

DISCIPLINE COMMITTEE'S GUIDELINES

Holding of face-to-face disciplinary hearings

CONSIDERING the public protection mission of the OACIQ Discipline Committee and its responsibilities;

CONSIDERING the importance of access to justice;

CONSIDERING that the health and social distancing measures decreed by Public Health in relation to the COVID-19 pandemic are maintained for an indefinite period;

CONSIDERING that it is imperative that the Discipline Committee continue its activities to ensure an adequate control over the behaviour of real estate brokerage professionals and the quality of the services they provide for the population;

CONSIDERING that technology makes it possible to conduct hearings remotely, via videoconference, while respecting the parties' right to be heard, and that the Discipline Committee promotes this way of proceeding;

THE FOLLOWING GUIDELINES WILL BE APPLIED:

1. If the parties refuse, for valid reasons, to proceed with a fully virtual hearing, face-to-face disciplinary hearings may resume with the presence of witnesses in the hearing room or, if necessary, via videoconference for some witnesses, whether or not the parties are represented by lawyers.
2. The public will not be admitted to the hearings unless the Chair of the Discipline Committee decides otherwise, following a request received in advance (10 days before the hearing) that would allow respecting the maximum number of people admitted into the hearing room, as well as all necessary health measures.

HEALTH MEASURES

The OACIQ would like to inform and reassure all record participants that all health and distancing measures will be taken and respected without half-measure when hearings are held in the hearing room. For this purpose, the hearing, consultation and waiting rooms will be thoroughly cleaned at the end of the day. Moreover, during adjournments for lunch, the clerk will ensure that work surfaces and door handles are disinfected.

Washrooms will be regularly disinfected, and wet wipes will be made available to attendees.

Prevention messages have been installed in the common areas of the building to remind people of some directives such as physical distancing, wearing a mask or face covering, and hand washing.

At all times, any person required to attend a Committee hearing must respect the rules issued by the Public Health Department:

- In case of symptoms, stay at home and attend the hearing remotely, if necessary.
- Respect the social distancing rules at all times (or the latest public health directives);
- Wearing a mask or face covering is mandatory, as well as hand washing on arrival and departure;
- All participants must answer questions about their health condition, namely whether they have been tested or have COVID-19 symptoms; Each person must also take a non-contact forehead temperature reading prior to the hearing.

The OACIQ reserves the right to refuse access to certain individuals, if necessary.

Even though all precautions have been taken to ensure a distance and respect the directives issued by the government, all participants are required to wear a mask or face covering when circulating inside a building. Once seated in their designated place in the hearing room, they may remove it. However, to ensure the quality of the recording, the mask must be removed when a participant speaks during the hearing.

Anyone summoned for a Committee hearing and showing symptoms of dry cough, fever, or breathing difficulties must not show up for the hearing and must, if necessary, attend the hearing remotely. The person must contact the Discipline Committee Registry by email at greffes@oaciq.com as soon as possible to notify it. Anyone who has visited the offices and shows such symptoms within 14 days following the hearing must also notify the Registry at the same address.

All participants belonging to the group of people recognized as being at risk of developing a severe disease following a COVID-19 infection (people aged 70 and over; people with a chronic illness or a weakened immune system) are strongly advised to follow the government's recommendations (including the recommendation of staying at home except in case of necessity or exception). Videoconferencing should be recommended for their participation.

HEARING ROOM LAYOUT

All furniture, tables, and chairs have been placed according to the required standards and must not be moved by participants.

All participants, except witnesses (for these, see next paragraph), must send a duly completed COVID-19 declaration form to the Registry, at least 4 days prior to the hearing and inform the Registry at any time before the hearing of any change in their situation.

All witnesses who will show up in person for a hearing must send a duly completed COVID-19 declaration form to the Registry by email at greffes@oaciq.com **within 5 days of receiving their subpoena.**

To comply with the distancing rules, the maximum capacity of the hearing room is 10 people. Therefore, the public will not be admitted to the hearings unless the Chair of the Discipline Committee decides otherwise, in accordance with public health measures.

Upon the arrival of all participants and return to the hearing room, hand disinfection will be required by the clerk.

Disinfection products (disinfectant wipes and disinfectants) will be made available to participants during the hearings. Present witnesses will have access to a disinfectant and gloves since they may need to consult paper documents.

Single-use water bottles will be made available to witnesses. We will allow participants to bring their own water bottle to the hearings. Note that the only beverage allowed in the hearing room is water.

Only necessary movements and outings will be authorized to reduce the number of people in the common areas and thus the risk of spreading the virus.

The sharing of objects (pencil, paper, etc.) between participants is prohibited. Participants must bring all the necessary equipment such as a computer or tablet to electronically consult the documents and materials that will be placed in the Registry's file. Please note that no Registry materials will be provided to participants.

A consultation room will be assigned to each party. No room exchange will be allowed to reduce the risk of spreading the virus. The rooms will be disinfected.

PREREQUISITES:

Lawyers and/or parties must inform the Registry of the number of people who will accompany them during the hearings at least 10 days before the hearing.

No later than 10 days prior to the hearing, the parties must send the list of witnesses with the following details by email to the Registry at greffes@oaciq.com.

- The identity of persons who will testify by videoconference and those who will show up in person.
- Names and titles.
- The telephone numbers of persons who will testify by videoconference so that they can be reached during the remote hearing.
- The email addresses that will be used by persons testifying by videoconference to participate in the hearing.
- For testimonies in the hearing room, the time of arrival and the date of testimony.

A **schedule** of participants' arrival times will be communicated prior to the hearing to avoid any crowds. Upon arrival, lawyers and/or parties may sit in their designated place in the hearing room or go to the consultation room assigned to them by the clerk.

During adjournments, the parties will be invited, as far as possible, to remain in their consultation room (except for necessary movement).

It is the responsibility of lawyers and/or parties to ensure that witnesses have submitted the duly completed COVID-19 declaration form to the Registry or to check with their witness that the form has been forwarded to the Registry by email at greffes@oaciq.com. A copy of the form will be annexed to the subpoenas. Please note that this COVID-19 declaration form is also available on the OACIQ website in the *Discipline Committee* section.

TESTIMONY VIA VIDEOCONFERENCE:

For persons who will testify via videoconference (semi-virtual hearing), the Committee refers lawyers and parties to the rules prescribed in the *Participant's Guide for holding a virtual hearing of the Bureau des présidents des conseils de discipline* and specifies that these rules will apply to live hearings with the necessary modifications, and reminds the parties and/or lawyers of the following rules, including but not limited to:

- It is the responsibility of lawyers and/or parties to ensure that their witnesses have the necessary equipment to participate in the remote hearing and that they are able to use it properly. Having a spare device on hand in case of technical problems, such as a tablet or cellphone, can be useful.
- Lawyers and/or parties must ensure that their witnesses participate by providing them or ensuring that they have received the link to participate in the hearing and assist them, if necessary, so they can testify remotely. Witnesses must be notified by the parties that if they object to a question, a witness may be excluded from the hearing and temporarily taken to a virtual waiting room.
- Lawyers and/or parties must ensure that their witnesses have access to the documents about which they will be called to testify.
- Lawyers and/or parties must ensure that the rules and directives of the court are conveyed to their witnesses, especially regarding decorum.
- Lawyers and/or parties must ensure that they establish an alternative means of communication with their witnesses in case of technical problems.

DOCUMENTS AND PROCEDURES

All documents and procedures shall be placed on file **electronically only**.

Only a hard copy of the documents used by witnesses present in the hearing room will be allowed. This copy must be identified and tabbed to facilitate handling by the witness. It may be given to the clerk at the beginning of the hearing. Hygiene measures have been implemented as mentioned above.

The list of exhibits and documents, as well as the authorities to which the parties refer, an agreed statement of facts, a list of admissions and their written representations should be digitized with bookmarks, have a clear title and be paginated. In addition, clarifications regarding relevant paragraph numbers should be identified.

If objections have not been made at a management conference, they must be reported to the Discipline Committee as soon as possible by notifying the Registry (greffes@oaciq.com).

All documents and procedures must be sent by email to the Registry at greffes@oaciq.com no later than **4 days before the hearing** or at any other time that has been previously agreed upon between the lawyers and/or parties and the Chair of the Committee.

Should a document not be transmitted beforehand, it must be sent as soon as possible by email to the hearing clerk at greffes@oaciq.com, who will ensure its distribution.

Lawyers and parties must have at their disposal all the necessary computer equipment such as a computer, tablet, or smart phone which will enable them to consult the exhibits and documents that will be submitted.

Although the parties must submit to the Registry the documents they intend to file 4 days before the hearing, access to a virtual file via ONE DRIVE will be transmitted to all participants 48 hours prior to the hearing. This file will make available to all participants the documents and procedures that have been filed in person in the Registry file.

PRODUCTION OF EVIDENCE AND DOCUMENTS

The transmission of documents to the decision-making body will be carried out as follows, unless otherwise agreed between the parties and the Chair during management conferences:

- In the case of submission of consent documents, the documents will be sent to the decision-making body at least 48 hours before the hearing.
- During guilt and sanction hearings, the documents will be sent to the decision-making body at least 48 hours before the hearing.
- If contested documents are filed, the documents will be transmitted to the decision-making body using file sharing with the One Drive application once production has been authorized by the Chair or Vice-Chair of the Committee. The opposing party may consult the document beforehand. To do so, the clerk shall give the opposing party access to the document filed in the ONE DRIVE.

ADDITIONAL TERMS AND UPDATES

The Committee may determine other terms or update these guidelines to ensure the smooth running of the face-to-face hearing.

The committee reserves the right to end the hearing, to remove from the premises any person who does not comply with the guidelines, those of public health or who in any way endangers the health and safety of attendees, or to take any other appropriate measure.