



INTEGRITY, COURAGE, RESOLVE

Canadians for Accountability  
Canadiens pour la responsabilité

INTÉGRITÉ, COURAGE, RÉSOLUTION

20 February 2009

Brian McGowan  
Registrar  
Ontario College of Teachers  
121 Bloor Street East  
Toronto ON M4W 3M5

Dear Mr McGowan:

We are writing you today to express our concern about the charges that have been levelled against Mr. James Arthur Black, and to request that you reconsider the matter to be heard tomorrow.

Canadians for Accountability is a new organization created by a group of grassroots whistleblowers and accountability activists. Our mission is to advance integrity and accountability and to help and advocate for whistleblowers in all parts of our society. We have taken an interest in Mr. Black's case because we believe that he fits the definition of whistleblower.

Mr. Black has provided us with some material pertaining to his case, which we have reviewed. We have also had several discussions with him to better understand his case. Rest assured that he did not disclose any confidential information.

The situation, as Mr. Black has described it to us, is as follows:

- From 2002 to 2003, Mr. Black sat as a member on the College Council.
- In 2004, Mr. Black was asked by an individual at the Ministry of Education to provide a submission to the Ministry. He was asked to comment on his experiences at the College and suggest changes that could be made to improve the College.
- Mr. Black produced a report which was critical of the College, commenting on:
  - Low teacher participation in College elections and the associated disenfranchisement felt by many teachers,
  - Election processes which seemed to favour certain interests,
  - Poor ratio of practicing teachers in College Council and administration,
  - The practice of allowing teachers convicted of or having admitted sexual activities with minors, and
  - Other issues pertaining to racism and discrimination.

- In the period from 2004 to 2006, Mr. Black reports a series of reprisals being made against him. He retired from teaching in 2006, due primarily to the stress caused by the reprisals.
- In 2006, Mr. Black ran as a candidate for board trustee. In the process, he circulated copies of his report to members of the media and to some MPPs.
- In November 2006, CTV ran a story on Mr. Black's concerns. The journalists identified that Rodney Peter Palmer, a repeat sexual offender with teenage students, had been allowed back in the classroom by the College.
- In 2007, Mr. Palmer filed a complaint with the College alleging that Mr. Black had breached his confidentiality. The College appears to have expanded the charge to state that Mr. Black had breached Council confidentiality.
- A 375-day investigation into Mr. Black's actions was undertaken. Mr. Black alleges the following:
  - No preliminary investigation was made into the validity of the complaints by Mr. Palmer,
  - Several members of the investigation team had a conflict of interest or bias,
  - There were multiple violations of Mr. Black's privacy,
  - The length of the investigation was a contravention of College policy, which requires that such matters be disposed of in 120 days,
  - He was never given any specifics of the complaint to be investigated, and
  - He had retired as a teacher at the time the alleged misconduct took place.
- In 2008, Mr Black was charged by the College with disclosing confidential information which came to his knowledge in the course of his duties as a member of the College's Discipline Committee. A two-day hearing in June resulted in a guilty finding in October. Mr. Black now faces a series of penalties.

This case has many of the hallmarks of a typical whistleblowing case:

1. A concerned individual is driven by his conscience to speak out on an issue of public interest or safety.
2. The concerned individual is persistent, expecting the matter to be corrected at some point.
3. The individual faces escalating reprisals for speaking out.
4. An investigation is launched into the conduct of the concerned individual, but not into the matter he was reporting.
5. Punitive measures are taken against the concerned individual.

In summary, we are concerned that the principles of natural justice have been ignored in this case, and that Mr. Black is being targeted for speaking out on a matter of public safety. With the caveat that we are not aware of all the details, the allegations against him seem frivolous given the severity of the core issue – that is, the practice of allowing sexual offenders back into the classroom. Indeed, whatever the specifics of this case, it appears that the central issue has not been substantively dealt with. This lends credence to Mr. Black's concerns about the functioning of the College.

Mr. McGowan, we request that you halt these proceedings in order to conduct a neutral and impartial investigation into both Mr. Black's concerns and the complaints by Mr. Palmer. There appears to us to be a compelling public interest in doing so.

Finally, we would like to remind you that healthy organizations do not penalize those who offer criticism – they embrace them. Failing to do so raises the risk of the whistleblower's warning becoming reality. In this case, such an event could entail serious potential threat to the safety of our children, the very people your members are entrusted to protect and guide, and would no doubt compromise the legitimacy of your College and integrity of your profession.

Regards,



Allan Cutler  
President