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# Resolving Complaints at the Ontario College of Teachers

The Ontario College of Teachers governs the teaching profession in Ontario in the public interest. Teachers employed in the publicly funded system, including principals, vice-principals and academic supervisory officers must be members of the College. Many private school teachers are also members.

The College maintains an up-to-date register of all its members, which members of the College and the public can access at [oct.ca](https://www.oct.ca) → [Find a Teacher](#).

The public register includes a member's status with the College, academic qualifications, any terms, conditions or limitations that may have been placed on their teaching certificate and if the College has taken any disciplinary action against them.

# The College's Jurisdiction

The College is responsible for investigating and resolving complaints regarding professional misconduct, incompetence or incapacity of members of the College. Its authority derives from the *Ontario College of Teachers Act*, and regulations made under the Act, available on the College website at [oct.ca](http://oct.ca) → [About the College](#) → [Legislation](#).

A full version of the *Ontario College of Teachers Act* is available on the web at [oct.ca](http://oct.ca) → [About the College](#) → [Legislation](#).

## **Professional Misconduct**

Professional misconduct is defined in Regulation 437/97, Professional Misconduct Regulation, a copy of which you can find at the back of this publication.

## **Incompetence**

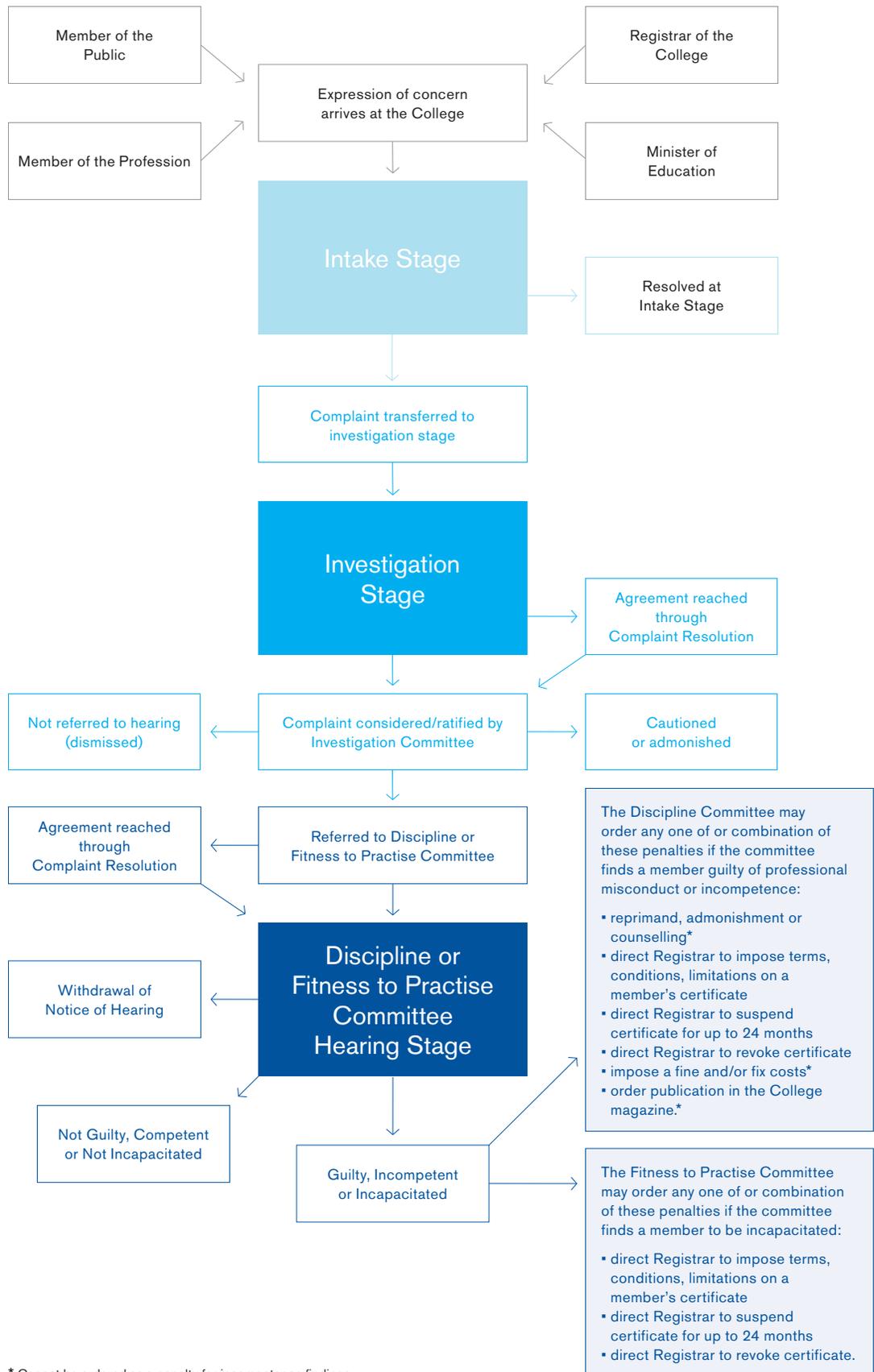
Incompetence is defined in the *Ontario College of Teachers Act* as conduct that demonstrates “a lack of knowledge, skill or judgment or disregard for the welfare of a student of a nature or extent that demonstrates that the member is unfit to continue to carry out his or her professional responsibilities or that a certificate held by the member under this Act should be made subject to terms, conditions or limitations.”

Allegations of incompetence may also arise from the teacher performance appraisal process, which came into effect in 2002. If a school board concludes that a member is not professionally competent to carry out their duties adequately, the board is required to report the member to the College.

## **Incapacity**

The College also deals with any complaints that a member is incapacitated, that is, that they suffer from a physical or mental condition or disorder such that they are “unfit to continue to carry out his or her professional responsibilities.”

# How the College Resolves Complaints



# The Intake Stage

## Dealing with Expressions of Concern

The complaint process begins when a member of the public or a member of the College contacts us either by telephone, e-mail or letter.

The concern the complainant expressed may involve issues that are outside the College's mandate or that are more appropriately dealt with at the local school or school board level. Where appropriate, Intake staff may provide strategies or advice to help the caller resolve the matter elsewhere.

If the concern expressed does appear to be professional misconduct, the next step is for the complainant to file a formal complaint. The procedure for filing a formal complaint is outlined in the College brochure *Steps to Take If You Have a Concern About a Member* available from the College or on our website at [oct.ca](http://oct.ca) → Publications.

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## School Board Notifications

School boards, as employers, have long been required to notify the College, as the teacher licensing body when a teacher has been found guilty of a criminal act. In 2002, legislation was amended to make reporting requirements much more stringent.

If a school board restricts the teaching duties of a member of the College because of behaviour that may be regarded as professional misconduct, the board must report the matter to the College. The board must also inform the College if a member has been charged with or convicted of a criminal offence involving sexual conduct and minors. The board may also inform the College if an employee's conduct indicates that students may be at risk of harm or injury.

When the College receives a board notification, the Registrar may file a formal complaint and acts as the complainant.

## The Investigation Stage

A formal complaint must be in writing, addressed to the Registrar, and signed by the complainant. It must also contain the full name of the member or members against whom it is made, as well as some details of the allegations. The College does not investigate anonymous complaints.

After a preliminary investigation, staff forward the complaint to the Investigation Committee who determine how it is to be handled.

### The Investigation Committee

The Investigation Committee has a range of available options to resolve a complaint, but its goal is to find the one solution that is most appropriate to the matter.

The committee may direct that no further investigation take place, if a complaint does not relate to professional misconduct, incompetence or incapacity. The committee may also dismiss the matter if it concludes that the complaint is frivolous, vexatious or an abuse of process.

In most cases, the committee will direct College staff to continue the investigation and report further on the complaint.

### The Investigation

The investigator will provide the complainant with a summary of the allegations and request confirmation from the complainant that the summary is an accurate reflection of the complaint. In many cases, the investigator will ask the complainant for further information related to the allegations.

The investigator will attempt to obtain all of the information necessary. This may include information from witnesses to the incident(s) in question, notes kept by the parties to the complaint, school and police records, relevant policies and procedures, job descriptions and other documents.

### The Disposition

Once the investigation is completed, the matter is submitted to a panel of the Investigation Committee. Neither the member nor the complainant is present at this meeting. According to the information it receives, the panel may decide to:

- dismiss the complaint
- caution a member in writing, or in person, if issues need to be addressed but do not warrant a disciplinary hearing
- refer the matter in whole, or in part, to the Discipline Committee for a hearing if the information suggests incompetence or professional misconduct
- refer the matter to the Fitness to Practise Committee for a hearing if the information suggests the member may be incapacitated.

The Investigation Committee may also ratify a memorandum of agreement reached through the complaint resolution program.

## The Hearing Stage

If the Investigation Committee refers a matter to a hearing, a Notice of Hearing is developed summarizing the allegations against the member based on alleged breaches of the professional misconduct regulation or acts of incompetence or incapacity. The Notice of Hearing, which includes the date of the hearing, is served on the member.

Dates and times of upcoming discipline hearings are available on our website at [oct.ca](http://oct.ca).

Hearings are formal proceedings, quasi-judicial in nature, conducted before a three-person panel of the Discipline Committee or the Fitness to Practise committee. The panels operate independently of the College, and independent legal counsel advises the panel on legal matters.

Discipline hearings are open to the public. Fitness to Practise hearings are not.

Committee members who serve on the Investigation Committee are not allowed to serve on the other two committees so that when a hearing begins, the panel members are learning about the matter for the first time.

College counsel presents the College's evidence and every opportunity is made to encourage the member to be represented by their own counsel to present the member's defence. A court reporter records the proceedings.

Although discipline hearings are usually open to the public, the panel may direct that the public be excluded from a hearing under certain circumstances.

Dates and times of upcoming discipline hearings are available on the College website at [oct.ca](http://oct.ca).

### Discipline Committee Hearings

The Discipline Committee panels hear and determine matters related to alleged professional misconduct and/or incompetence against members.

The parties to a hearing are the College and the member who is the subject of the complaint.

It is the responsibility of the panel to determine if the member is guilty of professional misconduct and/or incompetence in which case it may determine and impose a penalty.

Once College counsel and the member's counsel have made their submissions, the panel deliberates and renders its decision and the penalty.

The penalties may include:

- revoking the member's teaching certificate
- suspending the member's teaching certificate for up to 24 months
- imposing specific terms, conditions or limitations on a certificate
- reprimanding, admonishing or counselling the member
- fining the member up to \$5,000
- publishing the findings in a manner considered appropriate
- fixing costs to be paid by the member.

A written decision containing the allegations, the evidence, the decision and reasons for the decision, and the penalty is prepared at a later date. A copy is kept in the College library and is available to the public.

As part of its decision, the panel orders that a summary of the decision be published in *Professionally Speaking*, the College magazine, and maintained on the College website.

### **Fitness to Practise Committee Hearings**

Fitness to Practise Committee panels hear and determine matters related to the alleged incapacity of members. The parties to a hearing are the College and the member alleged to be incapacitated.

It is the responsibility of the panel to determine if the member is unfit to carry out his or her professional responsibilities and, if so, it may specify any terms, conditions or limitations it considers appropriate, or dispose of the matter in some other way, including:

- revoking the member's teaching certificate
- suspending the member's teaching certificate for up to 24 months
- requiring the member to provide evidence that any physical or mental condition, or disorder has been resolved before removing any terms, limitations or conditions imposed.

Fitness to Practise Committee hearings are closed to the public but are otherwise conducted in the same manner as Discipline Committee hearings.

## The Complaint Resolution Program

The College has developed a parallel process referred to as Complaint Resolution (CR) to promote the resolution of suitable complaints at all stages. Protection of the public interest is always the foremost focus.

The College assesses every complaint to determine whether it is suitable for CR. A complaint is considered suitable if it appears the matter could be resolved, in the public interest, without a full investigation or hearing.

The College does not use the complaint resolution process for complaints of sexual misconduct made by a member of the public.

When the College identifies a suitable case for CR, the member is asked to consider participating in the process. If the member does not wish to participate in complaint resolution, the complaint proceeds through the usual investigation and/or hearing process.

When matters are resolved through CR, the Registrar and member sign a memorandum of agreement (MOA) outlining the terms to which they have agreed. Once a committee of the College Council that has jurisdiction over the case ratifies the MOA, its terms become final and binding.

## College Brochures

If you would like to obtain additional information about how to file a complaint with the College or about CR, you can request the following brochures by contacting the Investigations and Professional Conduct Department at the numbers given below.

- *Steps to Take If a Complaint Is Filed Against You*
- *Steps to Take If You Have a Concern About a Member*
- *The Complaint Resolution Program*

These brochures are also available on the College website at [oct.ca](http://oct.ca) → [Publications](#).

A full range of brochures dealing with Investigations and Professional Conduct are available for free on the College website at [oct.ca](http://oct.ca) → [Publications](#).

# Regulation 437/97, Professional Misconduct

## Regulation Made Under the *Ontario College of Teachers Act*

Filed: December 4, 1997

### Section 1

The following acts are defined as professional misconduct for the purpose of subsection 30 (2) of the Act:

1. Providing false information or documents to the College or any other person with respect to the member's professional qualifications
2. Inappropriately using a term, title or designation indicating a specialization in the profession which is not specified on the member's certificate of qualification and registration
3. Permitting, counselling or assisting any person who is not a member to represent or herself as a member of the College
4. Using a name other than the member's name, as set out in the register, in the course of his or her professional duties
5. Failing to maintain the standards of the profession
6. Releasing or disclosing information about a student to a person other than the student or, if the student is a minor, the student's parent or guardian. The release or disclosure of information is not an act of professional misconduct if,
  - i. the student (or if the student is a minor, the student's parent or guardian) consents to the release or disclosure, or
  - ii. if the release or disclosure is required or allowed by law
7. Abusing a student verbally
  - 7.1 Abusing a student physically
  - 7.2 Abusing a student psychologically or emotionally
  - 7.3 Abusing a student sexually
8. Practising or purporting to practise the profession while under the influence of any substance or while adversely affected by any dysfunction,
  - i. which the member knows or ought to know impairs the member's ability to practise and
  - ii. in respect of which treatment has previously been recommended, ordered or prescribed but the member has failed to follow the treatment
9. Contravening a term, condition or limitation imposed on the member's certificate of qualification and registration
10. Failing to keep records as required by his or her professional duties
11. Failing to supervise adequately a person who is under the professional supervision of the member
12. Signing or issuing, in the member's professional capacity, a document that the member knows or ought to know contains a false, improper or misleading statement
13. Falsifying a record relating to the member's professional responsibilities
14. Failing to comply with the Act, the regulations or the bylaws
15. Failing to comply with the *Education Act* or the regulations made under that Act, if the member is subject to that Act
16. Contravening a law if the contravention is relevant to the member's suitability to hold a certificate of qualification and registration
17. Contravening a law if the contravention has caused or may cause a student who is under the member's professional supervision to be put at or to remain at risk
18. An act or omission that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional
19. Conduct unbecoming a member
20. Failing to appear before a panel of the Investigation Committee to be cautioned or admonished, if the Investigation Committee has required the member to appear under clause 26 (5)(c) of the Act
21. Failing to comply with an order of a panel of the Discipline Committee or an order of a panel of the Fitness to Practise Committee
22. Failing to co-operate in a College investigation
23. Failing to take reasonable steps to ensure that requested information is provided in a complete and accurate manner if the member is required to provide information to the College under the Act and the regulations
24. Failing to abide by a written undertaking given by the member to the College or an agreement entered into by the member with the College
25. Failing to respond adequately or within a reasonable time to a written inquiry from the College
26. Practising the profession while the member is in a conflict of interest
27. Failing to comply with the member's duty under the *Child and Family Services Act*.

### Section 2

A finding of incompetence, professional misconduct or a similar finding against a member by a governing authority of the teaching profession in a jurisdiction other than Ontario that is based on facts that would, in the opinion of the Discipline Committee, constitute professional misconduct as defined in section 1, is defined as professional misconduct for the purposes of subsection 30 (2) of the Act.

The College is responsible for investigating and resolving complaints regarding professional misconduct, incompetence or incapacity of members of the College.



Ontario  
College of  
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Ordre des  
enseignantes et  
des enseignants  
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