

Ontario Law Banning Universities from using NDAs goes into Effect

The [Strengthening Post-Secondary Institutions Act](#) came into effect in Ontario on July 1. An original clause in the Bill banning NDAs “after adjudication” which made no sense at all was replaced by an amendment banning the use of NDAs to stifle allegations or complaints about faculty/ student misconduct. The amendment was drafted by Julie with the assistance of our ally lawyer Rob Talach, and tabled for us by NDP MPPs Chandra Pasma and Frances Gelinas in Committee. It was accepted by the Ontario government at [3rd Reading](#), during which a dozen different members referred to CBMS and the University of Windsor’s use of NDAs (Julie’s case) as a key factor in their decision-making.

The new law still leaves universities free to continue to use NDAs for (eg) harassment and discrimination in universities, and we hope to plug that loophole next – but this is important progress!

Here is the relevant clause of the new Act (in Schedule 1)

Agreement

(5) Subject to subsection (6), an agreement between an institution and any person, including a collective agreement or an agreement settling existing or contemplated litigation, that is entered into on or after the day section 3 of Schedule 1 to the *Strengthening Post-secondary Institutions and Students Act, 2022* comes into force, shall not contain any term that, directly or indirectly, prohibits the institution or any person related to the institution from disclosing that an allegation or complaint has been made that an employee of the institution committed an act of sexual misconduct toward a student of the institution, and any such term that is included in an agreement is void.

Exception

(6) An institution may enter into an agreement that contains a term described in subsection (5) if the student requests that the institution do so, provided that,

(a) the student has had a reasonable opportunity to receive independent legal advice;

(b) there have been no undue attempts to influence the student with respect to the request;

(c) the agreement includes an opportunity for the student to decide to waive their own confidentiality in the future and the process for doing so; and

(d) the agreement is of a set and limited duration.

If you attend or work at an Ontario university and believe that your institution is still using NDAs as part of its complaints process for student allegations of faculty sexual misconduct, please contact us at info@cantbuymysilence.com