Ontario proposes changes to postsecondary education sexual violence regulation

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The Province of Ontario has announced that it plans to make changes to the regulation that sets out the requirements for postsecondary sexual violence policies in order to impose two new survivor-centric requirements.

The proposed amendments

Regulation 131/16 of the *Ministry of Training, Colleges and Universities Act* requires every university and college in Ontario to create and maintain a sexual violence policy that meets detailed requirements. The province issued a news release on January 27 to announce that it is looking to amend *Regulation 131/16* for the first time since it came into force in 2017, to require every university and college policy to stipulate that:

- A complainant acting in good faith, who discloses or reports sexual violence, would not be subject to actions for violations of the institution's policies related to drug and alcohol use at the time the alleged sexual violence took place.
- During the institution's investigative process, students who share their experience of sexual violence through disclosing, accessing support, and/or reporting to the institution, would not be asked irrelevant questions by the institution's staff or investigators. Examples of such irrelevant questions would include those relating to past sexual history or sexual expression.

The province said it is adopting these requirements based on recommendations of the Ontario Undergraduate Student Alliance, who issued a policy paper calling for these and numerous other reforms last year. The "Our Turn" advocacy group paper from 2017 identified only two Canadian universities with these policy elements out of the 22 institutions that it studied.

Public consultation

It is not clear whether the province will make other changes to *Regulation 131/16.* The province's online consultation is open for comments here until **March 15, 2021**.

BLG has a team of lawyers with expertise in sexual violence policy, investigation and incident response and defence, and we act regularly in these matters in court and before the Human Rights Tribunal of Ontario. For assistance, please reach out to one of our key contacts shown below.

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