

May 11, 2017

Mr. Jean Paul Dutrisac
President, Office des professions du Québec
800, place D'Youville, 10^e étage
Québec (Québec) G1R 5Z3

Subject: Draft regulation – Code of ethics applicable to members of the disciplinary councils of professional orders

Mr. Dutrisac:

Within the framework of its mandate, the Québec Ombudsman reviews all bills and draft regulations introduced in the National Assembly or published in the *Gazette officielle du Québec*. When it deems necessary, it intervenes under section 27.3 of its constituting act, which empowers it to call the attention of the government or a chief executive officer of a public body to legislative, regulatory or administrative reforms it considers to be in the public interest.

I therefore examined the aforementioned draft regulation published on March 29, 2017, in the *Gazette officielle*.

I wish to share certain comments concerning the procedure for handling complaints regarding disciplinary council members other than chairs.

1. Lack of acknowledgement of receipt

When intervening, the Québec Ombudsman has often seen that certain government departments or agencies have no guidelines for the handling of complaints and the follow-up that occurs. Section 18 of the draft regulation provides that a complaint may be filed with the board of directors of an order against a member of the disciplinary council other than the chair, but it does not specify whether the complainant will be sent an acknowledgement of receipt. Since it is crucial that the complainant be apprised promptly, I feel that he or she should receive an acknowledgement of receipt. A time frame of five working days further to receiving the complaint appears reasonable to me.

Consequently, the Québec Ombudsman recommends:

R-1 That the draft regulation be modified to provide for an acknowledgement of receipt to be sent to the complainant within five working days of receipt of his or her complaint.

2. Distinction for the calculation of delays

As it now stands, section 24 of the draft regulation provides that "after notifying the member against whom the complaint is made and the complainant that they may make observations within seven days and may be heard if they consider it necessary, the committee decides the complaint."

The draft regulation does not specify whether the deadline is calculated in working days or calendar days. I feel that to enable those concerned to not miss the deadline and therefore lose their rights, the draft regulation should include greater detail as to how the delay is calculated. In my opinion, the seven-day time frame is too narrow. I consider that a delay of ten working days would be more reasonable and would give those concerned the time needed to make their observations or be heard.

Consequently, the Québec Ombudsman recommends:

R-2 That section 24 of the draft regulation be modified by replacing the words "seven days" by the words "ten working days."

3. Delay for processing a complaint

In the context of the pursuit of accessible and effective justice, in the past the Québec Ombudsman has proposed measures to ensure prompt decision-making. Based on this premise, the draft regulation should be modified to circumscribe the time frame for analyzing and processing complaints filed with the board of directors of an order. This is especially important because the *Act respecting administrative justice*¹ does not apply to the members of disciplinary councils of professional orders, members of the board of directors of professional orders or members of a committee appointed by a board of directors.

Therefore, I consider that the best way to guarantee citizens prompt processing of their complaint is for the draft regulation to provide for a time limit for the committee to rule on the complaints received. For this purpose, a delay of 60 working days seems reasonable to me. If the processing of the complaint cannot be completed within this deadline, the parties could be notified in writing and informed of the new date for completion of the analysis.

1. CQLR, c. J-3.

Consequently, the Québec Ombudsman recommends:

R-3 That the draft regulation be modified to provide for a maximum delay of 60 working days for the committee to process a complaint. The draft regulation must also provide for the complainant and the member who is the subject of the complaint to be notified of this and informed of the new date for completion of the analysis if the complaint cannot be processed within this deadline.

Thank you for your consideration of these recommendations.

Yours truly,

Original signed

Marie Rinfret
Ombudsperson

c.c.: Ms. Stéphanie Vallée, Minister of Justice
Mr. Maxime Perreault, Secretary, Committee on Institutions
Ms. France Lynch, Deputy Minister of Justice