



RULES OF PROCEDURE OF THE DISCIPLINE COMMITTEE OF PROFESSIONAL GEOSCIENTISTS ONTARIO

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RULE 1. INTERPRETATION AND APPLICATION

1.1 Interpretation of Rules

- (1) These Rules apply to all proceedings before the Discipline Committee of the Association of Professional Geoscientists of Ontario.
- (2) Proceedings shall be transparent, fair, efficient, just and timely. The Discipline Committee will adapt processes to the needs of a matter before it and to allow all participants, including self-represented participants, to participate fairly and effectively. Decisions shall be made in the public interest and take particular account of the need to be accessible to all.
- (3) These Rules shall be liberally construed to secure the just, most expeditious and least expensive determination of all Proceedings on their merits.

1.2 Definitions

- (1) In these Rules, unless the context requires otherwise, words that are not defined in this Rule have the meaning defined in the *Professional Geoscientists Act, 2000*, S.O. 2000, c. 13 and regulations made thereunder;
- (2) In these Rules, unless the context requires otherwise:

“Act” means the *Professional Geoscientists Act, 2000*, S.O. 2000, c. 13;

“Business Day” means any day that is not a Saturday, Sunday, statutory or civic holiday, or another day on which the Hearings Office is closed, which includes the days between Christmas and New Years Day;

“Chair” means the chair of the Discipline Committee or their designate;

“Committee” means the Discipline Committee and includes where applicable, the Chair, a Panel or a Presiding Member assigned by the Chair;

“Discipline Committee” means the Discipline Committee of the PGO;

“Hearing” means a process before a Panel of the Discipline Committee in which the Panel receives evidence and/or submissions for determination on the merits of the Proceeding;

“Holder” means a holder of a Certificate of Authorization, who is the subject of a Proceeding, and may be used interchangeably with Registrant;

“Hearings Office” means the administrative office of the Committee, including the employee or employees or delegates of the PGO who are specifically assigned the duty of providing administrative assistance to the Committee;

“Independent Legal Counsel” means a lawyer retained to give advice to the Committee, a Panel and/or a Chair with respect to a Proceeding;

“Member” means a member of the PGO who is the subject of a Proceeding and may be used interchangeably with Registrant;

“Motion” is a request made for direction or to make an order in a particular Proceeding;

“Motion Participant” is a Party and any person who would be affected by the order sought in a Motion;

“Notice of Hearing” means a document issued by the PGO which contains one or more allegations of professional misconduct and/or incompetence against a Registrant;

“Panel” means a panel of members of the Committee as contemplated by s.31 of the Act;

“Party” means the PGO and the Registrant who is the subject of the Proceeding or a person otherwise entitled by law to be a party to a Proceeding, collectively **Parties**;

“PGO” means the Association of Professional Geoscientists of Ontario;

“Practice Directions” means documents issued by the Committee to support and supplement the Rules, to assist parties.

“Presiding Member” means a Committee Member appointed by the Chair to preside as part of a Panel in a Motion or a Hearing, or any person appointed by the Chair to preside in a Pre-Hearing Conference;

“Proceeding” means a process before the Discipline Committee pursuant to s. 26 of the Act that commences with the referral of a matter to the Discipline Committee, and includes all steps in a matter before the Discipline Committee, including a Pre-Hearing Conference, a Motion, and all hearings of issues for determination by a Panel, including the Hearing;

“Registrant” means a Holder or member of the PGO (as defined in the Act) who is the subject of a Proceeding;

“Representative” means a person authorized under the *Law Society Act*, R.S.O. 1990, c. L.8 to represent a Party or other person in a Proceeding;

“SPPA” means the *Statutory Powers Procedure Act*, R.S.O. 1990, c.S.22 as amended;

“Virtual Hearing” refers to an online videoconferencing platform or some other means of electronic communication allowing persons to hear and communicate with one another simultaneously;

1.3 Application and Waiver of the Rules

- (1) In respect of any Proceeding before it, a Panel may issue procedural directions or orders with respect to the application of any of these Rules.
- (2) In respect of any Proceeding before it, the Discipline Committee or a Panel may at any time waive, vary the requirements of, or excuse the failure to follow any Rule:
 - (a) on the consent of the Parties; or
 - (b) on its own initiative, provided it first gives notice to the Parties or Motion participants and provides an opportunity for submissions to be made; or
 - (c) on a Motion by a Party to the Proceedings; or
 - (d) where it is just and equitable, and/or in the public interest, to do so.
- (3) Where matters are not provided for in these Rules, the practice shall be determined by analogy to them, and in a manner consistent with them and consistent with the Act and/or the SPPA where applicable.
- (4) Where a Party or participant in the Proceeding is not represented by a Representative, anything these Rules permit or require a Representative to do shall be done by the Party.

1.4 Time

- (1) When counting of time under these Rules or in an order or direction of a Panel,
 - (a) where there is a reference to a number of days between two events, the day the first event happens is not counted and the day the second event happens is counted;
 - (b) where a period of less than seven (7) days is prescribed, only Business Days are counted;
 - (c) when the time for doing something expires on a day that is not a Business Day, it may, be done on the next Business Day;
 - (d) when a document is delivered or filed after 4pm on a Business Day, it is considered delivered or filed on the next Business Day.
- (2) The Committee may extend or shorten any time prescribed by these Rules or make an order on such terms that the Committee deems just, before or after the expiration of time.

1.5 Accommodations and Language of Proceedings

- (1) Participants in Proceedings whose needs are protected by the *Human Rights Code* are entitled to accommodation. The Hearings Office must be notified of a need for accommodation as soon as possible and no less than 10 days before any step in a Proceeding for which accommodation is required.

- 1.1 The Proceeding shall be conducted in English, French or both English and French, as requested by the Registrant, subject to limits that are reasonable in the circumstances. The Registrant shall notify the Hearings Office of their choice of language within 30 days following receipt of the Notice of Hearing. If no notice is received from the Registrant, the Proceeding shall be conducted in English.

- (2) A Party or witness appearing before the Panel may use an interpreter. Interpretation services will be provided by the Hearings Office at the Party's or witness's request. A Party intending to call a witness whose testimony will require interpretation must notify the Hearings Office as soon as possible and, in any event, no later than 10 days before the first day of the Hearing.

- 1.2 Documents provided in a language other than English or French shall be accompanied by a translation of the document into the language of the Proceeding. The translation must be prepared by a qualified translator who certifies that the translation is true and accurate to the best of the translator's skill and ability. The Party or person providing the document is responsible for the cost of its translation.

1.6 Substantial Compliance

- (1) If a Party substantively complies with a form or notice required by or under these Rules in every important way, the Party will be deemed to have met the requirements of a Rule.
- (2) No Proceeding is invalid only because of a defect or other irregularity in form.

1.7 Power to Control its Own Process

- (1) Despite anything in these Rules, the Committee may make any order or direction that is just or necessary to control its process. In making such an order, the Committee shall consider the public interest, the interests of participants and the Registrant's right to make full answer and defence, the importance and complexity of the issues in dispute, proportionality, and the timeliness of any request.

1.8 Practice Directions and Forms

- 1.3 The Discipline Committee may issue Practice Directions to support and supplement the Rules, to assist Parties. The Rules are intended to be read with reference to any published Practice Directions.

- 1.4 The Discipline Committee may issue Forms for documents referred to in these Rules or commonly used in connection with Proceedings. Where Forms have been issued and

published on the PGO website, such Forms are required to be used by Parties where applicable.

RULE 2. PROCEDURES PRIOR TO THE HEARING

2.1 Notice of Hearing

2.2 After a matter has been referred to the Discipline Committee, the PGO shall serve the Notice of Hearing on the Registrant and file it with the Hearings Office.

- (1) Where a Registrant has been notified of a Hearing and does not attend or participate, the Panel may proceed in their absence, and the Registrant is not entitled to any further notice.

2.3 Delivery and Filing of Documents

- (1) A document is deemed to be delivered if it is sent, to the Registrant at the address on file with PGO, to the PGO at the address of the PGO's representative, or to any Party at the addresses provided by that Party:

2.4 by electronic mail with proof of transmission, on the day of the transmission;

2.5 by registered mail or by courier with proof of service, on the third day after the day of mailing or the third day after the day the document was given to the courier; or

2.6 by another method as may be directed by the Committee.

- (2) All documents to be filed in a Proceeding shall be filed with the Hearings Office, except where they are filed in the course of a Hearing.

- (a) All documents filed with the Hearings Office or delivered to other Parties shall include the name, address, telephone number and e-mail address of the person filing or delivering the document and of that person's representative.

- (b) All documents and communications with the Hearings Office or between Parties shall be in electronic format, except with the consent of all Parties or with permission of the Discipline Committee or a Panel;

- (3) Documents may be filed with the Hearings Office by:

- (a) Email;

or

- (b) Another method directed or permitted by the Committee

- (4) This Rule does not apply to Summonses, which must be served personally on the person summoned in accordance with section 12 of the SPPA.

RULE 3. PRE-HEARING CONFERENCES

3.1 Initiating a Pre-Hearing Conference

- (1) Except where directed by the Chair, a Pre-Hearing Conference is held in every Proceeding. Further Pre-Hearing Conferences may be held at the request of a Party.

3.2 The Chair may assign a member of the Discipline Committee or any other person to be the Presiding Member and may direct that Independent Legal Counsel attend a Pre-Hearing Conference.

3.3 The Pre-Hearing Conference is to be conducted virtually unless otherwise directed by the Chair.

- (2) A Presiding Member who presides over a Pre-Hearing Conference and any member of the Discipline Committee who observes a Pre-Hearing Conference shall not sit on a Panel that conducts the Hearing, unless the Parties consent.

- (3) The Hearings Office shall, after reasonable consultation with the Representative for the PGO and the Registrant or Representative for the Registrant, schedule a date for the Pre-Hearing Conference, and shall notify the Parties of the date. Where consultation does not enable a mutually agreed upon date for the Pre-Hearing Conference, the Hearings Office shall set the date unilaterally and shall notify the Parties of the date.

3.4 Unless the Chair directs otherwise, the PGO's Representative, someone from the PGO who can give the PGO Representative instructions about the case, the Registrant and, if applicable, the Registrant's Representative must participate in the Pre-Hearing Conference.

3.5 Pre-Hearing Conference Memorandum

- (1) The PGO must deliver a Pre-Hearing Conference Memorandum to the Registrant and file a copy with the Hearings Office at least 15 Business Days before the Pre-Hearing Conference. The Pre-Hearing Conference Memorandum must identify the factual and legal issues in dispute, and briefly set out the PGO's position. The Pre-Hearing Conference Memorandum must use the Form, PRE-HEARING CONFERENCE MEMORANDUM .

- (2) The Registrant may deliver a Pre-Hearing Conference Memorandum to the PGO Representative and file a copy with the Hearings Office at least 7 Business Days before the Pre-Hearing Conference.

3.6 Subject Matter of a Pre-Hearing Conference

- (1) The Presiding Member may assist parties to reach agreement or may make orders and give directions to assist in the fair and efficient management of the Proceeding, including with respect to:
 - (a) issues relating to disclosure and the exchange of information;
 - (b) identification and simplification of issues;
 - (c) identification of preliminary Motions to be raised;
 - (d) procedural issues, including the dates by which any steps in the Proceeding are to be taken or begun, and the scheduling of the various stages of the Hearing;
 - (e) identification of facts, documents or evidence that may be agreed upon;
 - (f) the possibility of settlement of any or all issues between the Parties; and
 - (g) any other matter that may assist in the just and expeditious disposition of the Proceeding.

3.7 Discussion of Settlement at a Pre-Hearing Conference

- (1) A Pre-Hearing Conference shall be held in the absence of the public, and any discussion of settlement at a Pre-Hearing Conference and all statements made by the Parties regarding settlement shall be on a without prejudice and confidential basis, unless the Parties otherwise agree.

3.8 Each Party's Pre-Hearing Conference Memorandum, the Presiding Member's Report and any notes and records made in connection with the Pre-Hearing Conference shall remain confidential and cannot be disclosed by any Party, including at the Hearing, except as directed by the Presiding Member.

3.9 Orders, Agreements and Undertakings at a Pre-Hearing Conference

- (1) On consent of the Parties, or after giving the Parties an opportunity to make submissions, a Presiding Member may give directions or make orders, including

any procedural order that may be made by a Panel under these Rules, as they consider necessary or advisable with respect to the conduct of the Proceeding.

- (2) Orders, agreements and undertakings made at a Pre-Hearing Conference:
 - (a) shall govern the conduct of the Proceeding and are binding upon the Parties to the Proceeding, unless otherwise ordered by the Presiding Member, the Chair or the Panel; and
 - (b) shall be recorded in a report prepared by or under the direction of the Presiding Member, which shall be provided to the Parties and may, if ordered by the Presiding Member or the Chair, be provided to the Panel that hears the merits of the Proceeding.

RULE 4. MOTIONS

4.1 Use of Motions

- 4.2 A Party or any other person may seek a procedural order or other relief by bringing a Motion to the Committee in advance of a Hearing or to a Panel during a Hearing.

4.3 Timing, Conduct and Scheduling of Motions

- 4.4 A Motion shall be brought by a Party, as soon as possible after the need for relief is identified and at least 15 Business Days in advance of the day on which the Hearing is scheduled to commence, unless the nature of the Motion requires that it be heard during the Hearing itself or a Chair directs otherwise.

- (1) A Motion may be heard virtually or in writing.
 - (2) Where a Motion is heard virtually, each Motion participant may make submissions in respect of the Motion, which shall not exceed one (1) hour, including any reply submissions, except with permission of the Chair or the Panel hearing the Motion.
- 4.5 A person bringing a Motion to be heard other than at a scheduled Pre-Hearing Conference or at a Hearing shall obtain available dates and times for the hearing of the Motion from the Hearings Office and shall attempt to obtain agreement from the other Motion Participants as to a date and time for the hearing of the Motion.

Where the Motion Participants agree on a date for the hearing of a Motion, the Hearing Office shall schedule the hearing of the Motion based on the availability of a Motion Panel. Where agreement cannot be reached, the Chair shall direct the scheduling of the Motion, after hearing submissions from the Motion Participants in writing.

4.6 Evidence on Motions

4.7 Evidence on a Motion shall be given by affidavit unless the Committee directs that it be given in some other form.

- (1) A Motion Participant may not cross-examine the deponent of the affidavit filed by another Motion Participant unless the Motion Participants consent or the Committee directs otherwise.

4.8 Motion Materials

- (1) A Motion shall be initiated by a Notice of Motion unless the nature of the Motion or the circumstances make a Notice of Motion impractical or unnecessary or the Committee directs otherwise.

- (2) The Notice of Motion shall set out the grounds of the Motion, the evidence to be relied upon, and the relief sought.

4.9 The Moving Party shall deliver the Notice of Motion and other materials in support of the Motion at least 15 days in advance of the Motion.

4.10 If another Motion Participant intends to rely upon materials, the Motion Participant shall deliver those materials at least 10 days in advance of the Motion.

- (3) The Moving Party shall prepare and deliver a draft order.

4.11 Motion for Production of Documents from a Third Party

- (1) A Party requesting the production of documents that are not in the possession of a Party may bring a Motion for production of documents from a third party. Such motions cannot be brought before the commencement of the Hearing, and must be heard by the Discipline Panel or the Committee.

- (2) A notice of motion seeking documents from a third party must explain how the documents sought are likely relevant to an issue in the Proceeding or to the competence of a witness to testify in the Hearing and why their production is necessary in the interest of justice.

- (3) The requesting Party shall deliver the Notice of Motion to the third party holding the records together with a summons requiring their attendance on the Motion date and attendance money in accordance with the Rules of Civil Procedure. The summons must be served at least 21 days before the Motion date.

- (4) If a person at issue in the records is someone other than the holder of the records, the motion materials must be provided to them by the requesting Party and the Panel may grant the person status on the Motion.
- (5) During the hearing of the Motion, the Panel will first determine whether to order the person possessing the records to produce them to the Panel for review. Second, if applicable, and after reviewing the records produced to it pursuant to this Rule, the Panel will determine whether to provide such records or a portion thereof to the Parties.
- (6) In determining whether to order production to the Panel and ultimately to the Parties, the Panel must consider:
 - (a) any claim that the documents are privileged;
 - (b) the likely relevance of the records to a significant issue in the Hearing or to the competence of a witness to testify in the Hearing; and
 - (c) whether production of the records is necessary in the interests of justice.

Both above requirements at (b) and (c) must be met before a record is produced to the Panel.
- (7) Third party records ordered produced shall only be shared or distributed for the purposes of the Proceeding or as required by law, unless the Panel orders otherwise. The Panel may place additional conditions on the use of third party records.

RULE 5. ADJOURNMENTS

5.1 Requests for Adjournment

- (1) Requests for adjournment shall be made at the earliest opportunity that the Party or Representative making the request becomes aware that an adjournment is required. A Party seeking an adjournment shall attempt to obtain the consent of the other Parties before bringing a request before the Committee.
- (2) Where the request is made before the date of the step in the Proceeding, the Party seeking the adjournment shall make the request by letter to the Chair, filed with the Hearings Office and copied to the responding Party, setting out:
 - (a) the request;
 - (b) the reasons for the request;

- (c) the nature of the allegations against the Registrant;
 - (d) available dates for the step in the Proceeding to be rescheduled as confirmed with the Hearings Office; and
 - (e) the position of the responding Party regarding the adjournment request and availability for alternate dates.
- (3) Where a request for an adjournment is made before the Proceeding date, the Chair or their designate may:
- (a) adjourn the step in the Proceeding, if the request is made on consent or is unopposed;
 - (b) dispose of the request after hearing the parties in writing, or
 - (c) direct that the request proceed by Motion before the Chair or their designate, in writing, virtually or by other means at such time directed by the Chair. Unless directed otherwise by the Chair, the requestor shall deliver to the Hearings Office and the responding Party a Motion Record containing a Notice of Motion and supporting material.
- (4) Where a request for an adjournment is made after the Hearing has commenced,
- (a) the Party seeking the adjournment may make the request directly to the Chair of the Panel or by letter filed with the Hearings Office and copied to the responding Party (if the Panel is not sitting), and shall advise the Chair of the Panel of:
 - i. the request;
 - ii. the reasons for the request;
 - iii. available dates for the Hearing to be rescheduled as confirmed with the Hearings Office; and
 - iv. the position of the responding Party regarding the adjournment request and availability for alternate Hearing dates.
 - (b) the Panel may:
 - i. dispose of the request that is on consent or unopposed; or
 - ii. direct that the request be heard by Motion before the Panel, in writing, virtually or by other means at such time directed by the Panel. Unless directed otherwise by the Panel, the requestor shall deliver to the Hearings Office and the responding Party a

Motion Record containing a Notice of Motion and supporting material.

- (7) The Chair or Panel may grant a requested adjournment, including on such terms and conditions as they consider just, after considering the following factors:
- (a) Balancing the right of the parties to a fair Hearing against the desirability of an expeditious Hearing;
 - (b) Whether there is prejudice to a person;
 - (c) How long the requesting Party has had to prepare for the Proceeding;
 - (d) Whether the request for adjournment was made promptly;
 - (e) The efforts made to avoid the adjournment;
 - (f) The number of prior requests for an adjournment by the requesting Party;
 - (g) Whether the public is at risk if an adjournment is granted;
 - (h) The proposed length of the adjournment;
 - (i) The costs of the adjournment;
 - (j) The public interest; and
 - (k) Any other factor deemed relevant to determine whether the adjournment request should be granted.

RULE 6. CONSENT ORDERS

- 6.1 Pursuant to s. 4.1 of the SPPA, the Parties may request a Consent Order that a Proceeding be disposed of without a Hearing, subject to the Act and regulations.
- 6.2 Where the Parties request a Consent Order, the Parties will provide to the Committee:
- (1) the terms of the request in writing, together with any written submissions, including:
 - (a) the nature of the Order the Parties request from the Committee;
 - (b) all facts admitted by the Registrant or agreed by the Parties; and
 - (c) all contraventions of the Act, regulations and/or Code of Ethics admitted by the Registrant and any legal issues agreed upon.

6.3 The Parties may make a request for a Consent Order:

- (1) at a Pre-Hearing Conference, in writing to the Presiding Member, to be forwarded to the Chair;
- (2) before the start of a Hearing, other than at a Pre-Hearing Conference, in writing by filing it with the Hearings Office addressed to the Chair, or
- (3) at the start of a Hearing or during a Hearing and before a final order.

6.4 A Party may file a request for a Consent Order on behalf of the Parties if copied in writing to all other Parties.

6.5 Where the Committee believes the proposed Consent Order is consistent with the mandate of the PGO and the Act, the Committee will issue a Consent Order incorporating the contents of the request.

6.6 A Consent Order is public information unless the Committee directs otherwise.

6.7 Where a request for a Consent Order is made and the Committee has concerns the proposed Consent Order may not be consistent with the mandate of the PGO or the Act, the Committee will so notify the Parties and may receive submissions from them.

6.8 If a Committee rejects a requested Consent Order, the Committee will schedule a Hearing, or the Hearing will continue, as applicable.

RULE 7. CONDUCT AND MANAGEMENT OF THE HEARING

7.1 Public Hearings

- (1) Except for Pre-Hearing Conferences, Proceedings are public, unless the Committee has ordered that a Proceeding be closed to the public, in accordance with section 8(2) of Regulation 258/02.

7.2 Electronic Devices and Publication of Proceedings

- (1) No person may:
 - (a) take or attempt to take a photograph, audio or video recording or other record by any means at a Proceeding; or
 - (b) publish, broadcast, reproduce or otherwise disseminate a photograph, audio or video recording or other record taken in contravention of this subrule.
- (2) This sub-Rule does not apply to:

- (a) a person unobtrusively making handwritten or typed notes, or sketches at a Proceeding;
- (b) a person taking a photograph, audio or video recording or other record with the prior authorization of the Discipline Panel;
- (c) a court reporter who has been hired by the Hearings Office to record the Proceeding; or
- (d) a person with a disability using an assistive device.

7.3 Hearing Format

- (2) A Hearing shall be held virtually, unless the Committee directs otherwise.
- (3) The Committee may direct all or part of a Proceeding to be heard in-person if the Committee believes that not doing so will cause significant prejudice to a Party. Before making a decision, the Committee will give the Parties the opportunity to make submissions on such terms as the Committee considers appropriate.
- (4) The Committee may allow all or part of a Proceeding to be heard in writing if:
 - (a) the parties consent; or
 - (b) the Committee, after considering submissions from the parties, makes an order that the Proceeding should be heard in this way.

7.4 Hearing Management

- (1) The Hearing Panel or its Chair may, at any time, on their own initiative or following a request by a Party:
 - (a) schedule or adjourn a Hearing or any part of a Hearing;
 - (b) set timelines or deadlines for steps in the Hearing;
 - (c) direct parties to make written submissions;
 - (d) set time limits for oral submissions and page limits for written submissions; and
 - (e) give any other procedural directions necessary to ensure the Hearing proceeds fairly and effectively.

7.5 Documents and Witnesses

- (1) Each Party to a Proceeding shall deliver to every other Party (a) a list of, and (b) if not previously produced, copies of, all documents and things that the Party intends to produce or enter as evidence at the Hearing.
- (2) Each Party to a Proceeding shall deliver to every other Party a list containing the identity of any witnesses the Party intends to call and a statement containing the substance of each witness's anticipated evidence.
- (3) The PGO must produce the information set out in (1) and (2) above as soon as is reasonably practicable after the Notice of Hearing is served but in any case, not less than 30 days before the commencement of the Hearing.

7.6 Any other Party must produce the information set out in (1) and (2) above as soon as is reasonably practicable after disclosure by the PGO under this Rule but in any case, not less than 15 days before the commencement of the Hearing.

7.7 In the event that the PGO produces any information set out in (1) and (2) above less than 15 days before the Hearing, any Party who wishes to produce information set out in (1) and (2) above in response thereto may produce the information as soon as is reasonably practicable after disclosure by the PGO under this Rule but in any case, not less than 5 days after disclosure by the PGO and prior to the commencement of the Hearing.

- (4) A Party who does not disclose a document or thing in compliance with this Rule may not refer to the document or thing or introduce it in evidence at the Hearing without leave of the Panel, which may be on any conditions that the Panel considers just.
- (5) A Party who does not include a witness in the witness list or provide the subject matter of the evidence a witness is expected to give in accordance with these Rules may not call that person as a witness without leave of the Panel, which may be on any conditions as the Panel considers just.

7.8 Expert Opinion Disclosure

- (1) A Party who intends to call an expert to give expert opinion evidence at a Hearing shall:
 - (a) inform the other Parties of the intent to call the expert;
 - (b) identify the expert and the issue(s) on which the expert's opinion will be tendered;
 - (c) deliver to the other Parties a copy of the expert's written report or, if there is no written report, a witness summary; and

- (d) file an “Acknowledgement Form – Expert’s Duty” signed by the expert, in the form prepared by the PGO.
- (2) The PGO shall deliver any expert report or witness summary upon which the PGO intends to rely at the Hearing to the Registrant at least sixty (60) days before the commencement of the Hearing.
- (3) The Registrant shall deliver any expert report upon which they intend to rely to the PGO at least thirty (30) days before the commencement of the Hearing.
- (4) The PGO may deliver a reply expert report at least fifteen (15) days before the commencement of the Hearing.
- (5) Where an expert report is filed, it shall at a minimum include the following information:
 - (a) qualifications of the expert;
 - (b) the instructions provided to the expert;
 - (c) the nature of the opinion being sought;
 - (d) the factual assumptions upon which the opinion is based; and
 - (e) a list of documents reviewed by the expert.
- (6) A Party who fails to comply with this Rule may not call the expert as a witness or file the expert’s report without leave of the Panel, which may be on any conditions that the Panel considers just.
- (7) Where the Panel hears testimony of an expert witness, it may admit as an exhibit at the Hearing the report of the expert witness.

7.9 Obtaining a Summons

- (1) A Party seeking to require a person to attend a Proceeding as a witness may file a written request for a Summons, addressed to the Chair and submitted to the Hearings Office.
- (2) If signed by the Chair, the Hearings Office will issue the Summons to the requesting Party.
- (3) The requesting Party is responsible to serve the Summons on the witness by personal service in accordance with section 12 of the SPPA. The requesting Party is responsible to pay the witness the attendance fees payable under the Ontario Rules of Civil Procedure to witnesses at the Superior Court of Justice.

- 7.10 Nothing in this Rule requires the Chair to accept a request to issue a Summons. The Chair may direct a Party to deliver written reasons for the request. Before a Chair refuses to issue a Summons, the Chair will give the Parties the opportunity to make written submissions on such terms as the Chair considers appropriate.

7.11 Notice of Constitutional Questions

- (1) Where a Party intends to raise a question concerning the constitutional validity or applicability of legislation, a regulation or by-law made under legislation, or a Rule of common law, or where a Party claims a remedy under s. 24(1) of the Canadian Charter of Rights and Freedoms, the Party must deliver a notice of a constitutional question to the other Parties and the Discipline Committee and the Attorneys General of Canada and Ontario as soon as the circumstances requiring notice become known and, in any event, at least fifteen (15) days before the question is to be argued.
- (2) The Attorney General of Canada and the Attorney General of Ontario may give evidence and make submissions to the Panel regarding the constitutional issue or question.

RULE 8. EVIDENCE AT HEARINGS

8.1 Evidence by Agreement

- (1) The Parties may present, and a Panel may receive, orally or in writing, a statement of facts that are agreed upon by the Parties as evidence of those facts.
- (2) A statement of agreed facts may address some or all of the facts in issue in the Proceeding.

8.2 Evidence by Affidavit

- (1) A Party may present, and a Panel may receive, the evidence of any of the Party's witnesses in the form of an affidavit that has been affirmed by the witness.
- (2) Where a Party presents the evidence of a witness in the form of an affidavit:
 - (a) the Party may examine the witness for not more than 10 minutes, or such other time as the Panel may direct;
 - (b) each opposing Party may cross-examine the witness; and
 - (c) if the witness is cross-examined, the Party who filed the affidavit may re-examine the witness.

- (3) Where a Party intends to present the evidence of a witness in affidavit form, the Party shall deliver copies of the affidavit to all other Parties at least 30 days before the commencement of the Hearing, and file the affidavit with the Discipline Committee at the Hearing.
- (4) Where a Party is served with an affidavit of a witness, the Party shall, at least 15 days prior to the commencement of the Hearing, notify the Party who served the affidavit as to whether or not they intend to cross-examine the witness at the Hearing.
- (5) If no Party gives notice in accordance with this Rule that they intend to cross-examine a witness whose evidence is to be presented by affidavit, the witness's attendance at the Hearing is not required, unless the Panel orders otherwise.
- (6) A Panel may make an order striking evidence that is presented in affidavit form and is inadmissible.

8.3 Excluding Witnesses

- (1) A Panel may order that one or more witnesses be excluded from the Hearing until called to give evidence.
- (2) An order excluding witnesses may not be made in respect of a Party to the Proceeding or a witness whose presence is required to instruct counsel, but the Panel may require any such witness to give evidence before other witnesses are called to give evidence on behalf of that Party.
- (3) Where an order is made excluding one or more witnesses from the Hearing, no person shall communicate or permit the communication of any evidence given during an excluded witness' absence from the Hearing to that witness until after the witness has been called and has given evidence.

8.4 Vulnerable Witnesses

- (1) Where it would facilitate a full and candid account of a witness's evidence or otherwise be in the interests of justice, the Committee may do one or more of the following:
 - (a) permit a support person to sit near a witness while the witness testifies, subject to any order made by the Panel directing the conduct of the support person during the witness's testimony;
 - (b) allow a witness to testify in a manner that would allow the witness not to see the Registrant or direct the Registrant to turn off their video feed or to remain off screen during the witness's testimony; or

- (c) order that a Registrant who is not represented not personally cross-examine a witness and in such a case, appoint counsel to conduct the cross-examination.
- (2) Any order made under this subrule must permit the Panel, Registrant and all representatives to be able to see and hear the witness and permit the Registrant to communicate with their representative during the witness's testimony.

RULE 9. COSTS

9.1 Procedure for Requesting Costs

- (1) Pursuant to s. 17.1 of the SPPA, a Party may seek an order that a Party pay the costs or expenses of a Proceeding if the conduct or course of conduct of that Party has been unreasonable, frivolous or vexatious or a Party has acted in bad faith.
- (2) A Party requesting an order for costs or expenses shall, where practicable, deliver a detailed written explanation of the basis upon which the costs or expenses requested are claimed.
- (3) Where the request for costs or expenses includes disbursements or out-of-pocket expenses, evidence of these may be proved by an Affidavit attaching a copy of any invoice or receipt.
- (4) Where costs are sought, the Committee may consider, among other factors in determining whether the conduct of the Party has been unreasonable, frivolous or vexatious or whether a Party has acted in bad faith, the failure of a Party to comply with these Rules, including but not limited to late requests for adjournments.

RULE 10. FINAL DECISIONS AND ORDERS

10.1 Notice of Final Decision

- (1) In addition to the methods described in section 18 of the SPPA, the Discipline Committee may send each Party a copy of its final decision or order, including the reasons if any have been given,
 - (a) by courier;
 - (b) by personal service; or
 - (a) by email.

10.2 Correcting, Clarifying and Reviewing Decisions/Orders

- (1) A Panel may at any time, on the request of a Party or at its own initiative, correct a typographical error, error of calculation, technical error or other similar error made in an order or decision of that Panel. Where the Panel makes a correction on its own initiative, it shall advise the parties.
- (2) A Panel may at any time, on the consent of the Parties or after considering written submissions by the Parties, clarify an order or decision of the Panel that contains a misstatement, ambiguity or other similar error.

10.3 Requests for Access to the Record

10.4 If a member of the public wishes to have access to the record of the Proceedings, the person must bring a Motion in writing before the Committee, and must give notice to the Parties and any other interested person. The Notice of Motion must set out the purpose, scope of the access and the intended use being sought and, if the person is requesting permission to duplicate an exhibit, sufficient details that would allow the Committee to consider whether or not duplication would adversely affect the integrity of the exhibit.

- (1) Prior to making its decision on a motion for access to all or part of the record, the Committee will consider the written submissions of the person seeking access, the Parties and any other persons having an interest. The Committee may consider the following factors:
 - (a) the general principle that hearings be open to the public;
 - (b) the intended use of the exhibit;
 - (c) proprietary or privacy interests in the exhibit;
 - (d) the timing of the request;
 - (e) interference with the proper and orderly conduct of the Hearing;
 - (f) interference with the Registrant's right to a fair hearing; and
 - (g) any other factor that may be relevant to the Committee's decision.
- (2) In the event that the Committee decides to grant access to all or part of the record, it may decide to limit who may access the record and how it may be used. The Committee or Discipline Panel must be satisfied that the security of any exhibit will be protected, and may provide for supervision and control of any exhibit by a person designated by it.

- (3) Before granting a member of the public access to any part of the record, the PGO must redact any portion of the material that is the subject of an order prohibiting publication and may redact the document(s) to prevent disclosure of the names and any other identifying personal information of any complainants, or witnesses. The requesting individual is responsible for any expenses incurred in relation to the production of the material provided.

FORMS

[General Heading]

NOTICE OF MOTION

THE [IDENTIFY MOVING PARTY] WILL make a motion to the Discipline Committee of the Association of Professional Geoscientists of Ontario on [day], [date], at [time], or as soon after that time as the motion can be heard [by videoconference].

THE MOTION IS FOR [state here the precise relief sought].

THE GROUNDS FOR THE MOTION ARE [specify the grounds to be argued, including a reference to any statutory provision or Rule to be relied on].

THE FOLLOWING DOCUMENTARY EVIDENCE WILL be used at the hearing of the motion: [list the affidavits or other documentary evidence to be relied on].

[Date]

[Name, address, telephone number and email address of moving motion participant's lawyer or moving motion participant]

TO: [Name, address, telephone number and email address of responding motion participant's lawyer or responding motion participant]

PRE-HEARING CONFERENCE MEMORANDUM

Discipline Committee of the Association of Professional Geoscientists of Ontario

Professional Geoscientists of Ontario

- and -

[name of Registrant]

**PRE-HEARING CONFERENCE MEMORANDUM OF
[THE PGO OR REGISTRANT'S NAME]**

Date of Pre-Hearing Conference:

Name of the PGO's Counsel:

Name of the Registrant's Counsel (if applicable):

BACKGROUND INFORMATION

1. Set out the allegations or attach a copy of the Notice of Hearing or statement of allegations to this memorandum.
2. Set out a brief statement of the theory of your case, including factual contentions.
3. Provide a description of the legal issues to be determined at the Hearing.
4. For every witness you may call at the Hearing, set out or attach a brief statement or brief summary of the anticipated evidence of the witness.

5. Attach a copy of any document that would assist the Pre-Hearing Conference to be more effective.

SETTLEMENT AND AGREEMENTS

6. What are the prospects for settlement?
7. How should this matter be settled?
8. Set out the facts, in numbered paragraphs, that you believe should be agreed to.
9. Set out a numbered list of the documents you believe should be admitted into evidence on agreement, as part of a joint brief of documents.

ADDITIONAL STEPS BEFORE THE HEARING

10. Regarding disclosure:
 - a) Has the PGO made full disclosure to the Registrant?
 - b) Has the Registrant made disclosure to the PGO in accordance with the Discipline Committee's Rules of Procedure?
 - c) Are there any issues with respect to disclosure?
 - d) Have you produced all of all the expert reports upon which you intend to rely?
 - e) If you have not yet made all required disclosure, why not and by what date will it be done?

11. Regarding motions:

- a) Do you anticipate bringing any motions before or during the Hearing?
- b) If so, what order will you seek and on what grounds?
- c) When do you intend to bring each motion?

12. Regarding a documents brief:

- a) Set out a numbered list of the documents you expect to file as evidence.
- b) If there is to be a joint book of documents, should the Hearing Panel be able to review the brief before the Hearing?
- c) If so, by what date can the brief be delivered?

13. Regarding a book of authorities:

- a) Will you be referring to any authorities other than the Act the regulations? If so, list them.
- b) If a book of authorities is referred to, who should prepare this book of authorities and when should it be delivered?

PLANNING THE HEARING

14. Regarding witnesses:

- a) In numbered paragraphs, list your fact witnesses in the order that you expect to call them and estimate the length of time it will take to hear their entire evidence, including cross-examination and questions from the Hearing Panel:

Number	Witness Name	Estimated Time
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(i)

(ii)

b) It is the preference of the Discipline Committee to identify any potential conflicts of interest or circumstances giving rise to a reasonable apprehension of bias at the earliest possible opportunity. Is there any reason why the witness list cannot be circulated to the Hearing Panel?

c) Do you anticipate calling any expert witnesses?

d) If so, have you disclosed a copy of the expert's report to the other party?

15. Regarding scheduling the Hearing:

a) Are there any special considerations affecting the setting of a Hearing date arising from the availability of witnesses or otherwise?

b) Estimate how many days will be required for your case in total:

(i) How long will it take you to make your opening and closing submissions on the issue of finding?

(ii) How long will it take to dispose of any motions you anticipate bringing during the Hearing, including adequate time for deliberation by the Hearing Panel?

(iii) How long will it take to hear the evidence of all of your anticipated fact witnesses, including any cross-examination and questions from the Hearing Panel?

(iv) How long will it take to hear all the evidence of all of your anticipated expert

witness(es), including any cross-examination and questions from the Hearing Panel?

(v) In the event that the Hearing Panel makes a finding, how long do you anticipate requiring for any submissions and evidence on the issue of what order the Hearing Panel should make?

c) When will you be prepared for the Hearing to commence?

[Date]

*[Signature of most responsible counsel who
will be attending at the Hearing]*

[General Heading]

REPORT OF PRESIDING MEMBER

A Pre-Hearing Conference was held in this matter on *[date]*. In attendance were *[list people and their capacity]*.

Agreements

The parties agreed that the following facts can be assumed to be correct for the purpose of the hearing:

[list facts]

The parties agreed that the following documents can be admitted in the hearing on consent:

[list documents]

Directions and Orders

The outstanding motions and the dates they will be heard are as follows:

<i>Number</i>	<i>Nature of motion</i>	<i>Date to be heard</i>
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1.

The following motions will be argued at the hearing itself:

<i>Number</i>	<i>Nature of motion</i>	<i>Estimate length of argument</i>
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1.

Other than for information that is discovered after the Pre-Hearing Conference, disclosure is complete *[or will be completed by (date)]*.

The following documents brief(s) will be delivered before the hearing:

<i>Number</i>	<i>Description</i>	<i>Party preparing</i>	<i>Date to be delivered</i>
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1

The Discipline panel may/should not *[choose one]* review them before the hearing.

The following written arguments and book of authorities will be delivered before the hearing:

<i>Number</i>	<i>Description</i>	<i>Party preparing</i>	<i>Date to be delivered</i>
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1			
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The Discipline panel may/should *[choose one]* review them before the hearing.

The hearing is scheduled to begin on *[date]* for *[number]* day(s).

The proposed schedule for the hearing is as follows:

<i>Date</i>	<i>Motions/arguments/witnesses</i>	<i>Estimate length of time</i>
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The witnesses will be immediately available when their evidence is reached on the day scheduled for their testimony and will be available on any following days. There are no other matters anticipated to occur during the hearing itself.

Other Matters

[Insert any other matters the parties should be aware of]

The parties are reminded to notifying the Presiding Member of any circumstances that would materially affect the conduct of the hearing.

[Date]

[Signature of Presiding Member]

To: *[list parties' counsel]*

(Title of Proceeding)

ACKNOWLEDGMENT OF EXPERT'S DUTY

1. My name is _____. I live in the city of _____, in the province of _____.

2. I have been engaged by or on behalf of _____ to provide evidence in relation to the above-noted proceeding.

3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:

(a) to provide opinion evidence that is fair, objective and non-partisan;

(b) to provide opinion evidence that is related only to matters that are within my area of expertise; and

(c) to provide such additional assistance as the panel may reasonably require, to determine a matter in issue.

4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date: _____

Signature: _____