



The Alberta Teachers' Association

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2014 06 19

Honourable Jeff Johnson
Minister of Education
424 Legislature Building
10800 97 Avenue
Edmonton AB T5K 2B6

IMMEDIATE ACTION REQUESTED

Dear Minister Johnson

At our meeting on 2014 06 18, and in a text message sent a few days previously, you advised me that you had become aware of serious cases of teacher misconduct that had not been dealt with by the Alberta Teachers' Association. Based upon the anecdotal reports you conveyed, we believe that these cases were never brought to the executive secretary's attention and so never triggered the mandatory professional conduct investigations as required under Section 25 of the *Teaching Profession Act* which states: "The executive secretary shall, not later than 30 days after receiving a complaint, refer the complaint to an investigator."

My recollection of our meeting is that the information you were conveying originated with, or at least would be in the possession of, school superintendents. Superintendents have a positive duty to report serious incidents of misconduct to both the executive secretary and the registrar as set out in Section 24(2) of the *Teaching Profession Act* (respecting conviction or possible conviction of a member for an indictable offence) and to the Executive Secretary as set out in Section 109.1(2) of the *School Act* (respecting the suspension, termination, resignation, or retirement from employment of a teacher resulting from conduct that brings into question the suitability of the teacher to hold a teaching certificate.)

The duty to report is not limited solely to system leaders. Under Section 24(3) of the *Teaching Profession Act*, members of the Association, which would include most central office staff, all school administrators, and all classroom teachers, who believe that another member is guilty of conduct that contravenes those sections of the *Act* (and Association bylaws passed in accordance with the *Act*) relating to discipline "shall make a complaint forthwith to the executive secretary relating to that conduct."

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Finally, Section 24(1) of the *Teaching Profession Act* states that “any person may make a complaint to the executive secretary and the complaint shall be dealt with in accordance with this Act.” I note that this provision relates to complaints regarding any suspected instance of teacher misconduct even if that misconduct would not be sufficient to call into question the teacher’s suitability to hold a teaching certificate.

The purpose of this letter, then, is to request that you immediately direct the appropriate official(s) in your ministry to file complaints to the executive secretary concerning any cases involving serious allegations of professional misconduct by teachers that have come to your attention. Understanding that you yourself or your staff may be relying upon fragmentary or second hand reports, I would also request that the appropriate ministry official(s) take immediate steps to direct any informant who might be a superintendent or a member of the Association to fulfil their statutory and professional obligation to make a proper complaint to the executive secretary. Finally, if the information that has come into your possession originates with persons who are not required under the *Teaching Profession Act* or the *School Act* to report, I would request that you direct the appropriate ministry official(s) to contact those persons and strongly encourage and assist them to make a complaint. (In order to protect your ability to perform your functions with respect to certification without prejudice, I suggest that you avoid personal involvement in soliciting the information requested above or in lodging any related complaints.)

Once a complaint is received and as long as the accused teacher is currently an active member or was an active member at some point during the five years prior to the receipt of the complaint, the executive secretary has no discretion but to launch an investigation, and will do so.

In our meeting, you indicated that Association members might be reluctant or unable to lay complaints because of they are required to inform the teacher who is the object of the complaint of their intentions in advance. This concern is unfounded. It is explicit in the *Code of Professional Conduct* that items 13 and 14, which set out proper processes for criticizing the professional competence or professional reputation of a teacher and for making a report on the professional competence of another teacher, do not pertain to reporting to the Association matters regarding the possible unprofessional conduct of a teacher.

As I recall, you also speculated that “non-disclosure provisions” written into severance agreements may preclude the reporting of unprofessional conduct. This concern too is unfounded. Following our meeting, Dr Thomas made inquiries of staff officers who have provided member representation—none indicated that they have negotiated severance agreements that constrain or prohibit a superintendent from filing a report under section 109.1(2) of the *School Act* section. Dr Thomas also asked our solicitors to review our files to ensure that no such provisions were contained in the documents. There are *no* restrictions on the ability to report. In most severance agreements, the employing board has insisted that a confidentiality clause be included that prevents the teacher from disclosing the terms of the settlement but has refused to provide a reciprocal clause governing board disclosure. In any event, settlement agreements concluded on behalf of teachers by the

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Association contain boilerplate provisions that respect the statutory obligation of the board to report when a teacher's conduct brings into question the suitability of the teacher to hold a teaching certificate. Examples of these provisions include the following:

"The investigation file related to recent events will be sealed and not shared with other parties excepting legal obligations to disclose the contents. It is understood that such an obligation exists with discipline investigations provided for under the *Teaching Profession Act*," and

"Notwithstanding any other provision of this Agreement, the parties acknowledge that the Superintendent of Schools of the Board may determine, in the Superintendent of Schools' entire discretion, that it is necessary to file reports pursuant to section 109.1 of the *School Act*."

The Association can only do its job if others do theirs. I encourage you in the strongest possible terms to take immediate steps to ensure relevant information is brought forward and to compel or encourage others to do likewise so that the Association can initiate, where appropriate, its professional conduct processes. I stress that in these matters, time is of the essence. In addition to certain timelines set out in legislation, victims of misconduct, teachers who are accused of misconduct, the membership of the profession and the public all expect that the Association's discipline process will proceed expeditiously and fairly. In serious cases where a teacher's presence is determined to be potentially detrimental to student wellbeing, we also need to ensure that the teacher concerned is removed from the classroom and from contact with students.

To assist you, I am attaching a copy of the *Request for Investigation of Alleged Unprofessional Conduct* form as well as a copy of the *Code of Professional Conduct*. You will note that the process for laying a complaint is very straight forward. If you yourself have any questions concerning process or require clarification, please contact me. Generally, however, requests for information relating to the discipline process may be referred to Mr Brian Andrais, Coordinator of Member Services. Mr Andrais may be reached at 780-447-9645 (1-800-232-7208 toll free) or at ms@ata.ab.ca.

I appreciate your bringing your concerns respecting potential unprofessional conduct to our attention and thank you in advance for providing the Association the information it needs to proceed in accordance with the *Teaching Profession Act*.

Sincerely

H Mark Ramsankar
President

HMR/mm
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CODE OF PROFESSIONAL CONDUCT

The Code of Professional Conduct stipulates minimum standards of professional conduct of teachers but is not an exhaustive list of such standards. Unless exempted by legislation, any member of The Alberta Teachers' Association who is alleged to have violated the standards of the profession, including the provisions of the Code, may be subject to a charge of unprofessional conduct under the bylaws of the Association.

In relation to pupils

1 The teacher teaches in a manner that respects the dignity and rights of all persons without prejudice as to race, religious beliefs, colour, gender, sexual orientation, gender identity, physical characteristics, disability, marital status, family status, age, ancestry, place of origin, place of residence, socioeconomic background or linguistic background.

2 (1) The teacher is responsible for diagnosing educational needs, prescribing and implementing instructional programs and evaluating progress of pupils.

(2) The teacher may not delegate these responsibilities to any person who is not a teacher.

3 The teacher may delegate specific and limited aspects of instructional activity to noncertificated personnel, provided that the teacher supervises and directs such activity.

4 The teacher treats pupils with dignity and respect and is considerate of their circumstances.

5 The teacher may not divulge information about a pupil received in confidence or in the course of professional duties except as required by law or where, in the judgment of the teacher, to do so is in the best interest of the pupil.

6 The teacher may not accept pay for tutoring a pupil in any subjects in which the teacher is responsible for giving classroom instruction to that pupil.

7 The teacher may not take advantage of a professional position to profit from the sale of goods or services to or for pupils in the teacher's charge.

In relation to school authorities

8 The teacher protests the assignment of duties for which the teacher is not qualified or conditions which make it difficult to render professional service.

9 The teacher fulfills contractual obligations to the employer until released by mutual consent or according to law.

10 The teacher provides as much notice as possible of a decision to terminate employment.

11 The teacher adheres to agreements negotiated on the teacher's behalf by the Association.

In relation to colleagues

12 The teacher does not undermine the confidence of pupils in other teachers.

13 The teacher criticizes the professional competence or professional reputation of another teacher only in confidence to proper officials and after the other teacher has been informed of the criticism, subject only to section 24 of the *Teaching Profession Act*.

14 The teacher, when making a report on the professional performance of another teacher, does so in good faith and, prior to submitting the report, provides the teacher with a copy of the report, subject only to section 24 of the *Teaching Profession Act*.

15 The teacher does not take, because of animosity or for personal advantage, any steps to secure the dismissal of another teacher.

16 The teacher recognizes the duty to protest through proper channels administrative policies and practices which the teacher cannot in conscience accept; and further recognizes that if administration by consent fails, the administrator must adopt a position of authority.

17 The teacher as an administrator provides opportunities for staff members to express their opinions and to bring forth suggestions regarding the administration of the school.

In relation to the profession

18 The teacher acts in a manner which maintains the honour and dignity of the profession.

19 The teacher does not engage in activities which adversely affect the quality of the teacher's professional service.

20 The teacher submits to the Association disputes arising from professional relationships with other teachers which cannot be resolved by personal discussion.

21 The teacher makes representations on behalf of the Association or members thereof only when authorized to do so.

22 The teacher accepts that service to the Association is a professional responsibility.

Approved by the 2004 Annual Representative Assembly pursuant to the Teaching Profession Act.

Please note:

- Items 13 and 14 of the Code of Professional Conduct do not pertain to reporting to the Association on the possible unprofessional conduct of another member.
- The *Teaching Profession Act*, section 24(3), requires members to report forthwith to the executive secretary on the unprofessional conduct of another member.



REQUEST FOR INVESTIGATION OF ALLEGED UNPROFESSIONAL CONDUCT

Note: Use this form to commence an investigation into the professional conduct of a teacher under the *Teaching Profession Act*.

A COPY OF PARTS A AND B OF THIS FORM WILL BE PROVIDED TO THE MEMBER BEING INVESTIGATED.

Procedural questions, including questions about completing this form may be directed to Brian Andrais, Coordinator, Member Services who may be contacted at 1-800-232-7208 or if you are calling from the Edmonton area at 780-447-9400.

Send this form by mail or fax to:

**Dr Gordon Thomas
Executive Secretary
The Alberta Teachers' Association
11010 142 Street NW
Edmonton AB T5N 2R1**

Fax: 780-455-6481

OFFICE USE ONLY
Date received _____
Date assigned _____
SO assigned _____
Case No _____

PART A: THE COMPLAINT

An investigation is requested of possible unprofessional conduct of

Teacher's name _____

Teacher's address (if known) _____

School at which the teacher teaches (or taught) _____

City or Town _____

Provide a brief description of the teacher's actions that have prompted this complaint. Specific details are not needed at this time, an investigator will contact you.

How have you attempted to address the complaint with the teacher concerned?

PART B: THE COMPLAINANT

Identification (Please print in block letters)

Name _____

Date _____ Signature _____

PART C: COMPLAINANT CONTACT INFORMATION

Address _____

Home phone _____

Cell phone _____

Work phone _____

Home E-mail _____