

Egale Canada's Statement on Ontario Court Decision of *Jordan Peterson v. College of Psychologists of Ontario*

August 23, 2023

Today, the Ontario Superior Court of Justice - Divisional Court handed down its decision in *Peterson v. College of Psychologists of Ontario*. The Court found that regulated healthcare practitioners can be held to account by their regulators for public statements that do not meet ethical and professional standards.

The case centers on Jordan Peterson, a clinical psychologist registered in Ontario who is well known for his controversial public statements, which tend to be degrading toward women and 2SLGBTQI people. After receiving a number of complaints about Peterson's public statements, the College of Psychologists of Ontario (CPO), which regulates the profession of psychology in Ontario, ordered Peterson to take a remedial course on professionalism in communications. The Inquiries, Complaints and Reports Committee of the CPO wrote that Peterson's comments "may be reasonably regarded by members of the profession as disgraceful, dishonourable and/or unprofessional." Peterson sought judicial review of that order.

Represented by McIntyre Szabo PC and Kastner Lam LLP, Egale Canada and JusticeTrans intervened jointly in the case to make the following arguments before the court (read the full factum [here](#)):

The CPO's mandate extends to regulating its members' speech when that speech is discriminatory, contains medical misinformation, and/or otherwise causes harm to the public or the profession. This applies particularly in the context of transphobic speech because psychologists belong to the group of professions that act as gatekeepers to gender-affirming healthcare. All transphobic misinformation is harmful. But when a clinical psychologist makes transphobic, discriminatory, and false claims, they are directly interfering with trans people's safety and autonomy.

Psychologists' right to free expression has to be weighed against the public interest and the rights of patients to equitable access to healthcare.



The Divisional Court ruled that the CPO's order for Peterson to take a remedial course on professional communication was reasonable, given Peterson's pattern of using degrading and demeaning language about other people in public while identifying himself as a clinical psychologist. It found that the CPO's responsibility to regulate the profession of psychology for the benefit of people in Ontario extends to the regulation of psychologists' public statements when those statements carry a risk of harm to the public, including specific individuals and communities.

The Court rejected the argument that public statements that are made while the professional is "off-duty" are outside a regulator's scope of review. It wrote: "Dr. Peterson cannot have it both ways: he cannot speak as a member of a regulated profession without taking responsibility for the risk of harm that flows from him speaking in that trusted capacity."

The Court decided that the CPO appropriately balanced Peterson's right to express himself with the public interest - meaning what's best for people in Ontario as a whole. It relied particularly on Egale's submissions on the mandate of regulators, which can be found at paragraphs 49-53 and 65-66 of the decision.

The *Charter* right to freedom of expression is foundational in Canadian society and has been critical in the advancement of protections for 2SLGBTQI people. As a national organization advocating for the rights of 2SLGBTQI people and communities, Egale is committed to promoting free expression. Like all *Charter* rights, however, freedom of expression is not unlimited. Egale supports the Divisional Court's finding that psychologists are obliged to follow the *Canadian Code of Ethics of Psychologists*, which places respect for the dignity of persons and non-discrimination as fundamental principles

Healthcare professionals, including clinical psychologists, are accountable to specific standards of professionalism. That's because all people in Ontario have the right to access healthcare safely and without discrimination, and to be able to trust in the integrity and professionalism of their healthcare providers. Today, the Court upheld those principles.



Helen Kennedy, Executive Director of Egale Canada, said, “2SLGBTQI communities often face discrimination and barriers in accessing healthcare. Today’s ruling that as a professional regulatory body, the College of Psychologists of Ontario has the mandate to regulate degrading and demeaning speech by its members, is a step in the right direction in ensuring that 2SLGBTQI individuals can access healthcare safely and without discrimination.”

JusticeTrans said “JusticeTrans welcomes this decision. Safer access to healthcare systems we can trust to provide the care we need – including mental healthcare – is vital for Two-Spirit, trans, non-binary and gender non-conforming (2STNBGN) communities to thrive. This is especially true in the context of growing backlash and misinformation about 2STNBGN people that continues to spread. The increasing spread of misinformation about trans people and gender-affirming health care adds additional harm and unnecessary barriers to accessing life-affirming care for 2STNBGN people and contributes to the ongoing violence against and marginalisation of 2STNBGN communities.

Also, it is the duty of professional organizations to ensure that their members are kept informed of best practices and that the profession is well represented to the public.”

John McIntyre and Gregory Ko, who represented Egale Canada and JusticeTrans in our intervention, said, “The Court reaffirmed that freedom of expression does not insulate health professionals from accountability for discriminatory and anti-trans speech. This decision is an important affirmation of the authority of health professional regulators to protect the public from discrimination and to ensure equitable access to healthcare for all, including historically marginalized communities like the 2SLGBTQI community.”