

Draft Regulation

Professional Code
(chapter C-26)

Rules of evidence and practice for the conduct of proceedings relating to complaints lodged with the disciplinary councils of professional orders — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Rules of evidence and practice for the conduct of proceedings relating to complaints lodged with the disciplinary councils of professional orders, made by the Office des professions du Québec, is published as a draft and may be submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation amends the Rules of evidence and practice for the conduct of proceedings relating to complaints lodged with the disciplinary councils of professional orders (chapter C-26, r. 8.1) to promote the handling of complaints and the conduct of the hearings.

The draft Regulation has no impact on the public or on enterprises, including small and medium-sized businesses.

Further information on the draft Regulation may be obtained by contacting Ariane Imreh, Direction des affaires juridiques, Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3; telephone: 418 643-6912, extension 369, or 1 800 643-6912, extension 369; email: ariane.imreh@opq.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Roxanne Guévin, Acting Secretary, Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3; email: secretariat@opq.gouv.qc.ca. The comments will be forwarded by the Office to the Minister of Higher Education and may also be sent to interested persons, departments and bodies.

ROXANNE GUÉVIN,
*Acting Secretary of the Office
des professions du Québec*

Regulation to amend the Rules of evidence and practice for the conduct of proceedings relating to complaints lodged with the disciplinary councils of professional orders

Professional Code
(chapter C-26, s. 184.3)

1. The Rules of evidence and practice for the conduct of proceedings relating to complaints lodged with the disciplinary councils of professional orders (chapter C-26, r. 8.1) are amended in the title by inserting “and motions” after “complaints”.

2. Section 1 is replaced by the following:

“**1.** These Rules apply to the conduct of proceedings relating to complaints and motions lodged with the disciplinary councils of professional orders to promote handling of complaints and motions.”

3. The following is inserted after section 5:

“**5.1.** For the purposes of these Rules, appropriate technological means that are available to both the parties and the disciplinary council or the chair of the disciplinary council should be used where the circumstances allow, taking into account the technological environment in place to support the activities of the council.

In accordance with the rules of natural justice, the disciplinary council or the chair of the disciplinary council, even on its own initiative, may use such means or order that such means be used by the parties, in particular, for case management, to hold hearings or send and receive documents in a medium other than paper.

Where a document is filed, in whole or in part, using an information technology-based medium, it must allow key-word searches where the information it contains is in the form of words. If there is more than one document in the same file, the documents must be accompanied by an index containing hyperlinks between the index and each document filed.”

4. Section 6 is replaced by the following:

“**6.** A complaint lodged against a professional must be sent to the secretary of the disciplinary council at the head office of the order.

To be admissible, a complaint must

(1) be made in writing and supported by the oath of the complainant;

(2) indicate the complainant's name, address, telephone number and, where applicable, electronic address as well as fax number;

(3) indicate the professional's name, title and address;

(4) indicate summarily the nature, time and place of the offence with which the professional is charged; and

(5) be accompanied by any notice of disclosure of the exhibits invoked in its support.

The secretary of the disciplinary council offers a complainant whose complaint is incomplete the opportunity to complete it. If the complainant fails to do so, the secretary refuses the complaint.

The date of filing of a complaint is the date on which the secretary of the disciplinary council receives it."

5. Section 7 is revoked.

6. Section 8 is amended by replacing the second paragraph by the following:

"The secretary sends to the respondent and the complainant, if the complainant is a person other than a syndic, a copy of these Rules."

7. Section 9 is amended

(1) by inserting "or the chair of the disciplinary council" after "to the disciplinary council" in the first paragraph;

(2) by inserting "or the chair of the disciplinary council" after "council" in the second paragraph.

8. Sections 10 and 12 are revoked.

9. Section 13 is amended by replacing the first paragraph by the following:

"As soon as the reasons to be invoked are known, the party wishing to have the hearing adjourned submits a motion to the senior chair or the chair of the disciplinary council. The motion is sent to the secretary of the disciplinary council and notified to the other party."

10. Section 14 is amended by replacing "the council" in the second paragraph by "the chair of the disciplinary council or, if the latter has not yet been designated, the senior chair".

11. Section 15 is amended by adding the following paragraph at the end:

"Every case management conference is recorded."

12. Section 18 is amended

(1) by replacing the first paragraph by the following:

"A party who intends to produce an exhibit in the party's possession at the hearing must, not less than 30 days before the hearing, send a copy to the other party. The party must also file with the secretary of the disciplinary council proof of the disclosure to the other party;"

(2) by replacing the second paragraph by the following:

"However, when the complainant intends to produce an exhibit that was disclosed to the respondent in connection with evidence disclosure, the complainant may send to the respondent a notice in which the complainant identifies the respondent. The complainant must then file with the secretary of the disciplinary council proof of the disclosure of the notice to the respondent.

The exhibit must be filed in 6 copies at the hearing, unless determined otherwise at the case management conference, and in 4 copies at the hearing of a motion presented before the chair of the disciplinary council."

13. Section 19 is amended by replacing "15" by "30".

14. Section 21 is amended by replacing "relevant" by "necessary".

15. Section 23 is amended by replacing "15" by "30".

16. Section 28 is amended by striking out "and an indication that they swore oath" in subparagraph 5 of the second paragraph.

17. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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