



## Understanding Your Duty to Report

### Guiding Principle: Public Interest

The concept of “public interest” – as it relates to regulatory discipline – has two main elements:

1. Students must be protected from certificate holders who inflict physical, emotional or sexual harm on them (intentionally or otherwise).
2. Certificate holders cannot conduct themselves – on or off duty – in a way that breaches the Standards for the Education, Competence and Professional Conduct.

### Action: Regulatory and Employment Issues

If a certificate holder’s conduct meets either of the following criteria, a regulatory response **is required** even if employment discipline has already been imposed:

- The conduct alleged involves emotional, physical or sexual harm, abuse or exploitation of a student by a certificate holder.
- The alleged conduct calls into question the integrity of the teaching profession or the school system, and/or conflicts with a fundamental value of the school system – even if there is no direct harm to a student.

### Simple rule: When in doubt, err on the side of caution and report.

Let the Commissioner decide if it is truly a regulatory matter.

### School Districts/Independent School Authorities Must Report:

- A suspension or dismissal
- Discipline for misconduct that involves:
  - 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
- A resignation if it is in the “public interest” to report the matter
- Conduct/competence considered to be in breach of the “certification standards” if it is in the public interest to do so
- When it is in the “public interest”:
  - Letters of expectation/direction
  - Mental health conditions
  - Less than satisfactory reports
  - Criminal offence arrest

## Your Duty to Report

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

- (a) physical harm to a student;
- (b) sexual abuse or sexual exploitation of a student;
- (c) significant emotional harm to a student.

This is **non-negotiable** and applies even if the information on which the belief is based is privileged. The exception to this rule is information as a result of a solicitor-client relationship, or that is confidential and its disclosure is prohibited under another Act.

### Consequences for Professional Misconduct

Certificate holders can face consequences or sanctions at multiple levels for the same conduct:

- Professional regulatory
- Criminal
- Civil
- Employment
- Personal

### What Type of Conduct Could be Sanctioned?

- Professional misconduct
- Conduct unbecoming a certificate holder
- Incompetence
- Incapacity

## Reporting to the Commissioner: The Process

- The process starts with a report from a school district/authority or a complaint from a member of the public about conduct or competency of a certificate holder.
- The report then goes to a Professional Conduct Unit (PCU) Intake Officer who will ensure jurisdiction and that the report has met the criteria in the *Teachers Act*.
- The certificate holder in question is advised of the report and any other necessary notifications are made.
- In the case of a complaint made by the public, the PCU, at the direction of the Commissioner, may seek information related to the complaint from school boards/authorities at the intake stage.
- Once enough information is gathered a summary of the file is prepared for review by the Commissioner.

## Commissioner's Initial File Review

The Commissioner reviews the information gathered and may:

- take no further action and provide reasons for this decision;
- initiate an investigation;
- make or accept a proposal for a consent resolution agreement; or
- issue a citation, which would lead to a hearing.

## If Disciplinary Action is Warranted

Whether the case is resolved through a disciplinary hearing or consent resolution process, there are several options available if a certificate holder is found to have breached the standards:

- A reprimand
- Suspension of a certificate
- Placing limits or conditions on a certificate
- Cancelling a certificate

Discipline decisions are published to provide the public with the confidence that educators who fail to meet the standards are held accountable.

## Discipline Hearings

Panel determines three things:

- Did the alleged misconduct happen?
- If yes, did the misconduct breach the standards of conduct or competence?
- If yes, what is the appropriate penalty?

## Qualifications and Fitness Hearings

If the Director of Certification denies an application on grounds of either failure to meet the qualification standards or fitness, the applicant may request that the Director reconsider. If the denial is maintained, the applicant can bring a "certification appeal" to the Commissioner. The Commissioner then has two options: dismiss the appeal or refer to a hearing.

## Professional Standards for BC Educators

1. Educators value the success of all students. Educators care for students and act in their best interests.
2. Educators act ethically and maintain the integrity, credibility and reputation of the profession.
3. Educators understand and apply knowledge of student growth and development.
4. Educators value the involvement and support of parents, guardians, families and communities in schools.
5. Educators implement effective planning, instruction, assessment and reporting practices to create respectful, inclusive environments for student learning and development.
6. Educators demonstrate a broad knowledge base and an understanding of areas they teach.
7. Educators engage in professional learning.
8. Educators contribute to the profession.
9. Educators respect and value the history of First Nations, Inuit and Métis in Canada and the impact of the past on the present and the future. Educators contribute towards truth, reconciliation and healing. Educators foster a deeper understanding of ways of knowing and being, histories, and cultures of First Nations, Inuit and Métis.

### Professional Conduct Unit

Ministry of Education and Child Care  
201-828 8<sup>th</sup> Ave W

Vancouver, BC V5Z 1E2 Canada

[gov.bc.ca/commissioner-for-teacher-regulation](http://gov.bc.ca/commissioner-for-teacher-regulation)

604 775-4870 (Metro Vancouver)

**Toll Free** 1 800 555-3684 (within Canada and the United States)



### How the Regulator Can Assist Employers in Professional Conduct Matters

The Commissioner, an independent statutory decision maker, oversees all discipline processes and considers certification appeals. This includes receiving reports and complaints about the conduct or competence of certificate holders in both the public and independent school systems as set out in the *Teachers Act*. The Professional Conduct Unit of the Ministry of Education and Child Care, as the operational arm of the regulatory structure, provides administrative support to the Office of the Commissioner.

The foundational principles of the *Teachers Act* include the paramount nature of the public interest and transparency. With that in mind, when an employer seeks information about a certificate holder or a person who holds a letter of permission who is charged with a criminal offence or who is the subject of a complaint, the regulator has certain freedoms as well as restrictions in terms of the ability to share information.

Restrictions	What the regulator can do to help
<ul style="list-style-type: none"><li>• Bound by Memorandums of Understanding (MOUs) with local and provincial police forces, which prohibit the sharing of information with a third party, including employers;</li><li>• Limited by the <i>Freedom of Information and Protection of Privacy Act</i> (FOIPPA) as to what information can be disclosed to a third party, including employers;</li><li>• Bound by procedural fairness; and</li><li>• General duty not to prejudice discipline outcomes.</li></ul>	<ul style="list-style-type: none"><li>• Inform the school district or independent school authority where the certificate holder is employed about criminal charges or if the Commissioner receives a complaint against a certificate holder. In both of these circumstances, the Commissioner is obligated to conduct a preliminary review and must notify the employer in the case of deciding to defer, to investigate, or to suspend.</li><li>• Point the employer towards other helpful sources of information about the charge/investigation (i.e. publicly on the Ministry of Justice's online Court Services site at <a href="http://www.ag.gov.bc.ca/courts/">www.ag.gov.bc.ca/courts/</a>).</li><li>• The <i>Teachers Act</i> provides the Commissioner with certain powers. For example, if it is in the public interest, he may initiate his own investigation, and he has the ability to compel statements, or even initiate an immediate suspension, where warranted, until the investigation is resolved. This serves the function of safeguarding the process without breaching privacy rights. A suspension would be warranted where it is deemed there is a risk to children or the allegations and charges are serious.</li><li>• In the case of a suspended certificate, the Commissioner is obligated to advise the teacher and the employer, and the suspension must be recorded in the online public register.</li></ul>