



Setting the Standard for Great Teaching  
Fixer la norme pour un enseignement de qualité

December 11, 2019

The Honourable Stephen Lecce  
Minister of Education  
438 University Avenue  
5<sup>th</sup> floor  
Toronto, ON M7A 2A5

Dear Minister Lecce,

### **Re: Funding for Therapy and Counselling**

At its December 5-6, 2019 meeting, the College's Council approved policy directives for the development of Council regulations that establish alternative eligibility and cessation criteria for the administration of a program for therapy and counselling for victims of sexual abuse and prohibited acts of child pornography.

Under the College's Act, the funding for therapy and counselling provisions come into effect January 1, 2020. The Lieutenant Governor in Council (LGIC) holds regulation-making authority governing different aspects of the funding program. The College understands the LGIC regulation will be filed imminently. The College's regulation is intended to further clarify those program aspects that have been assigned in legislation to the College. The policy directives are as follows:

**That the Council regulation should include language to indicate that only sexual abuse or prohibited acts of child pornography occurring on or after January 1, 2020 will be eligible for funding under the program.**

**That the Council regulation include a reference to "in connection with a member's practice".**

**That the Council regulation should not include a geographic restriction.**

**That the Council regulation should include the following alternative eligibility requirements in the Council regulation:**

- 1. The Discipline Committee has made a finding of sexual abuse and/or child pornography against a member. Although the primary eligibility criterion is a complaint or board report alleging sexual abuse and/or prohibited acts of child pornography, the alternative criterion would be based on a Discipline Committee finding after a hearing supported by evidence.**

- 2. A member has given an acknowledgment, an undertaking, a statement, an admission to, or enters into an agreement with, the College that the member sexually abused the student and/or the student was the subject of a prohibited act of child pornography.**
- 3. A Discipline Committee panel has written in its decision that the member committed sexual abuse or a prohibited act of child pornography against a student, other than the complainant who filed the initial complaint against the member.**
- 4. There has been an allegation of sexual abuse or prohibited act of child pornography, which has been referred to the Discipline Committee, but there was no hearing because the member:**
  - a. has died,**
  - b. is incapacitated,**
  - c. cannot be located,**
  - d. is otherwise unable to testify, or**
  - e. has been previously disciplined for the same conduct with another student or person.**
- 5. A civil court or another administrative tribunal has found that the member sexually abused the student or that the student was the subject of a prohibited act of child pornography. Again, this alternative is informed by a finding in a prior proceeding and was subject to evidentiary requirements in that proceeding. *The Statutory Powers Procedure Act*, legislation that applies to many administrative tribunals, including the Discipline Committee, allows tribunals to admit evidence previously admitted before another tribunal or a court.**
- 6. The member has been convicted of a criminal offence of a sexual nature under the Criminal Code. The Discipline Committee's rules of procedure explicitly allow a panel to admit into evidence proof of a prior conviction, as well as findings of fact in the prior proceedings.**
- 7. Conversely, a claimant who was otherwise eligible for funding for therapy and counselling would not receive funding if, in the opinion of the Registrar, any of the following occur:**
  - a. The need for therapy or counselling no longer results directly from the sexual abuse or prohibited act of child pornography on which the original allegation was based;**
  - b. The College's resources are insufficient to provide the funding reimbursement amount requested; or**
  - c. Having regard to the eligibility and cessation criteria as a whole, the granting of funding would not be just and equitable.**

**That the Council regulation should include the following cessation of eligibility requirements in the Council regulation:**

- 1. The claimant has reached the maximum amount of funding. This criteria ensures that once the funding cap of \$16,060 has been reached, no further funding will be made available to the claimant.**
- 2. The application is determined to be frivolous, vexatious or an abuse of process, and the claimant has not exhausted the maximum amount of funding. For instance, if an application was vexatious, further funding would cease. It would be within the College's right to recover funds dispensed on fraudulent grounds, but may not be to the College's financial or reputational advantage to do so.**
- 3. A panel of the Discipline Committee or an appellate court has made no finding or a finding of not guilty with respect to the allegations of sexual abuse or prohibited acts of child pornography, and the claimant has not exhausted the maximum amount of funding.**
- 4. Allegations of sexual abuse or prohibited acts of child pornography are withdrawn and a Notice of Hearing proceeds with other allegations, and the claimant has not exhausted the maximum amount of funding. Thus, the basis on which the funding was made available no longer exists.**
- 5. A Notice of Hearing has been withdrawn in its entirety and the member has not given an undertaking to retire or resign and not teach. The claimant has not exhausted the maximum amount of funding.**
- 6. The claimant has recovered or received funding from public funding and/or case damage awards for the same head of damages. If, for instance, a claimant received funding from a damage awards flowing from their civil or criminal case against the member in connection with the same incident of sexual abuse or prohibited act of child pornography, the College will reduce a claimant's total payment potential to account for this other source of recovery.**
- 7. The Investigation Committee does not refer a complaint of sexual abuse or prohibited act of child pornography to the Discipline Committee based on insufficient evidence to support the allegation.**

The interim period between the filing of the LGIC regulation and the Council regulation may pose legal and operational consequences for the College that will impact Ontario students and families seeking to access funding. With this in mind, we respectfully request that the development and filing of the Council's regulation be a priority and that the Council be in a position to approve a draft regulation at its March 5-6, 2020.

We look forward to continued collaboration in putting into place the necessary regulatory framework to support the successful implementation of this important funding program.

Sincerely,



Nicole van Woudenberg, OCT  
Chair of Council



Michael Salvatori, OCT  
Chief Executive Officer and Registrar

MS/JL/dm-pol