

**Saskatchewan College of Psychologists - Discipline Committee**  
**Rules for Discipline Hearings**

*Adopted January 2013*

*Revised March 2018*

**Purpose of Discipline Hearing**

1. A discipline hearing must be held whenever a matter is referred to the Discipline Committee by the Professional Conduct Committee (PCC) pursuant to clause 28(2)(a) of *The Psychologists Act, 1997*. Once a matter is referred for a hearing, the Discipline Committee is required to hear the complaint and decide whether or not the member is guilty of professional incompetence or professional misconduct, or both, as alleged in the formal complaint or charge referred to it by the PCC.

**Notice of Hearing**

2. A written Notice of Hearing, setting out the formal complaint or charge, and the date, time and place where the hearing will be held, must be served on the member at least 14 days prior to the hearing [ss. 31(1) of the Act]. Service must be by personal service or registered mail at the address shown in the Register maintained by the College. [s. 51 of the Act].

**Burden of Proof**

3. The PCC acts as prosecutor of the formal complaint and must therefore convince the Discipline Committee, on a balance of probabilities, that the member is guilty of the discipline offence alleged [ss. 31(3) of the Act].

**Dates of Hearings**

4. The Discipline Committee holds hearings on the following dates in each year:

- the first Thursday, Friday and Saturday in March;
- the second Thursday, Friday and Saturday in June; and
- the third Thursday, Friday and Saturday in October.

Once a formal complaint is prepared, the hearing of the complaint is set for the next available date(s) in the above schedule and the formal complaint and notice of hearing are served on the member. Where that is not possible, or where the matter must be dealt with more urgently, other dates may be determined on an ad hoc basis. Location of hearings is determined with a view to minimizing cost.

**Arrangements for Counsel and Witnesses**

5. The Discipline Committee expects that the hearing will proceed on the date for which it is set. The member who wishes to be represented by legal counsel must ensure that legal counsel is obtained in time for the hearing. Both the PCC and the member must ensure that arrangements are made to have witnesses available to testify on the date(s) set for the hearing. If witnesses must be subpoenaed to appear, the subpoena must be obtained from the local registrar of the Court of Queen's Bench [ss. 31(8) of the Act].

## **Adjournments**

6. If unforeseen circumstances arise that make it impossible to proceed with a hearing on the date for which it is set, the party who wishes to request an adjournment must provide details by email of the circumstances that make it impossible to proceed with the hearing as scheduled to legal counsel for the Discipline Committee and to the other party.

7. The other party must provide either a consent to the adjournment request or reasons why the adjournment should not be granted by email to legal counsel for the Discipline Committee and to the requesting party.

8. If an adjournment is consented to, legal counsel to the Discipline Committee will contact the Discipline Committee and an Order to that effect will be issued and circulated to all parties by email.

9. Where an adjournment request is opposed, the requesting party may provide a reply to the objection by email to legal counsel for the Discipline Committee and to the other party. Legal counsel for the Discipline Committee will provide the adjournment request, the objection and any reply to the members of the Discipline Committee for their consideration. If the Discipline Committee requests it, a conference call will be held, but otherwise the Discipline Committee will deliberate and issue its decision and Order through counsel via email to all parties.

10. Out of respect for the time commitments of all persons involved in the process, an adjournment should be requested at the first opportunity once it is known that it will be needed. Responses to adjournment requests are expected to be made as soon as possible and preferably within 24 hours. Adjournment requests arising less than a week before the scheduled date of the hearing will be considered as a preliminary matter on the date and at the time and place scheduled for the hearing unless there are exceptional circumstances to warrant otherwise.

## **Pre-Hearing Procedures**

11. Although service of a Notice of Hearing may occur as late as 14 days in advance of the date set for the hearing, where possible service will be effected early enough to permit a conference call to be convened approximately two weeks prior to the date on which the hearing is scheduled to begin. The Chair of the Discipline Committee, the Discipline Committee's legal counsel will participate in the call on behalf of that Committee. Other participants will be the member and legal counsel, if any, and a representative of the PCC and its legal counsel.

The purpose of the conference call is:

- to identify any preliminary issues;
- to determine if the member accepts responsibility for the alleged discipline offence;
- to determine if the matter will proceed by way of agreed facts or if witnesses will have to be called, and if so, how many;
- to establish dates by which any required documents will be filed with the Discipline Committee in advance of the hearing; and
- to deal with any other matters that may be relevant to organizing the conduct of the

hearing so that it may proceed expeditiously.

### **The Hearing**

12. All hearings are conducted in accordance with the provisions of *The Psychologists Act, 1997* relating to hearings [s. 31 of the Act] and the rules of natural justice. "Natural Justice" is a legal concept that includes basic duties of fairness owed by the Discipline Committee to the member when determining the consequences to them of alleged discipline offences. These include the right of the member to be heard, including the right to cross-examine witnesses for the PCC, the right to call witnesses to testify on the member's behalf, the right to be heard by a decision maker who is unbiased, the right to be represented by legal counsel, the right to make argument, and the right to receive written reasons for the Discipline Committee's decisions.

13. Legal counsel for the PCC acts as prosecutor [see ss. 31(2) of the Act] and files with the Discipline Committee the Notice of Hearing, which contains the formal complaint or charge to which the member is required to respond, and proof that the Notice of Hearing was served on the member as required by the Act. Legal counsel for PCC may then call any witnesses that may be required to establish the charges as alleged.

14. The member, or the member's legal counsel or agent, may cross-examine any witnesses that testify for the PCC [see ss. 31(7) of the Act].

15. Once legal counsel for the PCC has concluded the case for the prosecution, the member, or the member's legal counsel or agent, may call any witnesses on the member's behalf. These witnesses will be subject to cross-examination by legal counsel for the PCC.

16. Once all witnesses have been heard, both legal counsel for the PCC and the member, or the member's legal counsel or agent, will be provided with an opportunity to make submissions in argument to the Discipline Committee. Submissions may be presented to the Discipline Committee in writing, or verbally, or both.

### **Witnesses**

17. As proceedings before the Discipline Committee are formal legal proceedings, all witnesses that appear before the Discipline Committee are asked to present their testimony under oath or affirmation [see ss. 31(6) of the Act].

### **Expert Witnesses**

18. Where a party intends to call an expert witness, notice of that fact shall be provided to the other party and to legal counsel for the discipline committee at least 10 days in advance of the scheduled date of the hearing. The notice must contain a concise statement of the nature of the expert evidence the witness is expected to give, and a summary of the qualifications relied upon to establish the area of expertise claimed. The notice must be accompanied by a curriculum vitae (CV) of the proposed expert. Where notice is not given as required and the other party objects, a proposed expert will not be permitted to testify.

### **Documentary Evidence**

19. Wherever possible, the parties should compile a joint book of documents. The Discipline

Committee is not bound by the technical rules of the law of evidence, so almost anything that is relevant is admissible [see ss. 31(4)]. The Discipline Committee expects that the parties will cooperate and that each side will consent to the other's documents unless there is a valid reason to object. Consent does not imply agreement about the significance, interpretation or weight to be placed on any particular document. This means that parties are expected to consent to documents that might be adverse in interest, where it is clear that the document is admissible.

### **Hearsay**

20. Testimony or documentary evidence is not objectionable merely because it is hearsay, although, even if admissible, very little if any weight is attached to hearsay.

### **Subpoenas**

21. The Discipline Committee has NO authority under the Act to issue subpoenas to compel the attendance of witnesses and to order the production of documents. If a subpoena is required, the PCC or the member, or the member's legal counsel, must contact the local registrar of the Court of Queen's Bench [see ss. 31(8) of the Act]. Note that documents can be obtained by subpoena from a regional health authority or health care organization [see ss. 31(9.1) of the Act].

### **Agreed Facts**

22. The member may wish to avoid the expense of a lengthy hearing by agreeing with legal counsel for the PCC about all or some of the facts relating to the alleged discipline offence. This is a matter to be determined in discussion with legal counsel for the PCC. The Discipline Committee will be bound by any agreed facts that may be submitted.

### **Penalty Hearing**

23. Normally, unless a member is pleading guilty, the hearing is divided into two stages. At the conclusion of the first stage, the Discipline Committee will come to a decision on the issue of whether or not the member is guilty of a discipline offence. If the member is found guilty, the hearing will be resumed to hear evidence and submissions relating to the imposition of an appropriate consequence or penalty. The Discipline Committee is authorized to make an Order that will address the conduct that led to the offence for which the member has been found guilty. [see s. 32 of the Act]

### **Costs**

24. The Discipline Committee is authorized to order a member to pay of all or a portion of the costs of the investigation and discipline process [ss.32(2) of the Act] where a member is found guilty of a discipline offence. The Discipline Committee will take into account all relevant and appropriate factors in regard to a costs order, including the member's conduct in assisting the proceedings to work expeditiously or in forcing unnecessary expenditures to be incurred and the member's ability to pay.

### **Joint Submissions**

25. Where a member is found guilty of a discipline offence, the member and legal counsel for the PCC may wish to submit joint recommendations for penalty. The Discipline Committee will take joint recommendations under advisement, recognizing that the Saskatchewan Court of Appeal has indicated that joint submissions should only be departed from where the penalty

proposed is unfit or unreasonable or contrary to the public interest, and there are good and cogent reasons for doing so.

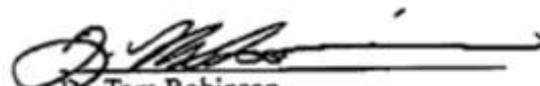
### **Discipline Committee Orders**

26. The Discipline Committee's written reasons and formal Order are signed by the Chair and is sent to counsel or, where a member is not represented, served on the member by personal service or by registered mail at the address in the Register maintained by the College. The Order takes effect on the day and hour specified in it.

27. The Discipline Committee also sends a copy of its Orders to the complainant, if there is one, and to the Council, and may send a copy to the member's employer where that is appropriate. All Discipline Committee Orders are redacted and published on the College's website.

### **Authority**

28. These Rules for Discipline Hearings are made pursuant to the authority vested in the Discipline Committee by virtue of subsection 30(3) of *The Psychologists Act, 1997* and were approved by resolution of the Discipline Committee on **March 1, 2018** and are effective as and from that date.



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Chair, SCP Discipline Committee

### **Contact Information**

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