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A College Divided: Report of the Fact Finder on the BC College of Teachers

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Background:

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

The BC College of Teachers is the statutory authority established by the Legislative Assembly of British Columbia to preside over the regulation of the teaching profession in the province. ¹The College describes its mandate as one where they are “empowered through legislation to ensure that educators who work with students in BC classrooms are competent and suitable for the important role they play in society.”²

The signatories to the letter stated that, from the time the College was established in 1988 to the present, it had been hampered by “the on-going influence of the British Columbia Teachers’ Federation “(BCTF). The BCTF is the union that represents approximately 41,000 teachers working in BC’s public schools.

The core aspect of the concerns expressed in the letter sent to the Minister of Education was that “influence is exercised by the BCTF “ through the endorsement of candidates, union policy and liaison between the BCTF and BCTF-endorsed council members” and that this causes “widespread concern that the College is unable to carry out its mandate in the public interest.”

The BC Teachers’ Federation, it should be noted, plays many important roles, the most significant aspect of which – in this context – is the representation of members (teachers) in discipline and other related matters both within the employment context and when members are required to appear before the College regarding discipline, competence or other proceedings.

The allegation set out by the signatories to the letter was this: the relationship between the BCTF and council members endorsed by the BCTF to sit on Council is inappropriately close given the quasi-judicial nature of the responsibilities the Council is expected to discharge.

The eleven members seeking intervention constituted, at the time, the majority of the College Council and included the Chair, Vice-Chair, the elected Council member for Zone 4 (Kootenay)

¹ The College itself is made up of the broad membership of the teaching profession in BC and includes all teachers in public schools, many within the independent school system and school administrators including superintendents, principals and vice-principals. The College Council is the governing body analogous, in a number of respects, to a board of directors. Membership on Council sub-committees is drawn from amongst the 20 Council members.

² BCCT Website

and all eight members appointed through Order in Council.³ Their letter to the Minister of Education, a copy of which is appended to this report, asked that an independent person be appointed to undertake an examination of the functions of the College and to make recommendations regarding self-regulation of the teaching profession. A second request, which government did not act on, was for the suspension of any further Council elections or appointments until such time as the review was completed.

The review request was precipitated in part by a Governance Committee Report tabled with the College Council in December of 2009. That document contained a number of proposed policy recommendations apparently intended to strengthen the ability of the College of Teachers to act, and to be seen as acting, independently.⁴ Recommendations in the Governance Report invited Council to consider:

1. Asking government to establish, by regulation, new conflict of interest rules for the Council which would stipulate that “all candidates for election or appointment to the Council and all Council members” must not:
 - a) hold a position as an officer or employee of any association, corporation or trade union that is engaged in advocacy for members of the College;
 - b) accept endorsement or financial support from any association, corporation or trade union that is engaged in advocacy for members of the College; and
 - c) act in any manner that might result in their responsibilities and duties to any other organization being incompatible with or in conflict with their duties as Council members.
2. Proposed changes to communications policies that would limit the capacity of Council members to meet with “partner groups” unless with the express authorization of Council or, where applicable, with the approval of the Registrar and Chair of the Council.
3. A proposal to establish a Partner Liaison Committee, to be chaired by the Vice-Chair of Council, that would provide for participation by all members of Council together with representatives of the BC School Trustees Association (BCSTA), BC School Superintendents’ Association (BCSSA), BC Teachers’ Federation (BCTF), BC Principal and Vice-Principals Association (BCPVP), Federation of Independent School Associations (FISA) and others; and
4. Proposed changes to compensation policies for Council members that, in addition to other impacts, would have limited the per diem entitlements of retired teachers serving on Council and already receiving the benefit of a pension for past service.

³ Order in Council Appointments to the BCCT have generally provided for the inclusion of individuals with experience as school trustees, school principals, superintendents, parents, etc.

⁴ The full Report of the Governance Committee has not been made available publicly but was made available for purposes of this review.

The content of the Governance Report generated a considerable amount of acrimony first within the membership of the College Council and then, at subsequent meetings, between the proponents of the proposed changes and the BCTF.

The goal of those proposing these changes was to establish an appropriate distance between the BCTF and the College. As almost every elected Council member endorsed by the BCTF had previously occupied local, regional or provincial positions within the union before coming to the Council, and as regular bilateral meetings were held between those elected Council members and the senior staff/executive of the BCTF to discuss policy matters on Council agendas, there were concerns about the need for protocols that would limit the potential for both the appearance or the reality of conflict of interest.

Some Council members were highly critical of the proposed changes believing that, if implemented, the new conflict of interest rules would unreasonably limit who would be eligible to seek election to serve on the Council of the College of Teachers; that it was not reasonable to constrain the capacity of Council members to meet, or consult with, any third parties without the form of consent contemplated by the proposed rules; and, that the new rules would also put in place compensation policies that would likely limit participation on the College Council by retired members. Some of these criticisms had merit.

The proposed package of reforms never came to a vote. Some elected members of Council would subsequently acknowledge that they used procedural objections and filibuster to frustrate the possibility that there would be any kind of vote on the proposed governance changes. There is also little dispute that this was done, in part, to delay consideration of the matter until after Council elections in June of 2010. At the time, there were elected Council members and senior officials of the BCTF who openly articulated the position that those supporting reforms to the governance policies of the Council would no longer hold a majority following the June elections.

Having come to the conclusion that it would not be possible to move ahead with any serious consideration of the proposed reforms, or even a productive discussion on the need for some form of governance changes, the majority of Council elected to communicate their concerns directly to the Minister of Education. Their call for a review was supported by representatives of the BC School Trustees Association, BC Principals and Vice-Principals Association, BC Council of Parents Advisory Council, by the Federation of Independent School Associations, the BC School Superintendents' Association, and by the several individuals who had previously held the position of Chair or Registrar of the College.

The content of letters supporting the call for a review revealed the extent of widely held concerns within the broader education community regarding the capacity of the College to

properly fulfill its role. The BCSTA position described the situation at the College as one where circumstances had “escalated to a level of dysfunction that is now impeding the functioning of the College”. The BCCPAC called for a review that would “ensure that the public interest is protected by processes that guarantee the independence of the College”. The Federation of Independent School Associations stressed the need for a College that would be able to “function free and clear of external forces and pressures from the stakeholder groups that it is to govern” and, further, that the College Council now seemed to be in a state of paralysis. Lastly, the organization representing School Superintendents called for a review that would help to put in place the conditions necessary to restore the College as a fully independent professional self-regulating body “in which we all can trust.”

The letters from the groups supporting the call for a review, together with interviews subsequently conducted with each of these parties, indicate that the BC College of Teachers had a pre-existing and significant credibility problem well before the emergence of the controversy regarding the recommendations of the Governance Committee. Many of those interviewed confirmed that the highly divisive atmosphere within the BC College of Teachers, the on-going practice of bilateral meetings between some of the elected Council members and representatives of the BCTF, together with the apparent inability of the College Council to have what was seen as a necessary conversation about the need for possible governance changes, simply served to confirm their belief that the College was fractured.

Tensions within the College Council escalated further when the Chair of the College Council, Mr. Richard Walker, wrote to the Vancouver Sun setting out the reasons why he and ten other Council members had come to the conclusion that it was necessary to ask the Minister of Education to initiate an external review. Mr. Walker’s letter fuelled substantial controversy both within, and beyond, the College Council. Walker’s comments regarding the involvement of the BC Teachers’ Federation in the affairs of the College and, more particularly, with respect to the disposition of “person complaints”⁵ were publicly challenged by the BCTF as inaccurate and misleading. The BCTF demanded both a retraction and an apology from Mr. Walker and, when neither was forthcoming, an action was initiated in the Supreme Court of British Columbia seeking damages from Mr. Walker for defamation.⁶

A submission subsequently provided by the BCTF⁷ offered the view that “prior to the comments in the media by the Chair and the Registrar, there was no crisis. There were no complaints about the lack of public confidence in the College from government or the public.”⁸

⁵ Changes in 2003 had made it possible for individuals, most often a parent, to forward a complaint directly to the BCCT

⁶ This matter is currently before the Court.

⁷ Provided to the Fact Finder in August 2010 and appended to this report.

Terms of Reference:

On May 18, 2010 the Honourable Margaret MacDiarmid, Minister of Education, appointed a Fact Finder to inquire into matters regarding the BC College of Teachers. The mandate set out by the Minister focused on the following six areas of inquiry:

1. Whether the College of Teachers is fulfilling its mandate under section 4 of the *Teaching Profession Act* and more precisely, whether the College is meeting its obligations “to establish, having regard to the public interest, standards for the education, professional responsibility and competence of certificate holders and applicants for certificates of qualification and, consistent with that object, to encourage the professional interest of certificate holders in those matters;
2. The role, and performance, of the College in teacher “pre-service” and “in-service” training and the regulation of teacher competence;
3. The role and performance of the College when compared against the role and function of other self-regulating professions;
4. The performance of the College when compared against the performance of teacher certification bodies in other jurisdictions;
5. The effectiveness of the College in carrying out its mandate with regard to complaints concerning teacher conduct or competence and, more specifically, the performance of the College in relation to investigations, disciplinary action and public reporting; and
6. The effectiveness of the Council of the College of Teachers in carrying out its mandate to govern and administer the affairs of the College.

Review Process:

Over the course of the review, interviews were conducted with a broad range of individuals and organizations associated with, or otherwise interested in, the mandate and performance of the BC College of Teachers. This included interviews with a significant number of both past and present members of the College Council, members of both the executive and the senior staff of the British Columbia Teachers’ Federation, the Chair of the B.C. School Trustees Association, executive and senior staff members with the BCPVPA, representatives of BCCPAC, senior representatives of the BCSSA, the BC Public Schools Employer Association (BCPSEA), representatives of the Association of British Columbia Deans of Education (ABCDE), and members of the academic community with specialized expertise in educational history and

⁸ A BCTF Press Release in May 2010 also contained the statement that “there was no crisis until the Chair and the Registrar manufactured a crisis to force government to intervene.”

governance. The review also included discussions with senior officials – both past and present – of the BC Ministry of Education and with current and former staff members of the College of Teachers.

The review also benefitted from submissions, or other communications, initiated by private citizens either generally interested in the performance of the College or, in some cases, with more specific concerns regarding how the College had handled matters where those individuals were the complainant, a family member of a complainant or a person otherwise interested in a matter that had been considered by the College at some point in the past.

A comprehensive document survey of the College was also undertaken. This included the examination of Council processes, complaints, discipline files, reports and proceedings from fitness hearings which, in some cases, included full transcripts of matters considered by the College through its various sub-committees.

A Difficult Relationship:

It is important to understand that the Governance Report that became the focal point of controversy within the BC College of Teachers in late 2009 was not the source of the escalating tensions but, rather, the catalyst that caused longer-standing issues to become more publicly apparent. As one Council member would later observe, the “issues had been there for years and it was inevitable that it would get to where it is.”

The mandate and, in many ways, the very existence of the College of Teachers has been controversial from the time of the creation of the entity through Bill 20, the *Teaching Profession Act*, in April of 1987.

At the time, the introduction of a College of Teachers to British Columbia in 1987 could properly be regarded as a unique North American experiment. The only similar organization in existence at that time was a self-regulatory body established in Scotland in the 1960s. Even today, the College is a substantially different model for teacher certification and self-regulation than what can be found in most other jurisdictions. Ontario adopted a somewhat similar mechanism in 1997,⁹ but other Canadian jurisdictions and most in the United States have retained a substantial degree of government control over the licensing of teachers, mechanisms for de-certification and, in some cases, the processes relevant to discipline proceedings.

⁹ While the Ontario College has some similarities to the BC model there are also some key differences. The province retains the authority to establish professional standards and the Ontario College tends to favour public meetings when addressing discipline and fitness matters.

It is interesting that, in the years since the establishment of the College, its creation has been characterized by the Teachers' Federation as a ploy designed to divide the loyalty of teachers. This will be discussed in more detail below. Gone from much of the discussion is any reference to the now infamous case of Robert Noyes , [see: (1986) 6 BCLR (2nd) at p. 306]. Noyes was convicted in 1986 on 19 counts of sexual offences against students. Those offences, committed in several different B.C. communities, involving more than 600 incidents from 1970 to 1985, took place when Noyes was either a teacher or a school principal. Noyes would ultimately be declared a dangerous offender, a decision that was subsequently upheld by the B.C. Court of Appeal.

The Noyes case, quite rightly, generated a substantial amount of public concern and was a profoundly significant factor in the decision by government to consider the development of an entity like the College of Teachers. To suggest that the College was put in place simply to undermine the Federation requires one to entirely ignore that rather pivotal historical background.

The introduction of the College in the British Columbia was complicated significantly by the fact that the legislation creating it was delivered in conjunction with associated legislation that, while granting full collective bargaining rights to teachers, also eliminated the requirement for mandatory membership by teachers in the BCTF and removed administrators, including principals and vice- principals, from membership in the Federation.

At the time, the BCTF viewed the establishment of the College of Teachers as a direct attack on their organization. In fact, the headline in the April 9, 1987 edition of the BCTF Newsletter simply stated "GOV'T ATTACKS BCTF" and contained the claim that "never before in the 71 year history of the BC Teachers' Federation have the collective professional interests of teachers been as seriously threatened as they are today". They regarded the College as a mechanism designed by government to undermine the strength of the Federation by dividing the loyalty of teachers. Communications with their membership at the time claimed the College would usurp the professional development role that ought to be the domain of the Federation, that mandatory fees required of teachers to sustain the operations of the College represented a "downloading" by government of teacher certification costs and, further, that the discipline powers assigned to the College would unreasonably expose teachers to double and triple jeopardy. This latter argument was based on the view that the nature of the employment relationship between teachers and school districts meant that teachers could be subject to multiple forms of discipline in relation to the same set of circumstances first by employers, then by the College and, where applicable, by the Courts.

While they continued to object to the very existence of the College, and consistently called for its abolition in the years that followed, the leadership of the Teachers' Federation made a clear

decision in the early days of the College that the best option for exercising a substantial degree of control over how the College would develop and operate would be to populate the elected Council seats with teachers aligned with the interests of the Federation. This was acknowledged in an article titled “Do Teachers Need a College?” published in the November/December 2004 edition of the BCTF newsmagazine “Teacher”. Ken Novakowski, the Executive Director of the Teachers’ Federation at the time of the 1987 dispute and later the President of the BCTF, offered an unvarnished account of what had actually transpired with the first Council elections. According to him - and there were few people as close to the heart of the action as he was at the material time - the decision to support teacher participation in the College essentially came down to this, “After debating the merits of boycotting the College or participating in the College to neutralize it and limit its scope of activity, the BCTF decided on the latter.” Mr. Novakowski went on to say that “as long as we have elected representatives in the majority on the College, there exists the potential for influencing its direction and operations.” During the course of this review the BCTF would publish, in the September 2010 edition of “Teacher”, another article by Mr. Novakowski confirming, yet again, that the Federation had developed, and had implemented, an endorsed candidate selection process to limit the “scope of activity the College could engage in.”¹⁰

During the early years of the College there was a majority of fifteen teachers elected to the Council and the Federation proved very adept at maintaining a tight linkage with those elected to serve on the College Council. This was achieved both through the development of an “endorsed candidate” process, which will be described in greater detail later in this report, and through the establishment of a College Advisory Council, (CAC) which brought together elected College Council members with senior representatives of the Federation. CAC meetings generally took place in the days immediately prior to Council meetings and involved discussions regarding policy matters on Council agendas.¹¹

In 2003 the Government of British Columbia, concerned about both the effectiveness and the perceived independence of the College of Teachers, moved to dissolve the College Council, replacing it with an Interim Council consisting of twenty members drawn from the teaching profession, school administration, school parent groups, post-secondary educators and others. The Council was chaired by Mr. Tarry Grieve, a former school superintendent from the Kamloops School District and a highly regarded educational leader.

¹⁰ Teacher Magazine, Vol. 23, Number 1 at p. 5. See also “Relationships: Teacher Colleges and Teacher Unions”, (“Teacher” Vol. 22, Number 6, April 2010) by Larry Kuehn, Director of the BCTF’s Research & Technology Division and Co-ordinator of the BCTF International Solidarity Program

¹¹ In fact, for a number of years, the BCTF actually paid for the expenses and other costs associated with elected Council members attending CAC meetings.

Once again, this change took place in a challenging labour relations environment. Accordingly, the elimination of a College Council which, up until that point, had enjoyed the 15 elected teacher positions on a 20 person Council generated an adverse response from the BC Teachers' Federation. The Minister's decision was sharply criticized, the appointees to the Interim Council were vilified as "government hacks" and the teachers who accepted positions on the Council were subjected to intense criticism by the Federation. The Federation was also successful in mobilizing its membership to boycott payment of the annual College fees with those funds being diverted to the establishment of a "Democratic College Defence Fund". As a result, the Interim Council was compelled to secure funding from government to facilitate its continued operations.

Despite the challenges faced by the Interim Council, they were a busy and productive organization. College by-laws were revised, new processes were established, systems were modernized and, most significantly, the body moved ahead with the establishment of a revitalized set of Standards of Professional Conduct. However, the tenure of the Interim Council was short. By 2004 the provincial government had indicated a willingness to return to a Council where teachers were elected from zones across the province. The only real change was that the number of teachers would be reduced from 15 to 12.

If government had been optimistic that the Federation would embrace the opportunity to recognize the value of a College that was, and was seen as, able to act independently from the influence of other organizations that, too, was short-lived. The Federation again decided to implement a campaign to elect BCTF-endorsed candidates to the College. The slate included two former BCTF presidents and a number of local presidents.

Once again, there was evidence of an overt campaign by the BCTF to occupy the elected Council positions. During the course of this review several individuals provided copies of internal BCTF e-mails that revealed not only the aggressive approach the Federation intended to adopt in re-asserting control over the College but, also, the reasons for doing so. As teachers prepared to respond to a vote regarding whether they would participate in the June, 2004 elections to select the new twelve teachers to serve on the College Council, the following text was in circulating under the heading "Eight Top Reasons To Vote Yes":

- 1) "We have an opportunity to elect 12 teachers to the college council. They will constitute a majority on the 20-member council.
- 2) By participating in the elections the political hacks on the appointed council will be dismissed by the end of September 2004.
- 3) Although the 12 councillors do not constitute a two-thirds majority of council, they can use their majority to set budget and fee of the college in a manner that restricts the mandate of the BCCT – review staffing decisions of the college.

- not develop policies required to implement BCCT by-laws such as teacher recertification – call on the minister to make changes to the Teaching Profession Act
 - eliminate the excessive per diem and expense policies for councillors
 - restrict the number of complaints that are processed by the college and modify the person complaints process so that local appeal processes are exhausted before a complaint is accepted by the college
 - not implement the online registry for members
 - ensure that policies and procedures are in place by the council so that boards are required to report minor disciplinary actions to the BCCT
 - review all the policies developed by the appointed council
 - save money by not holding the annual BCCT conference
 - not routinely seeking legal costs for any discipline case in which an adverse finding is made against a member
 - not routinely publish names of members involved in discipline cases
- 4) The elected council can ask the minister to change provisions in Bill 51 and Bill 55.
 - 5) By participating in the elections we are not making a decision to pay college fees – The decision about paying the 2003-4 and 2004-5 annual BCCT fee will be made through a membership vote.
 - 6) An elected council will be responsible to the membership and not the government.
 - 7) We will be like other professions a majority of the governing board will be elected by the members.
 - 8) Teachers will be in a position to influence elected members.”

The BCTF had also developed a document that came to be known as the “Agenda for Change” which called for the reversal of policies that had been implemented during the short life of the Interim Council. Shortly after taking office, the new elected Councillors, once again in the majority, moved to implement the “Agenda for Change”. In December of 2004, in a document with the not particularly subtle title of “Directions for the BC College of Teachers” (appended), the Federation again articulated the changes that they expected to see from the new Council.

The “Agenda for Change” would later be incorporated within section 7 of the BCTF’s Member’s Guide. That document contains statements that are substantially similar to the content of the previously mentioned “Eight Reasons to Vote Yes”, asserts that “only practitioners can truly understand the nature and demands of any profession”, that a council “representing the teaching profession” ought to “ensure that elected councillors make up the majority of all

council committees meetings” and, further, “should not implement any by-laws or policies regarding teacher re-certification or requirements for the continuing education of members.”

The Federation’s Member’s Guide also sets out procedures for the selection of endorsed candidates for election to the College Council and this includes a requirement that those seeking endorsement must confirm, presumably as a condition precedent to endorsement that they will “attend BCTF-sponsored meetings of elected councillors.” This later provision was apparently added after some of the elected councillors had refused to continue attending the BCTF-sponsored meetings on grounds that the subject matter of those discussions was not compatible with an understanding of the independent role that the College is expected to carry out.

The Member’s Guide provides a measure of insight in relation to the extent to which the Federation regards the endorsed candidates as representatives of the Federation’s interests and positions. Furthermore, the document clearly articulates the expectation that endorsed Council members will make themselves available to discuss the business of the College. This tends to support the view that endorsed Council members, no matter how well-intended they might be, are encumbered with a process that fetters their capacity to be, and to be seen as, independent even before they get to the College.

The evidence available to support the conclusion that, when the College of Teachers was created in 1987 and, then again when the elected Council was restored in 2004, that the BC Teachers’ Federation acted to control it and limit its authority is robust. Ken Novakowski’s recital of what happened in 1987-88 is unequivocal. There are several documents that make clear what the intentions of the BCTF were and the record also shows those intentions were acted on. In addition, the content of the aforementioned “Member’s Guide” is rather difficult to reconcile with Federation statements that they respect the nature of the autonomous role that the College is expected to carry out. All of this is further confirmed by the statements of several current and former elected Council members who have been very clear about their active participation in efforts to ensure that the College would be subject to the control of elected councillors closely associated with the Federation. Those individuals confirm that the CAC and other meetings between elected Councillors and senior Federation representatives were simply not appropriate to the kind of arm’s-length role the Federation and elected Councillors ought to have observed. One former member, in describing their own transition from advocate for the Federation to proponent of the need for a College unfettered by any conflict of interest, conceded that he “had been complicit, but with declining levels of enthusiasm.”

In the period of time following the return of a Council with 12 elected Councillors, the relationship between those individuals and those appointed to serve on the College Council was

often difficult and, at times, strained. Staff found the environment, particularly from 2004 to 2006, hostile. One Councillor described that period of time as “culture shock” for the appointed members and “a bit of a war zone”. He thought this had settled down but the emergence of the Governance Committee Report in late-2009 “kind of brought us back to that”.

By 2009 the divisions on the College Council had become deeply entrenched. For the most part, the sub-committees continued to operate reasonably effectively but the Council itself was in disarray, block voting was commonplace, and “Council Week” was, once again, an increasingly hostile environment. This was the context within which this review began.

The Council Perspective: Stark Divisions:

Interviews conducted with Council members revealed a group deeply divided. The membership is factionalized and there are fundamental differences in perspectives on how the College Council operates, whether it is meeting its core obligations and whether it is reasonable to conclude that the public can continue to have confidence in the College.

The appointed members share the view that, while the regulation of the teaching profession is essential, they do not believe that the College is currently able to appropriately meet its obligations. They are also strongly of the opinion that the relationship between the elected Council members and the BCTF is inappropriately close, and they question whether some elected Councillors who come from a culture of advocating for colleagues have the capacity to strike a proper balance between the “interest of members” and the “public interest”.

One of the appointed members who has been on the Council since the time of the Interim Council in 2003, expressed the view that, despite the best intentions of many that come to serve on the Council, the body is encumbered by a culture of advocacy that limits the capacity of the Council to fully meet its public interest responsibilities. He reports that, when the teacher majority was restored in 2004 that the atmosphere became immediately adversarial and that the level of personal attacks – particularly on staff – was very high. This same Councillor has been on the Preliminary Investigation Sub-Committee for some time and advises that it is there that he sees what he describes as “the best evidence of where there is a difficulty in reconciling the role of the advocate from the role of the quasi-judicial decision-maker.”

Several of the appointed Councillors are of the view that, in the post-2004 era, the standards of competency were “watered down” following the replacement of the Interim Council and that the standards are now more in the nature of “value statements”. On the issue of whether the

controversy that emerged in the latter part of 2009 was a “manufactured crisis” each of them was clear that they did not believe that to be the case and that the difficulties that had caused the formation of the Governance Committee in the first place had been evident really since the early days of the Council that took office in 2004.

All of the appointed Councillors were of the view that the Council could not continue without key changes and that, at minimum, there had to be a shift in appointment processes and in the core composition of Council. No member of this group believes that effective regulation can be achieved with the Council’s present structure. They argue that no one group should have a majority.

A second group consists of Council members who have been elected, but have come to the conclusion, over time, that it is essential for their profession to have the benefit of a strong and independent College. They do not believe the necessary threshold of independence is currently being achieved. This group includes Richard Walker who held the position of Chair until he was replaced after the June, 2010 elections and the Vice-Chair, Norm Nichols who was voted off Council in the June elections.

Mr. Walker takes the position that the capacity of the College to act independently is encumbered by what he would describe as a pervasive level of intrusion by the Teachers’ Federation into the affairs of the College. Walker was, for many years, actively involved in the BCTF, serving for a time as a Local President. He states that he fully accepted the Federation view that the College had been forced on teachers as something that they didn’t want. He was part of the group of what he describes as senior “Federation activists” who came to the College as endorsed candidates following the elections of June 2004 with an agenda to undo much of what had been put in place by the Interim Council. He indicates it took him about two years to begin to appreciate the nature of the important role that the College of Teachers should be playing in the self-regulation of the teaching profession and he also began to come to the conclusion that the College was not adequately meeting its public interest obligations. Walker believes the governance of the Council is deeply flawed and that BCTF processes associated with endorsing candidates for election, the provision of financial support to those candidates, the requirement that endorsed candidates attend caucus meetings with senior representatives of the Federation and the expectation that endorsed candidates will go to the College in a representational capacity, reflect a culture that is incompatible with the concept of an independent Council acting at arm’s length from the interests of the Federation.

Mr. Walker indicates his relationship with the Teachers’ Federation began to deteriorate when he first began to raise concerns about the nature of the relationship between the College and the Federation. This accelerated when he made it clear that he was no longer prepared to attend Federation-sponsored meetings with elected Council members. He indicates he was

“berated” by senior BCTF staff for not participating and that this included statements such as “we put you there, the least you can do is show up at our meetings.”

Walker’s characterization of the meetings between the BCTF and endorsed Council members is substantially shared by several other current and former members who came to the Council as endorsed candidates. Norm Nichols, who held the position of Vice-Chair until the June 2010 elections, described the BCTF-sponsored meetings with elected Councillors in the following terms:

“Paramount is the Federation’s position on any activity being considered by the College. Closed door meetings between the endorsed Councillors and the Federation staff force me to conclude that the BC College of Teachers is viewed simply as an extension of the Federation. This perception does nothing to serve the interests of the College, the public perception of the College, or its legislated mandate to serve in the public interest.”¹²

Mr. Nichols further states that when he first came to the Council he worked with other elected Councillors to limit the scope of the jurisdiction the Council could exercise and that these efforts included “starving it to death through the budget process.” Over time, he, like Walker, came to appreciate that the role the College is expected to play is an important one and, as a result, he began to work towards putting in place governance changes that would help to reinforce the importance of a College able to operate free from external constraints.

A third group includes those elected Council members who believe that there is no flaw in the current governance structures of the College and that the body was functioning effectively in the discharge of its normal duties until the actions of the Chair and the Registrar created a crisis which, according to one Councillor has “done more than anything to blacken the reputation of the College.”

These Council members indicate that the College continues to do “business as usual” in that “teacher-training programs are being assessed, new teachers are receiving their certificates, discipline cases are proceeding, etc.” They acknowledge there “has been some upset at the “political” or Council level” but that, otherwise, the College is meeting its obligations.

This group of elected Councillors were offended by the content of the Governance Committee Report and with the proposed changes to several of the policies including those that dealt with conflict of interest. As noted earlier, there is merit to some of these criticisms. For example, it may be reasonable to establish a rule that persons employed by a union to represent members

¹² Excerpted from letter written to teacher colleagues by Norm Nichols explaining why he would not seek BCTF endorsement in the June 2010 Council elections.

on discipline and competency matters cannot continue in such roles if they are elected and choose to take a seat on a Council that exists for the very purpose of adjudicating such matters. It would likely not, however, be reasonable to establish a barrier that, in effect, would prevent a BCTF advocate from being able to seek election at all. This would have been the practical outcome of some of the changes proposed in the Governance Committee Report.

Members of the third group also took particular issue with the content of Richard Walker's letter to the Vancouver Sun and, more specifically, with the suggestion that there had been 271 "person complaints" that had not been properly addressed by the Council or by Council sub-committees. They pointed out, quite correctly, that many of these complaints had been reviewed by the Registrar and had been found to be either beyond the Council's jurisdiction or not sufficient to warrant "further action". Others were reviewed by the Preliminary Investigation Sub-Committee with "no further action taken" or had been dealt with through informal resolutions that often included some level of remedial action.

There are also two elected Councillors who did not support the proposals of the Governance Committee, but who agree that there are governance changes that need to be made. One of these individuals shares the perception of the third group described above in that he believes that the College is generally functioning effectively, but he believes there are areas where governance changes can, and should, be made. He recommends a process for more regular tracking of complaints and the provision of discipline summaries at Council meetings to assist the Council in having a better sense of what is happening in discipline matters. He suggests the College should, like Ontario, adopt a greater degree of openness with meetings of the College Council and of the sub-committees to facilitate a greater measure of "check and balance" in the processes of the College. Furthermore, this Councillor indicated that the practices of the BCTF providing campaign support to endorsed candidates in Council elections and the tradition of elected Council members meeting with the senior staff and executive members of the BCTF in advance of Council meetings "should probably end" given the potential for concerns about conflict of interest.

The other elected Council member now calling for changes in governance declined an opportunity to sign the letter to the Minister because he felt the recommendations of the Governance Committee were either not properly crafted or, in some cases, were disproportionate to the problems that had been identified. He also disagreed with the accuracy of some of the statements in the Richard Walker letter to the Vancouver Sun. He made it clear, however, that he is strongly of the opinion that fundamental governance changes must be implemented. He commented that, in his opinion, the Federation "over-manages" the relationship with elected Council members and that it will be important to "get rid of the process of candidates being endorsed by the Federation". The existing processes, according to

him, “looks wrong because they are wrong”. He views the Caucus meetings with the Federation as uncomfortable and often “intimidating in nature” with elected Councillors pressured to indicate how they intend to vote on policy matters. This is aggravated by the extent to which Federation staff appear to “keep book” on the voting record of the endorsed candidates. He suggests that “without core changes, we cannot maintain public trust and confidence.”

Perhaps the most compelling interview was with Dr. Peter Grimmett, a Professor of Education, who served on Council until recently as the representative of the Deans of Education. He has had a long academic interest in educational governance. He wrote extensively about, and was regarded as an advocate for, professional self-regulation in the teaching profession. He was also critical, in 2003, of government’s decision to dissolve the Council and the replacement of it with an interim Council composed only of appointed members. Given this, it is quite remarkable that, having now had the opportunity to view in close proximity the relationship between elected Council members and the BCTF, Grimmett has reversed his opinion. He comments that, “in the last three years , particularly since January, 2010, I have witnessed events that have caused me to change my mind about the possibility that professional self-regulation of teaching could even remotely be possible in BC.”

The Staff Perspective:

Interviews with current and former professional staff of the College of Teachers also provided useful perspectives regarding the processes of the College and the effectiveness of the College Council.

The current Registrar, Kit Krieger, comes with an interesting background in that he has a long history in “Federation activism” at the local, regional and provincial level where he served a term as the President of the BCTF. He was also an elected Councillor who served on the College Council following the 2004 elections. He, like Richard Walker, came to the conclusion that an independent College is an essential pre-condition necessary to support a true self-governing profession. He was defeated in the next election, paradoxically by Norm Nichols who would later come to share a similar view regarding the need for an independent College. In 2008 Krieger returned to the College, this time as the Deputy Registrar and then later as Registrar. His experience while on Council was similar to that reported by Walker and Nichols and he too concedes that he was, for a time, an active participant in trying to limit the jurisdiction and the capacity of the College. He sees little difference between what was happening then and what is happening now.

Interviews were also conducted with two former Registrars. Like Krieger, they expressed serious concerns that the College was not, or was only partly, meeting its obligations under the *Teaching Profession Act*. Neither thought that the elected Council members were sufficiently attentive to the need for independence from the union that represents teachers who come before College Committees.

Krieger and the two former Registrars interviewed during the course of this review expressed the view that, while the Council Committees tended, for the most part, to get the decisions right “in the most serious of cases”, there was an “orientation towards mitigation” in many other matters that they attribute to the culture of advocacy that elected Councillors come from.

Similar views were expressed by a former College Director of Discipline who commented that “a fundamental flaw in the College discipline process is the reliance and expectation that all council members will and can make the paradigmatic shift from a labour/employment/advocacy perspective that focuses on the private interests of members, to a regulatory one, which must of course focus on the public interest.”

The former Registrars were asked for their thoughts regarding the suggestion that the problems that the College was now experiencing had resulted from a crisis “manufactured” by the Chair and by the Registrar. They saw it very differently, reporting that the issues had always been there, but that they had now been placed in much sharper focus. That same view was reinforced by the former Director of Discipline.

Other senior staff members below the level of Registrar, rather bravely, communicated their deep concern that the College – at the Council level – is not functioning responsibly, that politics have dwarfed the public interest and that action needs to be taken to ensure that the public interest does not continue to be compromised.

Interviews with Representatives of the Educational Community and Other Parties:

Contrary to the Federation view that no other parties were expressing concerns about the College, discussions with the leadership of several other key groups confirmed exactly the contrary. Almost all had serious reservations about the capacity of the College to effectively carry out the role assigned to it.

School Superintendents had positive things to say about the staff at the College, but felt the Council itself was “not living up to the expectations of the legislation.” The regular meetings

between the Federation and the elected Council members are regarded either as an actual conflict of interest or as a circumstance that would support a conclusion that there is a reasonable apprehension of bias. Regrettably, the superintendents who participated in these discussions could not say they have confidence in the College as it is presently constituted.

A similar message was heard from those who spoke for parents' groups. BCCPAC has many concerns about the College and, more particularly, about the College Council. They do not believe the College is meeting the expectations of the *Teaching Profession Act* and they too lack confidence in the capacity of the College to adequately address the public interest. Like others, they see the regular meetings between the elected members of the College Council and the BCTF not as an apparent conflict of interest but as a real one.

The BC Public School Employers' Association (BCPSEA) provided a very thoughtful and measured submission in which they expressed concern that the publication of the February 2008 "Standards of the Education, Competence and Professional Conduct of Educators in British Columbia" actually represented a dilution of earlier standards with a corresponding diminished level of guidance available to the profession regarding the standards of conduct and competence expected of them.

The BCPVPA echoed the same kinds of concerns regarding transparency, potential or actual conflict and the insufficiency of engagement with the membership on professional competency issues. They also expressed a lack of confidence in the capacity of the College to be appropriately responsive to the public interest.

Lastly, those who spoke on behalf of the BC School Trustees Association indicated that they had been optimistic about efforts the College had been making to address internal governance matters, but that this optimism had diminished significantly when it became apparent that those efforts had been frustrated.

The Position of the B.C. Teachers' Federation:

The Teachers' Federation provided a written submission regarding the matters set out in the mandate for this review, a copy of which is attached to this report. There were also two meetings held with executive members and senior staff of the Federation to discuss the matters relevant to the review.

In their submission the Federation expresses the view, once again, that there had been no issues at the College until recently, that the problems that have emerged are the consequence of a crisis manufactured by the Chair (Mr. Walker) and by the Registrar (Mr. Krieger). They

assert that, while there have been “challenges” in the history of the relationship between the Federation and the College that the Federation has come to accept the important role played by the College, that there is a good working relationship between the Federation and the College and that this relationship “is characterized by respect for the autonomy of the College”.

The Federation acknowledges that, when the College was created in 1987 it was not initially welcomed by the BCTF, but this changed over time. The relationship has taken time to mature because politics have, from time to time, heightened tensions and caused adversarial positions to dominate. This was certainly true in 2003 when government dissolved the Council and replaced it with an interim Council that did not enjoy a positive relationship with the Federation.

The core elements of the Federation’s submission include the following:

1. The College is meeting its mandate under Section 4 of the *Teaching Profession Act* in that it has established standards for educators and has put in place protocols and processes to address any areas of concern.
2. The public interest and the interest of the profession are closely aligned with teachers committed to high standards of practice and with educational attainment levels within the profession that go well beyond what is likely to be found other jurisdictions.
3. Teachers take very seriously the obligation to ensure the safety of and well-being of students in their care.
4. The College performs the role expected of it in “pre-service” education programs but that the role of the College in “in-service” training is, and ought to be, confined given the role that the BCTF and, to some extent, local School Districts, play in this regard.
5. The College has been effective in carrying out its responsibilities in relation to teacher conduct and competency and, more specifically, has effective processes in place to deal with discipline, certification and other related matters. The Federation describes the College discipline processes as rigorous and that “most reports to the college, even those of a relatively minor nature, result in some form of action.”
6. The College has proper processes in place for the reporting out of discipline matters and properly discharges that mandate.
7. That there is “no evidence that the BCTF has ever interfered in the discipline process of the College.”
8. That the Federation in no way interferes in the College’s parent/person complaint process and has never sought to influence any such cases.
9. That “not one instance has been identified where an elected or appointed councillor has not acted in the public interest, and no councillor has been accused of violating her or his oath to serve the public interest.”

10. The endorsed candidate procedures that have been in place for a number of years reflect the democratic nature of the Teachers' Federation, that they have been very helpful as a mechanism for the BCTF to understand proposed College policies and, that when concerns were raised regarding the efficacy of meetings that only involved the BCTF and the elected Councillors that steps were taken to change that policy so that all members of Council would be welcome at such meetings.
11. That a "defining hallmark" of a profession can be found in the "central role members play in self-regulation.
12. That a self-regulating body must have at least two thirds of council members elected from the membership.
13. That the "expertise of the profession must inform the policy, practice and processes of the College", and
14. That the "democratic election of college councillors allows the representative voice of teachers to inform council decision-making."

While several of these points will be discussed in relation to the general questions set out in the mandate for the review, there is one specific area that should be the subject of comment at this point.

The BCTF takes the position that there has never been "an instance" where an elected Council member has failed to meet the public interest obligations expected of them or has been accused of violating her or his oath. This is not an accurate statement. A former elected member of Council (now deceased) who served on the Discipline Committee of Council in the period of time prior to the appointment of the interim Council in 2003 was convicted of possession of child pornography contrary to section 163.1 (4.1) of the the *Criminal Code*. The charge involved materials found on a laptop computer and on a desktop computer used by that individual both while he was the President of the Abbotsford District Teachers' Association and while he was on the College Council. The period of time contemplated by the criminal charge was August of 2001 to June of 2005.

The offensive material was inadvertently discovered by a colleague who briefly had possession of the laptop computer during a meeting of executive members of the Abbotsford Teachers' Association. That person was understandably upset and took steps to secure the device. She sought advice from colleagues regarding how to proceed and would be told later by a representative of the BCTF attending the same meetings that she should return the computer and tell the person to get it "cleaned up".

The handling of this matter caused substantial turmoil within the local teachers' association and within the offices of the BCTF. The laptop computer was at some point taken into the possession of the Federation. Substantial time passed before the computer was passed along

to the Abbotsford Police. It is unclear why this was the case. Even if the Federation may have been attempting to recover the contents of the computer to determine whether it contained unlawful material they were not the appropriate party to make that determination. Furthermore, by taking the computer - rather than giving it to the police immediately - they took the risk, perhaps without understanding it, of possibly disturbing the chain of evidence and, in so doing, could have compromised the possibility of conviction.

Subsequent to conviction, the offender was dealt with by the Discipline Committee. His certificate of practice was removed. However, the Federation official who had given the improper advice about returning the computer was also subject to a complaint referred to the Committee by the then Registrar. That matter was not concluded until 2007 and was dealt with informally with a decision to take “no further action.” A Special Committee accepted that the member “had no idea that the material on the local’s computer included child pornography”. All that was required of the member was a letter explaining how he would deal with the situation more appropriately if faced with a similar circumstance in the future. His written response, which was considered sufficient to conclude the file, indicated that, if in that position again, the member would advise his colleague to immediately seek advice from the executive of the BC Teachers’ Federation and legal counsel with the BCTF. With respect, this response acknowledges that the member who didn’t get it right the first time wouldn’t get it right the second time either. Why this was considered an acceptable response is, at best, puzzling.¹³

Is the College Meeting its Mandate under Section 4 of the *Teaching Profession Act*:

Section 4 of the *Teaching Profession Act* provides that, “It is the object of the College to establish, having regard to the public interest, standards for the education, professional responsibility and competence of certificate holders and applicants for certificates of qualification and, consistent with that object, to encourage the professional interest of certificate holders in those matters.”

The question here isn’t simply whether standards have been established but, as importantly, whether those standards have been developed with proper regard for the public interest.

The answer to this question turns, in part, on the significance of the changes made to the College’s standards that came with the publication of the “Standards of the Education, Competence and Professional Conduct of Educators in British Columbia” in February of 2008.

¹³ This special committee, it must be noted, was composed primarily of appointed members as several of the elected members had, quite properly, recused themselves.

That document replaced the more extensive set of standards that had been implemented by the Interim Council in 2004.

The current standards¹⁴ when compared to what had been in place, or when compared to the much more robust standards adopted by other self-regulating professions, are imprecise and, in some areas, rather vague. This earlier document was much more comprehensive in nature and provided a significantly greater level of guidance to members of the profession regarding what is expected of them.

The 2008 Standards are distinguished by what they no longer contain. The obligation to “work collaboratively with educators, support staff, professional support staff, parents and others to improve student achievement” is gone from the text. The obligation to “establish and maintain the boundaries of a professional relationship with students” is also gone as is the previously existing requirement to “maintain accurate and comprehensive records of student achievement”. The standards no longer acknowledge parents as “co-educators” of their children and the requirement to “seek involvement and input from parents” has also been abandoned. Many would argue that the removal of these provisions and what appears to be an overall reduction in the clarity of the standards represents a significant retreat from the expectations contemplated by section 4 of the *Teaching Profession Act*.

It is also important to observe that setting standards is only part of the work contemplated by section 4 of the Act. The legislation also expects the College to play a much greater role in advancing the standards applicable to the education of teachers, the professional responsibility of members and of expectations regarding professional competence.

The interviews with the various education “partner” groups revealed that most don’t believe that the College is meeting its obligations under the *Teaching Professions Act* and, more specifically, that the College is not achieving the mandate that they are expected to perform pursuant to section 4 of that Act. They appear correct in this regard.

The Role and Performance of the College in “Pre-Service” and “In-Service” Training and the Regulation of Teacher Competence:

In some of the specific areas assigned to the College, such as the setting of “pre-service” and “in-service” expectations, the results are – at best – rather mixed. The “pre-service” role the

¹⁴ Changes to the standards were initiated after the Council, with a majority elected from amongst teachers, was restored in 2004. Teachers and other “partner” groups were consulted in the development of the revised standards.

College is expected to perform involves the approval of and, on occasion, program reviews for university-based training programs that are responsible for the development of new teachers. This is a role that the College generally carries out reasonably well despite occasional jurisdictional disputes between the College and the Faculties of Education regarding the parameters of their respective roles areas of jurisdiction.

The situation with “in-service” or, as it is now more commonly known, “continuing professional development”, is a very different matter. Unlike other professional self-regulatory bodies that have become increasingly involved in setting competence expectations and monitoring the commitment of their membership to on-going professional development, the College of Teachers has, from the outset, avoided this role. When the College was created this was one of the key responsibilities assigned to it by the Legislative Assembly of British Columbia. However; as early as the time of the Royal Commission on Education in 1988 the College was already taking the position that they did not intend to occupy this field. The Commission Report contains the quite extraordinary statement that the College had advised that “ it does not wish to pursue sub-section 3 (a), (c) and (e) of the *Teaching Profession Act* “ preferring to leave that responsibility to the BCTF.

Efforts to have the College take a greater role in on-going professional development, or even to simply take the responsibility for putting in place mechanisms that would permit the College to provide assurances to the public that members of the profession are maintaining appropriate levels of knowledge and competency, have been consistently frustrated at the Council level.

The College has also been slow to fully embrace the role they ought to have in regulating and, where necessary, in addressing teacher competence matters. Other professional bodies take this responsibility very seriously and have developed comprehensive programs designed to ensure that members remain current in their respective areas of practice. This is accomplished, in part, through the monitoring of member participation in the kinds of professional development programs mentioned above. Others have implemented strategies to address the professional upgrading needs of members in areas where new knowledge is rapidly evolving or where members of the profession have been away from active practice for some time and may require a measure of skill revitalization before returning to active service. Regrettably, the College of Teachers has failed to occupy these areas of activity and there remains a considerable level of resistance to even considering professional development and currency of practice as matters that should represent a core aspect of the College’s obligation to protect and advance the public interest.

The Role and Performance of the College Compared Against Other Self-Regulating Professions:

It was clear during the course of this review that those involved with the College Council generally have little knowledge of, or interest in, how other self-regulatory bodies work. Other bodies like the College of Physicians and Surgeons, the Law Society of British Columbia and the Institute of Chartered Accountants of British Columbia, have comparatively stronger mechanisms for the certification of members, comprehensive requirements for on-going professional development of members and discipline processes that, by comparison, are more responsive to the public interest and certainly more transparent than what can be found at the College of Teachers.

This does not mean that other professional bodies do not experience difficulty from time to time. The Law Society, for example, has taken steps in an effort to improve their performance on the efficient processing of discipline complaints. What seems to be different between the other bodies and the College of Teachers is the extent to which the others appear to operate with a common sense of purpose and with recognition of their primary obligation to protect the public interest. Other professional bodies have had their challenges at times, but their governing bodies tend to operate with a common sense of purpose and recognition of their role in protecting the public interest that isn't understood in the same way at the College of Teachers. Comparatively speaking, the relationship between lay members and the professionals on other self-regulating professional bodies seems to be substantially more harmonious than what has developed at the College of Teachers where the relationship is frequently impaired by distrust and acrimony.

A very useful insight came from staff members of the College who have previously worked in other professional bodies or regulatory agencies. Those individuals reported a very different experience between the environments that they had worked in with other professional bodies and the one they now experience within the College of Teachers. According to these current and former members of the professional staff, the adversarial nature of the relationship between appointed Council members and those elected through the endorsement process would be considered both quite foreign and inappropriate in the context of other professional self-regulating bodies.

In addition to their responsibilities for responding to complaints and presiding over the discipline of members, bodies like the Law Society of British Columbia and the Institute of Chartered Accountants have become deeply involved in implementing mechanisms designed to promote both the competence and currency of their membership. The Law Society, for example, has made provision for minimum thresholds of professional development for their

members and monitors compliance through annual practice declarations. Members who have been away from practice for some period of time may be subject to “return to practice” scrutiny and the processes established for responding to public complaints are considerable.

By contrast, the College of Teachers has steadfastly resisted a role in relation to the on-going professional development of their members and they spend very little time addressing the competence of members apparently believing that role ought to be dealt with on a case-by – case basis within the employment relationship and subject to the procedural requirements of collective agreements. That view is clearly shared by the BCTF. In an August 25, 2010 addendum to their submission, the Federation made the following statement:

“Competence is the responsibility of school districts, and is best handled at the school district level. There is currently redundancy in the College’s involvement in this area.”

This is a remarkable statement in that it either ignores or disregards the specific statutory responsibility set out in section 4 of the *Teaching Profession Act* regarding the “professional responsibility and competence of certificate holders” and, furthermore, because it appears to misapprehend the essence of what professional bodies are actually expected to do in discharging their responsibilities to protect the public interest.

Several of the elected Council members at the College of Teachers also communicate a well-entrenched ambivalence towards responding to parental or other public complaints until all local processes and appeals have been exhausted. Unlike other regulatory bodies where, if satisfied that there are grounds for the complaint, the agency will take conduct of the matter and make the necessary inquiries. The College of Teachers appears content to leave the burden on the shoulders of complainants who most often lack the resources, the expertise and the capacity necessary to see the matter through. It is perhaps not surprising that the College Council populated, as it is, with significant numbers of individuals who have spent their professional lives advocating for their colleague members would be inclined to defer to “local processes” but this does little to alleviate public and parental frustration with processes that are regarded as unresponsive .

The blunt reality is, that when compared against the performance of other professional bodies, the College of Teachers falls well short of the standard consistently achieved by others and which ought to be expected of them.

This perhaps is also the appropriate place to address another aspect of the BCTF submission which asserts that “at least two-thirds of the council should be elected from the membership” (of the BCTF), because “as practitioners, teachers understand the nature and demands of the teaching profession and have a critical role to play in the self-regulation of the profession.” The Federation’s submission also observes that having two-thirds of the seats on the governing

body would also be compatible with the practices associated with other professional bodies. What is quite remarkable about this position is that it entirely ignores the fact that several members of the College Council in addition to the elected members are, in fact, “members of the profession”. This includes principals, others drawn from senior administration or Council members selected from the Independent School sector all of whom are also members of the College. The reality is that there is a substantial majority of members of the teaching profession on the College Council and, in comparison with other self-regulating professions, a relatively small number of Council members who can be properly categorized as “lay” members. Improving the level of participation by “lay” members is a matter which perhaps should be considered to achieve a better balance between the “interest of members” and the “public interest.”

College Performance When Compared to Other Teacher Certification Bodies:

As noted earlier, B.C. and Ontario are the only Canadian jurisdictions that have adopted mechanisms for the self-regulation of teachers through a College. In all other Canadian jurisdictions the responsibility for certification and de-certification has been retained by provincial governments and there are varying approaches to how discipline matters are administered. In some provinces the responsibility for addressing discipline is vested in the equivalent of the Teachers’ Federation or local teacher associations. In others, such as Quebec, the Minister of Education has the authority to receive complaints and can establish panels to inquire into complaints and to make recommendations to the Minister regarding the certification status of members of the profession. There seems to be substantially less disruption associated with that kind of model.

When compared against the experience in Ontario, there are many similarities but there are also some fundamental differences. The Minister in Ontario retains the authority to establish the standards of professional competence and conduct which the regulatory body is then responsible for applying. The other quite fundamental difference is that, in Ontario, there is a much greater commitment to public proceedings whereas in BC there is greater reliance upon informal mechanisms that maintain a substantially greater degree of confidentiality regarding the disposition of complaints. The BC process also does a very poor job of reporting out to complainants on how matters were actually disposed of which, in turn, leads to further frustration regarding the effectiveness of the complaints process.

Effectiveness of the College in addressing complaints concerning teacher conduct and, more specifically, the performance of the College in relation to investigations, disciplinary action and public reporting:

This is another area where the results are mixed. First, it must be said that the quality of the work done by the College at the staff level in investigating complaints and in the preparation of materials for consideration by the Council or by Council sub – committees on matters of discipline or fitness, is consistently of high quality.

The tension that does exist relates to the disposition of matters by the Council or by the sub-committees. For the most part, it appears that Council members are able to deal reasonably effectively with the more egregious examples of highly unprofessional conduct. In addition, much of the work done through the committees is non-contentious and carried out reasonably effectively. There are, however, too many cases where there appears to be an imbalance between the “interest of members” and the “public interest.” Three examples may help to illustrate this point. In one, a fitness hearing was convened to consider whether a former teacher convicted years earlier on charges involving sexual assaults on students should be given the benefit of having his teaching certificate returned to him. The panel hearing the matter ruled in his favour and, in so doing, appeared to minimize the severity of the allegations that had brought him before the College Council years earlier. In another, a person sentenced to a six year term for his role in a narcotics trafficking scheme was also found fit to be credentialed as a teacher. Here, again, the record of the proceedings disclosed a substantial orientation towards minimizing the seriousness of the matter. In a third case, a person who had been “permitted to resign” from the Law Society after findings against him on multiple complaints, including one that involved the forging of Court documents to mislead his own client, was also found fit to be granted a teaching credential. A review of the full transcript of this last matter revealed that the panel hearing the case was clearly oriented towards mitigation to an extent which, in the circumstances, did not seem proportionate or appropriate. A member of that particular panel acknowledged that he felt the case represented a good example of how, in some circumstances, the desire to “do the right thing for the individual” becomes the primary dynamic at the expense of the broader public interest.

While the cases above relate to fitness and certification matters there are similar examples in the discipline context.

Public reporting, as mandated by the Legislature, also continues to be a problem. There appears to be a continuing ambivalence about the reporting obligations which, together with disputes inside the Council regarding the criteria relevant to the determination of which cases should be publicly reported, may have put at risk the reliability of the public registry system.

It should also be noted that the processes associated with reporting out to complainants following the completion of matters leaves much to be desired. For a multiplicity of reasons, the reporting letters generally contain only a modest level of information and, at times, are ambiguous or confusing regarding the actual outcome. This only serves to aggravate frustrations that arise with cases that also tend to take a very long time to complete.

Effectiveness of the College Council in Governing and Administering the Affairs of the College of Teachers:

As was noted in greater detail earlier in this report, the Council of the College of Teachers has been in disarray for a considerable period of time. The organization had a pre-existing credibility problem and its reputation has been further eroded by the events of the past year.

Several of those interviewed during the course of this process, including several members of the Council itself, described the situation as both dysfunctional and unsustainable. Few expressed any measure of comfort that this situation would likely be resolved anytime soon.

There is considerable distrust between the various factions on the College Council and it is more likely than not that those animosities will persist. The preoccupation of Council members with this on-going disruption no doubt limits – and has likely compromised – the capacity of the Council to cohesively and consistently provide for the effective governance of the College. Given the turmoil on the Council itself, it is surprising that the Committee process has worked as well as it has.

On balance, the Council is not, and has not, been effective for quite some period of time and there is reason for serious concern about potential damage to the public interest if some form of action isn't taken to address the on-going problems.

There is also little reason for optimism that the difficulties at the College will likely find some form of resolution without some form of government intervention.

Summary of Key Findings:

1. The BC College of Teachers is not currently regarded as an independent and credible entity. A striking number of those interviewed, including many Council members, consistently described the College, particularly at the Council level, as “dysfunctional”. That assessment is accurate.
2. There is significant evidence that the BC Teachers’ Federation has, and continues, to intrude upon the capacity of the BC College of Teachers to be properly regarded as an independent entity responsible for the self-regulation of the teaching profession. It appears clear that BC Teachers’ Federation has acted overtly to limit the scope of authority exercised by the College and has done so in a manner that has impaired the capacity of the College to be seen as an entity exercising authority independent from the Federation.
3. While the College meets many of its obligations pursuant to section 4 of the *Teaching Profession Act*, a proper balance does not consistently exist between the “public interest” and the more dominant “interest of members”.
4. When compared with other self-regulating professions, the College of Teachers fares poorly. The College continues to resist taking responsibility for the competence and currency aspects of self-regulation that other similar bodies consider core to their role in protecting the public interest. In this regard, and in others, the College of Teachers falls well short of the standard set by other self-regulating professions.
5. At the Council level, the College has rarely functioned as a cohesive body. In-fighting has been common and there are sharp divides between different factions on the Council. The Council is now more preoccupied with procedural complexity than with their overriding responsibility to protect the public interest.
6. The Council has lost the confidence of many within the broader educational community and the likelihood that this damage can be repaired is low. As a result, action will be necessary to substantially re-structure the entity, to replace it entirely or to bring the regulatory function back within the jurisdiction of the provincial government.

The Way Forward – Revitalizing the Professional Regulation of Teachers in BC:

Given that new Council elections took place only in June of this year with two new elected Council members selected and with several of the Order in Council appointments to the College Council replaced following the completion of their terms, one option would be to maintain the status quo, hopeful that the College Council, as now constituted, can find a constructive way forward.

Regrettably, the likelihood of the College Council adopting a more cohesive approach to the discharge of their collective responsibilities seems low. The first full meetings of the College Council since the June elections took place during the week of October 4th, 2010 and culminated with the elected Council members taking control of an even greater number of committee assignments than had been the case previously. This is not an encouraging development.

A second approach would be for government to either substantially re-configure the existing College of Teachers or, in the alternative, to establish a new Teacher Certification Board that would have many of the same powers and responsibilities currently assigned to the existing Council. In either of these scenarios, consideration should perhaps be given to reducing the size of Council from 20 to 15 members. As is currently the case, the majority of those serving on the Council or the new Teacher Certification Board would be members of the profession including classroom teachers, principals/vice-principals and superintendants, but no one group would have a clear majority over all others. Both of these options can be implemented with the existing infrastructure as the staff are excellent and deeply dedicated to the broader public interest.

Of the 15 members, provision should be made for seven teachers to be elected or, alternatively, appointed to serve as members of the College Council. The remaining positions would be occupied essentially as they are now with individuals knowledgeable about BC's education system. Increased emphasis should be given to selecting a greater proportion of lay persons to serve on Council than is currently the case. Selecting at least some individuals with previous experience with other bodies responsible for professional regulation could provide the opportunity to address critical skill gaps apparent in the composition of the current College Council. Adding at least one person with significant financial experience would be of particular assistance.

While it likely will not be well-received by the Teachers' Federation, and possibly by their membership, it is recommended that the public interest is more likely to be met if all positions on the College Council are filled by Order-In-Council appointment with candidates selected on the basis of merit and for the skill sets they can bring to the work of the Council. This will be a

different approach than with other professional regulatory bodies but the experience to date with the College of Teachers may suggest that a different approach is indeed necessary.

It is also open to government to consider whether the experiment in teaching as a self-regulating profession initiated in 1987 with the creation of the BC College of Teachers has been an interesting, but failed one.

Unlike other bodies established to preside over professional regulation, the College of Teachers has never achieved the commitment to common purpose and the focus on professional excellence, currency and competence that guides the work of other such bodies.

Given the relative failure of the College of Teachers to meet the expectations of the mandate originally assigned to it and given both the deterioration of the reputation of the College and the corresponding loss of confidence in the body now expressed by many parties, it may be time for the Government of BC to re-assert control over the regulation of the teaching profession by bringing all related functions back within the jurisdiction of the Ministry of Education. Once again, existing staff should be retained to provide the necessary support and an important measure of continuity.

Regrettably, it must be said that the disruption and dysfunction that has dominated the attention of the College Council, particularly since 2004, has put the core public interest, and the interest of students, at risk and it is now clearly time for some form of remedial action to be taken by government to address this situation.