

Response to the Government
Bill 124 - *Fair Access to Regulated Professions Act, 2006*



Ontario
College of
Teachers
Ordre des
enseignantes et
des enseignants
de l'Ontario

Response to the Government

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Bill 124 was introduced by the Minister of Citizenship and Immigration, the Hon. Mr. Colle, and received First Reading on June 8, 2006. It received Second Reading on October 3, 2006.

The Ontario College of Teachers is pleased to provide this response to the government. The College supports the general principles and objectives of this proposed legislation and appreciates the opportunity to provide some considerations with respect to the College's mandate as one of the province's professional regulators.

Background

The Ontario College of Teachers is the self-regulatory body statutorily mandated to license, govern and regulate the profession of teaching in Ontario. The College was established in May 1997 in response to calls for increased public accountability and the need, stated in many reports, for improved quality and better co-ordination of pre-service and in-service teacher education programs. Its powers and duties are contained within its enabling legislation, the *Ontario College of Teachers Act* (the "*OCTA*"), the regulations under that Act, and its bylaws.

The College has an obligation under this legislation to register and certify College applicants as members and to address concerns from the public about members' professional conduct, competence or fitness to practise for the profession of teaching. In carrying out these duties, the College has an overriding duty to serve and protect the public interest.

The College is the largest regulatory body in Ontario and Canada and currently has over 204,000 members who are licenced and eligible to teach in Ontario's publicly funded elementary and secondary schools. All teachers who wish to teach or hold principal or vice-principal positions in Ontario's publicly funded schools must be licensed by the College of Teachers. Members of the College also teach in private schools, are university professors and college instructors, and work in other private and public organizations although they do not generally need to be members to work in these settings.

The College fully supports registration processes that are fair, transparent, objective and impartial.

The College has been a strong advocate for those applicants who have been educated outside Canada. It has many registration processes in place that are designed specifically to assist internationally educated applicants. Further, the College actively encourages internationally educated applicants to ensure that the teachers in Ontario public school classrooms reflect the reality of Canada's multiculturalism, and is working in partnerships in a bridging program - Teach-in-Ontario - to assist in achieving this reality.

However, the College has a number of concerns with respect to Bill 124.

Bill 124 applies to “regulated professions”, which are defined to mean the entities that are responsible for the “governance of a profession named in the regulations”. Although no regulations have been made, the Bill clearly applies to the College and would have a significant impact on the College’s ability to fulfill its statutory mandate to ensure that its applicants are fully qualified to teach in Ontario public schools.

In its current form, the Bill leaves many important and substantive details to be defined in the regulations that have yet to be drafted. In addition, a number of the Bill’s provisions directly conflict with the College’s enabling legislation and its statutorily created obligations. Other provisions add a confusing array of reporting obligations and an order-making power that provides little procedural protection for regulators.

Specifically, Bill 124 should:

- explicitly state what fairness and other key principles will mean and should define fairness in a manner that reflects that differences will exist in the practices and criteria used to assess applicants for registration.
- set clear requirements which recognize that the regulator’s duty to protect the public, including the duty to set registration requirements based on competency, are paramount.
- make clear the measures which will be used by the Commissioner in assessing regulator’s processes and appropriately limit oversight to registration practices as opposed to substantive registration requirements.
- choose a particular method of reporting or audit that is clearly defined and based on consultation with the regulators, which is specifically directed at the objectives of the legislation, and should not be left to regulation.
- provide full procedural protection for regulators facing orders by the Commissioner and a full right of appeal of such decisions.

For these reasons, the College has prepared this submission for the government’s consideration.

Areas of Concern to the College

1. Fairness under Bill 124

Bill 124 has been drafted with the intention of assisting internationally trained professionals, and is intended to enact some of the recommendations made to the Ontario Minister of Citizenship and Immigration by Mr. Justice Thomson in his 2005 report, *Review of Appeal*

Processes from Registration Decisions in Ontario's Regulated Professions. The purpose of the review was to address barriers that internationally trained professionals might face.

The focus of the Thomson Review and his report was on the development of a standard independent appeal mechanism. This independent appeal mechanism was not adopted by the government and is not a component of Bill 124. However, his report also recommended the development of a Fair Practices Code to be applied to all applicants, which he commented was bound to improve access for international applicants. This is the key part of Mr. Justice Thomson's report that is being made into legislation through Bill 124.

Although Bill 124 defines "internationally trained individuals", the legislation refers in many places simply to "individuals" who are applying to a professional regulator for registration, which would not exclude non-international candidates. An "individual" could include any candidate for certification, regardless of his or her place of training. Thus, the legislation would apply equally to Ontario-trained applicants, as well as those trained in Canada. The concept of "fairness" is not defined in the legislation. However, if the definition that is adopted includes the principle of equity this could create some unexpected problems. Applicants other than those who have been internationally trained may benefit from programs and policies that were originally intended for those who have been trained outside North America. This unintended effect may be especially apparent where registration requirements differ in regulation, such as certification under interprovincial labour mobility provisions.

The *OCTA* and Regulation 184/97 – Teachers Qualifications— set different requirements for internationally educated teachers from those applied to teachers educated in Ontario. Teacher education programs completed in Ontario must meet a list of set criteria and an applicant must complete the program in order to become registered. Internationally educated teachers must demonstrate a program that is "acceptable to the College". This gives discretion to the College to accept teacher education programs completed abroad that don't meet all of the requirements of an Ontario program. The College has reference to the requirements of Ontario's teacher education program but has developed criteria that also take into account that no international program will comply in all respects. As an example, internationally educated applicants whose teacher education program did not include 40 days of practical experience in a school can overcome this if they have completed one full year of successful teaching experience in the jurisdiction where they were educated. Applicants from Ontario must complete the practicum as part of their teacher education program in order to be registered.

The point we are making here is that differential treatment for internationally trained teachers in terms of the criteria for admission and the individual support that is extended to them in completing the application process are designed to address the barriers that they may face.

The solution we suggest is to ensure that the definition of fairness that is adopted in Bill 124 recognizes that differences will exist in the way applicants are treated during the registration process. In particular, the criteria applied and the processing of applicants from outside Ontario may take into account barriers faced by such applicants. This will allow for recognition of international applicants and those who benefit from labour mobility provisions who were trained in other provinces and territories in Canada. The other part of the solution is to ensure

that Bill 124 preserves the jurisdiction of regulators to establish the requirements for entry to the profession.

2. Duty to Protect the Public Interest and Govern the Profession

Bill 124, if enacted, would impose a statutory duty on professional regulators to ensure that their “registration practices are transparent, objective, impartial and fair”. While the College supports these principles, s. 3(2) of the College’s enabling legislation provides that any actions taken by the College are subject to the overriding general duty to serve and protect the public interest. This duty is generally considered to be paramount and would prevail in the event of a conflict with other legislation. However, s.30 of Bill 124 specifically provides that in the event of a conflict between its requirements and the requirements of other legislation, the Bill’s requirements would prevail.

The College of Teachers, like all other Ontario provincial regulators, has been entrusted with the authority to govern a profession. The proposed legislation would encroach on that independence and the autonomy of the profession to truly regulate itself.

a) Bill 124 - Section 9

An example to illustrate this point concerns the decisions that regulatory bodies must make about the level of proof or documentation that is required to establish an applicant’s credentials. Section 9 of Bill 124 provides that a profession “shall make information publicly available on what documentation must accompany an application and what alternatives to the documentation may be acceptable to the regulated profession if an applicant cannot obtain the required documentation for reasons beyond his or control.”

Under Bill 124 a regulator’s failure to meet this obligation can result in an order being made against the regulatory body. Such an order can be made without requiring disclosure by the Commissioner of the information and reasons underlying the decision to make the order. The regulator would only have the right to make a written submission regarding the proposed order. An appeal would be possible but only on a question of law.

Section 9 does not clarify whether alternatives must be available or what types of alternatives are contemplated.

The College of Teachers is unique among regulators in that it currently relies solely on official documentation in making its registration decisions, and uses credential-based assessment (assessment based on documented academic qualifications) as opposed to a competency-assessment (such as an assessment of demonstrated skills or abilities) to determine an applicant’s eligibility for certification. The College has recently undertaken to develop a framework for a “prior learning assessment and recognition” for consideration which may eventually be implemented but would require regulatory amendment.

The reliance currently placed on proof of credentials that can be verified is an important public protection issue that the College makes a very high priority. Section 9 may call this ability to

protect the public into question in that it raises concern about the College's ability to continue to apply high standards of proof with respect to proof of credentials. The documentation issue is not just procedural in the College's case; it is closely tied to the substantive requirements the College has set for registration provided for in regulation.

b) Bill 124 - Section 11

Another potential concern for regulators arises in the context of the requirements of s. 11 of Bill 124. This section requires regulators to provide access to records held by it that are related to the application for certification. This section appears to have been taken directly from Recommendation 9 on page 47 of the Thomson Report. However, the Bill fails to provide for any exceptions "for security reasons or for instances when disclosure would undermine the integrity of the assessment process". This exception was included in Justice Thomson's report. The exception would help preserve the regulator's ability to take the position that there will be cases where revealing all the details of its processes for verifying information would undermine its ability to protect the public.

c) Setting Certification Requirements

Justice Thomson noted in his report that regulators were concerned that allowing a third party to make decisions that override the professions' view of who is qualified to practice a profession in its field would be wrong. Such interference is considered to undermine the principle of self-regulation. As noted in our introduction, the setting of the standards for pre-service and in-service teacher education is a key object of the College.

In light of this important responsibility and the College's Council structure, which is designed to ensure input from the teaching profession and the public through its publicly appointed members, the Bill should seek to be consistent with the principles of self-regulation.

Justice Thomson refers in his report to regulators who raised concern about the preservation of freedom from state influence in allowing professions to effectively perform their role as regulators. He cites the principles of self-regulation as important and concludes that his proposed independent appeal mechanism will not impair self-regulation or represent state interference. He reaches this conclusion based on the procedural protections that process would entail and case law. He states his view that case law establishes that courts must show deference to the decisions of regulatory bodies.

However, it is important to note that Bill 124 does not adopt the independent appeal mechanism that Justice Thomson proposed and does not contain the same procedural protections that would have been afforded to regulators. Further the Bill does not provide the same ability for regulators to seek appeal of a decision by the Commissioner. The Bill provides for a limited right to appeal on a question of law only, an area in which the courts regard themselves as experts. It is submitted that full procedural protection for regulators facing orders by the Commissioner and a full right of appeal would help restore this balance.

There are two main provisions of Bill 124 that appear to open the door to the Commissioner impinging upon the regulator's right to set standards for certification – ss. 9 and 18(2).

First, s. 9 appears to require regulators to have in place alternatives for candidates who indicate they cannot provide the required documentation in support of their application.

Bill 124 should explicitly state what is contemplated in terms of alternatives to documentation and should make it clear that notwithstanding this, regulators will continue to determine what substantive requirements must be met to ensure competency of the professionals its regulates. As long as the requirements are rationally connected to ensuring the skills and competencies of the applicant for the profession, the Commissioner should be required to defer to the expertise of the profession and the self-regulatory regime charged with developing and administering it.

Subsection 18(2) of Bill 124 would require each profession to provide a report on the “extent to which the requirements for registration are necessary for or relevant to the practice of the profession”. Although this reporting requirement appears not to be subject to the order making powers of the Commissioner, it is not entirely clear what use the Commissioner might make of this information. This provision appears to depart from its focus on procedural matters relating to registration and enters the realm of the criteria the regulator uses to make registration decisions.

Bill 124 should make clear that in this area the Commissioner should defer to the professional regulator’s expertise on these issues. To the extent the Commissioner would seek to alter these requirements or to seek changes to legislation to accomplish this, full procedural protection should be afforded to regulators.

3. Undefined or Unclearly Defined Terms

A number of terms used in Bill 124 are not defined. For instance, the phrase “transparent, objective, impartial and fair” appears throughout the legislation, but none of the terms has been defined. The failure to provide a definition is very problematic as regulators’ actions and registration procedures will be both monitored and assessed against these standards.

The Bill contemplates the Fairness Commissioner’s creation of “classes” of professions. The classes might be based on common “attributes, qualities or characteristics” of regulators or professions. In turn, those classes may be subject to, or excluded from, different requirements, conditions or restrictions. “Class”, however, is not defined in the Bill, and there is no indication in the Bill what attributes, qualities or characteristics might be used to define a particular class or the process by which they may be developed.

Bill 124 would require regulators to provide an “internal review of or appeal from its registration decision within a reasonable time”. The phrase “internal review or appeal” is very broadly defined to include what appear to be different formats, including rehearings, reconsiderations, reviews, appeals or other processes. The formats might range from a documentary review, with no oral evidence to a court-like hearing. “Other processes” is not defined. It is not clear which of the formats are to be used and in what circumstances one would be preferable over another.

Bill 124 would also require that those assessing applicants' qualification, as well as those making registration decisions or internal review or appeal decisions receive training on, among other topics, how to hold "hearings". "Hearing", used in the legal sense, generally means a full court-like process, with the opportunity to make oral submissions. However, as noted above, a "hearing" is not necessarily required under the legislation. This provision may have been designed to ensure that decision makers are to be trained in the objective and regulatory requirements for registration, avoiding bias, avoiding conflicts of interest, assessing relevance of documentary evidence, general principles of procedural and substantive fairness and decision writing. But the term "hearing" implies a great deal more training beyond these areas, and may have important implications for professional regulators. For instance, the extent of training required will have an impact on the extent to which resources should be devoted to recruitment and training of staff and/or committee members.

Many important and substantive details of the processes established under Bill 124 are to be further or entirely defined in regulation. For instance, under s. 12(3) the Fairness Commissioner is empowered to assess the registration practices of regulated professions based on their obligations under both Bill 124 and the regulations. Without more articulation in legislation there is no clarity as to whether the focus of these assessments would be only restricted to procedural aspects or whether on substantive issues, such as academic and professional entry requirements would also be considered.

Further, s. 33(1), which sets out regulation making power, provides that the following items and activities may be partially or entirely delineated in regulation:

- records and other information to be provided by a regulated profession under this Act
- things to be provided by or performed by a regulated profession under this Act
- time limits for compliance with any provision or provisions of this Act or the regulations, including the provision of written registration decisions, which must be provided within a "reasonable time"
- reports and certificates to be provided to the Fairness Commissioner for the purposes of this Act, including their form, the information to be provided in them, their manner of preparation, making them available to the public and requiring regulated professions to provide such reports and certificates
- other information to be provided to the Fairness Commissioner and requiring persons to provide that information
- the powers of the Fairness Commissioner and the Access Centre
- audits of regulators' registration practices, including both audit standards and the scope of audits

If these details are left to be fully defined in the regulations, the College and other education stakeholders may be denied the opportunity to comment on the content of such regulations as they pertain specifically to the teaching profession.

4. Much of What Bill 124 Requires is Already in Place

Registration Process

The Registrar certifies applicants for membership in the College of Teachers. Last year, 12,060 applicants were certified. Of those certified, 1663 completed teacher education in the United States and 565 completed teacher education in other Canadian territories and provinces and 1,597 were internationally educated.

The College's academic and professional requirements for the registration of internationally educated teachers are described in s. 12 of Regulation 184/97, Teachers Qualifications. The College's enabling legislation, regulations and bylaws provide for a registration review process, through which an applicant who has been denied certification or who has been granted certification subject to conditions or limitations, may request a review of the decision. The Registration Appeals Committee, one of the College's statutory committees, conducts appeals from the Registrar's certification decisions and reviews an applicant's qualifications against criteria for registration with the College.

After considering an individual's application for review along with the results of the original evaluation, the Committee may direct the Registrar to issue a certificate of qualification (with or without conditions or limitations), or the committee may reject the application. It then prepares written reasons for its decision and provides a copy to the applicant.

From 2001 to 2005, a total of 259 applicants appealed the Registrar's decision to deny certification. Of the 243 applicants who were denied certification 101 – or 39% - subsequently satisfied certification requirements and have been certified.

The Committee must hold a review if one is requested as long as the request is not frivolous, vexatious or an abuse of power. However, it is not required to hold an oral hearing before making a decision. But in exercising its powers, it is required to do so in a manner that is both understandable by, and transparent to, the applicant, with "due regard to his or her circumstances [OCTA, s. 17.2(1)]. In addition, the applicant must be given the opportunity to examine any documents the Committee intends to rely on in its review, and must also have the chance to make written submissions with respect to those documents. The Registration Appeals Committee also provides a written decision to the applicant once it has completed a review of the Registrar's registration decision.

Information to Applicants, Assistance and Individual Support

Bill 124 would require a regulator to provide registration information at the outset of the application process, including details about registration practices, the time required to complete the process, fees, and registration requirements and whether they may be satisfied through alternative measures.

In fact, the College of Teachers currently provides considerable information and assistance to applicants with respect to its registration requirements in a variety of formats.

College Website and Registration Guides

The College's website contains information for all applicants wishing to become teachers. Information specifically for teachers who have been educated outside Ontario may be found under the section "Internationally Educated Teachers".

This section contains subheadings with very detailed information about how to register, required documentation, acceptable documents, document translation, country-specific information about academic requirements in various jurisdictions, evaluation of credentials and how to obtain statements of professional standing. It is noted that the College is aware that not all countries have a central authority governing the teaching profession, and that other documents will be accepted in such circumstance.

There is also a "frequently asked questions" section. The portion of the website for internationally trained teachers addresses difficult document questions and describes alternatives to address problems applicants may face. For example:

Q: Because of the political unrest, I cannot get transcripts from my postsecondary institution. Is there an acceptable substitute?

A: The College does require an official transcript to be sent directly from the postsecondary institution. However, we recognize that it is sometimes difficult to have official documentation to be sent directly from countries where there is political unrest. We have carried out extensive research on many countries and intervene on the behalf of applicants when they have provided proof that they cannot get a transcript. Contact Client Services to discuss this individually.

The registration guide for teachers educated outside Ontario can be downloaded from the website and is also available in hardcopy from the College and upon request for mailing. The guide provides detailed information about the registration process, the documentation required and how the documents must be submitted.

The guide also contains detailed information about the academic requirements, technological qualifications, and the requirements that must be met by the applicant's teacher education program. The guide indicates that applicants must have been certified in the jurisdiction where they undertook their teacher education program. The language proficiency requirements and the alternatives through which proficiency can be established are also described in detail.

The College's website and the registration guides explain that in order to process an application the College must have received all the required information, documentation and the fee.

The website and the registration guide both indicate that an evaluation of an applicant's credentials will take four to six weeks. It is noted that this evaluation can only take place once all the required documentation and information is received at the College, and explains that the process may take longer where the College needs more information.

Information Sessions

Information sessions for internationally educated teachers are held at the College one day of each month. These sessions are described on the website and are also mentioned when staff provide information to applicants and potential applicants.

The information sessions were first offered in September of 2004. Three sessions are offered simultaneously and each focuses on a particular group of applicants. There is a general session on the application process for those who have yet to apply, a session for those encountering difficulty obtaining certain documents, a session for those who have applied and have not been granted certification which focuses on the evaluation criteria and the next steps that will help them become certified, and a session for recently certified members which provides information about their certification and any conditions associated with it. The information pertains to Ontario's education system, the role of the College and the registration process.

Personal Assistance

Upon request applicants can attend a meeting or arrange a teleconference with staff in the Membership Services Department to find out more about the evaluation process and the registration requirements.

The College offers personal assistance on a daily basis at the Registration counter of its offices at 121 Bloor Street in Toronto. Most of the visitors each day are internationally educated applicants submitting information or seeking clarification regarding the application process. Staff in the Client Service unit also regularly respond to calls and emails about the registration process and provide updates to applicants about the status of their application during processing. Staff can determine the status of an applicant's file using the Registry because it is frequently updated as the application is processed.

Teachers educated outside Ontario receive a letter from the Registrar explaining why they will not be certified and/or why conditions will be imposed on the applicant's certificate of qualification. Applicants are also advised that they can request a review of any decision by the Registrar to refuse to certify or impose conditions.

Other College Initiatives

An E-career map has been developed with the Access to the Professions and Trades Unit of the Ministry of Citizenship and Immigration and the Ontario Council of Agencies Serving Immigrants (OCASI). This map can be found on the following website: www.settlement.org/teach and is included as Appendix A

The Teach in Ontario bridging program also provides information and support for teachers trained outside Ontario. The College, as a lead partner together with 3 organizations, Local Agencies Serving Immigrants World Skills (LASI), the Ontario Teachers' Federation (OTF) and Skills for Change (SFC), manage "Teach in Ontario", an 18-month government funded project through which information, advice, and language upgrading are provided to internationally trained teachers to prepare them for employment in Ontario's publicly funded schools. Under this program, internationally trained teachers are given information about Ontario's certification process and the Ontario school system. The College provides assistance

to internationally trained applicants who have experienced difficulties in getting copies of documents, such as academic records, from their countries of origin. Consultation centres provide both individual and group counselling sessions, language assessment and training, orientation sessions and assistance with job search strategies.

The College is pleased that funding for this project has been extended for an additional year and will now include a 4th partner, Windsor Women Working with Immigrant Women.

The College provides a link from its website to that of Teach in Ontario:

<http://www.teachinontario.ca/?lang=en-CA>

Reports to the Fairness Commissioner

Professional regulators would be required under Bill 124 to prepare a fair registration practices report, annually, at intervals determined by the Fairness Commissioner, or as specified in the regulations.

The Bill would also require professional regulators to undertake a review of its registration practices to ensure that the practices are transparent, objective, impartial and fair and to file a report on the results with the Fairness Commissioner, who would determine the frequency of such reports. It is not clear if this report is in addition to the annual report.

The College's Council is required under its enabling legislation to meet with the Minister of Education each year, and also to report annually to the Minister on the College's activities and financial affairs. That report is then submitted to the Lieutenant Governor in Council and tabled in the Assembly. The report contains, among other information, statistical reports on the activities of the Registration Appeals Committee, and statistics on the number of new College applicants and newly certified members.

This information is also readily available on the College's website.

Further, the College's Quality Assurance Committee assesses the College's performance relative to its objects to ensure that the College continues to meet its mandate, and provides an annual report to the College's Council.

It is submitted that the added requirement of reporting under the Bill will add to the administrative burden but not add substantial value. It may actually take away from other activities aimed at advancing registration practices for applicants and providing the individual support to applicants that is currently provided. This individual support is recognized in the Thomson report as a key part of the solution for providing improved access to professions by qualified internationally educated professionals.

The recommended solution is to focus on one method of reporting that is streamlined and occurs with reasonable frequency with requirements that are clearly set out and directed at the goals of the legislation.

5. Bill 124 Conflicts with the College's Duty of Confidentiality and Privacy Policy

The proposed legislation would permit an Auditor to review confidential applicant and member files. This access to confidential information would contravene both the College's enabling legislation and the College's Privacy Policy.

In fulfilling its statutory mandate and carrying out its regulatory activities, the College is subject to a general duty of confidentiality, which requires the College to balance the public interest with the privacy rights of complainants, members and applicants. Specifically, s. 48 of the *OCTA* contains confidentiality provisions that apply to all persons who are engaged in the administration of the *OCTA*, including Council members who are appointed by the government. These provisions require them to preserve secrecy with respect to all information that comes to their knowledge during the course of their duties, with the following specific exceptions:

- as may be required in connection with the administration of this Act and regulations and by-laws or any proceeding under this Act or the regulations or by-laws
- to his or her counsel
- with the consent of the person to whom the information relates
- to the extent that the information is available to the public under this Act

In addition, a person engaged in the administration of the *OCTA* cannot be compelled to give testimony with respect to information obtained in the course of his or her duties in a civil proceeding, other than a proceeding under that Act, or an appeal or judicial review taken from a proceeding under the Act. Similarly, a record of a proceeding under the *OCTA*, documents or things prepared for such a proceeding, statements given during such a proceeding, and orders or decisions made during a proceeding cannot be admitted in a civil proceeding, other than a proceeding related to the administration of the *OCTA*.

The *OCTA* provides for very substantial penalties in the event the confidentiality provisions are breached. Subsection 48(4) states that every person who contravenes s. 48(1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

In addition to the statutorily imposed duty of confidentiality, the College has in place its own Privacy Policy, which would apply to its regulatory activities, including its registration and certification activities. In particular, the policy applies to the College's collection, use and disclosure of personal information during the course of its statutorily mandated activities as the regulator of the profession of teaching. The Privacy Policy is specifically designed to meet the requirements of the federal privacy statute, the *Personal Information Protection and Electronic Documents Act* ("PIPEDA").

6. Participants in the College's Registration Appeals Process

Bill 124 specifies who may participate in an internal review or appeal from a registration decision, and precludes those who participated in the original registration decision from participating in the review or appeal. Neither “participate” nor “participant” is defined. A reasonable interpretation of the term “participant” might include those involved in the recommendation or approval of a registration decision. Similarly, “participate” might be interpreted to include involvement in the decision process and not just in the decision itself.

Registration Appeals Committee reviews are currently conducted by providing the applicant an opportunity to make written submissions and provide additional documents relevant to their appeal. A panel of the Committee then meets to review all the documentation relevant to the application and appeal. The Panel develops a consensus during the meeting and prepares a written decision, with reasons, that is provided to the applicant.

In reaching its decision, the Committee requires access to the evaluation expertise of College staff members who work in this area to ensure that it makes informed decisions that comply with requirements set out in regulations. Bill 124 proposes that anyone involved in the original decision may not participate in the appeal. This may prevent the Committee from drawing upon the credential and assessment expertise of College staff as it considers registration review matters.

It is submitted that some provision should be added to s. 8(4) to allow for input from staff who have credential evaluation expertise who can offer information and comment to the Committee who will consider it impartially and reach their own decision based on all the information.

7. Orders of the Fairness Commissioner and Appeals from Orders of the Fairness Commissioner

Where the Fairness Commissioner concludes that a professional regulator has breached the Bill, the Commissioner may make orders mandating compliance as he or she considers appropriate. Although a professional regulator cannot be required to make, amend, or revoke a regulation, the Commissioner has the authority to recommend to both the regulator and the Minister responsible for the profession that such changes be made.

The *Statutory Powers Procedure Act* (the “*SPPA*”), which applies to many administrative tribunals, including several of the College’s statutory committees, provides for a procedural code that encompasses basic requirements of the common law duty of procedural fairness. However, apart from the right to make submissions with respect to any order that the Fairness Commissioner intends to issue under Part VII, those who are the subject of such an order may not rely on the provisions of the *SPPA* and the procedural protections available thereunder.

Bill 124 provides for a limited right of appeal from an order issued by the Fairness Commissioner. Specifically, a professional regulator who is the subject of an order may appeal the order, but only with leave of the Divisional Court and the appeal is limited to questions of

law. This right of appeal is far narrower than the right of appeal provided for under the College's enabling legislation, which may be on questions of law or fact, or both.

It is submitted that the Bill should provided for full procedural protection for regulators that are the subject of an order including full disclosure of the information and basis upon which the Commissioner relies in making a recommendation or order, and a full right of appeal of any order on questions of law or fact or mixed law and fact.

8. Presenting Information to Ensure that An Assumption of Systemic Barriers Doesn't Arise Where Outcomes are Actually a Result of Different Teacher Education Approaches Around the World

The College has evaluated applications from over 105 jurisdictions and also is considered a leading resource for information on educational institutions and systems as they pertain to the teaching profession. The College cautions that reports to the Fairness Commissioner or audits of registration activities might show applicants from certain jurisdictions or education systems as being less successful in the registration process than others. There is concern that this would be misinterpreted as a 'systemic barrier' to those applicants, instead of a natural incongruence between a certain education system and that of Ontario.

In some international jurisdictions such as Romania, Albania and Poland, the completion of a specific 'level' of education allows a graduate to be a teacher. The program completed may have very little specific teacher education or pedagogical content. In these cases, we complete an assessment by determining the number of total hours in the complete degree, divide by the number of years required to complete the program and determine that that figure represents one year of study, or the equivalent, at the specific University. This figure determines what additional work must be completed to satisfy the teacher education requirement for Ontario. Although these programs may appear to be concurrent, the minimal amount of teacher education course work completed does not meet Ontario certification requirements. If the applicant has less than half of a year course work in education it is the practice of the Ontario College of Teachers to require completion of an Ontario Teacher Education program.

Conclusion

The Ontario College of Teachers supports the objectives and principles of Bill 124 but believes that improvements can be made to ensure that the desired objectives are achieved. The College believes that the following key areas should be dealt with through amendments to the Bill.

Specifically, Bill 124 should:

- explicitly state what fairness and other key principles will mean and should define fairness in a manner that reflects that differences will exist in the practices and criteria used to assess applicants for registration.
- set clear requirements that recognize that the regulator's duty to protect the public, including the duty to set registration requirements based on competency, are paramount.
- make clear the measures that will be used by the Commissioner in assessing regulator's processes and appropriately limit oversight to registration practices as opposed to substantive registration requirements.
- choose a particular method of reporting or audit that is clearly defined and based on consultation with the regulators, which is specifically directed at the objectives of the legislation, and should not be left to regulation.
- provide full procedural protection for regulators facing orders by the Commissioner and a full right of appeal of such decisions.

Appendix A



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Certified Teachers e-Career Map



This e-Career Map was developed to help internationally trained teachers understand the process of becoming a certified teacher in Ontario's public and separate (Catholic) schools. The Ontario College of Teachers is the professional organization that provides the certification for teachers to teach in these schools.

If you are an internationally trained teacher interested in teaching children in the elementary and secondary school levels, this e-Career Map will give you 1) background information about teaching in Ontario, and 2) an explanation of the steps required to become certified, including how to have your international education evaluated.

Before you begin making decisions about your particular requirements, you should review the [Questions and Answers](#) section for answers to questions that internationally trained teachers often ask.

About the Sections in this e-Career Map

[Teaching in Ontario](#)

This section of the website provides a general information guide about teaching in Ontario. You will also find up-to-date labour market information and salary expectations.

[Your Path to Becoming a Teacher](#)

This section takes you step-by-step through the application process for certification.

[Requirements](#)

This section explains the requirements for becoming a certified teacher.

[Questions and Answers](#)

This section provides answers to the commonly asked questions about becoming a certified teacher in Ontario.

[Contacts and Resources](#)

This section provides links to organizations, services, and resources to help you establish your career in Ontario.

[Glossary](#)

An explanation of commonly used abbreviations and terms found in this website.

This eCareer Map was funded by the Ontario Government.

The College has an obligation under this legislation to register and certify College applicants as members and to address concerns from the public about members' professional conduct, competence or fitness to practise the profession of teaching. In carrying out these duties, the College has an overriding duty to serve and protect the public interest.