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OECTA Response to the Ontario College of Teachers Review

December 2018

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The Ontario English Catholic Teachers' Association (OECTA) represents the 45,000 passionate and qualified teachers in Ontario's publicly funded English Catholic schools, from Kindergarten to Grade 12.

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1.0 INTRODUCTION

- 1.01** *“By giving teachers the power to regulate their own profession, we are putting the responsibility for excellent teaching in the hands of those who are best qualified to know what a teacher should and must be today and in the future.”*
- 1.02** These words, from April 1996, were not offered by the president of a teachers’ union or a front-line education worker. They were spoken on the floor of the Ontario Legislature by John Snobelen, then-Minister of Education, during debate on Bill 31, the *Ontario College of Teachers Act, 1996*. Few would regard Mr. Snobelen as a fierce advocate of education unions or public education workers. Nevertheless, he recognized that in forming a College of Teachers, self-regulation was paramount. “Many eminently qualified people have come to the same conclusion,” Mr. Snobelen explained: the Ontario College of Teachers (OCT; the College) would improve education “because it will be teachers who, like other Ontario professionals, will set the standards.”
- 1.03** For this reason, Bill 31 enshrined into law that a majority of persons on the OCT Governing Council shall be “members of the College... who are elected by the members of the College.” At the time, the proportion of elected versus appointed Council members was 17 and 14, respectively. In 2006, the Liberal government under Dalton McGuinty drew on commissioned research and expanded the number of Councillors to 23 elected and 14 appointed. Although the number of Councillors has changed, the OCT has always maintained that a majority of elected positions be reserved for members of the College. This fact allows the OCT to operate on the principle of self-regulation – a principle that recognizes the maturity of the teaching profession, and honours the unique skills, knowledge, and experiences of teachers.
- 1.04** However, in reading the recent *Ontario College of Teachers Governance Review Report* (‘the Report’), prepared by Governance Solutions Inc. (GSI), one is presented with a very different perception of the College. The Report makes a number of inflammatory claims about the nature of the College, offers little empirical evidence to ground these claims, and uses these as a basis to promote a series of recommendations that would obliterate the concept of self-regulation and undermine the democratic principles on which the OCT Council has operated since its formation, more than two decades ago.

1.05 To that end, this paper critically assesses the OCT Governance Review Report. It begins by filling a gap in the Report, by offering important historical context. Next, the paper examines the Report's key premises, and argues that the Report misrepresents the nature of its argument. After this, the paper reviews the recommendations presented by GSI and offers comment on the negative impacts that would result from adopting those recommendations. Finally, this paper raises questions about the methodology used in the OCT Governance Report.

2.0 THE REPORT IGNORES THE HISTORY AND PRINCIPLES ON WHICH THE COLLEGE WAS FORMED

2.01 In a comprehensive review of governance, one would expect to find a discussion of the College's formation and history. Such inquiry would be important in revealing the principles on which the College is based. There is no such discussion in the Report. By ignoring the circumstances that led to the College's creation, the report is unable to understand – and therefore is willing to dismiss – the centrality of self-regulation.

2.02 When the Royal Commission on Learning proposed creating a College of Teachers in 1995, it made self-regulation one of its strategic priorities. Explaining this position, the report's authors noted: "Our views here reflect our confidence in the professionalism of the teaching profession. And we take this position to its logical conclusion. Our conviction is that teaching should be a self-governing profession, with greater responsibility and greater autonomy for teachers." The Commission went further in outlining how the College should be constituted. Although public representation was of course important, the authors stipulated that, "A majority of members of the College would be professional educators, selected by their peers."

2.03 In searching for examples on which to base a College of Teachers, the Commission pointed to the Scottish General Teaching Council (SGTC). In describing the "crucial features" that made the SGTC an attractive model, the Commission noted that, above all, "A clear majority of councillors are registered teachers, ensuring that the Council and thus the profession are truly self-regulatory."

2.04 As the Commission explained, "An essential characteristic of a profession in Ontario is the exercise of self-regulation." Thus, self-regulation was and remains a guiding

principle of the OCT. It is a grave and conspicuous mistake to not include these foundational and guiding principles when reviewing the Ontario College of Teachers.

3.0 THE REPORT IS PREDICATED ON FLAWED AND MISLEADING PREMISES

3.01 The Report is framed on two premises. The first is the rather blunt statement that, “If Ontario’s regulated professions, including the Ontario College of Teachers (OCT), seek to preserve a self-regulatory governance model, they will need to demonstrate its effectiveness in protecting the public interest: in the case of the OCT, this primarily means protecting students in Ontario.”

3.02 The objective to “protect students” is not a controversial point. Ensuring students have a safe and healthy environment in which to learn is of paramount importance to every teacher in Ontario. At the same time, it is worth pointing out that the legislative mandate of the OCT is actually somewhat broader than Governance Solutions Inc. would suggest. While it is certainly true that the College has “a duty to serve and protect the public interest,” the *Ontario College of Teachers Act* establishes that the College has the following additional legislative objects:

- To regulate the profession of teaching and to govern its members.
- To develop, establish and maintain qualifications for membership in the College.
- To accredit professional teacher education programs offered by post-secondary educational institutions.
- To accredit ongoing education programs for teachers offered by post-secondary educational institutions and other bodies.
- To issue, renew, amend, suspend, cancel, revoke and reinstate certificates of qualification and registration.
- To provide for the ongoing education of members of the College.
- To establish and enforce professional standards and ethical standards applicable to members of the College.
- To receive and investigate complaints against members of the College and to deal with discipline and fitness to practise issues.

- To develop, provide and accredit educational programs leading to certificates of qualification additional to the certificate required for membership, including but not limited to certificates of qualification as a supervisory officer, and to issue, renew, amend, suspend, cancel, revoke and reinstate such additional certificates.
- To communicate with the public on behalf of the members of the College.
- To perform such additional functions as are prescribed by the regulations.

3.03 None of these detract from the critical importance of protecting students; however, they speak to a broader mandate to which the College is obliged. As such, reviewing efficacy must also take these objects into account. However, the report does not consider these in its analysis.

3.04 The second premise on which the Report's argument is based is that, with respect to the College, "there are two main schools of thought regarding self-regulatory governance models:" a "representative" approach, predicated on the idea that "members of the profession are best... suited to regulating their profession;" and a "regulatory" approach, whereby the interests of members' and/or the profession can come into tension with public interest, and in such cases "the public interest trumps these every time."

3.05 There is a problem with framing the argument this way. By claiming that this is a discussion between "schools of thought regarding self-regulatory governance models," the Report gives the impression that this is a choice *within* a broad theme of self-regulation. In this conceptualization, the Report is not calling for a dramatic overhaul; arguing for a Council comprised of seven members from the profession and seven members from the public (Recommendation 1) is simply advocating for a "balanced" form of self-regulation to replace an imbalanced form of self-regulation.

3.06 In reality, this claim directly contradicts the concept of self-regulation. By definition, self-regulation involves an occupational group entering into an agreement with the government to formally regulate the activities of its own members. In other words, to be considered *self*-regulated, members must have the capacity to regulate the activities of their own profession. As will be shown, the Report's recommendations are in direct opposition to this concept. This may seem like semantics, but it is germane to the matter at hand. At its core, the Report does not present a choice

between competing forms of self-regulation, as it claims; instead, it poses a much more fundamental question: does the teaching profession deserve to be self-regulated?

4.0 THE REPORT'S RECOMMENDATIONS WOULD DRASTICALLY AND NEGATIVELY IMPACT THE OCT

4.01 The Report presents a series of 37 recommendations, which it argues will enhance the College's effectiveness. However, when several of the recommendations are read alongside others, a clearer picture emerges as to the intent of the Report, as well as the implications these would have for the teaching profession and the Ontario College of Teachers.

4.02 Changing the Culture of a College of Teachers

Recommendation 12 is seemingly the most innocuous, and yet perhaps the most telling of GSI's recommendations. It reads: "The College of Teachers will be renamed 'The Ontario Teachers Regulatory Authority.'"

4.03 In the rationale, GSI explains that, according to its research, the name "College of Teachers" implies a representative role for the profession and gives people the impression – wrongfully, in GSI's opinion – that the College attempts to "protect and advance the profession, instead of students." The online polling data of 89 members of the public does not speak to this point in any sufficient way. The survey asks a Likert Scale question on the extent to which the OCT protects its members and the public, respectively, on a scale of 1-to-5 (with 5=strongly protect). The average answer for the 89 members of the public are as follows:

- To what extent does the OCT protect its members? Avg. answer: 3.67 out of 5.
- To what extent does the OCT protect the Public? Avg. answer: 3.21 out of 5.

4.04 Leaving aside for the moment that an 89-person sample makes these findings statistically invalid, there are several points to note. First, in such a small sample, the difference between 3.21 and 3.67 is likely a handful of respondents, and does not speak to any drastic differences in numbers. Second, and more interestingly, it is worth pointing out that even with this sample, members of the public express better-than-neutral positions on *both* of the questions. That is to say, members of

the public feel that the OCT does a better-than-average job of protecting the public *and* protecting members. It is unclear why this finding is regarded as a negative, or why the rationale sets up these two positions in opposition to each other: "OCT does *A instead of B.*" Given this, it is more likely that this finding is cherry-picked from among the 11 stakeholder responses.

- 4.05** Beyond this curious interpretation of data, a second rationale points to the apparent potential for confusion, whereby the public might be confused between the Ontario College of Teachers, and the fact that Ontario has pedagogical institutions referred to as teachers' colleges.
- 4.06** Ultimately, these preceding points turn out to be rhetorical window-dressing for GSI's true purpose, which is laid bare in its final rationale: "The new name reflects the statutory authority and duty from the province and people of Ontario to regulate teachers." Having buried the lede, Governance Solutions Inc. finally arrives at its main objective: the teaching profession does not deserve to be self-regulatory – and "A new name is a central element in transforming governance culture."
- 4.07** This culture change would create financial and legal implications that must be considered. For instance, there are questions as to how incurred costs would be dealt with: Would these be downloaded to teachers via membership fee increases? More importantly, if the Report's recommendations are adopted the result would effectively eliminate teachers' ability to regulate the activities of their own profession. There are ethical and legal questions that would arise from this, as to whether teachers should be responsible for funding a body over which they have no control, and whose design is to regulate their activities and make disciplinary determinations.
- 4.08 **Consolidating Power in the Registrar's Hands****
- Scattered throughout the Report are several recommendations that, when read together, imply a desire to consolidate power within the position of the Registrar. As part of the rationale for Recommendation 17, GSI calls for a tweak to the College's communications protocol. The (currently) elected Chair of the Council shall "focus on being an effective manager," and not be the external spokesperson or ambassador. Duly-elected by members of the College, one would think that the Chair would be in the best position to represent the College as a whole. GSI disagrees;

instead, the Report proposes that “the Registrar is the spokesperson for the College” – relegating the Chair to speaking only for the Council.

4.09 Recommendations 28 and 29 propose to alter the Quality Assurance Committee and Editorial Board, respectively. Currently, the Quality Assurance Committee reviews the performance of the College relative to its objects, as defined in the *Ontario College of Teachers Act*, and ensures those objects are achieved. The Editorial Board is responsible for setting the editorial and advertising policy for the College’s magazine, *Professionally Speaking*. Both function as organs of the Council, with associated authority and independence.

4.10 GSI disagrees with this role. Instead, the Report recommends that both be transformed into work groups, “struck by and accountable to the Registrar.” In effect, if these recommendations are adopted, evaluating performance and public communication will be controlled by the Registrar. To round this off, a note in the rationale for Recommendation 16 proposes that, except in specific circumstances, “the Registrar will not be excluded from closed sessions [of executive sessions of Council or the Executive Committee].” Taken together, these recommendations would place a considerable amount of authority and oversight in the hands of the Registrar, and would work to further diminish the democratic nature of the College.

4.11 Altering the OCT Structure and Composition

One strength of the Ontario College of Teachers is its governance structure. Since its establishment, this basic structure – including the composition of the Governing Council and committees – has enabled the College to meet its objectives as a self-governing body. The current composition was recommended as a result of research efforts to determine the appropriate mix of elected and appointed members, and is legislated in the *Ontario College of Teachers Act*, Clauses 4(2) (a) and 4(2) (b).

4.12 This compositional mix brings several important benefits. First, the size and composition of the Council ensure that members offer a range of lived experiences, which affords Council diverse perspectives. Second, the current mix satisfies the necessary criteria as a self-regulated body, insofar as it recognizes the maturity of the teaching profession, and delegates regulatory functions to those who have the specialized knowledge necessary to do the job. At the committee level, the structure allows committees to execute their respective mandates.

4.13 However, taken together, recommendations 1, 2, and 3 of the Report would effectively nullify the concept of self-regulation, and eliminate the democratic process of OCT elections. If adopted these recommendations would mean that:

- 1) Council will comprise 14 members, 7 from the profession and 7 from the outside.
- 2) Council members will be selected from a pool of qualified applicants following a robust, transparent process.
- 3) Statutory, Regulatory, and Standards of Practice and Education Committee members will be selected from pools of qualified applicants following a robust, transparent process.

4.14 There are a number of troubling aspects with these recommendations. The rationale for Recommendation 1 states that, "An equal number of members from the profession and outside brings equity and balance to a self-regulatory body with the profession having a self-regulatory voice but not unduly dominating." However, this should be seen for what it is: a direct attack on the concept of self-regulation and the professionalism of teachers. As the OCT website states: "The granting of self-regulation acknowledges a profession's members are capable of governing themselves." It is clear that GSI does not feel teachers are deserving of this right. With this recommendation, teachers would no longer have the ability to regulate their own activities.

4.15 Equally problematic is the second recommendation, which would effectively transform the OCT Governing Council from a majority-elected body, into one that is entirely appointed. This would eliminate the voice of College members, inhibiting them from having a say in choosing their own elected officials. The Report points to low voter turnout as one piece of evidence for the ineffectiveness of elections. One can only imagine if politicians applied similar logic to provincial and federal elections. More to the point, at the trustee level, voter turnout is traditionally low, and trustees sometimes win or lose elections by only a handful of votes. One wonders if GSI feels that trustee positions should be similarly appointed, in an effort to improve efficiency. It is worth remembering that Ontario school boards are democratic institutions that pre-date Confederation.

4.16 Instead of holding democratic elections, a newly-formed Governance & Nominating Committee (GNC) would have total control over who runs the OCT (Recommendation

2). Audaciously, the Report claims that the elimination of elections in favour of appointed Council and committees, "is a democratic process, just a different approach." As a further assault on the teaching profession, Recommendation 7 notes that "Chairs of Council and Committees need not be members of the profession."

4.17 The Report justifies these recommendations by saying that "it is not undemocratic to seek relevant competencies." Certainly this is true – but it is undemocratic to take away the rights of members to judge those competencies for themselves and to make a determination as to who will represent them on Council. Further, the Report offers no explanation as to what "competencies" will be valued or how those will be determined.

4.18 Overseeing these decisions will be the GNC, which would hold tremendous power, as it would be responsible for hand-selecting members of Council and committees. Although the Report calls for a "robust" and "transparent" process, the recommendation pertaining to the GNC (26) makes no mention of who will appoint members to that committee, or the specific criteria on which these people will be appointed. What is noted, however, in Recommendation 5, is that the GNC "will have a majority of Council members from outside the profession."

4.19 All of this speaks to broader questions of accountability. Currently, the OCT Council functions as part of an accountability loop: Councillors are democratically elected by their peers; they, in turn, are responsible to those members by their decisions and actions; the next election serves as a referendum on those Councillors' actions and decisions; and the process repeats. However, if these proposed recommendations are adopted, the GNC will exist outside of the accountability loop. Members of Council will select the GNC (Recommendation 24), which in turn will select members of Council. All the while, teacher members will have no recourse against appointments with which they disagree.

4.20 In addition, the current composition of Council ensures that a broad diversity of opinions are represented through democratically-elected Councillors. In contrast, the Report recommends only that the GNC "reach out to" diversity groups so they may "offer input" ahead of the GNC making appointments (Recommendation 4). There are procedural issues with this approach, such as how diversity groups would be defined, or which people or bodies would represent those groups. As well, the

GNC would not be bound to ensure that appointments to Council reflect and respect the diversity of Ontario's College membership. This is yet another example of GSI advocating for less accountability.

- 4.21** GSI feels that these reforms would "significantly strengthen corporate governance while preserving a self-regulatory model." In reality, if adopted, the recommendations would have the following effects: elections would be eliminated, and the Council and committees of the OCT would be entirely appointed by a group of people – the GNC – whose majority would come from outside of the teaching profession and whose decisions would be accountable to no one.

In sum, as a result of these changes teachers' voices would be diminished and teaching would no longer be a self-regulated profession.

4.22 The Report's Methodology Possesses Significant Weaknesses

There is significant emphasis placed on evidenced-based policymaking, and with good reason. This approach enables stakeholders to draw on the best available research to identify what works, highlight gaps where effectiveness is lacking, and ground recommendations in sound evidence. Government Solutions Inc. agrees with this view, and notes that "Broad stakeholder engagement was central to GSI's approach."

- 4.23** Space does not permit a detailed diagnostic; however, reviewing the Report's engagement data raise questions about the efficacy and validity of the key findings. Most glaringly, the Report indicates that its online poll was completed by 89 members of the public. From a statistical research perspective, this is effectively zero respondents. There are no quantitative findings that can earnestly be drawn from such a small sample size, and it borders on negligent to include these as part of the findings. With respect to respondents who are members of the College, the Report indicates 255 participants. Certainly this is a better result than the public participation data, but it is worth noting that this sample represents 0.1 per cent of College members. Thus, when the Report raises instances where there is a "widely-held perception among the membership," it is worth bearing in mind that represents the view of one-tenth-of-one-per cent of College members.

4.24 These paltry participation rates speak to an issue of methodological process that must be flagged for concern. The Report lauds its stakeholder engagement outreach attempts, if not its returns:

- 15,775 members of the public – 89 respondents (0.56 per cent response rate)
- 8,000 members of the College – 255 respondents (3 per cent response rate)
- 36 key external stakeholders – 11 respondents (31 per cent response rate)

4.25 Despite lauding its outreach efforts, it is worth noting the timeline by which OECTA was engaged. Governance Solutions Inc. began its research process in summer 2018. At that time, no one from GSI reached out to OECTA senior administration inviting the Association to participate. In fact, OECTA only learned about the governance review process after speaking with government staff from the Ministry of Education in late-October. Once inquiries were made, OECTA President Liz Stuart suddenly received an invitation to participate on November 1, 2018, four business days before the study closed. This situation is especially troubling given OECTA's status as one of the four major teacher affiliates. Representing 45,000 Catholic teachers in Ontario, one might have assumed that the Association would have been engaged much earlier in the research process. While this situation is perhaps unique to OECTA, it casts serious doubt on the broadness of GSI's engagement outreach, and offers a potential clue as to why response rates were so low.

5.0 CONCLUSION

5.01 On the OCT website, one can find a section dedicated to "Professional Self-regulation." The page outlines the honour associated with being a self-regulated profession and the important accountability that self-regulated professions have to the public. For more than twenty years, the OCT has exercised the privileges and maintained the responsibilities of self-regulation, which were critical to the College's founding. The *Ontario College of Teachers Governance Review Report* proposes to destroy all of this.

5.02 The Report is a direct assault on the teaching profession and the professionalism of teachers.

- 5.03** In laying out its case as to why teachers no longer deserve to be part of a self-regulatory profession, the Report makes a number of glaring errors: it ignores the history and principles on which the College was originally formed; it is predicated on flawed and misleading premises; its recommendations would drastically and negatively impact the OCT; and its methodology possesses significant weaknesses.
- 5.04** When the Ontario College of Teachers was established, the Association and other education stakeholders advocated for self-regulation to ensure that the people overseeing the profession would be familiar with, and understand the circumstances in which teachers work. This reality is reflected in the legislation that governs the College. It must be maintained. Teachers' voices must be maintained. Over the years, teachers have made a profound contribution to the social, cultural, and economic development of Ontario. Teacher educators have played – and must continue to play – the main role, both in ensuring the quality of teaching and serving the public interest. For these reasons, the Association calls for the complete rejection of all recommendations found in the GSI Governance Report, and demands that teaching remains a truly self-regulated profession.