

# *Private Career Colleges Act, 2005*

## **Additional Commonly Asked Questions\***

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**\*See the Private Career Colleges Act, 2005 Training Manual for more commonly asked questions. The Manual is available on the Ministry Website at <[www.edu.gov.on.ca/eng/general/private.html](http://www.edu.gov.on.ca/eng/general/private.html)>.**

# I. REGISTRATION AND STUDENT PROTECTION

## General

**1. Will each campus of a PCC have a separate institution code under OSAP?**

Yes, each campus of a PCC will continue to have a separate institution code under OSAP.

**2. What are some of the examples of a registered charity?**

Registered charities are a specific type of non-profit organization. To qualify as a registered charity, the organization's purpose, as outlined in the Letters Patent or the organization's constitution, must be exclusively charitable and established for public benefit. A complete listing of all Canadian registered charities is posted online at <[www.cra-arc.gc.ca](http://www.cra-arc.gc.ca)>.

**3. Where the requirements of the *Private Career Colleges Act, 2005* and OSAP policies vary, am I still required to comply with OSAP requirements?**

OSAP requirements are in addition to the requirements of the *Private Career Colleges Act, 2005*. OSAP-approved PCCs must continue to comply with all OSAP requirements.

**4. What are the record keeping requirements under the *Private Career Colleges Act, 2005* and OSAP?**

The *Private Career Colleges Act, 2005* requires PCCs to keep certain files on or off campus for a specified time period. Please refer to the Record Keeping table available on the ministry's web site at <<http://www.edu.gov.on.ca/eng/general/operate.html#admin>>. OSAP-approved PCCs must also continue to meet OSAP requirements with respect to record keeping.

## Student Contract

5. **Are students who are fully funded by a third-party allowed to sign a student contract under the *Private Career Colleges Act, 2005*?**

The *Private Career Colleges Act, 2005* only relates to vocational training for which individual students pay a fee. If the program is fully funded by a third-party (e.g., WSIB, Ontario Works), students must not sign the PCCA student contract. **Third-party funded programs are not covered by the PCCA.**

PCCs may choose to enter into a **different** contract directly with the third-party funding organization and/or the student. Such contracts must not include references to the *Private Career Colleges Act, 2005* and regulations, including reference to the PCC's registered status under the Act, the Statement of Student Rights and Responsibilities issued by the Superintendent or the Consent to Disclose Personal Information as outlined in the regulation.

**If a student is paying the PCC directly for any portion of the cost of the program, they must sign a contract under the PCCA and the contract must indicate the fees the student will be paying. The program must also be approved under the PCCA.**

6. **Do I need to attach an addendum to a contract if a student and the college agree to change the original payment schedule laid out in the contract?**

If you and the student agree to change the payment schedule, you must attach an addendum to the original contract. If the student is simply late in paying the agreed fees, you are not required to attach an addendum. You must issue a receipt to the student when the fees are paid.

7. **Why is there no indication on the ministry's sample contract that a parent or guardian needs to sign if a student is under the age of 18?**

The ministry's sample contract contains all the mandatory terms that must be included in a contract for a vocational program as prescribed in the *Private Career Colleges Act, 2005*. Private career colleges are free to include addition terms (e.g., space for parent's or guardian's signature) that suit their specific business needs as long as those terms are not in contravention of the Act. You may also want to consult with your legal counsel with respect to compliance with other legislation governing contracts.

**8. Are electronic signatures acceptable for signing a contract or must a contract have original signatures to be valid?**

A contract "signed" electronically can be valid but the signature must be done properly. If you want to allow electronic signatures, you should consult with your legal and technical advisors.

**9. What fees should I include in a student contract?**

In a student contract, you are required to include all the fees in relation to the program that you will charge to a student and break down the fees into 10 categories: tuition fees, book fees, expendable supplies, uniforms and equipment, major equipment, field trips, profession/exam fees, other compulsory fees, international student fees and optional fees. The total fee for the program is the sum of all these fees, except the optional fees.

You should only include the fees that you collect directly from students in the student contract. For example, if students do not buy books directly from you, do not include the books fees in their contracts.

**10. I offer financing services to students. Where on the contract should I record the interest charged as part of the financing services that a student receives?**

You are not allowed to include charges related to financing services that you provide to the student on the contract for the vocational program. This type of charge is not considered to be in relation to a vocational program. Any financing service arrangement between you and a student should be set out in a separate contract.

## **International Students**

**11. Some people living in Canada may still need a study visa in certain instances. Are they considered international students for the purposes of the *Private Career Colleges Act, 2005*?**

Any person who is required to obtain a study visa in order to attend a private career college is considered an international student.

**12. How do I disclose international student fees that I want to charge and will I receive confirmation from the ministry?**

If your program is already approved, you must disclose to your Program Consultant the amount of international student fees that you intend to charge and a brief description of the fee. Your Program Consultant will acknowledge

the receipt of your disclosure via email. In the near future, you will be able to report international student fees on the RICC system.

For a new program, you must include any international student fees that you intend to charge in the Application for Program Approval.

**28. Will there be any guidelines or instructions for complying with the international student trust account requirement?**

PCCs will be required to set up a trust account to hold fees collected from international students before the students begin the program if:

- A PCC applying for renewal of registration had more than 50% percent international students in the previous year
- A PCC applying for registration is likely to have more than 50% international students in its first year of operation
- At any time, a PCC has been advised by the Superintendent that he/she has reasonable grounds to believe that international students at the PCC would be at risk of not receiving required refunds

Guidelines will be provided to you if you are required to establish a trust account.

## **Insurance**

**29. How does the ministry define “adequate” in terms of liability insurance?**

You should discuss the liability insurance requirements of the *Private Career Colleges Act, 2005* with your insurance company to make sure that you have sufficient coverage to compensate for any property damages and third party injuries that happen on each campus as well as off campus where attendance at such places are mandatory for students (e.g., field trips that are a required part of the program, work placement site if students are not otherwise covered under WSIB). Students must be insured, either under WSIB or the PCC’s liability insurance, if they are required to engage in any off-campus activities as part of completing their program.

**30. Am I required to have error and admission insurance?**

The *Private Career Colleges Act, 2005* requires PCCs to have adequate commercial general liability insurance that will:

- Compensate the college for any damages to its buildings or equipment; and

- Protect the college and its officers, employees, agents and any volunteers in the case of any claims made with respect to accidents that occur or personal injuries that are suffered by students while attending the college or off-campus at places where attendance is required for completing a program, including field trips and practicum/offsite placement sites (if students are not otherwise covered under the Workplace Safety and Insurance Board while on practicum/offsite placement).

You may want to consult with your legal counsel about what other types of insurance you should acquire for the specific programs that you deliver.

## Fee Collection

### **16. Can I charge fees that are less than the amounts disclosed to the Superintendent and published on the ServiceOntario website?**

There are no rules under the *Private Career Colleges Act, 2005* that restrict you from charging less than the published amounts on the ServiceOntario web site. However, you should be aware that you are not allowed to offer any discounts to students in an OSAP-approved program.

### **17. Can I auction my program so that people can bid for how much the program will cost?**

The *Private Career Colleges Act, 2005* does not have specific rules about auctioning programs as long as you do not charge or collect a fee that is higher than what is published on the ServiceOntario web site and that all the fees charged for the program are clearly stated in the student contract.

### **18. When am I required to issue a receipt of payment to a student?**

You must issue a receipt of payment every time a student pays a fee. The receipt must indicate the name of the PCC and the program, an itemized list of all fees paid, the name of the student and the date the receipt was issued.

### **19. When should I issue a receipt to an OSAP student? At the time of signing the Canada-Ontario Integrated Student Loans Certificate of Loan/Grant Approval and Eligibility with the student or at the time of receiving a notice that the OSAP funds have been deposited into my college's account?**

The receipt of payment should be issued when you receive the notice that the OSAP funds have been deposited into your college's account.

**20. When am I required to issue a receipt if students pay by post-dated cheques or other methods of delayed payment?**

You have a choice of issuing the receipt of payment when you get the post-dated cheques or when you cash them. If the receipt is issued when you get the post-dated cheques, you must issue a receipt for each cheque that clearly states that it is for a post-dated cheque.

## Fee Refunds

**21. How do the refund policies under OSAP and the *Private Career Colleges Act, 2005* line up?**

The refund policy specified in O. Reg. 415/06 applies to all PCC students. The only difference with respect to OSAP policy is in the case where a student withdraws from program but does not give written notice to the PCC. In this case, the withdrawal date for students receiving OSAP is considered to be the last day they attended the program. For students not receiving OSAP, there is no withdrawal without written notice.

**22. How do you determine the withdrawal date when calculating a student's refund?**

The date of withdrawal is the date that the PCC receives a written notice of withdrawal from the student, delivered personally to the college, sent by courier, registered mail or fax, or by email. If delivered by mail, notices are considered to be received by the college on the third day after the day of mailing.

**23. How do I calculate a refund for the fees that are stated in the student contract?**

In general, if a fee is paid for an item that will be delivered over the length of the program (e.g., tuition fee), the fee is earned as the program progresses. A refund of this type of fee is pro-rated based on the number of hours of instruction delivered by the college (non-continuous programs), the number of evaluations returned to the student (distance education program) or the number of weeks that have elapsed (all other types of programs) at the time of a student's withdrawal. In other words, these fees are earned on a pro-rated basis over the duration of the program.

Other fees will be earned immediately once a good/service has been provided to a student (e.g., application processing, fee for a field trip). These fees would be earned and, as earned fees, PCCs are not required to provide a refund for these fees.

**24. What refund policy applies if a student drops a course but is still enrolled in the program?**

Students and PCCs enter into a contract for the delivery of a vocational program. Students are only entitled to a refund when they withdraw from a program.

**25. How is a refund calculated for programs approved as non-continuous programs (i.e., programs that are approved to operate with flexible duration)?**

For non-continuous programs, a refund is calculated based on the number of hours of instruction that have been delivered by a PCC to students. For instructor-led programs, this number is defined as the number of hours of instruction scheduled between the instructor and the student. For non-instructor-led programs, this number is defined as the number of hours of the student's attendance.

**26. If a student sends an email as notice of withdrawal, do they need to include an electronic signature?**

An electronic signature is not required but the email should indicate who the sender is.

**27. How can I recover the fees that a student owes under the contract after she or he has withdrawn from a vocational program?**

There are no specific rules for how PCCs can ensure that students fulfill the terms of the contract under the *Private Career Colleges Act, 2005*. If a student does not pay the fees that he or she owes, a PCC can enforce the contract through normal legal processes (e.g., small claims court). However, the PCC is not allowed to deduct any monies owed by the student for other services or non-vocational programs offered by the college from a refund that the student is entitled to for a vocational program.

## Transcripts

**28. Are there any privacy implications with respect to third party transcript maintenance and protecting student data while it is in storage?**

The *Personal Information Protection and Electronic Documents Act* (PIPEDA) permits an organization to disclose personal information without the knowledge or consent of the individual if the disclosure is required by law, as it is the case for the third party transcript maintenance requirement.

## Student Complaints

### **29. Am I required to supply a student making a complaint with the documents filed previously by other students making the same complaint? If yes, am I required to comply with privacy legislation?**

You do not have to provide the student making the complaint with complaint documents filed previously by other students related to the same complaint. However, to assist in the resolution of the complaint, you may want to provide the student with general information about how the same type of complaint was handled previously by the college.

## Student Files

### **30. Am I required to ask for students' Social Insurance Numbers (SIN) when enrolling them in a program?**

The *Private Career Colleges Act, 2005* does not require students to provide their SIN to PCCs. However, OSAP-approved PCCs must continue to comply with all OSAP requirements.

### **31. Do I have to keep student files contents in hard copy?**

Yes, all the contents of student files (see below) must be kept in hard copy.

### **32. I have multiple campuses. Can I keep the student files at my head office?**

Yes, multiple-campus PCCs can keep student files at the head office or at the campuses where the students are enrolled.

### **33. What types of documentation am I required to keep in the student files?**

A private career college must maintain a file containing the following information for each of its students:

Full name, sex, date of birth, residential address while enrolled, permanent address, phone numbers at the residential and the permanent address, and any cell phone number or e-mail address.
A record of all grades received by students, including any advanced standing that has been granted.
A copy of the signed student enrolment contract.
A copy of an Ontario Secondary School Diploma, transcript or equivalent, if applicable.

<p>If no OSSD or equivalent:</p> <p>1. A copy of one of the following as proof that the student has met age-related admission requirements (e.g., is over the age of 18):</p> <ul style="list-style-type: none"> <li>• Government photo ID (e.g., driver's licence)</li> <li>• Permanent Resident Card or Citizenship Card</li> <li>• Valid passport</li> <li>• Birth certificate</li> <li>• Baptismal record</li> <li>• A notarized affidavit stating a student's age</li> </ul> <p><b>AND</b></p> <p>2. A record of the grade received on the qualifying test.</p>
Evidence that the student has met any additional admission requirements established for the program.
If the student has withdrawn or been expelled from a program, copies of the withdrawal or expulsion letter, any refund calculation and any refund cheque.
A copy of all receipts issued to the student for the payment of fees.

Each student file must be kept for at least three years from the date the student leaves the program.

## II. QUALITY AND ACCOUNTABILITY

### Program Changes

#### 34. Am I required to submit a program change form if I want to change one course?

PCC are required to obtain approval from the Superintendent before making a substantial change to an approved vocational program. Substantial changes are defined in O. Reg. 415/06 as the following:

- A change in the curriculum for the program that would result in a change in the degree of knowledge or specialization with respect to the vocation
- A change in the duration of the program
- A change in the mode of delivering the program
- The introduction or deletion of a practicum
- A change in admission requirements
- A change in the requirements for successful completion of the program and for promotion within the program

- A change in the private career college’s policies and procedures for granting advanced standing
- A reduction or loss of equipment, facilities and learning resources
- A change in the title of the program
- Any other change that would adversely affect the private career college’s ability to comply with the conditions of the Superintendent’s approval

If the proposed change to the course would result in one of the above changes, or you are unsure as to whether it would result in one of the above changes, you need to submit an Application for Approval of Program Changes to obtain approval before you make the change.

## Admission Requirements

### **35. Can students start a program if they do not meet the admission requirements?**

O.Reg. 415/06 sets out the minimum admission requirements for PCC programs. Every student must meet these requirements, as well as any additional requirements established by the PCC, before he or she starts the program.

Note: there is a difference between admission requirements, practicum requirements and entry-to-practice requirements. Please refer to “Resource Bulletin: Policy Update #1, Admission, Practicum and Entry-to-Practice Requirements” for further information on these requirements.

### **36. Does the ministry require a specific level for mature student tests like the Canadian Achievement Test or Wonderlic?**

The ministry does not specify the level. PCCs should select the appropriate test based on their specific programs.

### **37. One of the minimum admission requirements for PCC students is an Ontario high school diploma or equivalent. What is meant by “equivalent?”**

The following are considered equivalent to an Ontario high school diploma:

1. A secondary school graduation diploma from any other Canadian province or territory or from the United States.
2. A General Education Development (GED) certificate issued by a Canadian province or territory or from the United States.

3. A transcript, diploma or certificate from another country, assessed at an Ontario OSSD level by a recognized assessment service.
4. A Canadian postsecondary diploma or degree.
5. A non-Canadian postsecondary diploma or degree that has been assessed as equivalent to a Canadian postsecondary diploma or degree by a recognized assessment service.
6. A certificate of completion for an Ontario academic upgrading program that is accepted by an Ontario College of Applied Arts and Technology for entry into an Ontario postsecondary program (Ontario Basic Skills Level IV, Basic Training and Skills Development Level IV).
7. A certificate of completion of an academic upgrading program from another Canadian jurisdiction that is accepted by an Ontario College of Applied Arts and Technology for entry into an Ontario postsecondary program.
8. A Certificate of Apprenticeship or Certificate of Qualification in any trade from Ontario or other Canadian jurisdiction.

**38. Do the admission requirements comply with the *Ontarians with Disabilities Act*?**

The minimum admission requirements contained in Section 10 of O. Reg. 415/06 are in compliance with the *Ontarians with Disabilities Act*. If a PCC wants to establish admission requirements that fall below the requirements in the regulation, they must apply to the Superintendent for approval.

**39. Should students be prevented from registering as apprentices until they complete the PCC program and pay the PCC in full?**

Admission requirements for apprenticeship fall under separate legislation. Graduation from a PCC program is not a requirement for becoming an apprentice. If a student withdraws from a PCC program, he or she is entitled to a refund as set out in O. Reg. 415/06.

**40. If a student withdraws from a pre-apprenticeship program, should he or she be allowed to challenge the apprenticeship examination for in-school training?**

Any person may write exemption tests for the in-school portion of apprenticeship training as long as they meet the admission requirements for the trade.

## Advanced Standing

### **41. Is it possible to give students credit or advanced standing in a program for hours of related work or volunteer experience that they have gained outside of school?**

It is up to individual PCCs to set their academic policies about what prior learning or experience will be recognized for credit or advanced standing in a vocational program. These policies must be clearly outlined in the Application for Program Approval.

## Student Evaluation

### **42. Can I only evaluate students who are at risk of academic failure before the halfway point in a program or half way through a 12-month period?**

Every student must receive at least one evaluation before half of the program has been delivered or halfway through a 12-month period. This information is important to help students to decide whether they should stay in the program before they lose their entitlement to a refund.

## Credentials

### **43. Can I issue the credential (e.g., certificate or diploma) earned by students at the graduation ceremony instead of within 60 days of completion of a program?**

You must issue an original, official credential to students within 60 days after the student completes the program and fulfills the terms of the contract. If the graduation ceremony takes place more than 60 days after the student completes the program, you may choose to provide students with a copy of the credential.

## Instructor Qualifications

### **44. Does a student's teaching and practical experience during training count toward instructor's qualification?**

No. Instructors need to have been employed in the occupation.

**45. How current does the instructor's work experience have to be?**

There are no requirements in the regulation regarding the currency of instructors' work experience. However, PCCs should use their judgement in determining whether the instructor has the appropriate experience to be effective.

**46. Do teaching assistants and laboratory supervisors have to meet the qualifications for instructors, as specified in O. Reg. 415/06?**

All instructors at PCCs must meet the qualifications specified in Section 41 of O. Reg. 415/06. Teaching assistants and laboratory supervisors **are not instructors** and do not have to meet these qualifications. However, a qualified instructor must be present at all times during classroom instruction and must closely supervise students who are engaged in a practicum or off-site placement.

### **III. TRAINING COMPLETION ASSURANCE FUND**

**47. Can earned revenue that are not yet collected by a PCC be used to offset (decrease) unearned revenue?**

There is no authority in the TCAF regulation that would allow PCCs to subtract revenue that has been earned but not yet collected from students from their unearned revenue account balance.

**48. Can different credit agencies be used to determine credit scores? Can different information be used to determine an average of credit scores?**

The Ministry will need to conduct a competitive Request for Proposals (RFP) process to determine which organization(s) will provide TCAF with credit information on PCCs. It may be appropriate to identify more than one firm to provide this information. Whether one or more firms are identified will be determined as part of the RFP process.

**49. How would I calculate the TCAF founding surcharge or annual premium if my PCC has no unearned revenue?**

After the founding premium or initial annual premium has been paid for two years, a PCC with no unearned revenue will pay the minimum TCAF premium of \$500.

## **50. How is unearned revenue defined under TCAF?**

PCCs will be required to report their highest monthly unearned revenue account balance. The calculation is set out in the TCAF regulation (excerpt below). More information will be provided to you as part of the renewal of registration materials that will be sent to your PCC.

1. Determine the portion of any fees collected in previous months as prepaid fees that remains unearned at the beginning of the month
2. Add the amount of any prepaid unearned fees collected during the month to the amount determined under paragraph 1
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 private career college during the month

## **51. Why can't PCCs set up trust funds instead of TCAF?**

The use of trust funds was investigated by the TCAF Working Group. The Ministry's experience with trust fund requirements under the *Postsecondary Education Choice and Excellent Act* is that they are expensive and cumbersome to administer. Financial institutions are not enthusiastic about their use. The oversight of the trust funds would be time consuming and expensive. In addition, the potential costs of a PCC closing are not limited to unearned fees. For example, if no training completion can be organized, students are eligible for a full refund, not just a refund of unearned revenue.

## **52. What will be the administration cost of TCAF?**

The administration costs of TCAF have not yet been finalized. TCAF administration costs will be reasonable and will not require the establishment of a new bureaucracy. Existing government staff will handle most administrative functions. Some costs, such as those related to the financial analysts conducting viability reviews, will be determined by the result of an open Request for Proposals (RFP) competition. The TCAF Advisory Board will be consulted on issues associated with administrative costs.

**NOTE: Further information will be provided about TCAF in additional communications.**