

Employer Bulletin

Mandatory Employer Reporting Obligations

On August 31, 2015, the Early Childhood Educators Act, 2007 (the Act) was changed to include new requirements for employers to submit mandatory reports to the College of Early Childhood Educators (the College). The changes, which build upon existing reporting requirements, specify required time lines for reporting and set out information the College must provide to employers in response to any reports received.

This bulletin is intended to assist employers in understanding their reporting obligations to the College by providing a summary of legislative changes. It is not meant to be exhaustive and does not constitute legal advice.

Mandatory Reporting Obligations under Section 49.1

Under section 49.1 of the Act, employers are required to report to the College when:

- a) An employer terminates a member's employment, suspends a member or imposes restrictions on a member's duties for reasons of professional misconduct.
- b) If an employer intended to terminate a member's employment, to suspend a member or impose restrictions on a member's duties for reasons of professional misconduct but the employer did not because the member resigned their employment.
- c) If a member resigns their employment while the employer is engaged in an investigation into allegations of an act or omission by a member that would, if proven, have resulted in the termination of the member's employment, suspension of the member or the restriction of the member's duties for reasons of professional misconduct.

Mandatory Reporting Obligations under Section 49.2

Under section 49.2 of the Act, employers are required to report when they become aware that a member of the College who is or who has been employed by the employer as an early childhood educator:

- a) Has been charged with or convicted of an offence under the Criminal Code (Canada) involving sexual conduct and minors;
- b) Has been charged with or convicted of an offence under the Criminal Code (Canada) that, in the opinion of the employer, indicates that a child may be at risk of harm or injury; or
- c) Has engaged in conduct or taken action that, in the opinion of the employer, should be reviewed by a committee of the College.

The 28 sections in Ontario Regulation 223/08 define the conduct that constitutes professional misconduct. This regulation can be found on the College's website at college-ece.ca.

How soon must employers notify the College of a mandatory employer report?

If the College should urgently carry out any action, employers are required to notify the College of the matter promptly. If not, then employers must notify the College within 30 days.

Do I have an obligation to notify the member who is the subject of a mandatory employer report that a report has been filed with the College?

Yes, where an employer submits a mandatory employer report to the College, they are also required to provide a copy of the report to the member who is the subject of the report at the same time.

How does an employer submit a report to the College?

Employers may complete the Mandatory Employer Report form found on the College's website. This form and the required supporting documents can be sent to the College by mail, fax or email.

What is considered to be a restriction of duties?

The Act states that for the purposes of the mandatory reporting obligations, a restriction of duties includes:

- a) Restrictions on a member's eligibility to practise without supervision;
- b) Restrictions on the services or activities described in section 2 of the Act regarding the scope of practice of early childhood education that the member may engage in; or
- c) Any other restriction prescribed by the regulations.

Once an employer has reported to the College, what obligations does the College have to report back to the employer?

The Act states that the Registrar of the College is to notify, as soon as is reasonably possible, the employer in writing of the action taken, if any, by the Registrar in response to the employer's report. Where applicable, the Registrar will also report to the current employer of the member, if this employer is different from the employer who made the report.

In addition, the College will provide the employer who reported and, if known and different, the employer who currently employs the member, with information regarding the following, as applicable:

- The decision of the Complaints Committee.
- If an interim suspension is ordered against the member's Certificate of Registration.
- The decision of the Discipline Committee or the Fitness to Practise Committee.
- If the Executive Committee directs that a matter be referred to a hearing.
- If the member appeals the decision of the Discipline Committee or the Fitness to Practise Committee.
- If a member applies for reinstatement as the result of a Committee order.

What actions should an employer take if they become aware that a complaint is being pursued against a member in their employment as the result of an employer report?

Although members may engage in behaviour that may be determined to constitute professional misconduct, incompetence or incapacity, the College expects employers to provide their employees with support and professional development. Often, these situations may be a learning opportunity for all staff. While the College investigates a member's conduct, their status of registration with the College does not change. However, a finding by a hearings committee, the consideration of the issuing of an interim suspension by the Executive Committee or the conditions of a voluntary undertaking by a member may affect a member's standing with the College, and therefore, the circumstances of their employment.

Cette publication est aussi disponible sous le titre : *Bulletin de l'employeur – Dépôt de rapports : Obligations de l'employeur prévues par la Loi*

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For more information please contact us at communications@college-ece.ca or visit our website at college-ece.ca.