



BRITISH COLUMBIA
COMMISSIONER FOR
TEACHER REGULATION

Duty to Report Handbook
for Boards of Education under the *School Act*

August 2019

Table of Contents

| | |
|--|----|
| Introduction | 3 |
| Mandatory Reporting | 4 |
| Duty to Report in the Public Interest | 5 |
| Reporting in the Public Interest: Conduct, Competence and Resignations | 6 |
| How to Make a Report..... | 8 |
| Appendix 1 – Section 16 of the <i>School Act</i> | 9 |
| Appendix 2 – Definitions..... | 11 |

Introduction

The Commissioner for Teacher Regulation, appointed under the *Teachers Act*, is responsible for receiving and addressing reports and complaints about teacher competence and/or conduct. The Professional Conduct Unit of the Ministry of Education provides administrative support to the Commissioner to allow him to carry out his legislative mandate.

Most often conduct and competence concerns are brought to the Commissioner's attention through reports made by superintendents. Other ways concerns can be brought to the Commissioner's attention include reports made by boards of education about superintendents, reports made by teachers about other teachers, as well as complaints made by members of the public.

Under the *School Act* and the *Teachers Act*, teachers and their employers have a legal responsibility to report teacher misconduct or incompetence. This handbook has been designed to assist public school employers in understanding these reporting obligations.

Please note that the term "teacher" used throughout this handbook refers to anyone who holds a certificate of qualification, independent school teaching certificate or letter of permission, whether or not the person is acting in an administrative, supervisory or teaching capacity.

Contact Information

If you have any questions about the reporting process outlined in this handbook or about the related forms, you can reach a Professional Conduct Unit Intake Officer by:

- Telephone: 604 775-4870 or 1 800 555-3684 ext. 54870 (toll-free within Canada and the United States)
- Email: trb.intake@gov.bc.ca

You can find more information about the Commissioner for Teacher Regulation, the duty to report and the discipline process at www.gov.bc.ca/commissioner-for-teacher-regulation.

Mandatory Reporting

Circumstances

If a teacher's conduct meets the criteria below, a report must be submitted to the Commissioner.

1. Where a superintendent or board of education **suspends a teacher**, regardless of the reason, the superintendent must make a report to the Commissioner: section 16(2) and 16(3)(a) of the *School Act*.
2. Where a board of education **dismisses a teacher**, regardless of the reason, the superintendent must make a report to the Commissioner: section 16(3)(a) of the *School Act*.
3. Where a board of education **disciplines a teacher** for **any** of the following reasons, the superintendent must make a report to the Commissioner: section 16(3)(b) of the *School Act*.
 - a. the misconduct involves physical harm to a student or minor;
 - b. the misconduct involves the sexual abuse or sexual exploitation of a student or minor; or
 - c. the misconduct involves significant emotional harm to a student or minor.

Timing

In all of the circumstances set out above, the superintendent must report to the Commissioner "**without delay**": section 16(3) of the *School Act*.

Form and Content

All reports made under sections 16(2) or 16(3) of the *School Act* must:

- a. be in writing;
- b. be signed by the superintendent; and
- c. include the reasons for the action taken by the employer.

[section 16(4) of the *School Act*]

More information about the form and content of the report can be found under the heading "How to Make a Report" on page 8.

Copy to the Teacher

Any report made to the Commissioner under section 16(2) or section 16(3) of the *School Act* must be copied and sent to the teacher: section 16(5) of the *School Act*.

Failure to Report

A superintendent who fails to make a report as required under either section 16(2) or 16(3) of the *School Act* commits an offence and may be prosecuted: section 16(10) of the *School Act*.

Duty to Report in the Public Interest

Circumstances

1. If a teacher **resigns**, the superintendent must report the circumstances of the resignation to the Commissioner **if it is in the public interest to do so**: section 16(8) of the *School Act*.
2. If a teacher has **breached** the [Professional Standards for BC Educators](#) (the “Standards”), the superintendent must report the breach to the Commissioner **if it is in the public interest to do so**: section 16(6) of the *School Act*.

The first question that must be addressed is whether or not it is in the public interest to make a report to the Commissioner regarding either a teacher’s resignation, or a teacher’s conduct or competence. If it is determined that reporting is in the public interest, then a report must be made to the Commissioner.

More information about what the term “in the public interest” means is set out in the next section of this handbook on page 6.

Timing

Reports about a teacher’s resignation made under 16(8) must be made “**without delay**”: section 16(8)(a) of the *School Act*.

The *School Act* does not provide a time frame for making reports about a teacher’s breach of the Standards under section 16(6). However, the Superintendent should report to the Commissioner immediately after the conclusion of a Board’s own investigation. If there is no Board investigation, a report should be made to the Commissioner immediately upon the matter coming to the Superintendents attention.

Form and Content

All reports made under sections 16(6) and 16(8) of the *School Act*:

- a. shall be in writing;
- b. should be signed by the superintendent;
- c. shall set out the circumstances of the resignation; and
- d. should summarize the conduct or competence issues identified.

[sections 16(7) and 16(8) of the *School Act*]

More information about the form and content of the report can be found under the heading “How to Make a Report” on page 8.

Copy to the Teacher

Any report made to the Commissioner under section 16(6) (breach of standards) or 16(8) (resignation) of the *School Act* must be copied and sent to the teacher: sections 16(7) and 16(8)(b) of the *School Act*.

Failure to Report

A superintendent who fails to make a report about a teacher’s resignation, where it is in the public interest to do so under section 16(8) of the *School Act*, commits an offence and may be prosecuted: section 16(10) of the *School Act*.

Reporting in the Public Interest: Conduct, Competence and Resignations

Reporting under Section 16(6) of the School Act

There are two questions for a superintendent to consider when making a decision about whether to report under section 16(6) of the *School Act*:

1. Does the superintendent consider the **conduct** or **competence** of the teacher to be in breach of the Standards?
2. If so, does the superintendent consider it to be in the public interest to make a report to the Commissioner, keeping in mind that not all breaches are serious enough to attract regulatory attention?

If the answer to each of the questions above is “yes,” then the conduct or competence matter must be reported to the Commissioner.

Conduct Matters

The following should be considered when making a decision about whether it is in the public interest to make a report on a teacher’s conduct:

1. Students must be protected from teachers whose conduct breaches the Standards.
2. Teachers cannot conduct themselves – on or off duty – in a way that breaches the Standards.

Competence Matters

The following should be considered when making a decision about whether it is in the public interest to make a report on a teacher’s competence:

1. Standards 3 through 7 deal most directly with the issue of competence.
2. If a teacher’s performance in meeting one or more of the Standards displays a marked departure from the standard expected of the average competent teacher, a report under section 16(6) will likely be in the public interest.

Reporting under Section 16(8) of the School Act

Where a teacher has resigned, the superintendent must consider whether the circumstances of the resignation ought to be reported in the public interest.

When considering whether to report a resignation under section 16(8) of the *School Act*, the superintendent should consider whether the teacher, by reason of competence or conduct, is likely to pose a danger to students or deny them a proper education if employed as a teacher elsewhere. If a teacher may have resigned to avoid disciplinary action the resignation should be reported.

General Considerations

When considering whether it is in the public interest to report, the overriding consideration must be the protection of students from harmful conduct, inadequate teaching, or behaviour that brings the profession into disrepute. In some cases it will be evident that the public interest requirement is satisfied – for example, where the superintendent believes that a teacher routinely exhibits impatience toward students, negatively affecting their learning environment. In other cases it will be less clear. Where the breach is relatively minor, it may be appropriate for the superintendent to consider whether the teacher has demonstrated an understanding of the breach and a serious commitment not to repeat it.

Where there is doubt about whether to report, err on the side of caution and make the report. Even if the Commissioner decides to take no further action, the Professional Conduct Unit would retain a record that could influence a future decision if, at a later date, the teacher were reported again for similar conduct.

The fact that disciplinary measures may have been taken at the employment level does not necessarily mean that reporting is not required. **Statutory reporting requirements exist regardless of and separate from any action taken at the employment level or any provisions of a collective agreement.**

How to Make a Report

Report Form

Use the “Report to the Commissioner pursuant to section 16 of the *School Act*” form. This form can be found online at www.gov.bc.ca/commissioner-for-teacher-regulation and downloaded from the [File a Report as a Teacher, School or School Board](#) page.

Copies of Documents to be Submitted with the Report

The intent of this requirement is to provide the Commissioner with copies of all the documents in the possession or control of the district at the time that the report is made. The Commissioner may make subsequent requests if further documents come into existence.

To streamline the process, the Commissioner asks that the following documents (to the extent that they exist) be submitted with all reports:

- a. Investigation reports and written findings;
- b. All correspondence with the teacher;
- c. All correspondence with the teachers’ association about the conduct and/or competence issues of the teacher;
- d. Board of Education minutes, if applicable;
- e. Investigation notes, handwritten and/or typewritten;
- f. Handwritten notes of witnesses, principals, teachers, employees or students;
- g. Handwritten and typewritten records of interviews, or audio tape/digital recordings;
- h. Handwritten and typewritten records of telephone conversations or meetings;
- i. Contact information for students and employees who were interviewed;
- j. Copies of emails, Facebook posts, Twitter posts or other electronic communication relevant to the investigation;
- k. Copies of relevant texts and/or other social media messaging; and
- l. Photographs used in the investigation.

If necessary documents are not submitted with the report, the *School Act* requires that they must be submitted without delay if and when they are subsequently requested by the Commissioner: section 16(9) of the *School Act*.

Copy of Records to the Teacher

If a superintendent provides documents to the Commissioner under section 16(9) of the *School Act*, he or she must also send a copy of those documents to the teacher: section 16(9) of the *School Act*.

Appendix 1 – Section 16 of the *School Act*

Section 16: Report of dismissal, suspension and discipline regarding authorized persons

Section 16 (1)

In this section, "authorized person" means a certificate holder or a person holding a letter of permission issued under the *Teachers Act*, but does not include a superintendent.

Section 16 (2)

If a superintendent of schools suspends an authorized person, the superintendent must without delay send to the commissioner a report regarding the suspension.

Section 16 (3)

If a board

- a. suspends or dismisses an authorized person, or
- b. disciplines an authorized person for misconduct that involves
 - i. physical harm to a student or minor,
 - ii. sexual abuse or sexual exploitation of a student or minor, or
 - iii. significant emotional harm to a student or minor,

the board must without delay notify the superintendent of schools of the suspension, dismissal or disciplinary action, and the superintendent must without delay send to commissioner a report regarding the suspension, dismissal or disciplinary action.

Section 16 (4)

A report referred to in subsection (2) or (3) must

- a. be in writing,
- b. be signed by the superintendent of schools, and
- c. include reasons for the action taken by the board or superintendent.

Section 16 (5)

The superintendent of schools must send a copy of a report referred to in subsection (2) or (3) to the authorized person who is suspended, dismissed or disciplined.

Section 16 (6)

If the superintendent of schools considers any conduct by, or the competence of, an authorized person to be in breach of the certification standards, they superintendent must send to the commissioner a report, in writing, regarding that conduct or competence if it is in the public interest to do so.

Section 16 (7)

The superintendent of schools must send a copy of the report referred to in subsection (6) to the authorized person whose conduct or competence is the subject of that report.

Section 16 (8)

If an authorized person resigns, the superintendent of schools must:

- a. report, without delay, the circumstances of the resignation to the commissioner if it is in the public interest to report the matter, and
- b. send to the authorized person who resigned a copy of the report.

Section 16 (9)

A superintendent of schools who has made a report to the commissioner under this section in respect of an authorized person must, without delay after being requested to do so by the commissioner.

- a. provide the commissioner all of the records available to the superintendent that relate to the matter in respect of which the report was made, and
- b. send to the authorized person a copy of the records referred to in paragraph (a).

Section 16 (10)

A superintendent of schools who fails to report as required under subsection (2), (3) or (8) commits an offence.

Appendix 2 – Definitions

Authorized Person:

- 1) a certificate holder, or
- 2) a person who holds a letter of permission issued under section 35 [issuance of letter of permission].

Board or Board of Education: a board of school trustees.

Certificate holder: an individual who holds a certificate of qualification, a letter of permission, or an independent school teaching certificate. “Certificate holders” include superintendents, directors, principals, vice-principals and classroom teachers in the public and independent school systems in BC.

Commissioner: an independent statutory decision maker appointed under section 2 of the *Teachers Act* to oversee all disciplinary processes and consider certification appeals.

Independent School Authority: a society, or corporation, or person designated, by regulation, as an independent school authority that operates, or intends to operate an independent school.

Student:

- 1) a student as defined in section 1 of the *School Act*;
- 2) a student as defined in section 1 of the *Independent School Act*;
- 3) a child registered under section 13 [registration] of the *School Act*;
- 4) a child engaged in a program of studies at an educational institution operated by:
 - a. a first nation, as defined in section 1 of the *School Act*; or
 - b. a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada); or
- 5) a child participating in a kindergarten to grade 12 program of studies provided by a treaty first nation under its own laws.

Teacher: a person who holds a certificate of qualification, independent school teaching certificate or letter of permission, whether or not the person is acting in an administrative, supervisory or teaching capacity.

Duty to Report Handbook
Pursuant to section 16 of the *School Act*
August 2019

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Teacher Regulation

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