

# CHECKLIST: CONTESTED HEARING BEFORE THE FITNESS TO PRACTISE COMMITTEE

**Contested Hearing:** A hearing that occurs when the member and the College have not come to an agreement about all or part of a matter. The member and the College will therefore present evidence (often through live witness testimony) about the allegations in dispute and make arguments to the Panel about the decision the Panel should make. The Panel will consider the evidence and submissions to determine whether the member is incapacitated and if so, what measures it should take, including most commonly ordering appropriate Terms, Limitations or Conditions to be placed on the member's Certificate of Qualification and Registration in the circumstances.

## Preparing for a Contested Hearing

- Read the College's [Practice Direction for Electronic Proceedings](#). College hearings, including motions, typically happen through videoconference.
- Read the [Rules of Procedure of the Discipline Committee and Fitness to Practise Committee](#).
- Read the [Tribunals Book of Authorities](#).
- Read the Notice of Hearing, including the allegations against me.
- Complete a technology set up with the Tribunals Office.
  - Tribunals staff will reach out to conduct a quick tech set up in advance of the hearing date if I am participating in my hearing.

## Legal Services

- Consider obtaining legal representation and/or seeking legal advice or services.

## Reviewing the College's Case and Settlement Discussions

- Receive and review disclosure from College Counsel.
- Review the allegations in the Notice of Hearing and consider the College's case against me.
- Consider whether to discuss settlement with College Counsel (if applicable).

## Pre-hearing Conference

- Decide whether to request or participate in a Pre-hearing Conference.
- Prepare for the Pre-hearing Conference (if applicable; see also Checklist: Pre-hearing Conference).
- Attend the Pre-hearing Conference.
- Comply with any Panel orders or directions made at the Pre-hearing Conference.

## Motions

- Determine whether I need to bring any motions.
  - For example, do I need to bring a motion to obtain records in the possession of a third party?
- Ensure I have brought the motion(s) in accordance with deadlines and requirements in Rule 5 of the Rules.

## Building My Case

- Receive and review documents the College will enter as evidence.
- Gather evidence to support my case.
  - This may include documentary evidence, audio or video recordings, or evidence that will be introduced by live witness testimony.
- Determine which witnesses will identify each document, photograph or video/audio recording or other piece of evidence I intend to rely on.
- Follow the requirements of Rule 7.04 of the Rules if I plan to call an expert witness to testify.
- Summon any witnesses for the hearing in accordance with the Rule 13.11 of the Rules and tell them when the hearing is.
- Conduct legal research and/or receive legal advice regarding any of the legal issues in my case.

## Preparing for the Hearing on the Finding

- Prepare my opening statement, if I choose to make one.
  - An opening statement is an opportunity to outline my position and what evidence I expect the panel will hear during the hearing before I introduce my evidence. I can present an opening statement after the College's opening statement or after the College has concluded its case.
- Receive and review the will-say statements of the College's witnesses.
  - Will-say statements are summaries of what a witness is expected to testify to at the hearing.
- Prepare questions I will ask the College's witnesses. This is called cross-examination.
- Plan what witnesses will come on my behalf and tell them when the hearing is. Summon any witnesses if needed (Rule 13.11).
- Plan what questions I am going to ask each of my witnesses. This is called examination-in-chief.
  - During examination-in-chief, a party will ask a witness open-ended questions. The party should avoid using leading questions.
- Prepare my witnesses for the hearing in accordance with 5(4) of the [\*Practice Direction for Electronic Proceedings\*](#) and let them know the Tribunals Office will be in touch about the hearing.
- Email the Tribunals Office a list of my witnesses 5 business days before the scheduled hearing (5(1)-5(3)) [\*Practice Direction for Electronic Proceedings\*](#).
  - The list includes the contact information for each witness, what order I intend to call upon the witnesses and what time each witness will join the proceeding.
- Prepare witness briefs for each of my witnesses.
  - A witness brief contains a copy of all the documents that will be introduced through a witness.
- Provide College Counsel a list of my witnesses and copy of my witness briefs, and all the documents and items intend to rely on during the hearing, at least 7 business days before the hearing.

Prepare my Book of Authorities.

- The Book of Authorities contains the case law and excerpts from legislation or regulations I will use to support my submissions during the hearing.

Prepare my closing submissions.

- Parties can make closing submissions at the end of the hearing to explain why the evidence heard by the panel supports or does not support a finding of incapacity.

Email every document I wish to rely upon during the hearing, in sequentially numbered pages, to the Tribunals Office, at least 5 business days before the hearing.

Email every photograph or video/audio recording or other piece of evidence I wish to rely upon during the hearing, to the Tribunals Office, at least 5 business days before the hearing.

## **Preparing for the Order Stage**

If the Panel makes a finding of incapacity, the Tribunals Office will schedule a hearing for the Panel to determine the Order.

Read the Panel's Decision and Reasons on Finding.

Understand what order College Counsel will request at the hearing.

Receive and review the documents College Counsel will enter as evidence, if any.

Consider what order I will request at the hearing and the reasons for my request.

Consider whether I plan to rely on any documents during the hearing.

Prepare my Book of Authorities (if applicable).

Email my order documents, if any, to the College Counsel at least 7 days before the start of the hearing.

Email my documents, if any, in PDF format to the Tribunals Office at least 5 business days before the hearing.

## Additional Resources

- [Tribunals Glossary](#)
- [Tribunals Book of Authorities](#)

## FAQS

- [Who should a member speak with if they need an accommodation for their hearing?](#) (See also Language of Hearings and Right to Use French, Rule 4.04)
- [What are the technological requirements to attend a hearing?](#)
- [What happens during a hearing?](#)

## Disclaimer

The information contained in this checklist should not be taken as legal advice and is meant to provide a general high-level overview of steps that self-represented Members can take to prepare themselves for their hearing. Additional steps may be required. Self-represented Members should carefully review the [Ontario College of Teachers Act, 1996](#), [Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee](#) and the [Tribunals Book of Authorities](#) to prepare themselves for their hearing.