

# Teachers support regulation, amendments to Bill 35

By: Nathan Martindale Posted: 3:00 AM CDT Thursday, Mar. 23, 2023

## OPINION

Since the introduction of Bill 35, the proposed government legislation to create an independent teacher regulatory body, there has been some misunderstanding about why the Manitoba Teachers' Society opposes this bill in its current form.

Let's set the record straight.

You will get no argument from us about the importance of ensuring student safety, and teacher professionalism is a priority for us.



Nathan Martindale is president of the Manitoba Teachers' Society. (Winnipeg Free Press)

Teachers are the strongest advocates for keeping students safe. In fact, student safety is the first point in our Code of Professional Practice, which has existed for more than a century.

This strong commitment to student safety is reflected in the high level of trust that teachers are afforded by parents. According to a recent public poll, conducted by Viewpoints Research, 81 per cent of parents trust teachers to protect and maintain the safety of students.

However, Bill 35 goes beyond child protection and wades deeply and inappropriately into teacher competency.

Specifically, professional competency is not related to protecting children, the government's stated intent of this bill, and should therefore not be part of any legislative misconduct framework for teachers.

According to the proposed legislation, any person may make a written complaint to the commissioner and allege that a teacher has been or is incompetent to carry out their professional responsibilities.

We have serious concerns about who decides the competencies and who judges whether a teacher has failed to meet them. However, we are not opposed to regulation.

In fact, the teachers' society has advocated for credible, research-based standards for the profession since 2019 in our recommendations to the Manitoba Commission on Kindergarten to Grade 12 Education.

We have long recognized the importance of promoting a common language that fosters an understanding of what it means to teach, and we will enthusiastically participate in the development of standards to guide the professional practice of teachers, inclusive of setting consistent expectations across the province. Standards also support teacher education, career long learning and identification of professional development needs. In

fact, our Code of Professional Practice obligates teachers to make an ongoing effort to improve professionally.

Yet in our view, competency is an employer responsibility because it falls under the purview of performance. School divisions are the employer, and they are responsible for the day-to-day supervision and evaluation of staff. Bill 35 seemingly absolves school divisions from this obligation and offloads it to an arms-length, government-appointed, third-party commissioner and a hearing panel composed of a school trustee, member of the public and a teacher.

Since the panel is to be populated by two-thirds of individuals outside of the teaching profession, it unfairly tasks members without expertise in education to judge competency. Both the definition of misconduct and the inclusion of incompetence will subject teachers to the value-laden and biased perceptions of complainants, leaving teachers' careers vulnerable to frivolous, malicious and false accusations. Anything from how a student is graded to instructional content to classroom management to resource choices could be assessed as the cause of "significant emotional harm" or "incompetency," both terms that have been introduced in this legislation, but not defined.

This proposed panel composition is also inconsistent with the makeup of disciplinary panels for other professions in Manitoba. For example, under the Regulated Health Professional Act, which covers audiologists, speech language pathologists, paramedics, physicians and surgeons, registered nurses and registered psychiatric nurses, two-thirds of similar committees are populated by members within the profession, whereas one-third of the committee's membership is comprised of members of the public.

Public representation is important, but the individuals who are judging the conduct of a professional should hold that professional designation themselves.

Parents place a great deal of trust in us. It is not a responsibility we take lightly. Student safety is our No. 1 priority. Teachers also want the best teachers in classrooms. Pursuing professional excellence is how we safeguard the status of our profession and support a robust public education system.

Bill 35 is touted as legislation to protect students, but in instances of sexual misconduct a teacher is already held to account under the criminal justice system and through the established processes to suspend or cancel a teaching certificate. This bill does nothing to improve or enhance existing child protection laws and introducing competency complaints will not address this issue.

To be clear, the society does not in any way oppose more transparency, regulation and consistent and fair mechanisms to manage teacher misconduct. We do, however, earnestly want to separate misconduct from competency with a recognition that both are important but inappropriately conflated in this legislation.

Accountability in education is clearly desirable, but without evidence that teacher incompetence is a serious problem, the addition of teacher competence to a teacher misconduct framework is wholly unwarranted. Especially in the light of work planned to develop teaching standards and a professional development framework.

We will be bringing forward an amendment for the removal of teacher competence as part of this regulatory framework and an increase in the number of teachers on the hearing panel.

Nathan Martindale is president of the Manitoba Teachers' Society.