

PUBLIC REGISTRY

Q: When will the teacher registry be launched?

A: The registry is set to launch in January 2025.

Q: Will I be listed on the teacher registry?

A: Yes, the registry will include anyone who has held a teaching certificate in Manitoba from 1960 to the present day.

Q: What type of information will be on the teacher registry?

A: Based on the legislation, the registry can include the teacher's name, certificate issuance date, class, current status, and records of any disciplinary actions. The government has not confirmed which of these will be included. A process will be established to ensure teachers are identified by their correct names.

MTS Position: The information on the registry should be limited to the name of the individual and the status of their teaching certificate. Policies pertaining to an individual's name that appears on the registry should be consistent with existing laws and practices related to recognizing people's right to self-identify in Manitoba.

Q: Who can view the registry?

A: The registry will be publicly accessible online.

Q: Does my information stay on the registry forever?

A: Information such as your name and current status will remain on the registry, even after you are no longer teaching. Misconduct decisions will remain on the registry indefinitely. Competence and incapacity items will be removed once related terms are satisfied.

MTS Position: There is no reason to record a suspension of a teacher's certificate if the investigation yields no findings.

REVIEW AND INVESTIGATION

Q: Who is the commissioner?

A: A commissioner, to be appointed by the minister of education in the summer of 2024, will oversee the new discipline process.

Q: Who can file a complaint?

A: Anyone can file a written complaint alleging professional misconduct or incompetence. Complaints can also be submitted anonymously. A process for filing complaints has yet to be established.

MTS Position: Anonymous complaints should be prohibited as is done in all other jurisdictions with regulatory frameworks and public registries for the teaching profession (Ontario, Saskatchewan, Alberta, British Columbia) in Canada. Complaints about competence should be handled by the employer.

Q: Is there a timeline for filing a complaint?

A: There is no clear timeline for filing a complaint.

MTS Position: The timeline for filing of complaints related to professional misconduct or competence should be two years.

Q: What happens if a complaint is filed against me?

A: The commissioner will review complaints to determine appropriate actions. They may choose to close the matter without further action, delay action if the teacher's employer or a criminal proceeding is already addressing the issue or opt for a consent resolution agreement where both the commissioner and the teacher agree on suitable consequences to address the concern without a formal hearing or order a hearing and appoint a hearing panel.

Q: Will I be provided with a copy of the complaint?

A: Teachers will be informed that there has been a complaint made against them but there is no requirement for the teacher to be provided with a copy of the complaint.

MTS Position: It is unreasonable, unfair, and prejudicial to not provide the teacher with a copy of the complaint and an opportunity to respond. It is recommended that the teacher be provided with a written copy of the complaint within 15 days of receipt of the complaint and 30 days to respond.

Q: What happens if the commissioner decides to investigate a complaint against me?

A: Under the legislation, the commissioner may choose to suspend a teachers certificate at any point after a complaint is filed.

Q: Will I be paid if put under investigation?

A: School divisions have not been paying teachers whose certificates have been suspended. As it stands, teachers will be without pay for the duration of the investigation process, and if the allegations are proven unfounded, they will not receive their missed salary. Furthermore, even if the complaint is proven to be frivolous or unfounded, the suspension of the certificate remains on the teacher registry, permanently.

MTS Position: Teachers should be put on administrative leave with pay until the resolution of any investigations into potential discipline. If a matter is unfounded, the suspension of the certificate should not appear on the registry. Records of suspension should only appear once an investigation is complete, and wrongdoing is confirmed.

HEARING (DISCIPLINARY) PANEL

Q: What is the hearing panel?

A: A hearing panel will determine whether a teacher is guilty of professional misconduct, incompetence, or lacks the capacity to fulfill professional duties, it has the authority to take various actions, including suspending or revoking the teacher's certificate, imposing limitations or conditions on it, or issuing a formal reprimand.

MTS Position: The public is not able to assess teacher competence or judgement having never taught in a classroom. School divisions, as employers, are responsible for teacher competence and are in the best position to determine this.

Q: Who sits on the hearing panel?

A: The commissioner will establish a panel consisting of three members selected from a roster of panelists. One member of the panel must be a teacher, one must be a person nominated by The Manitoba School Boards Association and one must be a public representative. The public representative is the chair of the panel.

MTS Position: The committee responsible for hearing or determining judgement should be comprised of a majority of teachers. Members of the public should be drawn from a pool of those who understand regulatory processes.

Q: Is the hearing public?

A: An oral hearing of a panel will be open to the public. Furthermore, the panel must make a written decision on the matter, consisting of its findings, any order made by it and the reasons for the decision which will be made publicly available.

MTS Position: Hearings should be closed to ensure all involved feel comfortable sharing the details of the circumstances in question.

Q: Do I have a right to representation?

A: A teacher appearing before the disciplinary panel can be represented by a lawyer or a union representative.

Q: Can I do my hearing in French?

A: Teachers can request to be heard in French. Work still needs to be done to ensure that French language services are available and of a high-quality. For example, using a translator may lead to words being lost in translation.

TEACHER COMPETENCE

Q: How will teacher competence be determined?

A: Currently, the legislation does not define competence. The department of education will consult with stakeholders such as The Manitoba Teachers' Society to develop competency standards and regulations. Once the standards have been developed, the commissioner will be enabled to deal with competence issues and fitness to practice.

MTS Position: The public is not able to assess teacher competence as such it should not be included in this legislation. School divisions already have the responsibility to ensure teacher competence and have procedures in place. This is a cost and time effective way of addressing concerns with teacher competence.

Q: Does this new disciplinary model change the role of my employer?

A: School divisions will maintain their responsibilities when it comes to setting expectations and determining teacher competence. The new disciplinary model does not replace the obligation on the employer to investigate concerns of misconduct or incompetence. However, the legislation stipulates that the employer must report "any and all" discipline for professional misconduct and incompetence to the commissioner.

MTS Position: Mandating that “any and all” matters to be reported to the commissioner will allow divisions to bypass their obligations. Reporting matters that could lead to minor discipline (letters of direction, warnings, etc.) is an inefficient use of the commissioner and government resources. This requirement could also lead to teachers being disciplined twice. The department of education should work with stakeholders to determine which matters require mandatory reporting.

Q: What is “significant emotional harm”?

A: Currently, there is an unclear definition of what constitutes “significant emotional harm”. Without defined parameters, this will lead to an influx of complaints categorized as “significant emotional harm” and will act as a catch-all for complaints ranging from poor marks on tests to talking about minoritized groups.

MTS Position: The unqualified inclusion of a teacher causing a student “significant emotional harm” in the definition of professional misconduct leaves teachers vulnerable to value-laden and biased perspectives which could prompt frivolous, vexatious, or trivial complaints. The department of education should work with stakeholders on a clear definition and draw on the existing definition for harassment found in workplace safety and health legislation.