



ONTARIO COLLEGE OF TRADES

ORDRE DES MÉTIERS DE L'ONTARIO

Guide to the Code of Ethics for Members

October 2017

Introduction

(a) About the College

The Ontario College of Trades (College) is a professional regulatory body that regulates and promotes Ontario's skilled trades in the public interest. Established by legislation, the College has a duty to serve and protect the public interest in carrying out its objects and functions under the *Ontario College of Trades and Apprenticeship Act, 2009* (Act). The College's objects include: governing members of the College; maintaining a Public Register of its members; receiving and investigating complaints against members and dealing with issues of discipline, misconduct, incompetency and incapacity. Operating at arm's length from government, the College is under the regulatory and administrative oversight of the Ministry of Labour.

(b) About the Code of Ethics

The Code of Ethics is intended to provide members with greater clarity about how to engage in the practice of their trades in the most professional and ethical way possible—recognizing that the great majority of members already display high levels of professionalism and pride in their certification.

The Code of Ethics for Members of the Ontario College of Trades (Code of Ethics) is mandatory for all College members. Approved by the College's Board of Governors (Board), the Code builds on the professional obligations already applicable to all members and contained in the Professional Misconduct Regulation—a Board regulation that has been in effect since the College opened its doors on April 8, 2013.

The Code of Ethics is a tool meant to promote, reinforce, and support high standards of professional conduct and ethical judgement among members, both with respect to their practices and in their relationships with clients, fellow members, other tradespeople and professionals, and the College as regulator.

(c) About this Guide

This Guide is meant to address the role and value of the Code of Ethics in promoting and strengthening professionalism in the skilled trades. It lays out how the College created the Code of Ethics and provides a general overview of the obligations contained in the Code of Ethics. The Guide speaks to the relationship between the Code of Ethics and professional misconduct and explains how the College will enforce the Code of Ethics. The Guide also seeks to provide the public and members alike with general information on the process that the College follows in response to complaints alleging professional misconduct on the part of a member. Finally, the Guide highlights the benefits that a Code of Ethics will bring not only to members, but to the public.

Professionalism in the Trades

(d) Role of professionalism in the trades

Being able to self-regulate as a profession is a privilege. This privilege involves a duty on the part of a professional regulator to serve and protect the public interest in carrying out its objects and functions. Members of a regulated profession have an ongoing responsibility to act in a way that merits the retention of that privilege—by adhering to high standards of professional conduct, including a duty to act in a competent and ethical manner. Historically, the privilege of self-regulation had been reserved to professions such as medicine, nursing or engineering. This changed in Ontario with the introduction of the Act in 2009 and the opening of the College in 2013. Membership in the College gives the public a way of identifying skilled trades professionals who are regulated and accountable to the regulator.

Ontario's skilled trades professionals are now treated like any other regulated professional: they have a College that they can join that establishes not only training standards and curriculum standards, but also registration requirements; a College that maintains a Public Register of members, so that the public may confirm a tradesperson's credentials before they hire them; and a College that governs its members by investigating any complaints received and addressing any findings of professional misconduct, incompetence or incapacity. A code of ethics is not only a standard feature of professional regulation in Ontario, it is a way for the College to supplement the existing Professional Misconduct Regulation and strengthen its members' already high level of professionalism. The Code of Ethics is another means to protect the public.

(e) Other professionals & codes of ethics

Professional misconduct regulations and codes of ethics for members of a regulated profession are standard features of every self-regulatory, professional body in Ontario. The majority of those codes are contained in a regulation or by-law and are fully enforceable by their respective regulators—meaning that a contravention of the Code of Ethics may constitute professional misconduct under their legislation. This is an effective way to protect the public and at the same time raise the profile of a profession: a code of ethics lets the public know that regulated professionals are accountable to their regulators and that a fair process is in place to handle any complaints.

(f) The College's need for a Code of Ethics

One of the College's legislated objects is to govern its members. To effectively carry out this function in the public interest, the College needs both a Professional Misconduct Regulation and a Code of Ethics. Together, the Professional Misconduct Regulation and the Code of Ethics set out the standards of professionalism that the public may expect of the College's members as regulated professionals. These two sets of rules are complementary: the Professional Misconduct Regulation lists the various types of conduct that constitute professional misconduct and describes them at a very high-level, whereas the Code of Ethics is much more specific.

What the Code of Ethics seeks to do is to provide greater clarity and guidance to members about how they should conduct themselves in their daily practice, particularly in their interactions with the College, clients, fellow members, and other tradespeople and professionals—over and above the general obligations already contained in the regulation. The introduction of the Code of Ethics reflects a milestone in the maturation of the College as a professional governing body, which will help consolidate the College among more established professional regulators by elevating the profile of its members as skilled trades professionals held to the highest standards of conduct.

The Code of Ethics for Members

(g) How the Code of Ethics will benefit members and the public

The main benefit for members of being subject to an enforceable Code of Ethics is that it elevates the status of tradespeople as regulated professionals—alongside already established professions such as engineers, architects, and nurses. Honesty, honour and integrity are fundamental qualities expected of any regulated professional, and of a member of the College. If integrity is lacking, a member's relationship with a client and public confidence in a trade may be greatly impacted, regardless of how technically competent or skilled the member may be. Any unprofessional behaviour takes away from the value of the services provided to the public and harms the trades' reputation. The Code of Ethics is not about highlighting the things that a member could get wrong. Rather, it is about setting clear expectations and helping our members meet them as they make difficult practice and business decisions, so that they can focus on what they do best—their trade. Most importantly, the Code of Ethics is another way to fulfill the College's legislated duty to serve and protect the public interest.

Therefore, having a Code of Ethics will help to:

- educate our members and the public about the standards of conduct expected of members as professionals;
- provide prospective clients and employers with an additional level of assurance that there are clear guidelines defining the standards of conduct that the public can expect from College members when they perform work in a trade;
- provide members in the voluntary trades with a competitive edge over non-members in the same trades, as the public will be confident that they are expected to live up to these standards of conduct and that they are accountable to the College;
- raise our members' profile and level of professionalism by putting a mechanism in place to formally promote personal integrity in their professional conduct;
- hold members accountable to the College, in accordance with high standards of professional conduct and a fair complaints and discipline process; and
- strengthen the trades by increasing public confidence in our members' integrity and professionalism.

It is expected that the Code of Ethics and the Professional Misconduct Regulation, administered through a robust complaints and discipline process, will help uphold the highest standards of practice in service of the public; ensure a fair and accessible complaints and discipline process; shape the trades through excellence in training, certification and ongoing skills development; and promote and enhance the value of professional affiliation in the trades, including increased public confidence. This matters because without public confidence, the College cannot be effective in serving and protecting the public interest.

(h) The Code of Ethics at a glance

The Code of Ethics is a five-page document made up of six brief sections (or 'chapters') modelled after the codes of ethics of other relevant professional regulators in Ontario and adapted to the context of the trades:

- Chapter 1 defines some of the terms used in the Code, such as “client,” “competent member,” “harassment,” and “unauthorized individual.”
- Chapter 2 states that the Code of Ethics applies to all College members and that every member must comply with the obligations set out in the Code of Ethics.
- Chapter 3 speaks to a member’s duty to perform work in a trade and meet their responsibilities to clients, the public, and other members and tradespeople, honourably, ethically and with integrity.
- Chapter 4 sets out a member’s professional obligations with respect to the practice of a trade, and particularly their responsibilities to clients, including:
 - Duties of courtesy, competence, honesty, and respect
 - *for example, a duty to only perform work in a trade for which the member is competent, and a duty to not engage in abusive behaviour toward a client.*
 - Duties related to advertising and communications
 - *for example, a duty to permanently display their certificate of qualification or statement of membership in a noticeable place at their place of business.*
 - Duties related to business and billing practices
 - *for example, a duty to provide a client with a written contract where required by law or requested by the client.*
- Chapter 5 sets out a member’s specific duties in their relationships to apprentices, employees, tradespeople, and members of other professions or occupations, including:
 - Duties of courtesy, good faith, and respect
 - *for example, a duty to be courteous and civil with all persons that the member encounters in their work, and a duty to abstain from discrimination and harassment.*
 - Duties related to training

- *for example, a duty on the part of sponsors to ensure that all the terms and conditions in a registered training agreement are followed.*
 - Duty to act lawfully
 - *for example, a duty to comply with all legislation relevant to the employment and supervision of others.*
- Chapter 6 deals with a member's specific duties in their relationship with the College, including:
 - Duty of honesty with respect to any College application, assessment, evaluation or examination process
 - Duty to respond to College communications completely and in writing
 - Duty to cooperate with the College
 - Duty to prevent the unauthorized practice of a compulsory trade.

It is essential that all members are knowledgeable about the contents of the Code of Ethics, so that its principles may become embedded in their daily work.

(i) How the Code of Ethics was created

In crafting the Professional Misconduct Regulation, the Board made a decision to postpone the creation of the companion Code of Ethics until the College had an opportunity to become more established and reflect on its experience administering the complaints and discipline process. The process to develop the Code of Ethics took over one year and was led by the Board's Governance and Nominations Committee (Committee):

- In May 2016, the Committee directed College staff to prepare a proposal for the Committee to consider.
- In November 2016, a full draft of the Code of Ethics was considered and endorsed by the Committee subject to some amendments.
- In spring 2017, the draft Code of Ethics was provided to the College's four Divisional Boards (Construction, Motive Power, Industrial, and Service) for their review, advice and feedback. Having considered the feedback, and the high level of support from the Construction and Motive Power Divisional Boards, the Committee recommended that the Board approve the Code of Ethics.
- On April 25, 2017, the Board amended the College's General By-law to establish the Code of Ethics for Members of the College as Schedule 1 to the By-law.

(j) Sources considered

On the Committee's direction, College staff conducted a careful review and analysis of the codes of ethics for the more than 40 professional regulators in the province, in addition to many of their professional misconduct regulations, and prepared a proposal that followed the Board's early direction and drew from two main sources:

- Other regulators’ best practices: Time-tested obligations shared by other professional regulators and relevant to the trades have been borrowed and adapted to the context of the trades. Multiple provisions have been drawn from the codes of ethics for the Ontario Association of Certified Engineering Technicians and Technologists; Professional Engineers Ontario; and the Association of Professional Geoscientists of Ontario.
- The College’s own experience: Original provisions have been drafted to address issues that the College has observed during the course of regulating the trades and investigating professional misconduct allegations against some of its members.

The Code of Ethics is mandatory for all College members

The Code of Ethics applies to every person who is a member of the College, including any person whose College-issued Certificate of Qualification or Statement of Membership is suspended. The Code also applies to former members whose Certificate of Qualification or Statement of Membership has expired or has been revoked or cancelled, if the conduct in question occurred after the release of the Code of Ethics and while the person was a member of the College.

Not every obligation in the Code of Ethics will necessarily apply to the circumstances of every member in every sector or in every trade. The Code of Ethics has been drafted as a general document that does not contain language or clauses specific to any single trade or sector. Some obligations may apply to members in some trades or sectors but not in others. A good example of this is the obligation to provide “an estimate in writing within a reasonable time...” (section 4.3(b))—this obligation would likely not apply to members in the hairstylist trade, where written estimates are not industry practice.

As an integral part of the College’s General By-law, the Code of Ethics is enforceable: contraventions of the Code of Ethics are treated the same as contraventions of the Professional Misconduct Regulation.

(k) Due process in the complaints and discipline process

The Code of Ethics will be enforced through the same complaints and discipline process which has been in place since 2013. It is the same process for complaints that allege a member has engaged in conduct that breaches the Professional Misconduct regulation. The College is committed to respecting a member’s right to a fair process while attempting to ensure that a complainant’s concerns are addressed fully and fairly as permitted by the Act. The fact that a member is the subject of a professional misconduct complaint does not necessarily mean that the member will be found guilty of professional misconduct or that the member will face any form of discipline.

The Act requires a multi-step process for the consideration, investigation, and hearing of complaints against members regarding allegations of professional misconduct, incompetence or incapacity (a contravention of the Code of Ethics constitutes professional misconduct). The complaints and discipline process begins with the filing of a written complaint. Any person can make a written complaint to the College about the conduct or actions of a member. If a written complaint meets the requirements set out in the Act, it will be investigated and sent to the Complaints Committee

for consideration. By this stage the member who is the subject of the complaint will have been notified and provided an opportunity to respond to the complaint.

After considering the matter, including the member's response, the Complaints Committee may choose to close or otherwise resolve a complaint or refer it to the Discipline Committee. If a complaint is referred to the Discipline Committee, a formal, public hearing will be held. At that hearing, the member will have an opportunity to respond to the allegations and may choose to be represented by counsel. Similar to a trial, the College will be responsible for proving the allegations outlined in the complaint by presenting evidence. The member will also have the opportunity to present evidence in his or her defence. It is then left to the Discipline Committee to determine if the member engaged in misconduct and if so, the appropriate penalty. All past and present discipline cases, including any decisions made by the Discipline Committee, are posted on the College's website and in the College's quarterly magazine—Trades Today.