

KNOWING WHEN TO REPORT: *a primer for principals*

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Regardless of how long you have held the mantle of school leader, *up managing* a concern about a teacher is one of the most awkward situations you will face as a principal. Knowing what to report, to whom and when is not always clear. However, reporting comes with the territory and forearmed is ... well ... forearmed.

By definition, a teacher in a publicly-funded school in Ontario is a member of the Ontario College of Teachers. The law requires the Ontario College of Teachers to receive and investigate complaints against College members and to deal with discipline and fitness to practise issues.

The College receives complaints from four sources - members of the public, members of the teaching profession, the Minister of Education or the College registrar. When an employer notifies the College, the College registrar initiates a complaint in the public interest.

The *Ontario College of Teachers Act* impels employers - deemed as the Director of Education/Secretary of the Board - to notify the College when certain employment circumstances arise that involve College members.

A principal in a publicly-funded school is not required to report employment matters to the College directly. However, principals have a fundamental responsibility to ensure that the flow of information to the director complies with the Act.

Subsection 43.2(1) states:

An employer of a member who terminates the member's employment or imposes restrictions on the member's duties for reasons of professional misconduct shall file with the Registrar within 30 days after the termination or restriction a written report setting out the reasons.

This seems straightforward. Living up to the duty, however, can be quite complex. In deciding to report, an employer must determine whether the board's disciplinary action occurred for reasons of professional misconduct. To determine what constitutes professional misconduct, principals need a working knowledge of the Professional Misconduct Regulation 437/97 of the Act, which can be found on the College's website at www.oct.ca. There are 27 actions or omissions, which, if proven, stand as grounds for professional misconduct.

At first glance it would seem automatic to report a College member's termination. However, it is the why that is important, from the perspective of the College in adjudicating professional misconduct matters.

Termination for reasons related solely to employment may not need to be reported. For example, you would not need to report to

the College if a teacher is habitually late for work and fails to heed warnings about punctuality. The behaviour in question does not contravene the Professional Misconduct Regulation. However, the board must report to the College when it terminates the employment of a teacher for reasons such as fraud or assaulting a student.

It is common practice and expected that principals document teacher actions within school settings. School administrators often become the catalysts of a chain of events. With the enactment of the *Student Protection Act* in 2002 reporting requirements became even more stringent.

It may be more difficult to determine whether an employer's decision to impose restrictions on a member's duties arises for reasons of professional misconduct. Again, the restriction must be the result of professional misconduct. A principal who restricts a new teacher from extra-curricular coaching so that the individual can concentrate on classroom practice need not be concerned about reporting to the College. Such a restriction would generally be considered good school supervision.

However, a principal who restricts a new teacher from extra-curricular coaching because the teacher has been repeatedly warned not to use physical force as a method of coaching should consider advising their supervisory officer of the action to allow the employer to determine next steps.

Remember that through the Act's reporting mechanisms the employer is not filing a complaint with the College. The employer notifies the College and it falls to the registrar to determine whether to initiate a complaint against the member. Reporting itself does not automatically constitute a formal complaint.

It is up to the board, as employer, to write to the registrar and provide the name of the member with whom it has a concern, details of the incident(s) or event(s) and whether the member's employment status has changed as a result.

It is up to the College's Investigation Committee to investigate complaints. You may be called by a College investigator if further information is required. Employers sometimes share personal information reluctantly about a member, especially if it is health related. This caution is understandable. However, the Act allows the employer to share information at its discretion where and when it is appropriate.

Reporting potential misconduct is serious business. Principals are responsible for reporting information to their employers that may result in a report to the College. Make sure you have a good grounding in the legislative requirements and, when in doubt, call us. We will listen and provide whatever guidance we can.