



Once the Committee has all the information it needs or has asked for, the Committee makes one of the following decisions:

- Take no further action
- Negotiate a settlement between the College and the Registrant
- Refer the case for competency assessment
- Refer the case to the Discipline Committee if there is enough evidence to suggest the registrant has committed an act of professional misconduct or incompetence

### Alternate Dispute Resolution

The College uses every opportunity to resolve a concern or complaint so that the College, the Registrant, and the complainant are satisfied. The College uses cooperative approaches, and tries to resolve concerns quickly. Both the Registrant and the complainant must agree before the complaint can be settled through mediation.

Mediation is not employed where concerns involve criminal activity, sexual abuse or serious professional misconduct.

### Hearings

Hearings are held by panels of either the Discipline or Fitness to Practise Committees when serious matters of conduct, competence or capacity must be resolved. Panels include both public members of Council (appointed by the Ontario government) and representatives elected or appointed to the Council by the profession. Hearings are formal, and usually involve lawyers for both parties. Panel members review the case, may hear from witnesses, and may be presented with exhibits. Frequently, the College and the

Registrant will attempt to come to a mutual agreement on the facts of the case, and on appropriate penalties in advance of the hearing. This can shorten the length of the hearing, while maintaining protection of the public.

If a Registrant is found guilty, the panel decides on a penalty for the Registrant:

- The Registrant may receive a formal reprimand, which is placed on the public register, and is therefore available for any member of the public to see.
- Certain terms, conditions and limitations may be put on the Registrant's practice (such as reduced hours of practice, or limitations of practice to a single area of skill).
- The Registrant may not be allowed to practice for a period of time.
- The College may revoke or withhold the Registrant's registration.

Discipline hearings are open to the public. They are advertised on the College website. The decisions are also made public. Fitness to Practise hearings are closed to the public, and the decisions reached are oriented towards rehabilitation, rather than reprimand. The outcome of a Fitness to Practise hearing is made public only if terms, conditions or limitations are placed on the Registrant's certificate of practice.

### Appeals

Some decisions may be appealed by those directly involved in the matter. The process for appeal is different depending on which type of panel or Committee was involved in the decision. Instructions for the appeal process are always provided in writing to the individuals involved.



College of Occupational  
Therapists of Ontario

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# Investigations & Resolutions

AN OPEN APPROACH

### For more information, contact:

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## The Role of the College

The College of Occupational Therapists of Ontario is responsible for regulating the practice of OTs under legislation known as the *Regulated Health Professions Act* (RHPA). All OTs who practice in Ontario must be registered with the College and use the title designation “OT Reg. (Ont.)”.

A key role of the College is to manage concerns and complaints about OTs who are registered with the College. Concerns can be raised by any member of the public (such as individuals who have used the services of an OT), a colleague or an employer. To protect the public interest, the College must give serious consideration to every concern or complaint brought to its attention, and ensure a fair and just review process.

## Structure

All concerns and complaints sent to the College should be addressed to the Registrar’s Office. The Registrar is ultimately accountable for the College’s administration of the Investigations & Resolutions processes. The Manager of Investigations & Resolutions works with the Registrar to manage the investigations processes, including gathering enough information to decide which committee within the College should consider the concern or complaint, managing all files for complaints and concerns that are being considered by the College, ensuring that activity for each file is tracked properly and coordinating Committee and panel meetings, mediations and hearings. The Manager of Investigations & Resolutions also assists with the external appeal process when necessary.

## Confidentiality and Security

All information received, produced or requested by the College in the course of investigating and resolving a concern or complaint is treated in a confidential and sensitive manner, although some information may have to be shared in order to complete an investigation. Under the RHPA, all Committee members and all staff are bound by obligations to manage information and materials with the greatest respect for privacy and security. All databases, files, mailings, and discussions are managed with this in mind.

## COMPLAINTS AND CONCERNS FALL INTO THREE CATEGORIES:

### Misconduct

Misconduct refers to instances when an OT ignores the basic rules of practice. Examples of misconduct may include failing to keep information about a client confidential, suddenly refusing to provide service to a client, working while in a conflict of interest, or treating a client without obtaining consent. Unprofessional behaviour, such as yelling at a client, is also considered misconduct.

### Poor Practice

OTs are expected to have, and to continually develop the knowledge, skills and judgement they need to practice safely and competently. “Poor practice” is measured against written standards of practice, and against practice that is generally accepted as reasonable by OTs with experience in the area of concern.

### Poor practice includes:

- care that does not reflect acceptable standards; and
- inappropriate or incompetent care that does not meet the generally accepted standards of practice within the profession.

### Poor Health

Occasionally an OT may suffer from a disability or disease which interferes with her/his ability to provide the type and quality of care needed by a client. A concern may be brought forward by a client, a colleague or an employer if the OT does not seem to be able to provide the appropriate care and appears to be placing her/his clients at risk.

## ADDRESSING CONCERNS AND COMPLAINTS

### Formal Complaints

If an individual wishes to proceed with a complaint, they must make a “formal complaint”. A formal complaint must be received by the Registrar in writing or recorded on a tape, film or disk. The information that the Registrar receives should clearly state that it is a complaint. The formal complaint should include the name of the OT (the Registrant), the details of each incident which occurred (ex. the date, time, place, service being provided, and other individuals involved), and

the name of the person who is making the complaint (the complainant). All supporting documents or materials should be sent to the College. **The College must consider every complaint it receives.**

**There is no time limit for filing a complaint, however, complaints about incidents that took place before December 31, 1993 cannot be accepted as the College did not exist prior to that date.**

Once a complaint about an OT has been received, the Investigations & Resolutions team will:

- confirm that the OT is registered with the College; and
- clarify the information received, and provide the Registrant with a copy of the complaint.

The Registrant has the opportunity to respond to the issues raised within a 30-day period. A copy of the Registrant’s response to the complaint is provided to the complainant for any additional remarks.

Once this information is gathered from the Registrant and the complainant, it is sent to the Complaints Committee for review. A panel is formed to review the complaint. The panel may decide that further investigation is needed. Further investigation may include such things as:

- seeking an expert opinion;
- requesting additional information; or
- interviewing individuals involved in the complaint.

Once the panel has collected all of the necessary information, it considers the information, and then makes one of the following decisions:

- Take no further action
- Confirm an agreement is reached
- Give a written and/or verbal caution to the Registrant

A caution provides the Registrant with advice about his/her practice.

- Negotiate a contract (undertaking) with the Registrant related to his/her practice
- Refer the case for competency assessment
- Refer the case to the Discipline Committee for a hearing if there is enough evidence for a charge of professional misconduct or incompetence against the Registrant

- Refer the case for further action if there is enough evidence that the Registrant may be mentally or physically unable to practice or there are serious concerns about the Registrant’s practice that are outside of the scope of the initial complaint.

## Mandatory Reports

Under the law, there are two situations that must be brought to the attention of the College for possible action by employers and other regulated health care providers. In these cases, a mandatory report is sent to the College.

- No sexual abuse of a client is acceptable, and any occurrence must be reported to the College. Sexual abuse includes comments or touching of a sexual nature, as well as sexual intercourse. Any regulated health provider (such as an OT, a doctor, a nurse, etc.) or the employer of a provider, must report any reliable information about abuse if they know the name of the OT who may have abused the client. Providers and/or employers who know about possible sexual abuse must report it to the College within 30 days of learning the information or they may be fined. You may obtain more information on the College’s sexual abuse prevention program by contacting the College.
- A mandatory report must be also be provided to the College when an employer, partner or associate of a Registrant ends the Registrant’s employment because of poor performance. Further, the Registrant must also be reported to the College if she/he leaves the job while under duress, is involved in a program to improve their job performance, or if there are allegations of misconduct against them.

The Registrar informs the Executive Committee of the mandatory report. After it has reviewed the information received, the Executive Committee may decide that it needs more information in order to make a decision.

The person who first provides the mandatory report to the College does not participate in the process of addressing the issue or complaint, unless they are asked to be a witness or to provide more information. She/he does not have access to information while the concern is being addressed by the College, and does not get a copy of the final decision. The Registrant will receive a copy of the final decision.