

The image is the front cover of the 'ANNUAL REPORT | 2015/16' for the 'COMMISSIONER FOR Teacher Regulation'. The top half of the cover has a teal background with the title in white and dark teal text. Below this, a woman with long dark hair, wearing a light blue cardigan over a white top, smiles while holding a black tablet. The tablet screen shows the British Columbia Commissioner for Teacher Regulation logo, which includes a crest and the text 'BRITISH COLUMBIA COMMISSIONER FOR TEACHER REGULATION'. The background behind the woman is a light green wall covered in faint, hand-drawn educational icons like 'Learnin', 'Study', 'Thinking', 'growth', 'Experiment', 'Innovation', a robot, a pencil, a lightbulb, and a gear. In the background, slightly out of focus, a man in a blue shirt sits on a yellow chair. The bottom of the cover features a teal banner with the text 'ANNUAL REPORT | 2015/16'. At the very bottom, there is a repeating pattern of the years '2015' and '2016' in a light teal color.

BRITISH COLUMBIA  
COMMISSIONER FOR  
TEACHER REGULATION



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COMMISSIONER FOR  
TEACHER REGULATION

September 30, 2016

The Honourable Mike Bernier  
Minister of Education  
Room 310, Parliament Buildings  
Victoria, BC V8W 9E2

Dear Minister Bernier:

It is my honour to present to you the 2015-2016 Annual Report for the Office of the Commissioner for Teacher Regulation. This report covers the period from July 1, 2015 to June 30, 2016.

This report has been prepared and submitted in accordance with section 5 of the *Teachers Act*.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bruce Preston', enclosed within a circular outline.

Honourable Bruce Preston  
Commissioner for Teacher Regulation

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## ANNUAL REPORT | 2015/2016

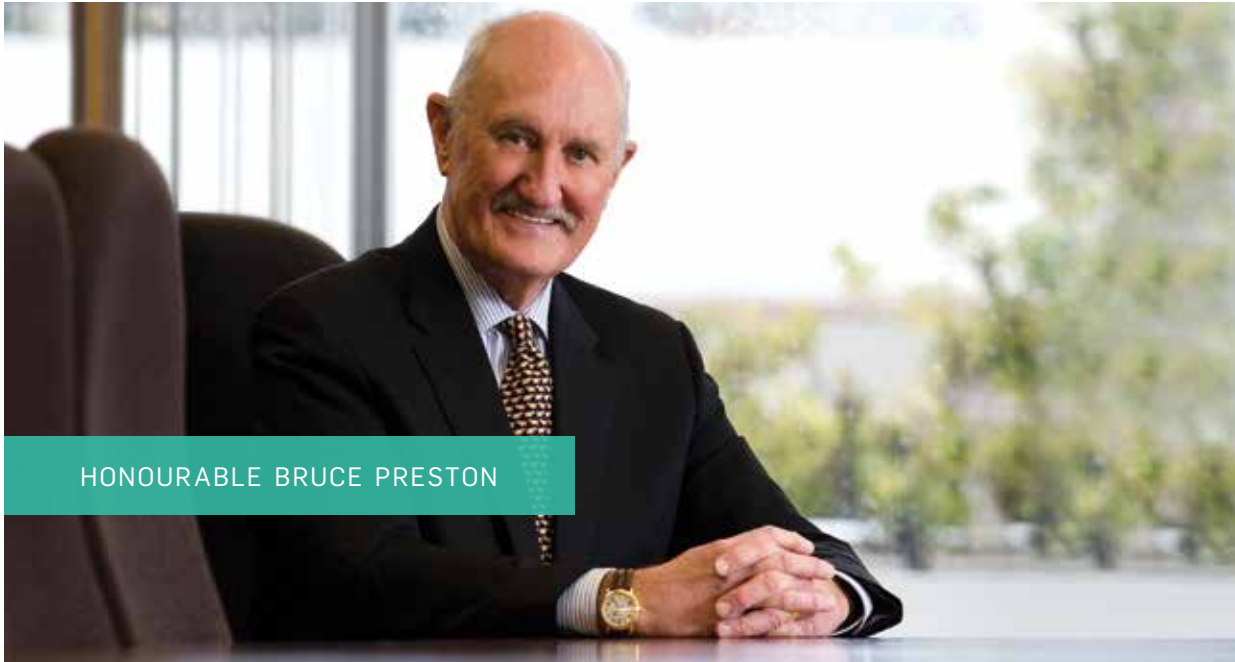
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# Commissioner's Message

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The *Teachers Act* (the “*Act*”) came into force on January 9, 2012. I was appointed Commissioner for Teacher Regulation under that Act on November 12, 2012. The object of the *Act* was to ensure, through a robust system of teacher discipline, that students in public and independent schools in British Columbia will attend each day in a secure, welcoming environment. In the vast majority of instances, that is now the case and has been in the past. My job concerns only the small number of teachers who for various reasons do not measure up to the high standards set for members of the teaching profession. The *Act* provides for a transparent system of discipline that has as its goal the maintenance of society’s confidence that the public interest in the protection of children in the school system will be ensured.

One of the innovative aspects of the *Act* is its requirement that instances of teacher discipline be made public. Over the four and one-half years of the life of the *Act* there has been a new standard of openness in teacher discipline. The details of teacher misconduct and the nature of the

dispositions of discipline matters have regularly been made public on the Teacher Regulation Branch website. Media interest in teacher discipline since this new openness has ensured an enhanced level of public awareness that misconduct by teachers is being monitored and deterred.

The deterrent effect of a transparent system of discipline has been accompanied by an increased focus on remedial training for teachers to enhance the skills needed to deal with the increased challenges posed by the modern British Columbia classroom. We live in a society of heightened expectations. The world is becoming increasingly technologically complex. British Columbia schools have become multicultural and inclusive. Teachers today require a level and breadth of skills beyond those of the recent past.

The demands of administering a system of discipline in that challenging environment are complex. My staff concluded 216 investigations during the past year. Maintaining a high level of efficiency of investigations ensures that students, parents and teachers who are involved in investigations

are not subjected to excessive periods of anxiety in what is inevitably a long process. I am proud of the level of efficiency achieved in all areas of the discipline process and intend to ensure that the gains made over the past three years are maintained and improved upon.

What can parents and members of the public do to ensure that their concerns with the performance of teachers are addressed efficiently? First and foremost the concerns should be brought to the attention of the teacher involved. You should adopt a cooperative and problem-solving approach. If that doesn't lead to a prompt constructive response, raise them with the vice-principal or principal. In the few cases in which the dispute cannot be resolved at that level you should seek the assistance of the Superintendent of Schools in your school district. I have included a short guide to resolving disputes at the school level as [Appendix C](#) to this report. Every school district has a protocol for resolving disputes. You should avail yourself of it. In almost all cases, resolution at the school level offers the best opportunity to resolve concerns without invoking the teacher discipline process. In my experience, the student involved will in almost all cases be better served by a timely resolution at the school level than by the slower processes involved in disciplining a teacher

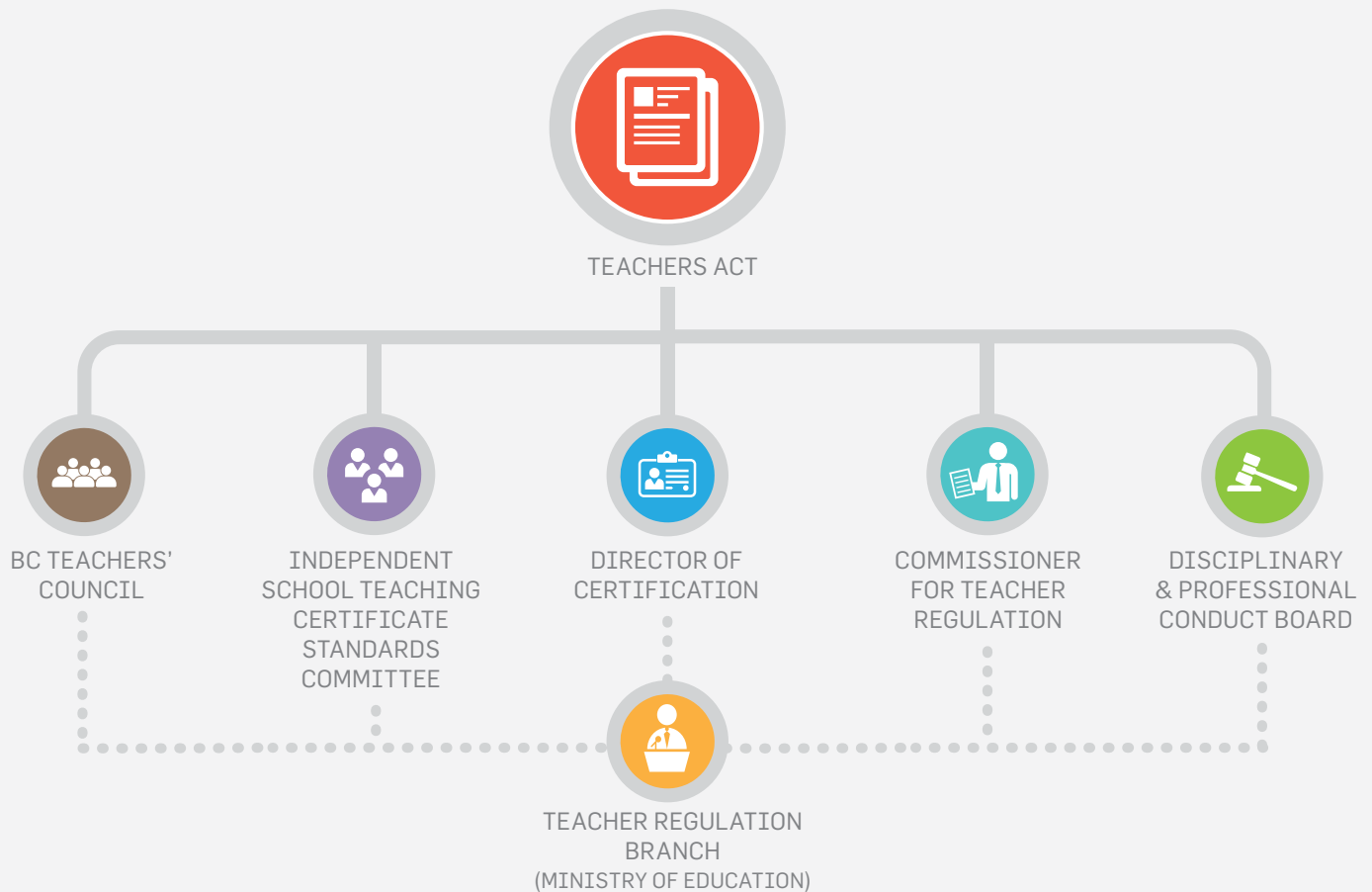
through a complaint to me. The overwhelming majority of disciplinary proceedings against teachers that I deal with come to me from the schools themselves through the reporting obligations placed on them by the Act.

It is my experience that constructive dialogue is the best guarantee that the day-to-day demands of educating our most precious resource will be met. There will continue to be instances of teacher misconduct and I will continue to investigate and resolve them with disciplinary responses where that is appropriate.



# The Regulatory Structure

The regulatory structure, administered by the Teacher Regulation Branch of the Ministry of Education, consists of six separate and distinct bodies, each of which plays a unique role under the *Act*.





## COMMISSIONER FOR TEACHER REGULATION

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Receives reports and complaints regarding teacher conduct and competence.

Oversees all disciplinary processes for teachers working in the public and independent school systems.

Conducts preliminary reviews of certification appeals.

Appoints three member hearing panels to consider evidence and submissions at a discipline hearing.



## DISCIPLINARY AND PROFESSIONAL CONDUCT BOARD

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Consists of nine BC Teachers' Council members 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.



## INDEPENDENT SCHOOL TEACHING CERTIFICATE STANDARDS COMMITTEE

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Consists of three members who have been appointed by the Minister of Education.

The ISTCSC establishes the standards that are required to be issued an independent school teaching certificate and to maintain an independent school teaching certificate.



## BRITISH COLUMBIA TEACHERS' COUNCIL

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Consists of 15 elected or appointed members, and one non-voting Ministry of Education representative, for a total of 16 members.

The Council sets certification standards for applicants, sets competence and conduct standards applicants and certificate holders, sets teacher education program approval standards, and determines if teacher education programs meet these standards.



## DIRECTOR OF CERTIFICATION

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Issues, suspends and cancels Certificates of Qualification and Letters of Permission.

Maintains the Online Registry of Certificate Holders, their certificate status, and any disciplinary action, if relevant. This list is publicly accessible on the Teacher Regulation Branch website.

Ministry of Education staff member.



## TEACHER REGULATION BRANCH

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Serves as the operational arm of the regulatory structure providing administrative support to the various regulatory bodies listed here.

Administers the certification and disciplinary processes for teachers in the kindergarten to grade 12 public and independent school systems.

Part of the Ministry of Education.



# The Discipline Process

The discipline process begins when I receive a report or complaint of teacher misconduct or incompetence. The process can also be initiated if I decide that an investigation into the conduct or competence of a teacher is necessary when I become aware of a possible breach of the *Standards for the Education, Competence and Professional Conduct of Educators in British Columbia* or the *Independent School Teacher Conduct and Competence Standards* (the “Standards”) through avenues such as media reports, a self-report from a teacher, or a notification from the Ministry of Justice.

## The Intake Process

The *School Act* and the *Independent School Act* require superintendents, school boards or independent school principals to notify my office in a number of situations, including when a teacher is suspended, disciplined for serious misconduct or dismissed. Those reports trigger the discipline process. The process is also triggered when a member of the public makes a complaint about the holder of a teaching certificate. The reports and complaints are handled administratively by the intake officers on my staff in the Professional Conduct Unit. Their job is to deal with the school board, superintendent, principal or member of the public initiating the complaint or report to ensure that all necessary information is available to allow me to conduct a preliminary review of the report or complaint.

Intake officers are the first and most important point of contact between the public, school boards, independent school authorities and the Office of the Commissioner. They guide individuals through the complaint and report submission process. They ensure that anyone making a report is aware of the reporting requirements under legislation and that any member of the public making a complaint appreciates the necessity of specifying as accurately as possible the nature of the complaint.

Intake officers are responsible for creating a file for each incoming matter. They seek out and assemble the documentary information required to allow me to conduct a preliminary review. This may be a time-consuming process if the documentation is extensive. They follow up with individuals making reports and complaints to ensure no miscommunication has occurred.

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The term “teacher,” as used in this report, refers to an individual who holds a Certificate of Qualification, a Letter of Permission or an Independent School Teaching Certificate. “Teacher” includes superintendents, principals, vice-principals, directors, and classroom teachers.

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## Preliminary Review

On a preliminary review, I review the material that accompanies the complaint or report with members of my staff. The *Act* provides that I must consider the following questions:

1. Is the matter within my jurisdiction (i.e. does the matter relate to a current or previously certified teacher)?
2. Is the matter frivolous or made in bad faith?
3. Does the matter have any reasonable prospect of resulting in an adverse finding by a hearing panel?
4. Is it in the public interest to take any further action with respect to the matter?
5. Has the matter been pursued in a timely manner?

The *Act* provides that I may decide to take no further action if any of those considerations dictate that I should not proceed further.

**27% of complaints and reports were dismissed at this stage during the 2015-2016 school year.**

The matters that are not dismissed at this stage may proceed to investigation if further information is required to permit the matter to be dealt with by consent resolution or hearing.

## Deferral

In some cases, the matter may be deferred to await the conclusion of another process such as the court process in criminal matters or a medical or treatment process when alcohol, drug dependency or psychiatric disorders are involved in the behaviour that gave rise to the conduct. Once the other process is complete, or there is sufficient information to allow me to carry on the discipline process, I may refer the matter to investigation, or consent resolution.

## Investigation

The object of an investigation is to determine and record the facts of the matter – not to make recommendations with regard to a resolution. The resulting reports are commonly provided to the teacher under investigation for comment. This provides an opportunity for the teacher to point out factual errors or to provide an explanation for facts contained in the report. This may trigger further investigation. At the end of the investigation process, the matter is brought back to me for further review in conference with my staff and lawyers from the Ministry of Justice assigned to assist me. In the 2015-2016 school year, 56% of the investigations concluded were ended at this stage by a decision to take no further action. Otherwise, the matter is usually moved to the consent resolution process.

## Consent Resolution

The Act provides for a process of consent resolution as an alternative to a hearing before a panel. Most cases in which disciplinary action proceeds after a review, either before or after an investigation, are resolved by consent resolution. Very few go on to hearing before a panel. I may offer or accept a consent resolution agreement at any time after a preliminary review and before a hearing. The consent resolution process is a voluntary process. It usually begins when I provide a draft consent resolution to the teacher or his or her counsel. The draft consent resolution is drawn in accordance with the Act which requires that it contain:

- The terms agreed upon by both the Commissioner and the teacher;
- One or more admissions of professional misconduct or incompetence related to a report, complaint or a Commissioner-initiated investigation; and
- The discipline consequences (e.g. reprimand, suspension or cancellation of a certificate or a requirement to undertake remedial education).

To encourage the prompt resolution of conduct and competence matters, detailed consent resolution terms are proposed with a time limit before a citation will be issued, publicly announced, and scheduled for a hearing before a panel. However, it is still possible to conclude a matter by consent resolution during the time the matter is proceeding to hearing.

Depending on the misconduct or incompetence of the teacher, the disciplinary consequence can range from a reprimand to cancellation of the teaching certificate. A central record of disciplinary matters and consequences is maintained by the Teacher Regulation Branch.

## Hearings

Reports and complaints that go unresolved following the preliminary review process, the investigative process, and the consent resolution process proceed to a citation and hearing.

Under the Act, I must appoint a panel to conduct a hearing. Each panel consists of two members from a pool of nine Disciplinary and Professional Conduct Board members, and one member from a pool of lay people with legal experience and/or experience participating in administrative hearings.

All hearings are open to the public unless a panel determines otherwise. The Act permits all or part of a hearing to be closed if a panel determines that the interests of a person affected by the proceedings or the public interest outweigh the benefits to the public of a public hearing.

After a hearing, a panel must decide if the teacher is guilty of professional misconduct or incompetence, or whether a citation should be dismissed and no further action taken. In the event that misconduct or incompetence is found, the panel is responsible for determining the consequences to be imposed as a result. Disciplinary consequences could include a reprimand, a suspension, cancellation or no re-issuance of a teaching certificate, or the placement of limitations or conditions on a certificate. The panel is required to give written reasons for its decisions which are published on the Teacher Regulation Branch website unless the panel determines that doing so would cause significant hardship to a person who has been harmed by the teacher.

The written reasons of the hearing panels provide guidance in other cases that permits most matters to be settled by consent.

There have been 17 hearings concluded since the Act came into force: 1 hearing in 2012; 4 hearings in 2013; 3 hearings in 2014; 3 hearings in 2015; and 6 hearings concluded so far in 2016.

# Year In Review

Since the transition to the *Act* in 2012, the initial upward trend in the number of misconduct and incompetence matters received annually has levelled off in the last three years. That said, these statistics need to be considered in context. While there are approximately 70,000 teachers who hold a Ministry of Education teaching certificate and approximately 553,000 students enrolled in BC public schools and 81,600 students enrolled in BC independent schools, the number of disciplinary matters coming to my attention involve less than 1% of all BC teachers.

## Statistics

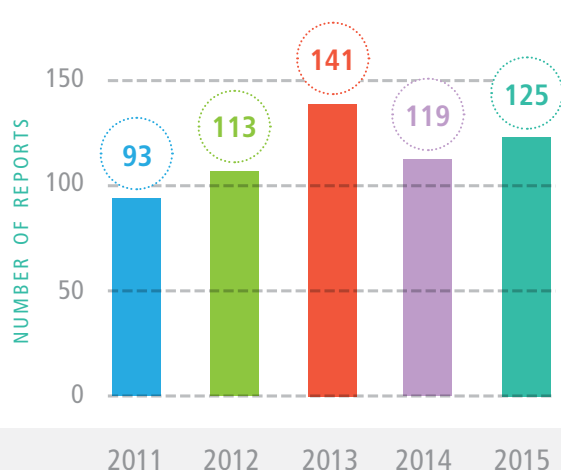
To accurately reflect the trend in these statistics they are reported on an annual, as opposed to a school year basis. Care should be taken in drawing conclusions on the basis of comparison between public and independent school statistics as many of the numbers are small. Complaint statistics can be heavily influenced by multiple complaints filed by a single complainant. Sometimes these complaints are without foundation and do not result in any regulatory action.

## Reports, Complaints and Commissioner-Initiated Investigations

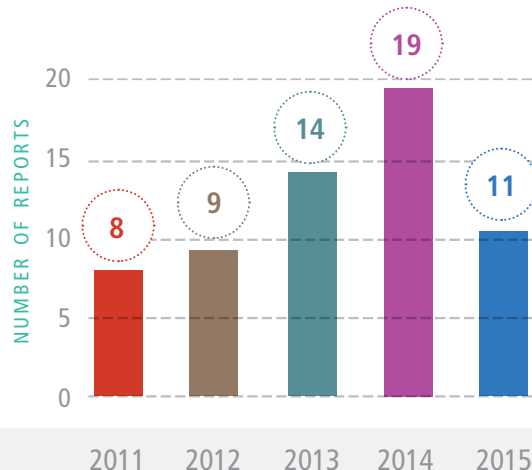
*REPORT: A written report to the Commissioner regarding a teacher who: has been suspended, dismissed, disciplined for misconduct that involves physical harm to a student, sexual abuse or sexual exploitation of a student; has caused significant emotional harm to a student; or is believed to have breached the Standards. It also includes reports directly from teachers under section 38 of the Act.*



### REPORTS RECEIVED REGARDING PUBLIC SCHOOL TEACHERS



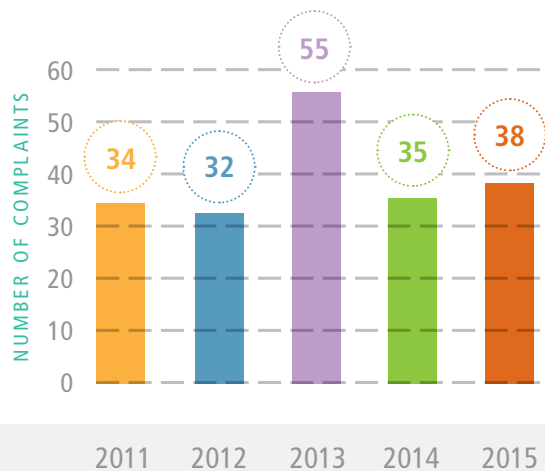
### REPORTS RECEIVED REGARDING INDEPENDENT SCHOOL TEACHERS



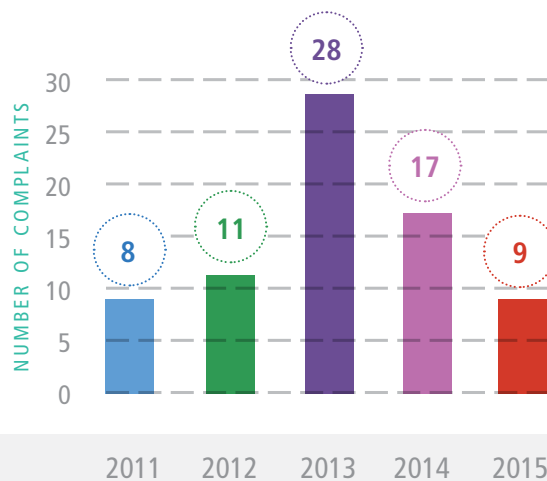
COMPLAINT: a written complaint to the Commissioner from a member of the public regarding the conduct or competence of a teacher who is believed to have breached the Standards.



#### COMPLAINTS RECEIVED REGARDING PUBLIC SCHOOL TEACHERS



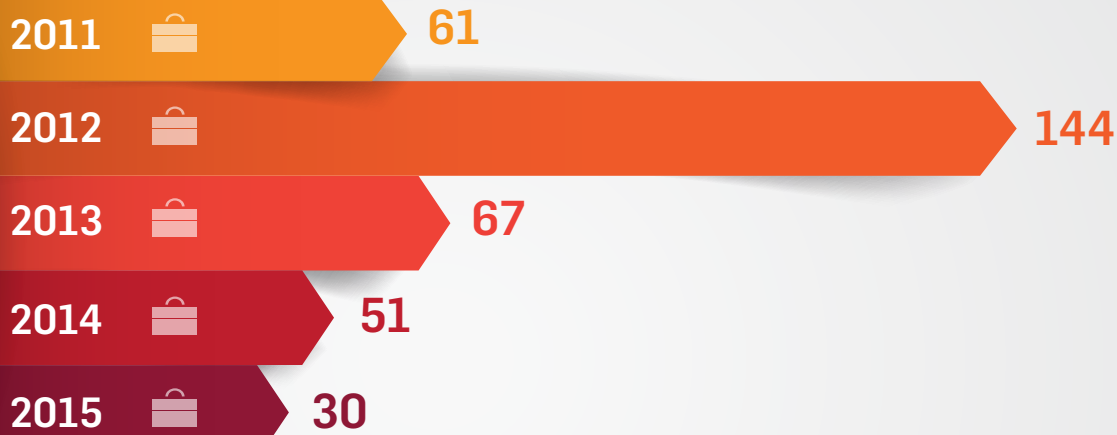
#### COMPLAINTS RECEIVED REGARDING INDEPENDENT SCHOOL TEACHERS



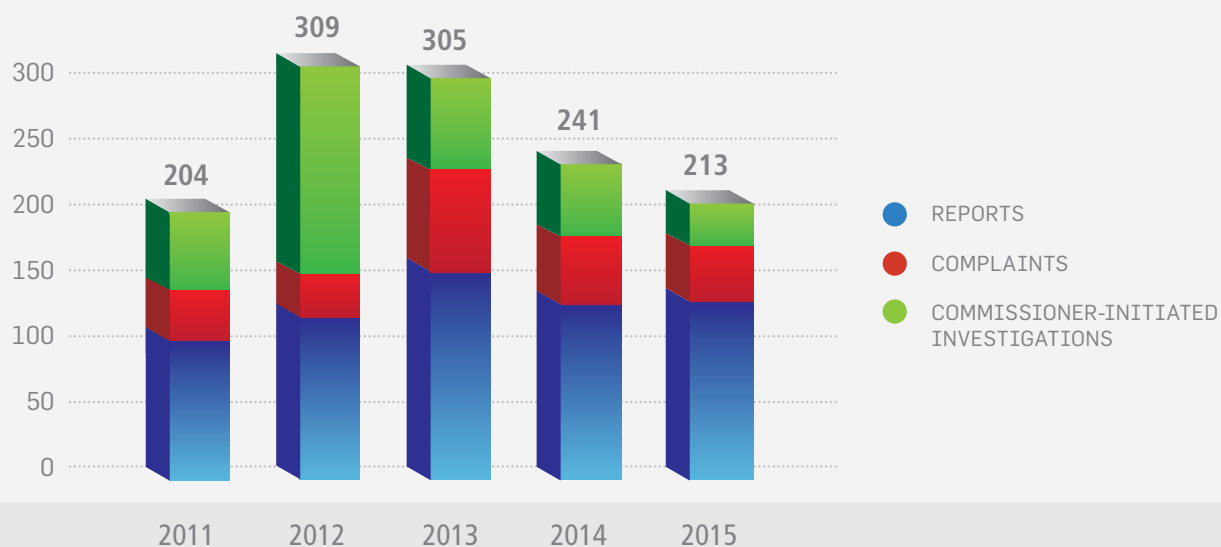
[ INCLUDES OFFSHORE AND BAND SCHOOLS ]

#### COMMISSIONER INITIATED INVESTIGATIONS

[ INCLUDING 5 YEAR CRIMINAL RECORD CHECKS ]

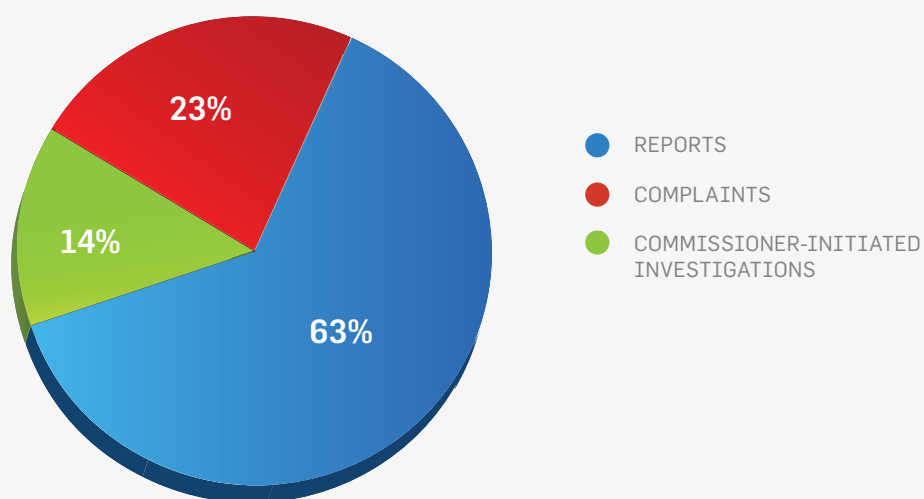


## TOTAL REPORTS, COMPLAINTS, AND COMMISSIONER-INITIATED INVESTIGATIONS



## PERCENTAGE OF REPORTS, COMPLAINTS AND COMMISSIONER-INITIATED INVESTIGATIONS

[ 2015 ]



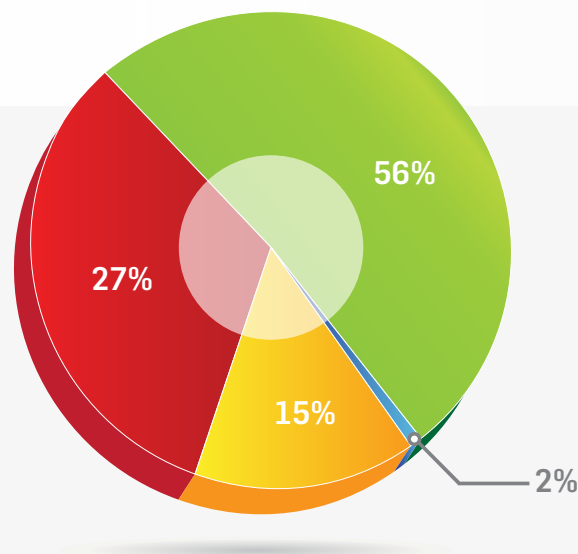
## Cases Resolved by Stage of Process

The following chart displays the resolutions of disciplinary matters in the 2015-2016 school year. This chart shows an increase in decisions to take no further action after investigation. This is because of the resolution of the substantial backlog of 5-year criminal record check files in that year. I expect the statistical results next school year will return to the earlier pattern.

### PERCENTAGE OF CASES RESOLVED BY STAGE OF PROCESS

[ 2015-2016 SCHOOL YEAR ]

- NO FURTHER ACTION – FOLLOWING INVESTIGATION OR OTHER PROCESS
- NO FURTHER ACTION – FOLLOWING PRELIMINARY REVIEW
- CONSENT RESOLUTION AGREEMENT
- HEARING



## Nature of Complaints and Reports

The *School Act*, the *Independent School Act*, and the *Teachers Act* deal with a broad range of misconduct. Any behaviour that harms, disadvantages or endangers students or brings the teaching profession into disrepute may be the subject of discipline.

Sexual misconduct is extremely serious and will usually result in an interim suspension and subsequent cancellation of the teacher's teaching certificate with the likelihood that he or she will be barred from teaching children for life. Even the accusation of sexual misconduct damages a teacher immeasurably. Sexual misbehaviour, especially toward a child over whom a teacher exercises authority, carries a stigma that exceeds most other forms of misconduct. Extreme care is exercised in dealing with complaints of this nature.

Behaviour that exposes a student to physical or significant emotional harm is also singled out by the *Act* for special scrutiny.

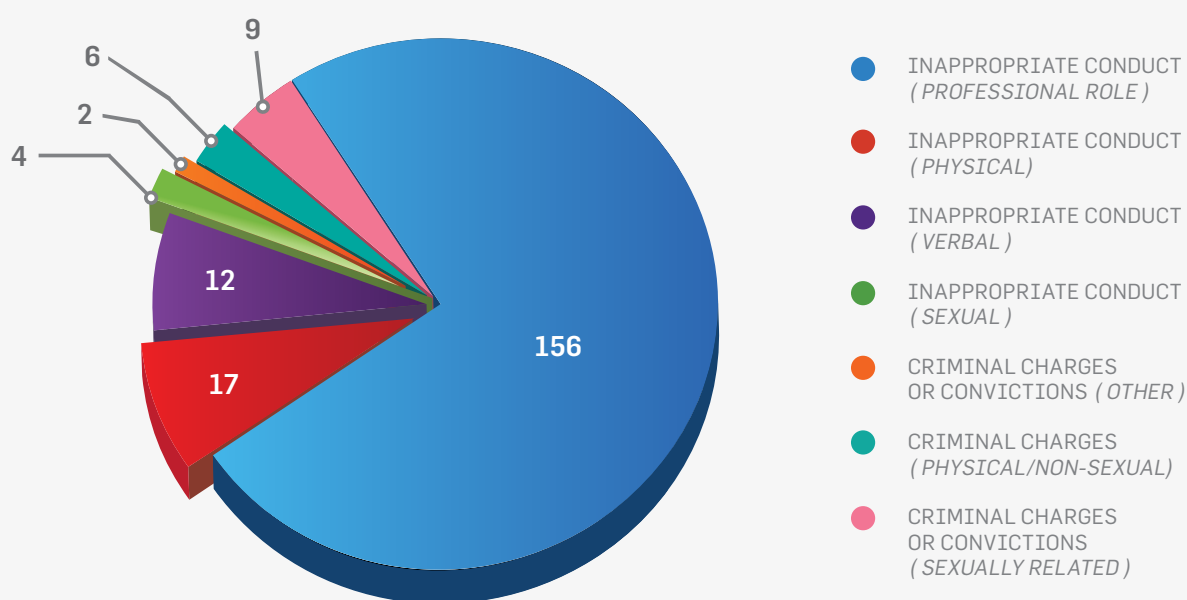
When determining whether a teacher's behaviour amounts to misconduct, the conduct is measured against the *Standards* established by the British Columbia Teachers' Council under the *Teachers Act*, and by the Independent School Teaching Certificate Standards Committee under the *Independent School Act*.

Examples of reports and complaints that I receive include: inadequate classroom management; physical, verbal or sexual misconduct; anger management issues; possession of child pornography; failure to supervise students; and off-duty misconduct.

Examples of misconduct or incompetence allegations received by the Commissioner include but are not limited to: inadequate classroom management; physical, verbal or sexual misconduct; anger management issues; possession of child pornography; failure to supervise students; and off-duty misconduct.

## NATURE OF MISCONDUCT

[ 2015 -2016 SCHOOL YEAR ]



## Categories of Misconduct

Teacher misconduct has been reported in my annual reports in the manner which our management information system has traditionally collected it. The categories of misconduct are a holdover from the College of Teachers categorization. Much of the misconduct has been categorized in an unenlightening category called "inappropriate conduct professional role". This will be the last year in which that category is used. The statistics collected within the Professional Conduct Unit will be in the future collected in a number of much narrower categories. Those categories reflect our experience over the past four and one half years.



Categories are set out in bold face and the examples of the types of misconduct included in that category are included below them. In circumstances in which a report or complaint of misconduct by a teacher falls into one or more categories the conduct will be reported in the category appropriate to the most serious allegation.

## [ DIRECTLY STUDENT RELATED ]

### Inappropriate behaviour in the classroom

- Showing inappropriate videos
- Angry outbursts
- Swearing
- Yelling
- Talking about inappropriate subjects
- Thoughtless actions and statements

### Emotional harm – *student*

- Yelling at students
- Humiliation
- Demeaning comments
- Embarrassing students

### Physical harm – *student*

- Physical violence of any nature toward student

### Special needs student violations

- Inappropriate failure to follow IEPs
- Rude or taunting behaviour toward special needs students
- Inappropriate discipline of special needs student

### Boundary violation – *sexual*

- Overt sexual advances
- Grooming behaviour
- Sexual innuendo
- Sexual touching

### Boundary violation – *non-sexual*

- Inappropriately befriending student

### Social media violation

- Posting inappropriate material on social media
- Inappropriately communicating with students on social media
- Disclosing private student information on social media

### Failure to supervise

- Losing track of student
- Prolonged absence from classroom
- Leaving student unattended

### Breach of school rules

- Failure to follow critical incident protocols
- False reporting of student marks
- Failure to show up for duty
- Failure to attend to student medical emergencies
- Failure to follow shop safety rules
- Under the influence of alcohol or drugs at school
- Breach of student confidentiality

## [ NOT DIRECTLY STUDENT-RELATED ]

### Fraudulent behaviour

- Creation of fraudulent documents
- Fraudulent claims of sick leave or other leave

### Harassment – *colleague*

- Harassing behaviour toward colleagues
- Sexual harassment of colleague

### Theft of school monies

### Misappropriation of school property

### Other

## [ CRIMINAL CHARGES OR CONVICTIONS ]

### Criminal charge/conviction - *sexual*

### Criminal charge/convictions physical/non sexual

- Spousal assault
- Assault
- Murder/manslaughter
- Attempted murder

### Criminal charges – *other*

- All other criminal charges but physical and sexual
- Theft under
- Dangerous driving
- Criminal negligence
- *Narcotic Control Act* charges

## Discipline Outcomes

The Act outlines the type of sanctions that may be imposed on a teacher who has been found guilty, at the regulatory level, of breaching the Standards. The sanctions vary depending on the severity of the breach and may include:

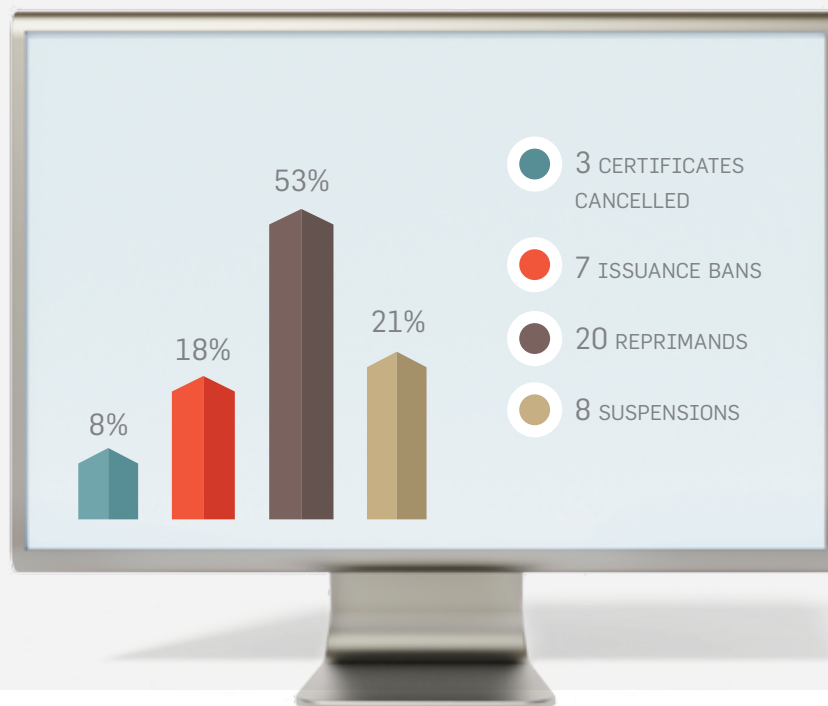
1. a reprimand;
2. the placement of limitations and conditions on a certificate;
3. suspension of a teaching certificate for a fixed period, until certain conditions are met, or until an individual shows he/she is capable of teaching;
4. a ban on issuance of a teaching certificate for a fixed or indeterminate period of time; or
5. cancellation of a teaching certificate;

The most commonly imposed sanction in the 2015-2016 school year remained the reprimand. Often the reprimand is combined with the imposition of a requirement that the teacher complete a training course at their own expense. The proportion of cancellations doubled. The proportion of issuance bans remained constant. These bans are imposed when the teacher no longer holds a teaching certificate at the time that the consent resolution is signed.

The least common sanction continues to be the cancellation of a teaching certificate.

### DISCIPLINE OUTCOMES

[ 2015 - 2016 SCHOOL YEAR ]



# Reducing Delay In The Discipline Process

## Intake

The intake process is central to ensuring the overall disciplinary process proceeds without delay. In the past, delay in the intake process was one of the major contributing factors to overall delay. Delay in the intake process has declined significantly since the reorganization of the process in early 2013. The median delay was four months in 2012 and is now at under one month in 2016.

## Investigation

The time taken by investigations is one of the greatest contributors to the length of the discipline process. The Act provides me with broad powers to compel the production of evidence. I delegate those powers to investigators in the Professional Conduct Unit who conduct the investigations in individual cases on my instructions.

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As of **2015** the **Professional Conduct Unit** had a staff of **10 investigators**.

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I maintain responsibility for the quality and timeliness of those investigations. I order the investigations after reviewing information received in the form of complaints or reports. The resulting reports prepared by the investigators provide the factual basis upon which I determine whether or not disciplinary action should be taken.

When I determine that disciplinary action is appropriate, the investigation reports provide the facts that form the basis for consent resolution agreements in which the teacher involved admits misconduct or incompetence.

If no consent resolution agreement is reached, the investigation report will provide the basis for the evidence that is placed before a hearing panel whose job it is to determine whether the teacher is guilty of misconduct or incompetence.

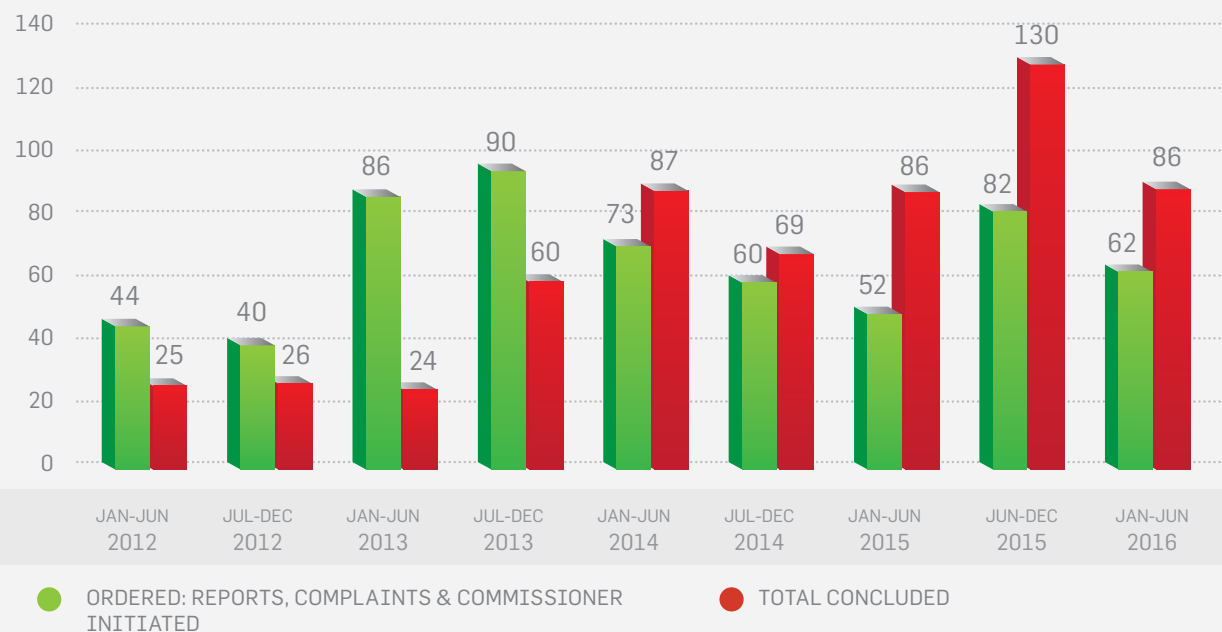
Investigators do not make a determination about whether the teacher misconducted him or herself or was incompetent. Nor do investigators make recommendations concerning a finding of guilt or innocence of an allegation of misconduct or incompetence. An investigator's job is to determine the facts of a particular situation. They must do so with scrupulous care, without being influenced by their own preconceptions or the expression of views by the witnesses being interviewed. Conducting a competent investigation is an exceptionally demanding and difficult job.



## Investigative Backlog and Delay

The following chart displays the statistics on investigations ordered and investigations concluded at six month intervals. It indicates the progress made in reducing the gap between those ordered and those concluded. This has been accomplished by procedural changes to the manner in which investigations of both reports and complaints are handled and by an increase in the number of investigators. The addition in 2015 of three new investigators and two new investigative assistants has facilitated a further reduction in delay.

### INVESTIGATIONS ORDERED & INVESTIGATIONS CONCLUDED BY 6 MONTH PERIOD



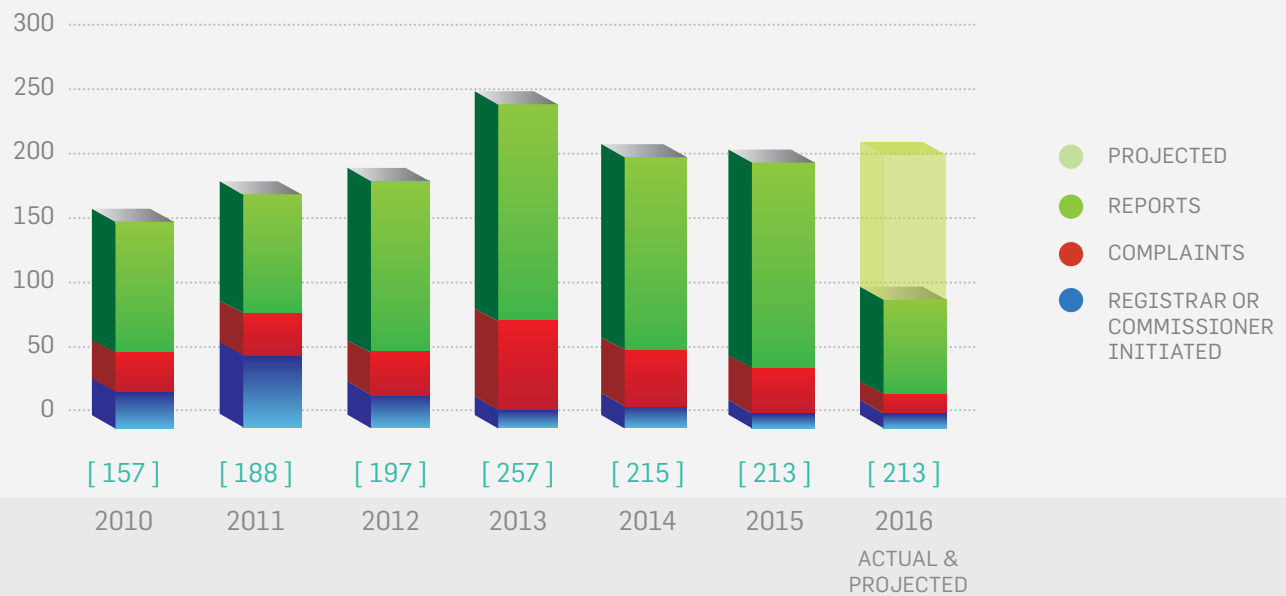
The following table shows by year the average investigative case load and investigative backlog for the period 2010 to 2016. During that period the average case load has been reduced from 27.33 to 21.51. This has been accomplished by process change and the addition of investigators. Criminal record files in the backlog are treated separately.

DATE	OUTSTANDING INVESTIGATIONS	NUMBER OF INVESTIGATORS	AVERAGE CASE LOAD	DELAY IN YEARS
June 15, 2010	82	3.0	27.33	1.95
June 15, 2011	100	5.0	20.00	1.43
June 15, 2012	112	5.0	22.40	1.60
June 15, 2013	189	7.3	25.89	1.62
June 15, 2014	192	7.0	27.43	1.71
June 15, 2015	183	9.6	19.06	1.19
June 15, 2016	185	8.6	21.51	1.34

Since 2013 the annual total number of complaints, reports and Commissioner-initiated investigations has remained constant as is shown in the following chart.

## COMPLAINTS, REPORTS AND COMMISSIONER-INITIATED INVESTIGATIONS

[ CALENDAR YEARS ]



Nine months is my estimate of the minimum delay that can be achieved in the investigation process while still maintaining an acceptable degree of efficiency. There are unavoidable delays in the investigation process caused by the time it takes to contact witnesses and obtain evidence/statements from them, prepare investigation reports or memos, seek and obtain directions, etc. A nine month turnaround implies that an investigator will have approximately 14 files.

My present goal is to reduce the investigation backlog to the nine-month level in 2017.

## Consent resolution

The consent resolution process involves considerable back-and-forth contact with teachers and their counsel. The Act sets out the requirements of a consent resolution agreement including the requirement that the details of the conduct admitted by the teacher be set out in the agreement. Frequently there is disagreement over details of the wording used to capture the conduct. This may initiate further investigation to determine the exact nature of one or more of the instances of misconduct. In addition, the nature of the penalty sought by the Commissioner may be the subject of negotiation concerning such details as the dates of a suspension, the length of time that the teacher has during which to take a remedial program, or the details of a substance abuse rehabilitation program.

Delay in the consent resolution process has been reduced since we instituted the practice of drafting consent resolution agreements in full to initiate the process. This change has required the development of staff expertise and administrative resources within the Professional Conduct Unit in order to streamline the creation and flow of documentation and correspondence. We will be continuing a process review to further expedite this process.

## Justice Institute Courses

In my last annual report I reported that I met with the Justice Institute of British Columbia (JIBC) to discuss the development of remedial courses in three areas that particularly concern me: classroom management, conflict management and professional boundaries. I indicated that a disproportionate number of reports and complaints involved allegations that a teacher had behaved in a manner that displayed a lack of understanding of fundamental principles in these areas. On May 15, 2015 the Teacher Regulation Branch and the JIBC signed a contract to facilitate the offering of the following courses: The Mindful Educator in Managing Conflict; Reinforcing Respectful Professional Boundaries; and Creating a Positive Learning Environment. These courses will be offered during school holidays (summer and spring break) to eliminate the impact of teacher absence on students. Where appropriate, I will require attendance at these courses as a term of consent resolution agreements. Each course is three days in length and costs \$697.00 - a cost borne by the teacher. The focus of these courses is on building skills. The goal is to offer practical courses built around scenarios that emphasize the application of basic principles to real-life problems.



The JIBC's calendar descriptions of the three courses are:

## 1 The Mindful Educator In Managing Conflict

*Through self-reflection, dialogue, exercises and scenario practice, this 21-hour course will increase your awareness of how you perceive and personify your role as an educator in the K-12 sector in the face of conflict and anger. You will gain a working knowledge of Emotional Intelligence competencies as they relate to managing conflict and learn practical ways to enhance self-awareness, self-regard, self-regulation, assertiveness, stress tolerance and impulse control. With this gained insight, you will begin to construct more productive ways to address such challenges. This will increase capacity to make sound decisions, build mutually supportive relationships, and to handle stress and anger effectively. You will learn the necessary skills and approaches to help manage your own angry feelings and behaviors, and to effectively respond to anger in others. Topics such as anger triggers, self-management, defusing skills, the origins of personal expressions of anger and disengaging from angry encounters are explored.*

## 2 Reinforcing Respectful Professional Boundaries

*Teachers in the K-12 sector face a multitude of pressures and challenges in the modern classroom. Boundaries between the professional educator and the student*

*can become blurred. With evolutions in social media and "student-centred" educational approaches, the potential for the blurring of professional boundaries increases.*

*Through discussion and scenario analysis, this 3-day, face-to-face course will explore the moral and ethical gray zones that surface in professional relationships. You will define and identify the types of behaviours and situations that could threaten professional teacher conduct and stature. Finally, you will acquire assertive communication strategies to respectfully and clearly articulate professional boundaries when challenged. You will then be able to connect authentically with students while maintaining boundaries.*

## 3 Creating a Positive Learning Environment

*Designed for educators in the K-12 system, in this 3-day course you will deepen classroom management skills by exploring ways to respond to challenging classroom situations where the pressures are numerous, complex and potentially contentious. You will examine how to deal constructively with teaching content process and student/faculty relationship issues, heightened emotion, challenging participant behaviours, and conflict. Scenario-based simulations will provide the opportunity to practice relevant communication and intervention skills. Reflective practice will be encouraged through self-reflection and peer feedback.*

One of my future goals is to achieve a better balance between suspensions of teaching certificates as a consequence of misconduct and remedial education. Both of these impose an economic burden on teachers. It is my view that those resources are better directed to remedial education than suspensions which have collateral disadvantages for students.

Although these courses have been developed specifically as remedial courses to permit referral of teachers in the course of the consent resolution process, they are offered as part of the general course offerings of the JIBC. They are available to the public and deal with topics of interest to most teachers.

# Advertent Misconduct

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Where continuing misconduct results in further reports after a teacher has taken a remedial course, the appropriate disciplinary response is usually a significant suspension.

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There is another category of misconduct: **advertent misconduct**. Unlike conduct resulting from lack of skills and training this conduct should be the chief subject of the deterrence built into the discipline system. Typically misconduct in this category is characterized by sexual misconduct or abusive behaviour in the classroom such as yelling and demeaning and bullying behaviour by teachers. It is extremely important that this misconduct be reported. Other teachers often become aware of this behaviour. They have a legal duty under the *Act* to report it. Also in this category are instances of chronic abdication from the teaching role – teachers that no longer bother to teach effectively. Any instances of this observed by principals or parents should be reported to superintendents who are required under the *Act* to report it to me when it is in the public interest to do so. Abdicating teachers rob their students of the right to the education they are entitled to expect. The most severe forms of discipline should be reserved for this category: cancellation of certificates, limitations on the teacher's certificate or very lengthy suspensions.

## Looking Ahead At Teacher Discipline

The discipline provisions of the *Act* create a system of professional discipline charged with deterring professional misconduct. The tools available under that system consist of:

“the ability of the Commissioner for Teacher Regulation and hearing panels appointed under the *Act* to suspend a teacher, to insist, as a term of a consent resolution agreement, that the teacher attend and pay for remedial education, to reprimand a teacher, or to cancel a teacher's certification, thereby terminating the teacher's ability to work as a teacher in British Columbia.”

The discipline process under the *Act* is triggered, in most cases, by a report from a superintendent of schools or independent school principal, although it may also be triggered directly by a complaint from a member of the public. The *School Act* and the *Independent School Act* set out the duties placed on superintendents and principals.

Most studies of discipline conclude that the effectiveness of discipline regimes to deter misconduct rest on **two things**:

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1. The likelihood of being discovered
  2. The severity of the consequences
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Those studies also conclude that the likelihood of being discovered is the strongest deterrent. In the context of school discipline, this means the likelihood that someone will report a teacher's misconduct to their school and that the superintendent or principal will report the misconduct to the Commissioner for Teacher Regulation. In many cases, the adult person who is in the best position to observe teacher misconduct will be a fellow teacher, or the parent of a student affected.



Misconduct arises in many ways. Often it occurs because the teacher's training and skills have not sufficiently prepared them to meet the demands of a specific classroom situation or particular student. Some teachers have an inadequate understanding of professional boundaries or inadequate classroom management skills. Students with learning or behavioural challenges or limited language ability require a high level of skill on the part of teachers in the modern Canadian classroom. Resulting instances of misconduct bring inadequacies of teachers' skill sets to the fore and are best addressed by remedial training; for example, the JIBC 3-day courses in three areas in which misconduct most frequently arises: professional boundaries, classroom management, and conflict resolution and anger management.

In instances of intentional misconduct or where continuing misconduct results in further reports after a teacher has taken a course, usually the appropriate disciplinary response is a significant suspension or cancellation.

The development of the system of teacher discipline in British Columbia is a continuing obligation of the office of the Commissioner for Teacher Regulation.

Two questions that must be asked when evaluating that system of teacher discipline are:

1. How unfettered is the reporting?
2. How constructive are the consequences?

Those two areas of inquiry will guide the development of the professional discipline program created by the *Act* in the next few years. The *Act* is premised on the assumption that instances of teacher misconduct are properly reported in order to be subjected to the discipline process mandated by the *Act*. It is the *Act* and its processes and the professionalism of teachers that guarantee that the public interest in the proper and safe education of students is protected. Students cannot fully engage in the education process unless they respect it and feel valued by it. The level of respect for teachers is affected by the professionalism they display and the effectiveness of the discipline system in deterring misconduct.

## Comments

I work with a particularly dedicated and knowledgeable staff. Like me, they deal daily with a broad range of instances of teacher misconduct. They, like me, mentally winnow the results of that experience into a personal capsule view of what traits teachers display that get them into professional trouble. I asked them to comment on the following question:



What departure from professionalism on the part of teachers leads to most of the discipline matters that come to the Professional Conduct Unit?

[ Below is my synthesis of their observations ]

Teachers fall into the trap of establishing a joshing, often sarcastic and joking way of relating to their students. They say things to be funny. We often see comments in student interviews along the lines of "he thinks he's funny but he's not funny – he's hurtful – I don't like going to his class". In a short story David Sedaris wrote the line "the teachers offered their ridicule as though it were an olive branch". Rather than establishing a useful connection with the students, teachers' joking causes students embarrassment and demoralizes and insults them. When it is done in front of the students' peers it magnifies the damage.

## Comments [ *continued...* ]

When we review teachers' statements after the matter has led to discipline, commonly the teacher is surprised by the students' statements. Teachers say "I often joke around and tease my students – we have that kind of relationship – I am surprised that they are saying that they don't like it". Obviously, the students haven't liked it for a long time and the teacher has been oblivious to that fact. Teachers might reflect on the words of Robbie Burns:

"O wad some Power the giftie gie us to see oursels as ithers see us".

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Many teachers fail to display a level of self-awareness consistent with the demands of teaching.

Teachers need to step back and view themselves as they are viewed by the students before them.

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We all recognize that there are stresses and strains in teachers' daily life and particularly great demands in certain classroom situations. Teachers are required to make sound judgments under pressure. They can only do that if they never forget that they are a teacher and a role model for their students. The manner in which they react sends a particularly powerful message to all of the students who observe it. The ability to react selflessly and not selfishly sends a strong message. "Yelling" sends a particularly negative message to students.

Making humiliating comments to students in front of others shows a profound lack of respect and invites profound consequences. If we reflect back most of us can remember vividly being humiliated by a teacher, even though it happened many years ago.

Central to the answers to the question was a message that teachers should be much more aware of how students were perceiving their words and actions, that they are responsible for the emotional and physical safety and well-being of their students, and although the demands of their job are great, so are the responsibilities and rewards.

The effectiveness of professional education and training, both before and after certification and in a remedial context in the discipline system, will be key to the maintenance and development of a world-leading education environment in British Columbia in the future.

# Teacher Discipline – Why Does It Take So Long?

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Many professions are given statutory monopolies on employment in their field of specialization. The practice of law, medicine, architecture, nursing and teaching are among these. In order to protect the public interest these professions are regulated by governing bodies. Some professions are self-regulating; others are regulated by government regulatory bodies. In the case of teachers, discipline is regulated by the Commissioner for Teacher Regulation under the provisions of the *Act*.

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The central focus of a modern regime of professional discipline is to deter professional misconduct either by imposing punitive consequences or by remedial education that successfully modifies the behaviour of the professional affected. The teaching profession is given a statutory monopoly on employment as teachers in our BC classrooms. With the statutory monopoly that teachers are granted comes an expectation they will unfailingly adhere to a code of conduct. The code of conduct is designed to ensure that students receive a proper education and are safe from harm at the hands of the professionals who teach them.

Many members of professions are employed and in that capacity answer to an employer as well as to their professional regulator. Accordingly, employed professionals are subject to two levels of discipline. In extreme examples, professionals may be fired by their employer and have their certification cancelled by their regulator, thereby disintitling them to practice their profession.

The *Act* provides that teachers in both public and independent schools are subject to discipline if they misconduct themselves in such a way as to jeopardize the welfare of students or bring the teaching profession into disrepute. The aim of those provisions is to maintain public confidence in the system to which parents entrust the education of their children. For the same reason, the *Act* mandates that teacher discipline be transparent through the publication of discipline outcomes.

## Most teacher discipline is a two-step process.

Usually, teacher misconduct is identified, in the first instance, by the schools in which the teacher is employed. The *School Act* and the *Independent School Act* require that the school districts or independent schools, after taking disciplinary action, or if they consider it in the public interest to do so, report the matter to the Commissioner for Teacher Regulation. It is the function of the Commissioner under the *Act* to administer the system of discipline that takes place at the regulatory level. Accordingly, the Commissioner is usually notified after the school discipline process is complete. In complex cases, the discipline process at the school level can take a number of months because it involves an evidence gathering and decision-making process.

In cases where the continued presence of the teacher involved could pose a risk to students the *Act* provides that the teacher's certificate can be suspended by the Commissioner. Alternatively, in appropriate cases, an undertaking not to practice may be entered into by the teacher and disclosed on the Teacher Regulation Branch website, disintitling the teacher from employment in the classroom.

The Commissioner reviews each report on the basis of the information provided by the school district or independent school. After review, some reports result in no further action being taken at the **regulatory level (approximately 30%)**, some are referred to an investigator to provide a **full investigation report (approximately 67%)** and some are referred to a **consent resolution process set out in the Act (approximately 18%)**. Both the investigations and the negotiation of consent resolutions are time-consuming. The investigation reports are reviewed by the Commissioner when they are complete and a decision is made whether to take **no further action (approximately 50%)**, to proceed to **hearing before a panel (approximately 0.9%)** or to proceed to **consent resolution (approximately 22%)**.

Because of the seriousness of many of the matters that are reported, the investigations are often complex, as are the negotiations surrounding consent resolutions.

When viewing the process, it is important to remember that only a very few of the approximately 70,000 holders of teaching certificates in British Columbia are the subject of disciplinary proceedings. Most teachers are never the subject of a complaint or report in their entire careers.

The efficiency of the disciplinary process has been improved in the 4½ years since the Act came into force.

### EFFICIENCY OF THE DISCIPLINE PROCESS

	COLLEGE	NOW
Average number of investigations concluded per investigation/year	8.9	17.6
Average number of consent resolution agreements signed in under 4 months	3	15.7
Average delay in months for completion of consent resolution	9.5	5.8
Average number of consent resolution agreements signed per year	30	38.5
Time taken from receipt of a report until a preliminary review	4 months	< 1 month

There is little room left for further reduction in the time taken by the discipline process through more gains in efficiency. All processes in our society that have to deal, on a case-by-case basis, in an environment of legal rules of procedural fairness, are time-consuming. Teacher discipline is likely to remain a time-consuming process.

I recognize that the delay inherent in the two-level disciplinary process imposes a great burden on everyone involved in the process. At the same time, the requirements of fairness to everyone involved dictates that discipline proceed only on the basis of a fair, thorough investigation of the facts of the individual case.

# Strategic Goals for 2016–2017

1. Continue to reduce delay in all processes with a particular emphasis on investigative delay.
2. Cooperate with government to rationalize the funding structure for the Teacher Regulation Branch in order to promote both accountability and administrative efficiency.
3. Increase my focus on communicating the role of a professional regulator and the structure presently in place for regulating teacher conduct and competence. I want to communicate to parents in particular.
4. Continue to work with B.C. School Sports with respect to teacher-coaches and parent-coaches in school sports.
5. Continue to cooperate with the Justice Institute of British Columbia to refine and further develop remedial program resources including resources on the topic of cultural and gender sensitivity, and the unique requirements of students with special needs.



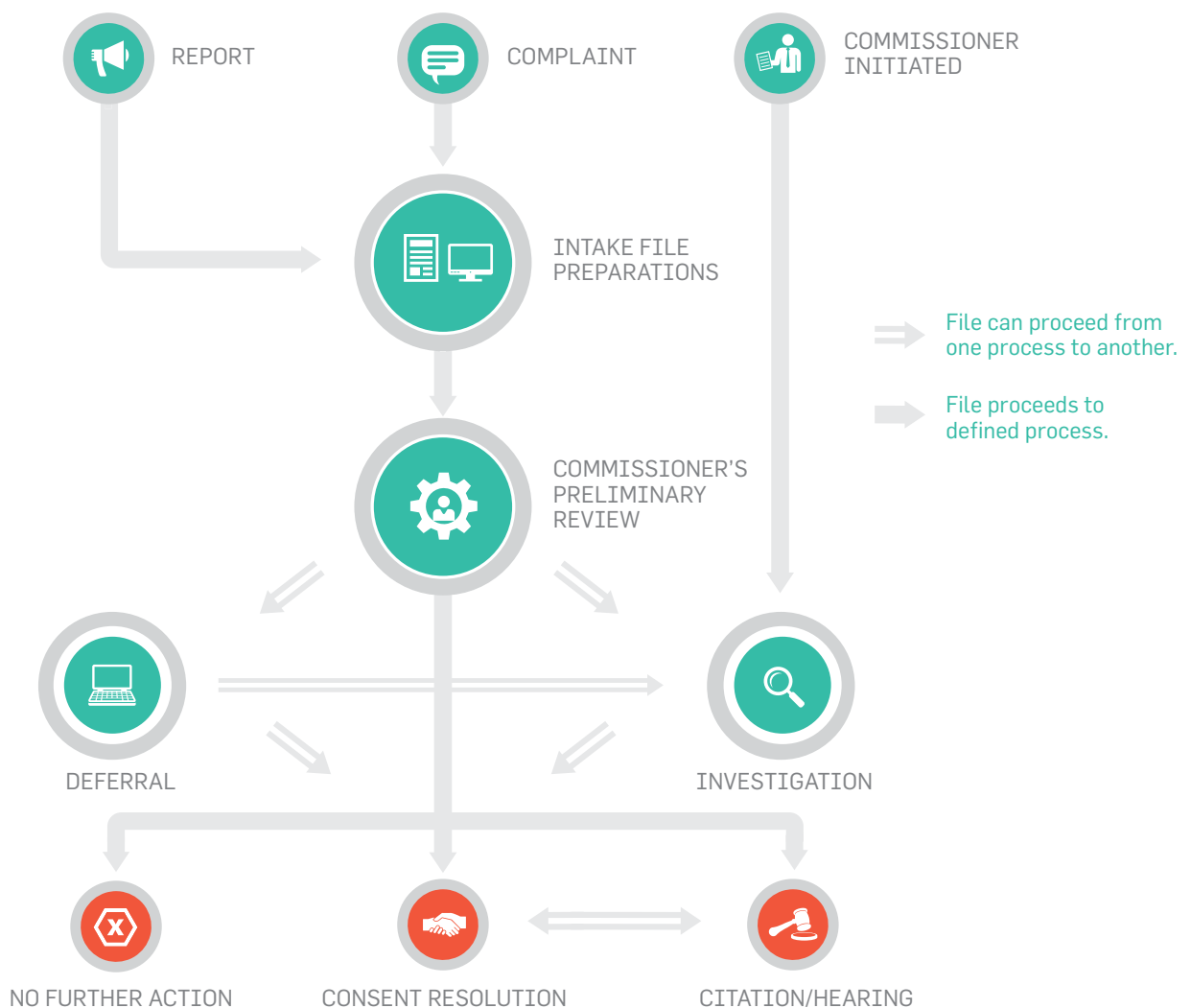
# Appendices

## [ A. Overview of the Disciplinary Process ]

The Commissioner, upon receiving a report or complaint file prepared by an intake officer, will conduct a preliminary review of the file and determine which, if any, disciplinary process is appropriate to address a complaint or report. Under the *Act*, the Commissioner has the following options available:

1. Take no further action (NFA);
2. Deferral;
3. Initiate an investigation;
4. Make or accept a proposal for a consent resolution agreement; or
5. Issue a citation, which leads to a hearing.

A file may proceed through the disciplinary process a number of different ways depending on the specifics of the case. While this visual provides an accurate depiction of the disciplinary process in place currently, this could change in the future as the Commissioner implements process changes to reduce and/or eliminate delay in administrative and adjudicative processes.



## [ B. Duty to Report ]

Under the *Teachers Act*, the *School Act*, the *Independent School Act*, and the *Criminal Records Review Act*, teachers and employers are required to report or self-report any instance of misconduct or incompetence of a teacher even if discipline at the employment level has already been imposed. The duty to report to the regulatory level protects the safety of children within the public and independent school systems and ensures that teachers who fail to meet the Standards for competence and conduct will be held accountable.

### Teachers

Under section 38 of the *Teachers Act*, a teacher must promptly provide to the Commissioner a written and signed report if he/she has reason to believe that another teacher has engaged in conduct that involves any of the following:

- Physical harm to a student
- Sexual abuse or sexual exploitation of a student
- Significant emotional harm to a student

Under section 17.9 of the *Criminal Records Review Act*, teachers are required to self-report promptly to the Director of Certification if they are criminally charged or convicted in relation to a “relevant offence” (an offence listed in Schedule 1 of the *Criminal Records Review Act*).

### Employers

Under Section 16 of the *School Act* and section 7 of the *Independent School Act*, boards of education and independent school authorities have a duty to report the following to the Commissioner:

- A suspension or dismissal
- A resignation, if it is in the public interest to report the matter
- Discipline for misconduct involving:
  - Physical harm to a student or minor,
  - Sexual abuse or sexual exploitation of a student or minor, or
  - Significant emotional harm to a student or minor
- Conduct or competence considered to be in breach of the certification standards, if it is in the public interest to do so



## Public Schools: Raising Educational Concerns at the School Level

As a parent, you are entitled to have a voice in your child's education. If you have concerns about any aspect of your child's education you should raise those concerns with your child's teacher. If the nature of your concern requires more than a short conversation that is common in day-to-day communications with your child's teacher, you should consider making an appointment with the teacher to ensure that enough time will be available for your discussion.

### The Informal Meeting

Most issues can be resolved between the teacher and parent but, if you wish, you may ask the school principal or vice-principal to assist you in your conversation with your child's teacher.

Here are some helpful suggestions to assist you in resolving your concern in a constructive manner.

- Write down your concerns for your own reference to assist you in the meeting. You can use this as a guide during the meeting to make sure that you cover all your concerns.
- Try to be brief (no more than one page) but include all your concerns.
- You should adopt a cooperative, problem-solving approach and try to find a friendly resolution which achieves a result that is in the best interest of the student.
- At the end of the meeting, ask that a brief summary of the result of the discussion be written. The summary should include:
  - What did the participants agree to?
  - What, if any, issues remain unresolved?
  - When will the agreed-upon decision be acted upon?
  - Are additional discussions necessary?

If your concerns are not resolved after the meeting, you may request a meeting or make a formal written complaint to the principal.

If that does not promptly resolve your concern, you may choose to take the next step, which is to appeal to the Superintendent of Schools in your school district.

### Appeal to the Superintendent of Schools

The Superintendent may hear your appeal or designate a senior administrator to hear your concerns. School Districts have administrative procedures for this step or they are described as part of the Districts appeal policy. The person assigned may be an Assistant Superintendent, Director of Instruction or district Principal who supervises the school or program where the concern has arisen. If resolution of the concern is not achieved after this process, you may make a formal appeal to the Board of Education.



## Appeal to the Board of Education

The *School Act* provides that decisions or failure to reach a decision about the education, health or safety of a student may be appealed to the Board of Education. It also requires that the Board establish an appeal procedure. If you wish to make an appeal you should inform the principal that you will be doing so. You should review the district policies related to *School Act* appeals on the School District website and seek assistance from school district personnel to initiate your appeal. Each Board of Education has its own appeal policy.

The Board policy will require that you initiate the appeal with a written complaint to the Board. Once the appeal is submitted it will be acknowledged promptly. The timelines are usually in the policy.

You may wish to seek the support of a friend to assist you in the course of the appeal process. BCCPAC ([www.bccpac.bc.ca](http://www.bccpac.bc.ca)) is also available to provide assistance.

The *School Act* (s.11) requires that a decision must be made within 45 days of receiving your appeal.

## Appeal from the Board of Education decision

If you are dissatisfied with the result of the Board decision, that decision may also be appealed to the Superintendent of Appeals of the Ministry of Education.

- This appeal takes the form of a new hearing.
- Details about how you go about appealing to the Superintendent of Appeals can be found at [www2.gov.bc.ca](http://www2.gov.bc.ca) [search appeal superintendent of appeals].

## In Summary

1. Carefully write out your concern and the manner in which you would like it dealt with for your own reference.
2. Make an appointment with the teacher involved.
3. At the end of the meeting, jointly write down your agreement on resolution and timelines.
4. If resolution is not carried through, make a formal written complaint to the principal.
5. If the concern is not resolved in a reasonable time, appeal to the office of the Superintendent of Schools in your District.
6. If your concern is not resolved in a reasonable time, appeal to the Board of Education.
7. If the concern is not resolved by the appeal to the Board, you may appeal to the Ministry of Education's Superintendent of Appeals.

The BCCPAC ([www.bccpac.bc.ca](http://www.bccpac.bc.ca)) has prepared an excellent guide entitled "Speaking Up" and a suggested model concern/complaint procedure that treats this topic in more detail.

## [ D. Resources ]

### Resources for the public and education stakeholders

#### Applicable legislation

*Teachers Act*

Commissioner's Regulation

Commissioner's Rules

#### Standards for Educators in BC

Standards for the Education, Competence and Professional Conduct of Educators in BC

Independent School Teacher Conduct and Competence Standards

Understanding Your Duty to Report Brochure

#### Complaints

Making a Complaint Brochure

Complaint Form

#### Contact Information

Commissioner for Teacher Regulation – *to make comments*

Email: [CommissionerTeacherRegulation@gov.bc.ca](mailto:CommissionerTeacherRegulation@gov.bc.ca)

Intake area – to ask questions about making a complaint

Email: [trb.intake@gov.bc.ca](mailto:trb.intake@gov.bc.ca)

To obtain a copy of these resources or to get more information on the work of the Commissioner visit:

[bcteacherregulation.ca](http://bcteacherregulation.ca)



BRITISH COLUMBIA  
COMMISSIONER FOR  
TEACHER REGULATION



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