



---

Ontario's Teaching Regulator  
L'organisme de réglementation  
de l'enseignement en Ontario

# Memo

---

**Date:** November 2, 2022

**To:** Council of the Ontario College of Teachers

**From:** Kirby Chown, OCT, Chair  
Discipline Committee

**Subject:** Report of the Discipline Committee

---

## Committee Meeting and Training Dates

The Discipline Committee (DC) and Fitness to Practise Committee (FTPC) and roster of the DC/FTPC attended a joint legal training session led by Independent Legal Counsel on October 20, 2022.

The DC held a formal meeting on October 21, 2022.

## Summary of Work/Discussions

### a) Joint Training

At the joint training session of the DC/FTPC on October 20, 2022, Independent Legal Counsel Julie Maciura and Rebecca Durcan of Steinecke Maciura LeBlanc, provided legal training on the following topics: (1) duties of panel and hearing process; (2) mock hearing scenarios; (3) role of Independent Legal Counsel and staff; (4) appearance of bias; (4) definitions of misconduct, incompetence and incapacity; and, (5) agreed statements of fact and joint submissions on penalty. There was an emphasis on the fact of the independence of Discipline panels from the College when adjudicating cases notwithstanding joint submissions on penalty.

### b) Meeting

At the October 21, 2022 FTPC meeting, committee members addressed the following topics:

#### (i) Chair's Feedback Survey Results

At the request of the DC and FTPC Chairs, an online survey was developed and sent out to all committee and roster members of these two committees in June 2022 to gain feedback on the functioning of the newly implemented procedures as well as general matters. The Chair of DC shared the survey results and provided updates on the following topics: (1) duties and responsibilities of panel chairs, including (a) delegation of chair responsibilities, (b) scheduled breaks during hearings, (c) how to address questions to and from parties during hearings; (2) panel independence; and (3) resources available to the committee.

## (ii) Director's Update

Jamie Robertson, Director of Investigations and Hearings, provided an update on the College's strategic priorities and shared information about departmental practices established to reduce overall timelines of the disciplinary process, from Intake (when a complaint is received) until file closure at the Tribunals' stage. He further discussed the work undertaken by the department to consider practices and procedures in relation to self-represented litigants. He facilitated a discussion about how a file moves through the department from the intake stage, to the investigation stage, to the hearings stage, and about how a matter is handled when there is an ongoing criminal proceeding involving a member.

## (iii) Committee Member Compensation

Adam Tracey, Manager of Policy and Governance, presented on the topic of committee compensation and explained the government's role in setting compensation amounts according to specific schedules. He noted that Ontario tribunals were placed in a group of similar tribunals for purposes of remuneration. He also provided a comparative analysis referring to compensation amounts at other non-health regulators and health regulators. He further shared some historical context about the College's previous attempts at proposing changing to the amount of compensation. He noted that changes to compensation levels was unlikely. A question and answer session followed.

## (iv) *Amendments to the Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee*

Andy Rosenhek, Manager, Tribunals, presented a series of proposed amendments to the *Rules of Procedure of the Discipline Committee and Fitness to Practise Committee* ("Rules"). The Discipline Committee unanimously approved the proposed amendments, which related primarily to (1) bringing definitions in line with current legislation; (2) pre-hearing conference processes; (3) production of 3rd party records; (4) sealing orders; and (5) costs. Staff will translate and post the revised rules on the College website, and communicate the changes to stakeholders, including frequent hearings participants (i.e., counsel for the College, members' counsel who appear regularly before the DC/FTPC, and independent legal counsel), when the amendments take effect.

## (v) Statistics re Hearings Volume

The Tribunals Manager presented hearings data for DC/FTPC from the first three quarters of 2022 as compared to the trends over the previous four years. From Q1-Q3 of 2022:

- **87 matters were concluded** (i.e., finalized Decision and Reasons of the DC/FTPC), which is a **15% increase** over the previous four-year average;

- **111 panel days were held** (i.e., including hearing days, deliberation days, and pre-hearing days), which is a **23% increase** in the amount of time spent conducting the work of the DC/FTPC over the previous four-year average;
- **32 days** were spent **conducting contested proceedings** (i.e., hearings and/or motions), which is a **22% increase** over the previous four-year average;
- **75 uncontested proceedings** were heard (i.e., hearings and/or motions), which is a **17% increase** over the previous four-year average;
- **4 pre-hearing conferences** were held, which is a **74% decrease** over the previous four-year average.

Overall, the data demonstrates that the Discipline and Fitness to Practise committees continue to hold a high volume of hearings, though not quite as high as 2021, which appears to be an outlier. The higher hearings volume during the pandemic (as compared to the pre-pandemic volume) may be attributed to several factors: (1) the governance changes that led to an increase in the number of adjudicators available for Discipline and Fitness to Practise Committee panels; (2) the shift to electronic hearings and its related efficiencies; and (3) the focused effort on reducing timelines of the disciplinary process (i.e., a strategic priority set by Council), which has led to a reduction in the cumulative volume of open hearings files from a high of approximately 330 in 2019 to approximately 100 currently. The cumulative volume of open hearings files may, however, increase over time as matters are referred from the Investigation Committee, which currently has a high caseload.

Appeals data was also presented which indicated that eight decisions of the Discipline Committee have been appealed in the last five years. Of those, two appeals were successful, three were dismissed, and three have yet to be determined. The number of successful appeals is very low given the hundreds of decisions concluded during this period.

Finally, as questions were previously raised about the College's settlement rate, the above data indicates that the number of uncontested proceedings has remained generally consistent with the overall increase in hearings volume, and is not reflective of an increased settlement rate.

### **Motions Referred to Council**

No motions were referred to Council.

### **Committee Mandate/Duties**

The duties and mandate of the Discipline Committee are described in Appendix 1 of this document.

**Future Meeting Dates**

- Training: April 20, 2023 and October 19, 2023
- Meeting: October 20, 2023

**Committee Members**

- Kirby Chown, OCT (Chair)
- Rebecca Forte, OCT
- Kiran Qureshi
- Emile Ramlochan
- Myrna Tulandi
- Hanno Weinberger, OCT (Vice-Chair)

## **APPENDIX 1**

### **Discipline Committee**

#### **Mandate**

To deal with discipline issues. (OCTA, s. 3(1) at para. 8).

#### **Nature of the Discipline Committee's Work**

##### **The Discipline Committee:**

- a) shall hear and determine matters directed or referred to it under section 26, 29 or 33 (OCTA, s. 30(1)(a));
- b) shall perform such other duties as are prescribed by the regulations (OCTA, s. 30(1)(b));
- c) may, after a hearing, find a member guilty of professional misconduct, if the member has been guilty, in the opinion of the Committee, of professional misconduct (OCTA, s. 30(2)); and
- d) may, after a hearing, find a member to be incompetent if, in its opinion, the member has displayed in his or her professional responsibilities 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. (OCTA, s. 30(3)).

##### **Powers of the Discipline Committee**

Where the Discipline Committee finds a member guilty of professional misconduct or to be incompetent, it may make an order doing one or more of the following, in accordance with subsection 30(4) of the OCTA:

1. Directing the Registrar to revoke any certificate held by the member under the Act.
2. Directing the Registrar to suspend any certificate held by the member under the Act for a stated period, not exceeding 24 months.
3. Directing the Registrar to impose specified terms, conditions or limitations on any certificate held by the member under the Act.
4. Directing that the Registrar not carry out a direction made under paragraph 1, 2 or 3 for a specified period and not carry out the direction at all if specified terms are met within that period.
5. If the act of professional misconduct consists of or includes sexual abuse or a prohibited act involving child pornography, requiring the member to reimburse the

College for funding provided for a person under the program required under section 58.1.

6. If the panel makes an order under paragraph 5, requiring the member to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse the College under the order under paragraph 5.

Where the Discipline Committee finds a member guilty of professional misconduct, it may, in addition to exercising the powers described above, make an order doing one or more of the following, in accordance with subsection 30(5) of the OCTA:

1. Requiring that the member be reprimanded, admonished or counselled by the Committee or its delegate
2. Imposing a fine in an amount that the Committee considers appropriate, to a maximum of \$5,000, to be paid by the member to the Minister of Finance for payment into the Consolidated Revenue Fund.
3. [Repealed]
4. Fixing costs to be paid by the member to the College.

In making an order directing that the imposition of a penalty be postponed for a specified period and not be imposed if specified terms are met within that period, the Committee may specify the terms that it considers appropriate, including but not limited to terms requiring the successful completion by the member of specified courses of study. (OCTA, s. 30(6)).

In making an order revoking or suspending a certificate or imposing terms, conditions or limitations on a certificate, the Committee may fix a period during which the member may not apply for reinstatement or variation of the order. (OCTA, s. 30(7)).

Where the Discipline Committee is of the opinion that the commencement of the proceeding was unwarranted, the Committee may order that the College reimburse the member for his or her costs or such portion of them as the Discipline Committee fixes. (OCTA, s. 30(9)).

A hearing of the Discipline Committee shall, subject to making an order that the public be excluded from the hearing in accordance with the Act (OCTA, s. 32(7) and (7.1)), be open to the public. (OCTA, s. 32(6)).