

# COLLEGE OF VOCATIONAL REHABILITATION PROFESSIONALS

## COMPLAINTS PROCEDURE

### *Definitions*

1. In this Procedure,

**“Board”** means the Board of Directors, current or past, of the College of Vocational Rehabilitation Professionals of Ontario

**By-Laws** “ means the By-Laws of the College of Vocational Rehabilitation Professionals of Ontario

**“College”** means the College of Vocational Rehabilitation Professionals of Ontario

**“Incapacitated or incapacity”** means, that the Member is suffering from a physical or mental condition or disorder that makes it desirable in the interests of the public that the Member’s certificate of registration be subject to terms, conditions or limitations or that the Member no longer be permitted to be a member of the College.

**“Incompetence”** means, a Member of the College has displayed in his or her professional responsibilities a lack of knowledge, skill or judgment, or disregard for the welfare of a person or persons of a nature or extent that demonstrates that the Member is unfit to continue to carry out his or her professional responsibilities or that the Member’s certificate of registration should be subject to terms, conditions or limitations or should be revoked.

**“Member”** means a member of the College

**“Procedures”** means the Procedures developed by the College pursuant to the By-Laws in relation to Registration, Complaints, Discipline, Professional Practice, Fitness to Practice or any other Procedures developed by the College from time to time

**“Profession”** means the profession of vocational rehabilitation

**“Professional misconduct”** means conduct that contravenes the By-Laws, an order of a College Committee, or conduct that is defined as being professional misconduct in the By-Laws or by College Policy, Guideline or Procedure.

### *Complaints*

2. A complaint must relate to a Member of the College and be in legible writing or for the purposes of accommodation, in a tape or other recorded format and must include,

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- i. The name of the person making the complaint (the “complainant”);
  - ii. The address and telephone number where the complainant can be contacted by the College;
  - iii. The name of the Member who is the subject of the complaint, or if the Member’s name is not known, sufficient particulars by which the College can reasonably determine the name of the Member;
  - iv. A statement or statements regarding the conduct or actions of the Member with sufficient details to identify the concerns of the complainant and should include:
    - a. The date(s), time(s) and place(s) of the event or events giving rise to the complaint;
    - b. The name and contact information of any person who may have witnessed the event or events giving rise to the complaint or who may have useful information; and
    - c. Any other documentation which may be relevant to the investigation of the complaint.

#### ***Duties of Complaints Committee***

3. The Complaints Committee shall consider and investigate complaints regarding the conduct or actions of Members of the College.
4. Despite section 3, the Complaints Committee shall refuse to consider and investigate a written complaint if, in its opinion,
  - i. the complaint does not relate to professional misconduct, incompetence or incapacity in relation to a Member of the College; or
  - ii. the complaint is frivolous, vexatious or an abuse of process.

#### ***Panel for Consideration of Complaints***

5. A complaint filed with the Registrar regarding the conduct or actions of a Member shall be investigated by a panel selected by the Chair of the Complaints Committee from among the Members of the Complaints Committee.

6. A panel shall be composed of at least three (3) Members of the Complaints Committee.
7. Three (3) Members of a panel constitute a quorum.

### *Confidentiality*

8. Every person employed in the administration of this Procedure shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties, employment, inquiry or investigation and shall not communicate any such matters to any other person except,
  - i. as may be required in connection with the administration of this Procedure and the By-Laws or any proceedings under these Procedures or By-Laws;
  - ii. to his or her counsel; or
  - iii. with the express written consent of the person to whom the information relates

### *Process for Complaints*

9. Upon receipt of a complaint filed with the Registrar, the process shall be as follows:
  - i. the complainant will receive a letter acknowledging receipt of the complaint, advising of the process and requesting the following:
    - a. a duly executed acknowledgement and undertaking that
      1. no record of a complaint, no report, document or thing prepared for or statement given at a proceeding under the Procedures or any of them and no order or decision made in such a proceeding is admissible or can be introduced in a civil proceeding other than a proceeding under the By-Laws or Procedures; and
      2. no person employed or involved in the administration of this Procedure or any member of the Board shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him or her in the course of his or her duties, employment, inquiry or investigation except in a proceeding under the Procedures or the By-Laws; and

- b. a signed consent and direction to release the details and documents of the complaint to the Member of the College against whom the complaint is made; and
    - c. If relevant to the complaint, a signed consent and direction in respect of the release of personal health information. Such a consent may be requested from the outset or in the context of any investigation conducted by the Complaints Committee;
  - ii. if any acknowledgement undertaking or consent requested under subsection (i) is not provided, the Complaints Committee may elect, in its sole discretion, not to proceed with the complaint;
  - iii. the Member complained about is notified in writing of the College's receipt of a complaint;
  - iv. the Member shall be required to sign an acknowledgement and undertaking that no record of a complaint, no report, document or thing prepared for or statement given at such a proceeding under the Procedures and no order or decision made in such a proceeding is admissible or can be introduced in a civil proceeding other than a proceeding under these By-Laws or Procedures. If the Member refuses to sign the acknowledgement or undertaking, then the Complaints Committee may, in its sole discretion, elect not to provide the Member with a copy of the complaint and related documents and may make a determination of the complaint without the Member's involvement or take any other action it deems fit in accordance with the By-Laws and these Procedures;
  - v. upon receipt of the Member's signed acknowledgement and undertaking, the Member shall be provided with a copy of the complaint and related documents and shall be given at least 30 days to provide the College with a written response to the complaint;
  - vi. at the Committee's sole discretion, the complainant may be provided with a copy of the Member's response to the complaint and an opportunity to provide any new information or clarification concerning the response submitted by the Member about whom the complaint was made;
  - vii. the Complaints Committee may at any time in the process request further information from the complainant, the Member about whom the complaint was made, or from third parties; and
  - viii. in the event that the Committee determines that the Complaint is of a nature that warrants further investigation, the Committee may appoint such individual or

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individuals that the Committee deems necessary (including outside investigators) to conduct an investigation into the matters referred to in the complaint.

### *Alternative Dispute Resolution*

10. If the Complaints Committee considers it appropriate to do so and the complainant and the Member agree, the Committee may refer the matter for alternative dispute resolution, if the matter:
  - i. has not yet been referred to the Discipline Committee; and
  - ii. the matter does not involve sexual abuse.
11. If the complainant and the Member reach a resolution of a matter that has been referred to alternative dispute resolution, they shall advise the Committee and the Committee may:
  - i. adopt the proposed resolution and cease its investigation of the complaint; or
  - ii. continue with its investigation of the complaint.
12. If a matter that has been referred to alternative dispute resolution fails to be resolved:
  - i. a new panel of the Complaints Committee will consider the complaint and no information obtained during the attempted alternative dispute resolution will be shared with the new panel; and
  - ii. neither the Member nor the complainant may introduce information obtained during the attempted alternative dispute resolution in the formal complaints process.
13. The alternative dispute resolution process can be terminated at any time by the College, the complainant or the Member.
14. No party shall participate in alternative dispute resolution without signing a confidentiality agreement as required by the Committee. All communications at an alternate dispute resolution and the facilitator's notes and records shall remain confidential and shall be deemed to have been made without prejudice to the parties in any proceeding.

### *Powers of the Complaints Committee*

15. A panel, after investigating a complaint regarding the conduct or actions of a Member, considering the written submissions of the Member and considering or making reasonable

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efforts to consider all records and documents it considers relevant to the complaint, may do any one or more of the following:

- i. refer a specified allegation of the Member's professional misconduct, incompetence or incapacity, in whole or in part, to the Discipline Committee if the allegation is related to the complaint;
- ii. refer the Member to the Fitness to Practice Committee for incapacity proceedings;
- iii. direct the matter not be referred under subsection 15 (i.) or 15 (ii);
- iv. require the Member to appear before the panel or another panel of the Complaints Committee to be cautioned; or
- v. take any action it considers appropriate that is not inconsistent with the By-Laws or the Procedures.

### ***Decision and Reasons***

16. The Complaints Committee panel shall, after taking any action under section 15 or after deciding to take no action, give its decision to the Registrar.
17. The panel of the Complaints Committee shall give the complainant and the Member who is the subject of the complaint,
  - i. a written copy of its decision; and
  - ii. written copy of its reasons, if the panel decided to anything under subsections 15 (iii), 15 (iv) and 15 (v).

### ***Timely Disposal***

18. A panel shall use its best efforts to dispose of a complaint within 180 days after the filing of the complaint.

### ***Review***

19. If the decision of the Complaints Committee is to do anything other than refer the matter to the Discipline Committee or the Fitness to Practice Committee, either the complainant or the Member may request that the decision be reviewed by a differently constituted panel of the Complaints Committee made of up three persons who have had no prior involvement with the matter (the "Review Panel").

20. A request for a review must be received by the Registrar within 10 business days of the date the decision was sent to the complainant and the Member.
21. When a review has been requested, the Registrar shall provide the Review Panel with all documents and things received or considered by the Complaints Committee Panel that considered the complaint.
22. In conducting a review, the Review Panel shall only consider written submissions limited to the adequacy of the investigation conducted and the reasonableness of the decision.
23. Following the request for the review, the Registrar shall write to the party requesting the review and shall request written submissions. The requesting party shall have 30 days to provide their written submissions. If no response is received from the requesting party, the review shall not proceed.
24. The requesting party's submission shall be provided to the responding party who shall then have 30 days to provide submissions. In the event the responding party elects not to provide submission, the review shall proceed without such submissions.
25. At the Review Panel's sole discretion, the Review Panel may provide the requesting party with a copy of the responding party's submissions for comment.
26. No new evidence shall be accepted by the Review Panel and its decision shall be made solely on the materials before it, which includes the Complaints file and any submission by the Requesting Party and the Respondent.
27. After reviewing the materials, the Review Panel may:
  - i. Confirm all or part of the decision made by the Complaints Committee;
  - ii. Make such recommendations to the Complaints Committee as it considers appropriate, or
  - iii. Require the Complaints Committee to take any action that the Complaints Committee is authorized to take under this Procedure.
28. The decision of the Review Panel is final and shall not be the subject of any further review or appeal.

***No Hearings***

29. Neither the Complaints Committee panel nor a Review Panel is required hold a hearing or afford to any person an opportunity for a hearing or an opportunity to make an oral or written submissions before making a decision or giving a direction under this Procedure.