



Maintaining “Spotless Records”: Professional Standards, Teacher Misconduct and the Teaching Profession

Paul W. Bennett

Director, Schoolhouse Consulting and Adjunct Professor of Education, Saint Mary’s University

Karen Mitchell

Former Member, Governing Board, Ontario College of Teachers and Past President, Society for Quality Education

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287 Lacewood Drive, Second Floor, Suite 204
Halifax, Nova Scotia, Canada B3M 3Y7
Telephone: (902) 429-1143
Email: aims@AIMS.ca
Website: www.AIMS.ca

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About the Authors

Paul W. Bennett

Principal author Paul W. Bennett, Ed.D (OISE/Toronto) is Founding Director of Schoolhouse Consulting and Adjunct Professor of Education at Saint Mary’s University, Halifax, Nova Scotia. Over a career spanning four decades and three provinces, Dr. Bennett has served as a secondary school history teacher, academic head, public school trustee, and the headmaster of two of Canada’s leading independent coeducational day schools, Lower Canada College and Halifax Grammar School. He has written or co-authored many academic articles, policy papers, and eight books, including *The Grammar School: Striving for Excellence in a Public School World* (2009), and *Vanishing Schools, Threatened Communities: The Contested Schoolhouse in Maritime Canada, 1850 -2010* (2011), and *The Last Stand: Schools, Communities and the Future of Rural Nova Scotia* (2013).

Today Paul is primarily an education policy analyst and commentator, producing regular columns and book reviews for *The Chronicle Herald* and articles for *Progress Magazine* and a variety of publications. His most recent academic articles have appeared in *Acadiensis*, *Historical Studies in Education* and *the Royal Nova Scotia Historical Society Journal*. Over the past five years, he has produced major policy papers for the Atlantic Institute for Market Studies, the Society for Quality Education, and the Canadian Accredited Independent Schools Association. He specializes in K-12 educational policy, education history, educational standards, school governance, teacher education, and special education services.

Karen Mitchell

Contributing author Karen Mitchell has been an education reform activist for the past twenty-five years. From 1997 until 2005, she was a Member of the Governing Council of the Ontario College of Teachers. In her capacity as a member of the OCT, she served on the Discipline Committee, the Editorial Board of *Professionally Speaking* and was Chair of the Standards of Practice and the Quality Assurance Committees. She served as President and a Director of the Waterloo-based Society for Quality Education. Karen was also a member on the Committee for the Revision of the Ontario Secondary School Curriculum in 2004–2005. Two years ago, she returned home to reside in Nova Scotia.

The authors of this report worked independently and the views and conclusions they express do not necessarily reflect those of the Atlantic Institute for Market Studies, its Board of Directors, staff, or supporters.

Executive Summary

Certifying teachers and regulating the teaching profession is emerging as a critical public policy issue—and one that urgently needs addressing in the interests of students as well as taxpayers in Nova Scotia and a few other provinces. Establishing and maintaining professional standards in Canada has, in practice, been delegated to provincial teachers’ unions and federations. Nova Scotia demonstrates how that approach can be particularly loose and mostly ineffective, virtually guaranteeing “spotless records” for teachers.

This AIMS’ research report asks, “Whatever happened to teaching standards?” and then tackles the question with an analysis of teacher regulation in Nova Scotia compared with best practices in other Canadian provinces. Paul W. Bennett and Karen Mitchell, a former member of the Ontario College of Teachers Governing Board from 1997 to 2005, provide a revealing look at the absence of regulatory oversight and the feeble enforcement of teaching standards. Utilizing Nova Scotia as an example, the AIMS’ policy paper makes the case for adopting a more robust provincial policy regime to ensure the highest teaching standards as well as to weed out underperforming teachers and so-called “bad apples” who pose risks to students.

Starting in Nova Scotia and following the lead of British Columbia, Bennett and Mitchell call for the establishment of a new, more independent Teacher Regulation Branch with a clear mandate to raise professional teaching standards, rebuild public trust, properly vet teacher education programs and safeguard students in the schools. The AIMS’ report concludes with six major policy recommendations designed specifically for Nova Scotia but applicable in other provinces:

1. Initiate and establish a Teaching Standards and Regulation Act and transfer the responsibility for setting and maintaining the Code of Professional Standards and Discipline to a new branch of the Department of Education and Early Childhood Development. Rename the Teaching Profession Act so that it is termed the Teachers Union Act;
2. Assign responsibility for overseeing Teacher Standards and Discipline to the Minister of Education and Early Childhood Development and require the public disclosure of all proceedings and decisions made under the new Teaching Standards and Regulation Act;
3. Establish a Teaching Standards Board within the Department of Education to assure professional self-governance for the profession, but limit the size of the board to 12 to 15 members, appointed by Order-in-Council, to allow for a fair representation of teacher, professional and community interests;
4. Adopt a Teacher Quality Standard, modelled after that of Alberta and built upon Best Practice in Teacher Quality reform across North America and around the world and introduce regular teacher effectiveness assessments, scheduled every five to seven years at critical stages in the career cycle;
5. Raise Teaching Standards and uphold Professional Ethics through legislative reform by removing supervisory officers and principals from the provincial bargaining unit for teachers and implementing professional training for school administrators in the assessment of teacher conduct, competency and effectiveness;
6. Mandate the new Teacher Regulation Branch to initiate, develop and implement an evaluation and accreditation program for faculties of education and teacher training institutes to ensure the validity and quality of professional degree and additional qualification programs, including B.Ed., M.Ed., and Ed.D. programs, inside and outside of Canada

Introduction: In Search of Professionalism

On February 20, 2014, Shelley Morse, the president of the Nova Scotia Teachers Union (NSTU), took to CBC Radio airwaves to fend off what she saw as the latest assault on her members. The CBC News Nova Scotia investigative unit, headed by Bob Murphy, had gone public with a startling revelation that some Nova Scotia teachers had succeeded in having their certification upgraded and then had secured hefty salary increases after taking distance-learning courses, primarily in sports coaching, at Drake University in Des Moines, Iowa. Over the previous three years, some 41 teachers had been discovered to have taken the so-called “bird courses” to secure salary upgrades of \$6,000 to \$8,000 a year, and 505 teachers, in total, or two out of every three registered to take out-of-province courses, were planning to take the easy route (Murphy, CBC News Nova Scotia, 2014).

The unsettled and aggrieved NSTU president shocked many by publicly defending the teachers’ actions in finding a loophole in the provincial certification regulation system. An independent Halifax education consultant and two education professors, Robert Berard of Mount Saint Vincent University and Daniel Robinson of Saint Francis Xavier University, had declared the courses to be inferior in quality and revealed that they were deemed unacceptable for admission to graduate education programs at either Drake University or Saint Francis Xavier University. When Morse claimed that the Drake distance-learning courses were the only ones accessible to physical education teachers, that claim was also disproven. Even after Nova Scotia Minister of Education Karen Casey called for a full investigation of the Drake University courses debacle, Morse remained undeterred (CBC News Nova Scotia, 2014). To the union president and her provincial executive, it was not a question of professionalism but rather an unprovoked assault on teachers and another episode in the ongoing education blame game.

The Drake University course flap had, somewhat accidentally, revealed a serious flaw in the whole teacher regulation regime. Yet, exposing such blatantly questionable practices was viewed by Morse and her executive as another example of “teacher bashing”—and warranted closing ranks and invoking the union’s protection services operations. How and why the NSTU leadership felt compelled to come forward to defend the inappropriate actions and cover up the union’s actual role is the fundamental question raised and addressed in this AIMS research report.

Most of today’s educators aspire to be respected professionals but find themselves on the front line of public education. Any and all criticisms of the K-12 public education system tend to elicit some familiar, almost automatic responses. “Blaming teachers for the financial and educational crisis,” is, in the words of Nova Scotia education professor Geneviève Boulet, “just as preposterous as blaming soldiers for the high cost and ineffectiveness of warring. Teachers are in the front lines, following orders as best they can.” In staff rooms and school parking lots, public school teachers regularly bemoan the fact that education has become “a blame-and-shame game” with teachers on the receiving end (Boulet, 2012).

The modern schoolhouse is challenging teacher professionalism. Student testing and accountability are well established, and some school administrators expect teachers to master the language and model the behaviour associated with what are known as “professional learning communities.” Aggrieved teachers can be heard quietly muttering, “Education is one of the few areas where everyone is an expert.” Why is that? “Everyone went to school.” In the minds of many teachers, all of this breeds a subtle but damaging assumption: “Experience in schooling” constitutes a certain “expertise in education.” On top of that, increasing numbers of parents are not only university educated but also more assertive because they hold more degrees than many regular classroom teachers do (Brabazon, 2013).

Rising public concern about the slide in educational standards has led to much more scrutiny of student test results, school curriculum, teachers and teaching practice. Since the rise of the North American effective schools movement in the 1980s, the school—and not only socio-economic factors such as poverty, family life, racial inequality and language differences—came to be accepted as a contributing cause of the lagging student achievement levels. Increasingly, it became common for educational critics and reformers to focus on the teacher factor, admonishing K-12 public school teachers for lowering the bar and encouraging a culture of “low expectations.” In some cases, the responsibility for declining test scores and inequitable outcomes was not shared but rather shifted from the students to their teachers, principals and superintendents. According to Larry Cuban, a widely respected U.S. education analyst, none of this squares with the facts. Teachers and teaching practice play a bigger role than is publicly acknowledged, but the burden of responsibility rests with both community and school board, both school and family, both teachers and students (Cuban, 2012).

Much of the public debate over teachers and teacher quality rests on the fundamental and often unspoken assumption that teaching is a profession. However, the question, “Is teaching a profession?” is too rarely asked. Almost two decades ago, back in 1995, Robert Runte, an associate professor of education at the University of Lethbridge, had the temerity to pose that very question, and he came up with a surprising answer. Surveying the changing nature of professionalism, he pointed out that the dominant pattern had changed over the past hundred years from that of “the free practitioner in a market for services” to that of “a salaried specialist in a large organization.” By pretending that the old model still existed, he added, we are “blinding ourselves to how things really are” in the teaching field. With the rise of the university-educated class, professions such as teaching are losing their “monopoly over particular bodies of knowledge” and consequently losing not only their claim to “special status as professions” but are also becoming “knowledge workers” faced with staff reductions, limited mobility, isolation from policy-making, and declining intrinsic rewards (Runte, 1995, 1-2, 6-8). Gradually, teachers associations came to accept that teaching could not achieve the prestige and status of a profession such as medicine. Support for professionalism proved “fragile and vulnerable” and constrained by union militants who presented an “intractable accountability problem” (Sykes, 1987; Glegg, 1992, 47-50).

Teachers in Canada’s public school systems still claim to be members of the “teaching profession.” In the September 2013 issue of *The Teacher*, the NSTU magazine, Betty-Jean Aucoin, executive staff officer, professional development, turned to Wikipedia for a definition of the term “professional.” A professional, she reported, is “someone who has completed formal education or training in one or more professions.” Such individuals possess “standards of education and training” that enable them to perform their roles and are “subject to strict codes of conduct enshrining rigorous ethical and moral obligations.” Those standards of practice, according to Wikipedia, are “typically agreed upon and maintained through widely recognized professional associations” (Aucoin, 2013).

What is missing in that formulation is any real reference to what most full-fledged professions now possess—recognized, publicly accepted “self-regulatory powers.” Teachers’ organizations such as the NSTU bear the most responsibility for the certification, decertification, competence, dismissal and continuing training of their members. In the early 1980s, Ontario and Alberta proposed to the teachers’ associations that they could become self-governing if the teachers agreed to be represented by two different organizations—a professional college with compulsory membership and a voluntary association responsible for collective bargaining and working conditions. The teachers rejected the proposal to create the two entities. In 1987, British Columbia took the plunge over the objections of the British Columbia Teachers Federation (BCTF) and introduced legislation to establish the College of Teachers with powers to certify, discipline and otherwise regulate teachers. The government of Ontario followed suit, adopting similar legislation and creating the Ontario College of Teachers (OCT) in 1997.

During this phase, most provincial authorities revised their Teaching Profession Acts, specifying more explicitly their professional standards and codes of discipline. Alberta amended its Teaching Profession Act to add a rather extensive new section spelling out its professional standards and disciplinary procedures (Alberta, Teaching Profession Act, 2000). A major 2010 review of Alberta Teacher Regulation included a seminar on “Teacher Appraisals and Dismissals” featuring Edmonton lawyer Brian A. Vail and other leading experts (Lorman Education Services, 2010). Nova Scotia (Teaching Profession Act, 1989), New Brunswick (Teacher Certification Regulation) and Prince Edward Island (School Act, 1988) remained outliers with teaching certification and professional standards enforcement split between the province, school boards and the teachers’ union. The British Columbia College of Teachers (BCCT), dominated by the BCTF and under public fire for the laxity of its discipline policies, was replaced in 2011 by a more robust Teacher Regulation Branch in the British Columbia Ministry of Education (Steffenhagen, 2012).

Education policy debates in Nova Scotia, as in other provinces, tend to skirt the critical issue of assuring and improving teacher quality. With the possible exception of British Columbia, Ontario and Alberta, merely raising questions about teacher quality elicits cries of “teacher bashing” and passionate denunciations of “blame-and-shame” policies. Even the most ardent Canadian education reformers freely acknowledge that all the provinces are blessed with a majority of hard-working, talented and dedicated teachers. Legal experts such as Brian Vail also remind us that criminal allegations levelled against “rule-makers” such as teachers are often trumped up and can be “conducive to confabulation” in school environments (Vail, 2010, 55-56, 89-91). Most policy analysts also recognize that good teachers are worth more than they are paid in salaries, and it is dispiriting to see them blamed for factors beyond their control, including bad policy choices, stark educational inequities and the misconduct of so-called bad apples.

Having recognized that provinces such as Nova Scotia have a reasonably good teacher force, there is definitely room for improvement. Nova Scotia, for example, has no publicly affirmed code of professional standards, and the NSTU’s disciplinary practices are shrouded in confidentiality. All professional disciplinary actions are deemed personal and private matters and are not reported to the public. (NSTU, 2014) Teacher misconduct and sexual assault cases are only reported in the daily and weekly Nova Scotia media (DuBreuil, 2012; Ross, 2014). Judging from periodic news reports and school-level parking lot discussions, more than a few teachers should no longer be teaching. Many enjoy immunity by virtue of ironclad tenure while hundreds of recent B.Ed. graduates languish on growing supply teacher lists (Willick, 2012).

Raising professional standards in Nova Scotia and elsewhere is an emerging educational policy issue, sparked by periodic parent protests and fuelled by the Teacher Quality movement now active in Australia, Britain and the United States (Rotherham, 2011; NCTQ, 2014). A recent Canadian Council of Chief Executives report titled “Effective Management of Human Capital in Schools” not only proposed more-robust teacher evaluations but also challenged seniority rules in determining teacher layoffs (Maharaj, 2014).

Simply asserting that teaching is “an honourable profession” and battening down the hatches will no longer suffice. After two years on probationary contracts, permanent teachers now enjoy double protection in the form of provincial certification or licensing and a teachers’ union contract with secure tenure. While the introduction of student testing has brought more classroom oversight and periodic surveillance, teachers under regular contracts remain virtually immune from sanctions, corrective actions or dismissal – and disciplinary hearings allow for lengthy and time-sapping appeal processes. Teacher evaluations are conducted, particularly when entering or transferring to new schools, but they are almost universally time-consuming paper exercises of low quality where educators are invariably deemed satisfactory (Maharaj, 2014, 8; Odden, 2011). Teachers accused of misconduct or who are facing criminal charges are protected by union contracts and usually suspended with pay and assigned to supervised administrative duties (Nova Scotia, Teacher Contract, 2012). Even raising such issues opens the source of such inquiries to the inevitable charge of “teacher bashing.”

It is time to initiate a more-adult conversation about the state of teaching as a profession and why teachers’ federations initially resist all attempts to put “professional standards” and “teacher quality” on the Canadian education policy agenda. Surveying Canada’s provincial school systems shows that there is some variation in the receptivity to engaging in such public discussions, related—in some peculiar ways—to whether teachers belong to teachers’ federation or to a teachers’ union. These organizations, such as the NSTU, operate with an internal, members-only code of ethics and are much more explicit in promoting teacher’s rights, with a whole range of protection services (NSTU, 2014). Unlike Australia, Britain and the United States, Canadian provincial teaching profession law and regulations focus exclusively on processes for weeding out teachers in cases of professional misconduct and sexual abuse (Vail, 2010, 53-93). Given the relative absence of teaching effectiveness standards, cases of incompetence are rarely brought forward (Sach-Anderson, 2003, 11-12). Teacher seniority remains the only real criterion for determining staff reductions, which strictly adhere to last in first out regulations and protocols (Rohr, 2013).

Association/Federation/Union	Year Founded	Membership
Alberta Teachers’ Association	1918	30,000
British Columbia Teachers’ Federation	1919	43,000
La Fédération des Syndicats de L’Enseignement ^a	1998	82,000
Manitoba Teachers’ Society	1919	14,000
New Brunswick Teachers’ Federation	1903	7,600
Newfoundland and Labrador Teachers’ Association	1890	6,450
Northwest Territories Teachers’ Association	1953	775
Nunavut Teachers’ Association	1999	650
Nova Scotia Teachers’ Union	1895	10,300
Ontario Teachers’ Federation ^b	1944	144,000
Prince Edward Island Teachers’ Federation	1880	1,500
Quebec Provincial Association of Teachers ^c	1997	7,000
Saskatchewan Teachers’ Federation	1914	12,000
Yukon Teachers’ Association	1955	450

^aLa Fédération des Syndicats de L’Enseignement was founded in 1998 as a result of the merger of 44 smaller unions. It represents French-speaking teachers in Quebec

^bAll teachers are required by law to belong to the federation as a condition of teaching in publicly-funded schools in Ontario. In fact, teachers belong to one of four affiliated unions that predate the Ontario Teachers’ Federation. These bodies are: L’Association des Enseignantes et des Enseignants Franco-Ontariens, the Elementary Teachers’ Federation of Ontario, the Ontario English Catholic Teachers’ Association, and the Ontario Secondary School Teachers’ Federation

^cThe Quebec Provincial Association of Teachers was formed in 1997 through the merger of the Protestant and Catholic Teachers’ Associations. It represents English-speaking teachers. Its parent body, the Provincial Association of Protestant Teachers, was founded in 1864

Table 1: Provincial Teachers' Unions, Canadian Provinces and Territories, 2007

Source: Rodney Clifton, John Long, and Michael Zwaagstra (2008), “Getting the Fox Out of the Schoolhouse: How the Public Can Take Back Education,” *Atlantic Institute for Market Studies*, 6 September 2008, p. 6

Setting and enforcing professional standards is only half of the equation when it comes to assuring high-quality teaching in the schools. A sea change has taken place in teacher evaluation policy in the United States, especially since the recent formation of the National Council on Teacher Quality (NCTQ). By September 2012, measuring teacher effectiveness had become a top priority with 22 of 50 states recognizing student achievement as “a significant or the most significant factor in judging teacher performance.” While the clear majority of U.S.

school districts used seniority as the basis for layoff decisions, some 15 states required districts to “consider teacher effectiveness in making reduction in force decisions.” Teaching staff cutbacks, however, continue to be conducted without publicly disclosing whether the dismissals are for “criminal or moral violations” or “performance issues.” In the majority of U.S. states, teacher evaluations are no longer perfunctory exercises that are carried out “as a formality without significance or consequence” (NTQI, 2012). So far, there is no policy appetite in Canadian provincial governments to use professional regulations as a means of raising teaching standards in or outside the classroom.

Establishing and maintaining professional standards in Canada has, in practice, been delegated to provincial teachers’ unions and federations. Nova Scotia demonstrates how that approach can be particularly loose, built upon trust rather than accountability. The province has about 9,400 teachers, all of whom are members of the Nova Scotia Teachers Union. Today, the Nova Scotia government essentially delegates to the NSTU its responsibility for both professional development and adherence to professional standards. The province has five university faculties of education, each offering B.Ed. degree programs leading to a teaching certificate. While Nova Scotia conducts periodic reviews of teacher education, the universities operate in an autonomous fashion (Nova Scotia, Teacher Education Panel, 2007). No independent body exists either to oversee or to accredit the province’s teacher education programs (NSDE, Certification Branch, 2014).

Utilizing Nova Scotia as a test case, this policy paper will raise the critical issue of the state of teaching as a profession and assess the case for, and the merits of, adopting a more robust provincial policy and regime to ensure the highest teaching standards. One possible option is to establish a fully independent college of teachers with a clear provincial mandate to ensure teacher quality and to identify, establish and enforce professional standards of practice. After assessing the recognized strengths and critical shortcomings of two earlier College of Teachers ventures in Ontario and British Columbia, the paper will examine provincial regulatory alternatives and propose a suitable model and implementation plan for Nova Scotia and its neighbouring Atlantic provinces. We conclude that the state of the teaching profession calls for a major reform of teacher certification and regulation, starting in Nova Scotia and aimed at establishing more-robust and effective provincial policy and regulations in order to raise professional teaching standards, rebuild public trust and safeguard students in the schools:

1. Initiate and establish a Teaching Standards and Regulation Act and transfer the responsibility for setting and maintaining the Code of Professional Standards and Discipline to a new branch of the Department of Education and Early Childhood Development. Rename the Teaching Profession Act so that it is termed the Teachers Union Act;
2. Assign responsibility for overseeing Teacher Standards and Discipline to the Minister of Education and Early Childhood Development and require the public disclosure of all proceedings and decisions made under the new Teaching Standards and Regulation Act;
3. Establish a Teaching Standards Board within the Department of Education to assure professional self-governance for the profession, but limit the size of the board to from 12 to 15 members, appointed by Order-in-Council, to allow for a fair representation of teacher, professional and community interests;
4. Adopt a Teacher Quality Standard, modelled after that of Alberta and built upon Best Practice in Teacher Quality reform across North America and around the world and introduce regular teacher effectiveness assessments, scheduled every five to seven years at critical stages in the career cycle;
5. Raise Teaching Standards and uphold Professional Ethics through legislative reform by removing supervisory officers and principals from the provincial bargaining unit for teachers and implementing

professional training for school administrators in the assessment of teacher conduct, competency and effectiveness;

6. Mandate the new Teacher Regulation Branch to initiate, develop and implement an evaluation and accreditation program for faculties of education and teacher training institutes to ensure the validity and quality of professional degree and additional qualification programs, including B.Ed., M.Ed., and Ed.D. programs, inside and outside of Canada

Professional Standards and Discipline: Where Are They Hiding?

On June 13, 2013, Nova Scotia’s South Shore Regional School Board (SSRSB) finally won its prolonged battle to keep Peter Speight out of the classroom. Four years earlier, in 2009, the Board dismissed Speight a few weeks after he pled guilty to “willfully engaging in indecent acts.” At the time, Speight had been teaching for fewer than four years, mostly on term contracts, and he had been a permanent teacher for only eight months. He was apprehended luring women to his car where he exposed himself and masturbated. Resolving the matter not only took four years but it cost Nova Scotia taxpayers \$160,000 in back pay plus thousands more in legal costs to get Speight to give up his legal case to obtain both his teacher’s certificate and his job (DuBreuil, 2013). How and why it took so long to resolve this sordid matter is indicative of the problem afflicting the teaching profession.

The School Board stood firm, but the Speight case exposed deep and unspoken rifts within the province’s teaching community. The SSRSB and the Nova Scotia Department of Education, each staffed almost exclusively by NSTU members, utilized the only tools at their disposal, the right to terminate employees for cause and to suspend teacher certificates (NSSC, SSRSB v. Speight, 2012). Throughout the whole dispute, Speight remained a member of the NSTU and took advantage of its protection services to cover his legal representation (NSTU, Protection Services, 2014). In a further twist, the sex offender’s principal at New Germany Elementary School, Bill Bruhm, was an active member of the NSTU’s provincial organization and testified on Speight’s behalf throughout the proceedings (NSSC, SSRSB v. Speight, 2012, 15). During the trial, Bruhm argued that Speight could redeem himself, and he saw no reason why the SSRSB’s “Positive Effective Behaviour Support program [could not] be an aspect of the corrective discipline.” He went even further, testifying that he also saw “no reason why a role model of a different sort cannot enhance public confidence in the school system” (NSSC, SSRSB v. Speight, 2012, 15).

Dismissing Peter Speight proved to be a long, exhausting and costly operation. His actions in “willfully engaging in indecent acts” clearly violated the NSTU’s internal Code of Ethics, but, as a union member, he was entitled to legal representation. Without clear, publicly proclaimed professional standards of discipline, the case for dismissal was weakened, and it devolved into a court battle. The Nova Scotia judge in the initial case gave Speight a conditional sentence, leaving him without a criminal record and opening the door to a legal challenge. That led to an eight-day arbitration hearing, requiring the Board to hire lawyers to prepare submissions, research legal precedents and rack up significant billable hours. The arbitrator, Dalhousie University law professor Bruce Archibald, a prominent advocate of ‘restorative justice,’ decided Speight deserved a second chance. Citing glowing performance reports from Bruhm and a fellow teacher, Speight’s remorse and engagement in therapy, Archibald reduced the suspension to one year and ordered the SSRSB to rehire him. The Board refused and then applied for a judicial review by the Supreme Court of Nova Scotia. The Board’s lawyers continued the legal battle, but lost again. The Court found no reason in law to overturn the arbitrator’s decision.

While the court battle was continuing, the provincial Department of Education was fighting Speight and his NSTU lawyers over his teaching certification. After Speight’s conviction, the Department’s Certification

Branch revoked his teaching certificate. The teacher also appealed this decision. Another arbitration hearing was held. The province lost and was ordered to reinstate his certificate (Borden Colley, 2012). With the legal options exhausted, the SSRSB agreed to restore Speight to his former position at New Germany Elementary School after holding a series of ‘Restorative Justice’ sessions with the students and parents. Parents and grandparents in the small rural community rose up in outrage and fought the “sex offender’s” return to their school, forcing principal Bruhm to take stress leave and ultimately retire (CBC News Nova Scotia, 2012). It took a full-scale community revolt to have Speight removed from the schools. Finally, in December of 2013, the then Minister of Education, Ramona Jennex, intervened, on the day of an SSRSB meeting, to cover the costs, in excess of \$250,000, to make the immediate “problem” go away (DuBreuil, 2013).

The Speight case revealed, albeit in exaggerated form, the fundamental issue at stake in setting and upholding professional ethics and standards in Nova Scotia and most other provinces. Promoting, maintaining and enforcing professional standards in Nova Scotia now falls between two horses—the Education Department’s Certification Branch and the Professional Committee of the NSTU, a teachers’ union also entrusted with protecting its members from moral and “criminal allegations.” The NSTU’s provincial staff manual does contain a code of ethics (Kelloway, 2014), but it is not a public declaration nor does it appear to be applied when cases are before the courts or arbitration tribunals. The NSTU Professional Committee, chaired by NSTU associate director Bruce Kelloway, operates in a closed and private fashion and is shielded by an NSTU regime of publicly displayed privacy principles (NSTU, 2014). The NSTU Professional Committee, overseeing all matters of professional misconduct and behaviour unbecoming a teacher, publishes no minutes and is not required to disclose any data with respect to any teacher resignations, retirements or dismissals. The Nova Scotia public is completely unaware of cases such as that of Peter Speight until parents mount local school board protests or the case goes to court and appears in public proceedings.

Dramatic Changes and Recent Trends in the Teaching Profession

Setting, preserving and enforcing professional standards remain the preserve of the teachers’ organizations, particularly in Nova Scotia and the Maritime provinces. Out of the 10 provinces, only three, Alberta, British Columbia and Ontario, have entrusted teacher quality assurance to government entities independent of the teacher federations and unions (Prince Edward Island, List of Registrars, 2013). Québec gives more authority to the Minister and the Department of Education to investigate and resolve individual professional misconduct matters and any formal complaints. The education departments in the six other provinces take responsibility for teacher certification and licensing regulations but depend upon the teaching organizations to maintain and enforce professional ethics and standards. Some provincial teachers’ federations, such as Saskatchewan’s, are more open, public and transparent in their management of professional standards (STF, 2014). Nova Scotia, Prince Edward Island, New Brunswick and Newfoundland and Labrador maintain leaner provincial offices and limit their role to the licensing of teachers. Since the closure of the BCCT, the British Columbia Ministry of Education, through its Teacher Regulatory Branch, has been very active in its public reporting and disclosure of individual cases that result in teacher dismissals (O’Connor, 2013).

Canada’s three leading provinces in terms of upholding professional standards, British Columbia, Alberta and Ontario, have one important experience in common. Since the late 1980s, each of these provinces has confronted the full force of dramatic social changes affecting teaching and has faced growing public demands for teacher accountability, for not only the safety and protection of children and youth but also for improved student performance results. Throughout the one-room schoolhouse era from the 1820s until the 1950s, teachers in Canadian schools prized their autonomy and settled for an occupation with modest professional status and relatively meagre salaries (Bennett, 2011). Teacher advocacy for better salaries and working conditions achieved a real breakthrough in 1944 with the passage of the Ontario Teaching Profession Act, which

established compulsory federation membership and required the paying of dues to teacher organizations (Gidney, 1999, 21-22). The zenith of teachers’ professional autonomy, educational sociologists M.S. Larson and Jenny Ozga claim, was experienced in the 1960s before the rapid post-war baby boom transformed the school system into a much more centralized, bureaucratic education state (Larson, 1977; Ozga, 1988).

Centralization, bureaucratization and unionization proved to be relentless forces that tended to reinforce one another in the reshaping of the so-called semi-profession of teaching (Etzioni, Introduction, 1969). Curriculum policy initiatives, the rise of program consultants and the proliferation of guidelines and regulations all served to greatly increase the centralized control over the teacher force. Teachers’ federations sought to improve salaries and benefits and gradually, over time, came to focus more on collective bargaining to secure provincial teacher contracts. A series of collective teacher actions, including “work-to-rule” protests, resulted in teachers securing the right to strike (Ontario, June 1975) and the right to engage in province-wide collective bargaining (Nova Scotia, June 1977; Gidney, 1999, 117-123). Despite the popular rhetoric of teacher professionalism and empowerment, provincial policies and teacher contracts conspired to narrow the range of teachers’ freedom of action inside and outside the classroom (Runte, 1995, 8-9).

Province	Certification Branch	College of Teachers	Regulation Branch	Public Input
AB	Yes+	No	Yes	Yes
BC	Yes+	No (Abandoned)	Yes	Yes
MB	Yes	No	No	No
NB	Yes	No	No	No
NL	Yes	No	No	No
NS	Yes	No	No	No
ON	No	Yes	No	Yes
PQ	Yes+	No	Yes	Yes
PEI	Yes+	No	Partially	No
SK	Yes+	No	No	No

Table 2: Provincial Teacher Certification and Regulation Bodies, 2013

Source: List of provincial registrars compiled by Teacher Certification Branch, Department of Education and Early Childhood Development, Prince Edward Island

The general claim that teaching is a profession rests on two different conceptions of professionalism and has changed considerably over the past 60 years. Back in the 1950s, sociologists such as Myron Lieberman conceived of teaching as requiring certain “professional traits” that distinguish the profession from other occupations. Among the identified traits were (1) skill based upon abstract knowledge; (2) provision for training and education, normally associated with the universities; (3) certification based upon competency testing; (4) formal organization; (5) adherence to a code of conduct; and (6) altruistic service. Once the traits were isolated, much of the educational research set out to confirm that under this framework, teaching could be considered a true profession (Runte, 1995, 2-3). Popular as the trait model was among sociologists, it lacked a theoretical basis and was gradually rejected, even among doctors and lawyers. Defenders of the model were unable to precisely define relevant traits, explain their interaction or their origins, which resulted in that rationale losing its credibility as a plausible defence of the claim to professionalism.

Defenders of teacher professionalism slowly came to rely more upon a “structural-functionalist” model to buttress their claim. The situation was dire because, by the 1970s, most professions were losing their monopolies, and teachers were facing, on a daily basis, parents whose education might be considerably better

than their own (Runte, 1995, 6). Building upon the rather primitive “trait models” of the 1950s, teacher training schools and faculties of education began to claim that teaching requires specialized knowledge, particularly in curriculum and pedagogy. Having acquired that specialized knowledge and set of skills, educational sociologists, education school professors and teachers’ federation staff officers attempted to develop and refine the provincial teachers’ code of ethics, the commitment to altruistic service and membership in a legitimate, self-regulating professional association. That movement fell flat because all of the recognized professions, doctors, lawyers, teachers and nurses, were losing their monopolies over specialized bodies of knowledge, thus weakening their claims to professional status (Runte 1995, 6).

The rise of teacher unionism actually compounded the problem of a loss of professional status. More-militant teacher unionists, occupying prominent positions in the Ontario Secondary School Teachers’ Federation (OSSTF) and the British Columbia Teachers’ Federation (BCTF), viewed teachers through the lens of collective bargaining and labour-management relations. Heavily influenced by E.P. Thompson and his British working-class studies, they began to see Canadian teachers as the front line in the defence of society’s skilled white-collar workers. Some union leaders accepted that maintaining professional status was no longer relevant, since teachers worked in larger ‘factory-like’ schools and even doctors and lawyers had dubious claims to being professionals. During contract time and over negotiating tables, it became fashionable to register strong objections to managerial and technological innovations, including standardized student testing and computer integration in the classroom. Teacher union activists saw public school teachers as analogous to the craft workers of the 1880s who were steamrolled by the onslaught of industrial capitalism (Littler, 1982). Provincial policy initiatives to introduce new curricula, to introduce standardized testing, implement Information Technology or track student or teacher performance were often dismissed as examples of “deskilling” driven by a modern version of Frederick Winslow Taylor’s workplace efficiency system (Derber, 1983; Runte 1995, 6-7).

Professionalism may have been under threat, but prominent Canadian education professors such as Michael Fullan and Andy Hargreaves, based at Toronto’s Ontario Institute for Studies in Education, succeeded in arresting the trend. Working with the University of Toronto’s Faculty of Education and several other such institutions, Fullan secured the extension of the teacher education B.Ed. program from one year to two years or a full co-operative education degree (Fullan, 1991 and 1993). With the support of the Ontario government in the late 1980s, Fullan and his fellow education deans succeeded in bringing teaching degree programs more in line with those of the more prestigious professions. While lengthening the programs was achieved, skeptics charged that spreading out the B.Ed. program over two years scared off many subject-specialist graduate students and did not necessarily represent an advance in teachers’ professional standing (Lockhart, 1991, 17-18). Critics of the education faculties claimed that teacher education reforms were more a response to job market conditions. Enrolment declines, teacher surpluses and the phenomenon of academic credential inflation may have been more-decisive factors in the move to expand the length of teacher preparation programs (Runte, 1995, 9). Whatever its intentions, teacher education reforms, based upon lengthening the program, have done little to restore the larger professional status or reputation of teachers. In some provinces, professional programs churning out B.Ed. graduates who qualify for teaching certificates are subject to little or no scrutiny or provincial oversight.

Raising the Standard: The Case for Professional Discipline Codes

The NSTU looks, acts and reacts more like a trade union than a professional teacher organization. Its stated core philosophy rests upon “the basic principles of unionism, one member helping another” (NSTU, Benefits of Membership, 2013). The union, founded in 1895, has become a major political powerhouse since securing its first province-wide Teachers Contract in June 1977. Today, the NSTU represents 9,400 K-12 teachers and 900

Nova Scotia Community College (NSCC) staff and is a remarkably private organization, accountable only to its dues-paying members. It charges members about \$690.00 a year and raises more than \$7-million annually in dues. It is not required to publish annual financial reports or account for its spending. Nor does it divulge the cost of its various save public education ventures. The NSTU is arguably Nova Scotia’s best financed, most influential political advocacy group, packing more punch than any group in the health sector. As the bulwark of the so-called “Teacher Trust,” it can easily command the support of the Nova Scotia School Boards Association, the Nova Scotia School Executives Association and the Nova Scotia Federation of Home and School Associations (NSTU, 2010). The province’s Retired Teachers Organization is an affiliate of the parent NSTU. This gives the NSTU political clout and immunity—and explains why Nova Scotia’s three main political parties often simply parrot its policy positions (Bennett, 2012).

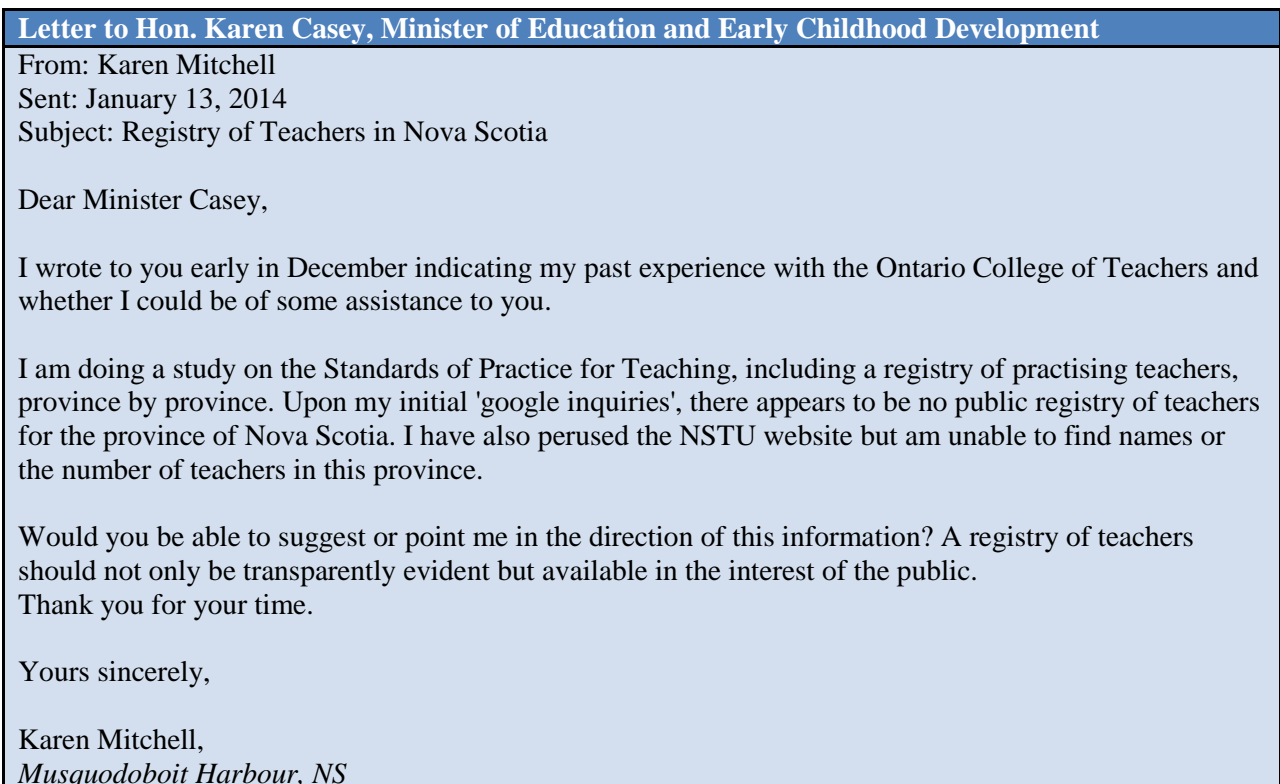


Figure 1: Exchange of Letters Inquiring Into the Registry of Teachers, Nova Scotia, 2014

Today, the Nova Scotia government essentially delegates to the NSTU its responsibility for both professional development and the adherence to provincial standards in the form of an NSTU Code of Ethics (Kelloway, 2014). Professional development of teachers in Nova Scotia remains the exclusive preserve of the NSTU, unlike in Ontario where professional development is conducted by school boards and independent secondary school fee-based subject associations and organizations (such as Ontario Association for Mathematics Education, Science Teachers’ Association of Ontario and Ontario History and Social Science Teachers’ Association) that are not dependent upon the union for funding and support. No independent body exists in Nova Scotia to oversee or accredit the province’s teacher education programs. The NSTU hosts the province-wide professional Development Day every October, but—unlike the BCTF and the Ontario Teachers’ Federation (OTF)—conducts little or no education policy or curriculum research (NSTU, Professional Development, 2014). Licensing of teachers is the sole prerogative of the Nova Scotia Education Certification Branch, but (in practice) all changes in policy or practice require the consent of the NSTU (Nova Scotia Certification Branch, 2014). This gives the

NSTU significant clout in advancing its agenda and effectively blocking any measures aimed at assuring teacher quality, changing certification and salary levels or strengthening the public accountability of teachers for student results.

Setting and enforcing professional standards and discipline is organized and managed far differently in Ontario, British Columbia and Alberta. In these provinces, teachers’ unions are federations or associations and are responsible for maintaining the Teachers Contract, provincial bargaining and resolving workplace issues, but the responsibility for setting and upholding standards lies elsewhere. Each of these provinces has established a separate College of Professional Standards or a Teacher Regulation Branch with the power to discipline and remove members for poor performance or inappropriate conduct. In May 1997, Alberta took the step of implementing a Teaching Quality Standard to serve as a benchmark for assessing the quality and effectiveness of its teachers at each stage in their careers (Alberta, 1997). The BCCT, established in 1988, was replaced in January 2012 by a BC Teachers’ Council, administered by the Ministry of Education’s Regulation Branch (Steffenhagen, 2011; O’Connor, 2013). In the case of Ontario, the OCT has faced public criticism for its governance model, dominated by teacher union delegates, but—after 17 years—it remains in place (LeSage, OCT Review, 2012).

Reply from Hon. Karen Casey, Minister of Education and Early Childhood Development
<p>From: Hon. Karen Casey, Minister of Education and Early Childhood Development Sent: February 14, 2014 Subject: RE: Registry of Teachers in Nova Scotia</p> <p>Dear Ms. Mitchell:</p> <p>Thank you for your recent e-mail enquiry.</p> <p>I can inform you that the Province of Nova Scotia’s Office of Teacher Certification maintains a database of teachers certified to teach in the province.</p> <p>Like several other Canadian jurisdictions, we currently do not enable public access to this database, as much of the content is considered personal information and is subject to protection of privacy legislation.</p> <p>Yours truly,</p> <p>Karen Casey <i>Minister of Education and Early Childhood Development</i></p>

Figure 2: Exchange of Letters Inquiring Into the Registry of Teachers, Nova Scotia, 2014

In the case of Nova Scotia, the NSTU exercises a preponderant influence. Providing protection services to union members takes precedence over upholding ethical standards and enforcing discipline in cases of teacher misconduct. The NSTU is in the next-to-impossible position of performing two mutually incompatible roles—maintaining high ethical standards while defending teachers’ rights. Under the current arrangement, providing members with protection services far outweighs any visible commitment to enforcing the NSTU Code of Ethics and disciplining or dismissing members found to be engaged in conduct unbecoming a teacher or harmful to students. Only two of seven sections of the Code in the NSTU Staff Manual actually pertain to relations with students, termed “pupils,” and the community. With respect to teacher-pupil relations, the member is expected (a) to maintain confidentiality and not divulge, other than through professional channels, any information about

pupils “of a personal or domestic nature;” (b) to be just and impartial in all relationships with pupils; (c) to assume responsibility for the safety and welfare of his/her pupils, especially under conditions of emergency; (d) to “avoid giving offence” to the “religious and political beliefs and moral scruples of his/her pupils or their parents; and (e) to be “as objective as possible in dealing with controversial issues arising out of curriculum subjects, whether scientific, or political, religious or racial.” Finally, at the end of the Code, the member is instructed to “so conduct himself/herself in his/her private life that no dishonour may befall/him her or through him/her, his/her profession.” In that document, the teacher is expected to act in loco parentis, but no explicit mention is made of gross misconduct, criminal behaviour, sexual assault or professional incompetence. Much of the focus of the Code is not on teacher-student relations at all, but rather on the expectations that members respect and support fellow teachers, the union and the contract (NSTU Code of Ethics, 2013-14).

When it comes to “Protection Services,” the NSTU is very clear and explicit in its commitments to members. While the NSTU public website contains little or nothing on professional standards or discipline, it has a full section devoted to “Protection Services,” replete with membership circular notices. “Teachers Rights” are the cornerstone of the NSTU’s policy and take clear precedence over any commitment to maintaining professional standards.

The remarkably definitive document reads like a policy defence against what is termed “harassment by students, parents, and other adults.” Teachers have, according to the NSTU, “the right to be treated with respect and to work in an environment free from harassment and abuse.” Of greatest concern to Nova Scotia teachers are:

- Parents coming into classrooms and yelling at teachers
- Teachers receiving angry or inappropriate comments in public
- Inappropriate comments or behaviour in the classroom
- Threats received at home or at school
- Damage to property at home or at school
- Pushing or other unwelcome physical contact
- Repeated phone calls and/or e-mail

The NSTU has gone so far as to propose a model policy on “Harassment or Abuse of Teachers by School Community Members.” This proposed policy is intended to supplement local board harassment policies that exist in three boards, Annapolis Valley, Chignecto-Central and Strait Regional. Under the model policy, improper conduct may be verbal, physical, written or electronic and may include the following:

- Unwanted comments, inferences or suggestions
- Aggressive and intimidating behaviour
- Verbal threats
- Unwelcome sexual comments, conduct or advances
- Verbal and emotional abuse
- Application of force or physical assault
- Bullying (an attempt to undermine someone through cruel or humiliating behaviour)
- Mobbing (a collective effort to harass someone psychologically)

The NSTU has also produced informal and formal complaint procedures for members facing such abuse (NSTU, Teachers Rights, 2014). Reading this policy and surveying the array of real and perceived threats facing teachers gives new meaning to the concept of the “whiteboard jungle.”

The NSTU’s teacher advisories speak volumes about the union’s perspective on the range of current threats facing working teachers. The NSTU’s official policy on cyber bullying advises members to be on the alert for

inappropriate “cyber conduct” and to safeguard “the ethical, legal and positive relationships among and between members of the school community that reflect respectful and responsible behaviour while using information and communication technology.” Teachers affiliated with the NSTU, now in the front lines of the effort to curb cyber bullying, are encouraged to:

- 1) Model appropriate cyber conduct;
- 2) Adhere to their professional code of ethics and the school board’s appropriate cyber conduct and cyber bullying prevention policy;
- 3) Participate in professional development sessions to familiarize themselves with cyber bullying prevention processes, actions and responses related to cyber conduct and cyber bullying as part of their regular P.D. and in-service opportunities; and
- 4) Assess and appropriately respond to incidents of cyber misconduct and/or cyber bullying among students or between student(s) and the teacher

The four most-recent “Messages for Members” are indicative of the union’s focus and priorities when it comes to professional matters. Since October 2010, the NSTU has produced professional articles, published in *The Teacher*, on the following matters: avoiding online misconduct (October 2010), responding to criminal allegations (November/December 2010), responding to sexual assault and misconduct complaints (October 2011) and the protection of teacher marking and preparation time (September 2013). The legal services and counselling services sections make specific mention of the legal services and short-term counselling available to any and all members who are facing criminal allegations and sexual assault complaints. “In those situations,” teachers are assured, “the NSTU will work with the Employer to protect employment rights and the financial wellbeing of members” (NSTU, Protection Services, 2014).

Much of the focus and attention of teachers’ unions such as the NSTU is absorbed by their core function—providing effective representation for teachers at the provincial bargaining table. In Nova Scotia, since the achievement of province-wide bargaining in the mid-1970s, the union has made securing better salaries, improved working conditions and smaller class sizes its real priorities (Clifton, Long, Zwaagstra, 2008). When the NSTU commissions research, it is invariably designed to support its provincial executive and its collective bargaining efforts (NSTU, Research 2014). This is not universal among Canadian teacher organizations. The BCTF, to cite one example, does conduct a significant amount of educational research beyond workplace studies, including small schools, school closures and online learning research (BCTF, Research Services, 2014).

A typical example of the workplace research favoured and funded by the NSTU is the 2010 provincial study titled “Stress and Strain in the Nova Scotia Teachers’ Union Membership: Teachers’ Report” and conducted by the CN Centre for Occupational Health and Safety at Saint Mary’s University. Based upon a survey of 878 teachers across Nova Scotia, the study focused on sources of “workplace stress” affecting the teacher force (Francis, Scott, Kelloway, 2010, 2). Teacher workload was, not unexpectedly, identified as the “most frequently noted stressor” for 79.3 per cent of all participants. Applying the working hours framework common in collective bargaining environments, teachers reported working an average of 54 hours per week (during the 10-month school year), with 13 hours being outside the contracted work week, including designated lunch breaks. Although the vast majority of teachers reported being “secure in their jobs,” the survey also revealed “a high incidence of incivility from school administrators, co-workers, students, and parents.” Their greatest area of concern in this respect was “having their judgement questioned.” Over two months from December 2009 to January 2010, one out of every four teachers (25 per cent) reported experiencing at least one act of physical

violence from students. Most tellingly, only one-quarter of the teachers surveyed found their school administrators to be “transformative leaders” (Francis, Scott, Kelloway, 2010, 2-4, 11-12, 15-22).

The 2010 teacher stress study identified the causes of the stress, but also, almost inadvertently, flagged a few largely unreported professional issues. “Teaching, overall, is a thankless job” was a common refrain. The higher than expected incidences of teacher-administrator conflict and the relative absence of inspiring educational leaders were striking, as were the attitudes of teachers toward their work. “Many of the priorities of the board,” one teacher noted, “have little to do with direct student improvement in my opinion. I feel I am not nearly as strong a teacher as I should or could be and THAT is directly affecting my students in a negative way!” (Francis, Scott, Kelloway, 2010, 17). Two out of three permanent, full-time Nova Scotia teachers (66.9 per cent) were either happy with or unconcerned about their pay, but one in five (22.2 per cent) of those surveyed reported being sorry that they entered teaching. While approximately half (50.7 per cent) claimed that their “professional commitment” remained generally high or very high, the vast majority (86.9 per cent) accepted the need for a “mental health day” sometimes or every once in a while. Judging from the respondents, NSTU members are no longer required to provide any explanation to their vice-principals for their absences from school. That may well explain the much higher than anticipated teacher absenteeism revealed in the survey (Francis, Scott, Kelloway, 2010, 23-29). All these findings spoke to a completely different problem—the state of the teaching profession in Nova Scotia and perhaps elsewhere in Atlantic Canada.

Allowing the NSTU to have free rein in setting and enforcing Professional Standards is simply not working and may well put students at risk in the province’s public schools. The prolonged and messy legal battle from 2009 until 2012 to rid the teaching profession of Peter Speight is indicative of a much deeper and more widespread educational practice known as “whitewashing” records of “bad teachers” and “passing the trash” from one school to another (Wetcoaster, 2011). In British Columbia, the existence of such practices was well documented in a 2010 report on the BCCT by former deputy education minister Don Avison. In that report, he wrote that a former president of the Abbotsford District Teachers’ Association and member of the BCCT Discipline Committee was simply urged to “clean up” his laptop when it was discovered to contain images of child pornography. He also revealed that BCCT had restored the teaching certificate of a man convicted of sexually assaulting students, had granted certificates to a man sentenced to six years in prison for narcotics trafficking and to a former lawyer found guilty of forging court documents (Avison, 2010, 23-24, 30). Whitewashing teacher discipline records has long been regular fodder for chatter inside education circles. It is also much better known today after a series of sensational stories stemming from The Vancouver Sun education reporter Janet Steffenhagen’s April 2011 revelations that the BCCT had failed to discipline teachers for infractions ranging from drinking alcohol in the classroom to downloading child pornography at work (Steffenhagen, 2011; Hyslop 2011; Glegg, 2013).

The NSTU with its 10,300 members (P-12 and NSCC) has approximately one-quarter of the number of teachers enrolled in the BCTF, reported to be 43,000 in 2007 (Clifton, Long, Zwaagstra, 2008, 9). No annual reports are publicly issued regarding the number of discipline cases either filed or resolved. Yet, periodic news reports drawn from court cases suggest that such cases are present in the Nova Scotia school system. One former Bedford Junior High School teacher, Ryan P. Nolan, accused of sexually assaulting a teenager in late 2013 was investigated by police for “suspicious behaviour” in the summer of 2011 but not charged, and he remained on the Halifax Regional School Board’s substitute teacher list. In December 2013, he was formally charged with sexual assault, luring a child under the age of 16 over the Internet and inviting someone to touch him sexually. The alleged offenses occurred between September 1, 2008, and November 10, 2013, during which time he worked and coached boys hockey at Bedford Junior High School and did substitute duty at other area schools. A January 2014 story in The Chronicle Herald revealed that Nolan also faces sex charges in the United States, where he worked from 2002 to 2009 as a camp counsellor at Tyler Hill Camp in the Pocono Mountains of Pennsylvania (Jeffrey, 2014).

The NSTU’s teacher advisories on Internet misconduct are proving insufficient in deterring teachers who are tempted to engage in sex offenses with minors. A Pictou County elementary school teacher, Amy Hood of Stellarton, Nova Scotia, was arrested in late January 2014 and charged (after an 11-week police investigation) with the alleged sexual abuse of two underage boys. The former Grade 6 teacher at Thorburn Consolidated School with the Twitter handle of @MrsHoodie was charged by the local RCMP with one count of sexual assault, one count of sexual interference, two counts of luring minors over the Internet for a sexual purpose and two counts of sexual exploitation of a young person. The alleged victims were 15 and 16 year-old boys, and the incidents happened off school grounds between April and September of 2013. Hood and the two boys were “known to each other,” according to RCMP Sergeant Alain LeBlanc. Only when the charges were laid did the Chignecto-Central Regional School Board (CCRSB) publicly disclose that the Grade 6 teacher had been placed on “administrative leave” in October 2013 and that a substitute teacher had taught her elementary class “for some time.” When pressed for more information, CCRSB communications officer Debbie Buott-Matheson claimed the entire matter was confidential and declined further comment (Ross, 2014). The NSTU Professional Committee, charged with upholding teacher standards, followed suit and remained silent on the matter.

Parent complaints about professional competence or teacher absenteeism rarely make the news. A recent example is an April 2011 parent and staff uprising at St. Margaret’s Bay Elementary School, where 15 parents confronted Principal Jane Gourley over a rash of teacher absenteeism, which meant many classes were covered by substitute teachers (Jeffrey, 2011). In late May of 2011, Gourley voluntarily left her post and was assigned to the Halifax Regional School Board (HRSB) in Dartmouth after 10 teachers filed complaints alleging she harassed and bullied them. When the HRSB announced that the beleaguered principal was being transferred to École Rockingham in Halifax’s upper middle-class Bedford suburb, concerned parents protested and took to the media to register their concerns (CBC News Nova Scotia, 2011). No disciplinary actions were ever publicly reported in this case. Eventually, Gourley resurfaced as principal at John W. MacLeod elementary school, a P-6 school of 400 pupils that serves Spryfield, one of the city’s most disadvantaged communities (HRSB, School Directory, 2013-14). The whole Gourley affair demonstrated just how complicated dealing with teacher discipline cases could be with both principals and teachers serving, side by side, as members of the same bargaining unit, the NSTU.

Policy Options: In Defence of Teaching as a Profession

Canadian teachers’ federations, like ministries of education, tend to be inward looking and inhabit their own provincial silos. With that kind of narrowly circumscribed outlook, they have surprisingly little interest in, or knowledge of, how other self-regulatory professional bodies work, either inside or outside their own province. When reviewing the British Columbia situation in October 2010, Donald Avison pointed out that the College of Physicians and Surgeons, the law societies and chartered accountant institutes all have stronger mechanisms for the certification of members as well as comprehensive requirements for ongoing professional development and discipline processes that, by comparison, are much more responsive to the public interest and are certainly more transparent than what existed in British Columbia, even with its self-standing College of Teachers (Avison 2010, 27). That applies doubly so in Nova Scotia, Prince Edward Island and New Brunswick, provinces where, after provincial teacher certification, such matters remain essentially the preserve of unions defending teachers’ rights and operating beneath a veil of secrecy that shows the utmost respect for the confidentiality of all personnel matters.

The root of the problem in Nova Scotia is in the legislative framework as set out in the 1989 Teaching Profession Act (Nova Scotia, Teaching Profession Act, R.S., c. 462, 1989). The Nova Scotia statute grants extraordinary powers to the Nova Scotia Teachers Union as the “corporate body” representing all teachers and supervisory personnel and accepts the union as the principal agent “to advance and promote the teaching

profession and the cause of education in the Province.” (s.7) The powers of the union include the enumerated power to “suspend, expel or otherwise discipline any member and to re-instate any member so suspended or expelled.” (s. 8, f.) A professional committee is established at the request of an NSTU local branch, the executive of a local, or the provincial executive to “inquire into any charge and determine if a teacher has been guilty of conduct unbecoming a member of the teaching profession.” (s. 11. (1) and (2)) Most of the legislation pertains not to professional matters, but to establishing, in law, the union’s right to levy and collect union dues and to raise and spend monies on all things deemed “necessary or desirable for the attainment of the objects of the Union.” (s. 8, 12 (5), 14)

The professional disciplinary process is placed specifically in the hands of the union and beyond the purview of the Minister and even the department’s Certification Branch. Upon initiation of what is termed “a charge,” the NSTU member is given at least 30 days to respond to the Professional Committee and has the opportunity to representation by legal counsel. The Professional Committee, composed of NSTU members only, has the sole responsibility to “dismiss the charge or reprimand, suspend or expel the member.” (s. 11. (4) and(5)) The NSTU Provincial Executive is then responsible for transmitting the decision to the member and the Professional Committee for recommendations for changes in certification.” (s. 11, (6) and (7)) The Minister of Education, under the Act, is required to maintain a list of “all persons who have resigned as active members of the Union or have been expelled from the Union and who have not been readmitted to the Union as active members.” While the Minister is required to send the names to the school board employing the teacher, there is no requirement to make public any data or information regarding such matters. (s. 13 (3) and (4))

The Nova Scotia Teaching Profession Act is much shorter and far less explicit on the critical issue of maintaining and enforcing Professional Standards than are those of the other provinces. The first half of Alberta’s 2000 Teaching Profession Act (Alberta, TPA, 2000, Chapter T-2) is much like that of Nova Scotia’s, but the statute is more than double the length of the Nova Scotia legislation, mainly as a result of the inclusion of a very detailed section titled “Discipline,” which spells out what constitutes “unprofessional conduct.” Instead of merely investigating “conduct unbecoming a teacher,” the Alberta legislation (under Section 23) clearly defines “unprofessional conduct” as any conduct that:

- 1) *Any conduct of a member that, in the opinion of a hearing committee,*
 - a) *is detrimental to the best interests of*
 - (i) *students as defined by the School Act*
 - (ii) *the public, or*
 - (iii) *the teaching profession*
 - c) *harms or tends to harm the standing of teachers generally,*

whether or not that conduct is disgraceful or dishonourable, may be found by a hearing committee to constitute unprofessional conduct
- 2) *If a member has been convicted of an indictable offence,*
 - a) *the conduct of the member on which the conviction is based is deemed to constitute unprofessional conduct, and*
 - b) *the member shall forthwith inform the association of the conviction (Alberta, TPA, 2000, Chapter T-2, s. 23)*

The Alberta section on Unprofessional Conduct may not be perfect, but it does constitute a much more robust approach to safeguarding the profession by actually calling to account teachers who face moral and criminal

allegations. Even though the Alberta Act provides for multiple hearings and appeals, it is far better suited to the purpose of affirming clear standards and weeding out teachers who are potentially harmful to students.

Building upon their teaching profession acts, the Alberta Teachers’ Association (ATA) and the Saskatchewan Teachers’ Federation (STF) have gone much further in affirming their professional standards, posting their discipline codes and acting in the public interest. The ATA, unlike the NSTU, recognizes two forms of professional standards—maintaining “professional conduct” and “consistently meeting” Alberta Education’s Teacher Quality Standard (Alberta, 1997). The ATA is clear in its Code of Professional Conduct, which it applies in relation to students/pupils, school authorities, colleagues and the profession (ATA, Professional Standards, Code of Conduct, 2014). In Saskatchewan, under the 2006 Teachers’ Federation Act, the teachers’ federation publicly professes its firm commitment to “the social contract with the public” and acknowledges that it rests upon “the public trust.” Going far beyond the NSTU “Code of Ethics,” Saskatchewan teachers adhere to and respect three different professional codes: the Code of Professional Competence, the Code of Professional Ethics and the Code of Conduct Respecting the Collective Interests of Teachers (STF, Professional Discipline Process, 2014). The Saskatchewan disciplinary process is clear, understandable and posted for all to see on the STF provincial website.

Ontario has the most-polished professional standards framework, vested in the OCT and developed over the past 15 years. The foundation for self-regulation rests upon three interrelated elements: standards of teaching practice, ethical standards and a professional learning framework. It comes nicely packaged with glossy guides and flashy website graphics, funded by the professional fees paid by more than 144,000 certified teachers. Since its inception in 1997, the OCT may have been an independent professional body, but its governance is thoroughly dominated by the teacher federations that utilize slates of candidates to sweep all the elected positions. While the OCT is vulnerable to charges that it has been “captured” by the four Ontario teachers’ federations, it does provide many more resources to teachers, particularly in professional growth and development. In addition, since the June 2002 passage of the Ontario Student Protection Act, the College has been much more vigilant in informing its members about—and attempting to police—sexual abuse, sexual harassment and inappropriate sexual relationships between teachers and students (Robins, 2000; OCT, 2014). Teachers found to have violated Ontario’s codes of professional behaviour are identified and reported publicly in the OCT magazine, *Professionally Speaking*. Often criticized for being too lenient in dealing with unprofessional conduct, OCT is still far superior to anything in place in the Maritimes.

Becoming serious about raising professional standards and enforcing these standards in a more effective fashion would require significant reform of the Nova Scotia Teaching Profession Act and the adoption of much more robust standards that apply to both ethical teaching conduct and professional competence. Next, we will present three possible policy options and then assess the potential effectiveness in upholding teacher quality standards, weeding out incompetent teachers and dealing more effectively with cases of teacher misconduct.

Option A: The Collaborative Approach to Self-Regulation

The status quo is simply not sustainable in an educational world where students, parents, and the public are expecting more openness, accountability and higher teaching standards. Splitting the responsibility for the certification and decertification of teachers between the provincial teachers’ union and the education department, as is the case in Nova Scotia, simply does not work in addressing and resolving the most serious matters pertaining to unprofessional conduct, and it fails completely in dealing with cases of teacher incompetence. Once Nova Scotia teachers are hired and certified, they become members of the union and enjoy the full protection of the union, which encompasses professional advice and counsel, funding for legal defence and, increasingly, access to “restorative justice” restorative justice re-entry services. The NSTU Code of

Conduct is designed as much to maintain union solidarity as it is to deal with “conduct unbecoming a member of the profession.”

The only viable option for reforming the current system would be to negotiate a new contract between the Department of Education’s Certification Branch and the NSTU Professional Committee that would establish a common set of professional standards that would more explicitly identify the grounds for suspension and dismissal for not only unethical conduct but also professional incompetence. A reform of the Teaching Profession Act should incorporate a greatly expanded discipline section that is modelled after the Alberta Teaching Profession Act and the Saskatchewan Teachers’ Federation Act. The Minister of Education should be authorized to amend and strengthen codes of professional conduct and discipline in the interest of students and to issue an annual report documenting all retirements, suspensions and dismissals as well as all cases of professional discipline. A regular review of teacher education programs and the quality of professional degrees could be initiated by the Minister of Education and the Department of Education and later assigned to the Teacher Certification Branch. In time, such changes may demonstrate more responsiveness to the public interest and slowly regain public trust in the profession.

Option B: Establish an Independent Self-Governing College of Teachers

The Ontario College of Teachers model would represent a step forward for Nova Scotia if the new self-governing professional body was independent and at arm’s-length from the teachers’ union. The existing Teaching Profession Act, renamed the Teaching Union Act, would be superseded by a Nova Scotia College of Teachers Act that creates a self-regulating professional accreditation body separate from the union. The prime advantage would be that the Minister of Education would acquire the authority to establish professional standards of competence and conduct that the regulatory body would be mandated to apply and enforce, subject to an annual ministerial review. The Governing Council of the College would be composed of a balanced representation, made up of equal numbers of teachers, university professors and parent/community representatives. The teachers would be elected, but safeguards would be in place to ensure diversity in viewpoint and perspective.

The College of Teachers would have to be established with the intent of avoiding the conflict and dysfunction that accompanied the recently abandoned BCCT. Building a firewall between the teachers union and the College will be critical to its ultimate success. This could be achieved by clearly delineating the respective roles of the teachers’ union and the College, transferring professional growth, conduct and discipline to the College and leaving the NSTU responsible for defending teachers’ rights and managing collective bargaining. Adopting the Ontario model would ensure a firmer commitment to public proceedings as well as far more public disclosure with respect to the disposition of more-serious cases of gross negligence, teaching incompetence and sexual misconduct (LeSage, OCT Review, 2012). Students, parents and the public would not be left in the dark with regard to such important professional matters. The evaluation and accreditation of faculty of education and teacher training programs could also be entrusted to the College of Teachers.

Option C: Establish a Robust Teacher Regulation Branch

The best, most cost-effective option may be to establish a Teacher Regulation Branch in the provincial Department of Education, drawing upon Don Avison’s 2010 report on the BCCT, “A College Divided,” and building upon the initial promise of the British Columbia Teacher Regulation Branch, founded in 2012 (Avison 2010). Moving to create a Teacher Regulation Branch without attempting to develop a college of teachers would avoid the possibility of a repeat of the BCCT crisis of 2009 to 2011. Teachers’ unions such as the BCTF and the NSTU have a natural tendency to champion teachers’ rights and to protect their members, and it is bred

in the bone. Democratically elected College of Teachers’ governing boards can be easily commandeered by the union leadership and rendered almost impotent, as in the cases of British Columbia and, at times, Ontario (Glegg, 2013). Real and potential conflicts of interest can and do arise when the College is called upon to investigate and possibly discipline union leaders, prominent political activists or close colleagues from the same school district. Without the statutory requirement to conduct public proceedings and to issue public reports, there is a tendency to preserve spotless discipline reports or clean up a potential public mess.

The Teacher Regulation Branch model implemented in British Columbia has considerable merit because it could encompass the powers and responsibilities of a college of teachers without running the risk of creating a countervailing institution. A regulation branch with a combined elected and appointed governing board would allow for a smaller council of 12 to 15 members, composed of six teachers and a combination of educational administrators, professors, principals and independent community representatives. In profiling the board, it would be critical to include individuals with previous experience on professional regulatory bodies and at least one person with financial management expertise. The public interest is more likely to be served if the positions on the board are filled by Order-in-Council appointments with candidates selected based on merit and for the skill sets they bring to the work of setting and enforcing teaching standards (Avison, 2010, 33). The mandate of the Teacher Education Branch should include the evaluation and accreditation of professional degree programs offered by faculties of education and teacher training institutes in order to ensure the validity and quality of degree programs offered in Canada, the United States and abroad.

Conclusion

Canada’s teaching force, numbering approximately 340,900 active, accredited members spread out over 10 provinces and three territories, is comparatively better educated and accredited than those in the vast majority of the world’s leading Organisation for Economic Cooperation and Development countries (Statistics Canada, 2011; OECD, PISA 2012, 2013). The vast majority of teachers employed in K-12 schools are good teachers with nothing to lose and much to gain from reaffirming and ensuring the highest standards of professional conduct and teaching practice. More than 95 per cent of Canadian teachers possess at least a B.Ed. or comparable designation, but once certified, they are treated as “professionals” and face relatively little scrutiny and no requirements for further professional certification. Six of Canada’s provinces entrust the setting and enforcing of professional and ethical teaching standards to their teacher unions and limit their involvement to certifying and licensing teachers (PEI, Certification Branch, 2013). Four provinces, Alberta, British Columbia, Ontario and Québec, made a commitment to uphold teaching standards, and they implemented policies aimed at setting quality standards and responding to the public interest when it comes to removing teachers who commit professional misconduct and pose a real or potential risk to students (Alberta, 1997; Avison, 2010, 29).

The blunt reality is that when compared to Canadian best practices and other analogous professional bodies, the teacher certification and regulation policy and practice in Nova Scotia and at least three other provinces are woefully inadequate and fall far short of what might be expected for any respected profession. In Nova Scotia, provincial responsibility for certification is vested in the Department of Education and Early Childhood Development, while maintaining professional standards is delegated to the NSTU (DOE, Certification Branch, 2014). The Teaching Profession Act assigns to the NSTU Professional Committee the sole responsibility for investigating charges for “conduct unbecoming a member of the teaching profession.” The NSTU adopted a code of ethics, but its scope is limited to teacher matters and, unlike Alberta, Saskatchewan and Ontario, makes little or no reference to teachers’ conduct in relation to students. Decertifying teachers in Nova Scotia is a difficult, costly and protracted process involving two separate entities operating under regulations and protocols that give a de facto veto to the NSTU and its Professional Committee. All decisions rendered by the NSTU Professional Committee fall under union confidentiality rules that do not permit public disclosure of names,

identities or summary data of any kind (NSTU, Privacy Principles, 2014). This applies to all teachers found to have engaged in professional misconduct, which includes gross indecency and sexual offenses. There is a critical need for teacher certification and regulation reform to make current practices more responsive to the public interest and to reaffirm public trust in the teaching profession.

Recommendations

Given our key findings, this AIMS Research commentary calls for a major reform of teacher certification and regulation, starting in Nova Scotia and aimed at establishing more-robust and effective provincial policy and regulations in order to raise professional teaching standards, rebuild public trust and safeguard students in the schools:

1. Initiate and establish a Teaching Standards and Regulation Act and transfer the responsibility for setting and maintaining the Code of Professional Standards and Discipline to a new branch of the Department of Education and Early Childhood Development. Rename the Teaching Profession Act so that it is termed the Teachers Union Act;
2. Assign responsibility for overseeing Teacher Standards and Discipline to the Minister of Education and Early Childhood Development and require the public disclosure of all proceedings and decisions made under the new Teaching Standards and Regulation Act;
3. Establish a Teaching Standards Board within the Department of Education to assure professional self-governance for the profession, but limit the size of the board to from 12 to 15 members, appointed by Order-in-Council, to allow for a fair representation of teacher, professional and community interests;
4. Adopt a Teacher Quality Standard, modelled after that of Alberta and built upon Best Practice in Teacher Quality reform across North America and around the world and introduce regular teacher effectiveness assessments, scheduled every five to seven years at critical stages in the career cycle;
5. Raise Teaching Standards and uphold Professional Ethics through legislative reform by removing supervisory officers and principals from the provincial bargaining unit for teachers and implementing professional training for school administrators in the assessment of teacher conduct, competency and effectiveness;
6. Mandate the new Teacher Regulation Branch to initiate, develop and implement an evaluation and accreditation program for faculties of education and teacher training institutes to ensure the validity and quality of professional degree and additional qualification programs, including B.Ed., M.Ed., and Ed.D. programs, inside and outside of Canada

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