

The differences and similarities on why, and how, teachers and lawyers get disciplined

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Thesis & Road map

The first part of the thesis of this poster is to **prove that there are some similarities between how lawyers and teachers are regulated within the province of Saskatchewan**; the second part of the thesis is to **explain the differences that exist between disciplinary proceedings** published by each professional organization since the beginning of 2021.

This poster first speaks about **how different institutions or legislations come together or regulate teachers and lawyers**. Next, the poster examines the **disciplinary proceedings published by each of the two professional organizations in Saskatchewan since the beginning of 2021**. The poster presents a **few statistical and data tables to summarize** the information from the afore-mentioned survey. Lastly, the poster conducts some critical analysis on **similarities and differences between the two self-regulated professions**, as well as expounds on the potential reasons for these similarities and differences.

Regulation of Professions: when, why and how?

Section 92 of the Canadian Constitution Act, 1867 states that laws in relation to property and civil rights come under the authority of the provinces; the courts in Canada have concluded that property and civil rights include regulation of professions.

Concept of self-regulated professions goes back to the Canadian law's adoption of the English tradition.

The commonality between all self-regulated professions is the principle to place duty above self-interest.

Defining characteristics of self-regulated professions since the mid-19th century have been: "a unique combination of knowledge and skills; a commitment to duty above self-interest or personal gain; and, independence from external interference in the affairs of the profession (self-government)."

Now included are the following additional characteristics of self-regulated professions: the prestige, and the financial benefits that can be derived from an exclusive professional title and an exclusive right to practice.

Two principles of self-regulation are: (a) the goal of self-regulation is to serve the public interest, and (b) that self-regulation is a privilege.

Thus, one of the purposes of self-regulation is to grant an authority or license to practice; what comes along with this power to grant a license is also the power to discipline those with licenses.

One way to serve the public interest is to assure the public that licensed professionals are sufficiently trained and that they are performing according to an agreed upon standard. Self-regulated professions suggest that both assurances are best provided by the profession themselves.

Once a self-governing profession is established by legislature, that it can do the following, "(a) act in the public interest; (b) exercise delegated law-making powers; and, (c) exercise "public law" powers of enforcement over its members.

Regulation of Teachers

The Saskatchewan Professional Teachers Regulatory Board ("SPTRB") states that its mission is as follows: "The SPTRB serves the public interest by ensuring registered teachers meet professional standards for certification, conduct and competence." Its vision is enumerated in the following points, that "Registered teachers are qualified, competent and trustworthy; The public has confidence in the teaching profession; and, Students achieve their highest learning potential." The values that SPTRB would like to espouse are as follows: Integrity; Transparency; Accountability; Fairness; and, Timeliness.

The SPTRB states on their website that "The objects of the SPTRB are to establish and administer the professional certification and standards of professional conduct and competence of teachers for the purposes of serving and protecting the public."

The Saskatchewan Teachers' Federation ("STF") has been existence for over 80 years; it is a professional organization which boasts of over 13,500 teachers currently employed within primary and secondary schools. In describing themselves, STF states that "... we strongly believe that public education is a common good and a universal right of all children and youth. Because of this, we have a long and storied history of working with others to achieve significant educational and societal change for the benefit of all Saskatchewan citizens."

The Registered Teachers Act ("RTA") came into effect on 2015; the purpose of the RTA was to establish an organization that would be responsible for teacher certification, registration, and discipline in Saskatchewan. Thus, SPTRB was created through the RTA legislation, and enabled teaching to join the other list of self-regulated professions within Saskatchewan.

In conclusion, the RTA took disciplinary powers from the STF and assigned them to SPTRB. The RTA has 19 sub-sections that lay out the disciplinary process; the bylaws of the SPTRB have another 10 sub-sections that further add to how the disciplinary process should proceed. Thus, between the SPTRB and RTA, parents, certified teachers, and other interested stakeholders should be able to understand how to proceed with concerns and should have clarity on how their complaints are assessed and how a teacher is censured, if such a need arises.

Disciplinary decision for teachers responded to the following complaints

Cause of complaint	Occurrences
Sexual contact	1
Inappropriate contact	1
Inappropriate relationship	1
Inappropriate physical contact	1
Speaking poorly of a coworker	1
Improper pedagogy and practice	1

Regulation of Lawyers

Law Society of Saskatchewan ("LSS") was created through the Legal Profession Act ("LPA") just two years after the Saskatchewan Act was passed. The Saskatchewan Act established the province of Saskatchewan in 1905, and the LSS was established in 1907. However, even though the original LPA was enacted in 1907, it was only in 1990 that the LPA gave the LSS power to self-govern the legal profession within the province of Saskatchewan.

The LSS states its core purpose to be as follows: "The Law Society of Saskatchewan regulates the practice of law in the public interest."

The LSS states its mission statement as follows: "The Law Society serves the public interest and advances the administration of justice by regulating the competence and integrity of the practice of law in a flexible and innovative manner, ensuring the independence of the legal profession, and promoting access to justice."

The LSS lists the following as its values: Integrity; Transparency; Fairness; Independence; Inclusivity; Access; Effectiveness; and, Innovation.

Much like how the RTA gave governing and disciplinary powers to the SPTRB, the LPA of 1990 gave powers of governance and discipline to the LSS.

The LSS regulates the legal profession. The LPA gives authorization to the LSS to create rules; thus, LSS can introduce and impose a Code of Professional Conduct as well as Rules upon its members, and these guidelines work together to provide a framework through which the public interest can be protected.

Disciplinary decision for lawyers responded to the following complaints:

Cause of complaint	Occurrences
Conflict of Interest	2
Improper financial benefit	2
Frivolous/vexatious	1
Quality of service	1
Needless prosecution	1
Builder's lien	1
Sexual Harassment	1
Alcohol consumption	1
Fraud	1

Disciplinary mechanism for lawyers

Disciplinary decision for lawyers employed the following disciplinary mechanisms (out of 23 mechanisms employed)

Disciplinary Mechanism	Number of occurrences	Probability
Ordered to pay costs	6	26%
Reprimanded	5	22%
Suspended	4	17%
Resigned	3	13%
Ordered to undergo training	2	9%
Fined	2	9%
Disbarred	1	4%

Disciplinary mechanism for teachers

Disciplinary decision for teachers employed the following disciplinary mechanisms (out of 14 mechanisms employed)

Disciplinary Mechanism	Number of occurrences	Probability
Cancelled or ordered to surrender license	3	21%
Ordered to undergo training	3	21%
Ordered to submit a reflective essay	3	21%
Miscellaneous measures	2	14%
Given a criminal sentence	1	7%
Reprimanded	1	7%
Suspended	1	7%

Some initial observations

Teachers are most likely to be accused of inappropriate interaction with students. This interaction could be of a sexual nature; interaction over social media; physical contact; or, an otherwise inappropriate relationship.

There was no apparent pattern of what types of unbecoming conduct are most common amongst lawyers.

A large ratio of teachers surrender their licenses. On the other hand, lawyers are generally not disbarred unless they resign. There is a similarity that close to 20% of the disciplinary mechanisms used by both teachers and lawyers is the revocation of licenses to practice.

Within teachers, less severe concerns of professional misconduct or professional incompetence are addressed through training and reflective essays, thus showing emphasis on and the presence of formative feedback. In contrast, only 9% of the disciplinary measures required lawyers to undergo training.

This echoes the lack of emphasis on Growth Mindset and formative feedback within the law school, and generally, within the legal profession.