



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

Memo

Date: July 13, 2023
To: Members of Council
From: Linda Lacroix, OCT
Registrar and CEO
Subject: Proposed Regulatory Amendment – Alternative Eligibility Requirements
for Therapy or Counselling

Enclosed with this memo as Attachment 1 is a proposed amendment to Ontario Regulation 493/20, Alternative Eligibility Requirements for Therapy or Counselling (the “Eligibility Regulation”) made under the *Ontario College of Teachers Act, 1996* (the “Act”). This regulatory amendment is confidential and was brought forward by Ministry staff to reflect recent amendments to the Act and give effect to a previous recommendation made by the Transition Supervisory Officer acting in his capacity as Council, as outlined below.

Background

Section 58.1(3)(a) and (b) of the Act sets out the eligibility criteria for receiving funding for therapy and counselling in relation to an allegation of a student being the subject of sexual abuse, a prescribed sexual act or a prohibited act involving child pornography, as set out in a complaint or report against a member of the College.

Bill 98, *Better Schools and Student Outcomes Act, 2023*, introduced an amendment affecting this eligibility criteria. In particular, section 58.1(3)(a) of the Act was amended as follows:

58.1(3) A person is eligible for funding if,

~~(a) it is alleged in a complaint or report against a member received by the College that the student was the subject of sexual abuse, a prescribed sexual act or a prohibited act involving child pornography and, in the opinion of the College, the student was, at the time of the alleged sexual abuse, prescribed sexual act or prohibited act involving child pornography, a student the member supervised or was responsible for in the course of the member's practice; or~~

(a) it is alleged in a complaint or report against a member received by the College that the student was the subject of sexual abuse, a prescribed sexual act or a prohibited act involving child pornography; or

This amendment removes the “nexus requirement” that a student must have been, in the opinion of the College, supervised by the member or that the member was responsible for the student, in order for a person to be eligible for therapy and counselling funds from the College. This amendment aligns with the spirit of the Act in ensuring that all students who have been sexually abused by members of the College are able to access funding from the College’s therapy and counselling program.

Alternative eligibility requirements for funding for therapy and counselling are currently set out in the Eligibility Regulation. Section 1 of the Eligibility Regulation states:

1. A person is eligible for funding if it is alleged in a complaint or a report against a member received by the College that the student was the subject of sexual abuse or of a prohibited act involving child pornography and, in the opinion of the College, the student was not, at the time of the alleged sexual abuse or prohibited act involving child pornography, a student the member supervised or was responsible for in the course of the member’s practice, but the member’s practice facilitated the relationship between the student and the member, or the member’s access to the student. [emphasis added]

Given that the amendment to s. 58.1(3)(a) of the Act removes the nexus requirement and section 1 of the Eligibility Regulation sets out alternative criteria for meeting the nexus requirement (i.e. the member’s practice must have facilitated the relationship between the student and the member, or the member’s access to the student), this section of the Eligibility Regulation must be removed as it now contradicts the Act.

While section 1 contains more than the alternative criteria for meeting the nexus requirement, the entire section is slated to be revoked since the other eligibility criteria are already encapsulated in s. 58.1(3)(a) of the Act.

Amending the Eligibility Regulation to remove the nexus requirement was originally recommended by the Transition Supervisory Officer in a letter to the Minister dated June 28, 2021 (Attachment 2):

... the Alternative Requirements Regulation should be amended to remove the member’s teaching practice nexus requirement in order to align with the definition of “student” in the Act as well as the public protection mandate of the College. The College’s duty to protect the public interest includes the protection of any student, regardless of relationship to the member.

Decision

The amendment revoking section 1 of the Eligibility Regulation as drafted by the Ministry is now provided for Council’s review and approval.

Should Council approve the proposed amendment, the revised Eligibility Regulation would be signed by the Chair of Council and the Registrar, and then sent to the Ministry of Education to be filed (i.e. formally amend the Eligibility Regulation).

It is therefore recommended:

That Council approve the proposed amendment to Ontario Regulation 493/20, Alternative Eligibility Requirements for Therapy or Counselling, as outlined in Document 45, Attachment 1.