

## Changes to the Ontario College of Teachers Act and the Early Childhood Educators Act

To: Presidents and All Members  
From: Pierre Côté, General Secretary

### For Information

On May 8, 2018, as part of Bill 31 – *Plan for Care and Opportunity Act (Budget Measures)* the governing Liberals passed Schedules 8 and 19, which contained changes to the *Early Childhood Educators Act (ECEA)* and the *Ontario College of Teachers Act (OCTA)*, respectively. The amendments to the acts were designed to mirror the changes recently made to the *Regulated Health Professions Act, 1991 (RHPA)*, to strengthen the sexual abuse provisions. The changes to the OCTA and the ECEA were identical in terms of intent and only varied in syntax particular to each college.

The amendments made include:

1. Expanding the list of acts/conduct resulting in mandatory revocation, referred to as, “frank acts” to include, “Touching of a sexual nature of a child’s or student’s genitals, anus, breasts or buttocks”.
2. The ability, through regulation, to add other acts/conduct of a sexual nature to the list of “frank acts” resulting in mandatory revocations.
3. Mandatory suspensions, at the discipline stage, for acts of sexual abuse that are not contained in the list of “frank acts” or a prohibited act involving child pornography.
4. Interim suspensions between the finding of professional misconduct by the discipline committee for a “frank act”, or a prohibited act involving child pornography, and the order of certificate revocation.
5. Allow for the collection of current, relevant information that will allow an “evidence-based determination” of incapacity to practice in the profession by authorizing the Colleges to order a member to undergo a physical or mental examination.
6. A new requirement for the colleges to provide funding for therapy and counselling for a student/child subjected to sexual abuse, or a prohibited act involving pornography, by a member. The college will be able to recover the costs from the member, through a court proceeding, of money paid for therapy or counselling for a child or student. Regulations would set out maximum amounts of funding and periods of time for which the funding may be provided for therapy and counselling.

OSSTF/FEESO made submissions at the committee level and took part in consultation, before the amendments were on the floor of Queens' Park, expressing concerns about the amendments and possible ramifications for members falsely accused of "sexual abuse."

Most of the amendments are now in force, except for the sections on therapy or counselling and ordering mental or physical examinations which become active at a later date through regulation.

Members are reminded that the definition of "sexual abuse", in both the OCTA and the ECEA, is:

- (a) Sexual intercourse or other forms of physical sexual relations between the member and the student,
- (b) Touching, of a sexual nature, of the student by the member, or
- (c) Behaviour or remarks of a sexual nature by the member towards the student

Part (c) of this definition is open to wide interpretation. Making a statement to a student, which they perceive as sexual in nature, regardless of intent, might result in the member paying for counselling for the student, among other disciplinary measures, should they be found guilty of sexual misconduct by their respective college.

Members are also reminded to contact their local District Office **immediately** after they receive contact from their college. The OCT allows only a 30 to 60 day window to respond to allegations. Also if an OCT member is offered complaint resolution, there is only approximately 10 days to decide if they wish to take part in that process. Extensions to deadlines are very rare. The local will then request legal support from Provincial Office as per DBU #40 (Policy for Approval of Legal Assistance).

If you have any questions about these legislative changes, please contact Dave Barrowclough at [dave.barrowclough@osstf.ca](mailto:dave.barrowclough@osstf.ca).

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