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**Official Report  
of Debates  
(Hansard)**

**Thursday 27 October 2016**

**Journal  
des débats  
(Hansard)**

**Jeudi 27 octobre 2016**

**Standing Committee on  
Finance and Economic Affairs**

Protecting Students Act, 2016

**Comité permanent des finances  
et des affaires économiques**

Loi de 2016 protégeant les élèves

Chair: Peter Z. Milczyn  
Clerk: Eric Rennie

Président : Peter Z. Milczyn  
Greffier : Eric Rennie

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES  
ET DES AFFAIRES ÉCONOMIQUES**

Thursday 27 October 2016

Jeudi 27 octobre 2016

*The committee met at 0904 in room 151.*

**PROTECTING STUDENTS ACT, 2016  
LOI DE 2016 PROTÉGEANT LES ÉLÈVES**

Consideration of the following bill:

Bill 37, An Act to amend the Early Childhood Educators Act, 2007 and the Ontario College of Teachers Act, 1996 / Projet de loi 37, Loi modifiant la Loi de 2007 sur les éducatrices et les éducateurs de la petite enfance et la Loi de 1996 sur l'Ordre des enseignantes et des enseignants de l'Ontario.

**The Vice-Chair (Ms. Ann Hoggarth):** Good morning, committee members. I'm calling the meeting to order to consider Bill 37, An Act to amend the Early Childhood Educators Act, 2007 and the Ontario College of Teachers Act, 1996.

As ordered by the House, each witness will receive up to five minutes for their presentation, followed by nine minutes of questioning from the committee, or three minutes from each caucus. I ask committee members to ensure that the questions are relevant to Bill 37 and to keep them brief, in order to allow maximum time for the witnesses to respond.

Are there any questions before we begin? Okay.

**ONTARIO PRINCIPALS' COUNCIL  
CATHOLIC PRINCIPALS'  
COUNCIL OF ONTARIO  
ASSOCIATION DES DIRECTIONS  
ET DIRECTIONS ADJOINTES DES ÉCOLES  
FRANCO-ONTARIENNES**

**The Vice-Chair (Ms. Ann Hoggarth):** I would like to call the first witnesses, from the Ontario Principals' Council. If you'd come forward, please. I would ask you to state your name for the official record, and we will begin.

**Ms. Kelly Kempel:** Good morning. Thank you, Madam Chair, for allowing us this opportunity to appear today. My name is Kelly Kempel, and I'm the president of the Ontario Principals' Council. I am here today with Sarah Colman, general counsel of the OPC, and Joe Geiser, protective services co-ordinator of the Catholic Principals' Council of Ontario. I'm also representing ADFO, the French-language principals' association,

which is unable to be in Toronto today. Together, our three provincial associations represent over 7,500 principals and vice-principals in elementary and secondary school systems across the province in the public, Catholic and French systems.

Due to the limited time available for an oral submission, we'll also be leaving behind a more detailed document for your review and information.

**Ms. Sarah Colman:** I think you have that in front of you.

**Ms. Kelly Kempel:** Ontario's principals and vice-principals want to express our support for this bill and identify opportunities for improvements—improvements that we believe will result in a more effective College of Teachers and, as a result, greater protection for students.

Our primary concern with this bill is peer review. Principals and vice-principals are mandated by statute to belong to the Ontario College of Teachers and comprise about 4% of its membership, yet complaints against us normally range annually between 15% and 20% of all complaints investigated by the college, many of which come from teachers.

School leaders have additional qualifications required by law, perform different statutory duties and stand in a supervisory relationship to teachers, including being responsible for implementing the employer's interpretation of collective agreement terms as well as supervising, evaluating and disciplining teachers. This makes the role we perform substantially different from that of teachers and makes our members uniquely vulnerable to complaints, particularly when our professional responsibilities conflict with the interests of classroom teachers.

That's why it's imperative that we have our conduct judged by our peers, people who have walked in our shoes, fulfilled the same legislative duties and experienced similar working conditions.

Currently, there is only one principal on the 37-member college council, a council that is ruled by a majority of unionized classroom teachers. The council committees have not been consistently fair and impartial for our members because of the college's long-standing refusal to provide us with meaningful peer review.

Over the past decade, we've repeatedly raised this issue with the college and the Ministry of Education. In 2006, the government amended the Ontario College of Teachers Act in response to our concerns to enable the college to provide peer review for principals and vice-

principals by way of regulation. However, the college council refused to act.

In 2012, we made submissions to the Honourable Justice Patrick LeSage on this issue, and in his report, he specifically recommended that peer review be implemented as an important component of fairness for principals and vice-principals. Notwithstanding his strong endorsement and the acceptance of the vast majority of his other recommendations, the council initially did not accept his advice on this point.

Recently, the council appears to have softened its opposition by agreeing to provide a limited form of peer review. However, the council has continued to avoid making a regulation requiring peer review, despite having the legislative authority to do so.

That is why we are supportive of the amendment that would ensure a peer on a panel considering a principal's or vice-principal's conduct. However, true peer review can only be provided by ensuring that the person or people fulfilling that role have recent experience, either in the role or having supervised or supported that role in the past five years. After five years, they are less likely to be apprised of the legislation, regulations, board policy or school cultures. As a result, they are less able to put themselves in the shoes of an active principal or vice-principal.

**0910**

Furthermore, there should be a requirement that prevents two teacher-union members from forming a majority on the panel when a complaint is brought against a principal or a vice-principal. With two teacher members, our concerns about the professional conflicts of interest that can and do arise—

**The Vice-Chair (Ms. Ann Hoggarth):** Thirty seconds.

**Ms. Kelly Kempel:** —between these occupational groups will persist.

Finally, peer review should not be denied in cases where one committee member determines whether a resolution reached through that complaint process would be acceptable. A single member is making that decision; a single member should be the peer.

We also have support from the supervisory and directors' associations in all four systems.

In our leave-behind paper we address other issues in addition to complaint resolution, the register, procedural fairness—

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you for your presentation.

**Ms. Kelly Kempel:** Thank you again.

**The Vice-Chair (Ms. Ann Hoggarth):** The first round of questioning will come from the official opposition.

**Mr. Lorne Coe:** Chair, through you to our delegation: I'm on page 2 of the handout that you provided to committee members; in particular, the final paragraph that is a preamble to your suggested amendment. I'd like to understand a little bit more around why you feel that

there's an institutional bias at the college with respect to this discussion of peer review.

**Ms. Sarah Colman:** Hello; Sarah Colman, general counsel from the OPC. We have numerous examples, and I handle a large number of responses, on behalf of our members, to the college. We've identified some institutional bias in a number of different ways at the college, including the fact that principals and vice-principals have not been reflected in the college's publications. The magazine rarely reflects the role of the principal and talks only about principals in terms of how they might support teachers. Principals and vice-principals, as a stand-alone role, really haven't in the past been acknowledged as full members of the college, with their own interests, concerns and professional realities. That's one way in which we've observed an institutional bias.

The other way is through the legal processes at the college, where we have seen complaints come forward, from teachers most particularly, where the matter relates to something that teachers more generally have a position on, such as changing a student's mark, for example. Teachers feel strongly that that is their professional role—to assess student work—but the legislation gives authority to principals to make changes where, in their professional judgment, that's necessary or important. We have seen complaints come forward from teachers about this issue. We have seen how the college has judged those complaints and have seen those matters being referred for discipline, for example. That's just one example of a professional conflict of interest where, when there is a majority on the panel who are teachers, we have a concern about fairness.

**Mr. Lorne Coe:** I thank you for that answer.

I'd like to turn to another subject, if I could, please. Chair, through you, it's on page 4 and it has to do with the information on the college's register. It's the amendment that you're proposing, amendment 5. It speaks to ensuring that the explicit details of the terms, conditions, and limitations in fitness-to-practise cases are not required to be posted.

**Ms. Sarah Colman:** Right.

**Mr. Lorne Coe:** The example that is the extension of that particular amendment speaks to, "These details often reveal private medical information..." The basis for my question is the balance that I think we try to strive for, and I know you do too, in terms of the public's right to know.

**Ms. Sarah Colman:** Absolutely.

**Mr. Lorne Coe:** How often, in your experience, is the last sentence—

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you, MPP Coe.

**Mr. Lorne Coe:** Thank you.

**The Vice-Chair (Ms. Ann Hoggarth):** We move now to the third party. MPP Taylor?

**Miss Monique Taylor:** Good morning. Thank you for being with us this morning. I apologize for being late. There were some scheduling issues, so I did miss your presentation, which I apologize for.

Did you need extra time to speak about something that you didn't get a chance to? Would you like to have a moment to have an extra say on something while I do a quick brief?

**Ms. Sarah Colman:** Sure; we could answer the question that was asked of us.

**Miss Monique Taylor:** Please go ahead.

**Ms. Sarah Colman:** I would say that in terms of fitness-to-practise matters, the vast majority of cases that come forward are coming forward because the member has been rendered incapacitated by a medical issue. What we are suggesting is that on the register page, it indicated that there are terms, conditions and limitations imposed on the certificate, but not the details of those. Often those details reveal whether the person has to attend AA, for example, or has to take other counselling for a mental health issue, or needs drug testing. Those details would reveal the nature of the person's disability and reveal very private and personal medical information. So while we agree that the public has a right to know that there are terms and conditions or limitations on a certificate, they should not in those fitness-to-practise cases know the details of those because of the private information that it would reveal.

**Miss Monique Taylor:** So you would still ask—sorry; I'm just kind of going out on a limb here—for the suspension and that would still be happening, but there would be confidentiality about what was going forward with the actual person, I guess, in question until something was actually concrete?

**Ms. Sarah Colman:** Well, the way the register works is that it records outcomes of matters that have already been determined. Once a decision has been made and terms, conditions or limitations have been imposed, we absolutely agree that the fact that there are terms, conditions or limitations should appear on a certificate, but not the nature of those, in the fitness-to-practise realm. We agree that in the discipline side of things, the disclosure of those terms and conditions is appropriate, but in fitness-to-practise, when it's dealing with such intimate, personal health information, those details should not be there.

**Miss Monique Taylor:** Okay. Did you have any other comments about possible amendments or things moving forward with this bill that you would like to see?

**Ms. Sarah Colman:** Yes, we have a number of other items in the submission that we have left with you. One of the most important, from our perspective, is in respect of complaint resolution. Right now, the list of items—

**The Vice-Chair (Ms. Ann Hoggarth):** I'm sorry, your time is up. We move to the government questioning, please. MPP Anderson.

**Mr. Granville Anderson:** Good morning, and thank you for being here this morning. Did you have something that's important that you want to finish off?

**Ms. Sarah Colman:** Sure, we would appreciate that opportunity. Thank you both.

In terms of complaint resolution, right now the way the bill is worded, it would suggest that matters that

would result in a reminder or an admonishment, those kinds of lower-level outcomes, could be dealt with by way of complaint resolution, and we agree that that's appropriate. But what's missing is that a number of cases have an outcome of "take no further action," or a dismissal of the complaint. Those, too, should be eligible to be dealt with in the complaint resolution process. That is what's happening currently at the college. Those outcomes are possible through complaint resolution. Obviously, all of those matters go to the investigation committee for a decision on that, but they are processed through the complaint resolution process. We think it's important that if a complaint is so trivial that the college assesses that it is likely to result in a no-further-action outcome, it should be able to be processed through complaint resolution, because those are the least serious.

**Mr. Granville Anderson:** As principals, you bring a unique voice to the conversation. One of the fundamental themes of the LeSage report was transparency. I believe, judging from your comments, you're supportive of the bill.

**Ms. Sarah Colman:** Yes.

**Mr. Granville Anderson:** You spoke about peer review; the bill does allow for peer review. I wonder if you wanted to expand on that. What would you like to see in the composition of the peer review mechanism?

**Mr. Joe Geiser:** Joe Geiser from the Catholic Principals' Council. We would see that peer review, to be authentic, should have a minimum of two of the three panel members judging—any of the committee members—a principal or a vice-principal.

**Mr. Granville Anderson:** Okay, so you would like to see two or three members—

**Mr. Joe Geiser:** I'll give you a recent example. Recently, one of our members from the Catholic Principals' Council was brought before the college by one of the unions, a teachers' union. It hasn't proceeded, but if that had proceeded, the likelihood would be that we would have a majority of teachers on that discipline committee actually adjudicating or making a decision about a principal. We are asking that there be a minimum of two principals or vice-principals on that committee, or those with recent five-year experience in the role.

**Mr. Granville Anderson:** Okay, thank you.

The government recognizes the vital role principals play in our schools, including keeping our children safe and preserving public confidence in the Ontario school system. Can you please tell the committee how—

**The Vice-Chair (Ms. Ann Hoggarth):** I'm sorry, MPP Anderson. Your time is up.

**0920**

I'd like to thank you for your presentation, and I'd like to remind you that if you have any further written submissions, they must be to the Clerk of the Committee by 6 p.m. today.

At this time we'll call the next presenter, the Ontario College of Teachers. I would ask you to state your name for the official record, please.

*Interjections.*

COLLEGE OF EARLY CHILDHOOD  
EDUCATORS

**The Vice-Chair (Ms. Ann Hoggarth):** Is the College of Early Childhood Educators here? Are you ready? Okay. We'll call them, and then we'll go back.

Good morning. State your name for the Hansard, please.

**Ms. Lois Mahon:** Good morning. I'm Lois Mahon, and with me is Beth Deazeley, our registrar and CEO. I'm a registered early childhood educator and have been president of the Council of the College of Early Childhood Educators since 2009. Thank you for the opportunity to speak today.

Since our time is limited, we will be using the acronym RECE when we talk about registered early childhood educators. There are currently more than 50,000 of us educating and caring for children from birth to 12 years in settings including licensed and unlicensed child care, community programs and schools, including full-day kindergarten.

The college is pleased to see that the government is serious about protecting our youngest Ontarians through the introduction of Bill 37, the Protecting Students Act. It's important to note that many of the proposed amendments related to the College of Teachers were already made for the college of ECEs in 2015 as part of the Child Care Modernization Act, and we have already implemented them.

We know that the vast majority of RECEs are competent and professional. That said, each year, a very small percentage are subject to the college's complaints and discipline processes. In the interest of both the public and the RECEs involved, it is critical that those processes are fair, efficient and transparent. To support that, the college has provided a written submission setting out some proposed amendments to Bill 37. We hope that the committee will take this opportunity to ensure that the bill that is passed is the most effective one possible in order to protect the children and families of Ontario.

**Ms. Beth Deazeley:** Most of our suggestions are actually minor drafting points on the proposed language in Bill 37. We've outlined them in our written submission. If there are questions, we'll be pleased to address them.

We've also requested a new provision that would create a roster from which to draw discipline panels. Due to the changes in our act last year, which expanded the obligations on employers to report to the college if they suspend or terminate the employment of an RECE, we're experiencing an increase in the number of investigations and want to be sure that we're ready to deal with those that proceed to the stage of a discipline hearing in a timely manner. One of the biggest challenges can simply be scheduling panels to preside over hearings. The roster would expand the pool of individuals who are available to serve. The College of Teachers has a similar provision in its act.

What I really want to talk to the committee about today is the one part of my role that makes me lose sleep.

Ensuring that the youngest and most vulnerable children in Ontario are cared for by competent, ethical professionals is an enormous responsibility. Generally, the college has the processes, the powers and the resources to do that, and we're very proud of our track record of success. However, there is one critical gap that we feel puts children in Ontario at risk. Part of our college's mandate is to investigate cases when an RECE may be suffering from a physical or mental disorder which is affecting their ability to practise the profession and safely care for children. The college has the power to restrict or suspend the ability to practise if an RECE is found to be incapacitated. This is necessary, and it's a power that nearly all regulators in Ontario have. What our college does not have is the authority to obtain the medical evidence that we would need in order to make such a finding of incapacity, which makes the fitness-to-practise process almost impossible to use. It leaves us, as the regulator, in the position that we may believe that an RECE is suffering from a physical illness, a mental disorder or an addiction, and yet be unable to prove it, and therefore unable to ensure that appropriate restrictions are placed on their ability to practise before a crisis occurs.

In most professions, including all regulated health professionals, lawyers and human resources professionals, their college can order a physical or mental assessment by an expert to help determine whether the individual is fit to practise and what support they may need. What we're asking for is for our college to be given that authority as well.

This protects the public interest and supports RECEs in obtaining an appropriate diagnosis and professional recommendations on how to safely return to work and, hopefully, achieve a long-term resolution in a way that respects the privacy of the RECE. The results of an assessment could only be used by the college and the RECE. While the public register would reflect restrictions on the ability to practise, it would not reflect personal medical information.

RECEs are responsible for the safety of children as young as infants. Many of them work in small centres or may work alone, and the possibility that children could be left in the care of someone who is incapacitated by a disorder could lead to tragic consequences.

**Vice-Chair (Ms. Ann Hoggarth):** Thank you. This round of questioning will start with the third party: MPP Taylor.

**Miss Monique Taylor:** Thank you very much, Chair.

Good morning. Thank you so much for being here today and for participating in this process. I will share my time with you to expand on anything you wish to speak on further.

**Ms. Beth Deazeley:** I think, probably, where we really want to focus is on the issue of obtaining the medical assessments. You have our written submission in front of you, and we have some further information in there as to how that actually works in practice. It starts around page 4—particularly some of the safeguards around the process.



There's a very high threshold to be able to use that kind of power. It would only be ordered by the complaints committee, and they have to reach a reasonable level of concern. They have to have real grounds to believe that there's an issue. It certainly isn't something that staff could use or that could be done when there wasn't significant evidence or a real concern. In addition, nobody can be assessed against his or her will. A member who is simply unwilling to undergo an assessment would generally be subject to a suspension of membership, but we certainly can't force anybody to be assessed, which I think is also an important point.

This really does help us to move towards the most effective resolution and to support the member as they deal with the issue and return to practise in a safe way, so that we're making sure that the public is protected and at the same time ensuring that there is a fair and efficient process in place for ECEs.

**Miss Monique Taylor:** Thank you. So, currently, and with these changes moving forward, you could definitely see the process being at risk with the lack of proper enforcements, would you say?

**Ms. Beth Deazeley:** At the moment, we feel that we're missing this one key tool in order to be able to execute the mandate that has been given to us under our legislation. Having that tool would enable us to do that.

**Miss Monique Taylor:** So, without that tool, you would be pretty much in the same position of not being able to enforce any thoughts or concerns that you might have?

**Ms. Beth Deazeley:** It's extremely difficult to address them, yes.

**Miss Monique Taylor:** Thank you. Do you have any further comments? I'm sure there isn't much time left.

**Ms. Beth Deazeley:** No, thank you.

**The Vice-Chair (Ms. Ann Hoggarth):** You have one minute left.

**Miss Monique Taylor:** I'm good. Thanks, Chair.

**The Vice-Chair (Ms. Ann Hoggarth):** Okay.

Moving the questioning to the government: MPP Martins?

**Mrs. Cristina Martins:** First of all, I just wanted to say thank you for being here and also for being present when this bill was reintroduced here. As the mother of two young boys, 12 and 10—it just seems like yesterday that they were in daycare and nursery, and I appreciate the work that the RECEs do and the role that they have. So I wanted to thank you for that.

You referenced earlier a number of amendments that happened last year with the Early Childhood Educators Act as a result of the Child Care Modernization Act that came into effect in response to Justice LeSage's recommendations. Can you tell the committee how those changes have been implemented and how they have benefited families with children in early childhood education?

**Ms. Beth Deazeley:** Certainly. Many of the changes that were made as a result of the Child Care Modernization Act reflected the recommendations of Justice

LeSage. We have certainly implemented all of those. The majority have to do with increasing transparency and making sure, for example, that full information is reflected on the register and that discipline committee decisions, for example, always reflect the name of the member involved. It also included provisions such as mandatory revocation for a minimum of five years for all offences involving sexual abuse. Those were actually all practices that the college had in place before the changes were made. We have certainly implemented everything that was required.

**Mrs. Cristina Martins:** Wonderful. Can you tell us what the College of Early Childhood Educators could do to further promote transparency for parents, members and employers?

**0930**

**Ms. Beth Deazeley:** I think that a number of the changes that were made as a result of the Child Care Modernization Act certainly helped us to do that. The expansion of the employer reporting obligations from purely applying to school boards to now encompassing everybody who employs ECEs goes a long way, as well as the provisions that allow us to share information as necessary with either law enforcement or with other regulatory bodies.

**Mrs. Cristina Martins:** Wonderful. Thank you. Once again, thank you for being here, and thank you for your input here today.

**Ms. Beth Deazeley:** Thank you.

**The Vice-Chair (Ms. Ann Hoggarth):** The questioning will now move to the official opposition: MPP Coe?

**Mr. Lorne Coe:** Thank you, Chair, and through you, thank you very much for your delegation. I appreciate your being here. I want to stay with the physical and mental examination of members. I've read through your presentation. In particular, it provides the case for why you're requesting it, but it does beg the question about the extent of incidents where you have members who you suspect are incapacitated.

**Ms. Beth Deazeley:** I think that, as professionals and as humans, none of us are immune to the possibility that at some point during the course of our careers we may be subject to either a physical or mental issue that, for a period of time, affects our ability to practise. So what we want to be sure of, in this case, is that we have the appropriate tools available to support individuals in dealing with those issues, just as they would be dealt with by any of the other regulated professions.

**Mr. Lorne Coe:** So you just want to make sure that there's a check and balance and the remedies exist within the legislative framework to accomplish that?

**Ms. Beth Deazeley:** Absolutely. In the absence of an effective fitness-to-practise process, the default is that the issues have to be dealt with via the disciplinary mechanism in order to ensure that the public is protected. However, the fitness-to-practise process allows us to work with the RECE to address the root cause of the problem

and to support them in returning to practice safely and enjoying the remainder of their career.

**Mr. Lorne Coe:** Chair, through you, and turning to a different area of discussion here: In your experience and in your review of the legislation, are you satisfied that it provides adequate safeguards for your membership relative to false accusations?

**Ms. Beth Deazeley:** The processes that are set out in the legislation are transparent and they are fair, absolutely, to RECEs, in that there is a full opportunity to respond to allegations, they are dealt with in an open hearing, and the eventual decision is available to the public. It's on the website and it's circulated in our member publication. It can certainly be circulated more broadly. There is a particular provision in there that allows for broader circulation in the event that the complaint is found to be unfounded, because it does recognize that concern with fairness to RECEs and the possible impact of those types of allegations.

**Mr. Lorne Coe:** Thank you for that answer. Thank you, Chair.

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you for your presentation. If you have any further written submission, I would remind you that it needs to be to the Clerk of the Committee by 6 p.m. today.

**Ms. Beth Deazeley:** Thank you.

**Ms. Lois Mahon:** Thank you.

#### ONTARIO COLLEGE OF TEACHERS

**The Vice-Chair (Ms. Ann Hoggarth):** I'd like to call the Ontario College of Teachers as our next presenter, please. Please make sure that you state your name for Hansard. You have a five-minute presentation, followed by nine minutes of questioning.

**Ms. Angela DePalma:** Good morning. I'm Angela DePalma, chair of council of the Ontario College of Teachers. We want to publicly thank the government for moving to reintroduce this important legislation and thank you publicly for the opportunity to address it today. Our support for the spirit of the proposed bill is aligned to our belief in and continuing commitment to transparency and accountability. We are confident that that will become explicit over the next few minutes.

We'd like to start by saying that professional misconduct in Ontario is rare. There are 243,000 Ontario-certified teachers, and in any given year, fewer than 20 lose their licences to teach. The attention that teacher misconduct receives is significantly out of proportion to the ongoing examples lived by our members every day in this province. The vast majority are exemplary professionals who demonstrate the high ethical and practice standards expected of Ontario educators. Every day, they care for children, oversee their safety and nurture their growth and achievement.

That said, we treat every concern, every complaint, every investigation and every hearing with the utmost seriousness. We act with the highest respect for student safety, for the fair, open and timely treatment of our

members, and in an appreciation of the public's right to know.

The Ontario College of Teachers licenses teachers to work in publicly funded Ontario schools. It accredits the programs and courses that enable people to become teachers and to remain vital and current in their practice. We have established the ethical standards for the profession and the standards of practice for teaching and, going on 20 years now, we have been enforcing Ontario law with respect to matters of professional misconduct, incompetence and fitness-to-practise involving our members.

According to the Education Act, to be a teacher is to be a member of the Ontario College of Teachers. We are the profession's regulator and we operate in the public interest. We are the organization responsible for commissioning an independent report on our disciplinary processes in 2011 by former Ontario Justice Patrick LeSage. Our council adopted his report in its entirety. Of his 49 recommendations to improve our disciplinary processes and actions, we acted immediately on 23; that is, everything within our power to act on.

The Protecting Students Act, 2016, addresses the remaining recommendations, with the exception of two changes which require regulation. While Bill 37, as proposed, addresses the spirit of the recommendations, it can be improved.

**Mr. Michael Salvatori:** Good morning. My name is Michael Salvatori. I'm the CEO and the registrar of the Ontario College of Teachers. Thank you for the opportunity to address your committee.

We have some thoughts and concerns which we would like to bring to your attention. We have them in a briefing document that we'll leave behind for your review, but during this presentation, we'd like to draw your attention to three issues: the posting of decisions on our website for public information; withholding sensitive medical information; and language that would exempt spouses from allegations of sexual abuse or sexual misconduct.

With respect to the posting of decisions, we believe that decisions that come out of our publicly held hearings should always be publicly accessible. If Bill 37 is enacted as it is, discipline decisions dealing with suspensions, cancellations, revocations, withdrawals and non-finding verdicts would be the only decisions that would remain on the college's website indefinitely. Other decisions that would impose terms, conditions or limitations on a member's certificate would be removed from the website. Consequently, they would no longer be available to the public, despite findings of professional misconduct. Clearly, this is a misrepresentation of transparency.

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 extended his recommendation about transparency to agreements arising from complaint resolution processes, a practice that is already common to other professional regulators in Ontario, notably those in health care.

**The Vice-Chair (Ms. Ann Hoggarth):** Thirty seconds.

**Mr. Michael Salvatori:** The college now posts all decisions to its website and shares the information with Quicklaw and CanLII.

With respect to the withholding of medical information, we do not currently place explicit details on a member's public register profile. When they are health-related or highly personal, we redact that information. The bill, as it is, would not allow us to do so.

Finally, with respect to the spousal exemption, we did not anticipate that the bill would contain an exemption for spouses. If it is maintained, we would advocate for the definition of "spouse" to be—

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you. This round of questioning will go to the government. Mr. Rinaldi.

**Mr. Lou Rinaldi:** Thanks for being here. Thanks for what you do every day. I thought maybe I should address my question in Italian, but maybe I won't.

Can you just—some clarification. We know Justice LeSage was sensitive in his report to the need for both increased transparency for families and fairness for the individual teachers going through the disciplinary process. He stressed that. Can you tell us how OCT's proposed amendments will help strike an appropriate balance between, on one hand, promoting transparency and protecting students, and on the other hand, ensuring there is a fair system in place to respect the teachers? Can you elaborate on that a bit?

**Mr. Michael Salvatori:** Absolutely. The process is one that does allow for the member to provide representations. The moment that there is a complaint, the member is informed and has an opportunity to present his or her case. At that point, none of the information is publicly available. It's only at the point that a three-person panel has determined that the allegations relate to conduct, fitness to practise or competence, and then refers it to a public hearing, that it would be made public. The information in the earlier stages is not. Then the member has an opportunity to have a defence during the hearing. Following the hearing, if there is a finding, there is an appeal mechanism for the member as well.

0940

**Mr. Lou Rinaldi:** Thank you. Han, did you have something you wanted to add?

**Mr. Han Dong:** Yes, it's just was in regard to—

**The Vice-Chair (Ms. Ann Hoggarth):** MPP Dong.

**Mr. Han Dong:** Thank you, Chair. It was in regard to the bill. Bill 37 is calling for a more robust—actually requiring reporting to the employer. In your view, how will these proposed requirements go to protect all our students, in the spirit of the bill?

**Mr. Michael Salvatori:** I think that the reporting to the employer is an important and essential element in the process, so that the outcome is known to the employer. Currently, we do report to employers, but we are restricted in certain cases: whether we're reporting to the employer who reported the allegations or to the current

employer. The changes would allow us to report to both employers, which we think is in the public interest, and allow them to make a decision, from an employment perspective, based on the facts that they would receive in the decision.

**Mr. Han Dong:** Thank you.

**The Vice-Chair (Ms. Ann Hoggarth):** We'll now move to the official opposition. MPP Barrett.

**Mr. Toby Barrett:** Thank you for coming forward. As we know, people are very concerned about the safety of their children with respect to sexual misconduct and child pornography. Society has measures in place, and the police has put a spotlight on these kinds of issues.

During debate, there was concern with respect to teachers or early childhood educators who could be falsely accused. I'm a former teacher, and I have a community down my way where the hysteria kicked in. With respect to false accusations, we're told that this legislation sets out the details not in the legislation but in regulation. Do you have a problem with that, or should we try and get it right in the legislation itself rather than leave it to someone else to come up with some regulations?

**Mr. Michael Salvatori:** In many cases, our act gives us the authority to develop regulations based on the act. In most of those cases, they function quite well. We don't necessarily have any difficulty with this provision.

As well, as I said earlier, I think there are provisions throughout the process in our due process to ensure that a member has an opportunity to represent him- or herself, and again through the appeal mechanism if there were a finding. But we don't see any particular issue with not embedding the elements in the act, but rather in regulations.

**Mr. Toby Barrett:** Okay. So we don't get to deal with that here. We have to trust someone else on that one.

The bill stipulates that a committee have hearings before deciding on revoking a teacher's licence; also, hearings to reinstate someone back into the system if they've been convicted. My question: Do we have confidence in the membership of the committee that hears these hearings? Will there be experts in this field?

**Mr. Michael Salvatori:** Currently, the panels would be constituted from our governing council, who do receive training in hearings. We think that it is important that the reinstatement hearing occurs. If a panel has decided that a certificate should be revoked, then it's important that there be a hearing also to judge whether that should be reinstated.

Currently, in our experience, it's quite rare that a member would request a reinstatement of his or her certificate and, in most cases, even more rare that a panel would decide to reinstate a member, because the earlier decision was really based on whether the public trust has been breached to the extent that a member could not regain that trust and return to ethical practice.

**Mr. Toby Barrett:** Should there be someone on this panel from children's aid or a lawyer or a psychologist or an expert in child abuse or pedophilia—

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you. The time is up.

We'll move the questioning to the third party. MPP Taylor.

**Miss Monique Taylor:** Good morning. Thank you so much for being here today and through this process as many times as it has been before this House, as well as providing your recommendations and concerns moving forward.

I completely understand the need for protecting our students. There's not a doubt that everybody feels that need. But I'm also wondering about the thoughts of protecting a person who could be put into a position and could be innocent. What are the mechanisms that are going to be in place to ensure that if a person has been falsely accused of something—which we know could happen very easily—what provisions will be there to ensure that they can come out at the end of the day and possibly return to work?

**Mr. Michael Salvatori:** We do a lot of work with employers and with others on the complaint process and what would substantiate a complaint, so we do feel that the education that we're doing around allegations and the seriousness of that helps. As I mentioned earlier, there is also due process afforded to the member and ample opportunity for the member to provide evidence to the contrary that would refute the allegations.

If it's referred to a hearing, the member is normally represented by legal counsel. If they're a member of a federation, it's usually the federation that provides that counsel and provides them with a rigorous defence; the college serves as prosecution. Then the adjudicators, members of our panel, would make the decision.

If there is no finding, the decision is also made public, so there's an opportunity for the member to show that he or she has been exonerated or that there has been no finding. If there is a finding and they feel that it is unfair, there is also an appeal mechanism that would allow the member to appeal the decision of the college.

**Miss Monique Taylor:** Okay, thank you. The spousal portion: Could you go a little further and explain that, just for the record, please?

**Mr. Michael Salvatori:** In our brief, there's a little bit more information. We're either requesting that the spousal exemption be deleted or that there be a modification that would indicate that if the member and the student—and it may be an adult student—were spouses at the time of the allegations, there may be an exemption but it would not apply if there were a student-teacher relationship at the time of the allegations and they were married afterward or during the hearing. That would not exempt the member from the allegations.

We believe that a teacher is in a position of trust and authority over students. If a relationship is begun during that relationship, it should not be exempt from allegations of abuse or professional misconduct because later there was a spousal relationship.

**Miss Monique Taylor:** I understand the concept of it now. Is there anything else you would like to expand on?

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you very much. Thank you for your presentation. Just to remind you that if you have any further written submissions to send in to the Clerk, it needs to come in by 6 o'clock tonight.

**Mr. Michael Salvatori:** Thank you.

#### CHILD ADVOCACY CENTRE OF SIMCOE/MUSKOKA

**The Vice-Chair (Ms. Ann Hoggarth):** At this point, we'll hear from the Child Advocacy Centre of Simcoe/Muskoka. Would you please, when you get seated, give your name and position for Hansard?

**Ms. Jennifer Jackson:** Good morning. I'm Jennifer Jackson from the Child Advocacy Centre of Simcoe/Muskoka.

Every day at the Child Advocacy Centre of Simcoe/Muskoka, we see the immense impact on children who have experienced abuse. The majority of the children disclosing abuse identify a trusted adult as their offender—a person they should be able to trust. Outside of family members, there are few ways in which people who desire to sexually exploit children can gain access. For this reason, many sexual predators are drawn to positions or opportunities which increase their access and time spent with children.

There are different kinds of offenders that violate the boundaries with children within a child-serving organization. One is the opportunistic offender who may not have previously considered inappropriate interaction or contact with a young person but nevertheless is responsible for their exploitation. Other offenders have a long-standing inappropriate interest in children and methodically position themselves in a career where their intentions would not be deemed suspicious.

Grooming is the technique that an offender uses to manipulate a child into trusting him or her and feeling comfortable so that she or he can gain and maintain sexual access to that child. Grooming usually begins with subtle behaviours that, on their own, one would not identify as inappropriate. This process is often subtle and gradual. Before an offender begins the grooming process with a child, they must first gain the trust of all the other adults within that child's circle of support. Within the Ontario College of Teachers Act, grooming behaviours are identified as a serious offence.

#### 0950

Because it is human nature to repel the belief that one of our peers could be capable of such heinous acts, it is essential that a multi-disciplinary perspective be offered by a discipline committee. There is a great advantage to having a professional with advanced knowledge of the behaviours and the mindset of offenders who can best predict future risk. Without this specialized knowledge, one can misinterpret behaviours, displays of remorse and the intention of the offender. A discipline committee could be complemented by a clinician specializing in offender treatment, or a forensic psychologist.

Because educators are trained in duty to report but not necessarily in recognizing grooming behaviours, it cannot be expected that they alone can determine the safety of this individual to return to a teaching role, or the steps required for remediation.

In closing, we must honour the bravery of a child who discloses. Many times, the motivation for a child to disclose is the sense of responsibility to protect other children from the harm that they endured. It is the amendments to this bill that allow the necessary changes to be made to the disciplinary process to ensure the greatest degree of protection for our children in the future.

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you. The first round of questioning will be by the official opposition: MPP Barrett.

**Mr. Toby Barrett:** Thank you, Chair. Again, the concern in our society for child pornography and sexual misconduct—certainly in the broader society there are so many checks and balances in place, and measures to try and mitigate risk, assess risk and monitor people who may be doing this kind of stuff. Do you feel the changes proposed in this legislation are adequate?

**Ms. Jennifer Jackson:** I feel that it's a step in the right direction and that there are already improvements that are coming forward, and we're seeing that. I'm impressed with some of the things that I'm seeing to make sure that our kids are safer. It's such a problem that needs to be approached and attacked from every different angle, whether it's the education system, the child protection system, or educating children about the risk. It's good to see that within the education system there are more efforts being made to do those checks and balances and to protect our kids.

**Mr. Toby Barrett:** The other night, my wife and I happened to watch a film titled *Indictment: The McMartin Trial*. This was a case back in the 1980s, where the McMartin family were charged and they were jailed for alleged sexual molestation and abuse of children in a preschool in California. It ended up being the most expensive criminal trial in US history. We see where things can get out of control.

There are the checks and balances—the committee to have hearings for staff. It could be any staff, I suppose—teacher or early childhood educator.

My question—I didn't get an answer the last time; we ran out of time. Should we have a psychiatrist on that committee, someone from children's aid, a lawyer, an expert?

**Ms. Jennifer Jackson:** Absolutely. It's very hard for us to believe that our peers are capable of these acts. It's important to have a professional in that setting who is highly, highly aware of the nature of predatory behaviour. There are so many myths about sexual offenders, so many things that the common public believe about their actions that are potentially not true. It is someone with advanced knowledge, I think, that can really speak to that, and very few other people.

**Mr. Toby Barrett:** Okay; thank you.

**The Vice-Chair (Ms. Ann Hoggarth):** Okay. We'll move to the third party: MPP Taylor.

**Miss Monique Taylor:** Thank you, Chair. Good morning, and thank you so much for being here with us today and for travelling to get here to be a part of this committee. As an advocacy group, I'm sure your life is encompassed with horror stories and with things that have gone wrong. I hear your solution of having someone on the board that understands predatory behaviours, that knows of grooming behaviour. I can't say that I would agree that it would be a child protection worker or a lawyer because I'm not sure that they actually have those same skills that you would be looking for.

Do you have any other thoughts or amendments or just suggestions that you believe, being part of the field and being part of the advocacy—how would you like to see children protected better?

**Ms. Jennifer Jackson:** I do.

**Miss Monique Taylor:** Please share them with us.

**Ms. Jennifer Jackson:** One of the most critical things, one of the most powerful things that I think that we could do to keep kids safe in relation to the education system is to make a mandatory training opportunity for educators and administration with respect to exactly that: those grooming behaviours, the nature of a child sex offender and also the indicators of a child who may be groomed or who may be experiencing sexual abuse.

We work very closely with the Canadian Centre for Child Protection, and they offer exactly that: a program called *Commit to Kids*. With that training, we always say, "Once you know, you can never not know." There is work being done at the teachers' college so that every educator would have that training, and we'd really like to see that mandatory.

**Miss Monique Taylor:** And how have those discussions gone with the college, and have you tapped into unions and have you tapped into teaching bodies to have those conversations?

**Ms. Jennifer Jackson:** That negotiation and those communications are being had between the Canadian Centre for Child Protection and those organizations. We wouldn't be party to that process, but we do advocate and support that, very much.

**Miss Monique Taylor:** Thank you.

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you. We'll move to the government for questioning: MPP Dong.

**Mr. Han Dong:** Thank you, Chair. "Once you know, you can never not know." I like that. Thank you very much for the presentation. The bill, Bill 37, proposes to amend the definition of a student to include children, even if they are not currently studying in school. From your perspective, how will this change enhance protection for the vulnerable population, specifically children?

**Ms. Jennifer Jackson:** Can you give me an example of when someone who is not going to school would be considered a student so I can refer that?

**Mr. Han Dong:** That's what the bill proposes to change, to expand the definition to include, even if a child is not at school, they should also be considered

being reviewed the same as if they were in school as a student.

**Ms. Jennifer Jackson:** I'm not still 100% sure, but I can say—do you want to speak to that?

**Ms. Samantha Ward:** I think I can. I think a lot of—

**The Vice-Chair (Ms. Ann Hoggarth):** Can you state your name, please?

**Ms. Samantha Ward:** Samantha Ward, abuse prevention coordinator with the Child Advocacy Centre.

We see a lot of times that whether it's a teacher or an educator, they also play other very prominent roles within the community. They may be a hockey coach or a soccer coach—volunteer positions, things like that, so even outside of their role as a full-time educator, they do still have access potentially to other groups of children.

I think that expanding that definition from just “student” into “children” is definitely a beneficial movement. When the end result is going to be protecting as many children as we can, let's broaden the definition as wide as we possibly can.

**Mr. Han Dong:** That's great. Thank you. Do I have more time?

**The Vice-Chair (Ms. Ann Hoggarth):** Yes: one minute.

**Mr. Han Dong:** Can you just tell us a bit more about your working relationship, if you do have any, with local schools, school boards and community organizations?

**Ms. Jennifer Jackson:** I will let Sam answer that one.

**Ms. Samantha Ward:** My role within the community is actually working with and providing training around the grooming process, red flag identifiers of a child who may be experiencing abuse, with child-serving organizations, whether that be within a school or a daycare centre, a preschool, a minor hockey league or a soccer team. We go in and provide that training for their front-line staff, their volunteers or administrators for those staff who are working front-line with the children and youth, and also with the administrative staff who are going to be implementing the policies and reporting procedures based on misconduct within their organization, getting that all set up for them so those processes are clean, clear, transparent and much easier for staff to feel supported in.

1000

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you for your presentation. I'd remind you that the deadline to send a written submission to the Clerk of the Committee is 6 p.m. today.

**Ms. Jennifer Jackson:** Thank you very much.

#### BORDEN LADNER GERVAIS LLP

**The Vice-Chair (Ms. Ann Hoggarth):** Our next presenter would be Borden Ladner Gervais. Please come forward and state your name and your position for Hansard.

**Mr. Maciej Lipinski:** My name is Maciej Lipinski.

**The Vice-Chair (Ms. Ann Hoggarth):** You have five minutes for your presentation, followed by nine minutes of questioning.

**Mr. Maciej Lipinski:** Thank you. I'm an associate with the education group at Borden Ladner Gervais LLP. We act for school boards and independent schools throughout Ontario.

Our clients employ teachers. Our clients' foremost concerns include ensuring students' safety. In fulfilling their mission of ensuring students' safety, schools and school boards are guided by (1) the policies and codes of conduct that they have developed, (2) the provisions of the Education Act and its regulations, and (3) the regulation of teachers under the Ontario College of Teachers Act, which I will hereafter refer to as “the act.”

The amendments in the act proposed in Bill 37 represent a welcome addition to the frameworks that schools and school boards have available for ensuring students' safety and protection. We understand and appreciate that Bill 37 provides for measures that establish a high standard for the conduct of teachers while also ensuring that strict discipline is imposed where that standard is not met. Further, we understand and appreciate that Bill 37 provides for increased transparency of disciplinary proceedings undertaken by the Ontario College of Teachers, providing the public with increased assurance that these mechanisms are operating effectively and providing for accountability to the public where this is not the case.

We believe that Bill 37 is consistent with other recent legislative changes that have made important advances in the seriousness with which offences of a sexual nature, particularly against vulnerable people, are addressed in Ontario. Particularly, I would call the committee's attention to Bill 132. As of September 8, 2016, provisions of that bill amending Ontario's Occupational Health and Safety Act came into force and provided increased protections from sexual harassment at the workplace, including a provision for training to ensure that Ontario workers recognize sexual harassment when they see it.

With respect to schools and students in particular, Bill 132 will soon require Ontario's colleges, universities and private career colleges to put new policies and measures into place to ensure that students who are survivors of sexual violence are respectfully given a voice to report such incidents and, further, that prompt measures are available to ensure that other students are protected from experiencing similar violence where known threats exist on campus.

While recognizing the value of many of the measures under Bill 37, we believe that there is, nevertheless, room for improvement. Bill 37 can do more to ensure both the protection of students and, in line with measures such as those in Bill 132, take proactive steps that prevent sexual misconduct in the first place. There are three major points that I would specifically like the committee to consider.

(1) Bill 37 provides for the publication of disciplinary outcomes and the names of teachers who receive discipline. However, corresponding provisions to protect confidentiality by limiting such publication appear unclear on when and how the identities of impacted students are protected. We recommend that subsection 32.1(4) in

particular be amended to clarify the identities of persons who may request a restriction on the publication of such information. We further recommend that Bill 37 require the publication and periodic revision of the college's own redaction policies, based on input from parties who are affected by its disciplinary processes.

(2) Bill 37 requires reporting by a person or body that reasonably suspects harm but without providing tools for facilitating such reporting. We recommend, in line with changes to the workplace established under Bill 132, that Bill 37 similarly provide for the college to develop policies for training its members and others in recognizing and addressing signs of sexual misconduct and sexual abuse, as well as familiarizing these individuals with the disciplinary processes that follow from reporting these offences.

(3) Bill 37 provides for strict discipline against perpetrators of sexual offences but does not provide for support to survivors of such offences, and their families. We recommend, again in line with Bill 132, that Bill 37 make at least some minimum provision for communication between the college and the families of survivors to provide information about the disciplinary process, what's going on, its outcomes, as well as resources available in the community and elsewhere to provide support to these individuals where needed.

At this time, I thank you. Those are my submissions.

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you.

We'll move the questioning to the NDP: MPP Fife.

**Ms. Catherine Fife:** Thank you very much for your presentation and for trying to seek some clarity in Bill 37. Of the three priorities that you just identified, which would you prioritize? They're obviously connected in some ways. The last point around strict discipline and providing some supports: How do you see that happening, from the college's perspective?

**Mr. Maciej Lipinski:** I think that a simple procedure for communicating—whether in written form—simply to provide notice to families directly from the college, directly from the body that's undertaking the disciplinary processes in question, rather than funnelling communications through the intermediary of schools and school boards, but some direct communication, some open lines where—again, we're not talking about extensive provision of counselling and resources. We're simply talking about the disclosure of information so that families of survivors and survivors themselves are not left in the dark as to what's happening, as to what the process is, and that they're aware of what's going on, opportunities to participate and opportunities to receive support.

I think that's significant because it, again, provides these individuals with a sense of where things are at so they can proceed to move forward when terrible things have happened.

**Ms. Catherine Fife:** Are you proposing something like a restorative justice process? Would that be a formal recommendation?

**Mr. Maciej Lipinski:** Not necessarily something as extensive as a restorative justice process, where we have

an engagement between the survivor and the alleged perpetrator or perpetrators, as it may be, but simply a direct line of communication between the college and families themselves.

Again, it's simply a provision of information—a regular update. When a major development in the proceedings has occurred, such as after a hearing, the family would receive some sort of written communication, or a telephone call, or have a telephone number available to them where they could call in and receive such information. I imagine that that might be available currently, but we'd like to see some specific policy established around that.

**Ms. Catherine Fife:** You mentioned earlier in your comments that you would see the intermediary of the board being problematic in that. You see the college having an improved or increased responsibility around communication and relaying information. I'm only taking this as in order to provide some closure, but you specifically would not want the boards to be involved with that?

**Mr. Maciej Lipinski:** I raise it because, again, communication is most effective when it's direct. I wouldn't necessarily say that it would be problematic to involve school boards—I'm sure that school boards would be happy to participate—but simply that involving more parties in a communication process such as this—

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you.

We'll move the questioning to the government: MPP Anderson.

**Mr. Granville Anderson:** Mr. Lipinski, thank you very much for being here. I'm familiar with your firm. You did some work with my former board as well—your firm did.

**Mr. Maciej Lipinski:** Thank you. I appreciate that.

**Mr. Granville Anderson:** You touched on two points: one that MPP Fife touched on about support for families, etc.; you also touched on preventative measures. I believe that you would be talking about professional development and that type of thing.

**Mr. Maciej Lipinski:** Yes.

**Mr. Granville Anderson:** Do you want to elaborate on what the preventative measures would look like?

**Mr. Maciej Lipinski:** Certainly. I think that this speaks most to my second recommendation of providing some sort of requirement that policy be developed by the college in terms of training its members and, where appropriate, training others in the school community to recognize the forms of misconduct contemplated by Bill 37, where they occur.

Bill 37 proposes—particularly under the new section 47.1—that a body or individual who reasonably suspects that this sort of misconduct is happening report it to the college. However, as Bill 37 has recognized and as the previous speaker before you has raised, it can be difficult, in these sorts of circumstances with respect to this type of misconduct, to know when one sees something and wants to say something, what one is looking at and to know whether one's inferences are reasonable given that these are rare occurrences. Many, if not most, teachers would

not have directly experienced this sort of sexual misconduct or know how to deal with it when they suspect it. “What sort of questions would you ask a colleague?”, for instance, would be one important point of training. “How would you approach a potential survivor, their family? How would you simply inquire to know more as to determine whether your suspicions rise to the level of being reasonable, such that you would be reporting them to the college under these new provisions?”

**1010**

Silence, I think, is the worst enemy of survivors, individuals, facing these sorts of misconduct. That’s why we often see in many cases that the conduct goes very far before it’s actually recognized. But once it’s recognized, we hear, in retrospect, that certain signs, certain indicators, might have led to an inference that this sort of misconduct was occurring were evident—so for us to take proactive measures so that steps could be taken at that earlier point. Again, I think that sort of training would provide confidence to members in having an approach to probe their suspicions and to determine whether they have a reasonable ground to report or do something further.

**Mr. Granville Anderson:** Do I have some more time?

**The Vice-Chair (Ms. Ann Hoggarth):** You have about five seconds.

**Mr. Granville Anderson:** Okay. Then I was—

**The Vice-Chair (Ms. Ann Hoggarth):** I’m sorry. Time is up.

Moving to the official opposition: MPP Coe.

**Mr. Lorne Coe:** Good morning, sir. Thank you for your delegation. Let’s turn for a moment to the legislation and some of the regulations within that legislation that would have details and, in particular, subsections 26.2(2) and (3). They deal particularly with the investigation committee and frivolous and vexatious complaints and timely disposal. I’d like your opinion as to whether you think that those regulations should be consulted with the College of Teachers.

**Mr. Maciej Lipinski:** Would you mind clarifying—in what sense “consulted with the College of Teachers”?

**Mr. Lorne Coe:** Should the Ministry of Education work with the College of Teachers to ensure consultation before they’re introduced?

**Mr. Maciej Lipinski:** Yes. I believe that more voices, more input, in developing a provision like that is important because, again, we’re talking about very rare but very serious occurrences. The occurrences, where they are suspected, due to their seriousness must be investigated thoroughly. But due to the seriousness of the accusation against the individual who is alleged to have been involved in this sort of misconduct and the rarity of these sorts of events, so few of us have direct experience in dealing with this sort of event and the sensitivities that surround it.

I think your colleague mentioned earlier some cases from California where I believe there was an issue of false memories on the part of the witnesses. You’re deal-

ing with very sensitive witnesses. When you’re dealing with children, traumatic memories can be easily influenced and changed before an investigator who is an authoritative adult, and dealing with child witnesses is a delicate and careful process.

To the extent that you have experienced expert voices consulting and developing policy towards understanding what sort of evidence should be acceptable and what sort of procedures should be undertaken to determine what is in fact a frivolous and vexatious complaint and the rigour to be associated with that, striking the appropriate balance between being rigorous but understanding the delicate nature of the witnesses you would be dealing with. Again, to the extent that there’s more consultation—

**The Vice-Chair (Ms. Ann Hoggarth):** Thank you very much for your presentation.

I’d remind you that the deadline to send a written submission to the Clerk of the Committee is 6 p.m. today.

At this time, the committee will stand recessed until 2 o’clock this afternoon.

*The committee recessed from 1015 to 1401.*

#### ONTARIO SECONDARY SCHOOL TEACHERS’ FEDERATION

**The Chair (Mr. Peter Z. Milczyn):** Good afternoon, committee members. We will now resume consideration of Bill 37, An Act to amend the Early Childhood Educators Act, 2007 and the Ontario College of Teachers Act, 1996. As ordered by the House, each witness will receive up to five minutes for their presentation, followed by nine minutes of questioning from the committee, or three minutes from each caucus. I ask committee members to ensure that the questions are relevant to Bill 37 and to keep them brief in order to allow maximum time for the witness to respond.

Are there any questions before we begin? No? Then I will call the first witness: Mr. Paul Elliott with the Ontario Secondary School Teachers’ Federation. Good afternoon, Mr. Elliott. Just for the official record, as you begin your remarks, if you could identify yourself.

**Mr. Paul Elliott:** Paul Elliott, president of the Ontario Secondary School Teachers’ Federation. I have Chris Goodsir with me, who is on our staff at OSSTF. I’ll start right away, then. I’m going to get through some items. I know that we have a report there, but we are an organization that represents more than teachers. We represent 60,000 not only public high school teachers, but also EAs, instructors, speech-language pathologists, social workers, plant support personnel—a wide range.

I want to speak to three specific items around Bill 37 as it follows on the LeSage report that came out in, I believe it was, November 2012. I’m going to speak to three items specifically.

One deals with the publication of members’ involvement in criminal proceedings. Bill 37 looks to amend the act to include additional information on the public register of the college, specifically information regarding members’ involvement in criminal proceedings.



I'm going to speak specifically to some of the recommendations in the LeSage report. Recommendation 37 speaks to the college's legislation or bylaws: that they "should be amended to allow for the placement on the register of undertakings and information about the results of relevant criminal proceedings involving the member."

You might not be aware that the college did amend their bylaws to reflect the LeSage report, and they did it in a number of ways. One of the things that they have prescribed in it—it deals with the summary of a restriction imposed on a member's right to teach that has been imposed by a court or other lawful authority.

What we're looking at here is how far too broad the amendment is. The amendment speaks to information respecting any current or previous criminal proceedings involving a member that is relevant to his or her membership, including any undertakings of the member in relation to the proceeding. One of the things that we've really looked at in this is "current or previous" and "relevant." We've been unable to find anything that is not relevant to his or her membership in the College of Teachers. It's just speaking to the nature of the profession and the wide scope of it, especially when you speak to current or previous criminal proceedings. The amendment is actually inconsistent with the recommendation that was made by LeSage in the LeSage report. That's one of the significant problems that we have with this.

LeSage did make some recommendations, and those recommendations were not followed in the amendment that has been put forward. One of the things we find is that the amendment requires the posting of criminal proceedings which may include unproven charges which have yet to be resolved. That's one of the issues that we're talking about here: criminal proceedings that are also posted on anything which has yet to be proven. One of the things we find with this is that the prejudicial effect these postings have for innocent members is wide-ranging and is felt for years. I'm going to come back to that a little bit later.

The other issue we find is that it's possible that non-relevant criminal convictions will be included. We speak to some of those other ones—that these can needlessly harm excellent and long-serving teachers. These are convictions that can go back a number of years, that can go back to pot possession—historic convictions when members were teenagers or very young adults. These may have a discriminatory nature, especially when we get into the Human Rights Code.

I'm also going to speak to—and I'm not going to get into a lot of detail because I know I'm limited in time, but I urge you to read over the comparisons that LeSage makes to the Royal College of Dental Surgeons. I think the recommendation he makes is that what was in the college of dental surgeons is something that should be reflected in this. I think it deals with it in a way that really would be a lot more fair to the public and also to the members of the college.

The last one I'll get into is the definition of a suspension. This requires employers to report a member's

conduct to the college when a member is terminated or when it imposes restrictions on the members. One of the things that we have listed there and is in the LeSage report—one of the things he makes very clear in it—is that the college must better define "restrictions on the member's duties" because it is far too broad, as it states. The bill goes through a significant list of restrictions there.

I'm going to go down to our recommendations in this. We would like to submit that the current language does not clarify the situation. What is in Bill 37 does not clarify the situation at all. One of the things we have is about—when a complaint is made against a teacher, it's standard practice for an employer to send that teacher home with pay—not always, but sometimes—whilst an investigation takes place. When the investigation is complete, the employer decides whether to discipline or restrict the teacher's duties as a result of the investigation's conclusions. However, the investigation may also exonerate a teacher, and no discipline or restrictions may result. We need—

**The Chair (Mr. Peter Z. Milczyn):** Mr. Elliott, I'll have to stop you there. You're just over five minutes.

This round of questioning will begin with the government side: Mr. Baker?

**Mr. Yvan Baker:** Mr. Elliott, would you like to finish? I only have three minutes to ask you questions, but would you like to finish what you were about to say?

**Mr. Paul Elliott:** I just want to highlight that there's something in here—a couple of things that we really specify. I think it's something that really should be done, and even LeSage recommended it. It has to do with the prosecutorial viability assessment. It deals with something that has been ongoing, where we have waited four years for anything to happen. If they were to institute some method of prosecutorial viability assessment at the investigation committee stage, it could go a long way to dealing with the backlog of cases that have yet to be heard. It also deals with the issue that, if this is not a case that has any viability, then that does not need to be posted, and that member does not need to go through something that they have been accused of—without any proof, without any verification—with all of that being public. If they go through some viability before any of this happens through their investigation process and before things are posted, I think it's something that really would help the profession. It helps the public's confidence and all of those things, as opposed to dealing with people that are just accused of things, with absolutely no proof.

**Mr. Yvan Baker:** Okay. What I would like to ask you about is—one of the fundamental themes of the LeSage report, in addition to transparency, was efficiency. There are several amendments in this bill aimed at improving the efficiency of the disciplinary process, including, for example, the establishment of clear timelines for the disposal of a matter by the investigation committee. From a teacher's perspective, can you please speak to the importance of an efficient process?

**Mr. Paul Elliott:** Yes. We wouldn't mind an efficient process. I think it speaks to the deal when we have people that are members of the college who are accused of certain things. For them to be hanging out there for four years is a problem. It's a problem for that member. It has to do with them being in a case or a situation of limbo until their case is actually heard. That's one of the things we talk about—the prosecutorial viability assessment is an important piece to go to that. As soon as these come in, there can be some sort of investigation that really can be done to see if this needs to create more backlog. If this is a case that can be taken out of the hearings, then you're going to start to see that diminish, too.

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**Mr. Yvan Baker:** Chair, how much time do I have?

**The Chair (Mr. Peter Z. Milczyn):** Just under a minute.

**Mr. Yvan Baker:** As you know, Mr. Elliott, this bill sets out clear rules for the use of dispute resolution. For example, it permits the registrar to refer less serious matters to dispute resolution. From a teacher's perspective, could you speak to the value of dispute resolution and the circumstances where you think it would be appropriate?

**Mr. Paul Elliott:** I'm going to move over to Chris.

**Mr. Chris Goodsir:** One of the concerns that OSSTF and our members have with complaint resolution is that there's a reopener clause currently within the complaint resolution process. If that is addressed—I know that the college is experimenting with a pilot project right now, so we're going to wait and see what the results of that are before we decide whether that process is traditionally fair for our members to engage in.

**Mr. Yvan Baker:** Okay.

**The Chair (Mr. Peter Z. Milczyn):** Thank you. Our next question will be from the official opposition. Mr. Coe.

**Mr. Lorne Coe:** Thank you, Mr. Elliott, for your presentation. It was very thorough. The concerns that you've raised plus the solutions that are outlined here quite specifically—have you shared them with the Ministry of Education?

**Mr. Paul Elliott:** Yes, we have. Since the LeSage report initially came out, we've had discussions with the ministry about the LeSage report. These were also brought forward when the bill was initially introduced.

**Mr. Lorne Coe:** So the solutions that you've outlined here in this submission—you've had discussion with staff at the Ministry of Education. Is that correct?

**Mr. Paul Elliott:** Yes.

**Mr. Lorne Coe:** What type of response did you get?

**Mr. Paul Elliott:** I would say it's not the response that we're looking for because we've yet to see the amendments when the bill was reintroduced. We've had no inclination of any amendments that are going to be made to the bill.

**Mr. Lorne Coe:** There are a few areas of the bill where details will be set out in regulations; notably,

section 26.2 and new section 26(3) to section 402. These are sections that pertain to the investigation committee and frivolous and vexatious complaints and some of the points you've raised already about timely disposal of those complaints. Do you think the Ministry of Education should be working with the College of Teachers and others to ensure that consultation occurs before the introduction of those regulations?

**Mr. Paul Elliott:** I think one of the things we get into in dealing specifically with what you're talking about—one of the problems we've had is the salacious details that are always put on the college's website, which outlines, I would say, in a lot of specific detail things that are unproven or haven't gone anywhere. When it comes to how those are going to be dealt with, and through regulation, I would think there needs to be a full consultation anyway before these regulations that might change the details and how they're being presented—needs to happen.

**Mr. Lorne Coe:** Including with you and your—

**Mr. Paul Elliott:** I would say with all stakeholders.

**Mr. Lorne Coe:** Thank you for that answer.

To my colleague.

**The Chair (Mr. Peter Z. Milczyn):** Ms. Munro, you have about a minute.

**Mrs. Julia Munro:** Okay. I wanted to pursue this question on the regulations. Obviously, regulations are done through a different process than the legislative one. Besides what you have mentioned at this point that you would want to see—is there any other avenue that you think this regulatory one is best suited? Are there things that are in the report and in the process that actually, in your view, belong in the regulatory process?

**Mr. Paul Elliott:** The regulatory process, I think, is always an interesting process, and we've been through this many times. I don't care what government it is; at the end of the day, if you're going to get into any regulatory process where things can be unilaterally altered without any full opportunity for input—and opportunity for input that's going to be listened to, that might actually change the regulation and change the direction of where it might be going is so important to where it might very well go. We've always had a fear of, depending on the government of the day, what can happen to regulations because they can be unilaterally imposed.

I can't think of anything specific at the moment, unless you want to draw my attention to something specific.

**Mrs. Julia Munro:** I'll just ask you: membership—

**The Chair (Mr. Peter Z. Milczyn):** Thank you. We have to do our next round.

Ms. Fife, for three minutes.

**Ms. Catherine Fife:** Thank you for giving such a comprehensive report with recommendations which specifically address some of the concerns that were raised during the debate on Bill 37.

One is that I wanted to give you an opportunity to talk a little bit about the reduction of the particulars piece, Paul—the recommendation, which is not contained

within Bill 37, around professional misconduct which the member is alleged to have breached, but not the salacious details of the alleged events and offences, because there's great harm that's done when those details are published. The harm is done to the victim and the person who is alleged to have committed that.

Do you want to comment on this a little bit, please?

**Mr. Paul Elliott:** We tried to put it in the report here also, and I think we really went back to—we have a lot of respect for LeSage. When you bring in an expert to prepare a report and the time is spent on it, I think it needs to be recognized, what's in the report.

Even he stated in the report, if I quote from it, that “the notice of hearing must contain a concise statement of the material facts and allegations, but not the evidence. The evidence is to be presented in a public forum where it will be heard and weighed by a trier of fact.”

That's a significant piece in all of this that I think needs to be respected. It needs to be respected in two ways. One is for the person who's accused of this, but in the public forum, the one thing that sometimes—this only serves to undermine, I would say, the professionalism of public education. It's not something that serves the public well and it doesn't serve the members well either. I think it really speaks to the whole fact here that this is just to—the concise statement of material facts and allegations is one thing, but getting in the evidence and making all the evidence public before it's even heard, which might be up to four years that it might sit out there without actually being dealt with.

The other problem we get into with this and the timeliness and all of this—it's happening more and more frequently. All of this goes out, all of this is posted, and two weeks before the hearing, the case is dismissed. So it's been out there sitting in the public for four years and then it disappears. It's been out there for four years. Anyone could have copied it; anyone could have posted it somewhere else. And if it's copied and posted somewhere else, it's impossible then to pull it back from other places too.

**Ms. Catherine Fife:** No, we definitely agree. Justice is not served when that happens. The two- to four-year wait: I think a lot of people would be very surprised to learn that a disciplinary hearing takes that length of time. These are victims and these are people who have either had transgressions or are innocent, but they really are decided on their guilt before their innocence can be even proven. So we need to make sure that Bill 37 is actually a fair process and a balanced process, both for students and the professionals.

Thank you very much for being here.

**The Chair (Mr. Peter Z. Milczyn):** Thank you very much. Mr. Elliott, Hansard did not catch your colleague's name.

**Mr. Paul Elliott:** It was Chris Goodsir.

**The Chair (Mr. Peter Z. Milczyn):** Thank you very much. And we have your written submission. If there's anything further you wanted to add in writing, you have until 6 p.m. today to add any further information.

## LONDON ABUSED WOMEN'S CENTRE

**The Chair (Mr. Peter Z. Milczyn):** Our next witness: London Abused Women's Centre, Ms. Megan Walker. Good afternoon, Ms. Walker.

**Ms. Megan Walker:** Good afternoon. My name is Megan Walker and I'm the executive director of the London Abused Women's Centre, which is an agency that provides advocacy, support and long-term counselling to women and girls over the age of 12 who have been abused or violated sexually either in intimate relationships, by strangers, in prostitution, sex trafficking, or in the workplace. I'm really happy to be here today. Thank you.

I want to just first, at the outset, talk about an incident that occurred in London through the Thames Valley District School Board in 2011 where a teacher was caught at a London school with a pen camera. He was caught following complaints from staff who had seen him using it. He admitted he had taken videos of fully clothed women, particularly focusing on their breasts and cleavage, but he did plead not guilty. Four years later, he was acquitted by a judge who indicated that, “Of course, my assessment is subjective and may be the subject of lay or judicial criticism.” It certainly was subject to that criticism, particularly given that a judge who we expect to be unbiased admitted to making a decision based on his own subjective views.

I'm concerned about section 30.2 where it provides that the disciplinary committee can find a member guilty of committing sexual abuse of a student. I think that is outside the jurisdiction of any disciplinary committee and is better handled in a court of law.

What I would suggest as an alternative is that disciplinary committees can certainly find members to be not in compliance with their professional standards, but to suggest that they could find somebody guilty of sexual assault when that's a matter for the courtroom I think is inappropriate.

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I'm also concerned that we've seen a judge who has admitted that he made his decision based on subjective information. It does raise some red flags around how a disciplinary committee of peers could make an unbiased decision. We would suggest that that committee be expanded to include victims' rights advocates, survivors, parents and peers as well.

I also have found that in the bill what is missing is any provision to make services available to victims of teacher abuse. I think that's something that needs to be paid attention to and offered.

Outside all of that, I would like to just suggest that the provincial government does pay attention to what's going on in the criminal courts. It does relate to this. This case was four years from the time the charge was laid until the individual teacher was found not guilty. In London right now, Superior Court matters are taking anywhere between a year until it gets to the preliminary hearing and two years before it gets to the final trial stage, and

provincial courts are taking anywhere from nine to 15 months. During that time, not only do the victims suffer but, in a country where we pride ourselves on people being innocent until proven guilty, so too do the accused.

**The Chair (Mr. Peter Z. Milczyn):** Thank you very much.

**Ms. Megan Walker:** You're welcome.

**The Chair (Mr. Peter Z. Milczyn):** This round of questions will begin with the official opposition. Mrs. Munro?

**Mrs. Julia Munro:** Thank you very much for coming here today to offer your suggestions.

The question that begs for me as I listened to your comments when you were referring to the committee, that kind of a hearing, and a criminal one—obviously very significant in the differences. But since the piece of legislation that we're looking at allows for a committee process, I'm just wondering, in the context of this piece of legislation, who you would deem to be the appropriate membership of a committee looking at this.

**Ms. Megan Walker:** I believe that the committee structure is really important and should of course include peers but also sexual assault advocates and experts. I would suggest some parent groups and also victims' rights advocates, because I think there has to be context to every assault and I'm not certain that teachers alone have the expertise to rule on those things.

**Mrs. Julia Munro:** Has there been anything that you would use as an example of where this would make a significant difference?

**Ms. Megan Walker:** Well, I think we can look at what happens in the criminal courts, specifically, in this case, where there's an admission of subjectivity. What we do find in committee structures—in the city of London, for instance, it's a multidisciplinary committee that is charged with taking a look at abuses in the workplace. I think we need to look at examples like that and models that already exist.

**Mrs. Julia Munro:** Thank you very much.

**Ms. Megan Walker:** You're welcome.

**The Chair (Mr. Peter Z. Milczyn):** That's all?

**Mr. Lorne Coe:** Thank you very much for your presentation and for the work that you do in London.

I believe you were in the audience when I asked my question of the previous presenter on the regulations that set out some of the details that underpin the bill, in particular those parts that deal with the investigative committee, again, as well as frivolous and vexatious complaints and timely disposal.

Do you think the Ministry of Education should be working with organizations such as yourself and the Ontario College of Teachers to ensure that consultation takes place prior to the introduction of those regulations?

**Ms. Megan Walker:** Yes, absolutely. I think all of the stakeholders have to be included.

I think it's unfortunate for victims and any accused person to have information available to the public and hanging out there for a long period of time. I don't think that is justice. As I say, we do live in a country—and we

are fortunate—where we are innocent until proven guilty, and I think we have to be cognizant of that.

**Mr. Lorne Coe:** Great. Thank you for your answer. Thank you, Chair.

**The Chair (Mr. Peter Z. Milczyn):** Thank you, Mr. Coe.

Ms. Fife for three minutes.

**Ms. Catherine Fife:** Megan, I think you bring a very distinct perspective to this legislation from the victims' services perspective. This morning there was a delegation who really felt that the college should have specific responsibilities—bypassing school boards, what have you—around ensuring fair communication with the victims and the accused and ensuring that there is a built-in mechanism for support. Can you comment on that? Because you've raised that this legislation needs to talk about victim supports.

**Ms. Megan Walker:** I think it's absolutely critical. As the previous speaker said, once this information is available and it's online, it can be circulated over and over again. We have seen in some of these cases where a student who has come over to disclose something that has happened—they're bullied in the aftermath because wrong information is distributed. I would assume we would also see wrong information then distributed about the member.

So I think we need to be really careful in how we're handling these things. The college is not a judicial body. It doesn't have the same rights to subpoena individuals, for instance, for information. If they're given the power to do that, it is the victims that will suffer, but so too will the members suffer as a result.

**Ms. Catherine Fife:** Okay. Thank you for bringing that concern to this committee.

**Ms. Megan Walker:** Thank you.

**The Chair (Mr. Peter Z. Milczyn):** Thank you very much. Ms. Hoggarth.

**Ms. Ann Hoggarth:** Thank you for your presentation. It's the core priority of this government to ensure that our young people are protected from sexual abuse and misconduct. That is the fundamental purpose of this bill, which proposes amendments that would, for example, require mandatory revocation of a teacher's certificate if the teacher is found guilty of sexual misconduct.

Can you please tell us how the proposed amendments under this bill might help Ontario's children, including the young women and girls who you work with?

**Ms. Megan Walker:** Well, just to go back to one of my statements previously, I agree that if a teacher is found guilty in a court of law, that teacher should no longer be teaching students. My concern is that there is power being given to the association or the disciplinary committee to be able to find that teacher guilty or innocent, and I don't believe that's appropriate.

I do believe in prevention. One of the things that I think has been missing in this bill is attention paid to students as far as what programs are going to be mandated in place to ensure that students understand what abuse is and how they can safely go about reporting. And once

they do report, what provisions will be in place for them to support them?

I think that's a really important piece that's missing. If the outcome is to ensure the safety of students, I think we need to address the safety of students in the legislation.

**Ms. Ann Hoggarth:** Do you have any other recommendations about how this bill could be amended?

**Ms. Megan Walker:** Well, there is one thing that I think is important to remember, which is that I was invited here two days ago. I'm not sure that one day of hearings, with little notice, is enough to provide a comprehensive plan or comprehensive feedback. I'd like to know how many student groups the committee has heard from. How many victims' rights organizations have you heard from? Because if you're not hearing those voices, you're missing a huge opportunity to really act in the best interests of students.

**Ms. Ann Hoggarth:** Thank you very much.

**Ms. Megan Walker:** You're welcome.

I would just like to say one thing before my time is up. I am a mom, as well, to three daughters, who all went through elementary and secondary school. The teachers who taught my children were a gift and blessed them with great tools for the future. The majority of teachers are just incredible and give so much every day. I don't want anybody here to paint all teachers with one brush and I certainly don't want you to think that's what I've done.

**The Chair (Mr. Peter Z. Milczyn):** Thank you, Ms. Walker, for your presentation.

**Ms. Megan Walker:** Thank you so much.

**The Chair (Mr. Peter Z. Milczyn):** If you do want to submit something in writing to us, you have until 6 p.m. today.

#### ELEMENTARY TEACHERS' FEDERATION OF ONTARIO

**The Chair (Mr. Peter Z. Milczyn):** Our next witnesses are from the Elementary Teachers' Federation of Ontario: Ms. O'Halloran and Ms. Thede.

As you begin, if you could state your names for the official record, please.

**Ms. Sharon O'Halloran:** Good afternoon. My name is Sharon O'Halloran and I am general secretary of the Elementary Teachers' Federation. My colleague is Susan Thede. Susan is the coordinator of professional relations services, but she also sits on the college's interaffiliate committee.

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We're glad to be here today to address issues of significant importance to teachers and early childhood educators as well as the public. Our submission focuses primarily on schedule 2 of Bill 37, the section that deals with the Ontario College of Teachers Act. It is important to mention that the concerns expressed also apply to parallel provisions in the Early Childhood Educators Act. We represent designated early childhood educators as well as teachers.

ETFO acknowledges the responsibility of the Ontario College of Teachers to fulfill its role in investigating and responding to allegations of professional misconduct involving its members. It is in the interest of the profession as well as the public to ensure that schools are safe environments for students.

ETFO is concerned, however, that provisions in Bill 37 fail to respect recommendations put forward by Justice LeSage regarding requirements to ensure that the very few members who face allegations of professional misconduct are treated fairly throughout the investigation and discipline processes. Specifically, the legislation fails to adopt the LeSage recommendations that call for providing early and full disclosure to members facing allegations. The members of this committee must ask themselves what the rationale would be for not ensuring that there is full disclosure of the information pertaining to allegations made against teachers.

ETFO is seeking amendments that would address the rights of members to fair and due process—amendments that would not undermine the college's responsibility to protect the public interest. We do wish to acknowledge that MPPs have addressed this issue in their debate and we appreciate this.

The federation is also seeking changes to the bill's provisions that deal with information about members included on the college register and that clarify the mandate of the college. The majority of our recommendations deal with the importance of ensuring that there is full disclosure of information that relates to an allegation of professional misconduct.

I won't read through the recommendations, but with respect to the disclosure of information, you will note that our recommendations speak to the following aspects of the college's investigations process: When the college registrar notifies the member about a complaint against that member, in recommendation 1, you'll see that we're suggesting very specific language that this sharing of information, this disclosure, should happen on the same day.

When a school board forwards a complaint to the college—this is addressed in recommendation number two—again, it is our position that members should receive this information at the same time the information is sent to the OCT.

When the college's investigation process gathers information and documentation pertaining to a complaint—recommendation number 5—we want to ensure that the member receives the information at the same time as the college and the registrar.

When the college investigation committee reviews the information and documentation related to the complaint, we've addressed in recommendation 4 that the current language allows some discretion around the information that is shared and when it is shared. We're looking for this language to be narrow, to be clear and, again, to support fairness, transparency and the principles of natural justice.

When a school board forwards a report to the college regarding the termination of a member, restriction of a

member's duties for reasons of misconduct or the resignation of a member during an investigation of professional misconduct—these are addressed in recommendations number 5 and number 6. We are looking at recommendations that involve sharing of information with members at the same time.

In all of these recommendations, ETFO is simply seeking full and timely disclosure of information to the member facing allegations. It's about fairness and due process.

You have given us limited time to address the very detailed provisions of this bill. In the time that I have left, I would like to draw your attention to the remaining recommendations, which address member information posted on the college register and the website. That is addressed in recommendation number 7. We are looking for very clear limits on what can be posted.

The importance of doing a prosecutorial liability assessment before taking complaints forward to the college discipline committee, as recommended by the LeSage report, is addressed in recommendation 8. We believe that this is important to the college as well as to the public. It happens in many other regulatory bodies and legal proceedings, and it will ensure efficiency.

**The Chair (Mr. Peter Z. Milczyn):** Ms. O'Halloran, I'm sorry. I have to stop you there to stay on schedule. This round of questions will begin with the third party: Ms. Fife.

**Ms. Catherine Fife:** Thank you very much. This is very extensive, so thanks for providing that, because this bill, obviously, will need a number of amendments to it to reflect the work of Mr. LeSage. Under recommendation 2, though, I wanted to give you a little bit more time to talk about the importance of disclosure around the same time and perhaps give us an example of how this would impact the outcome of the case, if you don't mind.

**Ms. Sharon O'Halloran:** Our experience has been that our members don't always receive all of the information up front, and there is a concern about timeliness and efficiency. If the information isn't shared up front and individuals don't have the ability to respond to all of the information at the onset, then that puts them in a position of unfairness. It also extends the process when you find out that other information is being introduced later on during the investigation and you haven't had that opportunity to respond and you need that opportunity. The principles of natural justice provide for that opportunity, so the concern around sharing the information up front, with full disclosure and no surprises, is a primary concern.

**Ms. Catherine Fife:** That was also a recommendation of LeSage?

**Ms. Sharon O'Halloran:** Correct.

**Ms. Catherine Fife:** Okay. I just want to talk very briefly about this process, because LeSage had finished his report, I think, in 2012. It's 2016. There's obviously, from all stakeholders, an interest in having some clarity around these issues. But when you look at the delegations and the public consultation process, do you think that this

is adequate public consultation on this piece of legislation? And would you also mind commenting on the lack of student voices, actually? Because they're an important part of the process as well.

**Ms. Sharon O'Halloran:** Thank you for that question. My honest answer would be no, we don't think the consultation process is adequate or sufficient. Being limited to five minutes, as you can tell, is not sufficient. I was not able to address a key area, but you'll read about that in the materials. We do believe more opportunity for input is important and, of course, including all of the stakeholders is important in the dialogue and the review process as well.

**Ms. Catherine Fife:** Okay. Thank you very much.

**The Chair (Mr. Peter Z. Milczyn):** Thank you. The next round to the government: Mr. Anderson.

**Mr. Granville Anderson:** Ms. O'Halloran, thank you both for coming this afternoon. You've articulated the changes you'd like to see quite eloquently, and we do take this seriously. We want to make it right and fair and transparent for all parties concerned in this matter.

Having said that, while it is a fundamental objective of this bill to promote transparency for families and children, the bill also provides for the timely removal from the register of information that's no longer applicable or relevant. Can you please speak to this provision and to the value of removing inapplicable and irrelevant information in a timely manner?

**Ms. Sharon O'Halloran:** Yes, and thank you for that question. That has been something we have been advocating for for a very long time. Once that information is out there, it's very difficult to recover from that. The fact that it's on the register and in the public for a very long time just continues to put that member at a serious disadvantage, so that's been an issue that we have spoken about and advocated on for quite some time. We feel that the information in the register should be updated regularly and that when a member has fulfilled the obligations, whatever the sanctions are, that the notification should be removed.

**Ms. Susan Thede:** I would just add to that that we believe that this should be handled in a consistent way, and our recommendation 7 speaks to that in terms of removing the discretion as to what in fact does get released to the public. This is what should go to the public. We respect the college's right to do that, of course, in terms of respecting the public interest, but what is posted should be consistent and not at the discretion of the registrar, and so our recommendation 7 speaks to that issue.

**Mr. Granville Anderson:** Okay. Can you tell the committee how OSSTF's proposed amendments would help protect the public interest, and in particular, students? You did say a little bit to the fact that there was one key area you didn't get to. Here is your opportunity to elaborate on that.

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**Ms. Sharon O'Halloran:** We missed part of that presentation, unfortunately. I don't think that's the area

that I missed. That wasn't the area that I was referring to that I didn't get to.

**Mr. Granville Anderson:** Pardon me?

**Ms. Sharon O'Halloran:** I'm sorry. You're asking me to comment on OSSTF, which I don't know.

**Mr. Granville Anderson:** Sorry, sorry—ETFO.

**Ms. Sharon O'Halloran:** Okay. Can you repeat then what you're asking me to comment on?

**Mr. Granville Anderson:** Can you tell the committee how ETFO's proposed amendments would help protect the public interest, and in particular, students? You had alluded to an area that you weren't able to cover previously.

**Ms. Sharon O'Halloran:** Yes. The area that I was alluding to was around the definition of "employer" in the document.

**Mr. Granville Anderson:** Okay. Would you like to elaborate on that?

**Ms. Sharon O'Halloran:** I appreciate that. Thank you. It's a concern around the broadening of the definition of "employer" in the bill. It used to refer to the education sector, so "employers" within the education sector. It now refers to "employer." If you know the nature of work of occasional teachers, as an example, occasional teachers especially now are struggling greatly to work full-time. They have multiple jobs. Some of them are on the list in many, many boards. But then they also have to take on part-time employment at places like Home Depot, Walmart, the local restaurant. If the definition of "employer" in the document allows any employer to forward a complaint against a teacher or about a teacher, that could open up teachers to having complaints forwarded by retail-type employers and other employers. That causes us great concern.

**Mr. Granville Anderson:** Thank you.

**The Chair (Mr. Peter Z. Milczyn):** Thank you. The next round to the official opposition: Mrs. Munro?

**Mrs. Julia Munro:** I'll start. Thank you very much. Something that we haven't had much discussion about is the victim in this process. I just wondered, when you provided us with this kind of detail, if there was in fact an area where you would say, "Here's a point where we could strengthen this piece of legislation vis-à-vis the child as a victim." Is that sure enough in your mind or is there more to do?

**Ms. Sharon O'Halloran:** I think the fact that these processes go on for as long as they do—you heard about one case going on up to four years—is not in the best interests of the victim either. Making sure that disclosure is out there early, that information pieces are not held back, also benefits the victims in these cases. We think that that whole process, ensuring that there's full dis-

closure, making sure the timelines are tight and that the information is shared with all parties at the same time, will also expedite the process and in the end benefit the victim, because it's not in anyone's interest to have this go on for a very prolonged period of time.

**Mrs. Julia Munro:** Thank you.

**The Chair (Mr. Peter Z. Milczyn):** Mr. Coe.

**Mr. Lorne Coe:** I want to go back to the points that you made, please, on early and full disclosure and the connection that you made with the rationale around that. To that point and the amendments that you have in here and in your discussions—I'm sure you've had these with the Ministry of Education staff and with the college—were you able to get a rationale?

**Ms. Sharon O'Halloran:** For why they don't provide full disclosure?

**Mr. Lorne Coe:** Yes.

**Ms. Sharon O'Halloran:** I would say no.

**Mr. Lorne Coe:** No?

**Ms. Sharon O'Halloran:** No.

**Mr. Lorne Coe:** Well, that's unfortunate.

**Ms. Sharon O'Halloran:** We have a very long list of examples where we can share, when they're working in consultation with police, when they have various witnesses throughout an investigation and they collect information after the complaint has been shared. So witnesses, police, other agency representatives—CAS, for example—are collecting this information in preparation for their hearing, and that information is not shared. In some cases, we haven't actually even been aware of the information until we read the decision.

**Mr. Lorne Coe:** I'd welcome receiving those examples, and I'm sure you'd share them with all members of the committee.

**Ms. Sharon O'Halloran:** Sure.

**Mr. Lorne Coe:** Thank you, Chair.

**The Chair (Mr. Peter Z. Milczyn):** Thank you very much, Ms. O'Halloran. Thank you for your written submission.

**Ms. Sharon O'Halloran:** Thank you.

**The Chair (Mr. Peter Z. Milczyn):** That's the end of our scheduled witnesses for this afternoon. I want to thank all of our witnesses. As per the order of the House dated October 20, 2016, the deadline for filing amendments to Bill 37 to the Clerk of the Committee is 12 p.m. on Monday, October 31.

Is there no other business? Then we stand adjourned until 9 a.m. on Thursday, November 3, when we will meet for the purpose of clause-by-clause consideration of Bill 37.

*The committee adjourned at 1445.*

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