

LEGAL CONSULTATION SERVICE

in association with

****



**Raven contact:**

Ella Forbes-Chilibeck, Lawyer

(First point of contact for OCASA members)

Phone: 613.567.2901

Fax: 613.567.2921

eforbes-chilibeck@ravenlaw.com

**Ella’s assistant:** Tania Smith | 613-567-2923 | tsmith@ravenlaw.com

**OCASA contact:**

Diane Posterski, Executive Director

Phone: 1-866-742-5429 ext. 102

Fax: 1-866-742-5430

diane.posterski@ocasa.on.ca

**A. OCASA Legal Services Access Policy**

***Overview:***

From OCASA’s inception, a referral service has been provided to OCASA members for specific legal matters. There are times when administrators need the advice of a lawyer in their role as an employee, and this is one important way that OCASA can provide a service. The service is meant to be a supplementary service to advice or legal counsel that might be available to members through their own college. OCASA espouses a professional approach to all employment matters. The following points provide an overview of the service:

* OCASA has a legal firm on retainer to provide a referral service for its members; this provides a more cost-effective method of acquiring legal services for our members, and offers a knowledge base of college issues.
* OCASA pays for the first two hours of billing time; the member is responsible for anything beyond that.
* Members may access legal services around four specific issues (outlined below); members are encouraged to work within the college practices and procedures first, as the matter allows.
* While OCASA has secured the legal services of a firm providing employment law for employees, OCASA has no involvement whatsoever in the client/lawyer relationship. It is a confidential relationship with the lawyer providing advice, and the member making their decisions based on that advice. OCASA does not represent anyone, nor does it provide advice about legal matters. Members act on their own behalf and in most cases, OCASA is not even aware that the legal service has been accessed; the members are not required to first go through the OCASA office.
* Members may choose their own legal firm, and OCASA will reimburse that law firm for the equivalent of what we pay to our legal firm for two hours consultation time.
* A member may contact the OCASA office at any time to inquire about access to legal services. All calls will remain confidential.

***Eligibility*:**

Access to two hours legal consultation services is provided as a member service to regular members in good standing (not available to retirees, associate members or those engaged in a “trial” membership campaigns). A minimum of 3 months active membership may be required to access legal services.

Administrators wishing to join OCASA in order to access legal services immediately must first pay a full-year’s membership in advance of accessing legal services.

***Terms of Access*:**

1. Members are encouraged to first access and use any services or processes available to them through their local college. Legal counsel is sometimes offered by the college and ought to be offered, depending on the situation. Members should also ask for support in seeking legal services.
2. All regular members (as defined above) are eligible to access up to two (2) hours of legal consultation per issue for the following matters:
3. Termination, including constructive dismissal.

Termination refers to a situation where a member has received notice from their college that their employment is being or has been terminated. In this case, the member may immediately access legal services using the access form provided on the OCASA website, or available through the OCASA office.

Constructive dismissal needs to be determined in consultation with a lawyer. Constructive dismissal occurs where the employer “has changed his or her duties, responsibilities, and conditions of work to such an extent that the employee is entitled to treat the employment relationship as at an end” (Appendix 1). In this situation, legal services may be accessed using the access form provided on the OCASA website, or available through the OCASA office.

1. Harassment

For those members who are experiencing harassment or have been harassed (Complainant), or who have been informed of a harassment allegation made against them (Respondent), and who have accessed internal harassment policies, access to legal services is available where the college has failed to provide the appropriate protection for the individual or where the interest of the College does not coincide with the interest of the individual manager.  Legal counsel for Colleges have a duty to inform individuals in legal disputes that the College’s interest and the individual’s interest may not coincide and in such circumstances the individual should seek his or her own legal advice.  (In some cases, the College might be expected to pay for the latter.)

1. Long term disability

When an employee encounters difficulties in accessing long term disability benefits, or requires advice concerning the process, and it is not forthcoming from their college benefits department, then the member may access legal services using the access form provided on the OCASA website, or available through the OCASA office.

1. Legislative Compliance:

Members may access legal services under the following circumstances:

* 1. the member has been named in a proceeding or prosecution under a workplace compliance legislative Act, and;
	2. the college is not providing legal counsel to the member or it has been determined that the legal interests of the member are secondary to those of the college and, therefore, the member is not receiving adequate legal counsel.
1. Discretion is given to the Executive Director, in consultation with the Executive Committee, to offer access to legal services in situations that do not fit precisely within the definitions above, but for which the member’s employment relationship is seriously strained and legal consultation is warranted.
2. Members are encouraged to access these legal services through the provider with which OCASA has signed a contract. OCASA will provide the lawyer with a list of members for the sole purpose of screening for eligibility.
3. For those members wishing to use outside legal services, they are still eligible for the equivalent of 2 hours billing time subject to the following conditions:
4. the member must provide a copy of the invoice from the lawyer, indicating the nature of the consultation;
5. OCASA will pay according to the fee schedule of OCASA’s provider (that is, 2 hours billing time at OCASA’s rate with its provider);
6. Upon receipt of the invoice, funds will only be disbursed to the law firm as named on the invoice and not to the member directly. Included with the payment will be a request that, should legal fees be recovered in a settlement, OCASA would be reimbursed for its portion.

**B. How to access legal services**

***General inquiries:***

If you are uncertain about your eligibility for legal services, or for any further information, you can call the OCASA office. All calls will be held in confidence:

Diane Posterski, Executive Director: 1-866-742-5429 (ext. 2) or diane.posterski@ocasa.on.ca

***Contacting the law firm:***

If the matter is urgent (need response within 24 hours) and cannot wait for the lawyer to receive and review documentation, you may contact the lawyer directly (contact information below). If you are unable to connect with the lawyer directly, ask to speak with her assistant and indicate that the matter is urgent.

For all other matters, you can expect a response within 72 hours.

Please follow this procedure to expedite the process:

1. Complete the attached Information Form.
2. Prepare and/or collect the relevant attachments.
3. Fax or email the Information Form and the attachments to Raven. If using email, it is recommended that you don’t use your work email.
4. Raven will respond within 72 hours upon receiving your documentation.

Contact Information:

Ella Forbes-Chilibeck, Lawyer

(First point of contact for OCASA members)

Phone: 613.567.2901

Fax: 613.567.2921

eforbes-chilibeck@ravenlaw.com

**OCASA LEGAL CONSULTATION SERVICE**

**INFORMATION FORM**

Attention: Ella Forbes-Chilibeck, Lawyer

(First point of contact for OCASA members)

Phone: 613.567.2901

Fax: 613.567.2921

eforbes-chilibeck@ravenlaw.com

**1. PERSONAL INFORMATION (Please Print or type)**

|  |  |
| --- | --- |
| Full Name (first, middle, last) |   |
| Home Address: |   |
| Work Telephone: |  | Home Telephone: |  |
| Fax: |  | Cell Phone:  |  |
| Date of birth: |  | Age: |  |
| Hire Date: |  | Current Salary: |  |
| Position: |  |
| How long with current employer? |  | How long in current position? |  |

|  |  |
| --- | --- |
| Is it appropriate to contact you at work?  | Yes [ ]  No [ ]  |
| May we leave messages at work? | Yes [ ]  No [ ]  |
| Would you prefer to be called at your home number?  | Yes [ ]  No [ ]  |
| May we leave messages at home? | Yes [ ]  No [ ]  |
| Is it appropriate to contact your cell number?  | Yes [ ]  No [ ]  |
| May we leave messages on your cell? | Yes [ ]  No [ ]  |

**2. COLLEGE:**

 **CAMPUS:**

**3. NATURE OF THE PROBLEM OR ISSUE:**

|  |  |
| --- | --- |
| Is this a case of termination of employment?  | Yes [ ]  No [ ]  |
| Is this a case of alleged harassment? (either as the complainant or respondent) | Yes [ ]  No [ ]  |
| Is this a case of an LTD issue?  | Yes [ ]  No [ ]  |
| Is this another matter critical to the employment relationship?  | Yes [ ]  No [ ]  |

If this is a case of termination of employment, please answer the following.

|  |  |
| --- | --- |
| Have you ever signed an employment letter or agreement? If yes, please fax the document with this form.  | Yes [ ]  No [ ]  |
| Have you ever received a copy of the Terms and Conditions of Employment for Administrative Staff?  | Yes [ ]  No [ ]  |
| Is your objective to: (a) retain your position?  | Yes [ ]  No [ ]  |
| (b) negotiate the best possible termination package?  | Yes [ ]  No [ ]  |
| Were you provided with a package? If yes, please fax the offer or an outline of offer  | Yes [ ]  No [ ]  |
| Has the College indicated it is dismissing you with just cause? If yes, outline the details provided.  | Yes [ ]  No [ ]  |
| To your knowledge, have any of the procedures under the Terms and Conditions of Employment for Administrative Staff for consultation and/or arbitration been invoked?  | Yes [ ]  No [ ]  |

4. **CHRONOLOGY OF EVENTS**

Please attach a brief chronology of the events. If this chronology will be faxed, it need not be typed as long as it is legible. Please include the names of persons and their positions at the College who have been or are involved in the decisions or events.

Include a brief reference to any attempts that may have been made to resolve the problem informally.

Where possible, provide copies of any pertinent communications from the College, e.g. letter of appointment, termination letter, offer of compensation, discipline letters, etc.

Please be sure to indicate timing factors, i.e. when the facts giving rise to the problem first occurred, any deadlines requested by the College, etc.

**NOTE: HARASSMENT ALLEGATIONS**

If the problem relates to an allegation of harassment, please list all of the individuals involved, including any potential witnesses who might have relevant information.

**5. DEADLINES AND TIMING**

Often letters from the College setting out, for example, an offer of compensation will indicate that a response is required by a certain date. Typically such deadlines are extended.

If you receive or have received such a letter and are concerned that the time for responding is about to expire or is too short, the sample form letter on page 5, modified to reflect your individual circumstances, should be sent to the College.

**6. OTHER ADVISERS**

|  |  |
| --- | --- |
| Have you contacted a local lawyer already?  | Yes [ ]  No [ ]  |

If YES, please provide his/her name, address and telephone number and the results of the consultation so that any follow-up can be coordinated.

|  |  |
| --- | --- |
| Have you contacted an accountant or financial adviser?  | Yes [ ]  No [ ]  |

If YES, please provide his/her name, address and telephone number and the results of any consultations you may have had relating to this issue so that any follow-up can be coordinated.

**7. RELEASE OF INFORMATION**

OCASA has requested that Raven Cameron maintain statistics on the types of issues OCASA members’ experience, the number of consultations and the general outcomes. OCASA’s objective is to understand better the difficulties being faced by OCASA members in order to provide appropriate services. Such statistics will be provided in a manner which will not identify the OCASA member involved. All information shared with Raven Cameron and advice given to you by Raven Cameron will be protected by solicitor-client privilege.

I have read, understood and agree to the above.

|  |  |  |  |
| --- | --- | --- | --- |
| Signature: |  | Date: |  |

SAMPLE RESPONSE LETTER REGARDING TIMING FACTORS

I acknowledge your letter dated , in which you request a response to the College's position by .

I will need to seek advice and consider my options and therefore it will not be possible to do so within the time frame referred to above. Accordingly, I would request that the time for response be extended until , by which time I should be able to respond. [***Optional*** *(see the note below): During this period, I would also request that any applicable time periods for consultation or other such other steps as might be applicable under the Terms and Conditions be held in abeyance*.]

Unless I hear from you to the contrary, I will assume that this is acceptable to the College.

Yours truly,

 ***Note:*** *Include the optional sentence if this is a case where a consultation process appears to be necessary or has been stated under the Terms and Conditions of Employment for Administrative Staff. In such cases your OCASA local college representative should be notified or the OCASA office.*