

FOR THE SAKE OF
STUDENTS



**A REPORT PREPARED BY DR. DENNIS KENDEL ON
CURRENT AND FUTURE TEACHER REGULATION
IN THE PROVINCE OF SASKATCHEWAN
SEPTEMBER 2013**

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INTRODUCTION

As you read this report, you'll encounter references to teachers literally hundreds of times. That should not be unexpected, because I was commissioned to study the issue of teacher regulation across Canada and offer recommendations to the Ministry of Education on future options for teacher regulation in Saskatchewan.

You might then assume that this report is all about teachers. It's not. While it refers to teachers many times, it's really all about students. How we regulate teachers is critically important to students. The decision that the Government of Saskatchewan ultimately makes about the best way to regulate teachers must, above all else, protect and advance the interests of students. Simply put, it must work for students.

It must ensure that all students receive a high quality education in a safe environment. It must take into account the vulnerability of students by virtue of the power gradient that exists between students and their teachers.

An optimal system for regulating teacher performance and conduct must surely also be sensitive to the fact that all but a very small fraction of teachers maintain high levels of professional competence and conduct. It must take into account how we can best harness the professional expertise and dedication of the teaching profession in regulation of its members in the interest of the students they serve.

But one thing must be very certain. In those circumstances in which any teacher betrays his or her trust to always protect students from harm, the regulatory system must work for students. It must ensure that students feel safe to voice their concerns about the performance and conduct of any teacher with assurance that those concerns will be taken seriously, will be promptly and thoroughly investigated and will be addressed in a manner that protects all students from future risk of harm.

I've entitled my report *For the Sake of Students* because everything we do in our education system must be focused on the needs and interests of students.

CONTEXTUAL INFORMATION

The Role of Teachers in Society

Teachers hold a privileged and important role in our society. They are privileged to have the opportunity to assist children and youth acquire knowledge, skills and values that will be invaluable to them throughout their adult lives. We rely upon teachers to help each new generation of Canadians to build the capacity to become self-reliant, productive and creative citizens.

We focus most often on the role of teachers in classrooms, where they lead and support students in acquisition of knowledge and skills embedded in an approved curriculum. However, the impact of teachers on the lives of children and youth extends well beyond the classroom. In addition to their support of student engagement in extra-curricular activities, teachers serve as powerful role models for children and youth as they witness teacher engagement in the communities where they live.

Teachers Are Professionals

Teachers are unequivocally professionals. They must complete a rigorous academic program of study to master teaching skills, and also a practicum through which they learn to apply those skills in real classroom settings. They are committed to life-long learning to ensure that their knowledge and skills keep pace with changes in the art and science of teaching.

Because teachers are committed to meeting the learning needs of children and youth with widely divergent scholastic capacity and learning challenges, teachers must adapt their teaching approaches to meet the needs of all of their students.

Like other professionals, teachers are accorded a significant degree of autonomy to apply their professional judgement in the course of their work, subject always to the proviso that the interests and needs of their students come first.

For teachers in Canada, the road to full recognition of their professional status has not been easy. Low and uneven entry-to-practice educational standards in the first half of the 20th century stood in sharp contrast to the entry-to-practice educational requirements for careers in law, medicine, nursing and other professions. The lack of clear standards for defining the competence of teachers and measuring competence was an impediment. The lack of mechanisms for effective professional self-regulation also set teachers apart from professions that had been accorded that privilege and demonstrated their capacity to regulate their members in the public interest.

To their great credit, teachers have worked very diligently, both individually and collectively, to overcome all of these barriers to professional status with one notable exception. With the exception of the teaching profession in Ontario, teachers in Canada have not been accorded the privilege and responsibility of full professional self-regulation. In large part, that is what has prompted this independent review of teacher regulation in Saskatchewan.

Why is Professional Regulation so Important?

There are many reasons why we empower and expect our democratically elected governments to require certain human behavior and define certain human behavior as unacceptable. Public safety is one of those reasons.

For example, highway safety legislation and regulations require all citizens to do certain things like have a valid driver's licence and drive on the right side of the road. The same legislation and regulations make it unlawful for citizens to drive through a red light or to exceed posted maximum speed limits on a highway.

We accept these constraints on our personal liberty and freedom to ensure that highway travel will be as safe as possible for everyone. Some drivers violate highway safety laws and regulations. They may incur fines or even lose their driver's licence. Even worse, their disregard for these safety regulations may

result in loss of human life and they must live with that reality for the rest of their lives.

Professionals are members of society who are entrusted with privileges not enjoyed by other members of society. Professionals have enormous capacity to help other people if they exercise their privileges ethically and competently. However they also have enormous capacity to hurt people if they misuse or exploit the privileges society has accorded them. So, in the interest of safety, professional activity must be regulated just as certainly as driving practices are regulated.

While professionals are accorded considerable professional autonomy in their work, public safety imperatives demand that there be some constraints on their autonomy. Public safety demands that the compliance of professionals with these constraints is monitored and that there are expeditious and effective public protection interventions taken when they are violated.

How Are Professions Regulated?

Under Canada's constitution, provincial/territorial governments are granted the power and the responsibility to regulate all professionals in the public interest. They may elect to discharge that responsibility themselves or delegate it to another agency with very transparent accountability linkages back to the government.

In respect to most professions, provincial/territorial governments have elected to delegate the power and responsibility to regulate the profession to members of the profession under a statute. This arrangement is commonly called professional self-regulation because the profession takes on both responsibility and public accountability for effectively regulating its members in the public interest. Under such arrangements the government has an obligation to ensure that the regulatory processes are sufficiently rigorous to protect the public from preventable harm. If they are not, governments can revoke the privilege of

delegated professional regulation. The teaching profession has had first-hand experience with that reality in British Columbia.

Effective professional regulation requires regulatory agencies to be responsive to evolving public expectations. Over the past three decades there have been two major changes in the public's expectation of professional regulatory agencies. These relate to public engagement in regulatory processes and public transparency of those processes.

Societal expectations of public engagement in professional regulation is most often achieved by having significant public participation on the governing boards, complaint investigation committees and discipline hearing committees of regulatory organizations. It is recommended that at least one third of the governing board be comprised of public members and that they have precisely the same powers and responsibilities as the professional members of the board. On complaint investigation committees, many professional regulatory organizations have an equal number of public and professional members. All discipline hearing committees must have at least one public member and that member often chairs the committee.

Societal expectations with respect to regulatory transparency are achieved in many ways. Meetings of the governing boards of regulatory agencies need to be open to public observation and the public should have access to summaries of the decisions made at each of these meetings. Discipline committee hearings need to be open to the public and the full record of such hearings available on request to the public and the public media. Sufficient public notice of both board and hearing committee meetings needs to be given to the public media and the general public.

Citizens also expect and deserve the right to get easy access to the disciplinary history of each regulated professional. That is most often accomplished by having such information accessible online via the regulatory organization's website.

The History of Professional Regulation in Saskatchewan

In the distant past only a few professions were accorded the privilege of professional self-regulation under statutory authority from the legislature. Some professions, such as medicine, enjoyed the privilege of self-regulation under the Northwest Territories before Saskatchewan was established as a province in 1905.

Over the ensuing decades since the province was established, an ever-expanding array of professions have emerged, and most have eventually acquired the privilege of self-regulation when they were deemed sufficiently mature to responsibly regulate their members in the public interest.

When a profession is entrusted with the privilege of professional self-regulation, it is usually granted authority over all facets of regulation. These facets include the power to define the criteria for licensure or certification of individual professionals, to issue licences or certification, to set and enforce standards for their performance and conduct, to receive and investigate complaints against members of the profession from all sources, to discipline members and to revoke licensure or certification.

Sometimes the transfer of those regulatory powers from government to a profession occur in a staged manner over time as the profession demonstrates its capacity to responsibly execute the powers already accorded to it. That was the case as the paramedic profession in Saskatchewan progressively evolved from full government regulation to full self-regulation.

When a new profession emerges and aspires to become self-regulating, the government may first establish a transitional council for that profession which includes people from other disciplines with considerable professional regulatory experience. That was the case when the midwifery profession emerged in Saskatchewan.

The history of teacher regulation in Saskatchewan is distinct from that of all other professions. While the Saskatchewan Teachers' Federation (STF) was established under legislation enacted in 1935, its activities in its first 13 years were directed

exclusively to the interests of its members. In 1948, the government amended *The Teachers' Federation Act* to empower the STF to conduct discipline hearings and to set some penalties for members found guilty of unprofessional conduct. However, the government reserved to itself the power to certify teachers and to revoke certification. To this day, the government retains this regulatory power over teachers who are STF members and exercises complete regulatory control under *The Education Act, 1995* over a smaller subset of teachers who are not STF members. Teachers who serve as superintendents and directors of education are regulated under yet another act, *The LEADS Act, 1991*.

The reality of this unique regulatory arrangement is that different groups of teachers in Saskatchewan are subject to different regulatory processes and the profession does not enjoy full self-regulatory privileges with respect to any teachers. The appropriateness of this arrangement will need to be considered in the course of weighing all future options for teacher regulation in Saskatchewan.

Managing Professional Self-Interest

Like any other group of citizens in society, professionals are concerned about issues such as their compensation, benefits, working conditions and job security. These are legitimate self-interest issues for all professionals, regardless if they practice their profession as employees or as independent practitioners.

Like non-professional workers, professionals found that the only way they could deal effectively with such legitimate self-interest issues was through collective action.

In the more distant past, it was considered highly inappropriate for professionals to belong to unions or to organize unions for their members. That era has passed and we now see highly respected professions, like the nursing profession, managing these issues through certified unions like the Saskatchewan Union of Nurses (SUN).

Other professions choose to manage these issues through professional associations which are not certified unions but effectively function like unions. The Saskatchewan Medical Association (SMA) is an example of such a professional association.

There are some significant differences between these two models for managing professional self-interest. In a union model, union membership is mandatory if a professional works in a unionized workplace. Membership in professional associations is generally voluntary. Unions can and do compel their members to participate in job actions, including strikes, and penalize members who fail to comply with such collective actions. Professional associations may strongly encourage their members to participate in collective actions but they have no power to compel their members to do so and no power to sanction them for not doing so.

There is much commonality between certified unions and professional associations. Both engage in collective bargaining on behalf of their members. Both operate benefit programs for their members and/or negotiate for employer-funded benefit programs. Both offer “support services” to their members who may be facing investigation and/or disciplinary action through an employer or a professional regulatory body. Both aggressively and effectively advocate for the interest of their members in respect to any workplace policies or government policies that may adversely impact their members.

The Social Contract between Professions and Society

Most people who pursue professional careers are strongly motivated by a desire to serve other people. Teachers aspire to teach students. Accountants aspire to help people keep their financial affairs in order. Doctors, nurses and pharmacists aspire to help people sustain good health and deal with illness.

Through their professional education and practice experience, professionals acquire knowledge, skills and judgement that are extremely valuable to society.

Through professional regulatory processes, society often confers upon the members of a profession a monopoly to deliver services that the society needs.

Public expectations of any service are fluid and dynamic. That is particularly the case in respect to services influenced by technological innovation. Societal expectations of the cell phone service providers change dramatically from one year to another. Most cell phone customers would expect very different cell phone contract options today than they might have expected a year ago.

Some professional services are provided under very explicit service contracts which may define in considerable detail the nature and the quality of the services to be provided by a single professional or a group of professionals. However, those contracts generally only deal with work hours, working conditions and compensation for the professionals. They don't deal with some of the more macro and less tangible, but incredibly important, issues of interest to the people in need of the professional services.

In respect to those more macro, but less tangible, issues in the relationship between professions and the people they serve, professions often refer to their "social contract" with society. Historically, "social contracts" between professions and the public(s) they serve have been more implicit rather than explicit. Professions may cite their Code of Ethics and other documents as being part of their social contract with society but that is a very incomplete and unilateral understanding of a social contract.

In its publication entitled *Teacher Professionalism: A Public Trust*, the STF references the social contract between the teaching profession and the public. The STF describes its social contract with the public in these terms: "The public gives the profession the independence and responsibility for the conduct of its affairs in return for the profession's commitment to high professional standards of conduct and competence."

In my opinion, this definition captures some elements of a credible social contract between a profession and the public(s) it serves, but it is incomplete and it does not take into account the public's growing expectation of active engagement in

collaborative professional-public processes for defining what the public expects of professionals.

The flaw with the STF's definition of the teaching profession's social contract with the public is that it seems to be based upon concepts of professional self-regulation which are much more paternalistic than society's current expectations of these processes.

There was a time when professional self-regulation was based upon an assumption that the public gave a profession complete independence to determine how it would regulate its members and then deferred completely and forever to the profession's own judgement in all such matters. That era ended at least two decades ago.

Today the public expects to be extensively engaged in a true partnership with professionals in defining what the public expects of a profession collectively and of its individual members.

It's noteworthy that the STF very significantly relies upon its Codes of Professional Ethics and Professional Competence as evidence of its compliance with its social contract with the public. However in its *Public Trust* document referred to above, the STF very explicitly discloses that these codes were developed "**by teachers for teachers.**" It also declares that these codes outline "**what the teaching profession expects from its members.**" Disappointingly, there is no recognition in this model for the views of students and parents. It is based on an assumption that professionals inherently "know what is best" for the people they serve.

The healthcare system in Saskatchewan, and all of the professionals who work in that system, received some very powerful "wake up" messages from the public during the course of the massive public consultation process undertaken by the Government of Saskatchewan in 2009. This consultation process was dubbed "Patient First" because it sought to gain first-hand feedback from patients and their families about their actual experience with the healthcare system and with the professionals caring for them in that system.

The *Patient First Review* uncovered some very uncomfortable and disquieting realities. In respect to the conduct and performance of individual healthcare professionals, it forced us to confront the reality that there remains frank racial discrimination inherent in the way some health professionals interact with and treat Aboriginal peoples.

It also forced us to acknowledge the reality that the way health services are organized and delivered is often based upon the preferences and convenience of the professionals providing those services rather than the needs of the people being served by those professionals. It was a humbling experience for healthcare professionals because it forced us to accept that there are still paternalistic attitudes influencing our working relationship with the people we serve. We still too often assume that we know what they need and want without explicitly asking them those questions.

The *Patient First Review* proved to be a transformative turning point in the social contract between healthcare professionals and the patients and families they serve. Patients and families have become considerably more assertive in their demand that they have a voice in defining the terms of that social contract. Their very powerful and succinct motto for this heightened demand for engagement in definition of the social contract is **“Nothing about us without us.”**

Because social movements of this nature, which begin in one sector, almost inevitably spread to other sectors, I can envision in the near future a call from students and their parents for a “nothing about us without us” approach to defining the social contract between teachers and the students they serve.

Professions are prudent to be sensitive and proactively responsive to changing societal expectations of them rather than being forced to change by loss of public trust in a profession. When public trust is lost, it is very difficult for a profession to regain the level of trust it formerly enjoyed.

Balancing Professional Self-Interest with the Public's Interests

In the past, professions have often been inclined to a view that the interests of the public and the interests of a profession are almost invariably aligned. The motto for that perspective is “What’s good for the Profession is good for the Public.”

There is some validity to that view in the sense that the members of a content professional workforce are likely to feel more positive about their work and perform more effectively. There can also be a high degree of alignment between a profession and the public on high-quality standards in the sector in which a profession serves the public.

However, professions are sometimes shockingly naive and insensitive to real and perceived conflicts of interest between their goals and aspirations, and the goals and aspirations of the public. Such real and perceived conflicts of interest can and do occur both in the interface between individual professionals and the people they serve as well as the profession collectively and the public at large.

Because the word “conflict” has negative connotations, people and organizations are naturally disinclined to want to engage in self-reflection about all of the ways in which our attitudes and actions may have unintended adverse impact on others or may violate ethical principles to which we claim to be committed. We may harbour an ill-informed view that we are somehow immune to conflict of interest risks when no one enjoys such immunity.

Virtually every person and every organization is at risk of conflict of interest in the course of decisions made and actions taken by them each day. Ignoring that risk does not make it disappear. It prevents people and organizations from taking proactive steps to mitigate such risk and to manage it responsibly.

Conflict of interest is a matter in which perceptions can be just as powerful and damaging as reality. A conflict arises whenever a “reasonable person” could think that the actions of a person or organization to act in that person’s interests may be affected or influenced by competing interests. The “reasonable person” test of

whether a conflict does or might exist is a very important principle. It drives home the point that professionals and organizations do not get to determine if they face a conflict of interest in any circumstance. It is individual citizens and the public at large that get to make that call.

So both individual professionals and their organizations have an ongoing duty to proactively consider situations which might cause a “reasonable person” to perceive them to be in a conflict of interest and do two things:

- 1) First, both individual professionals and their organizations should take all reasonable steps to conduct themselves and manage their affairs in a manner that mitigates the risk that “reasonable people” will perceive them to be in conflict of interest; and
- 2) Secondly, when unavoidable conflicts of interests arise, as they inevitably will, manage those conflicts in a manner that clearly serves the public interest as opposed to self-interests.

All professions are expected to provide clear guidance to their members in respect to both mitigation of conflict of interest risk and appropriate management of conflicts of interest when they arise. Such conflict of interest guidance to professionals may come from both professional support organizations and professional regulatory organizations.

The most basic and macro conflict of interest guidance to professionals is usually embedded in professional codes of ethics. Such codes are often developed in the first instance by voluntary professional associations at the national level in Canada, and subsequently endorsed by provincial/territorial professional associations. They may then also be adopted, with some modifications, by provincial/territorial professional regulatory organizations.

The public protection responsibilities of professional regulatory organizations in respect to member conflicts of interest are not met by simply adopting a code of ethics. Effective professional regulatory organizations take two additional steps. Drawing upon the principles enunciated in their Code of Ethics, they promulgate much more explicit conflict of interest professional standards, which alert

members to violations of standards that may place them at risk of being charged with unprofessional conduct. When evidence of member violation of such standards arise, they thoroughly investigate all such violations, charge members and prosecute those charges when it is in the public interest to do so.

However, it is also critically important that all professions deal ethically and responsibly with the profession's collective conflict of interest risks. As is the case with respect to conflict of interest at the member level, professions need to develop and implement both risk mitigation and risk management policies and strategies at the organizational level.

Although there may be many ways in which professions can and should mitigate risk that reasonable people will perceive them to have conflict between public interest obligations and self-interest motivations, there are several that have proven to be most effective. These are:

1) Allocation of professional regulatory and professional advocacy functions to distinct and separate organizations

This is the single most important thing that any profession can do to mitigate risk of public perception of conflict between its public protection and professional support/advocacy missions. The overwhelming majority of professions recognize and accept this as sensible and reasonable risk mitigation strategy. In my view, the few professions who elect not to implement this risk mitigation strategy put at risk the professional autonomy of their members which, in turn, has potential harmful implications for the people they are committed to serve.

This is the potential cascade of negative impacts that may occur if this conflict risk mitigation strategy is not in place in any profession. Reasonable persons who rely upon a profession for vital services do not consider the profession trustworthy to consistently act in their interest. Governments, which are always sensitive to public attitudes, may be disinclined to entrust the profession with the privilege of full self-regulation and may even exercise its prerogative to directly regulate all of the profession's activities. The suppression of professional autonomy through partial or complete government regulation of a profession compromises the

capacity of its members to function as true professionals. Those who rely upon the service of these professionals receive less than optimal service because the professionals who serve them are inappropriately constrained in the exercise of professional judgement and discretion in their professional practices.

Separating public protection and professional support/advocacy functions into separate organizations does not automatically shield a profession from all risk of perceived conflict of interest. However, it assures the public that the professional regulatory organization will have 100% commitment to the public interest, while the professional association attends to the professional support/advocacy mission.

2) Extensive and meaningful public engagement in a profession's policy development and regulatory activities

The risk that the policies and regulatory practices of a profession will be viewed as being in conflict with the public interest is hugely diminished if the public is deeply engaged in the development of the profession's policies and in its regulation of its members in the public interest. People are always more trusting and supportive of policies they helped to create and processes that they co-manage.

3) Optimal public transparency of all of the profession's public protection policies and procedures

There is a well-known adage that "justice must not only be done, but must be seen to be done." Unlike the situation in some other countries, public trust in our justice system in Canada is very high. In large part this is attributable to the public transparency of the justice system and the role that the public media plays in making that transparency real for all citizens.

While trials in all of our courtrooms are always open to public observation, very few citizens other than those directly implicated in a trial will actually sit in on trials. They can be very lengthy and much of the proceeding may be quite boring. However, professional reporters do cover these trials and provide very succinct summaries of the trials to the public through both print and electronic media.

Professional discipline hearings may be open to public observation but, realistically, few citizens will be inclined to sit through the entirety of such proceedings. The same observation is applicable to meetings of the governing board or council of professional regulatory bodies.

Professions therefore need to cultivate collaborative working relationships with the public media to assist them in making their processes optimally transparent to the public.

The public always tends to be distrustful of any processes that impact the public which are hidden from public view. Making professional regulatory policies and processes transparent to the public does not, in itself, protect professions against all perceptions of conflict of interest. It does allow for prompt identification of areas of public concern which then enables a profession to modify its policies and practices in response to those concerns.

4) “Walking the Talk” of Professional Commitment to the Public Interest

There was a time when the public trust for professions was so deep that the public assumed that professions and their members were invariably “on their side” in respect to any issue over which the profession had control or influence. That era is long gone.

Public polling still indicates high levels of public trust in the individual professionals whom people know, but considerably lower trust in professional organizations. In part, I believe that’s because professional organizations too often fail to “walk the talk” of their reputed commitment to the public interest over professional self-interest.

The greatest damage to public trust in professions occurs when professions “dress up” self-interest goals in public-interest language. The public will almost inevitably see through this ruse and will highly resent the effort of a profession to dupe the public.

Through their professional associations or certified unions, professions should be candid with the public about legitimate professional self-interest goals like fair

compensation, reasonable benefits and job security. They are likely to garner and retain more public understanding and support for these self-interest goals if they are forthright about them rather than trying to link them to contrived public-interest goals. Nothing incites greater public resentment toward professionals than a perception among citizens that they are being “played like a pawn” in a monetary bargaining process with a government.

While I do not expect it was the only factor that triggered this independent review of current teacher regulation in Saskatchewan, and consideration of future options, I sense that concern with the way the teaching profession manages conflict between the public interest and professional self-interest was a factor. That issue will be examined in considerably more detail later in this report.

Mission Clarity for Professional Regulatory Organizations

It is critically important to the survival and success of professional regulatory organizations that they have a very clear organizational mission which is understood and supported both by the public and the members of that profession. In the absence of support from either the public or their members, such organizations will fail.

First and foremost, every professional regulatory organization needs to be clear about **“for whom the organization exists.”** Secondly, professional regulatory organizations need to ensure that they consistently function as if they were controlled by the people for whom they exist, even though they may be funded and largely controlled by the professionals they regulate.

It is pretty axiomatic that professional regulatory organizations exist for the people whom their members serve.

For professionals in the health sector, professional regulatory organizations exist to serve every citizen since these professionals are committed to optimal health for all citizens and every citizen may be in need of healthcare services from these professionals.

In the education sector, that question might have a range of answers. Unequivocally, teacher regulatory organizations exist for students. However, one could expand that response to include parents of students, all citizens who fund educational services through taxation, or all citizens because all citizens have a vested interest in optimal education for each successive generation of citizens.

One of the better known organization governance models compels the governing board of an organization to define the “**moral ownership**” of the organization. In doing so, the Board is strongly encouraged to be very specific and focused. If everyone who has an interest in the organization is included in its “moral ownership,” the organization puts itself at risk of so diluting its attention to the people most in need of its services that it fails its most key owners.

Professional regulatory organizations need to be equally clear about “for whom they do not exist” and who are not their moral owners. They do not exist for the professionals whom they regulate and those professionals are not the moral owners of the organization.

If the regulated professionals value the professional autonomy that is derived through a professionally led regulatory model, they certainly have a vested interest in the survival and success of such an organization.

It’s not unreasonable for professional regulatory organization to allocate some resources toward providing guidance to their members in respect to performance and conduct issues as opposed to just disciplining members for failure to meet acceptable standards of performance or conduct.

Engagement of members of the profession in the public protection mandate of a professional regulatory body is absolutely essential to its survival and success.

However, the members of a regulated profession have no legitimate moral ownership claim upon the organization that regulates them. They also must not govern and manage the organization as if it exists for them. If it becomes apparent that a professional regulatory organization exists to serve its members rather than the people its members are committed to serve, its regulatory

mandate should be revoked by the government that entrusted it with that mandate.

There are some concerns in respect to clarity of the STF's perspective on "whom it exists for." I expect that was another factor that prompted this independent review.

Organization and Conduct of an Independent Review of Current Teacher Regulation Arrangements in Saskatchewan and Consideration of Future Options

In late July, 2013, I was contacted by the Ministry of Education (MOE) for the Province of Saskatchewan to explore my willingness to undertake a review of current teacher regulation arrangements in Saskatchewan and consideration of future options.

I was advised that I was being asked to consider this request because of my considerable experience with professional regulation in Saskatchewan, my engagement in study and reflection on professional regulatory issues nationally and internationally, and the fact that I do not have a vested interest in the education sector.

Like most Saskatchewan citizens, I had recently read the articles published in the Saskatoon *StarPhoenix* and Regina *Leader-Post* about teacher regulation in Saskatchewan. I had read the letters to the editor in the *StarPhoenix* in response to Janet French's articles. I read a published response statement to these articles from the Executive Director of the Saskatchewan Teachers' Federation. I listened to John Gormley's radio program dedicated to this issue. I discussed some of these issues with friends and acquaintances, many of whom are teachers.

And finally, I had heard The Honourable Russ Marchuk, the Minister of Education for the Province of Saskatchewan, publicly disclose the government's intention to introduce legislation with the intent of modifying the current arrangements for teacher regulation in Saskatchewan.

This sequence of experiences led me to a conclusion that this is a highly emotionally charged issue in Saskatchewan. It struck me that whatever option the Government of Saskatchewan may be contemplating, it will not likely be enthusiastically embraced by all stakeholders in the education sector or by all citizens of the province.

My first inclination was to ask myself if I really wanted to devote my time during an all too-short Saskatchewan summer to a task which was unlikely to endear me to many people and more likely to make me the target of a spate of scathing letters to the editor in the *StarPhoenix*.

Rather than immediately declining the invitation to take on this task, I reflected on the 25 years I had devoted to the regulation of doctors in the public interest. It was an experience in which I quickly learned that it is impossible to “please all of the people all of the time.” But I persisted in this work for a quarter of a century because I believe effective profession regulation is incredibly important to the people of Saskatchewan.

I expect that some of the lessons I learned about professional regulation in the health sector will be applicable to the education sector. I believe that the work that teachers do to prepare successive generations of children and youth to make positive contributions to society is just as important as the work that doctors do to sustain health and relieve suffering.

I’ve devoted my whole life to the people of this province: initially through clinical service as a medical professional, and later as the CEO of a public protection agency focused on the professional performance and conduct of doctors.

I believe that students deserve the very best service that can be expected from teachers, just as patients deserve the very best service that can be expected from doctors.

I also have deep respect for the very important role of teachers in our society and for the high level of professionalism exhibited by most teachers in their daily work. I would like to see teachers afforded an opportunity to enjoy the privilege of full professional regulation if they are collectively willing to commit themselves to the principles upon which I believe that regulatory model relies.

So I decided to accept the invitation to do this review with one very important condition: I wanted assurance that this would be a completely independent review not constrained by any preconceived or fixed government policy decisions. I met with Minister Marchuk for candid discussions on that point and received

absolute assurance that my review would be independent. With that assurance, I accepted the appointment to conduct the review and almost immediately began consulting with key stakeholder agencies in the education sector.

Minster Marchuk made it clear that he wanted my review report to offer very specific recommendations to him about the best possible policy options for future teacher regulation in Saskatchewan and provide my rationale for any recommendations I offer.

The recommendations I have offered at the conclusion of this report are not binding upon anyone. They are nothing more than the considered opinion of one citizen of this province with some experience with professional regulation. They will need to be considered by the Government of Saskatchewan and other education sector stakeholders in context with information from other sources.

I received exemplary co-operation and support from all of the education sector stakeholders I consulted with during the course of this review. Although they expressed divergent opinions in respect to many issues, they did so with deep respect to the reality that we are all “in this boat together.”

My only regret is that the time frame for this review did not afford me an opportunity to consult directly with students and their parents and to listen first-hand to their experiences in our education system. I believe the voice of students and their parents must be heard in the course of shaping optimal arrangements for teacher regulation in Saskatchewan. **Whatever arrangements are ultimately planned and implemented for teacher regulation in this province, they must exist for students and their parents.**

Professionals and the agencies that regulate professionals in the public interest too often underestimate the very sage insights that can be gleaned through direct input from the people served by those professionals.

At several points in this report I have referred to the remarkable insights that were gained in respect to the quality of healthcare services in this province through the *Patient First Review*. I am very encouraged by the likelihood that a “Student First” review will be undertaken in this province. I sincerely hope that

the issue of teacher regulation will be one of the issues explored with students and parents in the course of that broad public consultation.

The Framework for Reporting My Findings

I was given complete autonomy by the Ministry of Education to determine how my findings would be reported. In my initial meetings with each of the stakeholder agencies, including the Ministry of Education, I disclosed that my final recommendations at the conclusion of my review would be driven by my integration of information derived from three sources, those being:

- 1) The stakeholder agencies I was advised to consult with;
- 2) My independent research; and
- 3) My cumulative experience with professional regulation.

I will summarize my key findings in these three categories. That will enable readers of my report to readily identify if information in this report comes from my own experience or other sources.

The information I gathered from stakeholder agencies came in three forms. Some was gathered through face-to-face or telephone conversations with personnel from those agencies. Some was gathered through my reading of very voluminous resource materials given to me by these agencies. Some was derived through their written response to focused questions I asked of them via email.

My understanding of all of this information is subject in some degree to my interpretation of it. That is particularly true of information that was conveyed to me verbally. If my understanding or interpretation of some of the information I received from stakeholders is factually incorrect, imbalanced or incomplete, I offer my humble apologies in advance. I trust that stakeholder agencies will have ample opportunity to identify and remedy factual errors in my report before the government makes any policy decisions based upon my report.

MY FINDINGS

1) Lessons from Stakeholder Consultations

a) The Saskatchewan Association of School Business Officials

The Saskatchewan Association of School Business Officials (SASBO) is a voluntary association of non-teaching professionals that was initially established in 1945 under *The SASBO Act*. In 1997, that Act was repealed and SASBO was reorganized under *The Non-Profit Corporations Act*. SASBO members provide financial, payroll, human resource, facility, transportation, information technology and communication management services for school divisions. The organization defines the ethical standards it expects of its members and provides both professional development and networking opportunities for its members.

The professionals who are SASBO members do not play a direct role in the regulation of teacher performance or conduct. However, they do certainly have opportunities to observe how well the teacher regulatory processes work at the local level.

The most significant concern of SASBO members is the potential for real and perceived conflicts of interest that arise from the STF's protective interventions on behalf of teachers when they are subject to any investigation at the local level and its obligation to act in the public interest when complaints about the same teachers are registered with the STF.

b) The Saskatchewan School Boards Association

The Saskatchewan School Boards Association (SSBA) was initially founded as the Saskatchewan School Trustees Association (SSTA) in 1916. In its current configuration, the SSBA provides very valuable support services to the Boards of Education in 28 school divisions. Its mission is to provide leadership, coordination and services to member boards of education to support student achievement.

The SSBA recently adopted a Strategic Plan for 2013 to 2025. The bold vision articulated in that plan is that by 2025 Saskatchewan has a globally recognized education system that others wish to emulate.

The SSBA Strategic Plan has expected outcome goals for students. The two outcome goals for students are articulated in these terms:

- 1) Saskatchewan has eliminated the education achievement gap for all students; and
- 2) All Saskatchewan students achieve at the highest level globally, including our most vulnerable

The SSBA member boards employ all of the teachers in the public education system. As the employers of teachers, boards of education are responsible for ensuring acceptable levels of teacher performance and ethical conduct.

In its efforts to ensure acceptable levels of teacher performance and conduct, the member boards interface with STF staff members in their role as advocates for the rights and interests of teachers. In their discharge of these teacher-protection roles, the SSBA member boards perceive STF staff to be functioning precisely as shop stewards do in their protection of employees in certified unions.

The SSBA member boards recognize that teachers deserve effective representation in their interface with their employers. However, SSBA member boards do question whether the STF's aggressive teacher protection activity at the board level is compatible with a public protection mandate at the provincial level.

c) League of Educational Administrators, Directors and Superintendents of Saskatchewan

The League of Educational Administrators, Directors and Superintendents of Saskatchewan (LEADS) was first established in 1969 and was formally recognized

through legislation in 1984 when the Saskatchewan legislature adopted *The LEADS Act*.

The LEADS Act requires all educators employed by boards of education working in supervisory or administrative capacities or who are directors of education to hold LEADS membership. In the manner in which it is framed, *The LEADS Act* is effectively the third piece of teacher regulatory legislation in Saskatchewan, the other two being *The Education Act* and *The Saskatchewan Teachers' Federation Act*.

It is noteworthy that superintendents and directors of education fall under *The LEADS Act* while school principals fall under *The STF Act*. Superintendents and directors of education are not STF members while principals are STF members.

Because the STF carries out all of the “collective interest” functions for teachers and principals, as any certified union would, teachers and principals are described as being “in-scope” while superintendents and directors are described as being “out-of-scope.”

One of the pragmatic implications of this arrangement is that principals do participate in STF voting on “job actions” and are obligated to participate in teacher strikes when STF membership voting supports such action and the STF decides to call a strike. Superintendents and directors of education do not participate in any STF strikes or other job actions.

The LEADS vision statement declares that “LEADS, working through its members and with education and human service organizations, will provide leadership to facilitate enhanced outcomes in the academic, social and spiritual development of all children and youth in Saskatchewan.”

LEADS identifies six values that guide its work and the work of its members. I was impressed to note that the first of these six value statements declares that **“LEADS members are advocates for all children and youth.”**

In the LEADS Strategic Plan for 2012-2015, child and youth advocacy is the first of six strategic directions in the plan. The first of four principles in that strategic direction is **“To ensure child advocacy is central to all LEADS positions.”**

In my meeting with LEADS leaders, I was very impressed with the focus of this organization on the needs and goals of students as its first priority. Like other professional associations, it does also provide support and professional development opportunities to its members. However, those services are designed to ensure that their members are optimally equipped to advocate and serve children and youth.

In their dialogue with me, LEADS leaders expressed two primary concerns about the current arrangements for regulating teacher conduct and competency in Saskatchewan. One concern focused on the fragmentation of regulatory process implicit in teacher regulation under three separate pieces of legislation. The other concern focused on the conflict of interest implications inherent in the STF’s dual roles as the advocate for teacher self-interest and the protector of the public from teacher misconduct or incompetence.

I was very impressed by the level of commitment of LEADS to continuous quality improvement in education services in Saskatchewan. Whatever decisions the Government of Saskatchewan may ultimately elect to take in respect to future teacher regulation in this province, I believe that LEADS and its members could play a very significant role in leading the change process.

d) Ministry of Education

From my consultations with the Ministry of Education, this is what I learned about independent schools:

There are five distinct categories of Independent Schools in Saskatchewan:

Basic Criteria

The basic criteria to be an independent school are listed below. All categories of independent schools must meet these criteria to be registered and continue to be registered in the Province of Saskatchewan. The criteria are as follows:

- Is owned or operated by a corporation incorporated or continued in Saskatchewan;
- Has a board that is comprised of a minimum of three adults from three different family units;
- Has enrolled or intends to enroll pupils between the ages of six and 21 from a minimum of two different family units;
- Has school facilities that meet recognized safety, health and construction standards;
- Has goals of education that are, in the opinion of the Minister, not inconsistent with the goals of education for Saskatchewan;
- Is not owned or operated by, or for the benefit of pupils from , and Indian Band within the meaning of the *Indian Act* (Canada), as amended from time to time; and,
- Has a name that in the opinion of the Minister:
 - Is distinct from the names of existing educational institutions;
 - Reflects the level of educational programming offered or proposed to be offered by the independent school; and,
 - Does not inaccurately reflect the location or geographical area to be served by the independent school.

1. Qualified Independent Schools (QIS):

QIS are funded by the province at 50% of the provincial per student average which amounts to \$5,461 for the 2013-14 school year. This funding is provided directly to the school. They must follow a strict set of criteria to become a QIS which is as follows:

- Employ only teachers with a Professional “A” teaching certificate as classroom teachers;
- Teach the Saskatchewan curricula;
- Operate as an incorporated non-profit organization;
- Participate in the provincial accountability framework;
 - Provincial assessments and learning improvement plans
 - Accountability conferences
- Have operated for a minimum of two consecutive years;
- Permit inspection and supervision by ministry officials or their designate; and,
- Comply with ministry policy and directives.

2. Associate Schools:

Associate Schools are registered independent schools that have reached an agreement with a school division. This agreement is between the school and the school division only, as the Ministry of Education is not a signatory to the agreement. All of the teachers employed by the school become employees of the school division and have the same rights, privileges and responsibilities as any other teacher in the employ of that school division. The criteria to be an associate school are as follows:

- Employ only professional “A” teachers;
- Teach the Saskatchewan curricula;
- Follow all policies of the School Board;
- Agree to be supervised by the school division;
- Agree to the same level of accountability as all other schools within the school division; and,
- Will be funded at 80% of the provincial per student average, \$8,738 for the 2013-14 school year with the funding provided to the school division.

3. Historical High Schools (HHS):

HHS are registered independent schools that are high schools that have a historic relationship with the government. These schools provided secondary level schooling to regions of the province when there were no other high schools available. They are funded at 70% of the provincial per student average which amounts to \$7,645 for the 2013-14 school year. HHS must:

- Employ only Professional “A” teachers;
- Teach Saskatchewan curricula; and,
- Agree to be supervised and inspected by the ministry, or their designate.

4. Alternative/Special Needs Schools:

Alternative/Special Needs Schools provide education to students who are generally wards of the province. Funding is determined by individual contracts signed with the Ministry of Education. Funding is provided directly to the school. These schools must:

- Only employ Professional “A” teachers;
- Teach Saskatchewan curricula, which may be modified; and,
- Agree to be supervised by the Ministry of Education or their designate.

5. Unfunded Registered Independent Schools:

Unfunded Registered Independent Schools are the most basic form of independent schools. No provincial funding is allocated to this category of school. Schools in this category are not obligated to teach the provincial curricula or offer secondary level credits. If the school chooses to offer secondary level credits then they must teach provincial curricula as well as employ teachers who have, at a minimum, a Probationary “B” certificate. If the school does not offer secondary level credits then the school may employ teachers who have a Letter of Eligibility, which is explained below.

Teacher Classification:

Teacher certification in independent schools in Saskatchewan is governed by two separate pieces of legislation, *The Independent Schools Regulations* and *Teacher Certification and Regulations, 2002*. A teacher who is certified under the *Teacher Certification and Regulations, 2002*, as are all teachers in provincial schools, have that same classification carry over to independent schools. A professional “A” teacher in a school division has the same qualifications as a professional “A” teacher in an independent school. However, teachers in independent school may be certified under *The Independent Schools Regulations* if they do not qualify for a permanent or provisional certificate under the *Teacher Certification and Regulations, 2002*. There are two additional certifications available in these regulations. They are as follows:

Probationary “B” certificate:

The criteria needed to be eligible for this certificate is as follows:

- Holds a degree from a recognized university or college;
- Holds a teaching degree from a denominationally-based college; or
- Holds a degree or diploma from a theological seminary, Bible school or Bible training centre.

This certificate is only good for one school year and must be reapplied for annually. This certificate allows the teacher to award secondary level credits.

Letter of Eligibility:

The criteria needed to be eligible for this certificate is as follows:

- A religiously-based registered independent school board may apply, on a form provided by the Minister, to the Minister for a letter of eligibility to teach on behalf of a person whom the board intends to employ as an independent school teacher; and,
- There are no minimum requirements for a letter of eligibility to teach.

This certificate is only good for one school year and must be reapplied for annually. This certificate does not allow the teacher to award secondary level credits.

Teacher/School Supervision:

Independent schools, with the exception of Associate Schools, are under the supervision of the Ministry of Education representatives or their designates. Each school is inspected annually to ensure compliance with the basic criteria outlined above.

Supervision of teachers also occurs in QIS, Alternative Schools, HHS and any registered independent school offering secondary level credits. HHS and Alternative Schools generally have a supervisor, with the minimum qualifications of a Director of Education, who undertakes this. This individual is approved by the Ministry of Education to undertake this work. QIS teachers are supervised while teaching by ministry personnel three times a year, and a report is generated after each supervision. Registered independent schools offering secondary level credits have their teachers supervised a minimum of once per year by ministry staff. It is important to note that the Ministry of Education does not have the authority to hire or fire teachers in any of the five categories of independent schools.

Teacher Discipline:

The discipline process for teachers in independent schools, with the exception of HHS, Alternative Schools and Associate Schools, falls under Section 230 of *The Education Act* as teachers employed in these schools are not members of the Saskatchewan Teachers' Federation.

Teachers in HHS and Alternative Schools may face discipline procedures through the STF. Teachers in these schools pay full membership dues and receive full benefits from and through the STF, however, they are not full members as they do not take part on job action and are not covered by the provincially negotiated agreement.

e) The Saskatchewan Teachers' Federation

The Saskatchewan Teachers' Federation (STF) was established in 1935 when the legislature passed *The Teachers' Federation Act* (TFA). The Act was amended in 1948 to give the STF power to discipline its members for unprofessional conduct. In 1970 the Act was again amended to establish an STF professional competency committee with power to determine if a teacher is or is not competent. Finally, the Act was again amended in 1997 to give the STF additional disciplinary power to discipline teachers who do not comply with its policies and decisions on "collective interest." This latter disciplinary power is one that is held and utilized by certified unions to ensure that members participate in strikes or other job actions.

The STF is a very large and well-resourced organization. It has a very complex financial accounting system for 12 different funds. Many of these funds support benefit plans for teachers such as the Saskatchewan Teachers' Retirement Plan, Income Continuance Plan, Members' Health Plan and Portaplan. There is a fund to support the STF Employees Pension Plan and another to support teaching research.

The STF's Consolidated General Fund is the fund which I expect is used to support its complaint investigations, discipline hearings and other regulatory activity. The Consolidated General Fund is further segregated into the following six funds:

- 1) General Fund
- 2) Working Capital Fund
- 3) Operations and Capital Fund
- 4) Contingency Fund
- 5) Saskatchewan Professional Development Unit Fund
- 6) Endowment Fund

I carefully reviewed the STF Financial Information (Booklet 1) provided to its Council for the Annual Council meeting from April 24-27, 2013. I searched that 38

page document with the hope that the document would clearly identify how much the STF budgets for and expends on professional regulatory activities. I was unable to find any reference in this document to words like regulation, complaints, investigations or discipline. The document does include extremely granular information on financial resource allocated to things as specific as public relations and entertainment of official visitors.

I explicitly asked the STF if it could summarize for me its expenditures devoted to professional regulatory functions in recent years. I was advised by the STF that it could not do so because it doesn't segregate all regulatory expenditures from membership services and advocacy expenditures.

The only obvious regulatory cost in the approved 2012-13 budget (Schedule B) was \$37,400 for legal counsel, court reporter and committee meeting costs for committee meetings associated with ethics, competency and collective interests. Since collective interests are a "union" activity, not all of the \$37,400 could be attributed to public-interest regulation.

Knowing that the STF contracts out some of its investigational and prosecutorial work to private legal counsel, I looked at allocation for legal services under Schedule F, which identified legal service costs of \$160,000 in 2012-13. However, the explanatory notes suggest that much of that expenditure may have been allocated toward legal services for general litigation and teacher support.

For 2012-13, the approved STF budget was \$13,403,100 of which \$10,307,900 was derived from membership fees. All "in-scope" teachers employed by boards of education are obligated to maintain STF membership. In 2012-13, the annual STF membership fee was \$774. For 2012-13, the fee was raised to \$790, an increase of 2.07 %.

The current STF Strategic Plan was adopted in 2010. The plan is based upon these four principles:

- 1) Respect in all relationships;

- 2) Service and stewardship to students, teachers and others in the educational community;
- 3) Individual and collective empowerment; and
- 4) Equity and social justice.

The plan also affirms what the STF defines as its three “foundational functions,” those being:

- 1) Social and political advocacy;
- 2) Professional stewardship and responsibility; and
- 3) Economic services.

The body of the plan provides more detailed commentary on these three STF “foundational functions” as well as on the STF’s governance policies and structures.

In respect to organizational governance, the STF defines a “long-term need to ensure that the organization will continue to address members’ professional interests in a rapidly changing educational environment.” Disappointingly, I found no reference in this section to either students’ interests or the professional regulatory role and responsibilities of the STF.

I noted the assertion that the STF is “governed by teachers for teachers.” There was no explicit reference to public engagement in STF governance, nor any explicit reference to any public-protection governance goals.

In the section of the Strategic Plan entitled “Professional Stewardship and Responsibility,” there is a sub-section titled “Strengthen teacher professionalism and raise the status of the profession.” The document goes on to explain that the STF sees “teacher professionalism” as mainly concerned with:

- 1) What it means to be a teacher (ie: professional identity);
- 2) What is expected of teachers in their professional roles and responsibilities and what they in turn require to meet those expectations;
- 3) What is expected from a self-regulating profession and what the profession requires to meet those expectations; and**
- 4) What the status of the teaching profession is and how this status might be raised.

I was heartened to read the third bullet in this section and anticipated the Strategic Plan might offer a more detailed articulation of the STF's views on effective professional self-regulation. Unfortunately, other than flagging the issue, the STF Strategic Plan has no other references to professional self-regulation.

I also found it interesting that the sole reference to professional self-regulation in the STF Strategic Plan focuses on “what the profession requires” to meet public expectations as opposed to “what the profession is prepared to do” to meet public expectations.

In the hope of gaining a deeper understanding of what the STF is currently doing to effectively regulate the teaching profession in the public interest, I asked the STF to give me an organizational chart that clearly identified all of the STF personnel whose work is dedicated in whole or in part to professional regulatory functions. I also asked the STF if it could provide to me “job descriptions” for all STF personnel focused on regulatory functions.

In response to that request for information, I was dismayed to learn that only two of the STF's 110 employees have job descriptions dedicated exclusively to professional regulatory functions. There is not a single STF employee dedicated exclusively to complaint intake.

I was advised that a cohort of senior administrative staff field complaint calls on a rotational basis from day-to-day. The receptionist directs calls to the employee designated to take such calls each day.

The STF does not maintain any system for logging phone calls which raise concerns or questions about the conduct or competence of a teacher. It maintains no record of the matters discussed by staff with such callers. A record is only started when a “formal complaint” is received in writing.

The senior administrative staff who field calls about the conduct or competence of a teacher also carry senior administrative responsibility for the STF membership support and advocacy services. It is very difficult for any person to quickly and effectively shift one’s frame of mind from a member service mindset to a public protection mindset. These arrangements are most unlikely to be free of conflicts of interest.

The only concerns or questions about teacher conduct or performance that are considered potentially actionable are those that are received as formal written complaints.

Each formal written complaint, without any effort by staff to gather any corroborating information, is placed before the Executive (Board). The Executive is comprised exclusively of elected teachers. The Executive then determines if each complaint will be investigated by designated Federation officials or an external investigator. A preliminary investigation is mandatory if a complaint is submitted by three or more STF members. For all other complaints, preliminary investigation is discretionary and subject to the Executive’s opinion regarding its merits.

If a complaint goes on to preliminary investigation, the report from that investigation again comes back to the Executive. The Executive has the discretion to take no further action, refer the matter to a mediation process or order a hearing before either the Ethics Committee or the Competency Committee.

The Ethics Committee is comprised of five STF members elected by the STF Council and one public member appointed by the Lieutenant Governor in Council.

The Competency Committee is comprised of five STF members elected by the STF Council.

If a member of the STF is found guilty by either of these committees, a penalty hearing is convened before the Executive. The Executive can issue a reprimand or recommend that the Minister of Education suspend or revoke the member's teaching certificate after the time for an appeal has expired or the appeal taken has been dismissed.

A member may appeal any penalty order made by the Executive to the Court of Appeal for Saskatchewan. While an appeal is underway, no part of the penalty order by the STF Executive can take effect.

To assist me in understanding how the STF manages phone calls directly from students, I wrote two scenarios and asked the STF advise me how it would manage such situations. In one scenario, a student has concerns about the conduct of a teacher. In the other, a student has concerns about the performance of a teacher. Copies of the scenarios appear under Appendix A to this report.

On August 19th, the STF provided a written response to each of these two scenarios. The response described what an STF representative would say to a student in the course of each of the four phone calls from student "Sue" and each of the three calls from student "David."

On balance, I considered the STF's proposed responses to both students to be legally responsible. My sense is that STF has likely had little experience in handling such calls directly from students. Consequently, the proposed responses to Sue were framed in rather more legalistic language than one might expect experienced complaints intake staff to use in conversation with a 17-year-old youth with very mixed emotions about her relationship with a teacher.

For example, in the course of the first conversation one of the proposed STF responses to this 17-year-old student is that, "since [she] does not want to tell the principal, the school division should know about the student's concerns." It's unlikely that a student in her situation would be inclined to bypass the principal to take her concerns to a superintendent or director of education, because that would still have the potential to trigger a cascade of events that she is unprepared to handle at that point in her life.

I expect a skilled, empathetic complaints intake officer could have won Sue's trust by the end of the second call to the point that Sue would have been willing to identify herself and the implicated teacher. The STF does dispatch staff to meet with troubled teachers. This is a scenario in which it might have been appropriate for the STF staff person to ask early on if Sue would be willing to meet with her in a safe, neutral location.

When I read the first proposed STF response to student "David's" concern about the competence of a teacher, I was pleased to note that the STF would advise him that "if he has not already made a formal complaint to the Federation, reconfirm how he can do that and guide him to the resources on the Federation website."

A subsequent STF response pointed out that the scenario "is not applicable to the current teacher discipline process", since the STF "would not send out a senior administrative staff person to meet with a student and principal without involvement of a superintendent." I acknowledge my lack of familiarity with division policies and protocols for dealing with such student concerns. The issue I was testing in this protocol was the STF's willingness to receive and act upon concerns from a single student about a teacher's competence independent from divisional policies and protocols.

I am assured that, if David submitted a written concern to the STF about the competence of teacher "B", his written complaint would come to the attention of the STF Executive. It remains unclear to me what additional information would be submitted to the Executive to enable it to make an informed decision about whether David's concern warrants preliminary investigation or if it would be dismissed as requiring "no further action."

2) Lessons from My Independent Research

a) The History of Teacher Organizations

In my independent research about the evolution of teacher regulation in Canada, I first learned a great deal about how difficult it was for teachers to achieve recognition by society as professionals and to ensure reasonable compensation, working conditions and job security.

Working conditions for teachers, most of whom were women, in the nineteenth and early twentieth centuries, were abysmal. Working conditions for teachers in rural areas were particularly harsh, where they were obligated to work in ill-equipped schools, function also as janitors and often live in very primitive accommodations.

To advance the legitimate self-interests of teachers, they began to form local associations and eventually provincial associations. In 1920, the Canadian Teachers' Federation (CTF) was founded and there was at least one teachers' association in every province. These associations were primarily focused on improving the experience of teachers and functioned essentially as unions, but could not be overtly identified as such because of the general hostility toward labour unions at that time.

In 1919, a group of 178 teachers in Victoria, BC, staged a two-day strike over teacher salaries. This was the first teacher strike in the British Empire and prompted the BC government to implement an arbitration procedure for teacher salary disputes.

As teachers across Canada became more highly organized and more inclined to use collective action to improve compensation and benefits for teachers, they began to achieve quite dramatic results. While only Quebec, New Brunswick, Newfoundland and Ontario had teacher pension plans in 1920, over the ensuing decade, such plans were established in all provinces. A pension plan for teachers was implemented in Saskatchewan in 1930.

Buoyed by their success in achieving better compensation and working conditions of teachers through collective action led by voluntary provincial associations, these associations pressed governments to enact legislation empowering them to make membership in their organizations mandatory for all teachers. The Government of Saskatchewan enacted legislation to establish the Saskatchewan Teachers' Federation (STF) in 1935 and the Government of Alberta followed suit to create the Alberta Teachers' Association (ATA) in 1936. The concept of mandatory teacher membership in a provincial teachers' association or federation became universal across Canada by the 1960s.

b) Acquisition of Regulatory Powers by Teacher Organizations

Because teachers weren't formally recognized as professionals in the nineteenth and early twentieth centuries, provincial and territorial governments did not enact statutes creating self-regulating organizations for teachers as they did for doctors and lawyers in that era. As teachers built a more compelling case for being treated as professionals, they also lobbied provincial governments to grant them the privilege of self-regulation that was enjoyed by doctors and lawyers.

Since some governments had enacted legislation to create professional associations or federations of teachers with statutory provisions for mandatory teacher membership in these associations, these associations lobbied governments to grant them professional regulatory powers. Notwithstanding the fact that these associations were effectively teachers' unions, governments accommodated, in part, their requests for regulatory powers. The STF was first accorded some disciplinary powers for teachers in 1948.

Perhaps because they recognize that provincial teacher associations are effectively professional unions, no provincial government to date has entrusted these organizations with the full spectrum of regulatory powers and responsibilities entrusted to professional regulatory bodies that are committed exclusively to a regulatory mission. Two provinces did eventually entrust the teaching profession with full self-regulatory powers, but not via associations that concurrently function as unions.

c) Current Pan-Canadian Arrangements for Teacher Regulation

In only one Canadian province does the teaching profession currently enjoy the privilege of full professional self-regulation. That is the province of Ontario where, since 1997, all teachers are regulated by the Ontario College of Teachers, an organization dedicated exclusively to professional regulation and quite distinct from the Ontario Teachers' Federation. In BC, a College of Teachers was also established in 1987 but was dissolved in 2012, bringing BC teachers completely under government regulation. The reasons for the failure of professional self-regulation of teachers in BC will be discussed in considerable detail later in this report.

Currently across Canada, the certification of teachers is regulated by governments in all provinces and territories other than Ontario. Teacher misconduct is regulated by provincial/territorial governments in BC, Quebec, Nova Scotia, New Brunswick, PEI, Newfoundland, the Northwest Territories and Yukon. It is jointly regulated by provincial governments and the Teacher Associations in Alberta, Saskatchewan and Manitoba.

d) Current Teacher Regulatory Arrangements in Saskatchewan

The process for regulating teachers in Saskatchewan is particularly complex, inefficient and potentially inequitable. When professional regulation is managed by an organization dedicated exclusively to regulation, all members of a profession are subject to the same regulatory process irrespective of whether they work in management or non-management roles or in public or private practice settings. For example, all registered nurses in Saskatchewan are regulated by the Saskatchewan Registered Nurses' Association regardless of whether they work in a nursing unit in a hospital or as the Director of Nursing for a Regional Health Authority or whether they work in the public sector or the private sector. Teacher regulation is different because the criteria for membership in the STF are analogous to union polices with respect to in-scope and out-of-

scope workers. So classroom teachers and principals are members of the STF but superintendents and directors of education are not, even though they must be teachers.

Teachers who teach in independent schools and schools on reserves are also not members of the STF. Only teachers who are STF members are subject to STF regulation under the Teachers' Federation Act. Other teachers who are not STF members are subject to regulation under *The Education Act*, which is administered by the government through the Ministry of Education.

Superintendents and directors of education are subject to regulation under *The LEADS Act*. So there are three different Acts under which teachers are regulated in Saskatchewan

The provisions within *The Teachers' Federation Act* and *The Education Act* with respect to very critical issues like the definition of unprofessional teacher conduct are very different, which creates potential for different standards of regulation for various teachers in the same province.

Some aspects of teacher performance and conduct are also subject to review and control by their employers. For STF members, the employer is the school board in each of the 28 divisions.

When school boards undertake any performance review or conduct an investigation of a teacher, the STF acts as an advocate for the teacher in that teacher's interface with the board. The STF assigns a staff member to be present at all interactions between the teacher and the board, just as a certified union assigns a shop steward to be present at meetings between a union member and his/her employer.

If a concern at the school board level about a teacher's competence or conduct moves from that level to investigation by the STF, in the past, the same STF staff member that served in the "shop steward" role for the teacher at the board level may have been permitted by the STF to play a role in the STF's investigation of the same matter. While such arrangements no longer occur, there remains concern

that an organization that previously represented the interests of a teacher now must shift its emphasis to public protection.

To further complicate the situation, under Section 209.1 (1) of *The Education Act*, all boards of education or other agencies that employ teachers in Saskatchewan are obligated to report to the Minister of Education all instances in which a teacher is suspended or terminated or agrees to resign or retire as a result of conduct, leaving the employer to judge whether or not the conduct constitutes misconduct or incompetence. When the Minister of Education is notified of such circumstances pertaining to non-STF members, he/she may order an investigation and/or a hearing under the authority of Sections 230.2 and 230.4 of *The Education Act*. When an employer's report concerns a member of the STF, in accordance with Section 209.2 of *The Education Act*, it is forwarded to the STF who treat the notice as it would any other complaint against a member.

The process for regulating teacher performance and conduct is more convoluted and fraught with risk of conflict of interest than is the regulatory process for any other profession in Saskatchewan. It cries out for reform that will make it more efficient, effective and free from real or perceived conflicts of interest.

e) General Lessons Learned from Elsewhere in Canada

One, though not necessarily the only, future regulatory option for teachers in Saskatchewan is the College of Teachers model which was tried in BC and failed, but has proven to be successful in Ontario. If the Government of Saskatchewan might contemplate implementing such a model in Saskatchewan, I believe it is vital that we seek to understand what contributed to the failure of that model in BC and its success in Ontario.

My research disclosed a huge volume of very rich information from both provinces. Some of the information is based upon very objective reviews of the professional cultures and general approaches to professional regulation in both provinces. Some of the information is highly divergent individual and organizational opinions on appropriate professional and regulatory policies and

practices. Some is little more than mean-spirited and small-minded personal attacks on individuals who hold opinions divergent from those that other people hold.

My initial inclination was to only read the objective reports on the College of Teachers in Ontario and the former College of Teachers in BC. However, I felt obligated to wade through some of the more vitriolic personal and organizational opinions from both provinces; and I'm glad I did because I learned two important lessons from sifting through this material. These are the simple lessons:

- 1) If a profession at large, and particularly its leaders, is committed to professional regulation by an organization exclusively devoted to that function, it will succeed.
- 2) If a profession at large, and particularly its leaders, is not committed to professional regulation by an organization exclusively devoted to that function, it will fail.

f) Specific Lessons from BC's Experience

The history of the failure of the College of Teachers in BC is a fascinating case study in all of the overt and covert things that a profession can do to subvert and undermine a regulatory process that it does not support. It has the potential to significantly erode one's faith in the altruism and selflessness that lies at the very heart of what it means to be a professional. However, I also learned from my research into the failure of the College of Teachers of BC that there are some significant differences in the cultures of different professions and the values they embrace.

In the health sector in which I worked in clinical, professional advocacy and professional regulatory roles from 1972 to 2011, the prospect of having one's professional practice completely regulated by a government is so disturbing that most health professions will do whatever it takes to avoid that fate. Emerging health professions which had not yet acquired the privilege of full professional regulation worked tirelessly to achieve that goal even though it might require

them to spend considerable money to sustain a regulatory organization with relatively few members.

In the teaching profession, for reasons that I may not fully understand, a different culture and a different set of values have evolved. In eight of the 13 Canadian provinces and territories, it would appear that teachers seem to be accepting of professional regulatory arrangements in which their respective provincial/territorial governments totally regulate their professional practices. In all four of the provinces west of Ontario, professional regulatory responsibilities had been shared between the professions and provincial governments.

In BC, the teaching profession was given an opportunity to become the first group of teachers in North America to acquire full self-regulatory privileges comparable to those enjoyed by most professions. The British Columbia Teachers' Federation (BCTF) was so incensed with the fact that the College of Teachers assumed responsibility for the regulatory functions formerly controlled by the BCTF that it systematically sought to compromise the operations of the College of Teachers, even though it knew that failure of the College would place BC teachers under complete government regulation.

The tactics deployed by the BCTF to undermine the success of the College of Teachers were a classic example of a "scorched earth policy" sometimes deployed by nations engaged in warfare. The policy is based upon an assumption that it is preferable to utterly destroy all of the assets in your own country rather than risk those assets falling into the hands of an enemy. There are no winners in a scorched earth policy. There were no winners in the sequence of events that culminated in teachers coming under complete government regulation in BC.

Most professions place such a high value on professional autonomy that achieving and sustaining optimal professional autonomy is of paramount importance to all members of the profession. If professional autonomy is likened to a loaf of bread, most professions would regard full self-regulation as akin to a "full loaf," shared professional-government regulation as akin to a "half loaf," and full government regulation as akin to "no loaf at all." Most professions would perceive a "full loaf" of professional autonomy as infinitely preferable to "no loaf at all." For reasons

that I find difficult to understand, the BCTF perceived the teaching profession in that province would prefer the “no loaf” option to the “full loaf” option if the latter meant that the BCTF had to give up its half loaf.

To this day, the BCTF staunchly maintains that it was not responsible for the failure of the College of Teachers of BC, but that it failed due to its own inherent dysfunctionality. In my opinion, that position lacks any credibility after I read and thoughtfully considered all of the information in a 34 page report compiled by Donald Avison who was engaged as a “fact finder” in these matters. In his report, Avison not only chronicles specific things that the BCTF did to undermine the independence of the College of Teachers from the BCTF, but he discloses statements from official BCTF documents that openly declare its intent to “neutralize” the College as an effective regulatory agency for teachers.

Ken Novakowski, who served sequentially as Executive Director of the BCTF and as its President, acknowledged that the BCTF considered two policy options. One was to urge all teachers to boycott the College elections for teacher seats on the College Council. The other strategy was essentially a “Trojan Horse” strategy which would ensure that the majority of members on the College Council would be teachers who would “take marching orders from the BCTF.” In his contribution to Donald Avison’s fact finding review, this is how Ken Noakowski described the BCTF’s position: **“After debating the merits of boycotting the College or participating in the College to neutralize it and limit its scope of activity, the BCTF decided on the latter.”**

It’s important to appreciate that the BCTF policies and strategies designed to maintain control over the College and limit its effectiveness were not confined to the years immediately following the creation of the College in 1987. They persisted until the College eventually died.

In 2003, concern on the part of the BC Government about the effectiveness of the College and its independence from inappropriate influence by the BCTF prompted the government to dissolve the College’s elected governing Council and replace it with an interim appointed Council. The very next year, the government decided to give the teaching profession a “fresh start” at having a College Council that would

include 12 elected teachers. The BCTF conducted a membership vote to determine if teachers wished to participate in the June 2004 elections for these 12 seats on the College Council. The BCTF encouraged its members to vote “Yes,” and cited eight goals that teachers might strive to achieve if elected to the College Council.

Among those goals of the BCTF was to “**set [the] budget and fee of the College in a manner that restricts the mandate of the College.**” This is a well recognized tactic used by some professions that want all the professional status and autonomy that comes with full self-regulation, but are not really committed to effective public-interest focused regulation. By fiscally “starving” regulatory organizations, professions can prevent them from doing things that might well be in the public interest but not in the interest of members of the profession.

In the email communications to its members in June 2004, the BCTF openly disclosed that its intent was to:

- 1) Restrict the number of complaints that are processed by the College and modify person complaint processes so that local appeal processes are exhausted before a complaint is accepted by the College;**
- 2) Not implement the online teacher registry;**
- 3) Not routinely publish the names of members involved in discipline cases;**
- 4) Not develop policies required to implement the College by-laws such as teacher recertification; and**
- 5) Not routinely seek legal costs for any discipline case in which an adverse finding is made against a member.**

Every one of the activities that the BCTF sought to prevent the College from undertaking would have been in the public interest and are activities undertaken by effective professional regulatory bodies in other sectors.

g) Specific Lessons from Ontario's Experience

The history of the teaching profession's transition to full professional self-regulation in Ontario has not been free of challenges, but it is a success story.

The Ontario College of Teachers Act was proclaimed on July 5, 1996. The creation of the College flowed from a report from the Royal Commission on Learning which was released in 1994. That report, entitled *For the Love of Learning*, argued persuasively that it was time for teachers in Ontario to join doctors, nurses and other professionals in the exercise of full professional self-regulation privileges.

To its credit, the teaching profession in Ontario perceived these recommendations from the Royal Commission as an opportunity rather than a threat. The profession consequently embraced the concept of a College of Teachers and has worked hard to ensure its success.

It's noteworthy that the Government of Ontario elected to offer the teachers in Ontario the opportunity to exercise full regulatory control over the teaching profession at a time when it was acutely aware of the fact that this mechanism was not working very well in BC. No one then had access to the sobering information contained in the Avison Report, which was not released until October of 2010. However, the Royal Commission on Learning in Ontario certainly had awareness of the challenges being faced by the BC College of Teachers.

I think there are a couple of potential lessons to be extracted from the courageous decision made by the Government of Ontario in response to the Royal Commission recommendations. In my opinion, these are the lessons:

- 1) The Government of Ontario extracted some important lessons from the experiences of the College of Teachers in BC and took steps to mitigate the risk that an Ontario College of Teachers might encounter the same difficulties.
- 2) The Government of Ontario decided that if it was going to err in its judgement on optimal teacher regulation strategies, it would err on the

side of giving its teachers the benefit of the doubt that they would embrace and support the College model in Ontario.

In my opinion, the Government of Ontario made a wise judgement call in the circumstances that it faced between 1994 and 1997.

My research about the Ontario College of Teachers (OCT) led me to a very interesting, and potentially troubling, set of articles published by the *Toronto Star* in the fall of 2011. Anyone reading these articles without some contextual understanding of the *Star's* critical approach to virtually all professional regulatory organizations in Ontario might assume the College of Teachers of Ontario is an utter failure. I do have some contextual awareness of the *Star's* approach.

The *Star* has, in recent years, published articles equally critical of the College of Physicians and Surgeons of Ontario (CPSO), which is a long established professional regulatory organization. I have quite extensive knowledge of the policies and practices of the CPSO. While no professional regulatory organization will ever perform flawlessly, and all should continually strive to improve their performance, I found the *Star* articles on the CPSO to often be unbalanced and sensationalist.

However, I believe it is noteworthy that both the CPSO and OCT did not “counter-attack” the *Star* for publishing these articles. The articles focused significantly on the transparency policies of both organizations. So, the CPSO launched a “Transparency Project” to critically review its current public transparency standards, which are high. That project is still ongoing. The OCT engaged a retired judge, Mr. Justice Patrick LeSage, to not only review the OCT’s transparency policies but all other aspects of its professional regulatory work.

I carefully reviewed Mr. Justice Le Sage’s 76-page report that was released on May 31, 2012. It concludes with 49 explicit recommendations to the OCT. I would recommend this report to anyone interested in understanding current public expectations of effective teacher regulation in Canada. I believe the LeSage

recommendations are relevant to teacher regulation anywhere in Canada, including Saskatchewan.

In his report, Mr. Justice LeSage addressed head-on one of the troubling practices that led to the abolition of professional self-regulation privileges for teachers in BC. That was the practice of convening “caucus meetings” between the teachers’ union and the College prior to College Council meetings. It is highly instructive to read the following position of Mr. Justice LeSage on that practice. I quote from Page 68 of his report:

“Justice must be rooted in confidence. There must be public confidence that the decision-makers are impartial. Adjudicators cannot be subject to outside influence. They must make impartial decisions based solely on fact and law. Of equal importance, they must be seen by everyone as being capable of making impartial decisions. Those committee members must ensure they distance themselves from the unions who almost invariably, through legal counsel, represent the member who comes before them for adjudication. Participating in caucus meetings with their respective unions and associations prior to Council meetings sends a contrary message.”

I was also struck by the unequivocal message from Mr. Justice Lesage in his 49th recommendation which reads as follows:

“Members of the Investigation, Discipline and Fitness to Practise Committees should be prohibited from holding any elected or appointed union/association positions during their tenure on those Committees.”

I reflected on the conflict of interest implications of these sage words from Mr. Justice LeSage for the current teacher regulation process in Saskatchewan. While it certainly is the case that there are no “caucus meetings” between members of the governing board of the professional advocacy organization and the professional regulatory organization, that is not because there are any laws or

regulations prohibiting such meetings in Saskatchewan. It is because they are one and the same teachers.

The STF Executive (ie: Board/Council) governs the union activities of the STF while also determining which complaints about teachers will go on to preliminary investigation and sets penalties for teachers found guilty of unprofessional conduct.

If that arrangement were reviewed by Mr. Justice LeSage, I believe it is most unlikely that he would deem it to pass the impartial justice “smell test” that he so eloquently articulated on Page 68 of his report.

3) Lessons from My Personal Experience

I came to service, first in a governance role and subsequently in an executive management role with the College of Physicians (CPSS) after several years of service in elected leadership roles with the Saskatchewan Medical Association (SMA). My service in leadership roles within both professional advocacy and professional regulatory organizations in medicine taught me these lessons:

- 1) Both professional advocacy and professional regulatory functions are essential and important;
- 2) Every profession deserves to have strong and vibrant advocacy support;
- 3) The public deserves to have strong and vibrant professional regulatory services to protect citizens from harm that may result from the performance or conduct of any professional;
- 4) Professions can and should play key leadership roles in the regulation of their members in the public interest, but they must engage the public in a partnership in those regulatory processes;
- 5) Professional regulatory mechanisms and services must work effectively for the people they are intended to protect;

- 6) Professional regulatory services must be transparent to the public for whom they exist;
- 7) Professional regulatory services must be adaptive to evolving public needs and expectations; and
- 8) Professions must avoid conflict of interest between professional advocacy and professional regulatory functions to the extent that is possible and manage all unavoidable conflict of interest risk in a manner that would be acceptable to any “reasonable person.”

As I reflect on my sequential experiences in the worlds of professional advocacy and professional regulation, I think I’ve gained some insights that may have relevance to the issues at play in this review.

People who elect to pursue a career in any profession are generally strongly motivated to serve other people. Although receiving reasonable compensation for one’s professional work may be important, most professionals derive even stronger motivation to sustain their professional work from the positive feedback they derive from the people they serve. A simple “thank you” note from a patient often meant more to me than whatever money I may have earned for the care I provided to that patient.

During the years that I served in professional advocacy roles with the SMA, I also sustained a busy clinical family medicine practice, so I continued to receive positive feedback from grateful patients. But then I also started receiving positive feedback from about 1,600 doctors whom I represented in their interface with the provincial government, with hospitals boards and with the CPSS. That positive feedback from my professional colleagues felt really good because professionals value the respect they receive from colleagues. In fact it felt so good, it was almost addictive.

The more aggressively I represented my colleagues in their interface with government, the more praise and adulation I received from my professional colleagues. In some of the op-ed pieces I submitted to the *StarPhoenix* in those days, I publicly attacked the health policies of the government in a way that I now

recognize was intellectually dishonest. The objective was to make doctors look good and the government look bad in the eyes and minds of the public.

In 1984, I was encouraged by a colleague, whom I respected, to run for election to the governing Council of the CPSS. Because of my high profile as a champion for physician interests, I won the election to a seat on the College Council by a massive majority. When some of my colleagues congratulated me on my election, they told me how great it was that I would now be devoting my energy to the CPSS as I could “clean up the College.”

My service on the Council of the CPSS commenced on January 1, 1985. From my very first meeting of the Council, my eyes were opened to a world I had never before encountered. I was suddenly exposed to irrefutable evidence of horrible harm some patients incurred through the misconduct and/or incompetence of medical colleagues whom I had so aggressively defended and supported just months earlier. I would come home from those meetings with a hollow feeling in the pit of my stomach.

Within five months of my commencing service on the CPSS Council, the incumbent Registrar (CEO) announced his intention to retire at the end of that year. I was encouraged to seek appointment to the position of CPSS Registrar by many colleagues. Many of them still thought of me as a champion of their self-interest; they overtly told me that, under my leadership, the College “wouldn’t be so hard on physicians.”

I struggled with the decision about entering the competition for the Registrar position. I was just 39 years old. I thoroughly enjoyed my clinical practice, which I would have to give up as it’s considered a conflict of interest for the CEO of the CPSS to be engaged in practice. It would mean I would suffer a huge drop in income. I had a young family and a large mortgage on our house.

I was ultimately motivated to serve the public in this role by the same values that motivated me to seek a career in medicine. It was an opportunity to help people in need of help. In my brief service at the CPSS Council table, I had heard compelling stories from people whom my colleagues had harmed and I knew that

they needed help in dealing with a very powerful profession in which I held membership.

Almost immediately I was branded by some colleagues who had been my ardent fans just six months earlier as “having crossed to the dark side.” One colleague asked my wife if I had a terminal disease because he couldn’t imagine why anyone would “throw away” such a bright future in clinical medicine to lead the CPSS.

I must confess that the transition from being an advocate for my colleagues to being an advocate for citizens who felt aggrieved by my colleagues was not easy. But I entered the role with my eyes wide open. I knew service in this role would not bring the “quick and easy” positive feedback that I formerly received from patients and colleagues, but it was important work that needed to be done.

As I look back on the 25 and half years I served in this role, I am thankful that I made the decision in 1985 to follow this pathway. I found that service in this role brought a very different set of rewards than I derived from clinical medicine or professional advocacy, but it proved to be very deeply rewarding.

Service as the CEO of a medical regulatory authority brought me back to “being there for patients,” but in a different way than I had experienced in clinical practice. In clinical medicine, I was helping people deal with infections, cancer, depression, diabetes and heart disease. Through my work at the College, I helped patients deal with doctors who may have mentally, physically or sexually exploited and abused them, or simply been rude, indifferent or uncaring when patients looked to them for help.

I came to appreciate how the huge power differential between doctors and patients makes it so difficult for patients to come forward with concerns about any doctor’s conduct or performance. I came to recognize that one of my most important responsibilities was to “level the playing field” between patients and doctors, and the first step toward that goal was to assure patients that the College had the power and the tools to ensure the playing field would be level if they came to the College with any concerns about a doctor. The public needed to

regularly see evidence that the College was both able and willing to use those tools to create a level playing field.

I came to appreciate that public transparency about the College's work was critical to building public trust that the College "would be there" for patients when they incurred harm through any physician action or inaction. To its credit, the CPSS had a policy that its discipline hearings were open to the public even before I became Registrar. Early in my leadership term with the College, the Council agreed to make almost the entirety of its meetings open to observation by the public and the public media. We undertook major renovations to the College building to provide more generous capacity to accommodate the public and public media at both Council and discipline hearings. And we instituted a practice of alerting the public media to upcoming Council meetings and discipline hearings.

I found that public transparency of discussion and decision making at Council meetings has an amazing salutatory impact on the degree to which those decisions were aligned with the public interest. When Council members knew that anything they said at a Council meeting could be reported on the television news that evening or on the front page of the *StarPhoenix* the next morning, they were disinclined to make comments or decisions that smacked of physician self-interest.

I found that the engagement of public members on the governing Council of the CPSS was a huge asset. When I came to the College, there were three public members on the Council. We subsequently asked the government to amend our legislation to increase the complement of public members to five.

During my years of service as the Registrar of the CPSS, I certainly witnessed some efforts by the SMA to influence the policies of the CPSS. From time to time the SMA would also engage in gratuitous "College bashing" in its communications with its members, just to assure the members that it was actively protecting their interests.

However, two things prevented the CPSS from ever being at serious risk of demise like the College of Teachers in BC as a consequence of the actions of the doctors' "union". First, the collective physician and public membership at the Council always had the integrity to pretty much ignore any effort by the SMA to influence its decision making. Secondly, any objections the SMA may ever have in respect to how the CPSS regulates doctors pales in comparison to its fear of and opposition to the prospect of any direct government regulation of doctors. The SMA and every doctor in the province would walk a mile over red-hot coals with bare feet before they would see the CPSS replaced by direct government regulation.

Within the medical profession there is a very deeply rooted commitment to public engagement in professional regulation. Indeed the medical profession has become very comfortable with the term "professionally-led regulation," to reflect its appreciation for the very positive contribution that public members of the CPSS Council make to effective regulation in Saskatchewan. Doctors support having public members on every discipline hearing panel and fully half of the membership of the CPSS Complaints Committee being members of the public.

In addition to their acceptance that the public deserves effective regulation of doctors, most doctors also recognize that it is in their interest to retain the public trust and respect that comes from having very effective professional regulation.

So while at the very outset of my transition from a professional advocacy role to a public protection role, some of my colleagues accused me of "crossing over to the dark side," in my regulatory journey I encountered an amazing number of physicians who were willing to commit hundreds of hours with little or no compensation to making the College truly "work for patients." It was a distinct pleasure and honor to work with these colleagues because they exemplify the very essence of what it means to be a professional.

There is one final lesson I learned from my long career in professional regulation that I feel obligated to declare, even though I know my perspective on this issue is not well received by some professional leaders in the education sector. From my "lived experience," I do not believe I could have ever sustained deep public trust

that the College was “there for patients” if the College carried concurrent responsibility for representing physicians and their self-interests.

Though I could not always agree with positions taken by the SMA, I was always grateful that the SMA existed and that it was and is a very effective professional advocacy organization for physicians. The existence and the success of the SMA frees up the CPSS and its staff to “be there for patients” 100% of the time. In my opinion, that makes all the difference in respect to how well any regulatory body actually serves the people that it exists to protect.

ANALYSIS

After carefully considering all the information gleaned from the stakeholder consultations, my independent research and my regulatory experience, I compelled myself to sort through that information using a very simple tool I acquired through a decade of work on the Board of the Health Quality Council (HQC) in Saskatchewan. It's called the WWW and EBI tool. I'll explain how it works.

WWW stands for **What's Working Well**. EBI stands for **Even Better If**.

I like this tool because it compels me to first take stock of what is working well in any system or organization that I am reviewing before proceeding directly to a focus on what's not working well. If one has an inventory of what's working well, it can serve as a solid foundation on which to build future improvement in a system or organization.

I also like the spirit inherent in the EBI part of the tool because it infers that we should strive to use what is good in any system or organization and make it better rather than just rant about all that's bad.

This is what I found on the WWW side of the ledger:

1) Committed People / A Shared Goal

As I interacted with people in many different organizations within the education sector, I was impressed with their shared sense of commitment to high-quality education services for all children and youth across our province. I certainly encountered divergent views among stakeholder organizations about how we might best ensure that all children and youth receive high-quality education, but no disagreement on that common goal.

2) A Willingness to Learn from Others

As I engaged leaders in the education sector in reflective dialogue, I sensed a growing interest within the sector in extracting and applying lessons from other sectors within our province and from other jurisdictions across Canada. I heard

some humble acknowledgements that the education sector has, for too long, considered itself so distinct from other sectors that it was resistant to inter-sectoral knowledge transfer. I was encouraged to hear a growing openness to the application of concepts and tools that have yielded gains in efficiency and effectiveness in other sectors in the province.

3) Honesty and Candor

I very much appreciated and respected the willingness of leaders in the education community to speak honestly and candidly with me about things that are not working as well as they might in our education system. Self-awareness of things that may constrain us from being the best we could be is a vital first step toward improvement.

This is what I found on the EBI side of the ledger:

On the EBI side of the ledger, I learned the most from listening to real life accounts of things that aren't working so well. Storytelling remains one of the most powerful communication tools in any society. In telling one another stories about our life experiences, we do much more than just describe events and incidents. We convey messages about our values, our goals and our aspirations.

As I listened to stories about what's not working so well in our education system and could be better, I detected several recurring themes. I'll discuss those themes by using one word or a few words to frame the "issue" and then relay suggestions I heard about how we might do better in respect to that issue.

1) Fragmentation

I heard a lot of concern about the adverse impact of system fragmentation on both teachers and students.

The fact that teachers in Saskatchewan are regulated under three different pieces of legislation is of significant concern to many leaders in the teaching profession. One of the hallmarks of a profession is that it defines and accepts a single set of standards, expectations and accountabilities that apply to all members of the profession.

The fact that professional regulatory powers and responsibilities for the teaching profession remain divided between the profession and the government is of concern to teachers and to some personnel within the Ministry of Education. In respect to some very important regulatory issues, there is lack of clarity as to exactly where the responsibilities and accountabilities of the profession and the government begin and end.

Since almost all teachers apply their professional's skills as employees of school boards, independent schools or First Nation bands, there will always necessarily be a sharing of regulatory functions between local and provincial agencies. While people of good will are striving very hard to make this shared regulatory arrangement work well, both teachers and students sometimes find themselves "victimized" by the current arrangements.

While I am not insensitive to the risks of harm for teachers in this bi-level regulatory process, teachers have a very powerful organization (the STF) to ensure that their interests are protected at the local level. Regrettably, students have no equally powerful agency to ensure that their interests are protected.

I heard some creative suggestions about how the high level of system fragmentation of teacher regulation in Saskatchewan could be reduced. I've also extracted some useful insights from my independent review of arrangements in other provinces. Based upon lessons extracted from elsewhere, I have "floated some ideas" with stakeholders in the education community.

My impression is that there is a widespread realization that some change from the status quo needs to occur, but no strong consensus has emerged among all the stakeholders about the nature of change they would all support.

2) Public Engagement in Teacher Regulation

On the issue of public engagement in the regulation of the teaching profession the story is one of feast at the local level and famine at the provincial level. The members of publicly elected school boards clearly play a very major and

important role in teacher regulation at the local level. To date the only public engagement in the regulatory activities carried by the STF is a policy that ensures there is a public member on the STF Ethics hearing committee.

The STF has signalled a willingness to more fully engage the public in its regulatory activities but such intent has not yet been implemented.

3) Public Transparency

In contrast to the regulatory processes for most other professionals in Saskatchewan, the process for teacher regulation is remarkably non-transparent. At present, the only circumstances in which the public and the public media learn about the discipline of teachers who have acted unprofessionally is when there are concurrent criminal proceedings and the media reports on those proceedings.

Public transparency of professional regulatory processes is extremely important if any profession wishes to earn and sustain public trust in the integrity of a profession and its willingness to consistently protect the public from risk of harm associated with the activities of its members.

4) Conflict of Interest

Earlier in this report I referenced the very real and perceived conflicts of interest that may arise when any single professional organization is tasked with protecting its members' interests and protecting the public from risks of harm associated with the activities of its members.

The STF fervently believes that it is able to effectively sustain both of these functions without encountering very significant conflicts of interest. That view is not shared by many of the other stakeholder agencies within the education sector. It is also questioned by many respected leaders within the teaching profession.

The STF is a very impressive organization that very effectively serves the 12,000 teacher members that it represents. It also undertakes some very worthwhile initiatives to enhance the quality of education in Saskatchewan, as do other professional associations and also some certified unions.

However the “public face” of the organization is not the face of an organization dedicated to protecting the public from all risks of harm associated with the activities of its members.

Credible professional regulatory agencies which are committed to effective public protection must have very high “face validity” in the eyes of the people that such organizations exist to serve and protect. My research does not suggest that the STF has high face validity among students and parents when they have concerns about ethical conduct and/or competence of any teacher.

In almost all circumstances, the STF very strongly suggests that student concerns about any teacher ought to be raised and addressed at the local level before they come to the STF. When students do raise such concerns at the local level, their perceptions of the STF are very strongly influenced by the fact that the STF sends a staff member to their communities to protect the interest of the very teacher who is the focus of a student’s concerns.

That situation creates conflict of interest of the highest imaginable level.

5) Student Protection

This is an area of concern that certainly surfaced during my conversations with many people in the education sector in Saskatchewan. However, it is also an issue that becomes much more evident when one serves as a “public protector” in a professional regulatory agency for an extended period of time. I will draw upon my experience with regulating doctors before applying the lessons learned from my experience to the regulation of teachers.

Historically the power imbalance between doctors and patients used to be much greater than it is today. The knowledge gap between doctors and patients before the internet existed was massive; today every patient with even modest online searching savvy can access the very same scientific research information on which doctors rely to sustain their knowledge of medicine.

In the past all professionals were accorded remarkable degrees of deference by society and were regarded as being virtually infallible. Society placed doctors on a

pedestal and accorded them adulation worthy of a deity. Today, the pedestal has crumbled. Society at large recognizes that all professionals, including doctors, are fallible human beings. They are as prone to error, wrongful motivation and illnesses as any other human being.

We live in a society in which we have all been educated and socialized to be ever more assertive in protecting ourselves in any situation in which we perceive we are being mistreated, exploited or abused by any other person including doctors. When fully self reliant adults perceive themselves as being subject to mistreatment, exploitation or abuse, they speak up, they confront the offender, they walk away and they report their experiences to agencies empowered to protect people from such harms.

However, my long experience with medical regulation brought me into contact with many patients who were hugely disadvantaged in their capacity to defend themselves against mistreatment, exploitation or abuse at the hands of doctors. Such disadvantage may arise from a history of mental illness, cognitive impairment, poverty, illiteracy, racial discrimination, family abuse, alcohol or other chemical impairment, cultural influences and conditioning, lack of social support systems, low self esteem, a high level of dependency of the services of a doctor and other factors.

In respect to the willingness and capacity of patients to confront their doctors in respect to conduct or competency concerns, I learned the profound implications of the adage that “geography is destiny.” For patients living in a community served by a solo doctor and the nearest alternative care options being seventy kilometers away, the implications of confronting a doctor are vastly different than for patients living in Saskatoon or Regina.

While deliberate and willful physician mistreatment, exploitation or abuse of more vulnerable patients is thankfully rare, I was dismayed to discover how often vulnerable patients did actually encounter such harmful experiences. In many such circumstances, physicians may have been unaware that their words and action were perceived by patients as being highly inappropriate, but many patients certainly had such perceptions; and, their circumstances often precluded

them from taking action themselves to mitigate future risk of continuing exposure to such harm.

Sadly, there is also in every profession a cohort of individuals who willfully mistreat, exploit or abuse people whom they serve as professionals. They may do so to meet their personal needs, because of warped professional and personal values and beliefs, or simply because it gives them a sense of power over other people.

So, how do these insights from my experience with physician regulation apply to teacher regulation?

The risk of student harm from unethical or incompetent teachers is substantial. In the course of this review I have been particularly attentive to the risks faced by more vulnerable students.

The shift in societal attitudes about professions which has knocked doctors off their former pedestals of infallibility has likely had a comparable impact on teachers. In our society today, children and youth, like adults, are more inclined to speak up in circumstances in which they perceive they are being mistreated, exploited or abused.

The power gradient between teachers and all students, and particularly high school students, has narrowed as it has between doctors and most of their patients. However, the power gradient between teachers and students will always remain very high because most students are not self-reliant adults who have mastered all of the competencies that are essential to being a self-reliant adult. Furthermore, very young children tend to be very trusting of all adults and often adore their teachers. Most of them have not yet developed any inclination or capacity to be aware of wrongful actions or wrongful motivations on the part of teachers.

In most, but certainly not all, circumstances children and youth have stable and supportive home environments which ensures that their parents are watchful for their risk of harm exposure in the classroom and in extra-curricular school activities. In addition, considerable protection is assured by the fact that most

teacher-student interactions occur in environments which are open to observation by other students.

During the course of this review I have also learned a great deal about the teacher oversight and local regulatory student protection that is assured through the work of elected school boards, school principals, superintendents and directors of education. I have come away from this review with a sense of comfort that these local student protection mechanisms well serve the interests of most students in most circumstances.

However I have not come away from this review with assurance that local student protection mechanisms are well serving the interests of all students in all circumstances. Furthermore, I have a much lower comfort level with the extent to which the current mosaic of teacher regulatory mechanisms protects students and serves the interests of all students in all circumstances. I will explain the reasons for my unresolved concerns at both levels.

My impression is that local protective mechanisms probably work better for students in larger communities than they do in very small communities in Saskatchewan. Because of the social dynamics inherent in small communities, it is more difficult in those communities for students to come forward with concerns about teacher conduct or performance. Students and their parents often have close, personal relationships with all of the teachers in the community, as well as with the school principal. Relationships through local churches, community service groups and other local networks impact on teacher-student-parent dynamics. In small communities there is a much higher chance that a teacher or the principal may be your next-door neighbour or live on the same block.

When everything is going well with student-teacher relationships in the school, concurrent students-teacher relationships in the community may have a very positive impact on students. When student-teacher relationships in the school are strained or dysfunctional, concurrent relationships in the community make it more difficult for students to have their concerns about teacher conduct or performance effectively addressed in their own communities.

In addition, overlapping relationships between students and teachers in the school and in the community creates greater risk for blurring of appropriate relationship boundaries between teachers and students.

When any local circumstance makes it difficult for a student to locally raise concerns about any teacher's performance or conduct, it is critically important that students have easy access to a trustworthy and effective process for bringing such concerns to the provincial regulatory agency for teachers. In the overwhelming majority of circumstances, that requires students to bring their concerns to the STF.

Although I am very impressed with the work that the STF does to improve educational experiences and outcome for all students in the province, the organization does not present itself to students as an organization keenly receptive to hearing concerns directly from students who have not exhausted all local options and whose concerns may not be shared by their parents.

Although I was unable to interact directly with students in the course of this review, I made a concerted effort to critically review the current arrangements for teacher regulation through a student lens. I made a special effort to assess how well the current arrangements protect and serve the needs of vulnerable students.

Today, young people turn to the internet to meet almost all of their information needs. They will often judge whether any organization is likely to be interested in them and willing to serve them by visiting that organization's website. I logged onto the STF website as if I were student in search of help in respect to my concern about the conduct or performance of one of my teachers.

The website is most definitely not student user-friendly for a student who might be looking for help in dealing with concerns about a teachers conduct or performance. It speaks mostly about representing teachers in their interface with government and employers.

If a student is persistent in surfing the STF website, he/she will ultimately come across a page which asks the question **“What If I Have Concerns about a Teacher?”**

The information provided by the STF to that important question is this:

“Questions or concerns about a teacher’s professional conduct or competence should be raised first with the individual unless it is matter of harassment or abuse or if it is a criminal offence and there is a statutory duty to report the issue to proper authorities. Usually, taking this step will resolve the issues that an administrator, teacher colleague, a parent or other person might have.

If questions or concerns about a teacher’s conduct or competence continue after discussion with the individual, then a formal complaint may be submitted to either your local school division or to the Saskatchewan Teachers’ Federation at 306-373-1660 or 1-800-667-7762.”

From a student’s perspective, these are the key message I would extract from this STF information source:

- 1) As a student, the STF does not anticipate hearing from me, unless the STF considers students to be in the “other person” category. That would seem strange because I’m always told that students “come first” in the minds of teachers.
- 2) In almost all circumstances, the STF will not consider a concern about a teacher’s conduct or competence unless I first discuss my concerns with the teacher. That would be very awkward for me, so I don’t think going to the STF is really an option for me.
- 3) It sounds like the STF doesn’t want anyone to call the listed phone number unless they want to submit a “formal complaint” about a teacher. I have no idea what they mean by a formal complaint but I really just want to talk with someone who is committed to my interests as a student. It doesn’t sound like the STF fits that bill, so there is no point calling.

On the off chance that students might read the public information brochures published and distributed by the STF, I carefully read both brochures through the lens of a student.

The first is a 16 page document entitled “Teacher Professionalism: A Public Trust.” This brochure does contain some information of potential interest and value to a student who may have some concerns about the conduct or competence of a teacher. However the section entitled “**When Questions or Concerns Arise**” does not appear until page 8. In my review of the information on that page, these are the key observations I would extract from a student’s perspective:

- 1) Concerns should always be raised first with the teacher.
- 2) It only refers to “issues” that an administrator, teacher colleague, parent or other individual may have with a teacher. Again, unless the STF sees students as “other individuals” this is not an option for me.
- 3) The page concludes with advice that any teacher who is “involved” in questions or concerns about teacher conduct or performance should “seek advice and assistance from the STF.” So, the STF really exists to help and support teachers, not students.

On page 11 of this booklet there is a summary of STF Programs and Services. There are eight bullets on this page. All eight describe programs and services for teachers. The word “student” does not appear anywhere on the page.

The second STF brochure that is widely distributed is an 8.5 x 11 fold-up brochure entitled “Parents & Teachers: Partners in Education.” It also has a section entitled “**When Questions of Concerns Arise.**”

In this brochure parents are directed to always raise concerns first with a teacher. The next recommended step is to meet with the school principal. If their concerns persist after a meeting with the principal, parents are told by the STF that they “are expected to follow the relevant policies and procedures of their board of education or conseil scolaire.” Only then is it appropriate for parents to make a formal complaint to the STF.

In other internal STF documents I found clear statements that students and parents do have a right to submit a formal complaint about a teacher to the STF at any time without exhausting all local options. However, that option is certainly not described in these two STF brochures that are written for the public information purposes.

I was unable to find any STF information brochures written explicitly for students and describing options for students to bring concerns and questions about teachers directly to the STF. While that option may be legally available to students, it is certainly not proactively made known to students.

In my opinion, the organizational attitudes and practices of the STF with respect to students are disappointingly paternalistic, particularly as they might pertain to high school students.

One of the key objectives of our education system is to equip students to function as self-reliant adults. As they mature and build self-reliance capacity, I believe we should assist and support them in exercising that capacity rather than treating them as if their perceptions of the conduct and competence of their teachers can only be raised through their parents.

This point was actually made by the STF in a quote on page 26 of an STF Brief to the Minister of Education in September, 2012. The quote is from P.J. Palmer, taken from “Healing the Heart of Democracy”. This is the quote:

“If we expect our youth to become adults who exercise reflective judgement, [take] responsibility for themselves and their community, and ...take part in shaping their country and its policies, the environment in which they are schooled must teach them how to do that”.

I strongly concur with that perspective. However I don’t see the STF “waking that talk” in its facilitation of direct student concerns to the STF about teachers.

We also must be mindful that all students do not necessarily have stable home environments in which parents are appropriately attentive to their educational needs and their safety in the education system. Students who do not have stable

supportive home environments are particularly vulnerable and any effective teacher regulation arrangements must be attentive to the risk profile of vulnerable students.

During my consultations with the Ministry of Education, the STF, the SSBA, LEADS and the SASBO, I asked some very focused questions about how well the current teacher regulation arrangements in Saskatchewan protects vulnerable students from risk of harm. Some of what I heard in response to those questions was reassuring, but some was not.

While I have very deep respect for all that teachers, principals, superintendents, directors of education, and boards of education do to protect vulnerable students from harm, I also have deep concern about some situations that never come to their attention because it is just too difficult for students to raise concerns locally in smaller communities. No agency can deal with situations that never come to the agency's attention.

If some situations that put students at risk of harm can't be addressed locally or a local process does not effectively address the situation, students must have access to a provincial system which they trust and which does effectively address their concerns.

Weighing Future Teacher Regulatory Options

Any consideration of future option for regulating the teaching profession in Saskatchewan will need to take into account many factors. First and foremost, one needs to consider which regulatory model has the greatest potential to improve the effectiveness and efficiency of the current model in the five EBI domains I have described above.

In addition, one will need to be cognizant of both start up and ongoing operational costs implicit in any model. One will need to very seriously consider the lessons learned from the two Canadian provinces that have had the courage to try innovative teacher regulatory models. That will mean being very thoughtful

about the factors that caused a new model in BC to fail, and the factors that have contributed to the success of a new model in Ontario.

In this section of my analysis, I will identify three potential future models for teacher regulation in Saskatchewan, and strive to objectively explore the advantages and disadvantages of each of those models.

One of the models I considered is the current arrangement in which authority and responsibility for teacher regulation is divided between the STF and the provincial government. For ease of reference, I call this the “divided” model.

The second model is one in which all authority and responsibility for teacher regulation is held by the Government of Saskatchewan and administered through its Ministry of Education. I call this the “government” model.

The third model is one in which all authority and responsibility for teacher regulation would be entrusted to the teaching profession through a statute that establishes an agency dedicated exclusively to teacher regulation. Because such agencies in BC and Ontario were called Colleges of Teachers, I call this the “college” model.

a) The Divided Model

Advantages:

The most obvious advantage of this model is that it would require the least change. The STF has acquired considerable expertise in some facets of professional regulation, such as the conduct of disciplinary hearings, and continuation of this model would retain that organizational expertise where it is currently based.

During the course of this review, the STF has expressed a willingness to modify some of its historical policies and procedures in the future in response to concerns brought to its attention through this review.

Disadvantages:

The most obvious advantage of this model, minimal change, is also its most obvious disadvantage. While the STF has signalled its willingness to modify its future policies and practices to ensure greater public engagement in its regulatory work and enhance its transparency, continuation of the current model does not allow for optimal remediation of problems arising from fragmentation and conflict of interest. These are the two most compelling reasons to redesign future teacher regulation in this province. These issues can only be addressed through transformational change rather than “fine tuning” of the current divided model.

b) The Government Model**Advantages:**

One of the most obvious advantages of this model is that it is the dominant model now in place across Canada. Since eight of the 13 provinces and territories use this model, there is a wealth of experience across the country that Saskatchewan could tap into.

Transition to this model would also require only modest amendments to the existing *Education Act*, as contrasted with the scope of legislative activity implicit in transition to a College model.

The start-up costs implicit in transition to this model would almost certainly be lower than for transition to the college model.

This model would completely avoid the risk of the “regulatory train wreck” that occurred in BC with its attempt to establish and sustain a college model.

Disadvantages:

Adoption of this model would run counter to the government’s position on professional regulation of almost all professions in Saskatchewan and many non-

professional occupations. There are already more than 40 professions and occupations in Saskatchewan that have been accorded the privilege of full “self-regulation” through statutorily delegated powers.

Adoption of this model, without offering the teaching profession an opportunity to demonstrate its willingness to support effective full self-regulation, would seem fundamentally unfair when that privilege has already been extended to over 40 other professions and occupations. Such a course of action would almost certainly engender very intense anger within the teaching profession and damage the working relationship between the government and the teaching profession for years to come.

While it would not likely be impossible for the government to recruit well qualified and committed teachers to staff a government based teacher regulatory mechanism, it would certainly be much more difficult to do so in a climate of discord between the government and the teaching profession.

Finally, professional regulatory models that are entirely government controlled are never able to fully harness the vast pool of expertise that is vested in any profession. Professionals are much more inclined to apply their professional expertise, insights and judgement through collegial regulatory models as contrasted with government regulatory models.

c) The College Model

Advantages:

Some of the most obvious advantages of this model are the flip-side of the disadvantages just described for the government model. It would accord teachers an opportunity to demonstrate their willingness and capacity to effectively self-regulate their profession. This model would likely allow the regulatory agency (college) to be successful in recruiting highly qualified and committed teachers to fill executive staff positions in the agency. It would enable the agency to tap into

the pool of expertise and judgement vested in the teaching profession in a collegial regulatory model.

Although transition from the current model to a college model might cause some strain in the working relationship between the government and teachers, the intensity and duration of that strain would likely pale in comparison to that arising from transition to a government regulatory model.

Disadvantages:

Of the three options, this would likely have the highest start up costs and require the most significant legislative action. It would also require a more protracted transition plan.

The ongoing operational cost implications of this model for teachers and the government would have to be considered, as there may be a number of different options for allocating costs.

The biggest single disadvantage to this option is the risk of a fate similar to the College of Teachers in BC.

CONCLUSIONS

As I sought to understand how the STF's "unitary" model for teacher representation and teacher regulation came into being, and evolved to its current state, I found useful information from several sources.

One very useful source was a short history of Teacher Professionalism in Saskatchewan which was sent to me from the STF on August 19, 2013. I will cite some observations and quotes from that STF document and then strive to compare current arrangements for regulating teachers with current arrangements for regulating registered nurses (RNs).

I believe a comparison between the teaching and nursing professions is fair and reasonable on several counts. The professional practice of most teachers and RNs occurs in the context of an employee-employer relationship. Members of both professions are therefore concurrently accountable for their professional conduct and performance to their employers and to a professional regulatory organization.

The number of teachers and registered nurses in the province of Saskatchewan is comparable. Members of both professions derive most of their professional compensation from the public treasury. Their levels of compensation and other employment benefits are established through a province-wide collective bargaining process.

Both professions provide services that require high levels of professional knowledge, skills and judgement. Both expect their members to maintain ethical conduct and professional competence throughout their careers.

Teachers lobbied the provincial government to obtain the right to regulate themselves when the original Teachers Federation Act was passed in 1935. The government did not initially accede to that lobby by teachers. However, in 1948 the STF was able to convince the provincial government to give it some, though not all, regulatory authority and accountability for the teaching profession.

In 1989, the Government of Saskatchewan proposed legislative changes that would have required all regulated professions to follow a standardized regulatory framework. The STF objected to the proposed legislation primarily on two grounds. First, it argued that the legislation would limit the powers and responsibilities of professions. Secondly, the STF took the position that it was “unacceptable” that its collective bargaining functions would be separated from its disciplinary functions.

In the mid-1990s, as the emphasis on accountability escalated throughout Canada, several provincial governments began to explore the possibility of splitting “unitary” teacher organizations into two entities in order to separate their activities which were perceived to create a conflict of interest.

The STF “short history” notes that “From the perspective of government, this option seemed like a plausible vehicle to make the teaching profession completely self-regulated.” However the same STF document notes that “others saw it as an attempt to divide and diminish the power of teacher organizations and transfer regulatory costs to teachers.”

Finally, the STF “short history” notes that: “after much lobbying of government officials, in 1997 the Federation was able to obtain amendments to the STF Act which furthered its goal of self-governance without sacrificing its unitary structure.”

The STF “short history” concludes with this statement: “On the basis of this historical analysis, there is little justification for the unilateral imposition of an alternative model of professional regulation.”

There are some interesting parallels between the early history of registered nursing regulation and advocacy in Saskatchewan as compared with that history for teachers.

It is noteworthy that until 1974, the Saskatchewan Registered Nurses Association (SRNA) acted as the bargaining agent for RNs, just as the STF still acts for teachers. In October, 1973 the Supreme Court of Canada ruled that the SRNA could no longer act as the bargaining agent for RNs. The Saskatchewan Union of Nurses

(SUN) was established in January, 1974 and has evolved into a very progressive professional union for nurses.

The registered nursing profession had a long history of being entrusted with full professional regulatory powers vested in the SRNA, while the SRNA undertook collective bargaining for RNs as a collateral activity until it was compelled by the Supreme Court to divest itself of that activity.

The teaching profession has had a long history of the STF being empowered to conduct collective bargaining on behalf of teachers with incremental acquisition of some, though not all, professional regulatory powers.

I suspect that one of the reasons that the STF has never been entrusted with all regulatory powers is because of the conflict of interest inherent in a single organization bargaining for its members and regulating its members.

If the teaching profession is to be accorded full self regulatory authority, and I strongly believe that it deserves this authority, I believe the profession will have to conduct collective bargaining and regulation through distinct professional organizations. One of those organizations will need to be dedicated exclusively to public protection and the other exclusively to representation of teachers and advancement of the interests of teachers.

When a single professional organization strives to sustain both of these functions, it continually sends “mixed messages” to the public. The public is consequently less inclined to trust that organization to act in its interest.

Imagine for a moment that you were a student or parent who had serious concerns about the performance or a conduct of a teacher in late May, 2011. As you were weighing the prospect of registering a complaint with the STF, on May 20, 2011 you watched television coverage of the STF announcing its intention to lead teachers in a two day strike. It was clear that the strike was a lever to compel the government to sweeten its monetary offer to teachers in a stalled collective bargaining process. In that circumstance, how likely is it that you would perceive the STF as an organization that exists to serve and protect your interests?

In my opinion, there are insurmountable conflicts of interest created when professions strive to concurrently serve two masters through a single organization. Under such arrangements, either the professional advocacy function or the public protection function will take a “back seat.” It is almost invariably the case that public protection functions will be relegated to the back seat, and that certainly seems to be the case within the STF.

With a staff complement of 110 and an annual budget of in excess of \$13 million, only two STF staff and less than 2% of the STF budget are exclusively dedicated to professional regulatory functions. I suspect the STF does expend more than 2% of its budget each year on regulatory activities, but it’s impossible to affirm that from its financial records because it’s regulatory and advocacy activities are so co-mingled.

With the exception of the two staff positions dedicated exclusively to regulation, many STF staff carry concurrent professional regulatory and professional advocacy responsibilities. That is highly problematic because human hearts and minds do not shift easily between competing allegiances.

My greatest concern about the current STF “unitary” model which vests public protection and professional advocacy function in a single organization arose from my analysis of the STF’s complaints intake since 2000.

The STF is responsible for regulating approximately 12,000 teachers. The number of written complaints it receives about teachers is very low ranging from a high of 25 in 2000 to a low of two in 2009. That suggests to me that public awareness of option for registering complaints with the STF may be very low.

Most professional regulatory organizations receive the vast majority of complaints directly from the people that organization exists to serve and protect. Of the 139 written complaints the STF has received from 2000, only three came from students and 24 from parents. Two other complaints came from members of the public who were not students or parents. Fully 80 of the complaints came from other teachers. Could that be because teachers are infinitely more aware of the STF complaints process than students and parents?

I don't have a reliable answer to that question. However neither, I suspect, does the STF. If the regulatory processes of the STF exist to serve and protect students, a higher proportion of the complaints should come from students and parents. More detailed information about the sources of complaints to the STF as well as the disposition of those complaints and final outcomes appear in Appendix B & Appendix C to this report.

I do understand that many complaints may be addressed by the teachers' employers, the school divisions. However the same observation could be made with respect to registered nurses, most of whom are employed by Regional Health Authorities. When patients have an adverse experience with a nurse while hospitalized they can and often do complain concurrently to the RHA and the SRNA. Should the same concurrent options not be made well known to students and parents?

What Are the Potential Future Options for Teacher Regulation in Saskatchewan?

Throughout the course of my review of current teacher regulation arrangement in Saskatchewan, and my consideration of future options, I maintained an open mind to each of the following three possibilities:

Option 1 / The Current STF Unitary Model

Option 2 / A "College of Teachers" Model (Full professional self regulation)

Option 3/ Complete Government Regulation

Throughout this review I have also been acutely aware of the Provincial Government's intent to introduce legislation this fall that would likely implement Option 2 or 3, since the government has quite clearly expressed its dissatisfaction with the status quo.

My perspective in respect to these three options was significantly influenced by a formal position paper I received from the STF on September 3, 2013. I regarded

this as a thoughtful and well-reasoned paper that articulated the following principles:

- 1) The STF recognizes the right and responsibility of the government to establish a regulatory framework for teacher regulation that optimally serves and protects students.
- 2) The STF accepts the government's declared intent to introduce legislation which will establish a new framework for teacher regulation in Saskatchewan.
- 3) The STF is hoping that the government might be willing to defer its introduction of this legislation for one year until the fall of 2014 with the understanding that broad stakeholder and public consultation will occur over the course of that year.
- 4) In the interim and, as expeditiously as possible, the STF has declared its willingness to institute a number of administrative changes in its regulatory processes to increase public awareness of these process, public participation in these process and public transparency of the process outcomes.

These are the administrative changes that the STF has committed to implement immediately:

- a) Creation of a dedicated concern/complaint intake process;
- b) Public participation in executive decision-making processes;
- c) All preliminary investigations of complaints will be conducted by an independent investigator;
- d) Notice of upcoming disciplinary hearings will be issued and outcomes from hearings and imposed penalties will be publicly reported; and
- e) Creation of a public information campaign that provides more student and parent friendly materials and messages about accessing and participating in

STF discipline processes.

All of these proposed administrative changes are commendable and should be implemented as expeditiously as possible. However those changes alone will not be sufficient to remedy the current fragmentation of teacher regulation and the inescapable conflicts of interest inherent in a unitary model in which professional advocacy and collective bargaining co-exist with public protection in a single organization.

While the STF position paper speaks about “demarcation of advocacy and regulatory functions” it stops short of any commitment to have those functions vested in distinct organizations. That is worrisome to me because it infers that the STF still clings to a hope that, with some amendments to its legislation, it will be permitted to retain both functions. I do not believe that would well serve the public interest.

In the proposed period of public consultation over the next year, I believe that question needs to be placed before the public through objective public surveys and focus groups. The question that must be put to the public is this: “Would you prefer that teachers be regulated by the same organization that bargains for teachers or by an organization dedicated exclusively to regulating teachers?”

Notwithstanding the fact that I support the STF’s proposal to defer legislative action till the fall of 2014, the terms of reference for the review I was commissioned to undertake still anticipate that I will offer an opinion to government about a future regulatory model that would best serve and protect students and parents. I will therefore offer my opinion which is based upon all of the information in this report.

My Opinion Regarding an Optimal Regulatory Model

Option 1 / The STF Unitary Model

The current regulatory fragmentation that is inherent in having teachers regulated under three separate statutes can only be resolved by consolidating regulation for all teachers under the authority of a single organization. I cannot support legislative amendments that would bring superintendents, directors of education and teachers in all independent schools under the regulatory jurisdiction of the STF so long as the STF retains a unitary model which includes collective bargaining.

I cannot endorse any model that leaves the public protection roles and teacher advocacy roles in a single organization, even if more effective “fire walls” could be established between these two roles at the STF staff level. I do not believe it is credible to believe that the governing Board and CEO of a “unitary” organization can consistently manage competing interests within an organization by having segregated Board agendas or suggesting that the CEO serves one group in the mornings and the other in the afternoons.

Because of irreconcilable conflicts of interest in all unitary professional advocacy /public protect models, I cannot endorse any unitary model as the preferred model for future teacher regulation in Saskatchewan.

Option 2 / A “College of Teachers” model with full professional self-regulation

I am very mindful of the fact that such a regulatory model failed in one of the two Canadian provinces that have established a College of Teachers. I am acutely sensitive to the fact that a College of Teachers in Saskatchewan will fail if the transition from the current unitary model is not actively supported by STF leaders and a very healthy majority of STF members. There are most certainly grave risks inherent in considering a College of Teachers as the best model for future regulation of all teachers in Saskatchewan.

I am also mindful of the fact that the Ontario College of Teachers is a successful teacher regulatory organization that has managed to steadily improve its performance over the 17 years since it was established in 1996. If teachers in Ontario have embraced this regulatory model and made it work, I believe that teachers in Saskatchewan are equally capable of doing so.

When it released its report in December 1994, the Royal Commission on Learning in Ontario explicitly expressed a view that the teachers of Ontario deserved the privilege of full professional self-regulation through a College.

I believe that teachers in Saskatchewan deserve the same privilege.

A College of Teachers will only succeed in Saskatchewan if the teaching profession perceives the opportunity to exercise full self-regulation through a College as a privilege that it desires and will support.

A College of Teachers would devote itself exclusively to regulation of the teaching profession in the public interest. The STF could continue its role as the bargaining agent for teachers, manage teacher benefit programs, and sustain the excellent professional development programs that it currently offers to teachers.

I believe that creating a Saskatchewan College of Teachers modelled upon the 17 year history of a very successful Ontario College of Teachers would best serve the interests of student and parents in this province.

Option 3 / Government Regulation

If the teaching profession in Saskatchewan is not prepared to support regulation through a College of Teachers, with considerable regret, I would recommend regulation by the Ministry of Education as the alternative option.

It is with regret that I would recommend such a model because I believe that complete government regulation of any profession misses so many opportunities to tap into and harness the expertise and dedication of the members of a profession.

Since full government regulation of the teaching profession now exists in several provinces, the Government of Saskatchewan would have a number of templates to consider. I have not examined in detail precisely how government regulation of the teaching profession occurs in all provinces that have such a model, although I have considered in significant detail the model that was implemented in BC after the College of Teachers failed in that province.

It would be relatively simple for the Government of Saskatchewan to assume full responsibility for all teacher regulation functions under the existing Education Act. I would anticipate that all certified teachers would come under the jurisdiction of that legislation.

In summary, I can only endorse a College of Teachers model and a Ministry of Education model as future models for teacher regulation in Saskatchewan. I regard a College of Teachers model as highly preferable for two reasons. First, I believe this model would most effectively serve and protect the interests of students and parents. Secondly, I believe this model offers teachers in the Saskatchewan the opportunity they deserve to exercise full responsibility and accountability for regulation of their profession.

Moving Forward to Create a New Regulatory Model for the Teaching Profession

It is very encouraging to receive written acknowledgement from the STF that a new model for future regulation of the teaching profession in Saskatchewan is needed. The current model is fraught with problems that cannot be remedied simply by making some administrative changes within the STF.

I concur with the STF's position that it would be prudent to take some time to be sure that we "get it right." For that reason I will support the STF's request that the government defer legislative intervention until the fall of 2014.

Commencing as expeditiously as possible, the government should initiate a broad and comprehensive consultation process that includes students and parents as well as education sector stakeholder agencies.

However, before the government agrees to defer legislative action and before it initiates a broader consultation process, I believe the government needs to have some "crucial conversations" with the Executive of the STF and the STF senior management team. Through those crucial conversations, the government needs to obtain a clear understanding of the STF's willingness to support a transition toward separation of teacher advocacy/collective bargaining and teacher regulation in separate organizations if public consultations yield a message that such separation would best serve the interests of students and parents.

In the absence of a clear commitment from the STF to that magnitude of change, there is substantial risk that fragmentation and conflicts of interest inherent in the current regulatory model will remain unresolved.

RECOMMENDATIONS

Recommendation 1

I recommend that the Government of Saskatchewan immediately engage in dialogue with the STF to ascertain whether the STF is prepared to support transition to a College of Teachers Model for future regulation of the teaching profession in Saskatchewan, if broad education sector and public consultations culminate in a government position that such a model would best serve and protect the interests of students and parents.

Recommendation 2

If dialogue with the STF affirms the STF's openness and commitment to such transformational change in the future regulatory framework for the teaching profession in Saskatchewan, I recommend that the Government of Saskatchewan agree to defer legislative action until the fall of 2014 and undertake a board consultation process to determine what regulatory model would best serve and protect the interests of students and parents.

Recommendation 3

I recommend that the consultation process focus on the following goals:

- 1) Creating a teacher regulatory system that exists to serve and protect the interests of students and parents, is understood by them and accessible to them, and works for them;
- 2) Eliminating regulatory fragmentation by bringing regulatory authority and public accountability for all teachers under a single statute;
- 3) Eliminating real and perceived conflicts of interest inherent in professional advocacy/collective bargaining functions and professional regulatory function being vested in a single organization;

- 4) Assuring optimal public transparency and accountability of all regulatory policies, processes and outcomes; and
- 5) Assuring substantial public engagement in regulatory processes at all levels including complaint adjudication and disposition, regulatory policy development, and regulatory governance.

Recommendation 4

I recommend that the Government of Saskatchewan organize a visit to the Ontario College of Teachers by a delegation which includes education sector leaders from Saskatchewan as well as some students and parents to determine the factors contributing to the success of that regulatory model and apply those lessons in Saskatchewan.

Recommendation 5

I recommend that the government complete this consultation and study process in a timely manner so that it is able to table legislation in the fall of 2014 to create a new framework for regulation of the teaching profession in Saskatchewan.

APPENDIX A – Student Scenarios

These scenarios are written to assist me in gaining an understanding of the current approach of schools boards and the STF in helping students deal with issues of concern to students. One scenario deals with teacher conduct concerns and the other with teacher performance concerns.

I appreciate that the current system allows students to raise concerns at the local level or to bring them directly to the attention of the STF.

One of these scenarios is written from the perspective of a student who is uncomfortable with raising her concerns at the local level because she is apprehensive about the potential for adverse impact on her, her teacher and/or other students if her concerns become known locally.

The other scenario is written from the perspective of a student who did raise his concerns about a teacher’s performance to the local principal, but does not feel that his concerns were taken seriously.

Each student has elected to call a toll-free STF phone number and their call has been directed to an STF staff member tasked with receiving such calls, advising students of all of their options for dealing with their concerns, providing advice and guidance to students about recommended “next steps” and assisting students in taking whatever “next step” each student elects to take.

The first scenario is deliberately designed to explore the difficult question of when regulators agencies have a duty to intervene even if a student explicitly asks them not to.

Scenario 1 / Student Sue / Focus on teacher conduct

Initial Call / late October

Hi. My name is Sue. I’m a 17-year-old Grade 11 student in a rural high school. For now, I’d prefer to not identify the school I attend or the teacher I am concerned about. I’d like to describe to you a situation that is causing me some concern. At

this point I'm not asking or expecting you to do anything about the situation; I just want to understand all of my options for dealing with the situation.

If, by chance, you think you may be able to identify the school I attend and the teacher I am concerned about, I want assurance from you that you will not contact the teacher or the principal or do anything else without my permission. Can you give me that assurance before I tell you more?

OK. Here's the situation. There is a teacher at my school who is a really great teacher. I'll just call him Mr. "A." He's young, energetic and always seems so enthusiastic about teaching. I'm in his history and social studies class and he's really gifted in making our learning experiences interesting. He is a very good amateur photographer and has taken tons of interesting pictures from many different places he's travelled to in the world. In class, he often shows us pictures from places related to the issues we're studying and we talk about those places.

Mr. A is also the coach of our girls' basketball team. He devotes a lot of personal time to coaching us and travels with us whenever we go to out-of-town games or tournaments. Everyone on the team really appreciates how generous he is in devoting so much of his personal time to our team.

Because he so much enjoys amateur photography, Mr. A brings his camera to all home games and takes a lot of pictures of our team in action. He also brings his camera along on all our roads trips. Sometimes he'll take pictures of us having fun on the bus while we travel to and from games.

Mr. A maintains a photo gallery of pictures of our basketball team on a wall in the gym at our school. He's always putting up some new pictures every week. We appreciate that as well because it's a boost for our team spirit. As far as I know, he personally pays for the cost of printing those pictures, which tells you a lot about his dedication as a teacher.

When we travel to games quite far from our community or to weekend tournaments, Mr. A always arranges for us to stay at hotels or motels that have a swimming pool. At the end of the day, the team really enjoys the opportunity to have fun in the pool. Sometimes Mr. A joins us in the pool, but more often he just

stays on the pool deck and takes pictures of us. Sometimes he shows us a few of the pictures he's taken and we have a good laugh about them. He never posts any of the swimming pool pictures on the gym wall at our school.

I'm the captain of our basketball team. I'm the tallest girl on the team and am a very good player. Mr. A says I am fortunate to have very long legs as that gives any basketball player an advantage.

Because I am the team captain, Mr. A sometimes asks me to meet with him briefly after games to talk about what went well and what the team might do better. We mostly talk about the game we just played but sometimes chat about other stuff. I enjoy those chats because he is so socially extroverted and easy to talk to. Sometimes I tell him about some of the struggles I'm having at home because my parents are so old-fashioned and strict. He listens very patiently to all my tales of woe and is very understanding. Sometimes he tells me stories about what life was like for him when he was my age. It sound like his parents were very strict and old-fashioned too, so we have something in common.

When we have those conversations, Mr. A never tries to tell me exactly what I ought to do. He just tells me that the road from being a child to an independent adult involves gradually achieving greater and greater independence from your parents. He always reminds me that I'm soon going to be 18 and I will then be able to do whatever I want.

I've always felt so good about my relationship with Mr. A until something happened last weekend when we were in the city for a basketball tournament. We stayed at a really nice hotel with a great pool. As always we had lots of fun in the pool and Mr. A took lots of pictures of us.

When the rest of my teammates decide it was time to leave the pool, Mr. A asked if I would stay behind to talk about our games that day and the final game coming up the next day. I said, "sure," because we usually have such chats.

We chatted about the games for a while and Mr. A then asked if it would be OK if he took some photos of me in and around the pool. He said "you're so

photogenic,” and it would be an honor if I’d let him take some pictures of me. I was flattered by his comments and agreed to pose for some pictures.

He coached me in respect to how he wanted me to pose for the pictures and took dozens and dozens of pictures of me in different poses. After we finished the photo shoot he showed me some of the pictures which, I have to admit, made me look really good. I looked more like an adult than a 17-year-old teenager.

When we were looking at the pictures together he said, “You know you are very beautiful. Have you ever considered a career in modeling?” I just laughed and said something to the effect that “my mother would disown me if ever said I wanted to be a model.”

I went on to explain to him that my mother is so strict that she insists on approving the clothes I am wearing before I go out of the house. Mr. A laughed and asked jokingly, “So, did your mother approve this bikini you’re wearing right now?”

I blushed and explained to Mr. A that my mother bought this ugly one piece bathing suit for me that looks like it came from the 1920s. She thinks that’s what I wear when we go on these trips that involve time in the pool. But I secretly bought this bikini. I hide it in my room and slip it into my suitcase just before I’m leaving on one of these trips in case my Mom checks my suitcase. Mr. A commended me for exercising control over what I want to wear and told me that this was a good sign of my growing maturity. Our conversation ended with his comment, “I just love how you look in that bikini.”

When I got back to my room and thought about what had just happened I felt really confused and sort of “torn up” inside. On the one hand I felt good about the comments that Mr. A had made about his pictures of me and how I look. On the other hand, I wasn’t sure if what he said was really appropriate.

We lost our game the next day. I played really poorly because I couldn’t get my mind off what had happened the previous evening. I felt awkward around Mr. A and tried to avoid talking to him any more than I had to as team captain.

When I got home I wanted to talk with someone I could trust about the situation. I couldn't possibly tell my parents what had happened because my Dad would storm into the school and demand that Mr. A be fired by the Board. I can't confide in the principal because he and Mr. A are such close friends that they're practically connected at the hips. They golf together and have even taken vacations together.

I don't want to tell any of my girlfriends because they would likely start spreading gossip about me and Mr. A through social media. And I certainly don't want to talk to Mr. A about this.

So, I saw this STF phone number on a brochure that said that anyone can call the STF with concerns about a teachers' conduct. Somehow, I had the impression that the STF is an organization for teachers rather than students. But, I have no one else to talk to and I really need to talk with someone about this mess. Can you help me?

Second Call / Student Sue / late November

Hi. It's Sue again. I called this number last month and spoke to someone at the STF. She told me her name but I can't remember it and didn't write it down. Would it be possible for me to speak with the same person?

OK. Well I need to update you on what has happened with Mr. A.

First I want to tell you that I have pretty much "got over" the incident I told you about last month and moved on. The more I thought about it, I realized that Mr. A is just trying to help me feel good about myself because he is sensitive to how hard my parents are on me because he had some of the same hardships when he was growing up.

We've actually talked quite a bit over the last couple of weeks about how similar our life experiences were in our teen years. He's told me a lot more about how his parents treated him when he was my age. It's so similar to what I am currently experiencing that I feel like we're almost "kindred spirits."

Because we've become so close through these private conversations, I even feel differently about my interactions with Mr. A in the classroom. He seems to be especially nice to me in class and I notice that I am getting better grades in his class. Some of my girlfriends tease me that I'm Mr. A's "teachers' pet." I just laugh that off and say that every teacher has a "pet" so if Mr. A is going to have a pet, it might as well be me.

I forgot to tell you last time that Mr. A goes to the same church as my family goes to and he serves as a youth leader in our church. So I get opportunities to interact with Mr. A both as much teacher as my youth leader at church. That's really neat in some ways because we get to talk about our life experiences in both settings.

So, I thought everything was going really well in my life until something happened during a ski trip that our church youth group went on last weekend. I know this is related to my church not my school. So I don't know if the STF is even intersected in this or can help. I have no one else to turn to so I am hoping you might be able to help me.

Of course Mr. A came along on the youth ski trip. We stayed at a really nice ski lodge that had a great pool. I had a lot of fun in the pool, just like I have when I go on similar trips with my school basketball team. Mr. A brought his camera along and took tons of pictures of us just like he does on school trips.

On this trip Mr. A joined us in the pool and "horsed around with us." We played games in which we would toss one another around in the pool. Everyone took part in the games. Initially it felt a little weird when Mr. A would grab me to toss me because he had never touched me before. However I felt it was OK because it was part of a church activity and Mr. A said it was just "clean fun."

After we finished playing in the cold pool, a few of us, including Mr. A, decided to sit in the hot pool for a while. We sat in a circle on the ledge around the pool and Mr. A was on the left of me. After the others left the hot pool, Mr A and I stayed to talk for a while. At some point he reached under the water to take my hand and we held hands as we talked.

Towards the end of our conversation that evening, Mr. A again told me that I am a very beautiful young woman and I should seriously consider doing some modeling. He explained how I might be able to earn quite a bit of money from companies that would be willing to pay to use images of me in advertising materials.

This time I really wasn't shocked at the suggestion that I might try some modeling. In fact, what he described sounded like it might be quite appealing to me. Before we left the hot pool that evening I agreed that I would come over to his photography studio in his home sometime in the near future and he would take a lot of photos of me to for a portfolio that he would submit to modeling agencies in Toronto on my behalf.

After I got home and thought about what I had agreed to do I became a little worried about what I was getting into. I also wondered if what Mr. A was suggesting to me could get him into any difficulty with his principal or the school board. I asked him about that and he assured me that wouldn't be a problem because the discussion we just had and the agreement we just reached was not in the context of any school activity. Can you tell me if his explanation is right?

Third Call / Student Sue / mid December

Hi, it's Sue again. Something just happened that has been really stressful for me and I need to talk to someone again. Can you promise me you will keep this confidential, if I tell you what has happened?

One of my girlfriends told me that she saw some really "interesting" pictures of me online. They were pictures submitted to an online amateur photography competition by Mr. A. The series of photographs was entitled "Two Sides of A Coin." It featured pictures taken of me by Mr. A. Half of them were pictures of me during worship services at the church we both attend. The other half were pictures taken of me from the "special" photo shoot he did with me around the pool during our basket ball tournament in the city in October.

The pictures from the church included shots of me with my eyes closed while I am praying and when I am receiving Holy Communion. The pictures from the pool

side photo-shoot included close-up shots of my chest and buttocks. In one photo I am leaning forward over a railing beside the pool and looking straight into the camera. Because the bikini I was wearing was a little skimpy, it shows a lot of breast exposure.

I was so upset because I felt that my privacy had been violated. Mr A had shown me some photos from the pool-side session, but he certainly never showed me these ones. He had clearly edited the photos to just include portions of some photos.

I immediately phoned him on his cell phone because he had given me his cell phone number and told me I could call him anytime. I was so angry that I was screaming at him over the phone. He said he'd like to meet with me right away and we agreed to meet at his house as it would be a private setting.

When I got to his house I was still really angry. I was crying uncontrollably and, between sobs, I kept telling him how I felt betrayed by him. Then he started crying too and said he was so sorry for what he had done and begged me to forgive him. We talked a long time and he kept emphasizing the lessons we both learned in church that we should forgive one another when someone confesses they have done wrong and asks for forgiveness. After a while I said, "I forgive you," and we embraced for a long time. We never did anything other than hold each other very tight. I felt at peace then and agreed to not raise the matter again because I've been taught at church that when you forgive someone, you should no longer remember what they did to hurt you.

Even though I forgive him and agreed to forget the incident, I just can't get it out of my mind. What should I do?

Fourth call / Student Sue / Early January

Hi it's me again. I know that you told me last time that what Mr. A did was wrong and that I should report the matter to the principal at my school. I thought very long and hard about your advice, but I decided not to report anything to the principal.

I reached a conclusion that reporting this matter to the principal would be a violation of the principles of forgiveness I've learned at my church. I also realized that if I reported the matter and my parents became aware of any of this, my life would be hell on earth. I would probably be grounded for life. I also worried about what would happen to Mr. A because I really do care about him. He could lose his job at the school. I know that my father would demand that he be removed from his role at a youth worker at our church. This is such a small community that he would probably have to leave the community and I would never see him again.

I don't want to ever lose my friendship with him because Mr. A has helped me to feel very positive about myself and to possibly pursue a career option that I would have never considered without his encouragement. I do want to pursue a career in modeling and he has promised to help me.

Our friendship has become much deeper since we had the big blow up about the online pictures and I forgave him. We text each other several times every day to stay in touch. When we do meet somewhere private we do embrace and hold hands. I feel so safe and secure when he holds me. Things are getting much worse between me and my parents and Mr. A is the only person in the world who treats me like a grown-up.

Of course we use our first names in all our private conversations, but I'm always very careful to call him Mr. A at school. Mr. A told me that one of his teacher colleagues at school spoke to him privately about her concern that we were "too close." So Mr. A has told me that we both need to be very careful to maintain a proper teacher-student relationship at school and during any road trips of the basketball team. But he said that any friendship we have outside the school is our business.

He is very careful not to give me any "special attention" in the classroom or during road trips with the school team. We virtually never speak with one another at school but our relationship away from the school has grown very deep. I drop over to his house whenever I can and we spend time together. He has taken lots of photos of me in his home studios and put together a portfolio of pictures that he has sent to several agencies in Toronto. Yesterday, he told me that one of the

agencies has offered me an opportunity to “audition” at their studios in Toronto in July.

Mr. A is making plans for us to go to Toronto together for one week in July when school is out. In addition to doing the photo studio audition, Mr A said he’s going to take me to photo and art galleries every day and help me gain an appreciation for art. I am just so excited about this that I can hardly wait for July to come.

When I told him my parents would never allow me to go to Toronto alone with him, he suggested that I tell them it’s as a school tour. It’s the first time Mr. A has ever counselled me to lie to my parents, but I want to go to Toronto with him so badly that I think it’s sort of a “white lie.”

I’m turning 18 soon, and Mr A is only 27, so there is only nine years difference in our age. He’s not married. He tells me that I am very mature for my age, so I do think we could have long term future together. We just need to make it through my Grade 12 year and then he said we can go away together to a city where I can do modeling and he can teach. I just can’t wait to get out of XXXXXXXXXX. Whoops, I guess I just told you where I live. But remember that you promised me before that you would not do anything without my permission in response to all this stuff I told you. So, I expect you will honor that promise.

Bye now. I won’t be calling you again because everything is fine in my life now. Thanks for listening to me when I’ve called before.

Scenario 2 / Student David / Focus on Teacher Performance

First call / Student David/ Mid October

Hi. I’m David, a 17-year-old Grade 11 student from XXXXXXXXXX. I’m a highly motivated student who plans to go to the University of Saskatchewan after I graduate from Grade 12. I hope to gain admission to the College of Medicine and have career in medicine. I know that it’s really important for me to have a good grounding in the sciences so I’ll be well prepared to handle science studies at the

University level. I understand that my marks in university science classes may have a big impact on my chances of getting admitted to medical college.

Most of my educational experience in high school has been really great. Until now, all of the teachers I've had have been really good at helping me to succeed in my studies. They all seemed to actually enjoy teaching and I looked forward to my classes with them.

Unfortunately, I can't say that about my current chemistry teacher. He's a dud. He just seems like he'd prefer to be anywhere but in the classroom with us. He seems distracted and not particularly interested in the subject matter he's teaching. I understand he has taught the same chemistry class for the last 15 years. Maybe he just got bored or burned out.

I don't get any value out of attending his classes. I could probably learn just as much or more by just reading the text and doing some online learning.

I wouldn't feel so strong about this if I wasn't so concerned about being well prepared for university level studies in a couple of years from now.

I talked to my parents about this and they aren't nearly as concerned as I am. They keep telling me that I'm really bright and having one bad class in Grade 11 is not likely to torpedo my chances of doing well in university and getting into medicine. They know my teacher, Mr. B, really well. He and his wife are actually close friends with my parents. My parents told me in confidence that Mr. B's wife has cancer and he is worried sick about her. They said he's under a lot of stress right now so I need to "cut him a little slack."

My parents were older when I was born so they are both retired now. They were both teachers and I feel they have a strong sense of loyalty to other teachers. It's almost as if they have been indoctrinated to never be critical of a fellow teacher.

Now that I know what's happening in Mr. B's life I do really feel sorry for him. But it still really bothers me that this bad experience in Grade 11 chemistry will harm my future success.

What can I do?

Second Call / Student David/ mid November

Hi it's David again. I went and spoke with the principal at our school like you advised me to do.

My mom came along to the meeting but I wish she hadn't.

I told the principal about all of my concerns. He listened intently and did seem to be genuinely concerned about what he was hearing from me. He didn't ask me any questions in respect to the situation I described to him. He proceeded to deliver what almost seemed to me like a "canned speech" about the school being absolutely committed to the success of all of its students. But he never gave any indication about how he was going to address my concerns.

I was just about to ask him that question when my mom butted into the conversation and essentially suggested that I might be over-reacting in this situation. I was so disappointed with her intervention that I just got up and walked out of the principal's office. I wouldn't accept a ride home with my mom because I was so angry. I told her I'd rather walk than drive with her after what she had done.

When we got home I tried to talk to both my mom and dad about the situation. They basically told me that Mr. B desperately needs support from our family in his life right now, and they would not be part of anything that could further hurt or stress him at this time. I felt like his welfare was more important to them than my education.

What can I do now?

Third call / Student David / mid December

Hi, it's David again.

So I was really pleased when you told me last time that the STF would send out a senior staff person to meet jointly with me and the principal. You said I should encourage my parents to join the meeting, but they wouldn't have any part of it.

They told me that Mrs. B is now experiencing severe pain from her cancer and that Mr. B needs our family's support more than ever.

I was excited when I when I was walking to the principal's office to meet with him and the person from the STF. I thought finally I will have the support from someone from the STF, because I understand the STF is really committed to high educational standards for all students.

Boy, did I ever read that one wrong. If I thought my parents were inappropriately protective of Mr. B, the staff person from the STF was even more so. I felt she was lecturing me about what a difficult job teachers have and that they deserve respect from students rather than being attacked when they are at vulnerable points in their lives.

However, before she left, she did me give an STF brochure that says that the STF will consider written complaints or concerns about a teacher from anyone including from students.

So if I write a written letter of concern to the STF about Mr. B's performance as a classroom teacher, can you explain to me fully what procedure the STF will follow to investigate and address my concerns?

APPENDIX B – Sources of Complaints

Complaints of Teacher Misconduct Received by the Saskatchewan Teachers' Federation 2000 -2013										
Year	Source of Complaint									Total
	Student	Parent	Other Teacher(s) Including Principals	School Division/Board or Senior Admin.	Member of the Public	Non Teaching Colleague	Intern	Gov't Official	Criminal Conviction Section 30	
2000		1	20	3	1					25
2001		1	8	2		1				12
2002	2	3	6	1	1					13
2003		2	7	1			1			11
2004		8	3					1		12
2005		2	13	1						16
2006	1	1	1	1					1	5
2007			6							6
2008			7							7
2009			1				1			2
2010		4							1	5
2011		1	3	4				1	1	10
2012		1	4	6						11
2013			1	3						4
Total	3	24	80	22	2	1	2	2	3	139

APPENDIX C – Disposition and Outcomes of Ethics Complaints

Ethics Complaints										Penalty					Appeals				
Year	Received	No Further Action by Executive Following Complaint	No Further Action by Executive Following Preliminary Investigation	Mediation	Hearings	Pending	Not Guilty	Guilty	None	Reprimand	Severe Reprimand	Certificate Suspension	Certificate Cancelled	Made	Lost	Won	Aband.		
2000	25	13	5	0	5	0	5	2	0	0	0	2	0	0	0	0	0		
2001	12	4	3	1	4	0	2	3	0	0	1	2	0	0	0	0	0		
2002	13	4	3	1	5	0	4	2	0	0	1	0	1	0	0	0	0		
2003	11	2	3	1	5	0	4	2	0	1	0	0	1	1	0	1	0		
2004	12	6	3	1	3	0	2	1	0	0	0	1	0	0	0	0	0		
2005	16	3	6	1	5	0	5	2	0	0	1	1	0	0	0	0	0		
2006	5	0	3	0	2	0	0	2	0	0	0	0	2	0	0	0	0		
2007	6	0	1	2	3	0	2	3	0	0	1	1	1	0	0	0	0		
2008	7	0	1	2	4	0	6	0	0	0	0	0	0	0	0	0	0		
2009	2	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
2010	5	4	0	0	1	0	0	1	0	0	0	0	1	0	0	0	0		
2011	10	0	1	1	8	2	4	4	0	2	0	1	1	0	0	0	0		
2012	11	1	5	0	5	2	3	1	0	0	0	0	1	0	0	0	0		
2013	4	1	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0		
TOTALS	139	38	36	10	50	5	37	23	0	3	4	8	8	1	0	1	0		
										23					16				

Competency Complaints										Penalty					Appeals				
Year	Received	No Further Action by Executive Following Complaint	No Further Action by Executive Following Preliminary Investigation	Mediation	Hearings	Pending	Not Guilty	Guilty	None	Reprimand	Severe Reprimand	Certificate Suspension	Certificate Cancelled	Made	Lost	Won	Aband.		
2011	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0		
TOTALS	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0		
										0					0				