

Office of the Child and Youth Advocate

**Submission to the
Department of Education regarding the
Teacher Training Act**

February 2022



Introduction

The Office of the Child and Youth Advocate (OCYA) is an independent office mandated to protect, advance and represent the rights of children and youth in Newfoundland and Labrador. A core value of this office is empowerment and giving power to the voice of young people.

Recently the Department of Education announced that it would be commencing a comprehensive review of the **Teacher Training Act** (the **Act**), and associated regulations. This **Act** governs the certification of teachers in this province and sets out regulations for three processes in teacher training:

- Teacher certification regulations
- Teacher Certification Appeals Regulations
- Discipline

This invitation is timely given that the Child and Youth Advocate issued a media statement November 25, 2021 addressing the need for better responses when a student complains about teacher misconduct ([Better Responses Needed in Student Complaints of Teacher Misconduct](#)). This office strives to improve services and responses to children, and one of the ways it does this is through review of existing legislation and identification of service gaps. The Office of the Child and Youth Advocate welcomes the invitation from the Department of Education to provide feedback on the review of the **Teacher Training Act**.

This response is informed by our direct work on behalf of children and youth, review of existing legislation, review of relevant research, and cross-jurisdictional research regarding teacher training and disciplinary processes.

The Child and Youth Advocate acknowledges that the majority of teachers have positive and respectful relationships with students. The review of the **Teacher Training Act** provides an opportunity to further enhance a child's right to quality education and safety while in school and the importance of this must not be understated.

Our submission highlights the need for enhanced teacher training, student centered protocol for investigating complaints and greater transparency and accountability for disciplinary processes.

While this legislation may on the surface be about teacher training, it directly impacts children, therefore children's rights must be embedded in this legislation. This requires a sound analysis of how this legislation impacts children. Utilizing the lens of a Child Rights Impact Assessment (CRIA) would be beneficial. This assessment process is a comprehensive means to assess the potential impacts of decisions on young people and their rights (Unicef United Kingdom, 2021).

The voice of children is critical and this is upheld through the **United Nations Convention on the Rights of the Child (UNCRC)**. Specifically Article 12 identifies a child's right to participate in decisions impacting them. Teacher discipline, accountability and transparency, and training all deeply impact students. Children must have opportunity to express their views and have these views considered.

The Government of Newfoundland and Labrador created an engagement opportunity for the public to provide feedback on the Review of the **Teacher Training Act** and regulations. There is no demographic information collected through this questionnaire therefore there is no meaningful way to assess child or youth engagement. Although focused on teacher training and certification, essentially this is very much a public policy issue and opportunities for meaningful public engagement are crucial. A focused plan to appropriately and meaningfully engage young people who are directly knowledgeable about these issues is essential.

Our feedback will address some questions specifically but not all, and will also include other comments, issues and considerations related to other areas of teacher certification and licensing.

Teacher Certification

Teachers in Newfoundland and Labrador are required by law to hold a valid Newfoundland and Labrador teaching certificate. The Teacher Training Act and associated regulations outlines the different levels of certification and the professional and educational requirements that are necessary for each level.

Under the current legislation, teacher certificates are issued as interim certificates and may be exchanged for permanent certificates in accordance with **Teacher Certification Regulations**. Permanent teacher certificates do not expire. Through this current review process, the Department of Education is considering amendments that would require teachers to renew their certificates annually. According to the public engagement questionnaire (Engage NL) this would bring Newfoundland and Labrador in line with other jurisdictions in Canada and with other professions.

Regulations regarding the renewal of teacher certificates varies across the country. In Ontario for example, teachers' pay an annual membership fee to maintain their membership and certification with the Ontario College of Teachers (Ontario College of Teachers, 2022). In Saskatchewan, the Saskatchewan Regulatory Teachers Board (SPTRB) is responsible for teacher regulation and requires that certified members register on an annual basis (Saskatchewan Professional Teachers Regulatory Board , 2022). Meanwhile in British Columbia certified teachers must pay an annual practice fee and must authorize a criminal record check every five years in order to maintain their certificate (Government of British Columbia, 2022).

This review is also proposing the addition of professional development requirements not tied to salary upgrades for teachers and would further require teachers to demonstrate attendance at professional development sessions when renewing teacher certificates. The Premier's Task Force on Improving Educational Outcomes titled **Now is the Time**, identified many opportunities for ongoing teacher education and professional development and linked investment in teacher education programs with improved educational outcomes for students (Government of Newfoundland and Labrador, 2017). The Office of the Child and Youth Advocate supports the proposed addition of renewal requirements for Teacher's Certificates including regular renewal and requirements for professional development not tied to salary upgrades.

Considerations for Review of the **Teacher Training Act** must include:

- Implementation of a regular renewal process.
- Require updated education information as part of regular certificate renewal to ensure that teachers remain current in best practices and education standards.
- Consideration of time frames for updated criminal records checks.
- Require an annual declaration/self-disclosure of good professional conduct for all teachers who fall under the **Teacher Training Act**.
- Require an annual declaration/self-disclosure of good professional conduct for all other school employees who fall under the **Teacher Training Act** who are not otherwise regulated by independent professional bodies.

Discipline

Section 5 of the **Teacher Training Act** provides for the suspension or cancellation of a certificate or licence where a teacher is guilty of gross misconduct, incompetence or for other just cause (Teacher Training Act, 1990).

Recently the Advocate highlighted concerns about policies and remedies when complaints regarding teacher misconduct do not meet the threshold for criminal charges. There is a well-defined process when criminal investigations occur and charges are laid. However, when misconduct is alleged and that threshold is not met, the process is not clear.

There are two issues here: (I) the need for a student-centered protocol for addressing student complaints regarding teacher misconduct and (II) accountability and transparency.

The need for a student centered protocol for addressing student complaints regarding teacher misconduct

Currently the Newfoundland and Labrador English School District (NLESD) does not have a protocol for student complaints that puts children first. A protocol is needed and this legislative review is the time to do so.

The NLESD has a Code of Ethics and Conduct. This is designed for employees and identifies applicable human resource policies when dealing with workplace conflicts (Newfoundland and Labrador English School District, 2018). Furthermore, The Safe and Caring Schools Policy, designed to provide a safe and caring learning environment for all students, does not reference employee behavior and consequences (Government of Newfoundland and Labrador, 2013).

Located in frequently asked questions on the NLESD web site there is a process identified in the section **Parent Concerns** that conveys how to register a concern or complaint. There is also reference to an appeal process. (Newfoundland and Labrador English School District, 2018). None of the above-mentioned processes provide a clear child centered process for addressing student complaints.

Considerations for review of the **Teacher Training Act** must include:

- Development and implementation of a student-centered protocol for investigation of student complaints that adheres to: specialized interview expertise with respect to children, clear standards for investigations, specific time frames for completion, and standards for notification to complainants. This should also reflect a definition of misconduct and standards of professional conduct by teachers as it relates to students.
- Ensure that development and implementation of a student-centered protocol for investigation of student complaints aligns with any other legislation, protocol and policies that address student complaints of teacher misconduct.
- Undertake a thorough review of student complaint processes in other Canadian jurisdictions to provide guidance and direction regarding development of policies and protocol for investigation of student complaints.
- Serious consideration be given to the establishment of an independent public complaints process to address student complaints.

Accountability and Transparency

Momentum is growing across Canada for greater transparency and accountability regarding disciplinary processes for teachers. This is in part due to media coverage of cases where teachers have been charged with criminal offenses. It also exists because current processes do not afford appropriate protections for children when there are allegations of teacher misconduct.

In 2018, The Canadian Centre for Child Protection published a report in the Journal of Child Sexual Abuse titled “The prevalence of Sexual Abuse by K-12 School Personnel in Canada, 1997- 2017”. This report was a comprehensive study of child sexual abuse committed or allegedly committed by school personnel over a period of twenty years. Data sources included search of disciplinary decisions where publicly available, media sources and criminal case law. This study identified 750 cases of sexual offenses against a minimum of 1272 children across Canadian jurisdictions (Canadian Centre for Child Protection, 2018). What is of grave concern, and highlighted in this report, is that without media coverage many cases of misconduct never come into the public realm. In Newfoundland and Labrador media alone was responsible for providing information about 67% of cases known from this province and identified as part of this study (Canadian Centre for Child Protection, 2018). Young people in the school system should not have to rely on the media for transparency and accountability.

The findings of this study prompted the Canadian Centre for Child Protection to make three specific recommendations to protect children in schools across Canada:

- Disciplinary decisions by the bodies responsible for the certification of teachers need to be made publicly available in every province and territory.
- Training and education on child sexual abuse prevention, beyond the statutory duty to report, should be made mandatory for all educators and school personnel.
- Standards for accountability and transparency should be set by all school boards, including policies and practices for bringing forward and responding to inappropriate behaviour and boundary violations.

(Canadian Centre for Child Sexual Abuse, 2018)

This study by the Canadian Centre for Child Protection provides valuable information and research for the review of the **Teacher Training Act** and should be used to guide deliberations.

Notwithstanding formal adoption of these recommendations, changes are already being seen in other jurisdictions.

For example, a case in Alberta prompted the Alberta Education Minister Adriana LaGrange to call for a national teachers’ registry. In March of 2020, LaGrange urged her provincial counterparts to come on board in her call for more accountability and transparency to address teacher discipline. According to LaGrange the Council of

Ministers of Education, Canada (CMEC), has created a committee to research the creation of a national registry and are due to release recommendations soon (CBC, 2022).

Also, as of July 1, 2021 in New Brunswick, changes to the **Education Act** that created a Registry of Suspended and Revoked New Brunswick Teachers' Certificates came into effect (Government of New Brunswick, 2022).

Meanwhile in Alberta, Bill 85 the Students First Act received royal assent on December 2, 2021. Among other changes, upon proclamation, Bill 85 will see the creation of an online and searchable data base of teacher and teacher leader information. Additionally, criminal record and vulnerable sector checks will be required every five years and there will also be improved oversight and timeliness of disciplinary matters for teachers and teacher leaders. (Government of Alberta, 2022).

And, as of January 3, 2022, the Ontario College of Teachers has made it mandatory for all Certified Teachers, applicants, and re-applicants to complete an online sexual abuse prevention program. This program was developed with the Canadian Centre for Child Protection and is a tailored version of the Centre's **Commit to Kids Child Sexual Abuse Prevention Program** (Canadian Centre for Child Protection , 2021).

Professional accountability is not new. Many professional associations, boards and colleges in Newfoundland and Labrador have regulations and policies regarding public information about disciplinary decisions and good standing of members. These include: The Royal Newfoundland Constabulary Public Complaints Commission, The Law Society of Newfoundland and Labrador, The College of Physicians and Surgeons of Newfoundland and Labrador, The Newfoundland and Labrador College of Social Workers, The Newfoundland and Labrador Psychology Board and The College of Registered Nurses of Newfoundland and Labrador.

Considerations for review of the **Teacher Training Act** must include:

- Expanded legislation to include a public registry of teacher disciplinary decisions including cancellation and/or suspension of teaching certificates, as well as any sanctions imposed.

This review is an opportunity to fill existing gaps in the **Teacher Training Act**. Changes made can ensure that students in Newfoundland and Labrador schools have appropriate protections and mechanisms available when allegations of teacher misconduct are made. Educators occupy positions of power and trust and there is an inherent power imbalance between students and their teachers. It is therefore critically important to make sure every possible measure is in place to protect students so they get the quality education they deserve, while feeling safe and secure in their school setting.

Summary of all Proposed Considerations for the Review of the Teacher Training Act:

1. Utilization of a Child Rights Impact Assessment to guide review.
2. Implementation of a regular renewal process.
3. Require updated education information as part of regular certificate renewal to ensure that teachers remain current in best practices and education standards.
4. Consideration of time frames for updated criminal records checks.
5. Require an annual declaration/self-disclosure of good professional conduct for all teachers who fall under the **Teacher Training Act**.
6. Require an annual declaration/self-disclosure of good professional conduct for all other school employees who fall under the **Teacher Training Act** who are not otherwise regulated by independent professional bodies.
7. Development and implementation of a student-centered protocol for investigation of student complaints that adheres to: specialized interview expertise with respect to children, clear standards for investigations, clear time frames for completion, and clear standards for notification to complainants. This should also reflect a clear definition of misconduct and clear standards of professional conduct by teachers as it relates to students.
8. Ensure that development and implementation of a student-centered protocol for investigation of student complaints aligns with any other legislation, protocol and policies that address student complaints of teacher misconduct.
9. Undertake a thorough review of student complaint processes in other Canadian jurisdictions to provide guidance and direction regarding development of policies and protocol for investigation of student complaints.
10. Serious consideration be given to the establishment of an independent public complaints process to address student complaints.
11. Expanded legislation to include a public registry of teacher disciplinary decisions including cancellation and/or suspension of teaching certificates, as well as any sanctions imposed.

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