

Français

Ontario Career Colleges Act, 2005

ONTARIO REGULATION 414/06

TRAINING COMPLETION ASSURANCE FUND AND OTHER FINANCIAL MATTERS

Consolidation Period: From January 1, 2024 to the [e-Laws currency date](#).

Last amendment: 354/23.

Legislative History: 345/08, 467/16, 184/20, 469/21, 354/23.

This is the English version of a bilingual regulation.

CONTENTS

PART I
DEFINITIONS

- [1.](#) Interpretation

PART II
TRAINING COMPLETION ASSURANCE FUND ADVISORY BOARD

- [6.](#) Indemnification of members

PART III
TRAINING COMPLETION ASSURANCE FUND

ESTABLISHMENT OF FUND

- [11.](#) Establishment of Fund

- [12.](#) Fiscal year

ADMINISTRATION OF FUND

- [17.](#) Administration of Fund

- [18.](#) Payments out of Fund

- [19.](#) Employees and experts

- [20.](#) Annual reports

PART IV
PREMIUMS AND LEVIES

- [21.](#) Collection of information

- [22.](#) Payments to Fund by career colleges

- [23.](#) Notice of premium, etc.

- [24.](#) Late payment

- [25.](#) Initial annual premiums

- [26.](#) Subsequent annual premiums

- [27.](#) Prorated amounts of premium surcharges and subsequent annual premiums

- [28.](#) Premium surcharge

- [29.](#) Levies

- [30.](#) Adjustment to payments

- [31.](#) Rebates

PART V
SECURITY

- [32.](#) Security required

- [33.](#) Amount of security

- [34.](#) Forfeiture of security

- [35.](#) Transition

PART VI
TRAINING COMPLETION AND REFUND OF FEES WHERE CAREER COLLEGE CEASES TO OPERATE

- [36.](#) Definitions

- [37.](#) General limitation

- [38.](#) Duty to provide training completion, refunds

39.	Training completion plan
40.	Approval of training completion provider
41.	Where training completion available
42.	Student expenses re: training completion
43.	Refund if student refuses training completion
44.	Refunds if training completion not available
45.	Payment of training completion providers' costs
46.	Time period for making student claims
47.	Payment of student claims and training completion costs
48.	Where proceeds from forfeited security excessive
49.	Subrogation

PART I DEFINITIONS

Interpretation

1. (1) In this Regulation,

“authorized issuer or guarantor” means,

- (a) Canada, Ontario or another province of Canada,
- (b) an agency of the Government of Canada or a province of Canada, or
- (c) a bank or financial institution that is supervised or examined by the central bank of Canada or another governmental authority in Canada; (“émetteur ou caution autorisé”)

“Board” means the Training Completion Assurance Fund Advisory Board; (“Conseil”)

“campus” means a location at which a career college offers one or more vocational programs; (“campus”)

“financial statements” includes, unless a contrary intention appears, forecasted financial statements prepared in accordance with generally accepted accounting principles; (“états financiers”)

“Fund” means the Training Completion Assurance Fund established under section 11; (“Fonds”)

“General Fund Money” means money in the Fund other than money received by the Superintendent as a result of realizing upon security provided by a career college that has been declared to be forfeited under section 34 or income received by the Superintendent on any security provided by a career college; (“sommes générales”)

“training completion” means training that is provided in accordance with Part VI to allow students enrolled in a vocational program at a career college to complete their training in the vocation if the program is discontinued by the career college before the students complete the program. (“achèvement de la formation”) O. Reg. 414/06, s. 1 (1); O. Reg. 345/08, s. 1; O. Reg. 467/16, s. 1 (1); O. Reg. 469/21, s. 1; O. Reg. 354/23, s. 1.

(2) A reference to a vocational program in this Regulation is a reference to a vocational program that has been approved by the Superintendent under section 23 of the Act. O. Reg. 414/06, s. 1 (2).

(3) In this Regulation, a fee that is paid by a student to a career college in respect of a vocational program or part of a program is considered to be earned or unearned, as follows:

- 1. The fee is earned on a program or part of a program as the career college provides the program or part to the student.
- 2. The fee is unearned in respect of a program or part of a program that the career college has not provided to the student. O. Reg. 467/16, s. 1 (2); O. Reg. 354/23, s. 1.

PART II TRAINING COMPLETION ASSURANCE FUND ADVISORY BOARD

2.-5. REVOKED: O. Reg. 469/21, s. 2.

Indemnification of members

6. (1) Subject to subsections (2) and (3), the Superintendent shall indemnify out of General Fund Money a former member of the Board, or any heirs or legal representatives of the former member, against all costs and liabilities reasonably incurred in respect of any civil action or proceeding to which the former member is made a party by reason of being or having been a member of the Board. O. Reg. 414/06, s. 6 (1); O. Reg. 469/21, s. 3 (1).

(2) The Superintendent shall indemnify a person under subsection (1) only if the former member acted honestly and in good faith in the performance or intended performance of his or her duties with respect to the matters alleged in the action or proceeding. O. Reg. 414/06, s. 6 (2); O. Reg. 469/21, s. 3 (2).

(3) The Superintendent shall not pay any General Fund Money for the purposes of indemnifying a former member under subsection (1) if liability insurance has been purchased under subsection (4). O. Reg. 414/06, s. 6 (3); O. Reg. 469/21, s. 3 (3).

(4) The Superintendent may, on the recommendation of the Board, pay General Fund Money in order to purchase and maintain insurance for the benefit of former members of the Board against any liability that would otherwise be indemnified against out of General Fund Money under subsection (1). O. Reg. 414/06, s. 6 (4); O. Reg. 469/21, s. 3 (4).

7.-10. REVOKED: O. Reg. 469/21, s. 4.

PART III TRAINING COMPLETION ASSURANCE FUND

ESTABLISHMENT OF FUND

Establishment of Fund

11. (1) The Training Completion Assurance Fund is established for the purposes of section 3 of the Act. O. Reg. 414/06, s. 11 (1).

(2) The Fund shall be composed of money from the following sources:

1. Premiums, surcharges and levies payable by career colleges under Part IV.
2. Interest charged under section 24 and subsection 30 (3) on late payments of premiums, surcharges and levies.
3. Any income earned by the Fund, including income received by the Superintendent on any security provided under section 32.
4. Money received by the Superintendent as the result of realizing upon any security provided by a career college that has been declared to be forfeited under section 34.
5. Money recovered in an action brought by the Superintendent under section 49.
6. Donations made to the Fund. O. Reg. 414/06, s. 11 (2); O. Reg. 467/16, s. 3; O. Reg. 354/23, s. 1.

(3) Money received under subsection (2) shall be held in a separate interest-bearing account in the Consolidated Revenue Fund to be known as the Training Completion Assurance Fund Account. O. Reg. 414/06, s. 11 (3).

Fiscal year

12. (1) The Fund's fiscal year begins on January 1 of any given year. O. Reg. 414/06, s. 12 (1).

(2) REVOKED: O. Reg. 467/16, s. 4.

13.-16. REVOKED: O. Reg. 467/16, s. 5.

ADMINISTRATION OF FUND

Administration of Fund

17. (1) The Superintendent is responsible for the administration and management of the Fund. O. Reg. 414/06, s. 17 (1).

(2) At the request of the Superintendent, a career college shall provide him or her with such information as the Superintendent considers necessary for the administration and management of the Fund. O. Reg. 414/06, s. 17 (2); O. Reg. 354/23, s. 1.

Payments out of Fund

18. (1) The Superintendent may direct that money received by the Superintendent as a result of realizing upon security provided by a career college that has been declared to be forfeited under section 34 be paid out of the Fund for the following purposes only:

1. To pay training completion costs under section 45 or claims made by students under sections 42, 43 and 44 that arise as a result of that career college ceasing to operate in the circumstances described in subsection 38 (1).
2. To pay any excess amount referred to in section 48. O. Reg. 414/06, s. 18 (1); O. Reg. 354/23, s. 1.

(2) The Superintendent may direct that income received by the Superintendent on security provided by a career college that has not been declared to be forfeited under section 34 be paid out of the Fund to the career college to the extent that the sum of the value of the security and the income received by the Superintendent exceed the amount of security required to be provided by the college under section 33. O. Reg. 414/06, s. 18 (2); O. Reg. 354/23, s. 1.

(3) The Superintendent may direct that General Fund Money be paid out of the Fund for the following purposes only:

1. Subject to subsection (4), to pay training completion costs under section 45 or claims made by students under sections 42, 43 and 44 that arise as a result of a career college ceasing to operate in the circumstances described in subsection 38 (1).
2. REVOKED: O. Reg. 469/21, s. 5.
3. To pay for the expenses incurred by the Superintendent for purposes of the administration and management of the Fund.
4. To pay for the indemnification of persons under subsections 6 (1) and (2) or for the cost of insurance referred to in subsection 6 (4).
5. To pay the amount of any overpayment referred to in clause 30 (1) (b).
6. To pay for rebates under section 31. O. Reg. 414/06, s. 18 (3); O. Reg. 467/16, s. 6 (1, 2); O. Reg. 469/21, s. 5; O. Reg. 354/23, s. 1.

(4) No General Fund Money shall be paid out of the Fund for the purpose referred to in paragraph 1 of subsection (3) where security provided by the career college is declared to be forfeited under section 34 before January 1, 2009. O. Reg. 414/06, s. 18 (4); O. Reg. 354/23, s. 1.

(5) General Fund Money may be paid out of the Fund for the purpose referred to in paragraph 1 of subsection (3) where security provided by the career college is declared to be forfeited under section 34 on or after January 1, 2009, even if the event referred to in subsection 34 (1) that gave rise to the declaration of forfeiture occurred before that date. O. Reg. 414/06, s. 18 (5); O. Reg. 354/23, s. 1.

(6) REVOKED: O. Reg. 467/16, s. 6 (3).

Employees and experts

19. The Superintendent may engage persons to provide professional, technical or other assistance to the Superintendent. O. Reg. 414/06, s. 19; O. Reg. 469/21, s. 6.

Annual reports

20. The Superintendent shall prepare an annual report on the activities of the Fund and shall submit the report to the Minister. O. Reg. 469/21, s. 7.

PART IV PREMIUMS AND LEVIES

Collection of information

21. (1) For the purpose of determining the amount of any premium, surcharge or levy that a career college is required to pay under this Regulation, every career college shall,

- (a) upon application for registration or renewal of registration under the Act or at a time specified by the Superintendent, submit to the Superintendent a copy of the career college's financial statements compiled, reviewed or audited by a public accountant licensed under the *Public Accounting Act, 2004* in respect of the career college's most recently completed fiscal year;
- (b) at the request of the Superintendent, submit financial statements compiled, reviewed or audited by a public accountant licensed under the *Public Accounting Act, 2004* with respect to such period of time as the Superintendent may specify;
- (c) at the request of the Superintendent, submit such additional information as the Superintendent considers necessary to make his or her determination. O. Reg. 414/06, s. 21 (1); O. Reg. 345/08, s. 3; O. Reg. 184/20, s. 1; O. Reg. 354/23, s. 1.

(2) A career college shall provide the Superintendent with audited financial statements prepared in accordance with generally accepted accounting principles if requested to do so by the Superintendent. O. Reg. 414/06, s. 21 (2); O. Reg. 354/23, s. 1.

Payments to Fund by career colleges

22. Every career college shall pay to the Superintendent for deposit to the Fund,

(a), (b) REVOKED: O. Reg. 467/16, s. 7 (2).

(c) initial annual premiums in accordance with section 25, if applicable;

- (d) annual premiums in accordance with section 26;
- (e) any premium surcharges required under section 28; and
- (f) any levy required under section 29. O. Reg. 414/06, s. 22; O. Reg. 467/16, s. 7; O. Reg. 354/23, s. 1.

Notice of premium, etc.

23. (1) The Superintendent shall give every career college written notice of the day on which any premium, surcharge or levy is due. O. Reg. 414/06, s. 23 (1); O. Reg. 354/23, s. 1.

(2) A career college that receives notice under subsection (1) shall pay the premium, surcharge or levy within 30 days of receiving the notice. O. Reg. 414/06, s. 23 (2); O. Reg. 354/23, s. 1.

Late payment

24. If a career college fails to remit all or part of a premium, surcharge or levy within 30 days of receiving notice under section 23, the Superintendent shall charge interest on the unpaid amount at the interest rate payable on unpaid taxes under the *Retail Sales Tax Act*. O. Reg. 414/06, s. 24; O. Reg. 354/23, s. 1.

Initial annual premiums

25. (1) Every career college that registers under the Act for the first time after the day this Regulation comes into force shall pay to the Superintendent for deposit to the Fund the initial annual premiums referred to in clause 22 (c) for the first 24 months after the college is registered under the Act. O. Reg. 414/06, s. 25 (1); O. Reg. 467/16, s. 8; O. Reg. 354/23, s. 1.

(2) A career college shall pay an initial premium with respect to each registration period that begins during the 24-month period referred to in subsection (1). O. Reg. 414/06, s. 25 (2); O. Reg. 354/23, s. 1.

(3) Depending on the length of the first registration period established under section 17 of the Act, a career college shall pay either two or three initial premiums as follows:

1. The first initial annual premium shall be paid with respect to the first period of registration.
2. The second initial annual premium shall be paid with respect to the second period of registration.
3. If the second registration period ends before the end of the 24-month period referred to in subsection (1), a third initial annual premium shall be paid with respect to the third period of registration. O. Reg. 414/06, s. 25 (3); O. Reg. 354/23, s. 1.

(4) The Superintendent shall determine the amount of a career college's first initial annual premium in accordance with the following rules:

1. If the period with respect to which the initial annual premium is paid is a period of one year, multiply by 0.875 per cent the amount of the college's annual gross revenue from vocational programs, as indicated in the most recent financial statements available to the Superintendent on the day the amount is determined.
2. If the period with respect to which the initial annual premium is paid exceeds or is less than one year,
 - i. determine the amount under paragraph 1, and
 - ii. increase or decrease the amount proportionately, based on the amount of time by which the period exceeds or is less than one year. O. Reg. 414/06, s. 25 (4); O. Reg. 354/23, s. 1.

(5) The Superintendent shall determine the amount of a second and any third initial annual premium in accordance with the following rules:

1. If the first period of registration referred to in paragraph 1 of subsection (3) is 12 months, determine the amount for the second registration period in accordance with paragraph 1 of subsection (4).
2. If the first period of registration referred to in paragraph 1 of subsection (3) is less than 12 months, determine the amount for the second registration period in accordance with paragraph 1 of subsection (4) and the amount for the third registration period in accordance with paragraph 2 of subsection (4).
3. If the first period of registration referred to in paragraph 1 of subsection (3) is more than 12 months, determine the amount for the second registration period in accordance with paragraph 2 of subsection (4). O. Reg. 414/06, s. 25 (5).

Subsequent annual premiums

26. (1) REVOKED: O. Reg. 467/16, s. 9 (1).

(2) A career college shall pay an annual premium to the Superintendent for deposit to the Fund on such day before every renewal of registration as may be specified in the notice referred to in section 23. O. Reg. 414/06, s. 26 (2); O. Reg. 354/23, s. 1.

(3) The amount of an annual premium to be paid by a career college shall be the greater of,

- (a) \$500.00; or
- (b) the amount determined using the following formula:

$$A \times B$$

where,

“A” is, subject to subsection (4), the percentage set out in Column 2 of the Table to this subsection opposite the range of credit risk scores set out in Column 1 of the Table within which the career college’s credit risk score falls, as indicated in a report prepared by a credit rating agency, and

“B” is the career college’s highest monthly unearned fee balance during the college’s most recent fiscal year that ended before the day the annual premium is assessed.

TABLE

Column 1 Range of credit risk scores	Column 2 Percentage (%)
The range of credit risk scores assigned to one third of the persons rated by the agency who have the highest degree of credit risk	1.25
The range of credit risk scores assigned to one third of the persons rated by the agency who have a middle degree of credit risk	1
The range of credit risk scores assigned to one third of the persons rated by the agency who have the lowest degree of credit risk	0.75

O. Reg. 414/06, s. 26 (3); O. Reg. 467/16, s. 9 (2); O. Reg. 354/23, s. 1.

(4) For the purposes of the formula in clause (3) (b), the percentage referred to in the description of “A” shall be 1.25 per cent and not the amount determined in accordance with the Table to subsection (3) if,

- (a) a report by a credit rating agency is not available with respect to a particular career college; or
- (b) the career college is a partnership or sole proprietorship and the partners of the partnership or the sole proprietor, as the case may be, have refused to consent to the Superintendent obtaining a report from a credit rating agency regarding their credit rating. O. Reg. 414/06, s. 26 (4); O. Reg. 354/23, s. 1.

(5) For the purposes of the formula in clause (3) (b), a career college’s unearned fee balance for any given month in the college’s fiscal year is determined as follows:

1. Determine the portion of any fees collected in respect of vocational programs in previous months that remains unearned at the beginning of the month.
2. Add to the amount determined under paragraph 1 the amount of any fees collected during the month that is unearned at the end of the month.
3. Subtract from the sum determined under paragraph 2 the portion of the fees referred to in paragraphs 1 and 2 that is earned by the career college during the month. O. Reg. 467/16, s. 9 (3); O. Reg. 354/23, s. 1.

Prorated amounts of premium surcharges and subsequent annual premiums

27. If a career college is required to pay an initial annual premium in a second or third registration period under subsection 25 (5), the Superintendent shall determine the premium surcharge payable under section 28 or the annual premium payable under section 26 in accordance with the following rules:

1. The annual premium is determined by,
 - i. determining the portion of the registration period that will elapse from the end of the 24-month period referred to in subsection 25 (1) until the last day of the period, and
 - ii. calculating the amount of the annual premium for the entire registration period in accordance with section 26 and reducing that amount proportionately to the portion determined under subparagraph i.
2. The premium surcharge is determined by calculating the amount of the surcharge in accordance with subsection 28 (3) based on the annual premium calculated in accordance with subparagraph 1 ii of this section. O. Reg. 414/06, s. 27; O. Reg. 467/16, s. 10; O. Reg. 354/23, s. 1.

Premium surcharge

28. (1) If, at the end of one of the Fund’s fiscal years, the value of the Fund is less than the target balance determined under subsection (2),

- (a) the Superintendent shall, during the Fund's next fiscal year, give notice of a premium surcharge to every career college, together with the notice of annual premium sent under section 23; and
 - (b) every career college shall pay the premium surcharge in accordance with this section, in addition to the annual premium payable under section 26. O. Reg. 467/16, s. 11; O. Reg. 354/23, s. 1.
- (2) The Fund's target balance shall be determined as follows:
- 1. For each career college, take the highest monthly unearned fee balance determined under subsection 26 (5) for the Fund's most recent fiscal year for which information is available.
 - 2. Find the sum of the amounts determined under paragraph 1 for all career colleges.
 - 3. Take 17.5 per cent of the number under paragraph 2. O. Reg. 467/16, s. 11; O. Reg. 354/23, s. 1.
- (3) The Superintendent shall determine the amount of a premium surcharge payable by a career college by multiplying the amount of the college's annual premium determined in accordance with section 26 or 27, by the number determined under subsection (4) of this section. O. Reg. 467/16, s. 11; O. Reg. 354/23, s. 1.
- (4) The number referred to in subsection (3) shall be the number set out in Column 2 of the Table to this subsection opposite the percentage of the target balance, as set out in Column 1 of the Table, that the value of the Fund was at the end of the Fund's previous fiscal year referred to in subsection (2).

TABLE

Column 1 Percentage	Column 2 Number
A percentage that is at least 75 per cent of the target balance	3
A percentage that is at least 50 per cent but less than 75 per cent	4
A percentage that is at least 25 per cent but less than 50 per cent	5
A percentage that is less than 25 per cent	6

O. Reg. 467/16, s. 11.

Levies

- 29.** (1) REVOKED: O. Reg. 467/16, s. 12 (1).
- (2) The Superintendent may impose a levy on all career colleges if,
- (a) the value of the Fund falls below 50 per cent of the target balance determined under subsection 28 (2); and
 - (b) the Superintendent has reasonable grounds to believe that the money in the Fund or to be paid into the Fund will not be sufficient to meet projected payments out of the Fund in accordance with section 18. O. Reg. 414/06, s. 29 (2); O. Reg. 467/16, s. 12 (2, 3); O. Reg. 354/23, s. 1.
- (3) The Superintendent may give notice of a levy at any time during a fiscal year of the Fund, and the levy shall be paid by all career colleges, in addition to any surcharge or premium that may be required to be paid in the fiscal year under section 25, 26 or 28. O. Reg. 414/06, s. 29 (3); O. Reg. 467/16, s. 12 (4); O. Reg. 354/23, s. 1.
- (4) REVOKED: O. Reg. 467/16, s. 12 (5).
- (5) REVOKED: O. Reg. 469/21, s. 8.
- (6) The Superintendent shall determine the amount of a levy to be paid by all career colleges taking into account the factors listed in subsection (7). O. Reg. 414/06, s. 29 (6); O. Reg. 354/23, s. 1.
- (7) The following are the factors to be considered in determining the amount of the levy:
- 1. The amount of any decline in the value of the Fund.
 - 2. The projected amounts to be paid out of the Fund under Part VI over the 12-month period that follows the date the levy is payable.
 - 3. The effect that the levy will have on the career college sector. O. Reg. 414/06, s. 29 (7); O. Reg. 354/23, s. 1.
- (8) Despite subsection (6), the amount of the total levy to be paid by each career college shall not be greater than 0.875 per cent of the total gross revenues from vocational programs of the career college in the fiscal year of the college, as set out in the most recent financial statements filed by the college before the day on which the levy is imposed. O. Reg. 414/06, s. 29 (8); O. Reg. 354/23, s. 1.

(9) Each career college shall pay, subject to the limit set out in subsection (8), the same percentage rate of a levy. O. Reg. 414/06, s. 29 (9); O. Reg. 354/23, s. 1.

Adjustment to payments

30. (1) If the Superintendent receives audited financial statements from a career college under subsection 21 (2) indicating that the amount of any payment previously made by the college under section 22 was incorrect, the Superintendent may determine the amount, based on the audited financial statements and,

- (a) if that amount is more than the amount of the payment previously received, shall give the college notice that it must pay the difference between the two amounts within 30 days of receipt of the notice; and
- (b) if that amount is less than the amount of the payment previously received, shall pay the amount of the overpayment to the college. O. Reg. 414/06, s. 30 (1); O. Reg. 354/23, s. 1.

(2) A career college that receives notice of an adjustment to a payment for a fiscal year under clause (1) (a) shall remit the amount of the adjustment to the Superintendent within 30 days of receipt of the notice. O. Reg. 414/06, s. 30 (2); O. Reg. 354/23, s. 1.

(3) If a career college fails to remit the amount of the adjustment on the day it is due, the Superintendent shall charge interest on the unpaid amount at the interest rate payable on unpaid taxes under the *Retail Sales Tax Act*. O. Reg. 414/06, s. 30 (3); O. Reg. 354/23, s. 1.

Rebates

31. (1) The Superintendent may direct that a rebate on any premium, surcharge or levy required under this Regulation be paid out of the Fund if,

- (a) the value of the Fund is more than 110 per cent of the target balance determined under subsection 28 (2); and
- (b) the Superintendent has reasonable grounds to believe that the money in the Fund or to be paid into the Fund will be sufficient to meet the other projected payments out of the Fund in accordance with section 18. O. Reg. 467/16, s. 13.

(2) The Superintendent may give notice of a rebate at any time during a fiscal year of the Fund, and the rebate shall be paid to all career colleges that are eligible for it. O. Reg. 467/16, s. 13; O. Reg. 354/23, s. 1.

(3) A career college is eligible for the rebate if it is registered under the Act on the date of the notice of rebate. O. Reg. 467/16, s. 13; O. Reg. 354/23, s. 1.

(4) The amount of a rebate for a career college shall be calculated as follows:

1. Determine the total amount of all payments made into the Fund under sections 24, 26, 28 and 29 over the preceding 10 years by the career college.
2. Divide the sum obtained under paragraph 1 by the total amount of all payments made into the Fund under sections 24, 26, 28 and 29 over the preceding 10 years by all eligible career colleges.
3. Multiply the quotient obtained under paragraph 2 by the amount available for rebate as determined under paragraph 4.
4. The amount available for rebate is the amount by which the Fund exceeds 100 per cent of the target balance determined under subsection 28 (2), or such lesser amount as is determined by the Superintendent. O. Reg. 467/16, s. 13; O. Reg. 354/23, s. 1.

(5) REVOKED: O. Reg. 469/21, s. 9.

(6) The Superintendent shall determine the lesser amount referred to in paragraph 4 of subsection (4) and the amount of a rebate to be paid to all career colleges, taking into account the following factors:

1. The amount of any increase in the value of the Fund.
2. The projected amounts to be paid out of the Fund under Part VI over the 12-month period that follows the date the rebate is issued.
3. The effect that the rebate will have on the career college sector. O. Reg. 467/16, s. 13; O. Reg. 354/23, s. 1.

PART V SECURITY

Security required

32. (1) For the purposes of section 6 of the Act and subject to subsection (7), every applicant for registration or for renewal of a registration under section 14 of the Act shall provide the Superintendent with security that meets the requirements described in this section in an amount determined under section 33. O. Reg. 414/06, s. 32 (1).

(2) The security shall be made payable to the Crown and shall be one of the following:

1. A personal bond accompanied by collateral security.
 2. A bond issued or guaranteed by an authorized issuer or guarantor.
 3. A letter of credit issued or guaranteed by an authorized issuer or guarantor. O. Reg. 414/06, s. 32 (3).
- (3) The types of security referred to in subsection (2) shall be in a form approved by the Superintendent.
- (4) The classes of negotiable security that may be accepted as collateral security for a personal bond under paragraph 1 of subsection (2) are,
- (a) bonds issued or guaranteed by Canada; or
 - (b) bonds issued or guaranteed by any province of Canada. O. Reg. 414/06, s. 32 (4).
- (5) The security must meet the following specifications:
1. The amount of the security must become payable to the Crown upon the direction of the Superintendent.
 2. The Superintendent may give the direction referred to in paragraph 1 in the circumstances described in section 34 at any time during the period covered by the security and, subject to subsection (6), up to six months after the last day of that period.
 3. If the security is in the form described in paragraph 2 of subsection (2), the authorized issuer or guarantor is not entitled to cancel the security before it expires unless,
 - i. the authorized issuer or guarantor gives at least two months' written notice to the Superintendent and to the career college that the authorized issuer or guarantor wishes to cancel it, and
 - ii. the Superintendent gives the authorized issuer or guarantor a written acknowledgement of receipt of the notice under subparagraph i, specifying the date on or after which the security may be cancelled. O. Reg. 414/06, s. 32 (5); O. Reg. 354/23, s. 1.
- (6) Despite paragraph 2 of subsection (5) or any provision in a security instrument, an institution that provided a bond referred to in paragraph 2 of subsection (2) on behalf of a career college as security under this Part shall not be required to pay the bond to the Crown after the last day of the period covered by it if, on or before the last day of that period, the career college provided the Superintendent with a personal bond or letter of credit referred to in paragraph 1 or 3 of subsection (2). O. Reg. 414/06, s. 32 (6); O. Reg. 354/23, s. 1.
- (7) An applicant for registration, or for renewal of a registration, under section 14 of the Act is not required to provide security under this section if the applicant is a registered charity as defined in subsection 248 (1) of the *Income Tax Act* (Canada) and has a charity registration number issued by the Canada Revenue Agency. O. Reg. 414/06, s. 32 (7).

Amount of security

- 33.** (1) Subject to subsection (6), the amount of the security shall be,
- (a) in the case of an applicant for registration under the Act, the greater of,
 - (i) \$10,000, and
 - (ii) the amount determined under subsection (2);
 - (b) in the case of an applicant for renewal of registration, the greater of,
 - (i) \$10,000, and
 - (ii) the amount determined under subsection (3). O. Reg. 414/06, s. 33 (1); O. Reg. 467/16, s. 14 (1).
- (2) For the purposes of clause (1) (a), the amount shall be equal to 10 per cent of the career college's gross annual revenue from fees that will be paid by students in respect of vocational programs during the career college's first 12 months of operation, as indicated in the applicant's forecasted financial statements. O. Reg. 414/06, s. 33 (2); O. Reg. 345/08, s. 4; O. Reg. 354/23, s. 1.
- (3) For the purposes of subclause (1) (b) (ii), the amount shall be equal to 25 per cent of the career college's highest monthly unearned fee balance during the college's last fiscal year that ended before the application for renewal is made, as set out in the college's financial statements for that fiscal year. O. Reg. 467/16, s. 14 (2); O. Reg. 354/23, s. 1.
- (4) If this subsection, as it read on December 31, 2016, required an applicant to provide security in the amount of \$3,000,000 and the amount determined under subsection (2) or (3) is greater than \$3,000,000, the applicant shall provide the Superintendent with the difference on or before June 30, 2017. O. Reg. 467/16, s. 14 (3).
- (5) For the purposes of subsection (3), a career college's unearned fee balance for any given month in the college's fiscal year is calculated in accordance with subsection 26 (5). O. Reg. 467/16, s. 14 (4); O. Reg. 354/23, s. 1.
- (6) The Superintendent may,

- (a) increase the amount of the security to be provided by an applicant under this section if the applicant opens a campus or offers a vocational program at a campus that did not previously offer the program, or in any other circumstance in which the Superintendent is satisfied that the increased amount is necessary to provide appropriate protection for the students of a career college; or
- (b) decrease the amount of the security to be provided by an applicant under this section if the Superintendent is satisfied that the decreased amount will provide appropriate protection for the students of the career college. O. Reg. 414/06, s. 33 (6); O. Reg. 467/16, s. 14 (5); O. Reg. 354/23, s. 1.
- (7) REVOKED: O. Reg. 467/16, s. 14 (6).
- (8) Any security provided by a career college shall be deposited with the Superintendent and maintained in the amount required under this section. O. Reg. 414/06, s. 33 (8); O. Reg. 354/23, s. 1.

Forfeiture of security

34. (1) The Superintendent may declare the security provided by a career college under section 32 to be forfeited if either of the following events occurs:

- 1. A career college has ceased to operate and discontinued all vocational programs before some of the students enrolled in the programs had completed their training.
- 2. The Superintendent has issued a proposal to suspend, revoke or refuse to renew a career college's registration. O. Reg. 414/06, s. 34 (1); O. Reg. 354/23, s. 1.

(2) If the Superintendent decides to declare a security to be forfeited under subsection (1), he or she shall do so within 12 months of having knowledge of the occurrence of the event that gave rise to the decision. O. Reg. 414/06, s. 34 (2).

(3) Despite subsection (2), if the event that gives rise to the Superintendent's decision to declare a security to be forfeited occurred before the day this Regulation comes into force, the Superintendent may make the declaration within 12 months of the day this Regulation comes into force. O. Reg. 414/06, s. 34 (3).

(4) Upon declaring a security to be forfeited,

- (a) the amount of the security becomes due and owing by the person bound by the security as a debt due to the Crown in right of Ontario; and
- (b) the Superintendent shall direct the person bound by the security to pay the amount of the security to the Crown. O. Reg. 414/06, s. 34 (4).

(5) The Superintendent may take such measures as he or she sees fit for the enforcement of the security, including by taking measures under the *Personal Property Security Act*, or by bringing a proceeding under the *Bankruptcy and Insolvency Act* (Canada), the *Courts of Justice Act*, the *Not-for-Profit Corporations Act, 2010*, or the *Winding-up and Restructuring Act* (Canada), for the appointment of an interim receiver, custodian, trustee, receiver or liquidator, as the case may be. O. Reg. 414/06, s. 34 (5); O. Reg. 467/16, s. 15.

Transition

35. (1) Subject to this section, any security that was provided by a career college before the day this Regulation comes into force and that is in effect on that day shall continue in effect after that day. O. Reg. 414/06, s. 35 (1); O. Reg. 354/23, s. 1.

(2)-(7) REVOKED: O. Reg. 467/16, s. 16 (1).

(8) Despite any provision in this Part or under the *Private Career Colleges Act* or any provision in a security instrument, an institution that provided a bond under paragraph 2 of subsection 32 (2) on behalf of a career college shall not be required to pay the security to the Crown after the security expires or is cancelled if, upon the expiry or cancellation of the security, the career college provided the Superintendent with either a letter of credit or a personal bond that meets the requirements of this Part. O. Reg. 414/06, s. 35 (8); O. Reg. 467/16, s. 16 (2); O. Reg. 354/23, s. 1.

PART VI

TRAINING COMPLETION AND REFUND OF FEES WHERE CAREER COLLEGE CEASES TO OPERATE

Definitions

36. In this Part,

“forfeited security” means security declared to be forfeited under section 34. O. Reg. 414/06, s. 36.

General limitation

37. All amounts referred to in sections 41, 42, 43, 44 and 45 are subject to the rules and limits set out in section 47. O. Reg. 414/06, s. 37.

Duty to provide training completion, refunds

38. (1) The Superintendent shall ensure that training completion or refunds are provided to the former students of a career college in accordance with this Part if the career college,

- (a) has ceased to operate; and
- (b) has discontinued one or more of its vocational programs before the former students enrolled in the program completed the program. O. Reg. 414/06, s. 38 (1); O. Reg. 354/23, s. 1.

(2) In carrying out his or her responsibilities with respect to the provision of training completion under this Part, the Superintendent may have regard to a training completion plan prepared by a career college under section 39. O. Reg. 414/06, s. 38 (2); O. Reg. 354/23, s. 1.

Training completion plan

39. (1) Every career college shall include a copy of its training completion plan with respect to a vocational program in every application for approval of the vocational program submitted under section 23 of the Act. O. Reg. 414/06, s. 39 (1); O. Reg. 354/23, s. 1.

(2) A training completion plan shall be in a form approved by the Superintendent. O. Reg. 414/06, s. 39 (2).

(3) A training completion plan shall,

- (a) identify one or more persons, career colleges or organizations that the career college believes are capable of providing training completion to its students in the event that the college should cease to operate; and
- (b) include a statement explaining how this training will allow the students to complete their training in the vocation and a comparison of the vocational program that was discontinued and the vocational program or training that could be provided by the person, career college or organization referred to in clause (a). O. Reg. 414/06, s. 39 (3); O. Reg. 354/23, s. 1.

(4) If events have occurred that would affect the information referred to in clause (3) (a) or (b) or any other information in the training completion plan, the career college shall make such changes as are necessary to the plan. O. Reg. 414/06, s. 39 (4); O. Reg. 354/23, s. 1.

(5) A career college shall give the Superintendent written notice of any changes to a training completion plan, including a description of the changes, within five days of the changes occurring. O. Reg. 414/06, s. 39 (5); O. Reg. 354/23, s. 1.

Approval of training completion provider

40. (1) If one or more students of a career college have not completed a vocational program in the circumstances described in subsection 38 (1), the Superintendent shall use his or her best efforts to identify and approve a person, career college or organization for the purposes of providing training completion to the former students. O. Reg. 414/06, s. 40 (1); O. Reg. 354/23, s. 1.

(2) The Superintendent may approve one or more persons, career colleges or organizations for the purposes of providing the training completion to the former students of a career college if,

- (a) the person, career college or organization is capable of providing training that is comparable in content and quality to that of the discontinued vocational program in which the former students had been enrolled;
- (b) the person, career college or organization is reasonably accessible to the former students;
- (c) the person, career college or organization agrees to provide the training completion on such terms as may be determined by the Superintendent; and
- (d) the cost of the training completion is less than the maximum amount payable under subsection 47 (6). O. Reg. 414/06, s. 40 (2); O. Reg. 354/23, s. 1.

(3) A person, career college or organization may be approved to provide training completion under subsection (2) even if the person, career college or organization has not been approved by the Superintendent to provide the vocational program to which the training completion relates. O. Reg. 414/06, s. 40 (3); O. Reg. 354/23, s. 1.

(4) The Superintendent shall contact the former students of a career college by such method as the Superintendent considers appropriate and advise the former students as to whether training completion is available and, if so, identify the one or more persons, career colleges or organizations that will be providing the training completion. O. Reg. 414/06, s. 40 (4); O. Reg. 354/23, s. 1.

(5) A former student shall, within 14 days of being advised that training completion is available, inform the Superintendent in writing as to whether he or she chooses to attend training completion. O. Reg. 414/06, s. 40 (5).

(6) The Superintendent may collect such information as he or she considers necessary before advising former students under subsection (4). O. Reg. 414/06, s. 40 (6).

Where training completion available

41. (1) If the Superintendent approves a person, career college or organization to provide training completion to the former students of a career college,

- (a) except as provided under subsection (2), no person shall charge the former students a fee in respect of their participation in the training completion;
- (b) the Superintendent shall pay the training completion costs referred to in section 45 to the person, career college or organization that provides the training completion to the former students; and
- (c) the Superintendent shall pay the following amounts to the former students:
 - (i) amounts to pay for expenses described in section 42 incurred by former students while participating in the training completion, and
 - (ii) any refunds that may be claimed under section 43 by former students who refuse to participate in the training completion. O. Reg. 414/06, s. 41 (1); O. Reg. 467/16, s. 17; O. Reg. 354/23, s. 1.

(2) A person, career college or organization that provides training completion to the former students of a career college that has ceased to operate in the circumstances described in subsection 38 (1), or the Superintendent, may charge a former student fees in respect of their participation in the training completion if,

- (a) at the time the career college ceased operating, the former student owed all or part of his or her fees in respect of a vocational program to the career college; and
- (b) the training completion agreement between the person, career college or organization and the Superintendent provides for the recovery of the unpaid fees by the Superintendent or the person, career college or organization, as the case may be. O. Reg. 414/06, s. 41 (2); O. Reg. 354/23, s. 1.

Student expenses re: training completion

42. (1) The Superintendent shall reimburse out of the Fund, in accordance with this section, the following expenses incurred by former students of a career college while participating in training completion provided under this Part:

- 1. Any reasonable costs, as determined by the Superintendent, incurred in order to provide care to children or other persons who are dependent on the student for care while the student attends training completion.
- 2. Any reasonable transportation costs, as determined by the Superintendent, incurred in travelling to and from the place at which training completion is provided. O. Reg. 414/06, s. 42 (1); O. Reg. 354/23, s. 1.

(2) The Superintendent shall not reimburse any expenses except to the extent that they have been approved under subsection (4). O. Reg. 414/06, s. 42 (2).

(3) A former student of a career college who anticipates incurring any of the expenses referred to in subsection (1) while participating in training completion shall prepare an estimate of the expenses and submit it to the Superintendent for approval under subsection (4), together with documentation in support of the estimate required by the Superintendent, at the time the student informs the Superintendent in writing that he or she chooses to participate in training completion. O. Reg. 414/06, s. 42 (3); O. Reg. 354/23, s. 1.

(4) The Superintendent shall approve the reimbursement of the expenses to a former student in accordance with the following rules:

- 1. If the expenses would not have been necessary in order for the former student to complete his or her training in the vocational program had it not been discontinued, the Superintendent shall approve the reimbursement of all of the expenses.
- 2. If a portion of the expenses would have been incurred in order for the former student to complete his or her training in the vocational program had it not been discontinued, the Superintendent shall approve the reimbursement of only the portion of the expenses that exceeds the expenses that would have been incurred had the discontinued vocational program not been discontinued. O. Reg. 414/06, s. 42 (4).

(5) Subject to subsection (6), if a former student submits to the Superintendent a request for reimbursement of the approved expenses, together with the evidence that the expenses were incurred, the Superintendent shall pay the amount out of the Fund. O. Reg. 414/06, s. 42 (5).

(6) The Superintendent shall not reimburse expenses under subsection (5) if the request for reimbursement, together with the evidence that the expenses were incurred, is not received by the Superintendent within 90 days of the former student completing the training. O. Reg. 414/06, s. 42 (6).

Refund if student refuses training completion

43. (1) A former student of a career college who is advised by the Superintendent that training completion is available but who refuses to participate in it may submit a claim to the Superintendent for a refund of all or part of the fees that were paid to the career college in respect of a discontinued vocational program. O. Reg. 414/06, s. 43 (1); O. Reg. 354/23, s. 1.

- (2) The Superintendent shall pay a former student who makes a claim under subsection (1),
 - (a) the portion of the fees that were paid to the career college in respect of a discontinued vocational program that were unearned by the college on the day the vocational program was discontinued; or
 - (b) if the Superintendent has reasonable grounds to believe that participation in the training completion would have caused the former student undue hardship, all fees that were paid by the former student to the career college in respect of the discontinued vocational program. O. Reg. 414/06, s. 43 (2); O. Reg. 354/23, s. 1.
- (3) Despite subsection (2), the Superintendent shall not pay a claim for a refund under this section unless the claim is submitted to the Superintendent within the claim period specified in section 46. O. Reg. 414/06, s. 43 (3).
- (4) A person who submits a claim under this section shall provide the Superintendent with such information in support of the claim as the Superintendent may require. O. Reg. 414/06, s. 43 (4).

Refunds if training completion not available

- 44. (1) A former student of a career college who is advised by the Superintendent that training completion is not available may submit a claim to the Superintendent for a refund of all fees that were paid to the career college in respect of a discontinued vocational program. O. Reg. 414/06, s. 44 (1); O. Reg. 354/23, s. 1.
- (2) The Superintendent shall not pay a claim for a refund under this section unless the claim is submitted to the Superintendent within the claim period specified in section 46. O. Reg. 414/06, s. 44 (2).
- (3) A person who submits a claim under this section shall provide the Superintendent with such information in support of the claim as the Superintendent may require. O. Reg. 414/06, s. 44 (3).

Payment of training completion providers' costs

- 45. (1) The Superintendent shall pay the costs of providing the training completion incurred by the persons, career colleges or organizations who provide the training completion. O. Reg. 414/06, s. 45 (1); O. Reg. 354/23, s. 1.
- (2) The amount of the training completion costs shall be as agreed between the Superintendent and the person, career college or organization who provides the training completion. O. Reg. 414/06, s. 45 (2); O. Reg. 354/23, s. 1.

Time period for making student claims

- 46. If a career college ceases to operate in the circumstances described in subsection 38 (1), any claims by former students for a refund under section 43 or 44 shall be submitted to the Superintendent on or before the day that is six months after the day the Superintendent declared the security provided by the career college to be forfeited. O. Reg. 414/06, s. 46; O. Reg. 354/23, s. 1.

Payment of student claims and training completion costs

- 47. (1) If a career college ceases to operate in the circumstances described in subsection 38 (1), the Superintendent shall pay in accordance with this section,
 - (a) the training completion costs referred to in section 45, if the Superintendent approves a person, career college or organization to provide training completion to the former students of the career college; and
 - (b) any claims made by former students for expenses under section 42 or for refunds under section 43 or 44. O. Reg. 414/06, s. 47 (1); O. Reg. 354/23, s. 1.
- (2) The training completion costs referred to in clause (1) (a),
 - (a) shall be paid in priority to any claims by former students referred to in clause (1) (b); and
 - (b) may be paid before the expiry of the time period for making claims under section 46. O. Reg. 414/06, s. 47 (2).
- (3) Subject to subsection (4), the Superintendent shall not pay any claims made by former students until the expiry of the time period for making such claims under section 46. O. Reg. 414/06, s. 47 (3).
- (4) The Superintendent may pay training completion costs under section 45 or claims under sections 42 to 44 made by former students before the expiry of the time period referred to in subsection (3) if he or she reasonably determines at the time of making the payments that the total amount of the payments will not reduce any payment to former students of another career college whose security has been declared to be forfeited under section 34 prior to the making of the payments. O. Reg. 414/06, s. 47 (4); O. Reg. 354/23, s. 1.
- (5) Subject to subsections (6) and (8), the Superintendent shall pay the amounts referred to in subsection (1) out of the Fund,
 - (a) first from the proceeds of the security that was provided by the career college and declared to be forfeited under section 34; and
 - (b) from General Fund Money, after the proceeds referred to in clause (a) have been exhausted. O. Reg. 414/06, s. 47 (5); O. Reg. 354/23, s. 1.

(6) The maximum amount to be paid out of the Fund under subsection (5) shall be the sum of the amount of the proceeds from the security provided by the career college and 75 per cent of the General Fund Money, as determined on the day the Superintendent makes the payments. O. Reg. 467/16, s. 18; O. Reg. 354/23, s. 1.

(7) In determining the amount of the General Fund Money under subsection (6), the Superintendent shall not include any General Fund Money allocated to pay amounts referred to in subsection (1) in respect of all career colleges that ceased to operate in the circumstances described in subsection 38 (1) at any time before the time at which the career college referred to in subsection (6) ceased to operate. O. Reg. 414/06, s. 47 (7); O. Reg. 354/23, s. 1.

(8) If, after the expiry of the time period under section 46 for making student claims, the Superintendent determines that the total amount to be paid out of the proceeds of a forfeited security and out of General Fund Money under subsection (5) exceeds the maximum amount payable under subsection (6), the Superintendent may reduce the payments to be made out of General Fund Money to former students of the college on a proportional basis so that the maximum amount is not exceeded. O. Reg. 414/06, s. 47 (8).

Where proceeds from forfeited security excessive

48. If the amount of the proceeds from a forfeited security exceeds the amount required to satisfy all claims made against the security under this Part, the Superintendent shall pay the excess amount to the person bound by the security at any time after the expiry of the time period for making claims under section 46. O. Reg. 414/06, s. 48.

Subrogation

49. Upon making a payment out of the Fund with respect to a claim by a former student of a career college or in order to pay any training completion costs incurred by a person, career college or organization approved under section 40, the Superintendent is subrogated to all rights of recovery of the student, person, career college or organization against the career college that ceased to operate, its directors and officers, and may bring an action to enforce such rights. O. Reg. 414/06, s. 49; O. Reg. 354/23, s. 1.

50. REVOKED: O. Reg. 467/16, s. 19.

51. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 414/06, s. 51.

Français

Back to top