the College is in a unique position to open a better, more authentically democratic dialogue about good teaching and educational accountability and urge it to make that discussion one that is comprehensively and deeply informed. To that end, we urge the College to commission a comprehensive review that takes into account the enormous range of scholarship grappling with good teaching and educational accountability that the current document neglects.

We also urge the College to avoid the likely development of simplistic mandating and monitoring processes that limit the potential for discussion on what constitutes good teaching. We understand educational leadership as centrally concerned with beginning and sustaining educational dialogue and hope the College is willing to provide the educational leadership that all British Columbians deserve.

## Recommendations

- Withdraw the current Standards document and commission a comprehensive review of the literature on good teaching and educational accountability.
- Ensure that the final Standards document is used to foster debate and reflection about good teaching, rather than stating minimal requirements to be monitored.

Needless to say, there was no response to either the case made in the paper, or to its recommendations, by the BC College of Teachers.

### May, 2004 (BC College of Teachers) Second Edition

- 10 Standards (and 51 subcategories) "for the education and competence of Educators in British Columbia"
- 3 Standards (and 17 subcategories) "for the professional conduct of educators in British Columbia"

*Total of 13 Standards and 68 subcategories*

The College of Teachers started to review the 2004 Standards in 2005 and held a forum with stakeholder groups in 2006. With a stated intent to reduce and simplify the standards, a new version was published in 2008.

**February, 2008 (BC College of Teachers) Third Edition: "Standards for the education, competence and professional conduct of Educators in British Columbia."**

- 8 Standards, each with an explanatory paragraph

*Total of 8 Standards*

While the College claimed that the standards retained some of the spirit of the original standards—that they were ‘an ideal to which we can aspire’<sup>6</sup>, the College intimated a greater focus on discipline linked to the standards, as stated in the *College of Teachers Magazine* and by Council Chair Richard Walker:

The new Standards serve many purposes and are used by a variety of audiences. Faculties of education use them to design programs and assess their graduates, and the College uses the Standards to determine the suitability of candidates for certificates of qualification. Disciplinary issues are also understood through the Standards. “When the College must judge or discipline a member,” explains Walker, “the Standards provide the lens through which Council decisions regarding misconduct or incompetence are made.”

**January, 2012 (BC Teachers’ Council), Fourth Edition**

- 8 Standards, which appear unchanged from the 2008 Standards.

*Total of 8 Standards*

The 2012 Standards include a key statement that signals the Standards are for the benefit of students, parents and society rather than for professional discourse or improvement, with the “public interest” stressed:

In carrying out its objects, the council must exercise its powers and duties under this Act in the public interest. The intent of this Act is that, in making Standards, the Teachers’ Council must consider the needs of the public, especially of the students who are the “clients” of teachers, ahead of the interests of certificate-holders. This means that the Standards for teachers are to be established for the benefit of students, their parents and society as a whole. (p 2)

These comments do not suggest that a primary aim of the standards is for the improvement of individual practice or for the benefit of the profession, marking another shift towards a more evaluative and potentially disciplinary approach. The language also makes some thinly-veiled assumptions—notably that the ‘interests of the certificate-holders’—supersede the interests of students and parents, itself an assumption that implies a self-serving and unprofessional attitude by teachers with no evidence to support the implied message that teachers look after their own interests before the interests of students.

6 College of Teachers Magazine, Summer/Fall 2008.

Compare also the language of 2003 College of Teachers with the language of the 2012 Standards and messaging from 2013 Teacher Regulation Branch, which demonstrate the changing approaches to Standards:

### **2003 College of Teachers**

The Standards for the Education, Competence and Professional Conduct of Educators in British Columbia are intended to honour and advance the profession by highlighting the complex and varied nature of teachers' work. They articulate the knowledge and skills that professional educators possess as well as the responsibilities that accrue to them. The Standards also provide the basis for professional leadership and contribute to a safe and high-quality learning environment for children and youth. Taken together, the Standards define the professional attributes and expertise that educators bring to bear for the benefit of learners and society.

### **2012 Standards (4th edition)**

The Standards are intended to honour and advance the work of educators by highlighting the complex and varied nature of educators' work. They articulate the knowledge, skills and attitudes that educators shall possess as well as the responsibilities that accrue to them as certified educators who hold the public trust. In doing so, the Standards contribute to a safe and high-quality learning environment for students and provide a basis for attaining and assessing both competency and conduct. (BC Ministry of Education 2012)

### **2013 Teacher Regulation Branch**

The Standards for the Education, Competence and Professional Conduct of Educators in British Columbia were developed with three major purposes in mind. These are:

1. to establish commonly held standards of practice and conduct that help to guide teacher education, practice and ongoing professional growth;
2. to communicate to the public the standards that educators hold;
3. to establish a regulatory framework that guides the Ministry of Education in decisions related to teacher education programs, certification, fitness to practice and discipline of certified teachers. (BC Ministry of Education: Teacher Standards Questions and Case Studies)

There is a very different tone and content in each of the three documents. In 2003, the standards use language which includes "honouring" and "the profession," both of which are removed from the 2013 document. In 2003, the standards "articulate the knowledge and skills of educators," and, while this language is retained in the 2012 Standards, no such recognition appears in the 2013 Teacher Regulation Branch document.

The statement that the standards "were developed with three major purposes in mind" in the 2013 document appears to be a somewhat revisionist version of history if the full evolution of the standards is to be considered. The early Standards were not intended as a primary tool for teacher evaluation and discipline. The intent, at least for some in the teaching profession, was to establish a

frame for the professional discourse about teaching and learning within the profession while also being an articulation of what the standards represented to the wider community.

In BC and elsewhere, the language and discourse visible when standards are being developed generally reflects both some concept of professionalism and of optimism primarily linked to the notion of a self-regulating profession holding itself accountable to high standards of performance and behaviour. This approach largely explains why so many professional organizations across a range of professions, including teacher unions, have cooperated in the development of standards. However, in BC and Ontario, it is clear that, compared to most other professionals, teachers are not self-regulated but regulated by the external power of the provincial government or its appointed agents (Colleges of Teachers, Teacher Regulation Boards/Branches, etc). Thus, the capacity to monitor standards lies not in the hands of the profession, but within the agency created and controlled by government.

### Teacher Standards in Scotland

An alternative approach to Teacher Standards can be found in Scotland, where there are 3 categories of Standards which were revised in 2013:

- Standards for Registration
- Standards for Career-Long Professional Learning
- Standards for Leadership and Management

The crucial difference that makes Scotland's standards contrast with those Canadian provinces promoting standards can be found in the following statement from the General Teaching Council for Scotland's (GTCS) website<sup>7</sup>:

Remember that the revised suite of Professional Standards provides an opportunity to think differently about the purpose of Standards. The Standards for Registration provide a gate-keeping function for entry into teaching in Scotland and it should be noted that Full Registration continues to be the baseline Professional Standard for Competence. However, the other Standards go beyond the traditional view of a Standard as a benchmark of teacher competence, a concept which only applies to the Standards for Registration. For teachers who have achieved the Standard for Full Registration, we have developed Standards which offer constructive support for teachers as they consider how they might develop their professional knowledge and skills through on-going self-evaluation and professional learning.

The key difference is that Scottish Teacher Standards are geared to professional reflection and improvement. The only time where the standards are used as a measure of competence is for initial registration as a new teacher. Thus, they are not judgmental or evaluative in the sense that an external body is evaluating any teacher in terms of stated standards. Instead, they encourage the professionalism of the individual teacher by providing tools for reflection, self-improvement and continuous professional learning. A sense of this can be found in the Council's discussion of their support for teachers' self-evaluation (GTCS website).

7 The site is located at <http://www.gtcs.org.uk/professional-standards/professional-standards.aspx>.



## WHAT IS SELF-EVALUATION AND WHY IS IT IMPORTANT?

Self-evaluation should be a useful process that is rigorous and enables you to be critically reflective about yourself as a professional and your practice.

Self-evaluation should support you to:

- Reflect on what you have done
- Think about what you might do next
- Consider your own progress and development
- Deeply understand your professional practice, your professional learning and the impact of this on your thinking, professional actions, those you work with/support and the pupils and their learning

Self-evaluation will involve:

- Asking deep and searching questions about self and practice
- Using the GTCS Standards to inform and guide your reflections
- Using other influencing factors such as school or department improvement plans; other standards or targets; issues relevant to your particular context
- Using your ongoing reflections and enquiry into practice
- Considering the needs of learners/colleagues in your context
- Using evidence from a range of sources to inform and support your self-evaluation.

The self-evaluation process will enable you to:

- Plan for meaningful professional learning
- Engage in critically reflective dialogue as part of the Professional Review and Development (PRD) process
- Identify and focus on areas you wish to develop expertise or accomplishment
- Consider your career planning

Scotland's teacher standards reflect a different perspective in terms of trust, autonomy, professionalism and accountability in comparison to most of the current and emerging Canadian standards. Teachers are implicitly trusted more within a system that states that the teachers' compliance with standards are not externally evaluated but intended to be for individual reflection and for self-evaluation or as a basis for conversation with peers. They respect teachers' autonomy by providing areas of professional focus and encouraging teachers to reflect on them. Such engagement is carefully stated. In a short video on the professional learning standards, the narrator states that the standards are intended to be "aspirational and supportive" for and of teachers, and the statement that "teachers wishing to engage with the standards" implies autonomy, with teachers having the choice to develop and extend their professional knowledge. In terms of accountability, teachers are encouraged to be self-accountable as professionals. This approach reflects an "internal" view of accountability, in which each professional strives for self-improvement alongside and in dialogue with peers.

The GTCS website also provides a teacher standards bibliography, which again signal a distinction from standards development in provinces like BC, Ontario and Saskatchewan, all of which preferred to develop standards without a review of the literature. Articles such as the one by Judyth Sachs (2003) “Teacher Professional Standards: Controlling or developing teaching?” by its very title suggests a critical analysis of the essential dichotomy of standards: do they control or develop the individual professional and the profession as a whole? Scotland’s approach offers a considerable contrast to the neo-liberal and managerial approaches which stress the authority of the government or its agents (Colleges of Teachers or Teacher Regulation Boards/Branches) acting in what they claim to be the public interest, developing “commonsense” approaches and regulations rather than accessing any literature which may offer research-based challenges to what may appear to be “commonsense solutions,” with commonsense defined by governments.

The absence of a literature review to develop critical analysis is a significant factor in neo-liberal control. Why consider anything that might challenge the directions already decided? Why worry about any evidence to the contrary? The Nova Scotia AIMS report selectively culls examples of standards and blithely assumes they are needed to control and “to weed out bad apples” while ignoring any literature critical of standards. The BC Commissioner overseeing the BC Teacher Regulation Branch’s disciplinary cases appears more interested in finding the miniscule number of wayward teachers on golf courses during a school day than in building teacher professionalism. The BC Liberal government intended to control its teachers, to manage them and to ensure that they were disciplined, and, whenever possible, publicly shamed through excessive Teacher Regulation Branch mandates and actions. Scotland, in contrast, discusses notions of reflection and coaching to extend individual skills and capacity.

In Scotland, four values are considered crucial and teachers are encouraged to self-reflect (and discuss with other educators) and consider the values as key guides to their teaching and professionalism. For each of the values, a series of questions are posed so that teachers might use these questions as starting points for a discussion of values. The four values, and an example of the questions posed, are shown below:<sup>8</sup>

**Social Justice**—*If I am committed to social justice, what does that actually look like in my classroom/daily interactions with pupils/colleagues/school community?*

**Integrity**—*How open am I to questioning and changing my practices and thinking about my assumptions?*

**Trust and Respect**—*Do I actively trust and respect others knowledge and actions? How does that impact on the relationship I have with them?*

**Professional Commitment**—*In what ways am I committed to enquiry? How is this reflected in my practice? What might I do differently?*

8 These are taken from the Career Long Professional Learning sections of the GTCS web site.

In a section of the GTCS website entitled “Professional Standards FAQs and Myths,” the following statement is made by an imaginary teacher: “My headteacher will tell me what aspect of the Standard I will focus on,” to which the Council responds:

It is important that a teacher has ownership of his/her professional learning as he/she best knows what they need to learn and how this should best be done. This does not mean however that when using the Standards they are reflecting in isolation. A teacher is part of a community within the school and when he/she is reflecting against the Standards consideration must be given to not only the needs of the individual teacher but the school community as a whole and how this learning will improve the experience for the young people.

In Scotland, authority figures directing a teacher’s focus on standards is a myth. In some Canadian provinces it is a reality.

Scotland offers an example of teacher standards used to build professionalism and to respect professionals and teacher autonomy. Their approaches of self-evaluation, accessing a range of literature, articulation of values, and individual and collegial inquiry are all designed to offer stimuli and encouragement to teachers to be as competent and professional as possible in the interests of their students, their communities and for their collective responsibility for the profession of teaching. Scotland’s approach also answers Lessard and Brassard’s question as to whether the neo-liberal tide could be resisted. It clearly can be resisted and Scotland offers a viable alternative that is both respectful to teachers while also challenging them with a positive tone to consider ways to improve their teaching. Challenges can constructively engage, as in Scotland, while respecting professionalism and autonomy. They can also seek to control and manage teachers, thereby deliberately aiming to reduce professionalism and autonomy—a more familiar perspective in several Canadian provinces.

### The Unveiling of New Teacher and Educator Standards in Alberta

On February 7, 2018, Alberta’s minister of education announced the revision of Alberta’s Professional Practice Standards in K–12 education, which had been first developed in 1997:

These new standards reflect our expectations for education professionals, while recognizing the amazing work already happening in our classrooms. This will lay the groundwork for much of our work to continue to improve Alberta’s incredible education system. These standards set a common vision for what it takes to deliver high-quality education in Alberta’s classrooms. (David Eggen, Minister of Education, quoted in Himpe 2018)

Flanked by union and superintendent representatives, the message was one of optimism for using standards to engage professionals in discussion and reflection on professional improvement. Yet even in what appears to be a significant and laudable level of government, union and school district co-operation, some warning signs are evident.

One is in the wording of the minister's comments, particularly the statement, "These reflect our expectations for education professionals." Expectations imply compliance. And while there should be expectations of professionals, the story of who should define them and how they are defined has not been a happy journey in some Canadian provinces. What often starts out as an optimistic collaboration can become a system relying heavily on control with expectations more narrowly defined in managerial rather than professional terms. The experience of BC should be a sobering consideration in terms of the evolution of standards.

Teacher standards, once established, can easily be changed or the locus of control shifted from the profession to agencies that purport to be independent but are actually controlled by government (some Colleges of Teachers) or directly operated by government agents (Teacher Regulation Branches). While this may appear unlikely with the current NDP government in Alberta, it is unclear what might happen with the United Conservatives should they be elected. The history of the control of the teaching profession in Canada shows that neo-liberal governments like those of Harris in Ontario create confrontation with direct attacks on teachers and the teaching profession, and aim to directly manage and control the profession. Yet social democrats like the NDP in Ontario have also indulged in ruminations and progressions towards Colleges of Teachers under government control. Should an NDP government be re-elected—and be facing pressure from a Conservative opposition—they might conceivably shift course to increase regulation and control. That, arguably, is what has happened in Nova Scotia.

The Alberta Standards sit somewhere between the ideological divides apparent in Canada. On one side there is a version of accountability, with neo-liberal governments stressing the need for greater accountability within the public sector. On the other side sits the Finnish and Scottish examples of autonomy and respect for the profession of teaching. Alberta seems to have its preferred stance within the Finnish and Scottish frames, but will it last?

## Section 4: Comparing Teacher Regulation with Regulation in Other Professions

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The creation of Colleges of Teachers, or Teacher Regulation Boards/Branches, is heralded by some provincial governments as one step in creating a self-regulated profession. The legislation which creates the College usually establishes a Board which governs the College. It is the composition of such Boards, and subsequent Disciplinary Committees, that demonstrate whether or not the profession's College is self-regulating (in that members of the profession control the Board) or regulated (in that government appointees control the Board). This study has considered four professions in four provinces:

- Nursing and Health Care Professions, British Columbia
- Law Profession, Alberta
- Professional Engineers, Ontario
- Physicians and Surgeons, Saskatchewan

In all four cases, the number of elected council members exceeds those appointed, and in a couple of cases it is twice the number elected than are appointed. Thus, the four professions explored above may be considered self-regulating, a stark contrast to the teaching profession, especially in BC and Ontario, and, to a lesser extent, Alberta. Alberta, while not fully self-regulating, does not have the same legislative and structural frame that impacts the other three provinces.

Julius Buski's (2016) exploration of professional regulation in Alberta found that most Alberta professions were self-regulating, with teaching to be an exception:

An investigation of the legislation relating to other professions showed that this was a common theme. Each profession has a governing body, has control over its entry standards, licenses its members, handles complaints about possible transgressions of its code of ethics and its standards for professional service, has hearing bodies for these cases (which include at least one public member on each body), and has a requirement for continuing professional development or upgrading. There was, as you may guess, one notable exception—our teaching profession in Alberta.

Though it is likely to be little consolation to Buski, the teaching profession in Alberta is much less regulated than in its two neighbouring provinces and in Ontario.

## NURSING AND HEALTH CARE PROFESSIONS: BRITISH COLUMBIA

There are 26 regulated health professions in British Columbia (BC), 25 of which are self-regulating professions governed by 22 regulatory colleges under the *Health Professions Act*, which is umbrella legislation that provides for a common regulatory structure for BC's health professions.

College Board composition for Health Care professions is set in BC by the *Health Professions Act* which states in Article 17

- (1) For each college established under section 15, there is a board.**
- (2) The minister must, by order,
    - (a) appoint persons to the first board for a college, who hold office until the time at which the board members referred to in subsection (3) (a) and (a.1) are first elected, and
    - (b) specify the date on or before which the first election referred to in paragraph (a) must be held.
  - (3) Following the first election referred to in subsection (2) respecting a college, the board for the college consists of the following:
    - (a) not fewer than 3 registrants elected in accordance with the bylaws;
      - (a.1) the certified non-registrants elected in accordance with the bylaws;
      - (a.2) the certified non-registrants appointed by the board in accordance with the bylaws;
    - (b) not fewer than 2 persons appointed by order of the minister.
  - (4) The number of persons appointed under subsection (3) (b)
    - (a) must not be less than 1/3 of the total board membership, and
    - (b) must not be more than the total number of persons elected or appointed under subsection (3) (a) to (a.2).

Thus, it appears that in BC, Health Care professionals are self-regulating with boards that have a majority of elected rather than appointed members.

### Nursing

The College of Registered Nurses of BC (CRNBC) is the self-governing body empowered under the *Health Professions Act* to regulate the practice of BC's registered nurses and nurse practitioners. The Act empowers CRNBC to regulate the practice of registered nurses and nurse practitioners in British Columbia. How CRNBC conducts its business is provided for in the bylaws. CRNBC's bylaws are approved by the BC government. The current CRNBC Board has 14 members—nine elected and five appointed. According to CRNBC bylaws, nine members of the board must be elected. According to the *Health Professions Act*, the number of appointed members must be at least one-third of the total board membership.

Recent efforts (January 2018) have been made to amalgamate the three existing BC Nurses' Colleges into a single College:

The Ministry of Health is proposing amendments to the Designation Regulation, the Nurses (Licensed Practical) Regulation, the Nurses (Registered) and Nurse Practitioners Regulation and the Nurses (Registered Psychiatric) Regulation.

The proposed amendment to the designation regulation will enable the amalgamation of the three nursing health profession colleges on September 4, 2018.

Changes to the three nursing regulations will change the name of the three colleges to the “British Columbia College of Nursing Professionals.” (Government of BC: Health Professional Regulation)

These amendments appear to have been welcomed by the College of Registered Nurses BC:

We’re very pleased that government has moved quickly to post these amendments, further demonstrating their commitment to making our new college a reality. (College of Registered Nurses of British Columbia 2018)

**Discipline:**

When a registrant goes through the formal complaint process, the complaint is resolved in one of two ways.

1. Consensual complaint resolution: consent agreements

The majority of complaints are resolved through a Consensual Complaint Resolution (CCR) process. The process results in a formal, legal agreement between a registrant and CRNBC (approved by the Inquiry Committee). Each agreement outlines the action that the registrant has agreed to take to address the issue or issues identified during the investigation process.

2. Investigation, inquiry and discipline hearings

If a solution cannot be negotiated using the CCR process, CRNBC’s Discipline Committee holds a formal hearing. Hearings are open to the public. Testimony is given under oath. The Discipline Committee decides if the allegations are substantiated and whether any disciplinary action is appropriate. Disciplinary action may involve a reprimand, conditions on registration, suspension or termination of registration. A nurse who is dissatisfied with the decision of the panel can appeal the decision. (College of Registered Nurses of British Columbia 2018)

In terms of publication of discipline, the BC Nurses College’s (BCNC) website states:

In many circumstances, the College publishes the results of the consensual resolution process to ensure that the public is aware of a change in registrant status (conditions or suspension) and whenever possible, the reason for the change in status. (College of Registered Nurses of British Columbia 2018)

However, the term “in many cases” appears to allow greater latitude in terms of publication, especially when compared to the BC Teacher Regulation Branch. While there are few details of a small number of disciplinary cases visible on the BCNC’s web site, the same cannot be said of the BC Ministry of Education, which published information of 37 teacher discipline case outcomes between July 27, 2015 and May 11, 2016. Yet in 84 per cent of cases reviewed or investigated, the allegations proved to require no further action. In 15 per cent of cases, Consent Resolutions were made. One per cent of cases went to formal disciplinary hearings, with some of these dismissed.

It appears that nursing in BC experiences significantly less external regulation than teaching, and that its processes allow greater discretion about disciplinary hearings than is the case for teachers.



## LAW PROFESSION: ALBERTA

The *Legal Profession Act* established the governing body for lawyers in Alberta:

The *Legal Profession Act* (the Act) is provincial legislation enacted to establish the Law Society of Alberta as the organization responsible for regulating over 8,000 active (practising and non-practising) lawyers in Alberta. In accordance with the Act, the Law Society follows its mandate to serve the public's interest by governing the professional conduct of lawyers, overseeing the admission of newly-trained lawyers and preventing the unauthorized practice of law. Similar legislation is in effect in all other Canadian provinces and territories.

The Law Society of Alberta is governed by the prosaically-named "Benchers" (also known as "Directors") in the legislation. There are 24 "Benchers": 20 elected and 4 public representatives. Thus, the Law Society is a self-regulating body with the overwhelming majority of its members elected from the profession.

### Boards and Committees

The Directors (Benchers) of the Law Society of Alberta form a 24-member board responsible under the *Legal Profession Act* to regulate the practice of law in Alberta. The Law Society is the independent body established by the Act to regulate the legal profession in the public interest.

Of the 24 Benchers, 20 are lawyers elected by lawyers of the Law Society, and four are public representatives. The public representatives have all the rights and responsibilities of the elected directors but cannot act as President of the Law Society of Alberta. Directors are Alberta lawyers who are elected by Alberta lawyers and serve as volunteers for a three-year period (up to a maximum of nine years). Public representatives are members of the public who are appointed by the Minister of Justice and Attorney General of Alberta for a three-year term.

### Self-Regulation

The Law Society of Alberta has the legal authority to regulate the legal profession from the *Legal Profession Act*. It sets out rules and a Code of Conduct for lawyers in Alberta. In serving the public interest, it has a complaints process that can be used by members of the public. The Law Society of Alberta provides a process to resolve complaints regarding a lawyer's ethical conduct. As the regulatory body of Alberta lawyers, the Law Society of Alberta is authorized under the *Legal Profession Act* to conduct hearings once citations are laid, and to communicate information about the outcomes of hearings which are described as "a timely, fair and transparent discipline process." Hearings and hearing reports are made public and are posted on their website.

The Board's composition, with a significant majority of lawyers from the profession, is a clear indication of self-regulation rather than external control. While the public can access a complaints process, the adjudication of their complaints is made by lawyers elected by their peers rather than by government appointees.

## PROFESSIONAL ENGINEERS: ONTARIO

Engineers in Ontario are licensed under the *Professional Engineers Act* which established the governing body Professional Engineers Ontario (PEO). The PEO's governing body is its Council, which has up to 29 members: 15-20 elected members; 5-7 appointed; 3-5 non-members (also appointed) plus the holders of offices prescribed by the regulations who are not members of the Council. The Act states:

It fulfills the same role for engineers as the College of Physicians and Surgeons for doctors or the Law Society of Upper Canada for lawyers.

The PEO website<sup>9</sup> provides a history of Engineer regulation in Ontario:

The first law related to professional engineering in Ontario was created in 1922 and allowed for the creation of a voluntary association to oversee registration of engineers. The Act of 1922 was “open”, meaning that membership in the association was not mandatory for those practicing engineering. In Ontario, regulation of engineering practice dates to 1937, when the Professional Engineers Act was amended and the engineering profession was “closed” to non-qualified individuals; that is, licensure was made mandatory for anyone practicing professional engineering. The provincial government determined that it would be in the public interest to restrict the practice of engineering to those who were qualified, and the right to practice was “closed” to those not licensed by PEO as a result of the failures of bridges and buildings, which had been designed by unskilled individuals.

### Governance

The engineering profession in Ontario is governed through self-regulation, a privilege granted by the provincial government under the *Professional Engineers Act*. The role of PEO is to provide the trusteeship and leadership of the engineering profession through licensing and development of competent and ethical professional engineers, and to regulate the practice of engineering while maintaining public safety. Self-regulation means that PEO is governed by elected members of the profession and government appointees, within strict legal parameters. These elected and appointed representatives sit on a governing council that sets policy for licensing practitioners and regulating engineering practice under the *Professional Engineers Act*. PEO council comprises up to 29 men and women, who include both licensed professional engineers and non-engineers. The non-engineers are government appointed, whereas the licensed engineers may either be elected from the membership or appointed.

### PEO Council

PEO Council is comprised of elected professional engineers in addition to members appointed by the office of the Attorney General of Ontario. Not all of the appointed members are professional

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<sup>9</sup> The information that follows on the PEO's history and governance can be found at [http://www.peo.on.ca/index.php?ci\\_id=1812&la\\_id=1](http://www.peo.on.ca/index.php?ci_id=1812&la_id=1)

engineers. Council provides the overall direction for the association and the profession. In conjunction with council, PEO operates with an elected president and an appointed Registrar.

The *Professional Engineers Act* outlines the clear control of the governing Council by the profession. Of 29 members, 15–20 are directly elected by the province’s engineers; 5–7 are appointed but are also engineers; a further 3–5 are not in any regulated profession:

### Composition of Council

(2) *The Council shall be composed of,*

(a) *not fewer than fifteen and not more than twenty persons who are members of the Association and who are elected by the members of the Association as provided by the regulations;*

(b) *not fewer than five and not more than seven persons who are members of the Association and who are appointed by the Lieutenant Governor in Council;*

(c) *not fewer than three and not more than five persons who are not members of the governing body of a self-regulating licensing body under any other Act or licensed under this Act and who are appointed by the Lieutenant Governor in Council; and*

(d) *the holders of offices prescribed by the regulations who are not members of the Council under clause (a), (b) or (c). R.S.O. 1990, c. P.28, s. 3 (2).*

### Complaints Review Councillor (CRC)

*The decision of the Complaints Committee to refer, or not to refer, a complaint to the Discipline Committee is final. No statutory appeal lies from the decisions of the Complaints Committee. A decision of the Complaints Committee is accompanied by a Notice advising the complainant of the right to apply to the Complaints Review Councillor (CRC).*

*The CRC acts independently of the Complaints Committee. The current CRC Chair is a Complaints Review Councillor who is a member of Council appointed by the Lieutenant Governor-in-Council of the Province of Ontario and was appointed by Council to discharge the role of the CRC pursuant to section 25(1)(a) as amended.*

### Complaints Committee

The Complaints Committee has the legal right to decide whether or not any allegation against a member has merit, and the right to decide that those without merit should proceed no further, a level of power not generally available to those examining complaints against teachers:

Committee that investigates and considers complaints made regarding the actions and conduct of PEO license and Certificate of Authorization (C of A) holders. Complaints are disposed of based on the merits and are either referred or not referred (not referred with other action is also an option) to the Discipline Committee.

Membership: currently 14 members. Membership includes at least two LGA (Lieutenant Governor-in-Council) Councillors (a minimum of one LGA is required for quorum), representing a wide field of engineering practice. Members must be Professional Engineers, preferably with at

least 5-7 years in the practice of professional engineering and cannot be members of Discipline Committee.

### Discipline Tribunal

The Discipline Committee (DIC) hears and determines allegations of professional misconduct or incompetence against a member of Professional Engineers of Ontario or a holder of a Certificate of Authorization, a temporary licence, a provisional licence or a limited licence. The DIC's jurisdiction is triggered upon a decision of the Complaints Committee, Council, or Executive Committee to refer a matter to the DIC for determination. The DIC also hears applications by members or holders who apply for licences or Certificates of Authorization after a prior revocation and suspension. The parties to a discipline proceeding are set out in the Act.

The membership of the DIC is currently 49 members, from which a smaller number are selected to hear disciplinary cases. The Discipline Committee has a clear majority of practicing engineers over the appointed members, with four from the profession and two appointed:

### Discipline Committee

*27. (1) The Discipline Committee is continued and shall be composed of the following persons appointed by the Council:*

- 1. At least one elected member of the Council.*
- 2. At least one member of the Association who is,*
  - i. a member of the Council appointed by the Lieutenant Governor in Council, or*
  - ii. not a member of the Council, and approved by the Attorney General.*
- 3. At least one person who is,*
  - i. a member of the Council appointed by the Lieutenant Governor in Council under clause 3 (2) (c), or*
  - ii. neither a member of the Council nor a member of the Association, and approved by the Attorney General.*
- 4. At least three members of the Association each of whom has at least 10 years experience in the practice of professional engineering.*

All hearings are open to the public, unless the Discipline Committee determines that all or part of the hearing should be closed to the public. This allows considerable control by the professional self-regulated body over public access to information, an option not generally available to teachers where regulatory boards have been established, and where public access in some cases is assured whether or not there is a case to be answered.

In a 2016 edition of "Engineering Dimensions," George Comrie, President of Professional Engineers Ontario, drafted a thoughtful articulation of what constitutes professionalism while also making a strong case for a profession's self-regulation:

In the 40-plus years since graduation, I have become even more convinced that this taking of personal responsibility is the essence of professionalism. No one else is going to watch over us and catch our mistakes. The buck stops here! If we don't protect public safety, or the environment, who will? At the end of the day, it is impossible to achieve the same outcomes for society by replacing

professional competence with systems of checks and balances, codes and standards, third-party inspections, or other forms of output regulation. That's why I believe our system of professional self-regulation delivers the best possible value to society when compared to other possible regulatory schemes. (Comrie 2016, 4)

Comrie's article was in the context of the BC government's actions to end the self-regulation of real estate agents, and action which resulted in some reflection by other professions, including engineers. Such reflections included the fact that regulation could and has at times been changed by governments. The deadly 2012 Algo Centre Mall collapse in Elliot Lake, Ontario, also caused some consternation within the ranks of professional engineers when a former engineer was exonerated at trial when charged with three counts of criminal negligence. Gerard McDonald, the registrar of Professional Engineers Ontario, reacted to the verdict, with immediate actions to improve professional standards, and change discipline approaches:

McDonald said his organization has taken steps to improve the engineering profession by adopting recommendations from the Elliot Lake public inquiry. It is asking the Ontario government for legislative clearance to put up disciplinary decisions online about its members, so the public can easily access them, McDonald said.

He added that professional engineers are also undertaking work to develop a standard for the inspection of existing buildings, and they have developed a practice evaluation and knowledge program for their members. (Stefanovich 2017)

These steps appear intended to reassure both public and government that professional engineers could be trusted to self-regulate and conduct effective discipline practices. However, some argued that Professional Engineers Ontario's actions did not go far enough:

Patrick Quinn, retired structural engineer and past president of the Professional Engineers Ontario, told *CBC News* he would like to see stricter guidelines and monitoring practices come from the regulatory body that he once headed.

"I think, it requires much more than what Professional Engineers Ontario is doing at the present time," Quinn said.

"The situation there seems to be more reactive than proactive." (Stefanovich 2017)

Educators might well ponder whether Professional Engineers in Ontario received somewhat more benign treatment from their government in terms of professional regulation than has been provided to teachers.

## PHYSICIANS AND SURGEONS: SASKATCHEWAN

The *Medical Professions Act of 1981* is the legislation which establishes the College of Physicians and Surgeons of Saskatchewan as the regulatory authority for the medical profession in the province:

### College of Physicians and Surgeons of Saskatchewan

With 12 elected and 5 non-medical members, as well as the Dean of Medicine (of the University of Saskatchewan) and a past president, the College is clearly self-regulating. The majority is from the profession:<sup>10</sup>

The College of Physicians and Surgeons is a statutory, self-regulating body established by legislation of the Government of Saskatchewan and charged with the responsibility of:

- Licensing properly qualified medical practitioners;
- Developing and ensuring the standards of practice in all fields of medicine;
- Investigating and disciplining of all doctors whose standards of medical care, ethical or professional conduct are questioned.

The Council is the governing body of the College and is composed of 12 elected physicians, five non-medical members, the Dean of Medicine or his/her designate and, if the past president is not an elected member of Council, the past president. Council members meet five times a year and it is through the Council that the mandate and responsibilities of the College are carried out.

Non-medical members are appointed by the Lieutenant Governor of the Province as representatives of the general public in accordance with Section 9(1) of the Medical Profession Act, 1981. Like physician members, they are appointed for a term of three years. Non-medical members exercise the same rights in holding office and serving as members of committees and subcommittees as the elected members and actively participate in all decision-making processes.

### Council Composition

5(1) The council of the college is continued and consists of:

- (a) the number of members prescribed in the bylaws, which is not to be less than nine members, elected in accordance with this Act and the bylaws;
- (b) five persons appointed pursuant to section 9;
- (c) the dean or his designate pursuant to subsection (2); and
- (d) the immediate past president of the council, unless he has been elected as a member for one of the electoral divisions.

### Public appointees

9(1) The Lieutenant Governor in Council may appoint five persons who reside in Saskatchewan as members of the council.

<sup>10</sup> The following information regarding governance is available at the College of Physicians and Surgeons of Saskatchewan web site: [http://www.cps.sk.ca/imis/CPSS/About\\_Us/CPSS/AboutUs/About\\_Us.aspx?hkey=c06fff19-cb2e-4b79-9267-412efa3a656d](http://www.cps.sk.ca/imis/CPSS/About_Us/CPSS/AboutUs/About_Us.aspx?hkey=c06fff19-cb2e-4b79-9267-412efa3a656d)

## Council and Committees

The Council claims its process are transparent:

The Council of the College of Physicians & Surgeons of Saskatchewan operates under an explicit set of governance policies. It strives to make its work as transparent as possible to the medical profession and the general public. Across Canada steps have been taken to make the work of statutory professional regulatory bodies more transparent to the professionals they regulate and to the general public. Opening meetings of the governing bodies of such agencies to the profession and the public is one mechanism which enhances organizational transparency. In general, organizations have reported positive response to this policy decision.

However, it safeguards its right to move into in-camera sessions at any stage of its proceedings and to hold “in-camera” meetings for any “personnel” issues as it sees fit, which presumably includes discipline. Thus, the Council not only has the discretion to hold disciplinary meetings without any public access, but states that it will do so:

Council meetings are open to the public for all governance related matters. Where matters deal with policy related to litigation and personnel issues, Council will be in camera. There may be occasions during the open session that the President makes the determination to discuss a particular issue in camera. The President will announce his/her intention.

The Annual Disciplinary Summary shows that an average of six disciplinary cases were completed each year from 2011–2015. A *CBC News* article of January 21, 2016, reported that:

48 doctors have been disciplined in Saskatchewan in the past 15 years, including 12 for conduct with patients—everything from criminal sexual assaults and physical touching to entering into personal relationships.

CBC reached out to the College of Physicians and Surgeons in Saskatchewan for comment, but an interview request was declined.

Each of the provincial colleges across the country are members of the Federation of Medical Regulatory Authorities of Canada (FMRAC), which also declined an interview request. (Gillis 2016)

Whatever transparency the College claims to have, its freedom to hold in-camera meetings, and its refusal to discuss misconduct issues with the media suggests something less than transparent procedures. But, it also illustrates how the legislation impacting teachers in some provinces is generally far more restrictive and controlling when compared to the amount of self-regulation permitted to the medical profession. The *CBC News* article (2016) also reported that, unlike some other provinces, in Saskatchewan the onus for reporting appeared to be placed on the individual complainant rather than the doctor. They also stated that the College was unable to impose lifetime bans on its members:

In other jurisdictions, including Ontario, regulatory bodies may report sexual abuse by doctors to the police. The Saskatchewan College said it is somewhat limited in privacy legislation when it comes to reporting matters to law enforcement.

While some other jurisdictions are able to impose lifetime bans on their members, the Saskatchewan College cannot.



### Discipline Committee

The Council also determines whether a specific complaint has sufficient merit to warrant continued disciplinary processes:

Generally, the discipline process begins with a concern expressed by a patient or some other individual on the conduct of a physician. If the concern is sufficiently serious that it may result in discipline, it is referred to the Council of the College or the Executive Committee.

The *Medical Professions Act* also appears to offer considerable latitude in terms of Disciplinary Committee membership and the formulation of bylaws that may define composition:

43(1) The council shall appoint a discipline committee consisting of any members or persons that the council considers advisable, and the council may make bylaws respecting the composition and operation of the discipline committee and respecting any other matters necessary for the purposes of the discipline committee.

### Discipline Process

In terms of disciplinary processes, the Council has the right to dismiss complaints, ascertain whether a physician “lacks skills or knowledge,” appoint a preliminary inquiry to consider whether to proceed with discipline, or come to an agreement with a physician on an alternative to discipline or competency approaches. Taken as a whole, these steps reflect an approach where the profession has considerable latitude and control emanating from the legislation.

The considerable latitude granted through legislation to the Saskatchewan College of Physicians and Surgeons provides a considerable contrast with the legislation affecting teachers in the same province. For physicians and surgeons, the Saskatchewan Party government has not taken any steps to curtail the extensive nature of the self-regulation of that profession. At the same time, the government has ignored the spirit of its own commissioned inquiry, imposing a legislative framework for tight managerial control over Saskatchewan’s teachers.

## Section 5: Discussion

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There is a danger in attempting to frame teachers' scope of practice within fixed parameters, which to some extent this research has done by linking such scope to regulatory control when the actual scope of practice is affected by many other factors. Teachers' scope of practice may be influenced by decisions at school and district levels. Demographic shifts can influence where teachers work. Fast-growing affordable suburbs in cities like Surrey in metropolitan Vancouver are growth areas with increased enrolment and higher demand for teachers. Some resource towns can be either sites of declining student populations when an industry declines or they may boom and reflect increasing student populations when an industry thrives—patterns familiar in Alberta. Refugee influxes might also affect teachers' practice in some cities. District ethos and leadership can vary significantly across a province, as can provincial support for teachers' work.

In conducting this research and report, one key question may be to consider which other frames need to be contemplated when examining scope of practice issues and possible strategies. However, as an exploration of key factors impacting teachers' work, this report offers an initial framing to provide some understanding of ideological, theoretical, managerial and legislative influences and actions that have increasingly controlled the work of teachers in some provincial jurisdictions. These influences have implied reduced trust, attempted to reduce the notion of teachers as professionals, increased accountability expectations, and treated teachers differently than other professions in terms of professional regulation.

There are some clear trends and some stark differences between provinces and countries in terms of teachers' scope of practice. On one hand, jurisdictions such as Finland have a record of respecting teachers' professionalism and autonomy, while at least one Canadian province has explicitly argued that teachers are "lesser professionals" and that their autonomy should be curtailed. Scotland has an approach to teacher standards which is "aspirational" in that the standards encourage teachers to become self-motivated and aspire to be the best they can be. Other jurisdictions have linked standards to teacher evaluation and discipline, thereby moving from an internal/individual and peer/collegial approach to one that imposes an actual or potential external evaluation of whether a teacher complies with stated standards, with discipline processes in place through structures like a Teacher Regulation Board/Branch for those deemed non-compliant.

Legislation imposing Colleges of Teachers or Teacher Regulation Boards/Branches reflects two approaches: one closer to those colleges governing other professions (Ontario, though with the qualification that successive provincial governments have forced change when they deemed it necessary), and another (BC, and likely Nova Scotia) that imposes a more direct managerial model of external control, where government appointees make decisions over the profession rather than

the professionals who work in schools. Somewhere between these examples, geographically and ideologically, is Saskatchewan, with what appeared to be a harsh legislative frame, but a moderate implementation.

With somewhat bloated bureaucracies and low numbers of disciplinary cases to handle, some of these more managerial bodies seek to justify their existence by giving the impression that they are diligently searching for miscreants (BC), or—in what has been termed a “creeping mandate” (Ontario)—potentially targeting increased control of teachers’ professional development. Such efforts also serve to self-justify their aspirations for expansion—aspirations which neo-liberal governments may be happy to enable as the bills for Colleges and Regulation Boards are paid not by the government but by teachers. While the “creeping mandate” has already been identified by Ontario teacher unions, it may also become an issue in BC, as Bill 11 provided enabling legislation for government to take greater control over teachers’ professional development. While implementation of Bill 11 has yet to take place, one possible direction in BC may involve efforts to provide the Teacher Regulation Branch with increased management and direction regarding teachers’ professional development.

Neo-liberal ideologies and managerialist policies are the foundation on which encroachments on teachers’ professional practice are based. There can be no comprehension of efforts to control teachers’ work unless these concepts are understood in terms of their impact in several Canadian provinces. The historical collaboration in the Province of Saskatchewan appeared to have been replaced with a determined drive to impose market policies and to regulate the work of teachers, yet the most negative consequences did not materialize. While Alberta currently has its definitively non-neo-liberal government, the right wing has coalesced and it appears possible if not likely that they will shortly return to power.

In BC, it could be argued that the BCTF had failed to garner either allies or public support for its positions, and became an isolated and tempting target for the incoming Liberal government in 2001. Indeed, the sole opposition to the abolition of the College of Teachers was the BCTF, while other stakeholders either explicitly supported the government’s reforms or remained silent. So understanding historical patterns, and assessing the probabilities of what may yet become are key considerations for any union looking to influence teachers’ scope of practice. In BC, the isolation of the BCTF during the period of the Liberal government limited its ability to find allies to counter government actions. In Ontario, the Liberal government appears susceptible to media critiques of teacher discipline cases and in turn responds with attempts to increase regulation and control. In Saskatchewan, the tradition of consultation and collaboration appears to be allowing for some compromises acceptable to government and union. In Alberta, any potential future government of a United Conservative variety may look for what they perceive as prime targets for reform. Teachers’ scope of practice may be such a target if an incoming government chooses to argue that such scope has moved away from the public interest and is beholden to the interests of teacher unions. Implicit

in such an approach is the unsupported rationale that teacher unions protect only the interest of their members, rather than the educational needs of their students.

One startling discrepancy explored in this report is the gap between rationales and evidence in terms of neo-liberal arguments for change. While the neo-liberal proponents of reforms which impose greater manager control have provided rationales for legislative and regulatory change, their evidence to justify subsequent actions has been flimsy or non-existent, as has been their startling failure to access and utilize academic literature which might inform decision making. Indeed, one might ask prior to the imposition of neo-liberal policies, what exactly is the problem to be fixed? Much has been implied but little proven.

“Restoring public trust” in teachers and other public sector workers implies there is little or none, yet some research has found this not to be the case (Billington 2011). Proposing legislation that is acting “in the public interest” to monitor teachers implies that those whose profession is being monitored and controlled were not previously serving the needs of children, parents and society. Yet little is produced as evidence to show this is the case. Indeed, almost all politicians at some stage extol the work of teachers while those same politicians seek to manage teachers’ work.

Yet, there is also a dilemma for teachers and their unions. Professing that all is well in K–12 education systems as a way to deflect change is problematic. All is not well in many K–12 systems. There are serious issues to address. Some of these issues are long-standing, including the inclusion of diverse learners. Some issues are specific to provinces where education systems have been starved of adequate funding when governments like the Ontario Harris Conservatives cut public spending, or the BC Campbell Liberal government cut taxes by 25 per cent in 2001, forcing spending cuts as a result. The needs of Indigenous learners, issues facing LGBTQ students, changing curricula, massive shifts in technology and communications are but some of the complex issues to address. Teachers in many provinces report serious stress and in one province, data regarding teachers’ mental health rehabilitation claims show that almost half of all teacher rehabilitation claims have been related to mental health. Students’ well-being is an increased focus as public schools are charged with looking after much more than just academic areas of focus.

While there are many complex issues and many problems to address, there are also clear indications of Canadian success in its K–12 public education systems, with Canadian provinces consistently scoring among the top ranks in international assessments. Provinces are developing new curricula, some in positive partnerships with their unions. Teachers across this country successfully educate and care for many children and youth.

What is needed to address issues and dilemmas in Canada’s education systems is not a series of reports with Doomsday titles which trace their origins to “A Nation at Risk,” strong on rationale but short on evidence, and big on fixing only parts of the system that some governments already have in their sights. Rather we need a more collaborative focus on issues and systems, including the

actions of governments. There needs to be more analysis of the available research, rather than the selective choosing of literature. Given those considerations, teacher unions might then play a more constructive role than their traditional opposition to what the public may see as reform.

This report has aimed to argue that, to a great extent, the current focus on teachers' scope of practice reflected in the reports from a range of governments and consultants hired by such governments, is fixed so that reports and analyses fit the preferred directions of the governments that fund them, and a different approach is needed. That approach would be to pose questions, access research, and engage multiple authors with diverse perspectives in a dialogue not controlled by governments with set agendas. How otherwise to explain the plethora of reports that somehow all seem to point the same way? Is the evidence so overwhelming, or are government directions already established? Why are no options offered? Why is a wider range of research and perspectives not accessed? Why do controls over teachers differ so much from those of other professions? If governments control the process, if they commission the 'research', then they control the outcomes. And contractors fully understand what governments want, and many have delivered the goods.

Have any Canadian provinces hired Alfie Kohn, Gert Biesta, David Berliner, Diane Ravitch or their Canadian equivalents to consider educational futures? Of course not, as they might open up avenues of thinking beyond what might be desired. Why bother when the semblance of adequate research can be presented by a name, a status that appears knowledgeable but which actually reflects a preferred direction? If in any doubt, just consider how many reviews commissioned by government have *challenged* government?

Once preferred outcomes are established, governments have the power to legislate, claiming that such legislation is based on the best advice. Advice that they commissioned.

The minuscule numbers of teachers disciplined at enormous cost to the profession as a whole seems to indicate that the rhetoric of the need for more discipline is not matched by the reality. Colleges of Teachers and Teacher Regulation Boards/Branches already have or may become expanding and self-perpetuating entities and bureaucracies with the ability to increase fees at will in order to expand their scope of operations, while the same governments which established such entities to collect mandatory dues show antipathy to the collection of union dues. Teachers' pay the mandatory College fees in some provinces while governments are preventing the profession from exercising professional control over what is clearly managed rather than professional self-regulation. In the neo-liberal nirvana, teachers are managed by the bodies appointed by governments and teachers pay for the privilege. Union members can vote on fee levels and areas of expenditure. College members cannot. While neo-liberal governments denounce closed-shop union contracts, the closed shop of regulation with fees paid by teachers appears not only acceptable but actually legislated by the same governments. For teachers subject to regulation in two Canadian provinces, those who pay the teacher regulation piper do not call the tune.

Provincial variations in the implementation of greater regulation reflect the contexts considered by Lessard and Brassard, and allow for some consideration of influences, historical factors and potential futures. There seems little doubt that the Saskatchewan legislation has drawn heavily on that of BC. The ‘slippery slope’ of Standards in BC may or may not become the experience of Alberta, depending on government actions and the profession’s ability to create counter-narratives. The proposed Nova Scotia directions are influenced by free-market thinking with significant rhetoric and minimal research, but appear likely to follow BC and Ontario if the spirit of the current tone continues into legislation. International comparisons show that there are exceptions to neo-liberal ideologies and approaches, and that countries like Finland and Scotland have made efforts to build, respect and extend the professionalism of their teachers through encouragement and respect rather than with more accountability and increased surveillance.

Finally, the inter-connectedness of concepts, ideology and actions should be considered. Autonomy is rarely challenged without a mention of the need for greater managerial control; greater accountability is demanded after the implication or articulation of reduced trust; de-professionalization is accompanied by a description of teachers as “lesser professionals”—a self-fulfilling term if managerial control becomes more pervasive and teachers lose autonomy and control over their work.

When the next steps are being considered, the frame and perspective offered here might provide some basis for reflection. But other frames may need to be considered, especially ones that the ATA has created and might consider in terms of the future. One such frame is that providing a creative, positive and professional approach through its major historical investment in teachers’ professional development, and in doing so supporting the professional lives and careers of the province’s teachers. If one goal of neo-liberal approaches is to manage teachers’ professional development, then strong, union-led professional development initiatives are a great defense. A second proactive approach is that of the “Rich Accountability and Public Assurance” initiative, addressing the accountability issue head on. This and other counter-narratives might be considered to build public support and confidence in both the profession and its union.

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