

ANNUAL
REPORT

2016/2017



BRITISH COLUMBIA
COMMISSIONER FOR
TEACHER REGULATION

COMMISSIONER FOR

TEACHER

REGULATION





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October 31, 2017

The Honourable Rob Fleming
Minister of Education
Room 310, Parliament Buildings
Victoria, BC V8W 9E2

Dear Minister Fleming:

It is my honour to present to you the 2016-2017 Annual Report for the Office of the Commissioner for Teacher Regulation. This report covers the period from July 1, 2016 to August 31, 2017.

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 scribble.

Honourable Bruce Preston
Commissioner

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Commissioner's Message



HONOURABLE BRUCE PRESTON

This report is my last as Commissioner for Teacher Regulation. I was the first Commissioner appointed under the *Teachers Act* (the “Act”) which came into effect on January 9, 2012. I was appointed by order-in-Council on November 9, 2012. My term of office ends on November 8, 2017. I came to this job without any previous professional connection with the education system. That has had both negative and positive aspects. On balance, I am satisfied that the positive result of that substantially outweighs the negative consequences. The position of Commissioner has considerable independence from government. That independence has great benefits. It allowed me and it will allow my successors to bring fresh eyes to the many challenges that confront the disciplinary aspect of teacher regulation. It permits flexibility in the day-to-day responses to the constantly evolving landscape of teacher regulation in British Columbia.

The field of education has been in constant change over the course of my term of office. The legal landscape has been active. There have been decisions of three levels of court, each of which have added focus to the relationships that are fundamental to the future of education in British Columbia. Provincially, recent statutory changes may alter the future direction of post-certification professional development of teachers. Early in my term of office, I shifted the focus of teacher discipline from teacher suspension to mandatory remedial education when teacher misconduct results in disciplinary action. In this report, I am proposing an extension of that model to disciplinary matters arising from conflict situations between teachers and special needs students.

It has become clear that most reports and complaints of teacher misconduct leading to disciplinary consequences

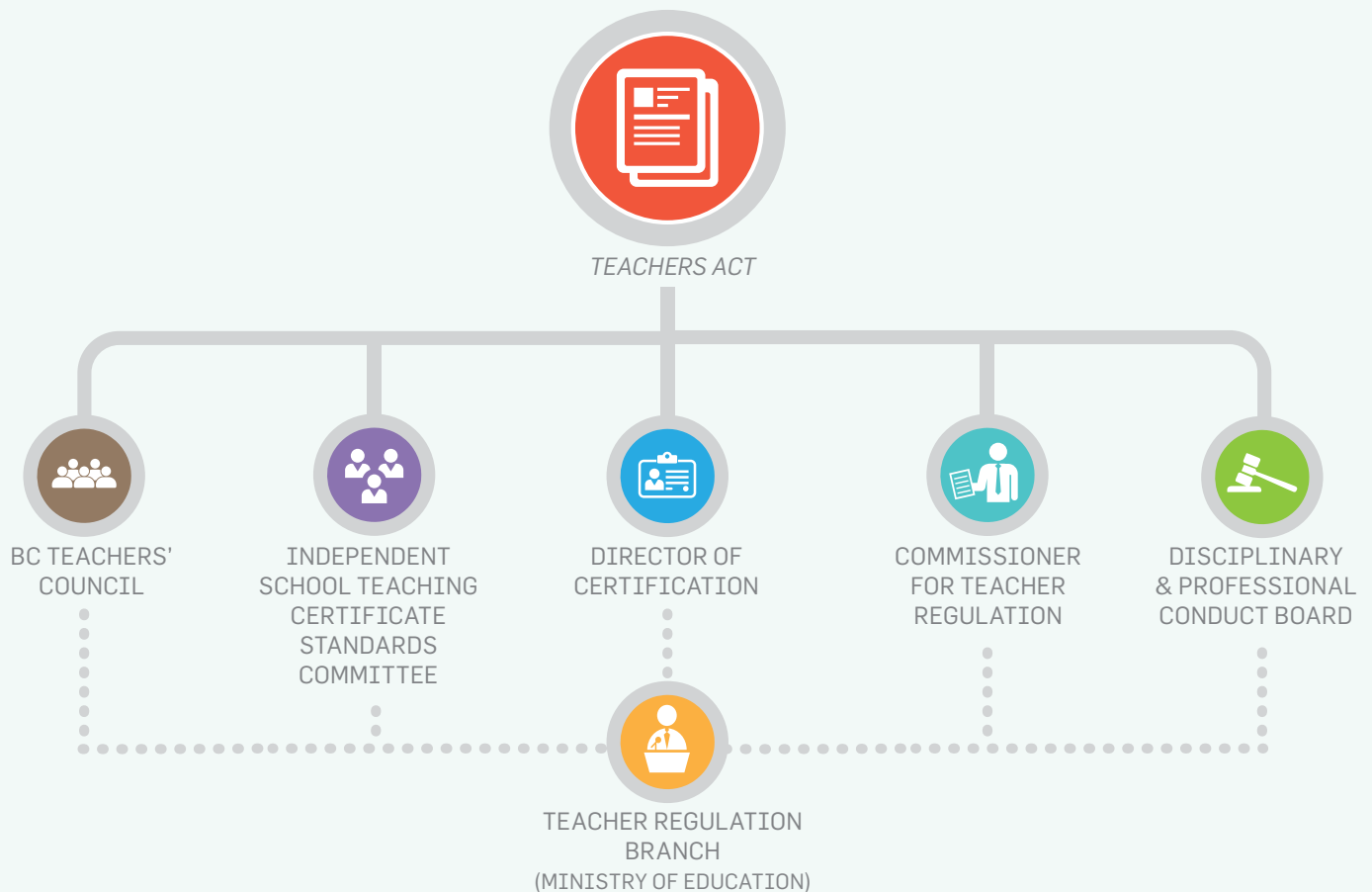
have their foundation in four areas: (1) classroom management; (2) neglect of professional boundaries; (3) deficient skills in managing conflict; and (4) the approach of some teachers to behavioural issues when dealing with special needs students. I am satisfied that training and education directed to modifying the teacher behaviour that leads to discipline in these areas is fundamental to improving the educational environment for students in British Columbia's schools.

During my term, I have been impressed by the effect of the increased transparency given to teacher discipline under the *Act*. Publication of reports of disciplinary outcomes has profound effects on teachers. I am confident that this aspect of the *Act* has modified the behaviour of teachers because of public reports of consequences to their colleagues. Publication of the facts of individual teacher misconduct and the identity of the teacher is fundamental to the regime established by the *Act*. However, a balance has to be struck between the seriousness of the misconduct and the consequences to teachers of the adverse effects of publicity. That is one of the most difficult parts of the job of Commissioner. That fact alone is one of the most important reasons that the office of Commissioner for Teacher Regulation requires a degree of independence from government. That balancing is fundamental to the day-to-day role of the Commissioner and it should be the Commissioner who bears the brunt of any dissatisfaction by the public or teachers with the balance struck when discharging this important function mandated by the *Act*. That balancing should not be or be seen to be the result of, or affected by, a political decision.

The time I have spent as Commissioner has given me a great respect for the teachers of British Columbia. The vast majority of teachers display a professional commitment to a difficult but rewarding job. In the interactions I have had as Commissioner with teachers, I have been impressed by how deeply they care for students and the importance they attach to their role as educators. The number of teachers that are the subject of discipline each year is extremely small in relation to the overall number of teachers, most of whom have no interaction with the discipline system whatsoever.

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

- 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 discipline hearings.
-



DISCIPLINARY AND PROFESSIONAL CONDUCT BOARD

- 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.
-



DIRECTOR OF CERTIFICATION

- Issues, suspends and cancels Certificates of Qualification, Independent School Teaching Certificates 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.
-



BC TEACHERS' COUNCIL

- 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 for applicants and certificate holders, sets teacher education program approval standards, and determines if teacher education programs meet these standards.
-



INDEPENDENT SCHOOL TEACHING CERTIFICATE STANDARDS COMMITTEE

- Consists of three members who have been appointed by the Minister of Education.
 - The ISTCSC establishes the standards that are required to be issued and to maintain an independent school teaching certificate.
-



TEACHER REGULATION BRANCH

- 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 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.

.....

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 (the “PCU”). 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.



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. Twenty-five percent of complaints and reports were dismissed at this stage during the 2016-2017 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, consent resolution or take no further action.

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 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 2016-2017 school year, most 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 agreement to the teacher or his or her counsel. The draft agreement 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 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 reissuance 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 reasons for judgment of the hearing panels provide guidance in other cases and encourages most matters to be settled by consent.

Five-Year Overview

During my tenure as Commissioner, my principal goal has been to develop systems and procedures to ensure that the powers and duties conferred on me as Commissioner were discharged in accordance with the requirements of the *Act*. When I was appointed, the procedures in place were substantially unchanged from those of the BC College of Teachers under the legislation that pre-dated the *Teachers Act*. The structure of the *Act* contemplates that the Commissioner will oversee the discipline process newly created by the *Act*. The way the *Act* does that is to enumerate and confer all discipline powers and impose all requirements directly on the Commissioner. Because of the extent of the job that creates, the only way that it can be carried out in practice is for the Commissioner to delegate those powers, except for the power to make decisions having final consequences, to employees on his staff to carry out under his or her supervision. The staff of the professional conduct unit (the "PCU") of the Teacher Regulation Branch carries out the day-to-day exercise of the powers and fulfils the duties delegated by the Commissioner. The employees of the PCU are employees of the Ministry of Education.

I have been particularly fortunate to have a highly skilled and dedicated staff to perform the duties that they have been delegated under the *Act*. The success that the PCU has enjoyed over the course of my term has been primarily due to the high quality and professionalism of that staff. It will fall to the Ministry of Education to put in place a transition plan to ensure that the efficiencies that have been achieved in the past five years are preserved as a basis for further improvement under a new commissioner in the future.

Delay

Over the course of the five years of my term of office I have focussed on reducing the delay that has plagued the process of teacher discipline in the past. I have reported on the progress made in reducing delay in this report and in my earlier annual reports.

Delay in the Intake Process

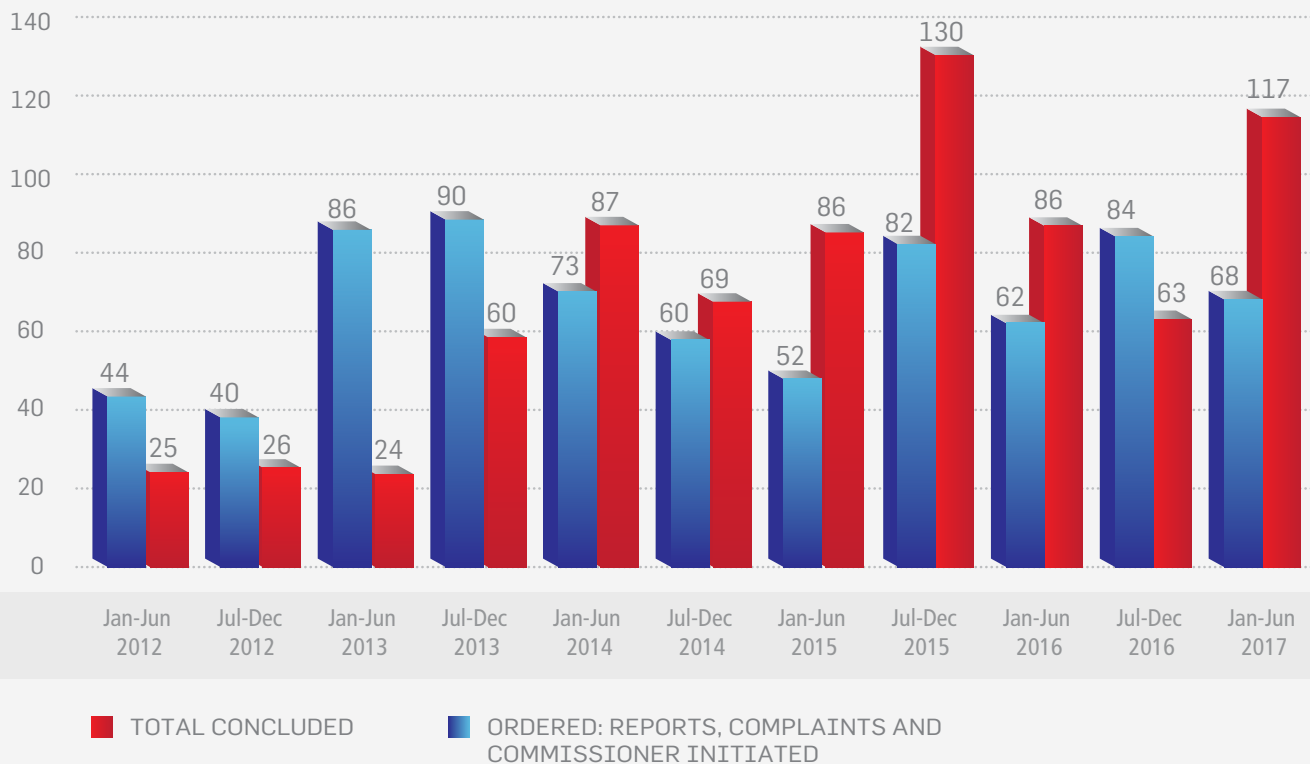
The intake process is central to ensuring that the overall disciplinary process proceeds without undue delay. In the past, delay at the intake stage was one of the major contributing factors to overall delay. That delay has declined significantly since the reorganization of the process in early 2013. In 2012, median delay was four months. It was reduced to less than one month and has remained at that level since 2013. Frequently, the time taken to deal with a new report from a school district is one week. Reducing delay at this stage is important because many matters are concluded at this stage. In the 2016-17 school year 25% of cases were finally disposed of by a decision to take no further action upon preliminary review at the intake stage. This is important because we are able to expeditiously notify complainants and School Districts which are the source of the complaints or reports that the matter is concluded. It permits us to notify the teacher involved of the conclusion of the matter as well.

Cases that are not dismissed upon a preliminary review at the intake stage are referred to investigation or to the consent resolution process or deferred to await the conclusion of another process. In the 2016-17 school year 58% of cases were referred to investigation at this stage. That year 17% of cases were referred to consent resolution at the intake stage.

Delay in the Investigation Process

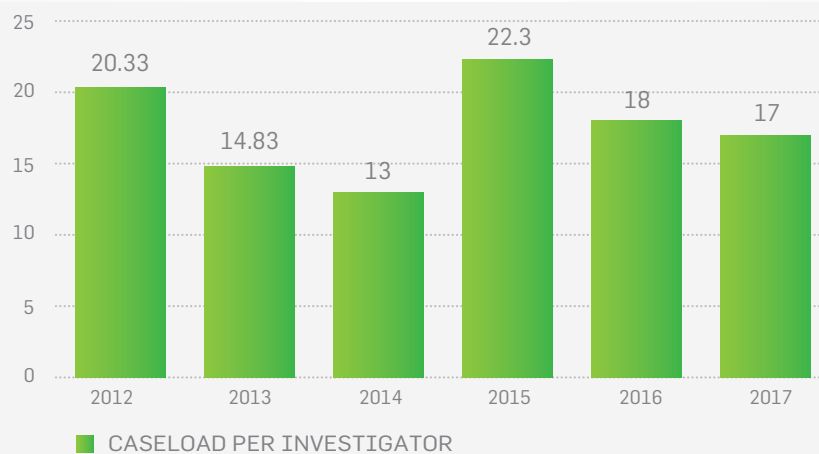
Ten investigators are employed in the PCU. Cases are assigned to each investigator by the Director of Professional Conduct when the preliminary review takes place. In 2017, a process of reviewing each investigator’s caseload every three months was instituted. The following chart displays the statistics on investigations concluded at six month intervals. It indicates the progress made in reducing the gap between the number of investigations ordered and those concluded (the “Investigation Backlog”). Reducing the Investigation Backlog 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 of three new investigators and two new investigation assistants in 2015, as well as regular case conferencing in 2017 have facilitated a continued reduction in investigative delay.

INVESTIGATIONS ORDERED & INVESTIGATIONS CONCLUDED BY 6 MONTH PERIOD



Another indicator of the ability of investigators to deal with investigations assigned to them is the size of investigative caseloads. There is a direct correlation between the size of investigation caseloads and investigation delay. The following table shows the average investigative caseload on June 15 of each year from 2012 to 2017.

CASELOAD PER INVESTIGATOR



A 17 investigation caseload is not optimal. It implies an average delay at the investigation stage of approximately one year. Our experience in the PCU suggests that probably the best that can be achieved is an average investigative delay of approximately nine months and we have been working toward that. In my last annual report I discussed the reasons that teacher discipline takes so long. Moving toward further reducing investigative caseloads is an important part of containing the delay in the discipline process.

Delay in the Consent Resolution Process

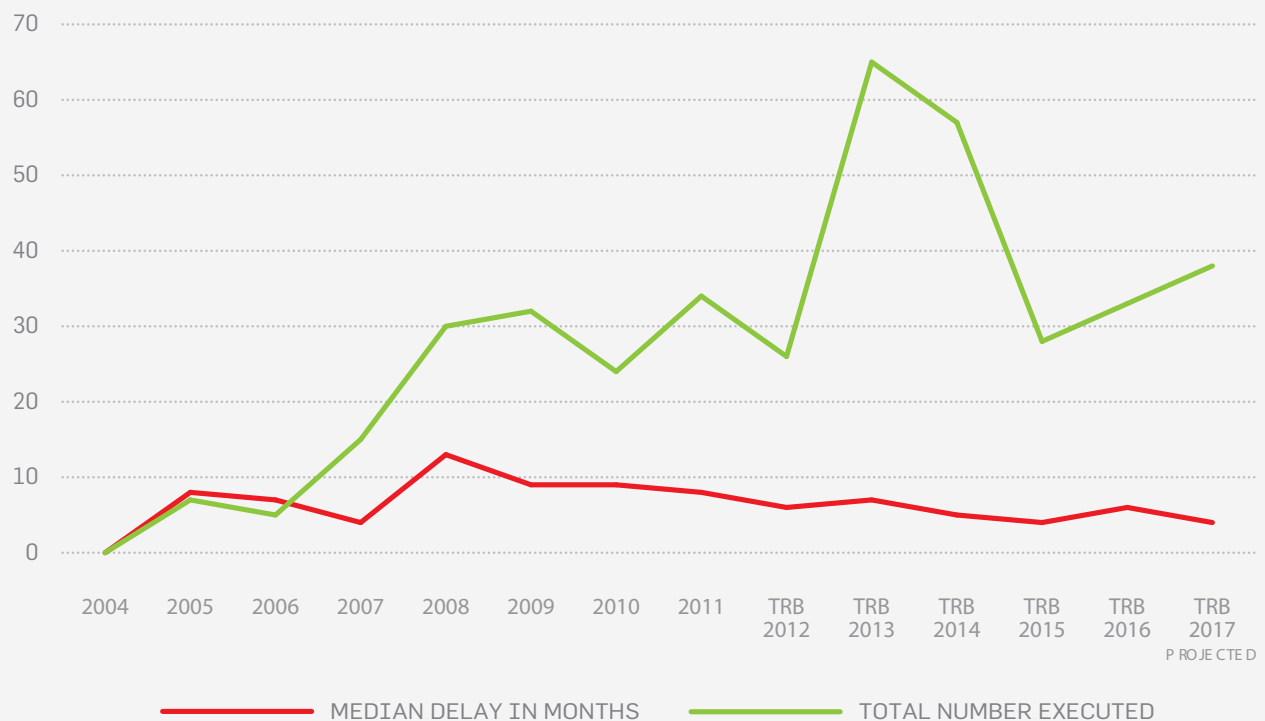
The consent resolution process involves considerable back-and-forth contact with teachers and their counsel. The *Act* requires that the details of the conduct admitted by the teacher be set out in the agreement. Frequently there is disagreement over details of the wording used to capture the conduct.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

Delay in the consent resolution process has been reduced since we instituted the practice of drafting consent resolution agreements to initiate the process. This change has required the development of expertise and administrative resources in the Ministry of Justice which supplies legal support to the PCU. New administrative procedures to facilitate the flow of documentation and correspondence have been instituted. These changes have been part of a larger redeployment of legal resources from private lawyers retained on an ad hoc basis which had been the practice of the BC College of Teachers. This redeployment has had a significant effect on the cost of the consent resolution process. Those changes are dealt with later in this report.

The average delay for the consent resolution process has been reduced from 9.5 months under the BC College of Teachers to 5.9 months now.

The average number of consent resolutions signed has increased from 30 per year under the College to 41 now.

NUMBER OF CONSENT RESOLUTIONS EXECUTED AND MEDIAN DELAY IN MONTHS, 2004-2017



Hearings

Few cases proceed to a hearing. Typically, these are cases involving serious allegations of misconduct where substantial consequences are sought by the Commissioner.

In 2016, four cases proceeded to hearing. The hearings varied in length – the longest took six days before the hearing panel. The hearing process is prolonged because of the necessity of arranging and completing pre-hearing conferences, arranging hearing panels, completing pre-hearing disclosure, arranging for and calling witnesses, and the preparation of written reasons by the panel.

In the first six months of 2017, a panel decided the disciplinary outcome relating to a hearing conducted in 2016.

Hearing panels

Under the *Teachers Act*, if a complaint or report is not resolved by a Commissioner’s decision to take no further action or by a consent resolution agreement, it must be referred to a three-person panel. The panels are composed of two members from a Disciplinary and Professional Conduct Board established by the *Act* and one member appointed by the Commissioner.

The panels conduct hearings into the disciplinary matters before them and deliver reasons for their findings. In cases where the panel concludes that a teacher has been guilty of misconduct, the panel also decides and imposes the disciplinary outcome and provides reasons for their decision.

Since the *Act* came into force in January 2012, there have been 27 decisions rendered by panels regarding misconduct or penalty.

Ministry of Justice Involvement

The BC College of Teachers employed two lawyers to advise the College on and to assist in carrying forward the work of the College that had legal implications. After the *Teachers Act* came into effect this function was transferred to the Ministry of Justice (the "MOJ" – now the Ministry of Attorney General). From the beginning of my term I have had the services of two MOJ lawyers to call upon. Those lawyers are employed to assist the Teacher Regulation Branch generally. However, in practice most of their work is done for the PCU.

Shortly after my appointment as Commissioner, the PCU initiated a project to reduce the cost and enhance the efficiency of the consent resolution process. Until March of 2013, the practice of retaining outside counsel to negotiate consent resolution agreements and conduct hearings was relatively unchanged from the practice followed by the College of Teachers. This practice was changed in the first half of 2013 by winding up the retainers of ad hoc counsel and moving the consent resolution process fully in-house. After that, the consent resolution agreements were negotiated by the MOJ counsel assigned to the Teacher Regulation Branch or by PCU staff. A systematic approach was developed to achieve a more orderly consent resolution process. The process was initiated by delivery of a draft consent resolution agreement approved by the Commissioner to the certificate holder being disciplined or their counsel to form the basis for negotiations.

The process of changing over from a practice of relying on outside counsel to an in-house process was well advanced by mid-2013. During the period July 2012 to March 2013, ad hoc legal costs (fees charged by outside lawyers for legal services to the Teacher Regulation Branch) were running at about \$40,000 per month. By the end of 2013, ad hoc legal costs were greatly reduced and in the period April 1, 2014 to March 31, 2015 those costs averaged \$12,200 per month. In the fiscal year 2015/2016, ad hoc legal costs averaged \$2,325 per month. In the 2016/2017 fiscal year they averaged \$37 per month.

This was accomplished without a substantial change in resources contracted for with the MOJ. The PCU used the services of two MOJ lawyers throughout. Those services were augmented from time to time by the services of other MOJ lawyers. For fiscal 2017/2018 the Teacher Regulation Branch legal budget estimates that the PCU will incur an expense of approximately \$9,550 per month for MOJ counsel in addition to the two counsel dedicated to the Teacher Regulation Branch.

The net efficiency achieved is in excess of \$30,000 per month even though the number of consent resolutions per year has increased and the delay in the consent resolution process has been reduced.

Development of Courses as an Alternative to Suspension

One of the major changes to the system of teacher discipline accomplished during the five years I have been Commissioner is the movement away from the imposition of suspensions of teachers in the consent resolution process.

There are significant disadvantages to teacher suspension as a regulatory measure. The school curriculum has been designed on the assumption that students will be taught for the prescribed number of days each year by a classroom teacher. In practice, teachers and students are occasionally absent for health reasons. Teachers, parents and students work around these absences in different ways. Students can be tutored, either by a teacher or a private tutor, or the parents themselves in some cases. Teachers can be replaced by a teacher on call who delivers the necessary instruction.

Teachers typically do a good job of identifying the best way to “make up” for student absences. They devote many unscheduled hours each year to this task. There are a number of skilled teachers who competently fill in for teachers when they are necessarily absent. But a teacher teaching on call does not have the advantages of the classroom teacher. Regular classroom teachers know the students individually. They have experience in managing specific behaviour problems, dealing with learning disabilities, and pacing instruction within the context of the curriculum. Teachers teaching on call have to manage the class without the specialized knowledge and experience of the classroom teacher. Some classes are difficult to control because students seize on the opportunity to have something of a holiday (or as one student phrased it: “a holiday from school while in school”). Teachers teaching on call have to possess a very high degree of classroom management skills. All of this conspires to dilute the learning that takes place when the regular classroom teacher is not present in the classroom. Student learning can be enhanced by reducing suspensions that remove the classroom teacher from the classroom.

A disproportionate number of reports by school districts and complaints from parents stem from one of four categories of behaviour: (1) violations of professional boundaries; (2) inadequate classroom management; (3) mismanagement of conflict situations; and, (4) inappropriate treatment of special needs students. The inappropriate treatment of special needs students and the need for teacher training and education in this area is dealt with elsewhere in this report.

In cooperation with the Justice Institute of British Columbia (JIBC), the Teacher Regulation Branch developed three courses to assist teachers to gain or improve skills in the first three areas underlying disciplinary reports and complaints. The courses are each three days in length and are designed on the JIBC model to impart practical skills and modify behaviour. All three courses are given in non-instructional time during summer holidays and spring break so that teachers can access them without interrupting their time in the classroom. Each course costs \$697. The cost is borne by the teacher. Teachers from the Lower Mainland bear their own local transportation costs. In the case of teachers outside the lower mainland entering into consent resolution agreements, the transportation to Vancouver and accommodation during the course is paid for by the Teacher Regulation Branch.

The number of teacher suspensions has been significantly reduced.

However, suspensions for some misconduct are still used as a regulatory tool if a course option is not appropriate.

The Development of a Management Information System

The Teacher Regulation Branch took over the information systems that had been developed over the years by the BC College of Teachers to track and store file information. Billy Sutherland, who had been primarily responsible for the creation of the major component of the system used by the PCU, transferred to the Ministry when the *Act* came into effect. He extended the discipline data collection capabilities of the College system and maintained its functionality.

In 2013, the Director of Professional Conduct undertook an initiative to create a new discipline management information system using the existing system as a base and ensuring compatibility in order to maintain the depth of knowledge accumulated within the existing system. The goal was to enhance and extend the capabilities of the existing system to permit a high level of management capability compatible with the provisions of the *Act*. A major impetus for the project was the arrival at the PCU of Phin Lu, a new investigator with ancillary experience in leading projects that involved information systems and business operations. She immediately set about creating an overall design for an enhanced system focussing on investigations workflow.

An initial meeting was held in March 2015. It became clear there were divergent views about the path toward an enhanced management information system. The PCU was in favour of in-house development which would utilize the collective expertise of PCU staff and IT software engineer, Kan Zheng. The alternative considered was the use of an outside supplier at a cost in excess of \$400,000. On July 30, 2015, the in-house alternative was chosen and approved by the Executive Director of the Branch.

In-house development meant there were no outside costs incurred and no time lost to educating external contractors. Because the work was being done by staff who already possessed deep organizational knowledge, they were able to dive directly into development, delivering the first system upgrade within two months of the start of the project. They continued to release new features every month or two, applying a combination of thinking and methodology that allowed them to maximize results and be responsive to immediate needs throughout the two years of the project.

A process team was also formed to analyze workflows and contribute ideas that fed into the development process. The direct communication between the software users and software developer made for rich and creative brainstorming opportunities, and the synergy between staff allowed innovation to thrive. Requirements were constantly defined and refined. This ensured that what was delivered was tailored specifically to the PCU's needs, which increased enthusiasm and confidence in results. Implementation was smoothly executed with minimal user training needed and no disruption to business continuity.

The result is a system that automates many of the detailed time-consuming steps that are a crucial part of tracking and record-keeping in investigations. Data entry is minimized using shortcuts, evidence is recorded by "drag and drop," standard letters are generated at the click of a button, and feedback loops alert staff to new information and guide them to next steps. Investigation workflows are streamlined and standardized, and supported by information systems features that have reduced the number of keystrokes by thousands, made investigations more effective, and created capacity for resources to be more effectively allocated.

The project had a marked positive effect on morale and staff engagement. The high level of collaboration led to an almost seamless introduction of the new system and a culture of continuous process improvement within the PCU.

Students with Special Needs

In 2015, the British Columbia Teachers' Council established under the *Teachers Act* conducted a survey of new teachers (teachers who were in their first 4 years of holding a teaching certificate). The purpose of the survey was to support its review of the *Standards for the Education, Competence and Professional Conduct of Educators in BC* and to inform teacher preparation in BC. The results of the survey indicated that 62 to 70% of the new teachers responding indicated that they disagreed or strongly disagreed that their teacher education program had prepared them to recognize and work effectively with students with physical disabilities or emotional or behavioural disorders.

A June 2017 study that I commissioned of 1037 teachers who had been the subject of either a report or complaint of misconduct concluded that it is almost twice as likely that a report or complaint of teacher misconduct will involve a special needs student compared to incidents involving students generally.

These empirical results accord with my observations that interactions between teachers and special needs students are much more likely to lead to disciplinary complaints and that the source of the problem is inadequate teacher preparation. Instances of complaints and reports of teacher misconduct typically result from a reaction to student behaviour without any apparent regard to the special needs student's particular vulnerabilities. In many cases, the teacher has not read or considered the student's Individual Education Plan before proceeding to address behaviour.

It is an axiom when dealing with special needs students that behavioural issues should prompt an enquiring response on the part of teachers. The phrase that "behaviour is communication" should be foremost in the teacher's mind when dealing with special needs students with behavioural issues. Immediate reactive disciplinary responses are seldom appropriate.

It is clear that the integration of special needs students into the classroom has created difficult challenges for teachers. These challenges have not been completely ameliorated by the addition of resources directed toward ensuring that this vulnerable category of students fully receives the "meaningful access" to educational services contemplated by the Supreme Court of Canada in *Moore v. British Columbia (Education)* 2012 SCC 61.

In order to reduce the frequency of instances of misconduct involving special needs students, it has become clear to me that additional remedial education is necessary in order to assist teachers who face disciplinary consequences as a result of reports and complaints of misconduct. This need is one that should be addressed quickly by the creation of a course directed toward skill development for teachers to add to the three existing remedial courses already developed.

I suggest that the Ministry of Education develop an online course for this purpose.

The development and ongoing cost of an online course of a suitable magnitude and scope is substantial. I would suggest that, in order to spread the cost of that course development across future continuing professional development teacher education in the area of special needs, the course should be developed with remedial as well as continuing professional development use in mind. An online course would have the advantage of province-wide availability and increased speed of dissemination both in remedial use and to teachers generally.

Conclusion

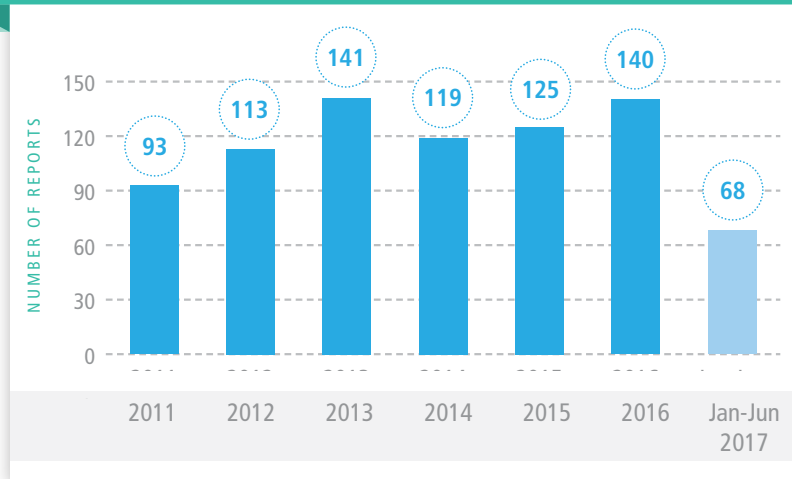
In conclusion, I am satisfied that the processes that have been implemented to date are in accordance with the requirements of the *Act*. The Professional Conduct Unit is operating at a high level of efficiency. Over my term of office we have been successful in reducing legal costs, developing a management information system in-house, improving the metrics of efficiency in investigations and in the consent resolution process. Some additional gains may be made by working more closely with districts to ensure that the information that they supply with their reports meshes more closely with our processes. There is some further room to reduce investigative caseloads. The PCU is blessed with a highly competent and well-motivated staff. They have been a joy to work with during the past five years.

Statistical Review 2016-2017

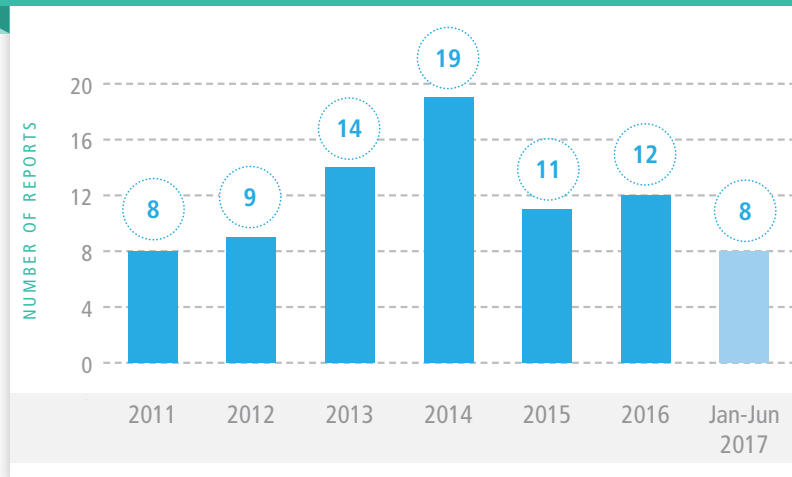
Reports, Complaints and Commissioner-Initiated Investigations



REPORTS RECEIVED REGARDING PUBLIC SCHOOL TEACHERS



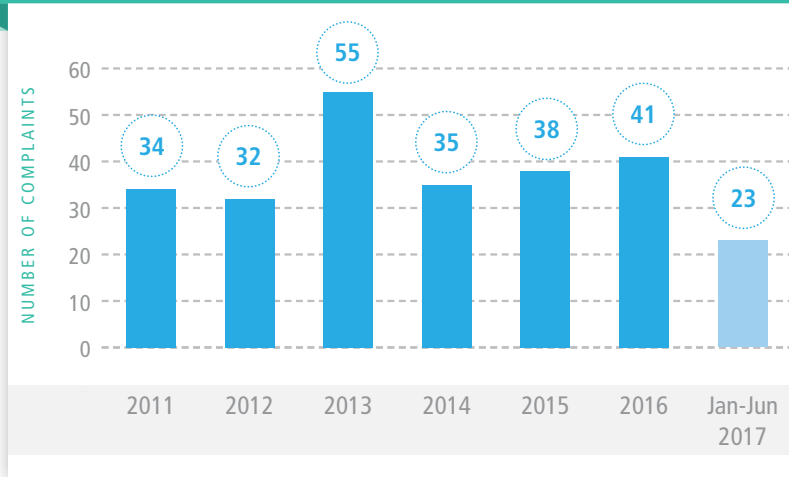
REPORTS RECEIVED REGARDING INDEPENDENT SCHOOL TEACHERS



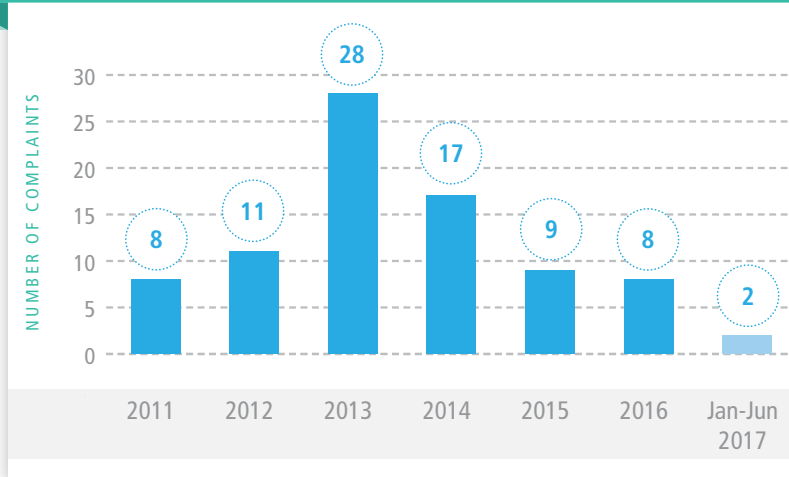
REPORT: a written report for the Commissioner regarding a teacher who has been suspended, dismissed, disciplined for misconduct that involves physical harm to a student, sexual abuse or sexual exploitation of a student, has caused significant emotional harm to a student; or is believed to have breached the *Standards*.



COMPLAINTS RECEIVED REGARDING PUBLIC SCHOOL TEACHERS

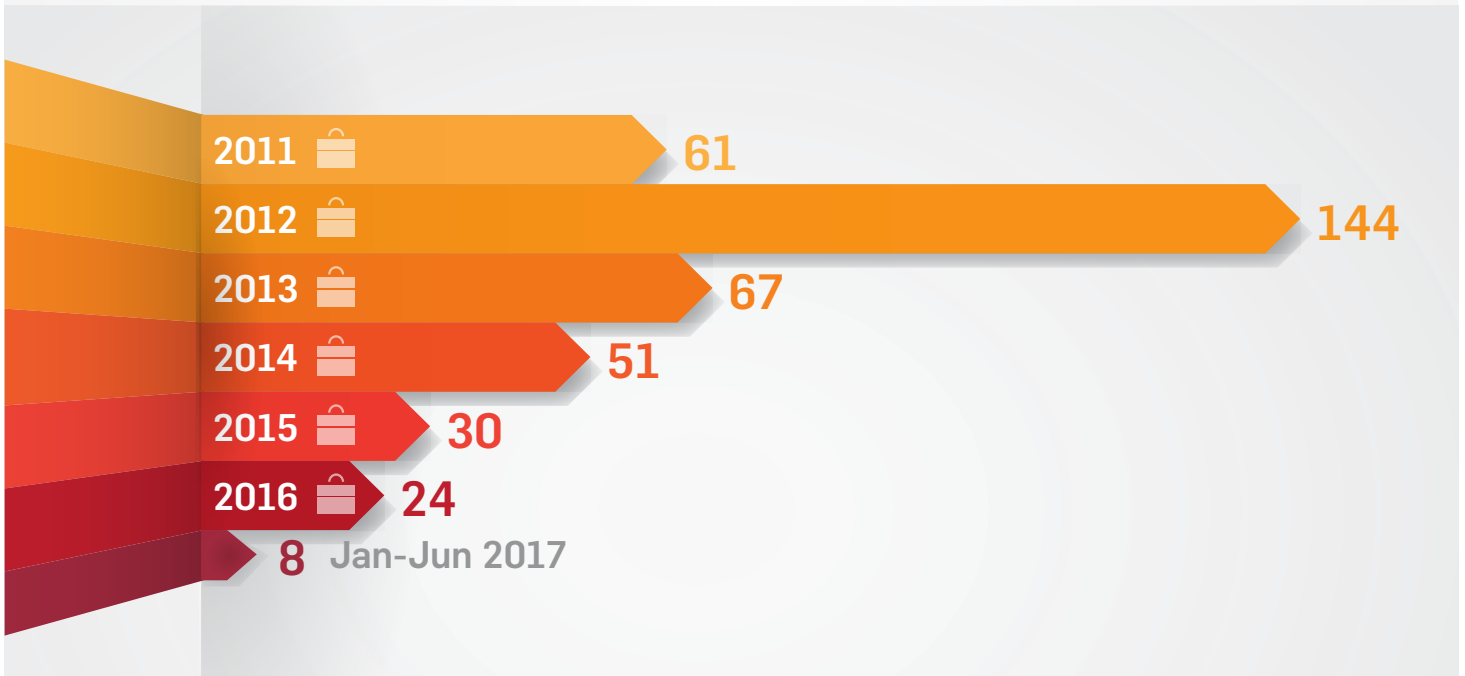


COMPLAINTS RECEIVED REGARDING INDEPENDENT SCHOOL TEACHERS (includes Offshore and Band schools)

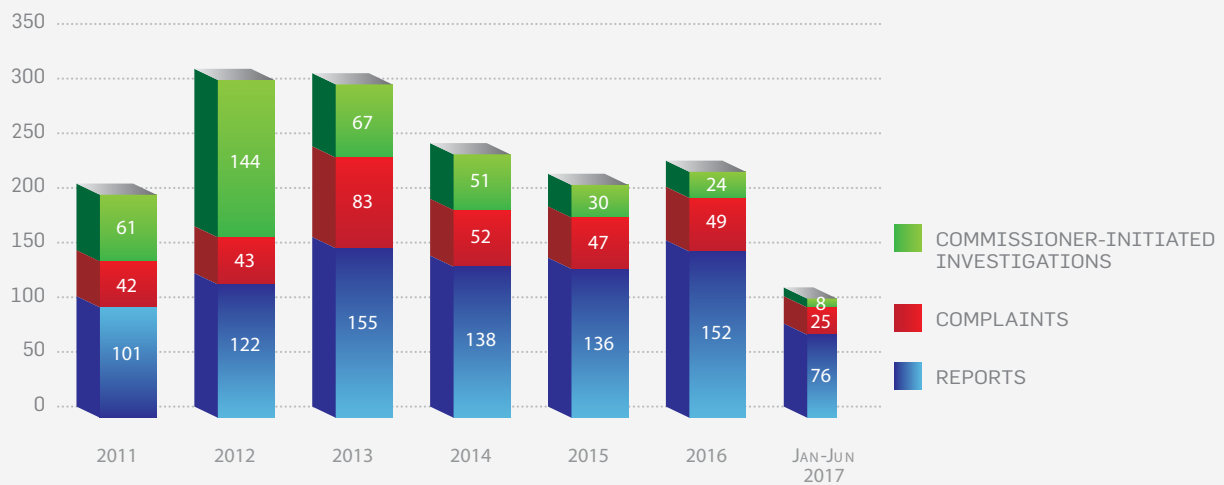


COMPLAINT: a written complaint, usually from a member of the public, to the Commissioner regarding the conduct or competence of a teacher who is believed to have breached the *Standards*.

COMMISSIONER-INITIATED INVESTIGATIONS (including 5 year criminal record checks)

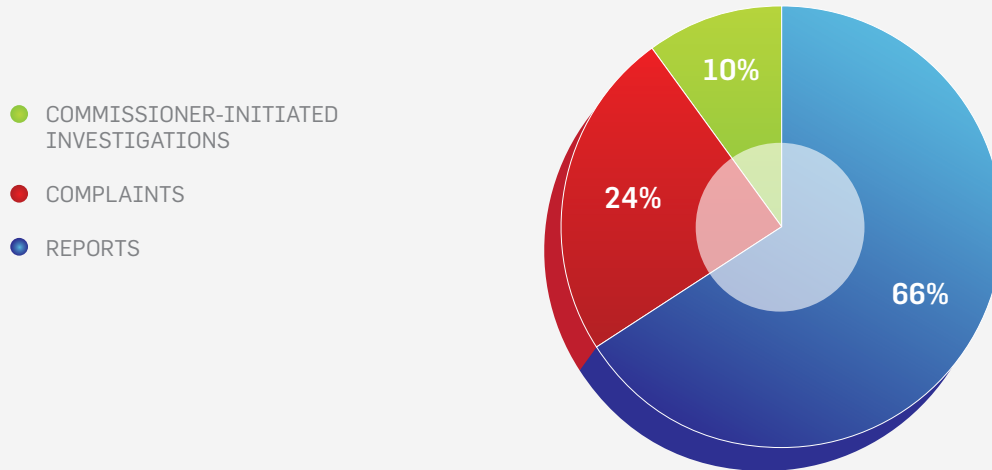


TOTAL REPORTS, COMPLAINTS AND COMMISSIONER-INITIATED INVESTIGATIONS



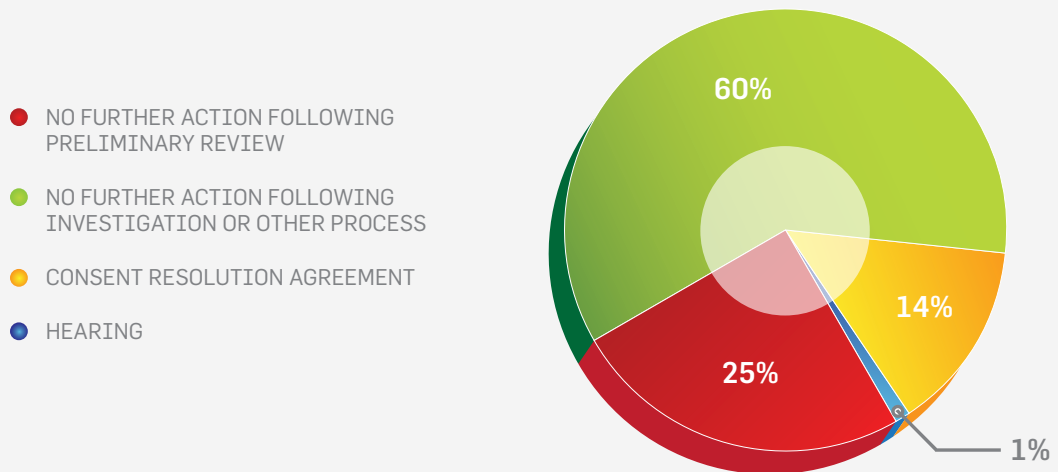
Who Initiated the Disciplinary Action?

2016-2017 SCHOOL YEAR PERCENTAGES: REPORTS, COMPLAINTS AND COMMISSIONER-INITIATED INVESTIGATIONS



What was the Resolution of the Disciplinary Action?

2016-2017 SCHOOL YEAR PERCENTAGE OF CASES RESOLVED BY STAGE OF PROCESS



What were the discipline outcomes?

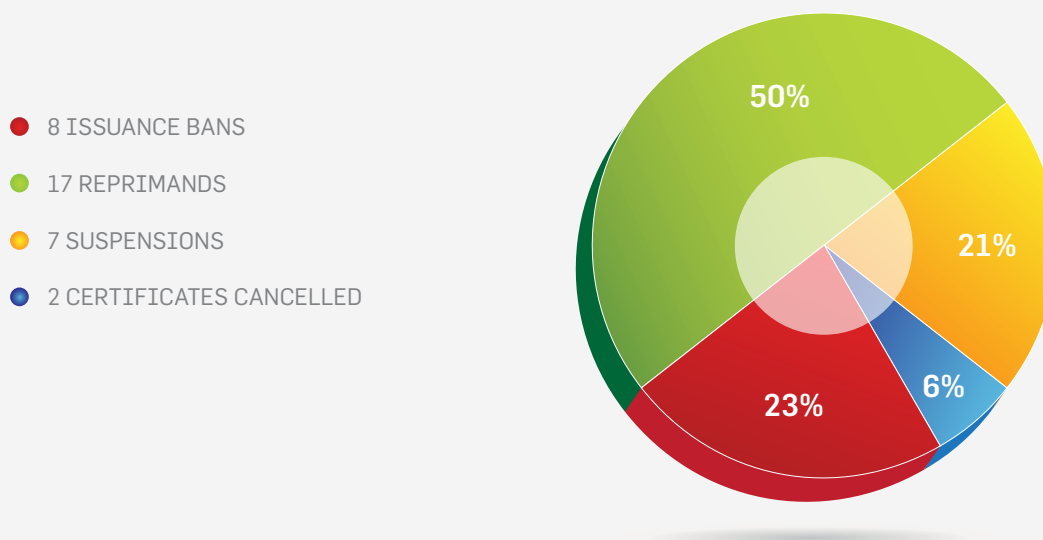
The *Act* outlines the type of sanctions that may be imposed on a teacher who has been found guilty, at the regulatory level, of breaching the *Standards*. The sanctions vary depending on the severity of the breach and may include:

- a) a reprimand;
- b) 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;
- c) cancellation of a teaching certificate;
- d) a ban on issuance of a teaching certificate for a fixed or indeterminate period of time; or
- e) the placement of limitations and conditions on a certificate.

The most commonly imposed sanction in the 2016-2017 school year remained the reprimand. Often the reprimand is combined with the imposition of a requirement that teachers complete a training course at their own expense. The proportion of cancellations doubled. The proportions 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 2016-2017 SCHOOL YEAR



The Commissioner ensures that concerns about the competence and conduct of teachers are addressed independently, fairly, transparently, in a timely manner, and in the public interest.

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 the cancellation of the teacher's teaching certificate and 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 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 for the Education, Competence and Professional Conduct of Educators in British Columbia* or the *Independent School Teacher Conduct and Competence Standards*. These standards are established by the British Columbia Teachers' Council under the *Teachers Act*, and by 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.

Categories of Misconduct

Teacher misconduct has been reported in my past 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 had been categorized in an unenlightening category called "inappropriate conduct professional role". That category is no longer used. The statistics collected within the professional conduct unit are now collected in a number of much narrower categories. Those categories reflect our experience over the past five years.

The categories of misconduct and the number of reports or complaints falling into each category are set out below.

Categories are set out in bold face and the examples of the types of misconduct included in that category are included to the right of 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.

Tracking of categories started in January 2017, and this table reflects the 140 reports, complaints or Commissioner-initiated investigations received between January and September 2017.

DIRECTLY STUDENT RELATED

Category Descriptor	Examples	Number	
Inappropriate behaviour before the class (15%)	Showing inappropriate videos Angry outbursts Swearing	Yelling Talking about inappropriate subjects Thoughtless actions and statements	21
Emotional harm – student (12%)	Yelling at students Humiliation	Demeaning comments Embarrassing students	17
Physical harm – student (9%)	Physical violence of any nature toward student		12
Special needs student violations (14%)	Inappropriate failure to follow Individual Education Plans Rude or taunting behaviour toward special needs students Inappropriate discipline of special needs students		19
Boundary violation – sexual (10%)	Overt sexual advances Grooming behaviour	Sexual innuendo Sexual touching	14
Boundary violation – non-sexual (1%)	Inappropriately befriending student		2
Social media violation (1%)	Posting inappropriate material on social media Inappropriately communicating with students on social media Disclosing private student information on social media		1
Failure to supervise (5%)	Losing track of students Prolonged absence from classroom Leaving student(s) unattended		7
Breach of school rules (12%)	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	17

NOT DIRECTLY STUDENT RELATED

Category Descriptor	Examples	Number
Fraudulent behaviour (6%)	Creation of fraudulent documents Fraudulent claims of sick leave or other leave	8
Harassment – colleague (5%)	Harassing behaviour toward colleagues Sexual harassment of colleague	7
Theft of school monies (0%)		0
Misappropriation of school property (0%)		0
Other (11%)	Terminated without cause Issues not school related Failure to communicate with parents	15

Strategic Goals for 2017-2018

1. Ensure the development of an online course to assist teachers to respond to behavioural issues involving students with special needs.
2. Develop an in-house manual of educational resources for teachers for use in our discipline process including courses on culture and gender sensitivity.
3. Develop an investigative procedure manual to assist human resources units at the school district level.
4. Cooperate with government to rationalize the funding structure for the Teacher Regulation Branch in order to promote accountability, administrative efficiency and operational effectiveness.
5. Continue to work on procedural change to further reduce delay.



Appendices

A. Justice Institute of BC (JIBC) Courses

On May 15, 2015 the Teacher Regulation Branch and the Justice Institute of BC 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, attendance is required 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 describes the three courses as follows:

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 behaviours, 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. Future date to be determined.

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 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.

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.

B. Duty to Report

Under the *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' duty to report

Under section 38 of the *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

Self-reports of relevant or specified offences

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 or specified offence". These are offences listed in Schedule 1 or Schedule 3 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, superintendents and independent school principals or 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.

C. Resources

Resources for the public and education stakeholders

Applicable legislation

Teachers Act

Commissioner's Regulation

Commissioner's Rules

School Act

Independent School Act

Other relevant legislation

Criminal Records Review Act

Administrative Tribunals Act

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

Intake area – to ask questions about making a complaint

Email: 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



BRITISH COLUMBIA
COMMISSIONER FOR
TEACHER REGULATION

ANNUAL REPORT

2016/2017

COMMISSIONER FOR TEACHER REGULATION