



Ontario College of Social Workers and Social Service Workers

Ontario College of Social Workers and Social Service Workers Guide for Self-Represented Registrants

This guide is intended to help registrants who want to represent themselves in Discipline Committee proceedings. It includes a general overview of the College's hearing process and important information on how to be as prepared as possible for a hearing.

Please note that the information contained in this guide should not be taken as legal advice and should be read in combination with the [Social Work and Social Service Work Act](#), the [Rules of Procedure of the Discipline Committee](#) and College bylaws. It is always strongly recommended that registrants retain a lawyer to represent them at a hearing. Neither the Committee, its independent legal counsel (ILC) nor legal counsel for the College are able to provide registrants with legal advice.

Notice of Hearing

The discipline process starts when the College serves you with the Notice of Hearing. The Notice of Hearing includes the College's allegations against you, provides information about the Discipline Committee's authority to hold the hearing and contains, among other things, a warning that if you fail to attend the hearing, the hearing may proceed in your absence.

The Notice of Hearing is posted on the College's website and on your Online Register profile.

Before the Hearing

Preparing for a hearing can take a significant amount of time and effort. You are encouraged to read through the [Rules of Procedure of the Discipline Committee](#) (the Rules) and the [College's bylaws](#).

You can also read through previous committee decisions as a helpful way to learn more about what past panels of the Discipline Committee have decided and the reasons for their decision. This can help to understand how precedents and legislation are applied and the outcomes that might be expected. A helpful tip to identify what issues may have been raised in a decision is to refer to the [Code of Ethics and Standards of Practice](#) that are identified in the decision. For example, if Principle 8 is referenced in a decision, this would indicate that the decision deals with allegations involving sexual misconduct.

Past College decisions can be found on the [College's website](#) and on the [CanLII website](#).



Ontario College of Social Workers and Social Service Workers

Pre-hearing conferences

A pre-hearing conference may occur before a formal hearing is scheduled. This is a private meeting where the parties discuss the case with a presiding officer, typically a member of the Discipline Committee. These conferences are not open to the public and are considered "without prejudice," meaning that anything discussed or shared remains confidential and cannot be used against either party during the actual hearing. The purpose of the pre-hearing is to give the parties a chance to talk about important matters, such as setting a hearing date, identifying any issues they agree on and deciding if any motions will be brought forward during the hearing.

A pre-hearing conference takes place at the request of either party (you or the College) or if directed by the Discipline Committee or the Chair of the Discipline Committee. Sometimes if the College and the registrant agree that the matter can be resolved on an uncontested basis, there may not be a need to schedule a pre-hearing conference unless otherwise directed to do so. A pre-hearing conference must take place before scheduling dates for a contested hearing unless the Discipline Committee or the Chair directs otherwise. As per the Rules, the College must complete and file a pre-hearing conference memorandum (Form 2A of the Rules), **20 days** prior to the pre-hearing and the registrant must file theirs **10 days** prior to the pre-hearing.

A pre-hearing conference is held with legal counsel for the College, the registrant (along with their lawyer, if they have one), ILC and the presiding officer. The presiding officer will not be part of the panel that hears the case at the formal hearing, unless both sides agree. At the end of the pre-hearing conference, the presiding officer will provide the parties with an impartial evaluation of the case, and will provide a written report summarizing the discussion.

Documentary disclosure

Each party involved in a proceeding must provide every other party with a list of all documents and items they plan to present or use as evidence during the hearing. If these materials haven't already been shared, copies must also be provided. The timing to provide these documents and items is as follows:

- The College must do this as soon as reasonably possible after the Notice of Hearing has been served.
- All other parties (including the registrant) must do so as soon as reasonably possible after the College has disclosed its materials, but no later than 10 days before the hearing begins.

If a party fails to disclose a document as required by the Rules, they cannot refer to it or use it as evidence at the hearing unless the panel gives permission.



Ontario College of Social Workers and Social Service Workers

Fact witnesses

You may choose to have a witness testify on your behalf during a hearing. At the pre-hearing conference, each party must provide every other party with a list of the witnesses they plan to call, along with a summary of what each witness is expected to say. If there are any changes to the witness list or the summaries, updated information must also be shared with all parties. The College must provide these updates at least 20 days before the hearing begins. All other parties must do so as soon as reasonably possible after receiving the College's disclosure, and no later than 10 days before the hearing starts.

Expert evidence

Expert evidence is provided by someone qualified to give their opinion because of a special knowledge or proficiency they have acquired in a specific field. An expert witness provides an impartial opinion based on their training and experience. The expert must first be certified as an expert. Each party is entitled to make submissions on whether a person should be certified as an expert witness. The panel will decide whether to accept a witness as an expert.

According to the Rules, if a party plans to call an expert witness, they must notify the other party in advance. This notice should include the expert's name and the specific issues the expert will give an opinion on. The party must also provide the other side with either the expert's full report or a written summary of the expert's evidence at least 10 days before the hearing. Along with this, a completed "Acknowledgement of Expert's Duty" (Form 3 of the Rules), signed by the expert, must be included and submitted at the hearing.

Summons to witness

If you want to call a witness to testify on your behalf at the hearing and the person has not agreed to testify voluntarily, you can arrange through the College's Hearings Office to obtain a summons to witness to compel that witness to attend the hearing.

The Hearing

When the parties are ready to schedule a matter for a hearing, they will reach out to the College's Hearings Coordinator with their combined available dates, and the Hearings Coordinator will check to see if a panel is available on the dates provided. Once a hearing date has been confirmed, the parties will receive details regarding the time and location of the hearing. Most hearings are conducted electronically and the meeting link for the hearing will be sent to the parties in a calendar invite via email. **It is important to add the invite to your calendar to ensure you do not forget the hearing date.** Please arrive on time or early to ensure any technical matters (in the case of an electronic hearing) or other matters are dealt with prior to the start of the hearing.



Ontario College of Social Workers and Social Service Workers

If a matter is proceeding on an uncontested basis, the hearing is typically a day or $\frac{3}{4}$ of a day. If a matter is proceeding on a contested basis, the hearing could be scheduled for multiple days.

The College bears the burden of proving the allegations set out in the Notice of Hearing. The standard of proof that the College must meet is not the criminal standard of “proof beyond a reasonable doubt”, rather, it is the civil standard of proof “on the balance of probabilities.”

All hearings are recorded by a court reporter and are open to the public except for in limited circumstances where the hearing may be closed in whole or in part. A party may bring a motion if they believe the hearing should be closed. The panel will decide whether or not to grant the motion.

Transcripts of the hearing are available at the request of either party; however, the requesting party must cover the cost of obtaining the transcripts. The parties may wish to make their own notes throughout the hearing to refer to during their submissions.

Preliminary matters

Before the hearing starts, the Panel Chair will introduce themselves, along with the other panel members. The Chair will also discuss any preliminary matters as required, as well as details of how the hearing will be conducted (e.g. when breaks will be scheduled, etc.).

Orders excluding witnesses

In most cases, contested hearings will begin with the panel making an order excluding witnesses. This means that witnesses do not enter the hearing until they are called to testify. This order does not apply to you, as the registrant who is the subject of the hearing. You have the right to be present throughout the entire hearing, even if you intend to testify.

Plea inquiry

The Chair will go through the allegations contained in the Notice of Hearing and you will be asked to respond to the allegations with two options:

- i. You can *deny* some or all of the allegations. In a discipline proceeding, denying an allegation is equivalent to a not guilty plea. If the allegations are denied, the hearing will proceed on the basis that the denied allegations are contested.
- ii. You can *admit* to some or all of the allegations. In a discipline proceeding, admitting an allegation is the equivalent of a guilty plea.



Ontario College of Social Workers and Social Service Workers

If you and the College counsel have worked towards an agreed statement of facts (ASF), you understand that you are admitting to the allegations contained in the ASF.

Opening statements

At the beginning of the hearing, both parties are given the opportunity to make an opening statement. This is a chance for each party to state their case and give a brief summary of the facts they will try to prove, as well as an overview of the evidence they will be submitting. Most opening statements are just a few minutes long.

College counsel has the right to make their opening statement first. You may choose to make your opening statement following the College's or wait until after the College's evidence has been heard, meaning that your opening statement will be heard right before your evidence.

It is always best to prepare this opening statement in advance. You may refer to your notes during the opening statement. If you would prefer to read your written statement directly from your notes, you are permitted to do so.

You are not required to make an opening statement, and it will not be held against you should you choose not to make an opening statement. **The statement itself is not evidence.**

Testimonies (oral evidence)

Following the opening statement, College counsel will call evidence through witnesses. Documents may be identified by witnesses and presented into evidence through those witnesses.

You may object if the College's witness tries to give testimony or introduce documents that were not disclosed to you prior to the hearing. If you do, you will be asked to explain the basis for your objection. The College counsel will also have an opportunity to state their position on the objection and the panel will ultimately decide how to deal with the objection. See also the **Re-examination** section below.

You will want to ensure you take notes of the testimony of witnesses.

Cross-examination

After College counsel has finished examining each witness, you have the right to cross-examine each of the witnesses by asking questions that you believe will assist in your defence. While you are not allowed to ask leading questions of your own witnesses, you can ask leading questions to the witnesses of the opposing side. A leading question is a question that suggests the answer you want to hear.



Ontario College of Social Workers and Social Service Workers

You are not required to cross-examine any of the witnesses. Cross-examination is, however, usually necessary if you intend to argue to the panel that the evidence of any witness should not be believed, in whole or in part.

Re-examination

When you are done your cross-examination, College counsel has the right to ask questions in re-examination (also called redirect). This is a chance for College counsel to ask about any new information that was brought up during the cross-examination. Questions during redirect must be related to issues that arose during the cross-examination or a question from a panel member.

You have the right to object to questions asked by College counsel if you believe that they are inappropriate. Some examples of grounds for objection might be:

- The question would result in irrelevant information; or
- The question is being asked in a leading fashion (the question is not phrased in an open-ended way but rather suggests the answer).

There may be other valid grounds for objecting to questions. This is a brief summary of the process and is not intended to summarize all of them.

If you have an objection to any question asked by College counsel, you should unmute (in the case of an electronic hearing) and politely state your objection before the witness answers the question. Your objection should be directed to the panel Chair, not to College counsel or to the witness. Once you have noted that you have an objection, the panel may ask the witness to be excused while the objection is discussed. You are required to explain to the panel why you object. College counsel has the right to respond following your statement of objection, and you will then have the right to reply. The panel may then seek the views of ILC. Both you and College counsel will have the right to comment on ILC's advice to the panel. The panel will make a decision as to whether the question is allowed or not.

Defence evidence

Once College counsel has completed calling their witnesses, the registrant has the right to call any relevant witnesses in their own defence. You can also testify yourself, however you are not required to do so. If you decide to testify, College counsel has the right to cross-examine you.

If you decide to testify in your own defence, you will be required to give a solemn affirmation to tell the truth. Then, you should simply tell the factual story that want to tell – you will not pose questions to yourself. You will be allowed to give relevant reply evidence following the College's cross-examination.



Ontario College of Social Workers and Social Service Workers

During your direct examination of your witnesses, you cannot ask leading questions. Before you finish questioning your witnesses, you should briefly review your notes to make sure you asked all of the questions you intended to, and that your witness has given all of the information that you intended.

After your direct examination, College counsel will have a chance to cross-examine the witness. You should take note of any further questions that arise during cross-examination that you would like to go over with your witness. You will have one last opportunity to question your witness during the re-examination. As noted above, questions during re-examination (redirect) must be related to issues that arose during the College's cross-examination or a question from a panel member.

The College may object to any questions that you ask of a witness throughout your defence. If College counsel objects, they are required to note the reason for the objection. The panel may then ask the witness to be excused while the objection is discussed. You will then have the right to explain to the panel why you believe your question is proper. College counsel will then make reply submissions. The panel will decide whether the question is proper or not. If they decide it is not, the witness will not be permitted to answer the question.

Documentary evidence (exhibits)

You may want to introduce documentary evidence at the hearing. Documentary evidence must be entered into the hearing as an exhibit. You can introduce documentary evidence during your testimony if you testify, through any witnesses you bring to testify on your behalf or by asking the College's witnesses about them during cross-examination. Generally speaking, a document may only be entered into evidence and marked as an exhibit through a witness if it is relevant and if that witness created, sent or received that document or has otherwise had first-hand contact with it, and can therefore identify it.

Objections to the introduction of any documentary evidence are made the same way as objections to questions. You would unmute (if at an electronic hearing) and state the objection. If you are seeking to enter the document as an exhibit, you should have a copy available so that it can be sent to the panel, College counsel and ILC, while still having one copy for yourself. The original document will be formally marked as an exhibit.

Closing submissions

After all evidence has been presented, both you and the College have the right to make closing submissions. The order of presentation is that the College counsel goes first, and then you respond.



Ontario College of Social Workers and Social Service Workers

As with an opening statement, **a closing statement is not evidence**. Rather, closing submissions should be based on the oral and documentary evidence given before the panel. You can ask the panel to make any factual inferences or conclusions that you think can be appropriately drawn from the evidence. You should also make any other logical or legal argument that you intend to rely on for your defence. **Providing new evidence during closing submissions is not permitted.**

Previous decisions from the courts and by the Discipline Committee may be presented at the time of closing submissions.

The question of a possible penalty is not addressed during this part of the hearing. In this portion of the hearing, the only decision for the panel to make is whether the allegations in the Notice of Hearing have been established on a balance of probabilities, using clear, convincing and cogent evidence.

Deliberations

Following the parties' closing submissions, the panel will retire to deliberate in private. This may take a few months. Once the panel's decision is ready, the parties will receive a written decision with written reasons.

If the panel finds that one or more of the allegations in the Notice of Hearing have been proven by the College in accordance with the standard of proof, a penalty hearing will be scheduled. At the penalty hearing, the panel will hear evidence, if any, and submissions on the question of the appropriate penalty to be imposed.

In the event that the panel finds that none of the allegations against you have been proven, it will not be necessary to have a penalty hearing. The matter will be concluded.

The Penalty Hearing

It is expected that, in most cases, the penalty hearing will begin as soon as possible after the panel has announced its findings of professional misconduct.

The parties may call oral evidence and/or submit documentary evidence relevant to the issue of the appropriate penalty order. This is not the time to call evidence or make submissions about the fairness or correctness of the panel's decision regarding professional misconduct. The only issue is what order the panel should make in light of its findings regarding professional misconduct and/or incompetence.



Ontario College of Social Workers and Social Service Workers

If evidence is called, the order of proceedings is the same as it is during the hearing. First, the College calls its witnesses, and you are entitled to cross-examine them. Then, you may call your witnesses (including yourself) and the College may cross-examine the witnesses.

Often, penalty hearings do not involve any new evidence. Rather, the parties simply make submissions about the appropriate order based on the findings of fact made by the panel. Submissions proceed in the same manner as opening and closing statements: the College goes first, then you. College counsel has a right to reply to your submissions regarding penalty.

Previous decisions from the courts and the Discipline Committee may be presented in this portion of the hearing. They are often helpful during submissions as to the appropriate penalty and whether the proposed penalty is within the range of penalties ordered in the past in similar circumstances.

Decision

Following the parties' closing submissions, the panel will again retire to deliberate. It may take several months before the panel's final decision is ready. The parties will then receive a written decision on the penalties with written reasons. The final decision and penalties will be posted on the College's website, and the decision will be noted on the Online Register.

Appeals

After the decision of the Discipline Committee is released, either party is entitled to appeal the decision to the Divisional Court in accordance with the rules of court. This usually must be done within 30 days. You will want to contact the court for more information.

A party looking to appeal a decision can request to receive from the College Registrar, and upon payment of the prescribed fee, a certified copy of the record of the proceeding that took place before the Discipline Committee, including any documents received in evidence and the decision/order the party is looking to appeal.

Resources

You may wish to look into the following resources for legal information. Qualification criteria may apply:



Ontario College of Social Workers and Social Service Workers

- **The Law Society of Ontario Lawyer Referral Service** can offer individuals with the name of a lawyer or licensed paralegal who can provide a free consultation of up to 30 minutes to help you determine your rights and options. The service can be [accessed online](#).
- **Pro Bono Ontario** offers a free legal advice hotline at 1-855-255-7256 (toll-free).
- **Legal Aid Ontario** offers legal services to those who qualify financially. You can reach them at 1-800-668-8258 (toll-free) or at 416-979-1446 if you are calling from Toronto or the Greater Toronto Area.