



November 2, 2016

The Honourable Mitzie Hunter  
Minister of Education  
22<sup>nd</sup> Floor, Mowat Block  
900 Bay Street  
Toronto ON M7A 1L2

Dear Minister Hunter,

**An Open Letter to the Minister about Transparency Concerns**

The Ontario College of Teachers was privileged to present to the Standing Committee on Finance and Economic Affairs regarding Bill 37, the *Protecting Students Act* last Thursday, October 27, 2016.

We were grateful for the chance to present proposed amendments on eight specific items. However, only one of the eight is reflected in the changes going forward for Standing Committee consideration on November 3, 2016. As pleased as we are to see that the privacy of member health concerns will continue to be protected, we are disappointed that seven of our concerns appear to have been disregarded.

In 2011, the College commissioned former Ontario Justice Patrick LeSage to conduct an independent review of our disciplinary processes and practices. Our intent then, as it is now, was to see where we could improve. Our Council adopted Justice LeSage's report and 49 recommendations, which were focused on two key themes: efficiency and transparency. Alas, we believe that the latter has been seriously compromised in Bill 37 as it now stands.

Significant among our concerns is that information that has previously been considered available and accessible to the public will not be when the law is rewritten.

There are 834 discipline decisions available in the College's online library as well as on Quicklaw and CanLII. If the legislation passes as is, 376 of those decisions would have to be removed after three years. Decisions with findings of professional misconduct in which terms, conditions or limitations have been imposed on a member's certificate would no longer be available.

Our disciplinary hearings are open to the public. Justice LeSage recommended that those decisions must be published and available on our website with the name of the member. Further, he said that agreements arising from our complaint resolution

process should also be posted publicly, a practice that is already expected of health regulators under the *Regulated Health Professions Act*, 1991. In fact, as Ontario's health care regulators are being required to disclose more information to the public, the government seems to want us to conceal information that is now publicly accessible.

Ensuring public access to information is crucial to our mandate, transparency and accountability. Bill 37 as proposed would strike current and previous criminal proceedings from our public register along with details of allegations, whether in notices of hearing or decisions. We would argue that information must be fulsome to demonstrate to the public that justice is being done. Summaries are not sufficient to meet our mandate.

Without changes to Bill 37, teachers who marry their students would be exempt from allegations of sexual misconduct or sexual abuse regardless if the relationship began when the student was under the age of 18.

Without changes to Bill 37, the College would be unable to introduce information during a disciplinary hearing about the prior conviction of a member.

Without changes to Bill 37, a teacher whose certificate has been revoked may still be in the classroom, potentially putting further students at risk. Immediate revocation, in the event of an appeal, should apply in all cases, not just in relation to sexual abuse or child pornography.

The College supports the spirit of the proposed bill. We believe in transparency and public accountability. We believe in the privilege and principles of self-regulation. We also believe that, as written, Bill 37 is flawed.

Balancing the concerns of education stakeholders is not easy. In the end, however, legislative change must honour the rights of teaching professionals to fair, open and timely treatment but which serves the public interest first and foremost.

With respect, we ask that you amend Bill 37 to make the changes necessary to protect the public interest.

Sincerely,



Angela De Palma, OCT  
Chair of Council



Michael Salvatori, OCT  
Chief Executive Officer and Registrar

AD/MS/kb-ces