



Committee Report

Item: Fitness to Practise Committee Report

Public Interest Rationale: The Fitness to Practise Committee is a statutory committee of the Ontario College of Teachers. The committee's mandate is to hear and determine in an objective, transparent and fair manner, matters related to the alleged incapacity of members, for the protection of the public interest.

Strategic Alignment: N/A

Submitted By: Hanno Weinberger, OCT, Chair

Committee Meeting Dates

Since the last committee report, the Discipline Committee (DC) and Fitness to Practise Committee (FTPC) and Roster of the DC/FTPC attended joint legal training sessions led by Independent Legal Counsel on April 18 and October 17, 2024.

The Fitness to Practise Committee held a formal committee meeting on October 18, 2024.

Summary of Business

a) Joint Training

At the joint training session of the DC/FTPC and Roster on April 18, 2024, Independent Legal Counsel, Julie Maciura of Steinecke Maciura LeBlanc, provided legal training on the following topics: (1) Hearings; (2) Role of Panels, Independent Legal Counsel and Staff; (3) Definitions of Misconduct, Incompetence and Incapacity; and (4) Fitness to Practice.

At the October 17, 2024, joint legal training session of the DC/FTPC and Roster, Independent Legal Counsel Ms. Maciura and her colleague Rebecca Durcan provided legal training on the following topics: (1) Agreed Statement of Facts and Joint Submissions on Penalty; (2) Appearance of Bias; (3) Deliberating and Decision Writing; and (4) Orders.

b) Committee Meeting

At the October 18, 2024 FTPC meeting, the members of the FTPC addressed the following topics:

(i) Discussion and Feedback Regarding Committee Members' Experiences

The Chair of the FTPC opened the floor to receive feedback from Committee members about their experience on the Committee and as panelists. Staff was asked how the College extends recognition to Committee members for the work they do for their committee. Staff advised this is a matter of ongoing consideration for the College.

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

Jennifer Shin, Manager of Tribunals, presented a series of proposed amendments to the Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee



("Rules"). Committee members had an opportunity to ask questions about the proposed amendments to staff and seek the assistance of Independent Legal Counsel.

The FTPC unanimously approved the proposed amendments, which related primarily to (1) amending numerical references in different parts of the Rules; (2) implementation of a page limit for facta submitted in support of motions (3) clarifying the member's opportunities to provide a response in matters referred to the DC under subsection 26(9) of the Act (i.e., administrative revocations and reprimands for members previously convicted of sexual offences); and (4) clarification of the rule allowing for costs for a party's unreasonable, frivolous and vexatious conduct during a proceeding.

Staff will translate and post the revised Rules on the College website, and will communicate the changes to stakeholders, including frequent hearings participants, when the amendments take effect.

(iii) Amendments to the *Practice Direction for Electronic Proceedings*

The Manager of Tribunals presented a proposed amendment to the Practice Direction for Electronic Proceedings ("Practice Direction"). Committee members had an opportunity to ask questions about the proposed amendment to staff and seek the assistance of Independent Legal Counsel.

The FTPC unanimously approved the proposal to add a provision setting out the content and formatting requirements for facta submitted in support of motions made during a proceeding.

Staff will translate and post the revised Practice Direction on the College website, and will communicate the changes to stakeholders, including frequent hearings participants, when the amendments take effect.

(iv) Statistics on Hearing Volumes

The Manager of Tribunals presented hearings data from the first three quarters of 2024 in comparison to the trends over the previous four years. The data generally indicated that (1) the Discipline and Fitness to Practise Committees continue to hold a high volume of hearings; (2) the volume of contested hearings has increased significantly (which leads to lower output due to the increased time taken to hear and then draft reasons in these matters); and (3) successful efforts have been made by the prosecutions' and tribunals' teams to reduce the cumulative volume of open hearings files from more than 300 open files in 2019 to current levels that are below 100 open files in 2024.

It is anticipated that, given the high volume of open files at the investigation stage (a proportion of which will be referred to the Discipline and Fitness to Practise Committees) and because of the currently high volume of contested files, the number of open hearings files may increase in the coming months and years.

Committee members had opportunities to ask questions about these statistics throughout the presentation.

Motions Referred to Council

No motions were referred for Council consideration.



Committee Mandate and Duties

Mandate of the Fitness to Practise Committee

- To deal with fitness to practise issues. (OCTA, s. 3(1) at para. 8)

Nature of the Fitness to Practise Committee's Work

- The Fitness to Practise Committee:
 - a) shall hear and determine matters directed or referred to it under section 26, 29 or 33. (OCTA, s. 31(1)(a));
 - b) shall perform such other duties as are prescribed by the regulations. (OCTA, s. 31(1)(b)); and
 - c) may, after a hearing, find a member to be incapacitated if, in its opinion, the member is suffering from a physical or mental condition or disorder such 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. 31(2))

Powers of the Fitness to Practise Committee

- Where the Fitness to Practise Committee finds a member to be incapacitated, it may make an order doing one or more of the following, in accordance with subsection 31(3) 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 imposition of a penalty be postponed for a specified period and not be imposed if specified terms are met within that period.
- 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 it considers appropriate, including but not limited to terms requiring the production to the Committee of evidence satisfactory to it that any physical or mental condition or disorder in respect of which the penalty was imposed has been resolved. (OCTA, s. 31(4))
- 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. 31(5))
- Where the Fitness to Practise 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 Committee fixes. (OCTA, s. 31(7))
- A hearing of the Fitness to Practise Committee shall, subject to written notice by the member received by the Registrar before the day the hearing commences, be closed to the public. (OCTA, s. 32(8))



Future Meeting Dates as of October 31, 2024

- Committee and Roster training: April 17, 2025 and October 16, 2025
- Committee meeting: October 17, 2025

Committee Members

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

Roster Members

Susan Arbour, OCT
Scott Barker, OCT
Maria Bueno Marcial, OCT
Sarah Choudhury
Rachelle Coleman
Adam Dharsee, OCT
Pascale Evans, OCT
Lois Figg
Stefano Fornazzari, OCT
Andrew Glenny
Anthony Jeethan, OCT
Anne LaFlamme, OCT
Yasser Laheta, OCT
Damienne Lebrun Reid
Adam Lee, OCT
Élaine Legault
Alain Martel, OCT
Kelly Marvin, OCT
Marlène Marwah
Wanda Percival, OCT
Sandra Pizzuti, OCT
Emma Rhodes
Victoria Romero
Brian Serafini, OCT
Terrence Singh, OCT
Kayla Stephenson
Lisa Tucker
Myrna Tulandi
Kimberley Westfall-Connor