

REGULATION OF THE PROFESSIONS TRIBUNAL

Professional Code

(R.S.Q., c. C-26, s. 184.2)

DIVISION 1

DEFINITIONS

1. The following definitions apply to this Regulation:

“authority” means a legislative or regulatory text, case law, doctrine, and any excerpt therefrom; (*source*)

“secretary” means the secretary of the disciplinary council, board of directors or executive committee, as the case may be. (*secrétaire*)

O.C. 176-2010, s. 1.

DIVISION 2

ADMINISTRATION OF THE TRIBUNAL

2. The office of the Tribunal is open on working days, except on 26 December and 2 January, from Monday to Friday between 8:30 a.m. and 4:30 p.m.

The office is located at the seat of the Professions Tribunal at the Courthouse, 1, rue Notre-Dame Est, bureau 14.61, Montréal (Québec) H2Y 1B6.

O.C. 176-2010, s. 2; I.N. 2016-01-01 (NCCP).

3. The parties and their attorneys must promptly advise the clerk of the Tribunal of any change of address.

O.C. 176-2010, s. 3.

4. Subject to any order issued by the disciplinary council or a court, any person may consult a record of the Tribunal, but only in the presence of the clerk of the Tribunal.

The clerk of the Tribunal provides photocopies of the exhibits in the record at the expense of any person who requests them.

O.C. 176-2010, s. 4.

5. At least 30 days before the date of the hearing, the clerk of the Tribunal must send a copy of the roll to the attorneys and parties. A copy of the roll must also be posted at the office of the Tribunal.

O.C. 176-2010, s. 5.

DIVISION 3

PRELIMINARY OR INCIDENTAL APPLICATIONS

6. The applicant reserves the date and time of the presentation of an application before the Tribunal with the clerk of the Tribunal.

O.C. 176-2010, s. 6; I.N. 2016-01-01 (NCCP).

REGULATION OF THE PROFESSIONS TRIBUNAL

7. Every application must be served with a notice of presentation on the parties and the secretary at least 3 working days before the presentation, except in case of an emergency, in which case the Tribunal may shorten the time limit.

The application must also be filed with the office of the Tribunal within the same time limit.

The application must be accompanied by all that is required for its consideration, namely proceedings, exhibits, depositions, minutes, judgments or excerpts therefrom, as well as the statutory or regulatory provisions cited, with the exception of the Constitution Act, 1982 (R.S.C. 1985, App. II, No. 44), the Civil Code, the Code of Civil Procedure (R.S.Q., c. C-25.01) and the Professional Code (R.S.Q., c. C-26).

O.C. 176-2010, s. 7; I.N. 2016-01-01 (NCCP).

8. The notice of presentation indicates the date, time and room where the application will be presented.

O.C. 176-2010, s. 8; I.N. 2016-01-01 (NCCP).

9. A party may apply to be exempted from filing paper copies of the documents that accompany the application, or some of these documents, should all the parties to the application consent that they be filed in computer format.

The application is made in writing and sent to the office of the Tribunal, with a copy to the other parties, and is decided by the Tribunal.

O.C. 176-2010, s. 9; I.N. 2016-01-01 (NCCP).

10. The sending of the respondent's written consent to the conclusions of an application, with copies to the other parties and the secretary, excuses the parties and their attorneys from attending the presentation of the application, unless the Tribunal determines otherwise and so notifies the parties and their attorneys.

O.C. 176-2010, s. 10; I.N. 2016-01-01 (NCCP).

11. As soon as possible before the presentation of the application, the applicant must notify the clerk of the Tribunal in writing that the parties have consented to an adjournment, or that one of the parties will seek an adjournment on the day the application is presented.

A motion may not be adjourned solely on the basis of the consent of the parties if there is less than one clear working day remaining before the scheduled date of presentation. The parties must then obtain authorization from the Tribunal.

O.C. 176-2010, s. 11; I.N. 2016-01-01 (NCCP).

12. An application to have an appeal heard and decided by preference must be accompanied by a notice for which the clerk has previously determined the date and time of presentation.

The application is presented to the chairperson of the Tribunal or to the judge designated by the chairperson.

O.C. 176-2010, s. 12; I.N. 2016-01-01 (NCCP).

DIVISION 4

DISCONTINUANCE OF PROCEEDINGS

13. A party who discontinues his or her motion for appeal must immediately so inform the clerk of the Tribunal and the secretary in writing.

REGULATION OF THE PROFESSIONS TRIBUNAL

O.C. 176-2010, s. 13.

DIVISION 5 PROCEEDINGS

14. All proceedings must be submitted on white paper of good quality, 21.5 cm by 28 cm in size.

However, for documents accompanying an application, the paper may be 21.5 cm by 35.5 cm in size.

O.C. 176-2010, s. 14; I.N. 2016-01-01 (NCCP).

15. The title of a proceeding appearing on the back and on the first page indicates the status in the appeal of the party presenting the proceeding, followed by a precise reference to the legislation or regulation upon which it is based.

O.C. 176-2010, s. 15.

16. In every proceeding, the case heading must include, in the following order, the names of the appellant, of the respondent, of the other parties, where applicable, and of the secretary.

Under the name of each party, the position in appeal must be indicated in upper-case letters and, at first instance, in lower case letters.

The case heading must remain the same in all proceedings during the appeal.

O.C. 176-2010, s. 16.

17. All proceedings must bear the signature of the party or the party's attorney.

O.C. 176-2010, s. 17.

DIVISION 6 FACTUMS

18. In the event of an amendment to a proceeding, additions or substitutions must be underlined or indicated in the margin by a vertical line, and deletions must be indicated by means of dots within brackets.

O.C. 176-2010, s. 18.

19. The factum of each party must comprise an argument and 3 schedules.

O.C. 176-2010, s. 19.

20. The argument must contain 5 parts:

(1) Part I: FACTS

The appellant must state the facts succinctly.

The respondent must state its position with respect to the appellant's statement of facts and, if necessary, state any other facts deemed relevant;

(2) Part II: ISSUES IN DISPUTE

REGULATION OF THE PROFESSIONS TRIBUNAL

The appellant must set forth the issues in dispute concisely. The respondent must state its position concisely in regard to the issues the appellant raises and list any other issues to be argued;

(3) Part III: ARGUMENT

The parties must develop their arguments regarding the issues in dispute, with precise references to the schedules;

(4) Part IV: CONCLUSIONS

The parties must state precisely the conclusions sought, including with respect to costs;

(5) Part V: AUTHORITIES

The parties must draw a list of authorities for the case law and doctrine cited, arranged in the order in which they are cited in the argument and indicating the paragraphs at which they are mentioned.

O.C. 176-2010, s. 20.

21. The factum of the appellant must include 3 schedules:

(1) SCHEDULE I

It must include the decision appealed from or, if the decision was rendered orally, a transcript of the reasons;

(2) SCHEDULE II

It must include:

- (a) the application for appeal;
- (b) the text of the statutory or regulatory provisions cited;

(3) SCHEDULE III

It must include only those exhibits and depositions or extracts therefrom that are necessary for the consideration of all the issues in dispute.

O.C. 176-2010, s. 21; I.N. 2016-01-01 (NCCP).

22. The parties may agree on a joint statement of the facts necessary to resolve the issues in dispute, rather than relying on the transcripts of the depositions and the exhibits. The joint statement must be inserted at the beginning of Schedule III of the appellant.

O.C. 176-2010, s. 22.

23. The schedules to the respondent's factum contain only documents that are not already included in the appellant's schedules and that are deemed necessary by the respondent for the consideration of the issues in dispute.

O.C. 176-2010, s. 23.

24. The format of the factum must comply with the following rules:

- (1) the colour of the cover varies according to the party: yellow for the appellant, green for the respondent and grey for the other parties;

REGULATION OF THE PROFESSIONS TRIBUNAL

- (2) the front cover must indicate:
- (a) the record number assigned by the clerk;
 - (b) the names of the appellant, the respondent and, where applicable, the other parties, in that order; under the name of each party, that party's status in appeal is indicated in upper-case letters and the party's status in first instance is indicated in lower-case letters;
 - (c) identification of the factum according to the position of the party who files it; and
 - (d) the name of the attorney;
- (3) the first volume of the factum must contain a general table of contents at the front and any subsequent volume must contain a general table of contents and a table of its contents;
- (4) page numbers must be indicated in the upper left-hand corner of each page of the argument and at the top of each page of the schedules;
- (5) each page must contain approximately 50 lines, numbered every 10 lines in the left margin;
- (6) except with leave of the Tribunal, the argument must not exceed 30 pages in length;
- (7) the text of the argument must have at least one and one-half spaces between the lines, with the exception of quotations, which must be single-spaced and indented. The font is equivalent to Arial 12 and there is no more than 12 characters per 2.5 cm;
- (8) the paragraphs of the argument must be numbered;
- (9) if there is more than one volume, the volume number and the sequence of pages contained therein must be indicated on the front cover and bottom edge of each volume.

The factum is presented on white paper of good quality, 21.5 cm by 28 cm in size.

O.C. 176-2010, s. 24.

25. Each exhibit or excerpt therefrom must begin on a new page with a heading indicating the date and, where possible, the nature and number of the exhibit. So far as possible, the exhibits must be reproduced in chronological order, rather than in the order of filing in first instance.

All exhibits included in the schedules must be legible. If they are illegible, they must be accompanied by a legible version. Photocopies of photographs must be permitted only if they are clear.

O.C. 176-2010, s. 25.

26. Each deposition or excerpt therefrom must begin on a new page with a heading setting out the witness's surname in upper-case letters, followed the first time only by parentheses containing the witness's given name, age and residence address. The heading must also contain the following information, listed in abbreviated form:

- (a) the name of the party who called the witness;
- (b) the fact that the testimony was not given at the hearing, if such is the case;
- (c) the stage of the hearing (case in chief, defence, rebuttal);

REGULATION OF THE PROFESSIONS TRIBUNAL

(d) the stage of the examination (examination, cross-examination, re-examination).

Depositions or excerpts therefrom may be reproduced in a condensed format (4 pages in 1), provided that the font is equivalent to Arial 10 and that each page contains a maximum of 23 lines numbered in the left margin.
O.C. 176-2010, s. 26.

27. The factum must be bound so that the pages of the argument and of Schedule I are printed only on the left and the pages of Schedules II and III are printed on both sides.

Each volume contains no more than 200 sheets of paper.

O.C. 176-2010, s. 27.

28. All parties may file a book of authorities, in which the relevant excerpts are highlighted. The pages of this book may be printed on both sides.

The book of authorities may be limited to relevant excerpts of authorities. In such case, the pages immediately preceding and immediately following the excerpts must also be reproduced, as well as the citation and the summary of the decision for case law.

The book of authorities may also be accompanied by a CD-ROM or other computer format containing the complete text of the authorities.

The texts used in a book of authorities, whether partial or complete, must be in Word format, when that format is available.

O.C. 176-2010, s. 28.

29. The book of authorities must be served on all the other parties and filed at the office of the Tribunal, in quadruplicate, at least 30 days before the date fixed for the hearing of the appeal or, in the case of an application, at least 1 working day before the hearing.

If the application is intended for a single judge, only 1 copy of the book of authorities need be filed.

O.C. 176-2010, s. 29; I.N. 2016-01-01 (NCCP).

30. The Tribunal may authorize the filing of certain factum documents in computer format rather than on paper when all parties to the appeal consent.

The parties file their argument on paper, together with the documents forming Schedule I as well as those parts of the documents forming Schedules II and III and to which they have referred specifically in their respective argument.

The complete texts of the documents are then filed on a CD-ROM or any other computer format that at a minimum has a keyword search capacity and, when possible, hyperlink connections between the table of contents and the proceedings, exhibits and depositions.

O.C. 176-2010, s. 30.

DIVISION 7

HEARINGS OF THE TRIBUNAL

31. The hearings of the Tribunal begin at 9:30 a.m. or at any other time fixed by the Tribunal.

REGULATION OF THE PROFESSIONS TRIBUNAL

However, the Tribunal may excuse the parties and their attorneys from being present at the opening of the hearing and convene them at a different time for the hearing.

O.C. 176-2010, s. 31.

32. Cases are pleaded in the order in which they appear on the roll, unless the Tribunal decides otherwise.

O.C. 176-2010, s. 32.

33. If a party fails to appear on the day and at the time established for the hearing, the Tribunal may hear only the parties present and adjudicate the case without hearing the absent party, or adjourn the hearing on conditions deemed appropriate, in particular with respect to costs.

O.C. 176-2010, s. 33.

34. When the circumstances are appropriate and the parties so consent, the Tribunal may hear the application by telephone conference.

O.C. 176-2010, s. 34; I.N. 2016-01-01 (NCCP).

35. The court usher announces the opening and termination of sittings of the Tribunal and sittings of the judge and remains present for the entire hearing, unless otherwise permitted.

O.C. 176-2010, s. 35.

36. The persons present at the hearing must rise when the single judge or members of the Tribunal enter the room and remain standing until they are seated.

Once the single judge or the members of the Tribunal are seated, the court usher or the court clerk asks those present to be seated.

When the single judge or members of the Tribunal leave their seat, the court usher or the court clerk asks those present to rise again, and no one may leave their seat until the single judge or members of the Tribunal have left the room.

O.C. 176-2010, s. 36.

37. No attorney may address the Tribunal unless he or she is wearing a gown, white collar and bands and dark clothing.

The same rule, except for the white collar and bands, applies to articling students.

Before a single judge, the wearing of a gown is not required. All attire, however, must be simple and unadorned.

Any other person who appears before the Tribunal must be suitably dressed.

O.C. 176-2010, s. 37.

38. Anything that interferes with the decorum and good order of the Tribunal is prohibited.

The following, among other things, is prohibited: reading of newspapers, practice of photography or cinematography, making of audio or video recordings, radio broadcasting, television broadcasting, and the use of pagers, cellular telephones and other audible devices.

REGULATION OF THE PROFESSIONS TRIBUNAL

The Tribunal may take any measure required to ensure the proper administration of justice, the serenity of hearings and respect for the rights of the parties and their attorneys.

O.C. 176-2010, s. 38.

39. During the hearing, no person may discuss with anyone else, address the clerk or consult a record, unless the judge permits otherwise.

O.C. 176-2010, s. 39.

DIVISION 8 CASE MANAGEMENT

40. When required by the nature, character or complexity of the proceeding, the chairperson of the Tribunal may, on his or her initiative or on request, order special case management. In such a case, the chairperson or the judge designated by the chairperson sees to the orderly conduct of the proceeding.

O.C. 176-2010, s. 40.

DIVISION 9 IMPROPER USE OF PROCEDURE

41. Where the Tribunal intends to exercise on its own initiative the powers provided for in articles 51 to 56 of the Code of Civil Procedure (R.S.Q., c. C-25.01) regarding the power to impose sanctions for improper use of procedure, the clerk of the Tribunal sends to the person concerned, by registered mail or any other appropriate means, with a copy to the other parties to the case, a notice informing the person of the day on which the person may be heard by the Tribunal.

O.C. 176-2010, s. 41; I.N. 2016-01-01 (NCCP).

42. Where the Tribunal has, in accordance with article 55 of the Code of Civil Procedure (R.S.Q., c. C-25.01), prohibited a person from instituting legal proceedings except with the authorization of the chairperson of the Tribunal, the application for authorization must be accompanied by that decision and the proposed legal proceeding.

O.C. 176-2010, s. 42; I.N. 2016-01-01 (NCCP).

DIVISION 10 TRANSITIONAL PROVISIONS

43. This Regulation replaces the Rules of practice of the Professions Tribunal (O.C. 967-96, 96-08-07).

O.C. 176-2010, s. 43.

44. *(Omitted).*

O.C. 176-2010, s. 44.

O.C. 176-2010, 2010 G.O. 2, 737