

# Association of Visual Language Interpreters of Canada

## ***PROFESSIONAL CONDUCT REVIEW PROCESS DISCIPLINE HEARING POLICIES AND PROCEDURES***

Prepared by George K. Bryce, legal counsel  
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Introduction.....	2
Interpretation.....	3
Bylaw definitions.....	3
P&P definitions.....	4
Administration.....	4
Board appointments.....	4
Appointment of the Adjudication Panel.....	4
Tracking Panel appointments.....	4
Avoiding conflicts of interest.....	4
Tracking mechanism to help avoid conflicts of interest.....	5
Reporting conflicts of interest.....	5
Disclosing the identity of appointed Panel members.....	5
Addressing conflicts of interest, etc.....	6
Skills of the Adjudication Panel.....	6
Expectation of Panel members.....	6
Information gathered during a hearing.....	6
Confidentiality and record retention.....	6
Storage and destruction of information gathered during a discipline hearing.....	7
Member cooperation during a discipline hearing.....	7
Member's duty.....	7
Panel's authority.....	7
Failure to cooperate during a discipline.....	7
Warning an uncooperative member.....	8
Member resignation.....	8
Pre-Hearings Conference and Disclosure.....	8
Pre-hearing conference.....	8
Scheduling the conference.....	9
Disclosure to Respondent Member prior to discipline hearing.....	9
Disclosure by Respondent Member prior to discipline hearing.....	10
Failure to disclose.....	10
Request for particulars.....	10
Discipline Hearings.....	11
Start of the hearing.....	11
Parties and legal representation.....	11
Appointment of legal counsel.....	11
Information about a hearing.....	11
Request for information about a hearing.....	11
Public hearings, unless.....	12

Requests for a private hearing.....	12
Criteria to order a private hearing.....	12
Protection of witnesses .....	12
Attending a hearing, producing records, etc.....	12
Preparing the hearing room.....	13
Recording discipline hearings.....	13
Scope of Panel’s authority .....	13
Oath or affirmation .....	13
Witness participation .....	14
Expert witness.....	14
Hearing agenda .....	14
Witness attendance and cross-examination .....	15
Resolution of a complaint prior to the start of a hearing .....	15
Respondent Member resigns, fails to renew or does not attend a hearing.....	16
Scope of inquiry.....	17
Issuing a new citation.....	17
Action by the Adjudication Panel.....	17
Penalty hearing.....	18
Costs.....	18
Panel decision .....	18
Minority decisions .....	18
No further review of Panel decision .....	18
Panel remains active .....	19
Discipline Decisions .....	19
Monitoring compliance with discipline orders .....	19
Failure to comply with a discipline order .....	19
Publication and notification of a decision.....	19
De-identifying witnesses and complainants.....	19
Notifying the membership, etc.....	19
Application of discipline decisions to CES .....	20
Affiliate chapter’s discipline decisions.....	20
Application of an approved Affiliate Chapter’s investigation or discipline decisions .....	20
Post-hearing matters.....	21
Member under suspension or termination.....	21
Storage and destruction of information gathered during a discipline hearing .....	21
Appendix A – Discipline Hearing Agenda .....	23

## **Introduction**

These Professional Conduct Review *Discipline Hearing Policies and Procedures* support the AVLIC's new professional conduct review bylaws, as set out in new Section 6 "Professional Conduct Review Process" of the Association's Bylaws.

These Policies and Procedures were approved by the Board pursuant to bylaw 6.4(1)(c) on the date noted above, and are thus effective on that date.

When a Respondent Member is served with a citation and notice of hearing that has been issued under bylaw 6.23, that member should be sent a copy of these PCR *Discipline Hearing Policies and Procedures* to help them understand how the AVLIC will then adjudicate the allegations set out in that citation during a hearing.

The applicable bylaws that provide the foundation for these *Discipline Hearing Policies and Procedures* are set out in boxes throughout. Any changes to the bylaws themselves could result in further changes to this document.

While every effort has been made to ensure there is no conflict, where a provision of these policies and procedures conflicts with a provision of the Bylaws, the applicable bylaw prevails to the extent necessary to resolve that conflict.

Separate sets of policies and procedures will be created and approved by the Board for the following related bylaw provisions:

- The *Complaint Investigation and Resolution Policies and Procedures* that the Inquiry Committee will follow in investigating and trying to resolve a complaint (ref. bylaws 6.10 to 6.22);
- The application process and criteria to assess whether an Affiliate Chapter's complaints and discipline bylaws are substantially similar to the AVLIC's Section 6 Bylaws (ref. bylaw 6.2);
- The continuing education standards, timing and related procedures that Members are required to complete in compliance with the *Code of Ethics and Guidelines for Professional Conduct* (ref. bylaw 6.7).

In keeping with AVLIC policies, all adjudication procedures and discipline hearings conducted under the Bylaws and these policies and procedures shall be conducted in English or American Sign Language, as may be required.

## Interpretation

### Bylaw definitions

Bylaw: 6.1 In addition to the definitions set out in section 1.1, throughout this Section:

- (a) “**Adjudication Panel**” means a panel of Members appointed by the Board pursuant to bylaw 6.4 to adjudicate the allegations against a Member as set out in the citation issued pursuant to bylaw 6.23;
- (b) “**alternative dispute resolution**” means any process a Complainant or a Member, or both, may agree to participate in that provides a way to resolve a complaint other than holding a discipline hearing, and which may include mediation, arbitration or a restorative justice process as described in Division E – Alternative Dispute Resolution;
- (c) “**approved Affiliate Chapter**” means an Affiliate Chapter that has been approved by the Board pursuant to bylaw 6.2 as having bylaws, rules or procedures that provide a mechanism to investigate and resolve a complaint, and conduct discipline hearings are substantially similar to the bylaws in this Section;
- (d) “**Association**” means the Association of Visual Language Interpreters of Canada or any committee or person appointed by the Board to administer the applicable bylaw;
- (e) “**CoEGPC**” means the Code of Ethics and Guidelines for Professional Conduct approved by the Board, and as may be amended from time to time;
- (f) “**complaint**” means a communication that documents a Complainant’s concerns about the conduct of a Member that meets the requirements of bylaw 6.11;
- (g) “**Complainant**” means a person who has filed a complaint against a Member under bylaw 6.11;
- (h) “**concern**” means a communication that a Person with a Concern provides to the Association pursuant to bylaw 6.10, but which is not a complaint filed under bylaw 6.11;
- (i) “**Inquiry Committee**” means the committee appointed by the Board pursuant to bylaw 6.4 to investigate and try to resolve a complaint filed under bylaw 6.11;
- (j) “**facilitated agreement**” means a written agreement between the parties that is reached through an alternative dispute resolution process;
- (k) “**facilitator**” means a person who has been appointed by the Inquiry Committee to be a facilitator, mediator or arbitrator for an alternative dispute resolution process;
- (l) “**Member**” means a Class A - Active Voting Member of the Association;
- (m) “**Respondent Member**” means a Member who has been named in a citation issued pursuant to bylaw 6.23;
- (n) “**Person with a Concern**” means a person who has a concern about the conduct of a Member and approaches the Association to try to resolve that concern informally under bylaw 6.10;<sup>1</sup>
- (o) “**Subject Member**” means a Member who has been named in a complaint filed under bylaw 6.11;
- (p) “**third party**” means any person who is not a Complainant, a Member, a Person with a Concern, nor a member of the Board, Inquiry Committee or Adjudication Panel.

<sup>1</sup> EXPLANATORY NOTE: A Person with a Concern does not become a Complainant until such time as that Person files a formal Complaint under bylaw 6.11.

### *P&P definitions*

- 1) In addition to the definitions set out in bylaw 6.1, the following definitions apply to these Policies and Procedures:
  - a) “Citation” means a Citation, which may include a Notice of Nearing, that has been issued by the Inquiry Committee pursuant to bylaw 6.23.

### **Administration**

#### *Board appointments*

*Bylaw: 6.4(1) The Board may by ordinary resolution do the following:*

- (a) ...
- (b) *appoint an Adjudication Panel, and name its chair, and such other persons as are necessary to administer the bylaws in Division F;*
- (c) *maintain a roster of Members who can be called on to sit as members of an Adjudication Panel, if a citation is issued pursuant to bylaw 6.23; ...*

#### *Appointment of the Adjudication Panel*

- 2) The Board need not appoint the members and chair of the Adjudication Panel pursuant to bylaw 6.4(1)(b) until such time as the Inquiry Committee has issued a citation against a Subject Member under bylaw 6.23.
- 3) In appointing the Adjudication Panel under bylaw 6.4(1)(b), the Board must appoint at least three Members, one of whom must also be appointed as the chair.
- 4) If an appointed Member on the Panel resigns or steps aside for any reason, the chair of the Panel must ask the Board to appoint a replacement Member to the Panel and, for that purpose, may also recommend a particular replacement Member.
- 5) If a Panel Member has resigned or stepped aside before a hearing has commenced, the remaining Panel members may continue to adjudicate the citation notwithstanding that a replacement Member has yet to be appointed by the Board under the previous policy.
- 6) If a discipline hearing has commenced at the time when a Panel Member has resigned or stepped aside, the remaining Panel members alone must continue to adjudicate the citation, and no replacement Member should be appointed by the Board.<sup>2</sup>

#### *Tracking Panel appointments*

- 7) The Intake Officer shall
  - a) maintain the roster of Members referred to in bylaw 6.4(1)(c),
  - b) maintain an up to date listing of all members who have been appointed to an Adjudication Panel pursuant to bylaw 6.4(1)(b), and
  - c) provide a copy of either the roster or the list to any Member on request.

#### *Avoiding conflicts of interest*

*Bylaw: 6.4(2) Notwithstanding the generality of subsection (1),*

<sup>2</sup> EXPLANATORY NOTE: The difference between these last two policies is that the rules of administrative law require that, once a Panel commences a hearing and a member of that Panel subsequently resigns or steps aside, it would not be fair to allow a replacement member sit on the Panel for the rest of the hearing because that new member would not have heard the evidence, etc. prior to replacing the former member.

- (a) *the person who tries to help a Person with a Concern resolve a concern under bylaw 6.10 must not be appointed as a member of ...*
- ...  
(ii) *an Adjudication Panel that might adjudicate a citation issued against a Member pursuant to bylaw 6.23 flowing from that same concern, and*
- (b) *no member of the Inquiry Committee that investigated and attempted to resolve a complaint filed against a Member under bylaw 6.11 may be appointed to an Adjudication Panel that is subsequently adjudicating a citation issued against that Member pursuant to bylaw 6.23 based on that same complaint.*

*Tracking mechanism to help avoid conflicts of interest*

- 8) To minimize the possibility of a conflict of interest, the Intake Officer shall establish a tracking mechanism to ensure that
- a) in accordance with bylaw 6.4(2), a person who helps a Person with a Concern resolve that concern under bylaw 6.10 is not subsequently appointed as a member of an Adjudication Panel, and
  - b) in accordance with bylaw 6.4(2)(b), no member of the Inquiry Committee that investigated or attempted to resolve a complaint filed against a Member is then appointed to an Adjudication Panel.

*Reporting conflicts of interest*

- 9) If at any time a member of an Adjudication Panel becomes aware that he or she is or may be in a conflict of interest in relation to any matter the Panel is adjudicating, the member shall promptly notify the chair of the Panel of that conflict, applying the reporting procedures set out in the *AVLIC Conflicts of Interest Policy*.
- 10) If at any time the Intake Officer becomes aware that member of the Adjudication Panel is or may be in a conflict of interest in relation to any matter the Panel is adjudicating, the Officer shall promptly notify the chair of the Panel of that conflict, applying the reporting procedures set out in the *AVLIC Conflicts of Interest Policy*.

*Disclosing the identity of appointed Panel members*

- 11) After the Board has appointed the members of the Adjudication Panel under bylaw 6.4(1)(b), the Intake Officer or the Chair of the Panel, as the case may be, must
- a) promptly notify the Chair of the Inquiry Committee, the Respondent Member and the Complainant of the name and other identifying characteristics of each of the appointed members of the Panel, and
  - b) invite these persons to immediately contact the Officer or Chair of the Inquiry Committee, as the case may be, if they have a reason to believe that any appointed member of the Panel is or may be in a conflict of interest, or should not otherwise sit on the Panel to adjudicate the issued citation.<sup>3</sup>

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<sup>3</sup> *EXPLANATORY NOTE: Disclosing the name, etc. of the members and chair of the Panel that will adjudicate a particular citation well in advance of the actual discipline hearing gives the Respondent Member (if not others) an opportunity to challenge an appointment of someone who they believe might be biased or in a conflict of interest before the hearing starts. As such, this policy helps to ensure that – when the hearing starts – it is not derailed at the beginning because of a bias or conflict of interest claim. This should help save the Association money in conducting discipline hearings.*

*Addressing conflicts of interest, etc.*

- 12) If the Panel as a whole concludes that one of its appointed members is in a conflict of interest that would bring into question that member's impartiality in adjudicating the allegations set out in the citation, is biased or is otherwise not able to participate in a hearing, the Panel shall promptly request the Board to appoint a new member to replace that member, applying bylaw 6.4(1)(b).
- 13) Before making a decision under the previous policy, the Panel or the Board may seek the advice of legal counsel, but must not disclose that opinion to any person outside the Panel or the Board, as applicable.

*Skills of the Adjudication Panel*

- 14) Before appointing a Member to the Adjudication Panel under bylaw 6.4(1)(b),<sup>4</sup> the Board will ensure that such a person has the following training, skills or abilities:
  - a) how to conduct a discipline hearing;
  - b) how to assess the quality of evidence presented during a discipline hearing;
  - c) how to write a formal discipline decision.

*Expectation of Panel members*

- 15) Adjudication Panel members will be well-informed and impartial, and follow fair and transparent discipline hearing procedures.
- 16) Discipline hearings will be conducted in a timely, confidential, evidence-based and thorough manner.

**Information gathered during a hearing**

*Confidentiality and record retention*

*Bylaw: 6.5(1) Except as otherwise directed or permitted in this or any other bylaw in this Section, the Inquiry Committee, an Adjudication Panel or the Board must not disclose to a third party any documents or information*

- (a) *obtained during an investigation of a complaint,*
  - (b) *concerning a resolution of a complaint or an attempt to resolve a complaint, or*
  - (c) *provided to the Adjudication Panel during a discipline hearing,*
- unless the person about whom that information relates or the appropriate committee, as the case may be, consents to such a disclosure.*

*(2) The Association shall keep*

- (a) *all records of an investigation of the Inquiry Committee,*
- (b) *all evidence presented to a Adjudication Panel during a hearing, and*
- (c) *all decisions of the Adjudication Panel*

*for a period of not less than seven years, but if the circumstances warrant and after consulting with legal counsel, the Association may keep these records for a longer period of time that counsel may advise.*

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<sup>4</sup> EXPLANATORY NOTE: Give the timelines that can sometimes apply re: discipline hearings, it may not be possible to train Panel members after they are appointed. So, it is recommended that members who may be appointed to a Panel receive the appropriate training, etc. before they are appointed to a Panel.

*Storage and destruction of information gathered during a discipline hearing*

- 17) All information the Adjudication Panel gathers during a discipline hearing will be kept in a safe and secure location to be approved by the Inquiry Committee.<sup>5</sup>
- 18) With the approval of the Inquiry Committee, all discipline hearing information will be destroyed seven years after the hearing file has been closed, unless legal counsel advises otherwise.
- 19) The Intake Officer shall be responsible for
  - a) administering bylaw 6.5 and these policies and procedures and
  - b) consulting with legal counsel, as may be necessary.

**Member cooperation during a discipline hearing**

*Member's duty*

Bylaw: 6.8(1) A Member must ... attend and participate in a discipline hearing if one is called.

*Panel's authority*

- 20) For the purposes of bylaw 6.9, the Inquiry Committee will continue to act under that bylaw, but - for that purpose - the term Subject Member is replaced by the term Respondent Member accordingly, as the citation would have been issued to that Member by that time.

*Failure to cooperate during a discipline*

Bylaw: 6.9(1) If a Subject Member fails to comply with a requirement of bylaw 6.8, the Inquiry Committee may, subject to subsection (2),

- (a) suspend that member's registration in the Association until such time as the member cooperates with the committee or responds to the committee's request, or
  - (b) add the member's failure as a new allegation in a citation issued under bylaw 6.23.
- (2) Before acting under subsection (1)(a), the Inquiry Committee must notify the Subject Member that
- (a) his or her registration may be suspended because of a failure to comply with a requirement of bylaw 6.8, and
  - (b) the member has 30 days from the receipt of the notification to provide the committee with an explanation for that member's failure to comply with a requirement of bylaw 6.8.
- (3) A Subject Member who has been notified pursuant to subsection (2) has the burden to explain to the satisfaction of Inquiry Committee why he or she should not be suspended pursuant to subsection (1)(a), and the member's explanation must be reasonable and acceptable to the committee.
- (4) If a Subject Member has been suspended pursuant to subsection (1)(a), that member's membership in the Association may not renew unless the Inquiry Committee otherwise approves that member's renewal.
- (5) For clarity, a show cause proceeding under this bylaw is separate and distinct from a discipline hearing initiated by a citation issued under bylaw 6.23.

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<sup>5</sup> EXPLANATORY NOTE: For these policies, the Inquiry Committee rather than the Adjudication Panel will be responsible for these functions. This is because a Panel would no longer exist after it has completed a hearing, but the Committee will continue to exist and can thus make the applicable decisions long after the Panel has completed a hearing.



### *Warning an uncooperative member*

- 21) As soon as the Inquiry Committee determines that a Respondent Member is or may be in breach of bylaw 6.8 during a discipline hearing, in accordance with bylaw 6.9(2), the Committee will promptly advise that Member in writing of
- a) that apparent breach and the circumstances, and
  - b) the consequences under bylaw 6.9 should that Member's failure to cooperate continue.

### *Member resignation*

*Bylaw: 6.8(3) If a Member resigns during [a] ... discipline process, those processes may continue and a final decision may be made without the further or direct participation of the (former) member.*

- 22) As soon as the Inquiry Committee determines that a Member has resigned during a discipline hearing, the Committee shall promptly inform that member of the requirements of bylaw 6.8(3), and the fact that the Adjudication Panel may continue the discipline hearing in the absence of that member.

## **Pre-Hearings Conference and Disclosure**

### *Pre-hearing conference*

- 23) Unless the Panel directs otherwise, at least 15 days before a discipline hearing is scheduled to begin,
- a) the Respondent Member or that member's legal counsel, or both, and
  - b) the chair of the Inquiry Committee or the Committee's legal counsel, or both must attend a pre-hearing conference with the chair of the Panel at a date and time, and in such a form as the chair may approve, to discuss any of the matters described in the following policy.
- 24) At the pre-hearing conference, the Chair of the Panel may make orders concerning the following matters:
- a) production of documents and how they are to be delivered;
  - b) an agreed statement of facts or the admission or proof of certain facts;
  - c) any evidence issue, including admissibility of a document;
  - d) witnesses to be called, the general nature of their anticipated testimony, and how long they will testify;
  - e) expert witnesses to be called, disclosure of an expert reports, and how long the expert will testify;
  - f) direction on the conduct of the hearing;
  - g) an objection to a hearing procedure;
  - h) an estimate for the time each party will require during the hearing;
  - i) a request for a delay of the hearing;
  - j) the need for a language or sign-language interpreter;
  - k) any other matter that is necessary to ensure the hearing will proceed in a timely and fair fashion or to resolve the matter prior to the start of the hearing.
- 25) The chair of the Panel may direct one of the parties to draft an order or decision letter confirming the orders made at the pre-hearing conference.

### *Scheduling the conference*

- 26) The chair of the Panel should contact both parties at least one month before the hearing to ascertain if there are any issues that need to be resolved at a pre-hearing conference.
- 27) In deciding whether or not to order a pre-hearing conference, the Panel may consider one or more of the following:
- a) whether there has been any concerns expressed by one or both parties with respect to the production or disclosure of any documents that may be required at the hearing;
  - b) whether there has been any concerns expressed by the parties with respect to any evidence, including the admissibility of a document, expert report, etc;
  - c) whether there has been any concerns expressed by one or both parties with respect to a witness to be called or that witness' anticipated testimony;
  - d) whether there is a procedural issue that one or both parties would like resolved before the hearing.

### *Disclosure to Respondent Member prior to discipline hearing*

- 28) At the time a citation is issued pursuant to bylaw 6.23 or at least 30 days before a hearing scheduled to begin, the Chair of the Inquiry Committee shall disclose to the Respondent Member all information in the Committee's possession relating in any way to the allegations set out in the citation, whether it be inculpatory or exculpatory of the conduct of the member.<sup>6</sup>
- 29) The information to be disclosed pursuant to the previous policy includes but is not limited to the following:
- a) the particulars known to the committee of the member's conduct;
  - b) the proposed exhibits (evidence);
  - c) a list of witnesses expected to be called, including any expert witnesses;
  - d) copies of witness statements of those witnesses who may be called, including any expert reports;
  - e) the investigator's report, if any;
  - f) the originating complaint.
- 30) The previous policy does not apply to information that is protected by a recognized form of privilege.
- 31) If privileged information is not disclosed in accordance the previous policy, the Chair of the Inquiry Committee shall at the time a citation is issued or at least 30 days before the scheduled hearing advise the respondent what information is not being disclosed and the reason why.

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<sup>6</sup> *EXPLANATORY NOTE: "Inculpatory evidence" means is evidence that shows, or tends to show, a Member's involvement in the alleged misconduct as set out in the Citation, or evidence that can establish "guilt". As in criminal law, the Association has a duty to provide all evidence to the Respondent Member, whether it favors the case against the member or not. In turn, "exculpatory evidence" means information or evidence that is favourable to the Respondent Member and exonerates or tends to exonerate the Member of the allegations set out in the Citation. It is the opposite of inculpatory evidence.*

*Disclosure by Respondent Member prior to discipline hearing*

- 32) At least 30 days before a hearing scheduled to begin, the Respondent Member must disclose to the Chair of the Inquiry Committee all information the Member intends to present to the Adjudication Panel during a discipline hearing.
- 33) The information to be disclosed pursuant the previous policy includes but is not limited to
- a) any exhibits (evidence) the Respondent Member may present,
  - b) a list of witnesses the Member may call, including any expert witnesses,
  - c) copies of witness statements of those witnesses who may be called, including any expert reports,
  - d) any other information, document or evidence the Member may want to present.

*Failure to disclose*

- 34) If either the Inquiry Committee or Respondent Member fail to act in accordance with the above policies, the Adjudication Panel may, on application of a party, do one or more of the following:
- a) refuse to accept the document or report;
  - b) refuse to hear the witness;
  - c) refuse to receive or consider the evidence;
  - d) grant an adjournment of the hearing to allow for consideration of the document, report, witness statement or other evidence;
  - e) make any other direction it considers appropriate in the circumstances

*Request for particulars*

- 35) If a Respondent Member has not received, pursuant to the previous policies, at least 30 days before the scheduled hearing, disclosure of all information in the Inquiry Committee's possession relating in any way to the allegations set out in the citation, whether it be inculpatory or exculpatory of the conduct of the member, the Respondent Member may apply to the Adjudication Panel for an order directing that the Inquiry Committee provide such disclosure, which may include an order to delay the hearing until at least 30 days after such time as the ordered disclosure has been completed.
- 36) If a Respondent Member has not disclosed to the Inquiry Committee information the Member intends to present to the Adjudication Panel during a discipline hearing at least 30 days before the scheduled hearing, the Committee may apply to the Adjudication Panel for an order directing that the Respondent Member provide such information, which may include an order to delay the hearing until at least 30 days after such time as the ordered disclosure has been completed.
- 37) A request for an order these policies can be addressed as part of a pre-hearing conference.

## **Discipline Hearings**

***Bylaw:*** 6.26(1) The Adjudication Panel shall hear and determine a matter that has been set for hearing by a citation issued pursuant to bylaw 6.23.

### *Start of the hearing*

- 38) A discipline hearing is initiated when the chair of an Adjudication Panel so states at the start of a hearing.
- 39) For clarity, an Adjudication Panel is not in a position to adjudicate an allegation (i.e. is not seized of the matters) set out in an issued Citation until such time as that Citation has been presented to the Panel at the start of the discipline hearing, but the Chair of the Panel may conduct a pre-hearing conference to address procedural and related matters.

### *Parties and legal representation*

***Bylaw:*** 6.26(2) The Respondent Member, an investigator, any member of the Inquiry Committee, or any other person authorized by the Adjudication Panel may appear as parties and with counsel at a discipline hearing.

### *Appointment of legal counsel*

- 40) The Adjudication Panel may appoint at its expense legal counsel to advise the Panel prior to, during and after the discipline hearing.
- 41) The Inquiry Committee may appoint at its expense legal counsel to prosecute the citation at a discipline hearing.
- 42) A Respondent Member may appoint at his or her expense legal counsel to represent and advise the member prior to, during and after the discipline hearing, but the respondent member must attend the hearing in person.
- 43) A complainant may be represented by legal counsel, at the complainant's cost, but only when the complainant is giving evidence at a discipline hearing.
- 44) Neither a complainant nor a complainant's legal counsel may cross-examine any witness during a discipline hearing without the prior approval of the chair of the Panel.
- 45) During the pre-hearing conference, the Panel may make decisions concerning appointment, attendance, role or cost of legal counsel.

### *Information about a hearing*

***Bylaw:*** 6.26(3) Information about the date, time and subject matter of the hearing shall be provided to any person on request.

### *Request for information about a hearing*

- 46) A request for information about a discipline hearing that may be filed under bylaw 6.26(3)
- a) may be filed in writing, by email or fax, or made in a phone request, but
  - b) must identify the party making the request.
- 47) Notwithstanding bylaw 6.26(3), the Inquiry Committee may inform any third party that it believes should be aware of a scheduled discipline hearing and, in so doing, the

Committee may provide such parties with a copy of the citation, as well as the date, time and location of the hearing.

*Public hearings, unless...*

*Bylaw:* 6.26(4) A discipline hearing shall be in public unless  
(a) the Complainant, a witness or the Respondent Member requests the Adjudication Panel hold the hearing in private, and  
(b) the Adjudication Panel is satisfied that a private hearing would be appropriate in the circumstances.

*Requests for a private hearing*

48) During the pre-hearing conference or any time during the hearing, the Adjudication Panel may consider a request from any party submitted pursuant to bylaw 6.26(4)(a) to hold all or part of the hearing in private.

*Criteria to order a private hearing*

49) In considering a request for a closed hearing pursuant to bylaw 6.26(4)(b), the Adjudication Panel may make an order excluding the public from all or part of a discipline hearing if the Panel determines that

- a) there are reasons for confidentiality respecting financial, personal or other matters that may be disclosed at the hearing which outweigh the public interest in having an open hearing,
- b) an open hearing may result in prejudice to a person involved in a criminal or civil proceeding, or
- c) the safety of a person may be jeopardized.

*Protection of witnesses*

50) For a witness, other than the respondent member, whose testimony is of a confidential, personal or sexual nature, the Adjudication Panel may make an order that

- a) no person may publish the identity of the witness or any information that could disclose the identity of the witness, or
- b) any such witness be identified only by pseudonym, provided that the true name, address and occupation of the witness is given to the parties present or represented at the hearing.

*Attending a hearing, producing records, etc.*

*Bylaw:* 6.26(5) The Adjudication Panel may order the Respondent Member or any other person to attend at a hearing to give evidence and to produce records in the possession of or under the control of the Respondent Member or person.  
(6) The Adjudication Panel shall provide notice by registered mail or by personal service to a person who is required to attend a hearing.

51) During the pre-hearing conference or any time during the hearing, the Adjudication Panel may consider a request from any party to the hearing to order another person to attend a hearing pursuant to bylaw 6.26(5).

### *Preparing the hearing room*

52) The Inquiry Committee is responsible for:

- a) setting-up the hearing room, including ensuring the comfort and security of all parties;
- b) arranging for the separation of witnesses;
- c) arranging for the recording of the hearing pursuant;

but the Committee may delegate the performance of these responsibilities to an Association staff person, so long as the Committee supervises the person performing these delegated responsibilities.

### *Recording discipline hearings*

53) The Adjudication Panel alone may record or make arrangements to have a discipline hearing recorded, and no person attending a hearing may record the proceedings without the consent of the Panel.

54) The failure of the means to record all or part of a discipline hearing does not invalidate the proceedings nor does that failure render the Adjudication Panel's resulting decision a nullity.

55) A person may obtain, at that person's own expense, a transcript of any part of the hearing which the person was entitled to attend as a party.

### *Scope of Panel's authority*

56) Prior to or at the hearing or as part of a pre-hearing conference, the Adjudication Panel may make decisions on all procedural matters concerning the discipline hearing, including but not limited to the following:

- a) claims of procedural deficiencies in the hearing;
- b) a request for particulars denied by the Inquiry Committee;
- c) a demand for disclosure of information denied by the respondent member or the Inquiry Committee;
- d) requests for severance of allegations in the Citation;
- e) the holding of a Preliminary Hearing to resolve a claim of bias or conflict of interest;
- f) challenges to the Adjudication Panel's jurisdiction to hearing all or part of the allegations set out in the citation;
- g) requests for delay of the hearing;
- h) requests for a closed hearing or part of a hearing;
- i) requests for an adjournment or postponement of a hearing.

57) Before rendering a decision on an issue listed in the above policy, the Adjudication Panel may give the Inquiry Committee and respondent member an opportunity to address the issue in question, and – at its sole discretion – the Panel may make receive written submissions, hold a separate hearing, or both.

### *Oath or affirmation*

58) The chair of the Adjudication Panel must ask each witness, including the Respondent Member, if he or she would prefer to swear or affirm that the testimony they will give will be true.

### *Witness participation*

- 59) A witness may be required to wait outside the hearing room prior to giving evidence, although, subject to bylaw 6.26(4) and policies #48 to #50, a witness is entitled to attend the balance of the hearing after having testified.

### *Expert witness*

- 60) A person is not an expert witness until the Panel decides that such a person meets the criteria to be an expert witness and provide expert testimony, as set out the following policies.
- 61) The Panel may, prior to a witness giving testimony, decide if that person is an expert witness, and this decision may be made in a pre-conference hearing or at any time during a hearing.
- 62) Both parties may agree to jointly retain and instruct an expert witness to provide expert opinion to the Panel, and if both parties so agree, that person is deemed to be an expert witness.
- 63) To be an expert witness, a person must by virtue of their education, training, skills or experience, have expertise and specialized knowledge of a particular subject that is beyond or greater than that of the average person, and of such quality that the Panel may rely on that witness's specialized opinion about evidence or a fact at issue within the scope of that person's expertise, as an assistance to the Panel.
- 64) The testimony that an expert witness may provide the Panel may be the form of a report, written opinion or in oral testimony, but in either case must be:
- a) relevant to the issue before the Panel;
  - b) necessary to help the Panel decide the issue;
  - c) reliable;
  - d) and no rule would otherwise exclude the expert or the report.
- 65) An expert witness may provide to the Panel and the parties at least 30 days in advance of the hearing
- a) testimony in the form of an expert report or written opinion, but only about facts that fall within the scope of the expert's expertise, and
  - b) an opinion about the causation or correlation to the evidence in drawing a conclusion.
- 66) An expert witness who has provided an expert report or written opinion to the parties and the Panel in advance of a hearing need not attend the hearing to give that testimony in oral form.
- 67) Notwithstanding the previous policy, a party may expressly request, at least 30 days in advance of the hearing, an expert witness who has provided a report or opinion to attend the hearing, but at that party's cost, and to be cross-examined on their report or opinion.

### *Hearing agenda*

- 68) Where practical, the Panel shall conduct a discipline hearing in accordance with the Hearing Agenda, as set out in Appendix A.

- 69) Before the date the discipline hearing is scheduled to commence, the chair of the Adjudication Panel should send the Respondent Member and the Inquiry Committee a copy of the Hearing Agenda.
- 70) At the request of a party and on agreement of the parties, the Adjudication Panel may vary, dispense with or add a new item to the Hearing Agenda.

*Witness attendance and cross-examination*

- 71) Notwithstanding that a person has been authorized by the Panel to appear as a party at a discipline hearing, that person may be represented by legal counsel and cross-examine a witness only if that person is the Respondent Member or a member of the Panel.
- 72) Only legal counsel who represents the respondent member, the inquiry committee or the Panel may request that a witness attend a hearing and be cross-examined as a witness.
- 73) For clarity, a complainant's legal counsel may only cross-examine the complainant as a witness at a discipline hearing, unless the Panel agrees otherwise.

*Resolution of a complaint prior to the start of a hearing*

- 74) From the time the Citation is issued up to the time the Citation is presented to the Panel at the start of a discipline hearing, the Inquiry Committee may do one or more of the following without the approval of the Adjudication Panel:
  - a) request the Respondent Member enter into a consent agreement under bylaw 6.14;
  - b) enter into a consent agreement as may be proposed by the Respondent Member under bylaw 6.15;
  - c) facilitate an alternative dispute resolution process, including a mediation, between the Respondent Member and the complainant under bylaw 6.16;
  - d) enter into an alternative dispute resolution process, including a mediation, with the Respondent Member and the complainant under bylaw 6.17;
  - e) enter into an alternative dispute resolution process, including a mediation, with the Respondent Member, the complainant and the committee under bylaw 6.18;
  - f) otherwise work with the Respondent Member to resolve the matter set out in the issued Citation.
- 75) From the time the Citation is presented to the Adjudication Panel at the start of a discipline hearing but before the Panel issues its decision, the Inquiry Committee may request the Adjudication Panel to adjourn the hearing for the purposes of negotiating a resolution with the Respondent Member in relation to one or more of the following:
  - a) request the Respondent Member enter into a consent agreement under bylaw 6.14;
  - b) enter into a consent agreement as may be proposed by the Respondent Member under bylaw 6.15;
  - c) facilitate an alternative dispute resolution process, including a mediation, between the Respondent Member and the complainant under bylaw 6.16;
  - d) enter into an alternative dispute resolution process, including a mediation, with the Respondent Member and the complainant under bylaw 6.17;
  - e) enter into an alternative dispute resolution process, including a mediation, with the Respondent Member, the complainant and the committee under bylaw 6.18;



f) otherwise work with the Respondent Member to resolve the matter set out in the issued Citation.<sup>7</sup>

76) If the Respondent Member wishes to resolve the matter at any time after the Citation has been presented to the Panel at the start of a discipline hearing but before the Adjudication Panel issues its decision, the Respondent Member may request the Panel to adjourn the hearing for the purposes of negotiating a resolution with the Inquiry Committee under bylaw 6.15.

77) The Adjudication Panel shall only deny a request under the previous policies if it does not believe

- a) there is a reasonable prospect that the matter can be resolved in a timely fashion, and
- b) the request is or could be an abuse of the discipline hearing process.

78) If the Respondent Member and Inquiry Committee resolve the matter set out in an issued Citation to the Committee's satisfaction prior to when the Panel issues its decision, the Committee shall so advise the Chair of the Adjudication Panel promptly of that resolution.

79) On receipt of a written consent resolution agreement signed by the Respondent Member, the Chair of the Inquiry Committee must then

- a) cancel the Citation or any separate Notice of Hearing issued under bylaw 6.23, and
- b) so advise the Respondent Member, the Adjudication Panel, and the complainant, if so notified under bylaw 6.23(3).

*Respondent Member resigns, fails to renew or does not attend a hearing*

**Bylaw:** 6.27(1) For the purposes of this bylaw, "**absent respondent**" means a Respondent Member who has

- (a) resigned his or her membership,
- (b) failed to renew his or her membership,
- (c) failed to attend a discipline hearing, or
- (d) left a discipline hearing before it is completed.

(2) If the Adjudication Panel is satisfied that an absent respondent has been

- (a) served with the citation or notice of discipline hearing,
- (b) provided with an opportunity to be heard, and
- (b) informed the hearing may continue in his or her absence,

the Panel may order the hearing to continue in the absence of the absent respondent and, on completion of the hearing, the panel may act or make any order it could have made if the absent respondent had continued to be a member or had attended the hearing.

(3) For clarity, the fact that a Respondent Member

- (a) resigns or failed to renew his or her membership in the Association, and, therefore, ceases to be a member under bylaw 4, or
- (b) fails to attend or leaves a hearing,

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<sup>7</sup> *EXPLANATORY NOTE: The policies are intended to make it clear that the Inquiry Committee can try to resolve a complaint even after a Citation has been issued, and can continue to do so up to the point when the discipline hearing starts, and that the Committee can do so without Panel approval up to that point in time. However, once the discipline hearing starts, the Committee must then ask for an adjournment to then try to resolve a complaint, but it can only try to do this with the Panel's agreement because the hearing has commenced.*

does not automatically mean that the Adjudication Panel no longer has the jurisdiction to continue the hearing into that absent respondent's conduct, and the Panel may take such actions or make such decisions as it would otherwise be able to take or make under this Division.

### *Scope of inquiry*

**Bylaw:** 6.28(1) The Adjudication Panel is not limited to inquiry into only that conduct of the Respondent Member that is described in the citation, but may also inquire into other conduct of the member that is related or similar to the allegations described in the citation.

(2) If the Adjudication Panel proceeds under subsection (1), the Respondent Member may request an adjournment of the hearing, and that request may be granted if the committee considers it is necessary to do so in fairness to the member.

### *Issuing a new citation*

80) If the Panel determines that it is necessary to inquiry in to the conduct of a member other than the Respondent Member named in a citation, the Inquiry Committee must first issue a new citation against that other member.

### *Action by the Adjudication Panel*

**Bylaw:** 6.29(1) On completion of a hearing, the Adjudication Panel may, by order, do one or more of the following:

- (a) dismiss the matter;
- (b) reprimand the Respondent Member;<sup>8</sup>
- (c) impose limits or conditions on the practice of the Respondent Member, including practicing under supervision for a defined period of time;
- (d) suspend the registration of the Respondent Member for a defined period of time;
- (e) cancel the registration of the Respondent Member;
- (f) fine the Respondent Member in an amount not to exceed \$25,000;<sup>9</sup>
- (g) assess costs or part of the costs of the investigation of the Respondent Member's conduct and the hearing of the citation.

(2) An order of the Adjudication Panel under subsection (1) shall be in writing and shall be delivered to the Respondent Member and to the complainant, if any.

(3) Unless the Adjudication Panel directs otherwise, the chair of the Inquiry Committee may disclose to any person on request

- (a) an order of the Adjudication Panel under subsection (1), or
- (b) any reasons the panel may issue in relation to the results of a discipline hearing.

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<sup>8</sup> *EXPLANATORY NOTE: There can be many forms of "reprimand". The Panel is NOT limited to simply "resolving, suspending or terminating". For example, the Panel may advise the Respondent Member to make better efforts to record client information. While such a failure may not have led to a serious problem, the Panel nonetheless found that Member's records were not being kept up to professional standards.*

<sup>9</sup> *EXPLANATORY NOTE: If the fined Member did not pay the prescribed fine, it should be possible to pursue that refusal in court.*

### *Penalty hearing*

6.30(1) If the Adjudication Panel determines that a Respondent Member is guilty of an allegation set out in a citation, it must hold a later and separate hearing on the question of the appropriate penalty to apply as per bylaw 6.29, unless the member agrees that the penalty hearing can be held sooner.

(2) The Adjudication Panel may consider a request from the Respondent Member or the Inquiry Committee to hold a later, separate hearing on the question of penalty.

(3) In determining the penalty to be imposed on a Respondent Member after making a determination on the facts, the Adjudication Panel may consider a previous relevant discipline decision regarding the member or an undertaking or consent to a reprimand given by the member under this Part.

### *Costs*

6.31(1) Costs awarded under clause 6.29(1)(g) must not exceed, in total,

- (a) 50% of the total costs of the investigation leading up to the hearing, including legal costs, and
- (b) 50% of the actual costs for legal representation during the hearing.

(2) In making an order for an assessment of costs under clause 6.29(1)(g), the Adjudication Panel may receive submissions on costs in writing or hold a separate hearing.

### *Panel decision*

6.32(1) The Adjudication Panel may give its decision on the matter in sign language or orally at the end of the hearing, but if the Panel's decision will be issued later in writing, it shall be so issued as soon as practical after the hearing, but not less than 60 days after the hearing.

(2) The Panel's written decision must:

- (a) be written in a manner that protects the personal privacy of the third parties, and is suitable for public disclosure in full;
- (b) include the names of the panel members issuing the decision;
- (c) identify the parties in the proceeding, and their legal counsel or representatives, including the Respondent;
- (d) not include the names of a complainant or any witnesses, except when they have appeared at an open hearing in an official capacity;
- (e) not include other possible personal identifiers or health care information of a complainant or a third party, except where necessary to adequately explain the reasons for the decision;
- (f) be written in plain language.

(3) A decision of an Adjudication Panel does not have to be unanimous, but must be in writing and signed by each concurring member.

(4) A Panel member not concurring may make a minority decision, which may be issued separately from the majority decision, but must be issued within 60 days of the hearing.

### *Minority decisions*

81) If a Panel decision is not unanimous, as permitted in bylaw 6.32(3), any dissenting Panel member may issue a minority decision, but that separate minority decision should be attached to the majority decision, with both being issued at the same time.

### *No further review of Panel decision*

Bylaw: 6.32(5) A decision of the Panel under this bylaw is final and conclusive, and is not open to question or review in any court, and proceedings by or before the Panel shall not be restrained by injunction, prohibition or other process or proceeding in any court or be removable by certiorari or otherwise in any court.

*Panel remains active*

**Bylaw:** 6.33) Until the Adjudication Panel releases its final written decision under bylaw 6.32, the Panel remains active, is seized of the matter and may re-open the hearing at the request of the parties [or] as may be required.

**Discipline Decisions**

*Monitoring compliance with discipline orders*

**Bylaw:** 6.34(1) The chair of the Inquiry Committee shall monitor a Respondent Member's compliance with an order the Adjudication Panel has issued pursuant to bylaws 6.29 or 6.31.  
(2) If the chair of the Inquiry Committee determines that a member has not complied with an Adjudication Panel order, the chair must so report the matter to the Inquiry Committee, with or without recommendations.

*Failure to comply with a discipline order*

**Bylaw:** 6.35) If the Inquiry Committee concludes that a Respondent Member has not complied with an Adjudication Panel order issued pursuant to bylaws 6.29 or 6.31, the committee may  
(a) direct that the member be suspended until such time as the member complies with the order,  
or  
(b) take such other actions as may be permitted under this Section.

*Publication and notification of a decision*

**Bylaw:** 6.36(1) Where discipline proceedings result in a limitation imposed on a Respondent's practice or the suspension of the Respondent's membership, the chair of the Inquiry Committee shall advise the membership and the general public of  
(a) the name of the Respondent,  
(b) the facts of the case,  
(c) the reasons for the decision, and  
(d) the nature of a limitation or suspension and the date it is in effect.  
(2) In addition to advising the membership and public, the chair of the Inquiry Committee may also notify the following of the member's limitation or suspension:  
(a) any college, regulatory body or association responsible for the regulation of the profession in every Canadian jurisdiction;  
(b) on request, to any other college, regulatory body or association in a jurisdiction outside Canada;  
(c) the institution where the member is or was employed.  
(3) If the chair of the Inquiry Committee is aware that the member is or was a member of another regulatory body, the chair must also notify that other body.

*De-identifying witnesses and complainants*

82) Unless a witness or complainant agree in writing, the name of any witness or complainant will not be included in the Panel's final decision, but the Panel may use some non-identify way to describe a witness or complainant, if it is necessary to do so within the decision.

*Notifying the membership, etc.*

83) Subject to policy #82, the chair of the Inquiry Committee shall

- a) prepare a summary of the Adjudication Panel’s final decision based on the information listed in bylaw 6.36(1), and
- b) arrange to have that summary posted at the Association’s website.

*Application of discipline decisions to CES*

**Bylaw:** 6.37(1) If at the time of the suspension or termination of a Member’s membership under this Section the suspended or terminated Member is also involved in the Association’s Canadian Evaluation System at any stage, that Member’s further participation in the CES is also suspended or terminated, as the case may be and on the same terms and conditions as were set out in the agreement reached or decision made under this Section.

(2) If at the time of the suspension or termination of a Member’s membership under this Section, that suspended or terminated Member had obtained a Certificate of Interpretation, that COI is deemed to be automatically suspended or terminated, as the case may be and on the same terms and conditions as were set out in the agreement reached or decision made under this Section.

(3) If a Member has had his or her COI terminated pursuant to subsection (2), that Member must immediately return the Certificate to the Association on notification of that termination.

**Affiliate chapter’s discipline decisions**

84) For the purposes of the policies in this section, “approved Affiliate Chapter” is a chapter of the AVLIC that has had its complaint investigation and discipline bylaws approved by the Board pursuant to bylaw 6.2(2).

*Application of an approved Affiliate Chapter’s investigation or discipline decisions*

**Bylaw:** 6.38(1) If an approved Affiliate Chapter reaches a consent resolution agreement of a complaint made against a Member or issues a discipline order against a Member as a result of its discipline hearing into that Member’s conduct,

(a) such an agreement or decision is deemed to also apply to that Member as a member of the Association as if it were a decision made under this Section, and

(b) that Member is subject to the same terms and conditions as set out in the approved Affiliate Chapter’s agreement or decision as could be agreed to or imposed by the Association under this Section.

(2) Without limiting the generality of subsection (1):

(a) if a Member has been suspended or has his or her membership terminated by an approved Affiliate Chapter as a result of that Chapter’s consent resolution process or discipline hearing, that Member’s membership with the Association is deemed to be automatically suspended or terminated, as the case may be and on the same terms and conditions, as if the agreement or decision of the approved Affiliate Chapter was the agreement or decision of the Association made under this Section;

(b) if at the time of the suspension or termination of membership with the approved Affiliate Chapter, that suspended or terminated Member is also involved in the Association’s Canadian Evaluation System at any stage, that Member’s further participation in the CES is also suspended or terminated, as the case may be and on the same terms and conditions as were set out in the agreement or decision of the approved Affiliate Chapter;

(c) if at the time of the suspension or termination of membership with the approved Affiliate Chapter, that suspended or terminated Member has obtained a Certificate of Interpretation, that COI is deemed to be automatically suspended or terminated, as the case may be and on the same terms and conditions as were set out in the agreement or decision of the approved Affiliate Chapter.

(3) If a Member has had his or her COI terminated pursuant to clause (2)(c), that Member must

immediately return the Certificate to the Association on notification of that termination.

- 85) For clarity, if a Member's membership in an approved Affiliate Chapter has been suspended or terminated as a result of that Chapter's investigation of that member, resolution of a complaint or a subsequent discipline hearing conducted by that Chapter, then that suspension or termination of membership automatically applies to that member's membership with the AVLIC, and remains as such until the Chapter advised the AVLIC that such a member has been reinstated.
- 86) In addition, if the suspended or terminated Member is pursuing CES or already obtained their COI, then both of these certifications are automatically suspended or terminated, and similar outcome will apply to a Member's participation in CES or COI if that Member is suspended or terminated as a result of the Association's own process.

### **Post-hearing matters**

#### *Member under suspension or termination*

- 6.39) In addition to the requirements of bylaws 6.37 and 6.38, a Member while under suspension or whose membership has been terminated must not
- (a) represent herself or himself as a Member of the Association, or
  - (b) display a certificate of registration as a Member.

#### *Monitoring compliance with discipline orders*

- 87) The Inquiry Committee shall monitor a respondent member's compliance with an order the Adjudication Panel has issued pursuant to bylaw 6.29, and – for this purpose – may direct that the Intake Officer carry-out such monitoring.
- 88) If the Intake Officer determines that a member has not complied with an Adjudication Panel order, the Officer must so report that matter to the Inquiry Committee with or without recommendations.

#### *Failure to comply with a discipline order*

- 89) If the Inquiry Committee concludes that a respondent member has not complied with an Adjudication order issued pursuant to bylaw 6.29, the Committee may
- a) direct that the member be suspended until such time as the member complies with the order, or
  - b) take such other actions as are permitted under this Part.
- and so notify the membership in a supplementary report or decision.
- 90) Before acting under the previous policy, the Inquiry Committee should give the respondent member an opportunity to respond and explain to the Committee why it should not take the subsequent actions as permitted by that policy.

#### *Storage and destruction of information gathered during a discipline hearing*

- 91) The Adjudication Panel may make arrangements for the storage of evidence and hearing materials on such terms and conditions as the Panel feels are warranted in the circumstances.

- 92) Notwithstanding the above policy, the Panel must arrange to have evidence and hearing materials stored in a safe and secure location for at least one year from the date of its final decision.
- 93) So long as no further legal action is taken in relation to a Panel's final decision, with the approval of the Inquiry Committee, all information gathered during the discipline hearing will be destroyed seven years after the decision was rendered, unless legal counsel advises otherwise.
- 94) The Intake Officer shall be responsible for
- a) administering bylaw 6.5 and the previous policies, and
  - b) consulting with legal counsel, as may be necessary.

## Appendix A – Discipline Hearing Agenda

The following is an annotated agenda that summarize the steps in a typical discipline hearing. This agenda can be modified by the Panel to meet the particular requirements of any specific hearing. It is assumed that a Citation (if not also a Notice of Hearing) has been issued in the proper form.

<b>PRE-HEARING STEPS</b>	<b>COMMENTARY</b>
1) Ensure that the parties, counsel and any court reporter are available on the date in the Notice of Hearing	<i>If a new date needs to be set, issue a new Notice of Hearing.</i>
2) Ensure that a proper hearing room is available, including separate break-out rooms for confidential meetings between the parties and their counsel.	<i>If a new location needs to be set, issue a new Notice of Hearing.</i>

<b>OUTLINE OF PROCEEDINGS</b>	<b>COMMENTARY</b>
3) Introductions	<i>The chair of the Panel would normally introduce the Panel, Panel counsel and the court reporter. The other parties can introduce themselves.</i>
4) Review of Outline of Proceedings (chair of Panel)	<i>Any adjustments or changes to the Outline can be agreed to by the parties; see in particular step #6 (Preliminary or Procedural Matters).</i>
5) Filing of the Citation and Notice of Hearing (Inquiry Committee counsel)	



<p>6) Preliminary and Procedural Matters, such as consideration of:</p> <ul style="list-style-type: none"> <li>a) Readiness to proceed, or request for adjournment;</li> <li>b) Whether Hearing to be public or <i>in camera</i>, in whole or in part;</li> <li>c) Review of estimated length of time for each Hearing phase;</li> <li>d) Panel directions and logistical adjustments as necessary;</li> <li>e) Affirmation of acceptance by both parties of the appointed Panel members, or Preliminary Hearing to resolve a claim of bias/conflict;</li> <li>f) Review of status of agreement on documents, and presentation of any agreed documents binder.</li> </ul>	<p><i>Preliminary and procedural matters can be raised by either party.</i></p> <p><i>The Panel may need to hold a Preliminary Hearing on an issue raised, such as a request for an adjournment, a request for an in camera hearing, a claim that a Panel member is biased or in a conflict of interest.</i></p> <p><i>The Panel should make a decision on a preliminary or procedural matter at end of the Preliminary Hearing, but may delay given its reasons under it issues its final Decision &amp; Reasons later.</i></p>
<p>7) respondent member states position on each allegation in the Citation (respondent member or counsel)</p>	<p><i>For those allegations that are accepted by the respondent member, the hearing on those allegations should proceed to step 15 (Penalty)</i></p>
<p>8) Opening Statements</p> <ul style="list-style-type: none"> <li>a) The Inquiry Committee’s opening statement (Committee counsel)</li> <li>b) The respondent member’s opening statement (respondent member or counsel) - <i>if any</i></li> </ul>	<p><i>It is optional for the respondent member to provide an opening statement.</i></p>
<p>9) The Inquiry Committee’s Case (Committee counsel)</p> <ul style="list-style-type: none"> <li>a) Examination of Inquiry Committee’s witness(es) (Committee counsel)</li> <li>b) Cross-examination of witness(es) by respondent member</li> <li>c) Re-examination of Inquiry Committee’s witness(es) - <i>if necessary</i></li> </ul>	

<ul style="list-style-type: none"> <li>d) Questions from the Panel - <i>optional</i> <ul style="list-style-type: none"> <li>i) Inquiry Committee's questions arising</li> <li>ii) respondent member's questions arising</li> </ul> </li> </ul>	<p><i>The Panel should limit itself to questions to seek clarity; it should not open up new avenues of inquiry.</i></p>
<p>10) The respondent member's Case (respondent member or counsel)</p> <ul style="list-style-type: none"> <li>a) Examination of respondent member's witness(es)</li> <li>b) Cross-examination of witness(es) by Committee counsel</li> <li>c) Re-examination of respondent member's witness(es)</li> </ul>	
<ul style="list-style-type: none"> <li>d) Questions from the Panel - <i>if any</i> <ul style="list-style-type: none"> <li>i) respondent member's questions arising</li> <li>ii) Inquiry Committee's questions arising</li> </ul> </li> </ul>	<p><i>The Panel should limit itself to questions to seek clarity; it should not open up new avenues of inquiry.</i></p>
<p>11) The Inquiry Committee's Reply (Committee counsel) - <i>if necessary</i></p> <ul style="list-style-type: none"> <li>a) Examination of further Inquiry Committee's witness(es)</li> <li>b) Cross-examination of witness(es) by respondent member</li> <li>c) Re-examination of Inquiry Committee's witness(es)</li> </ul>	<p><i>Normally, the Inquiry Committee is limited examining only new witnesses to present new evidence that the respondent member may have raised in step 10.</i></p>
<ul style="list-style-type: none"> <li>d) Questions from the Panel - <i>optional</i> <ul style="list-style-type: none"> <li>i) Inquiry Committee's questions arising</li> <li>ii) respondent member's questions arising</li> </ul> </li> </ul>	<p><i>The Panel should limit itself to questions to seek clarity; it should not open up new avenues of inquiry.</i></p>

<p>12) Closing Submissions</p> <ul style="list-style-type: none"> <li>a) The Inquiry Committee’s closing submission (Committee counsel)</li> <li>b) The respondent member’s closing submission (respondent member or counsel)</li> <li>c) The Inquiry Committee’s closing submission in reply - <i>if any</i></li> </ul>	<p><i>It is optional for the respondent member to provide a closing statement.</i></p>
<ul style="list-style-type: none"> <li>d) Questions from the Panel - <i>if any</i> <ul style="list-style-type: none"> <li>i) respondent member’s further submissions</li> <li>ii) Inquiry Committee’s further submissions</li> </ul> </li> </ul>	<p><i>The Panel should limit itself to questions to seek clarity; it should not open up new avenues of inquiry.</i></p>
<p>13) Deliberations of Panel on the allegations in the Citation</p>	<p><i>Parties are excused; should leave the room.</i></p> <p><i>May take place be immediately after the Hearing or be reset for another day, depending on time required by Panel.</i></p>
<p>14) Decision of the Adjudication Panel on the allegations in the Citation</p>	<p><i>Can be given after a short meeting to deliberate, if there is a consensus, with detailed Decision &amp; Reasons to follow, or the Panel can advise that they are ‘reserving’ the Decision until later.</i></p>
<p>15) Penalty - <i>if applicable</i></p>	<p><i>May require a separate Hearing at a later date.</i></p>
<ul style="list-style-type: none"> <li>a) Call for evidence on penalty - <i>if applicable</i></li> </ul>	<p><i>Follows steps 9 to 11, above.</i></p>
<ul style="list-style-type: none"> <li>b) The Inquiry Committee’s submission on penalty</li> <li>c) The respondent member’s submission on penalty</li> <li>d) The Inquiry Committee’s submission on penalty in reply</li> </ul>	<p><i>It is optional for the respondent member to make a submission on penalty.</i></p>

<p>e) Questions from the Panel - <i>optional</i></p> <p>i) Inquiry Committee's further submissions</p> <p>ii) respondent member's further submissions</p>	<p><i>The Panel should limit itself to questions to seek clarity; it should not open up new avenues of inquiry or propose penalties that were not proposed by the parties.</i></p>
<p>16) Decision of the Adjudication Panel on Penalty</p>	<p><i>May or may not be given at time of Hearing, but must be addressed in detail in the Panel's Decision &amp; Reasons.</i></p>
<p>17) Costs - <i>if applicable</i></p>	<p><i>May require a separate Hearing at a later date.</i></p>
<p>a) Call for evidence on costs - <i>if applicable</i></p>	<p><i>Follows steps 9 to 11, above.</i></p>
<p>b) The Inquiry Committee's submission on costs</p> <p>c) The respondent member's submission on costs</p> <p>d) The Inquiry Committee's submission on costs in reply</p>	<p><i>It is optional for the respondent member to make a submission on costs.</i></p>
<p>e) Questions from the Panel - <i>optional</i></p> <p>i) Inquiry Committee's further submissions</p> <p>ii) respondent member's further submissions</p>	<p><i>The Panel should limit itself to questions to seek clarity; it should not open up new avenues of inquiry or propose costs that were not proposed by the parties.</i></p>
<p>18) Decision of the Adjudication Panel on Costs</p>	<p><i>May or may not be given at time of Hearing, but must be addressed in detail in the Panel's Decision &amp; Reasons.</i></p>
<p>19) End of Panel deliberations</p>	<p><i>Once it has rendered its final decision, the Panel would be functus (would no longer have jurisdiction over the matter)</i></p>