



Ontario
Professional
Planners
Institute

Institut des
planificateurs
professionnels
de l'Ontario

Ontario Planners: Vision • Leadership • Great Communities

ONTARIO PROFESSIONAL PLANNERS INSTITUTE

Discipline Committee

RULES OF PRACTICE AND PROCEDURE

(Made under section 15.10.6 of the General By-law of OPPI and section 25.1
of the *Statutory Powers Procedure Act*)

Resolved and endorsed by the Council of the OPPI
on June 5, 2009

Issued: July 15, 2009
by the Discipline Committee of
Ontario Professional Planners Institute

ONTARIO PROFESSIONAL PLANNERS INSTITUTE

DISCIPLINE COMMITTEE

RULES OF PRACTICE AND PROCEDURE

(made under section 15.10.6 of the General By-law of OPPI
and section 25.1 of the *Statutory Powers Procedure Act*)

INDEX

	Page No.
GENERAL.....	3
REPRESENTATIVES.....	6
TIME.....	6
INITIATING A PROCEEDING.....	6
NOTICES.....	8
DOCUMENTS, EXHIBITS, FILING, SERVICE.....	8
DISCOVERY.....	10
MOTIONS.....	10
SETTLEMENT BEFORE COMMITTEE PROCEEDINGS.....	16
COMPELLING ATTENDANCE OF WITNESSES BY SUMMONS.....	16
LANGUAGE OF PROCEEDINGS.....	17
STREAMING.....	18
ADJOURNMENTS.....	19
MEDIATION/ALTERNATIVE DISPUTE RESOLUTION.....	20
PREHEARING CONFERENCES.....	21
METHODS OF HOLDING HEARING EVENTS.....	23
ELECTRONIC HEARINGS.....	23
WRITTEN HEARINGS.....	24
CONDUCT OF PROCEEDINGS.....	25
COMMITTEE DECISIONS.....	27
CORRECTING MINOR ERRORS IN DECISIONS AND ORDERS.....	27

GENERAL

1. **Application**: These Rules apply to all proceedings before the Discipline Committee.

2. **Definitions** of terms in these Rules:

“affidavit” means a written statement made under oath or affirmation that is confined to facts or other evidence the deponent could give if testifying as a witness before the Committee;

“applicant” means a person who makes an application to the Committee and includes a person requesting a matter to be referred to the Committee and also a person added as a party applicant by the Committee. The Term “appellant “ may also be used to describe an applicant who appeals a matter to the Committee;

“Chair” means the Chair of the Committee;

“committee” means the Discipline Committee of the Ontario Professional Planners Institute or any panel thereof;

“document” means written and visual material, and includes written and visual evidence;

“electronic hearing” means a hearing event held by teleconference, videoconference or some other form of electronic technology allowing the parties, participants and the Committee to hear or hear and see one another or their representatives, or any witnesses throughout the hearing event;

“file” means to send or deliver to the Secretary of the Committee or to send or deliver to the proper authority for receiving appeals, and requires that the appeal material is either deemed to be or has actually been received by the Committee;

“hearing event” means a procedure held by the Committee at any stage of a proceeding, and includes a mediation, motion, pre-hearing conference, and hearing, whether these are held in the form of an oral hearing, electronic hearing or written hearing, and does not include a cross examination on an affidavit not held before the Committee;

“holiday” means a Saturday or Sunday or other days, such as the statutory holidays of New Year’s Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, and any special holiday proclaimed by the Governor General or the Lieutenant Governor in Council. Where New Year’s Day, Canada Day or Remembrance Day falls on a Saturday or Sunday, the following Monday is a holiday. Where Christmas Day falls on a Saturday or Sunday, the

following Monday and Tuesday are holidays, and where Christmas Day falls on a Friday, the following Monday is a holiday;

“**Institute**” means the Ontario Professional Planners Institute;

“**mediation**” means the intervention into a disputed matter or matters before the Committee by a Committee Member to facilitate negotiations among the parties and assist them in developing a mutually acceptable settlement, all of which is conducted on a confidential basis;

“**motion**” means a request that the Committee make a decision or issue an order at any stage in a proceeding;

“**moving party**” means the person who makes the motion;

“**oral hearing**” means a hearing event at which the parties or their counsel or representatives attend before the Committee Member(s) in person;

“**participant**” is an individual, group or corporation who wishes to make a statement to the Committee at a time set for such statements but who does not wish to participate fully throughout a hearing and may attend only part of a hearing;

“**party**” includes a person entitled by the by-law to be a party, or those persons whom the Committee accepts or adds as parties to fully participate in a hearing event. The role of a party is set out in these Rules and includes such activities as exchanging and receiving documents, providing testimony, presenting and cross-examining witnesses, and making submissions to the Committee;

“**person**” includes a corporation, and the entities included within the meaning of a person in the *Statutory Powers Procedure Act*, R.S.O. 1990, c.S.22 “the SPPA”;

“**proceeding**” means a matter before the Committee;

“**representative**” means a person authorized under the *Law Society Act*, R.S.O. 1990, c. L.8 or its By-Laws to represent a person in the proceeding before the Committee, and this includes legal counsel or the individuals that are authorized to provide legal services;

“**responding party**” means a person, other than the Committee Secretary, who is served with a notice of motion by the moving party;

“**Rules of Civil Procedure**” means the Rules in effect for the Superior Court of Justice made under the *Courts of Justice Act*, R.R.O. 1990, as amended;

“**settlement conference**” means a discussion held in a proceeding amongst the parties or their representatives and the Committee to attempt to resolve all or part of a matter by discussion or mediation and includes a mediation session;

“**submission form**” means a form provided by the Committee for the filing of appeals, referrals or applications;

“**visual evidence**” means images or images with sound intended to be introduced into evidence at a hearing event, and includes computer-generated images, photographs, maps , videos, plans, surveys, models and overlays;

“**written evidence**” means material intended to be introduced into evidence at a hearing event, and includes reports, letters, correspondence, notices, memos, forms, agreements, e-mails, charts, graphs, books of account and any other written communication recorded or stored by means of any device;

“**written hearing**” means a hearing event held by means of the exchange of documents whether in written form (hard copy) or by electronic means.

3. **Interpretation of the Rules** These Rules shall be liberally interpreted to secure the just, most expeditious and cost effective determination of every proceeding on its merits.
4. **Matters not dealt with in the Rules** The Committee may at any time in a proceeding make orders with respect to the procedure and practices that apply in the proceeding. If these Rules do not provide for a matter of procedure, the Committee may do whatever is necessary and permitted by law to enable it to adjudicate effectively and completely on any matter before it. The Committee may follow the *Rules of Civil Procedure*, where appropriate, or may exercise any of its powers under applicable legislation.
5. **Technical Objections** Substantial compliance with requirements of these Rules is sufficient.
6. **Committee May Exempt From Rules** The Committee may grant all necessary exceptions from these Rules or from a procedural order, or grant other relief as it considers appropriate, to ensure that the real questions in issue are determined in a just, most expeditious and cost-effective manner.
7. **Failure to Comply with Rules** The Committee expects compliance with these Rules and Committee orders. If a party or participant has not complied with a requirement of these Rules or a Committee Order such as a procedural order and any requirement included therein, then the Committee will determine the consequences of non-compliance and may grant necessary relief or exercise any of its powers authorized by legislation.

REPRESENTATIVES

8. **Appearance in Person or by Authorized Representative** A party or participant may attend a proceeding in person or with their representative. Representatives who are not legal counsel must file a written confirmation of authorization to act for the party or participant. If authorization changes, the person or the representative shall immediately notify the Committee and the other parties.
9. **Notices of Proceedings Provided to Representatives** Any notice given in the manner set out in these Rules to a representative is deemed to be effective notice to the party or participant for whom the representative acts.

TIME

10. **Time** Time is computed under these Rules or in a Committee Order in accordance with the Rules of Civil Procedure unless otherwise provided. For greater clarity, a day shall mean a calendar day and when the time for doing anything under these Rules falls on a holiday, the time is extended to include the next day that the Committee is open for business. When there is reference to two events, the time between two events is computed by excluding the day on which the first event occurs and including the day on which the second event occurs.
11. **Extension or Reduction of Time** The Committee may extend or reduce any time required in these Rules or in a Committee Order, with any terms or conditions, unless a statute or regulation provides otherwise. A request for a change in time requirements may be made by bringing a motion, or the Committee may change a time requirement on its own initiative, with or without a hearing event, either before or after the time period expires. Time for serving a document or other written or visual evidence may also be extended or reduced if all those who must be served consent in writing.
12. **No Proceeding for Period if Party is Absent** The Committee will not proceed for at least 30 minutes after the time given for the commencement of an oral hearing event if a party or a representative has not yet appeared, unless they have given prior notice that they will not attend at the scheduled time. If an electronic hearing event, the Committee or the party directed to contact the parties will attempt to link all the parties not so linked within 15 minutes of the time scheduled for the commencement of the electronic hearing.

INITIATING A PROCEEDING

13. **Form of Application, Appeal or Referral** Unless a statute or these Rules provide for other methods, or the Committee otherwise directs, when

proceedings are initiated by filing an application, appeal or referral directly with the Committee, the application, appeal or referral must be in writing and must:

- (a) be addressed to the Committee Secretary;
 - (b) provide the applicant's name, telephone, fax and e-mail address (if any), address and postal code;
 - (c) state the nature of the matter, the reasons for it, and the order requested;
 - (d) include the appropriate fee; and
 - (e) be signed by the applicant or their representative.
14. **Exceptions to Rule 13** Where a matter is appealed or referred or application is made, and the Committee has prepared a submission form, that submission form should be obtained, completed and filed with the Committee. Where there is no form, an applicable form prescribed by the Rules of Civil Procedure may be used with necessary changes.
15. **Where No Fee Paid** Unless the Committee directs otherwise, the Committee will not consider a matter or schedule a hearing event unless the appropriate fee has been paid, if any.
16. **Decision Not to Process Commencement of Proceeding**
- (a) Upon receiving documents relating to the commencement of proceeding, the Committee may decide not to process the documents relating to the commencement of the proceeding if,
 - (i) the documents are incomplete;
 - (ii) the documents are received after the time required for commencing the proceeding has elapsed;
 - (iii) the fee required for commencing the proceeding is not paid;
or
 - (iv) there is some other technical defect in the commencement of the proceeding.

Notice

- (b) The Committee shall give the party who commences a proceeding notice of its decision under subsection (1) and shall set out in the notice the reasons for the decision and the requirements for resuming the processing of the documents
- (c) The Committee shall not make a decision under subsection (1) unless the Committee shall set out,

- (i) the grounds referred to in subsection (1) upon which it decides not to process the documents relating to the commencement of a proceeding; and
- (ii) the requirements for the processing of the documents to be resumed.

NOTICES

- 17. **Notices** Any notice required by these Rules or a Committee order shall be given in writing in the form authorized by the Committee, unless directed otherwise.
- 18. **Notice of Hearing or Other Proceeding** The Committee may direct a party to give notice of a hearing event to any person, and may direct the method of providing the notice. An affidavit shall be filed within fourteen days after the notice is given to confirm that notice was properly given.

Unless the Committee orders otherwise, the Committee will provide notice of a hearing event in respect of any proceeding.

DOCUMENTS, EXHIBITS, FILING, SERVICE

- 19. **Form of Documents** Unless otherwise directed by the Committee, every document filed or introduced by a party or participant in a proceeding shall be prepared on letter size paper (8 ½" x 11") (except for large documents such as plans or surveys), and shall have each page numbered consecutively throughout the entire text and graphic content, even if there are dividers or tabs.
- 20. **Other Exhibits** Large graphic or other such types of visual evidence should not be glued to foam or other boards. They shall be on paper and be removed from the boards following the hearing event, and folded to 8 ½" x 11". Three-dimensional models must be photographed and the photographs must be introduced with the model. Video evidence must be reviewed by the other parties before the hearing event.
- 21. **Copies of Documents for Parties and Clerk** Subject to the Committee making a different order at a pre-hearing conference, a party who will use a document as evidence at a hearing event shall provide copies at the beginning of the proceeding for all parties and participants or earlier where required.
- 22. **Amendment of Documents** Documents filed with the Committee can only be amended on the consent of the parties or unless the Committee orders it. The Committee may require that the person requesting an amendment do so by way of a motion with notice to all parties.

23. **Copies of Committee Documents** A person may examine any document filed with the Committee, and copy it after paying the Committee's fee, unless a statute, a Court Order or Committee Order or these Rules provide otherwise.
24. **Return of Exhibits** Exhibits of all types introduced at a hearing will be kept for 180 days after the Committee decision issues. The person introducing an exhibit may ask for its return after this time, and it may be given back if the Committee agrees. If no such request is made, the exhibit becomes the property of the Committee and may be archived.
25. **Service by Fax or E-mail** Where any document is required to be served or filed, including the one commencing a proceeding or a motion, or providing notice, it shall be served by fax or e-mail (unless a statute, or the Committee, requires another method of service) and shall be sent to,
 - (i) the party's representative, if any;
 - (ii) where the party is an individual and is not represented, to that party directly where that party has provided a fax number and/or our e-mail address;
 - (iii) where that party is a corporation and is not represented, to the corporation directly to the attention of an individual with apparent authority to receive the document; or
 - (iv) where served on or filed with the Committee, to an individual with apparent authority to receive the document.
26. **If Faxed or E-mailed After 4:30 p.m.** Any document served by fax or e-mail after 4:30 p.m. is deemed to have been served on the next business day.
27. **Permission to Fax if More Than 30 Pages** If a document is more than 30 pages including the cover page, it may only be served by fax between 8:00 a.m. and 4.30 p.m. with the prior consent of the person receiving the document. If more than 30 pages, it cannot be served by fax at any time without prior permission.
28. **Contents of Cover Page** A fax cover page must include:
 - (a) the Committee's case and file number,
 - (b) the type of matter,
 - (c) the municipality in which the matter arose, and
 - (d) as well as full identification of the sender and receiver.

29. **Proof of Service by Fax or E-mail** A confirmation printout received by the sender is proof of the full transmission and receipt of the fax or e-mail.
30. **No Hard Copy Needed** A hard copy of a faxed or e-mailed document need not be sent by another means of transmission unless requested, and may then be sent by ordinary mail.

DISCOVERY

31. **Order for Discovery** The Committee may make an order for discovery for a party to obtain necessary information from another party. Such an order will be made only on motion and only if the party has requested information and it has been refused or no answer has been received. The notice of motion shall be accompanied by an affidavit, which sets out the efforts made to obtain the desired information and the reasons that demonstrate that the information sought is both necessary and relevant to the disposition of the issues in the proceeding. The Committee may order:
 - (a) any person to provide an affidavit containing a list of relevant documents in the possession of the person;
 - (b) the delivery of relevant documents;
 - (c) an oral examination or cross- examination of any person or party;
 - (d) an examination for discovery by written questions;
 - (e) the inspection and testing of property;
 - (f) the examination of a witness before the commencement of a proceeding (under the *Rules of Civil Procedure*); or
 - (g) any other form of discovery;and the Committee may impose conditions concerning the timing and scope of discovery.
32. **Rules of Civil Procedure Apply to Proceedings Following Order for Discovery** If an order for discovery is obtained, the *Rules of Civil Procedure* pertaining to discovery apply to subsequent Committee proceedings unless the Committee orders otherwise.

MOTIONS

33. **Notice of Motion** A motion brought before the commencement of a hearing event shall be made by notice of motion.

34. **Date for Motion** A moving party shall obtain from Committee staff a motion date if the motion is to be heard in person or by electronic hearing. A person may request or the Committee may order that the motion be heard in person or by electronic hearing.
35. **Motion in Writing** A party bringing a motion before the commencement of a hearing event may request a motion be held writing, or the Committee may make its own determination that the motion be held in writing, in which case the Committee will notify the moving party and all other parties. The moving party shall serve a notice of written motion within 15 days of receipt of this notice. Parties wishing to respond to a written motion shall serve a response within 10 days of the date of the moving party's notice of written motion. A moving party may reply to a response within 3 days of the date of the written response.
36. **Content of Motion Material** The notice of motion to be heard orally, by electronic hearing or in writing shall:
- (a) state the day, time and location of the motion;
 - (b) state the precise relief sought;
 - (c) state the grounds to be argued, including a reference to any statutory provision or rule to be relied on;
 - (d) list the documentary evidence to be used at the hearing of the motion;
 - (e) be accompanied by an affidavit setting out a brief and clear statement of the facts upon which the moving party will rely; and
 - (f) state the names and addresses of the responding parties or their representatives and all persons to whom the notice of motion is to be given.

This is a form for a Notice of Motion:

OPPI – DISCIPLINE COMMITTEE

In the matter of section.....of theBy-law.

(state the section number under which the complaint has been made.)

and

In the matter of *(state the nature of the application, appeal, motion, etc.)*

NOTICE OF MOTION

Case No:

The *(name and address, phone and fax numbers and e-mail address (if any) of the person or party bringing the motion)* **will make a motion to the Committee on (day) at (time) at (location of hearing). The estimated time required is hours. (or. has been granted a request for a motion by written hearing. The date for responding is (date).**

The motion is for *(state the decision or order desired).*

The grounds for the motion are *(specify the reasons for the request, including sections of statutes, regulations or rules that will be referred to).*

The following documents will be used [at the hearing of the motion]: *(list the affidavit(s) and any other documents to be relied on and attach a copy of them to the Notice of Motion when filed or served).*

(Optional) **I (we) intend to request permission to introduce oral evidence (describe the nature of the evidence and state who will provide it) at the motion hearing.**

(Insert if Committee directs) **If the motion is not granted, the hearing will (follow immediately) (be held at a later date).**

**Name, mailing and e-mail (if any)
address, and telephone and fax (if any)
numbers of the moving party or the moving party's
representative**

**To: Names and addresses of responding party
or representative, and all of the persons to whom
the Committee requires notice of the motion be given**

-
37. **Service of the Notice of Motion** A notice of motion and all supporting material, shall be served at least 10 days before the date of the motion to be held in person or by electronic hearing unless the Committee orders otherwise. A notice of motion shall be served on all parties, on any other person as directed by the Committee, and on the Committee Secretary. An affidavit of service shall be filed with the Committee prior to or at the hearing of the motion.

This is a form for an Affidavit:

AFFIDAVIT OF SERVICE

Discipline Committee Case No. or Identifier:

I, (full name of person swearing or affirming), of the (City, Town, etc. of), in the (County, Regional Municipality, etc.) of

.....(state the person's capacity, if any, e.g. party, solicitor, representative, officer, member or employee of a party, etc.)

MAKE OATH AND SAY (or AFFIRM AND SAY):

Notice of the [written] hearing of this matter at ...[.....(place) commencing at..... a.m./p.m. on day, the day of,(year)] was given in the following manner:

-by delivering notice by prepaid registered (certified) mail (prepaid courier) (fax) on..... day of, (year)..... to (name the persons to whom mailed or sent, or if more than 2, refer to a list attached - **The list of persons to whom such notice was mailed (faxed, delivered by courier) is attached to this Affidavit as Attachment.....)**

-by (describe any other means of service used, including personal service, as may have been directed by the Committee in giving instructions for service).

Service of notice of the hearing in this matter is in accordance with the instructions given by the Committee in its letter dated,(year).

The persons to whom notice has been given include the present parties, any appellant, objector, person who requested in writing that notice be given.

This affidavit has been sworn by me in good faith and in support of.....(matter) under (legislation) and for no improper purpose.

Sworn (or Affirmed) before me at the (City, Town, etc.) of in the (County, Regional Municipality, etc.) _____ of....., on (date).

(Signature of Person affirming Affidavit)

Commissioner for Taking Affidavits
(or as may be)

38. **The Notice of Response to Motion** A responding party shall serve a notice of response that:

(a) states the response to be made, including a reference to any statutory provision or rule to be relied on;

(b) lists the documentary evidence to be used at the hearing of the motion; and

- (c) includes an affidavit setting out a brief and clear statement of the facts upon which the responding party will rely

This is a form for the Notice of Response to Motion:

OPPI – DISCIPLINE COMMITTEE

Case No....

In the matter of section.....of theAct. *(state the section number under which the complaint has been made.)*

and

In the matter of *(state the nature of the application, appeal, motion, etc.)*

NOTICE OF RESPONSE TO MOTION

I/We/The *(name and address, phone and fax numbers and e-mail address (if any) of the person responding to the motion)* **will make a response to the motion [to be made to the Committee by (person making the motion) on (day) at (time) at (location of hearing)] (or if written hearing) and attach a response to the motion made by (person making the motion)**

The grounds to be relied on in response to the motion are *(specify the reasons, other than those given by the moving party, including any sections of statutes, regulations or rules that will be referred to).*

The following documents, in addition to evidence introduced by the moving party, will be used at the hearing of the motion [(if written) are relied on] *(list the affidavit(s) and any other documents to be relied on, and attach a copy of them to the Notice of Response to Motion when filed or served.)*

(Optional) **I (we) intend to request permission to introduce oral evidence (describe the nature of the evidence and state who will provide it) at the motion hearing.**

**Name, mailing and e-mail (if any)
address, and telephone and fax (if any)
numbers of the responding party or the party's
representative**

**To: Names and addresses of moving party
or representative, and all of the persons who received
notice of the motion**

-
39. **Service of the Notice of Response for a Motion** The notice of response to motion and all supporting material shall be served no later than 2 days before the date of the motion to be held in person or by electronic hearing unless the

Committee orders otherwise. The notice of response shall be served on all parties, on any other person as directed by the Committee, and on the Committee Secretary. An affidavit of service shall be filed with the Committee prior to or at the hearing of the motion.

40. **Reply Submissions** A moving party may serve reply submission, prior to the commencement of the hearing of the motion.
41. **Oral Submissions** All the parties to a motion which is heard in person or by electronic hearing may make oral submissions.
42. **Motions Made at Oral Hearing Events** A motion may be made at an oral hearing event with leave of and in accordance with any procedures ordered by the presiding Member..
43. **Dismissal of Proceeding Without Hearing**
 - (a) Subject to subsection (b), the Committee may dismiss a proceeding without a hearing if,
 - (i) the proceeding is frivolous, vexatious or is commenced in bad faith;
 - (ii) the proceeding relates to matters that are outside the jurisdiction of the Committee; or
 - (iii) some aspect of the mandatory requirements for bringing the proceeding has not been met.

Notice

- (b) Before dismissing a proceeding under this section, a Committee shall give notice of its intention to dismiss the proceeding to,
 - (i) all parties to the proceeding if the proceeding is being dismissed for reasons referred to in clause (1)(b); or
 - (ii) the party who commenced the proceeding if the proceeding is being dismissed for any other reason.

Same

- (c) The notice of intention to dismiss a proceeding shall set out the reasons for the dismissal and inform the parties of their right to make written submissions to the Committee with respect to the dismissal within the time specified in the notice.

Right to Make Submissions

- (d) A party who receives a notice under subsection (b) may make written submissions to the Committee with respect to the dismissal within the time specified in the notice.

Dismissal

- (e) A Committee shall not dismiss a proceeding under this section until it has given notice under subsection (b) and considered any submissions made under subsection (d).

SETTLEMENT BEFORE COMMITTEE PROCEEDINGS

- 44. **Procedure if Settlement Held before Committee Hearing Event** Where the parties reach a settlement before any hearing event is held, the Committee may hold a hearing into the terms of the settlement. If all statutory requirements and the public interest are satisfied, the Committee may issue an order approving the settlement, with any necessary amendments.

COMPELLING ATTENDANCE OF WITNESSES BY SUMMONS

- 45. (a) **Who May Summons a Witness:** A party who wishes to compel the appearance before the Committee of a person in Ontario who has not agreed to appear as a witness for that party, may serve a summons on that person for that person to attend any hearing event before the Committee to:
 - (i) give relevant and admissible evidence on oath or affirmation;
or
 - (ii) produce any relevant and admissible documents or things.
- (b) **How to Obtain a Summons:** A party who wishes to summons a witness shall make a request in writing to the Secretary of the Committee.
- (c) **When Summons will Issue:** A party requesting a summons must set out in its request to the Committee the issues and the evidence that a witness is to address and explain the relevance of that evidence. If that information is not contained in the request for summons, the summons shall not be issued. If the requisite information is contained in the request for summons and the Committee is satisfied that the evidence to be given by the witness named in the request for summons is relevant to the issue(s) before the Committee and is admissible, the summons shall be signed and issued by the Committee Secretary.

- (d) **When Summons Requires a Motion:** If the Committee is not satisfied from the information in the request for summons that the evidence to be given by the named witness is relevant to the issues before the Committee or admissible, the summons shall not issue. The party requesting the summons may then:
- (i) submit a further request for summons, with more details in respect of the nature of the evidence to be given by the proposed witness and the relevance and admissibility of that evidence, or
 - (ii) bring a motion in accordance with these Rules seeking an order of the Committee for the issuance of the summons.

The Committee Member hearing the motion shall determine whether the summons shall issue, based on a determination of the nature of the evidence to be given by the proposed witness, the relevance of the evidence to the matter before the Committee, and the admissibility of the evidence.

- (e) **Application to Quash a Summons:** Any person who has been served with a summons issued by the Committee may apply to quash the summons by notice of motion in accordance with these Rules.
- (f) **Summons without a Named Witness:** A summons may be issued by the Committee without the witness' name identified thereon if a sufficient case has been made to the Committee as to the need for the summons or the urgency of the matter. A party seeking such a summons shall do so by notice of motion in accordance with these Rules.
- (g) **Serving the Summons:** Except in the event that it is impossible or impractical to do so, a summons must be served on the witness by personal service, no later than 5 days before the time for attendance. At the same time, the attendance money to be paid for attendance before the Superior Court of Justice shall be paid or offered to the witness.
46. **Attendance of the Witness:** Once the summons is served on a witness, the witness shall attend the hearing of the Committee at a time and place stated in the summons (or as otherwise arranged with the person serving the summons), and shall bring with them all documents and things within their possession as required by the terms of the summons.

LANGUAGE OF PROCEEDINGS

47. **Use of English** The Committee may conduct proceedings in English unless otherwise agreed.

STREAMING

48. **Types of Streams** The Committee may schedule a mediation session, a motion to dismiss without a hearing, a pre-hearing conference, a standard or complex hearing or one combining several complaints (or other procedures and processes), and may also combine any of the streams when appropriate, or redirect a matter into a different stream. A pre-hearing conference may include some attempt at mediation by means of a settlement conference, and also a preliminary hearing of some of the issues.
49. **Type of Hearing Event** A standard hearing event will be scheduled when there are few issues and/or parties, and time estimates are from ½ day to 2 days. There may or may not be a pre-hearing conference. Matters are considered to be complex if they are estimated to require over two days' hearing time, to involve many or complicated matters and parties or witnesses, and are to be preceded by one or more pre-hearing conferences.
50. **Parties may Request Stream** Before any hearing event is held, the parties may make a request that the matter be directed to one or more specific streams.
51. **Combining Proceedings or Hearing Matters Together** When the Committee considers that two or more matters are related to each other by common facts, issues, questions of law or for any other reason, the Committee may order that the matters be consolidated, heard at the same time, or heard one after the other; or stay or adjourn any matter until the determination of any other matter.
52. **Effect of Consolidating Proceedings** When two or more proceedings are consolidated,
- (i) statutory procedural requirements for any of the original separate proceedings apply, where appropriate, to the consolidated proceeding;
 - (ii) parties to each of the original separate proceedings are parties to the consolidated proceeding; and
 - (iii) evidence to be presented in each of the separate proceedings is evidence in the consolidated proceeding.
53. **Effect of hearing matters together:** Where two or more proceedings are **heard together** but not consolidated,
- (i) statutory requirements for each proceeding apply only to that particular proceeding and not to the others;

- (ii) parties to the hearing are parties to their individual proceedings only and not parties to the other proceedings; and
- (iii) unless otherwise ordered by the Committee, evidence in the hearing is evidence in each proceeding to which it could apply.

54. **Committee May Reverse Decision for Consolidated or Other Proceedings:** The Committee may separate consolidated proceedings or matters heard together at any time that in its opinion the proceedings have become unduly complicated, delayed or repetitive, or a party is unduly prejudiced.

ADJOURNMENTS

55. **Hearing Dates Fixed:** Hearing events will take place on the date set unless the Committee agrees to an adjournment.
56. **Requests for Adjournment if All Parties Consent:** If all of the parties agree, they may make a written request to postpone a hearing event. The request must include the reasons, a suggested new date and the signed consents of all parties. However, the Committee may require that the parties attend in person to argue for an adjournment, even if all of the parties consent.
57. **Requests for Adjournment Without Consent:** If a party objects to an adjournment request, the party requesting the adjournment must bring a motion at least 10 days before the date set for the hearing event. If the reason for an adjournment arises less than 10 days before the date set for a hearing event, the party must give notice of the request to the Committee and to the other parties, and serve their motion materials as soon as possible. If the Committee refuses to consider a late request, any motion for adjournment must be made in person at the beginning of the hearing event.
58. **Emergencies Only:** The Committee will grant last minute adjournments only for unavoidable emergencies, such as illnesses so close to the hearing date that another representative or witnesses cannot be obtained. The Committee must be informed of these emergencies as soon as possible.
59. **Powers of the Committee upon Adjournment Request:** The Committee may,
- (i) grant the request;
 - (ii) grant the request and fix a new date; or where appropriate, the Committee will schedule a pre-hearing conference on the status of the matter;
 - (iii) grant a shorter adjournment than requested;

- (iv) deny the request, even if all parties have consented;
- (v) direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;
- (vi) grant an indefinite adjournment, if the request is made by the applicant or proponent and is accepted by the Committee as reasonable, and the Committee finds no substantial prejudice to the other parties or to the Committee's schedule. In this case the applicant or proponent must make a request that the hearing be rescheduled;
- (vii) convert the scheduled date to a mediation or pre-hearing conference; or
- (viii) make any other appropriate order.

60. **Hearing Cancellation Fee:**

- (a) In the event that a hearing event or mediation is scheduled but is not convened or is cancelled for non-attendance or is, at the request of the parties, adjourned *sine die* or is otherwise terminated whether at the request of the parties or by settlement or otherwise, an administrative cancellation fee payable to the Institute and not to exceed five hundred dollars (\$500.00) shall be borne equally by the parties, unless the Chair of the Committee directs otherwise.
- (b) the administration fee shall be due and payable within thirty (30) days of the date originally scheduled by Notice for the commencement of the hearing event.
- (c) A party may, with Notice to any other party served within seven (7) days of the date originally scheduled for a hearing event that has been cancelled, request the Chair of the Committee for relief from the administrative fee provided for in this section.
- (d) The direction of the Chair may be determined without the requirement of a hearing event and the same is binding on the Institute.

MEDIATION/ALTERNATIVE DISPUTE RESOLUTION

61. **Mediation:** The Committee may direct parties to participate in a mediation, either of its own accord or at the request of the parties or a party, and the mediation may be held in person or by electronic conferencing. The Committee will direct how notice of the mediation will be given, depending on the circumstances.

62. **Procedure at a Mediation:** The Committee will appoint a mediator who will be a member of the Committee or other neutral third party, and the mediator may make use of any appropriate dispute resolution process to help the parties resolve the issues in dispute. At or before the mediation, the Committee will advise the parties of the process to be used, the safeguards provided, the responsibilities of each of the parties, the potential benefits of the process and the objectives of a voluntary resolution of the issues in dispute.
63. **Partial Resolution and Mediation Report:** If the parties do not settle the matter in its entirety, the mediator may on the consent of all the parties either:
- (i) assist the parties to reach agreement on a statement of matters no longer in issue and matters still in issue. This statement may be included in a Mediation Report which will be distributed to the parties and placed on the file for the information of the Committee panel conducting the hearing on the remaining issues, or
 - (ii) the Committee may issue an order of the Committee addressing any partial settlement of the issues.
64. **Member to Preside at Hearing Only with Parties' Consent:** A Committee Member who conducts a mediation in which one or more of the issues were not resolved may not preside at the hearing of those unresolved issues unless all of the parties consent and the Committee member agrees.
65. **Mediation or Settlement Discussions Confidential:** The details of proceedings during a mediation are confidential. Any information or documents provided or exchanged during the mediation, and any suggestion for resolution of the issues or offer to settle made during a mediation shall remain confidential and cannot be disclosed in evidence in the same or other proceeding, nor be placed on the Committee file. A mediator's notes shall remain confidential and shall not be released to any person or admitted into evidence in any proceeding. A mediator is not competent or compellable in any proceeding to give evidence regarding the discussions.

PREHEARING CONFERENCES

66. **Pre-hearing Conference:** At the request of a party or on its own initiative, the Committee may direct parties to participate in a pre-hearing conference, which can include settlement conferences, motions or preliminary hearing matters, in order to:
- (a) identify the parties and participants and determine the issues;
 - (b) identify facts or evidence the parties may agree upon or on which the Committee may make a binding decision;

- (c) obtain admissions that may simplify the hearing;
- (d) provide directions for exchange of witness lists, expert statements and reports; for meetings of experts; and for further disclosure where necessary;
- (e) discuss opportunities for settlement, including possible use of mediation or other dispute resolution processes;
- (f) fix a date and place for the hearing and estimate its length, and encourage the parties to agree upon the dates for any procedural steps;
- (g) discuss issues of confidentiality, including any need to hold a part of the hearing in the absence of the public, or to seal documents; and
- (h) deal with any other matter that may assist in a fair, cost-effective and expeditious resolution of the issues.

67. **Sample Procedural Order and Meeting Before Pre-hearing Conference:** The Committee may provide a sample Procedural Order to the parties before the pre-hearing conference. Whether or not a sample is sent, the parties are expected to meet before the pre-hearing conference to consider the matter and present recommendations to the Committee for the conduct of the hearing.

68. **Serving Notice of a Pre-hearing Conference:** The Committee will give the applicant a Notice of Pre-hearing Conference which provides the time and place of the pre-hearing conference. The applicant must serve this on those persons entitled to notice of the conference, and provide an affidavit to the Committee, at the conference, to prove service of the motion.

69. **Committee Member Presides:** The Chair of the Discipline Committee will designate a Member to conduct the conference.

70. **Conversion from One Procedure to Another:** The Committee Member may, at any time, conduct a procedural discussion or a preliminary hearing and may convert from one to another. The Committee will state in the notice of a pre-hearing conference that the parties are expected to arrive prepared for a procedural and settlement conference as well as a preliminary hearing where evidence or formal statements may be heard. Even if no settlement is reached, the Committee may proceed to make a final decision on any evidence received during the conference.

Even if no settlement is reached, the Committee may proceed to make a final decision on any evidence received during the conference.

71. **Results of Failure to Attend a Pre-hearing Conference:** If a party fails to attend the pre-hearing conference in person or by authorized representative, the Committee may proceed without that party. The non-attending party is not entitled to notice of subsequent hearing events in the proceedings.

72. **Preliminary Hearing Following Settlement Conference:** If the Committee is satisfied that a party reasonably objects to the same Member presiding at a preliminary hearing portion of a pre-hearing conference after conducting a settlement conference, the Committee may set a later date for a preliminary hearing before another Member.
73. **Committee Decision Following Pre-hearing:** The Member conducting the pre-hearing conference will issue a decision which may decide any of the matters considered at the conference, as well as provide procedural directions for any proceedings to follow.
74. **Hearing Member Bound:** The Member conducting the hearing is bound by the decision resulting from the pre-hearing conference, unless the Member is satisfied that there is good reason to vary the decision.

METHODS OF HOLDING HEARING EVENTS

75. **Methods of Holding Hearing Events:** The Committee may, in a proceeding, hold any or a combination of written, electronic or oral hearing events.

ELECTRONIC HEARINGS

76. **Hearing Events by Teleconference or Videoconference:** The Committee may hold a hearing event by teleconference or videoconference or other automated means for the determination of any issue.
77. **Objection to the Electronic Format:** A party who objects to a hearing event being held as an electronic hearing shall notify the Committee and all other parties of its objection within the time period specified in the notice of the electronic hearing. The objecting party shall set out the reasons why the electronic hearing is likely to cause the objecting party significant prejudice and may refer to the matters set out in Rule 81.
78. **Factors the Committee May Consider:** The Committee may consider any relevant factors in deciding to hold a hearing event by automated means, such as,
- (i) the convenience to the parties and the Committee;
 - (ii) the likelihood of the process being less costly, faster and more efficient;
 - (iii) whether it is a fair and accessible process for the parties;

- (iv) the effect on public accessibility to the Committee's process;
 - (v) whether the evidence or legal issues are suitable for an electronic hearing;
 - (vi) whether credibility may be an issue; or
 - (vii) Whether an electronic hearing is likely to cause significant prejudice to any party or participant.
79. **Directions for the Electronic Hearing:** The Committee may direct the arrangements for the electronic hearing or designate an approved location for videoconference to protect the integrity of the hearing process, including the security and confidentiality of evidence. The Committee will not permit a party or participant to take part in a teleconference while using a cellular telephone.
80. **Videoconferences:** The Committee shall pre-approve all arrangements for conducting a hearing event by videoconference, including the pre-filing and exchange of motion materials, documents, written submissions or any visual and written evidence, and the locations for the conference. If a party or participant intends to request that the Committee accept any information or material as an exhibit at a videoconference, such information or material shall be prefiled with the Committee and provided to all parties or participants in accordance with the Committee's directions for conducting a hearing event by videoconference.

WRITTEN HEARINGS

81. **Power to Hold Hearing Events by Written Submissions:** The Committee may conduct the whole or any part of a hearing event in writing, unless a party satisfies the Committee that there is good reason for not doing so. Any objection must be filed within 10 days of the date of the Committee's notice of a written hearing. Notice of a written hearing will be sent only to the known parties.
82. **Factors Committee May Consider:** In deciding whether to hold a written hearing, the Committee may consider any relevant factors, such as,
- (i) the fairness and convenience to the parties;
 - (ii) the likelihood of the process being less costly, faster and more efficient;
 - (iii) the effect on public access to the Committee's process;
 - (iv) whether facts and evidence may be agreed upon;
 - (v) whether most of the issues are legal issues; and

(vi) whether oral testimony is likely to be necessary.

83. **How to Object:** A party who objects to a written hearing shall file and provide a copy of a written objection to the other parties, setting out details of its claim that there is a good reason for not holding the hearing event in written form, within 10 days of the date of the notice of written hearing.
84. **Procedure for Exchange of Documents in Written Hearings:** If no notice of objection is received, the moving party shall provide to the Committee and the other parties copies of its affidavit(s) and submissions within 30 days after the date of the Committee's notice of the written hearing. The submissions shall include the reasons for the proceeding and the order requested, and any law relied on. The affidavit shall include the facts relied on and the evidence supporting the facts.

The other parties wishing to respond to the submissions shall do so by copy to all parties and the Committee within 20 days of the date that the applicant's affidavit and submissions were served. The responding submissions shall include an affidavit of the facts and the evidence relied upon, and state if that party has no submissions or evidence on any of the issues raised, if this is the case.

The applicant may reply to the other parties' responses with a copy to the Committee within 10 days after the date for service of the responses, and the reply shall be limited to any new evidence in the responses.

85. **Requirement that Evidence be Sworn or Affirmed:** Evidence in a written hearing must be by affidavit, and any documents filed shall be attached to an affidavit of a person having personal knowledge of the document. The Committee may permit evidence to be filed in a different form or in electronic form as approved by the Committee upon request of a party.

CONDUCT OF PROCEEDINGS

86. **Hearings to be Public:** Committee hearing events may be open to the public except where the Committee Member determines that this is not possible or practical, such as mediations or some electronic or written hearings, or that a matter should be heard in the absence of the public.
87. **Procedure at a Hearing:** The Committee may by order establish the procedure at a hearing event unless an Act or By-law provides differently.
88. **Media Coverage - Photographic, Audio or Video Recording:**

No person shall take or attempt to take a photograph, motion picture, video recording, or other recording capable of producing visual or aural representations by electronic means, or otherwise, at any proceedings of the Committee otherwise open to the public, unless the presiding Committee Member authorizes

the recording and the following conditions have to be satisfied by the person making the request:

- (a) authorization for the request was submitted to the presiding Committee Member or the Chair;
 - (b) the Committee Member determines that the proceedings will not be disrupted or delayed if approval is given;
 - (c) the Committee Member determines that the approval will not result in any prejudice to any party to the proceedings;
 - (d) the equipment must be of a type approved by the Committee and be placed in locations approved by the presiding Committee Member; and
 - (e) photographing and/or visual recording may take place only within the times designated by the Committee Member prior to the commencement of the Committee's proceedings and no approval of the Committee shall apply to any time during which the proceedings actually occur or in which the proceedings are in session.
89. **Submissions to a Request:** The Committee Member shall afford the parties to the proceeding an opportunity to make submissions to the Committee of any of the items set out and respond to those submissions. The Committee may impose conditions to any approval necessary to ensure the items are satisfactorily addressed.
90. **Withdrawal of Approval:** The Committee may withdraw permission to record temporarily or permanently if the conditions are not met, if any of the factors become relevant, or if the Committee in the circumstances cannot conduct a full and fair hearing.
91. **Verbatim Reporters:** Any party may arrange for the attendance of a qualified verbatim reporter, at his or her own expense, for the purpose of recording all testimony and submissions during a hearing event. Before a qualified verbatim reporter is permitted to record only part of a proceeding, the party retaining the qualified verbatim reporter must obtain the consent of the Committee. In considering whether to provide its consent, the Committee will consider, among other matters, whether to permit a record of only part of the proceedings would result in prejudice to a party.
92. **Transcripts:** If a party orders a transcript or partial transcript of the hearing event, the party must notify the Committee, and the other parties to the proceedings that it has done so, and the Committee shall receive a copy free of charge, if the Committee requests a copy. The party must furnish the copy of the transcript to the Committee within three days of the date of the party's receipt of the transcript. The Committee may at its own expense and on notice to the parties, order a transcript or partial transcript from the qualified verbatim reporter without furnishing a copy of the transcript to the parties; however, in any such

case the Committee will advise the parties that it has ordered the transcript and where the Committee orders a partial transcript, the Committee shall notify the parties as to the part of the transcript the Committee has ordered.

COMMITTEE DECISIONS

93. **Issuing a Committee Decision:** The Committee Chair or Secretary will issue the appropriate decision as directed by the Committee.
94. **A Condition Imposed in a Board Decision:** shall be satisfied by the date set by the Committee. If the date is not set by the Committee, a condition shall be satisfied within a reasonable time. If the condition is not so satisfied, the Committee may reopen the hearing event from which the decision issued.
95. **Effective Date of Committee Decision:** A Committee decision is effective on the date that the decision is issued in hard copy, unless it states otherwise.

CORRECTING MINOR ERRORS IN DECISIONS AND ORDERS

96. **Correcting Minor Errors:** The Committee may at any time and without prior notice to the parties correct a technical or typographical error, error in calculation or similar minor error made in a decision or order. There is no fee if a party requests this type of correction.

PAUL STAGL
CHAIR
FEBRUARY 18, 2009

1. SAMPLE PROCEDURAL ORDER

ONTARIO PROFESSIONAL PLANNERS INSTITUTE

Discipline Committee

PROCEDURAL ORDER

This is a complaint...

OPPI Case and File Number:

2. The Committee may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

ORGANIZATION OF THE HEARING

3. The hearing will begin on (year) at ...a.m./p.m. atin the municipality of[Optional:.. An evening session will be held on]
4. The length of the hearing will be aboutdays.
5. The parties and participants identified at the pre-hearing conference are: [Optional:...listed in Attachment 1 to this Order.]
6. The Issues are: [Optional: ... set out in the Issues List attached as Attachment 2.]

There will be no changes to this list unless the Committee permits, and a party who asks for changes may have costs awarded against it.

7. Any person intending to participate in the hearing should provide a telephone number to the Committee as soon as possible (*preferably before the pre-hearing conference.*) Any such person who will be retaining a representative should advise the other parties and the Committee of the representative's name, address and phone number as soon as possible.

Requirements Before the Hearing

[7]. [Optional] Expert witnesses in the same field shall have a meeting before the hearing to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing, and provide this list to all of the parties.

[8]. [Optional] A party who intends to call witnesses, whether by summons or not, shall provide to the Committee, the other parties a list of the witnesses and the order in which they will be called. This list must be delivered at leastcalendar days before the hearing.

9. An expert witness shall prepare an expert witness statement which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section [12]. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Committee may refuse to hear the expert's testimony.

[10.] [Optional] A [witness] [participant] must provide to the Committee and the parties a [witness] [participant] statement at least calendar days before the hearing, or the witness or participant may not give oral evidence at the hearing.

11. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence, as in section [12].

12. On or before[a minimum of 30 calendar days before the hearing date], the parties shall provide copies of their [witness and] expert witness statements to the other parties and to the Clerk of

13. [Optional] On or before , the parties shall provide copies of their visual evidence to all of the other parties. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.

14. Parties may provide to all other parties and file a written response to any written evidence within 7 days after the evidence is received.

15. A person wishing to change written evidence, including witness statements, must make a written motion to the Committee.

16. A party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Committee at least 7 days before the hearing that the written evidence is not part of their record.

17. Documents may be delivered by personal delivery, facsimile or registered or certified mail, or otherwise as the Committee may direct. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.

18. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness.

This Member is [not] seized.

So orders the Committee.