



## 3:6 Mandatory Reporting

The State Sector Act section 77A(3) requires employers to ensure that all employees maintain proper standards of integrity, conduct and concern for the public interest and the wellbeing of students attending the institution.

**Under the Education Act, employers must make a mandatory report to the Education Council in certain circumstances. Failing to make a report is an offence, which carries a fine of up to \$25,000 unless there is reasonable justification.**

### GUIDELINES

1. The Board of Trustees must immediately report to the Teachers Council if:

- a teacher is dismissed for any reason;
- a teacher resigns from a teaching position and within the 12 months before the resignation the employer has advised the teacher that it was dissatisfied with, or intended to investigate any aspect of the teacher's conduct, or the teacher's competence;
- a complaint is received about a former teacher's conduct or competence while they were an employee, provided the complaint is received within 12 months after they ceased to be employed; and the employer is satisfied that the complaint is not malicious, vexatious or without foundation; or does not meet the Teachers Council criteria for reporting competence issues;
- the employer has reason to believe that the teacher has engaged in serious misconduct; and/ or
- the employer is satisfied that, despite undertaking competency procedures with the teacher, the teacher has not reached the required level of competence.

2. Employers or former employers who fail to report (without reasonable justification) commit an offence and face a possible fine of \$5000, unless they can prove they believed on reasonable grounds that they were not required to report.

3. Teachers must report to the Teachers Council within 7 days if they are convicted of an offence punishable by imprisonment for 3 months or more. Failure to report such an offence is misconduct and may result in disciplinary proceedings.

## **MAKING A REPORT**

4. All reports to the Teachers Council must be in writing and include specific information as required by the legislation.

The following documentation may be relevant to the report.

- statements of complainants, identity of witnesses and anyone else related to the matter
- letters of complaint received about the teacher (including from staff, parents, and students)
- letters between you or the professional leader and the teacher concerning the complaint or matter of concern
- any statement, responses, or records of these received from the teacher or their advocate
- the teacher's letter of resignation
- minutes of Board of Trustees meetings at which the matter was discussed
- the teacher's recent performance appraisals
- relevant classroom observations
- examples of the teacher's planning, assessment and evaluation
- independent investigators reports
- any other relevant information provided by other people or by the police.

5. The confidentiality of the employer/employee relationship or the provisions of the Privacy Act do not override the mandatory requirement to report to the Teachers Council.

6. The Board will not enter into any agreement to refrain from making a mandatory report to the Teachers Council.

## **DEALING WITH MALICIOUS OR VEXATIOUS COMPLAINTS**

Employers must not report a complaint about a former employee if they believe the complaint is malicious, vexatious or without foundation. If the complaint is competence related and doesn't meet the Council's criteria for reporting competence issues, the matter does not need to be reported.

## **SERIOUS MISCONDUCT**

Employers are required to report if they have reason to believe the teacher has engaged in serious misconduct. Serious misconduct means conduct by a teacher that adversely affects, or is likely to adversely affect, the wellbeing or learning of one or more students, or reflects adversely on the teacher's fitness to teach.