

Approval of Ethics Plans for Adjudicative Tribunals or Adjudicative Tribunal Clusters

Why must an adjudicative tribunal or cluster have an ethics plan?

Under the Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009, every adjudicative tribunal, and every cluster of adjudicative tribunals, must have an ethics plan. The ethics plan is one of a tribunal's public accountability documents. The other public accountability documents are the mandate and mission statement, the consultation policy, the service standard policy, and the member accountability framework.

When does an ethics plan have to be submitted for approval?

The ethics plan must be approved by the Conflict of Interest Commissioner. Other public accountability documents are approved by a tribunal's responsible minister. Every three years, an adjudicative tribunal must review its ethics plan, along with its other public accountability documents, to determine whether they require amendment. The Commissioner must approve an amended plan.

What must an ethics plan contain?

Under Ontario Regulation 91/11, an ethics plan must contain a description of the practices and procedures for ensuring that tribunal members are familiar with:

- the ethical conduct and political activity rules of the Public Service of Ontario Act and its regulations, and
- the code of conduct that forms part of the member accountability framework.

The practices and procedures must include an annual notice for members containing information about both of the above.

Is annual notice containing information sufficient for an ethics plan?

In effect, an ethics plan is a tribunal's ethics orientation or education plan. Plans will be approved, therefore, if a tribunal demonstrates its understanding of this obligation to orient or educate. A plan must *include* annual notice containing information about ethics rules and code of conduct, but a plan that *only* consists of such notice is insufficient.

What is meant by a description of practices and procedures?

In addition to annual notice about ethics rules and code of conduct, an ethics plan *must* contain a description of other practices and procedures that also ensure tribunal members are familiar with these things. The commissioner need not approve the actual practices and procedures, which may be more detailed and housed in a separate document. What must be approved is a *description* of these practices and procedures forming the tribunal's ethics orientation or education plan.

A variety of things can be done to ensure tribunal members are familiar with statutory rules and code of conduct. The Commissioner does not prescribe or endorse specific practices and procedures. These are developed by the tribunal having regard to its mandate, functions, and operational circumstances. The commissioner's concern is to make sure that the description of such practices and procedures, i.e., the ethics plan, appears reasonably thorough, thoughtful and diligent.

By way of example, practices and procedures may include the following:

- providing new tribunal members with information about statutory ethics rules and the code of conduct as part of the orientation or on-boarding process
- providing on-line or in-person training or information sessions on ethical requirements at fixed times that are appropriate for the organization (e.g., every three years)
- requiring members to sign an acknowledgment of awareness of ethical obligations when appointed and at fixed times that are appropriate for the organization, and
- developing or providing access to resources to assist tribunal members in complying with ethical requirements, such as links to government websites (including the Commissioner's), ethics handbooks or guidelines, external educational opportunities, etc.

How does an adjudicative tribunal start the approval process?

An ethics plan should be developed within 12 months after the establishment of an adjudicative tribunal or the start-up of a tribunal cluster. Clustered tribunals jointly develop an ethics plan and other accountability documents. As soon as the ethics plan is approved by the tribunal chair (executive chair for a cluster), it should be submitted to the Commissioner for approval. Similarly, as soon as an amended ethics plan is approved by the chair, either after the mandatory three-year review or at any other time, it should be submitted to the Commissioner.

For further information:
Office of the Conflict of Interest Commissioner
2 Bloor Street East, Suite 1802, Toronto, Ontario M4W 3J5
Tel: (416) 212-3606 - Email: coicommissioner@ontario.ca
<http://www.coicommissioner.gov.on.ca>