



EAB Tribunal Cluster

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Participant's Code of Conduct

This Code of Conduct ("Code") applies to all parties, representatives, participants and interveners (each referred to as a "Participant"), involved in appeals to the Environmental Appeal Board, Forest Appeals Commission, and Oil and Gas Appeal Tribunal (individually, the "Board", and collectively the "Boards").

This Code describes the minimum standards of behaviour expected of all Participants, so the Board can ensure that appeals are heard fairly, efficiently, and in a safe and supportive environment that is trauma informed and culturally sensitive¹. The Code is intended to ensure that everyone can participate in the appeal process.

The expectations listed in the Code apply to all interactions that Participants have with the Board staff and members. The Code applies before, during and after hearings take place.

Duties of a Participant

A party, participant, or intervener may represent themselves before the Board. Above all, a Participant must treat Board staff and members, as well as other Participants and witnesses, respectfully and courteously. This means:

- consistently using the correct names, titles, and pronouns as identified by others;
- not challenging another person's character or motivations, except only as necessary to challenge witness testimony on matters relevant to an appeal;
- not engaging in physical behaviour or communication that is intended to humiliate, offend, degrade, or intimidate another person involved in an appeal, whether within a hearing or otherwise;
- refraining from profanity;
- refraining from all language and conduct that suggests a discriminatory purpose or mindset, including word selection or differential treatment that is racist, sexist, homophobic, transphobic, or otherwise prejudiced; and
- being prepared for any proceeding, as scheduled within an appeal.

¹ Trauma informed and culturally sensitive adjudication acknowledges, respects, and integrates Participants' cultural values, beliefs, and practices.

A Participant must also:

- be honest and truthful in everything they say, and not submit any evidence they know to be false;
- follow the Board's Rules (including this Code), available on the website of each Board;
- be able to promptly give instructions to a representative (if the Participant is a party, participant, or intervener), or to be able to promptly receive instructions from a client (if the Participant is a representative);
- make themselves or an alternate representative reasonably available for hearing dates following an adjournment;
- try their best to meet all deadlines set by the Board, and promptly let the Board know if they cannot meet any deadlines;
- engage in settlement discussions only in good faith, with a view to resolving some or all of the issues in an appeal;
- raise, as soon as possible, any concerns about unfair processes in an appeal, including any concerns about bias on the part of the Board members who are deciding any part of an appeal;
- respect the confidentiality of any information the Participant learns about in mediations or that the Board describes as confidential, by not using it in any court proceeding or other legally binding process, except where the Participant is legally obligated to do so;
- not attempting to contact a member of the Board directly.

A representative is expected to dissuade their clients and witnesses from disrupting the hearing process. Representatives are expected to instruct clients and witnesses about appropriate conduct and the requirements for conduct outlined in this Code.

The Boards encourage all Participants to advise the Board in person, verbally or in writing (as appropriate) if they consider that other Participants are not complying with this Code. Participants are expected to do so promptly enough that the Board can address the issue effectively and proactively. Participants must comply with this Code when raising their concerns, and must continue to act respectfully toward all other Participants and the Board, even while raising their concerns.

Enforcing this Code

The Boards can issue orders to ensure Participants abide by this Code.² The Boards can do so on their own initiative or if a Participant informs the Board about any other Participant violating this Code. Actions available to the Boards may include:

- educating Participants about their obligations under the Code;
- requiring Participants to communicate to the Board, other Participants, or both through a representative;
- requiring Participants to communicate with the Board, other Participants, or both only in certain ways (such as by writing);
- issuing and publishing an order requiring a Participant to abide by the Code;
- ending mediation and moving an appeal to adjudication;
- restricting or excluding a representative from the proceeding, especially where there is more than one representative acting for the same party, participant, or intervener;
- restricting a participant or intervener from participating further in an appeal;
- adjourning an oral hearing and converting the appeal to one based on written submissions;
- ordering costs against a party, participant, or intervener (including the costs of other parties, participants, or interveners, or the Board); and
- dismissing an appeal.

² Orders can be made at any time under section 14 of the *Administrative Tribunals Act* or to maintain order during hearings under section 48 of the *Administrative Tribunals Act*.