

Newfoundland & Labrador Psychology Board

Allegation Review Policy Manual

Contents

- Part 1: Overview and Definitions** 1
 - Introduction..... 1
 - Definitions..... 3
- Part 2: Initial Review of Allegation** 5
 - 2.1 Filing an Allegation 5
 - 2.2 Anonymous Allegations 6
 - 2.3 Notification of the Parties 7
 - 2.4 Release of the Written Response to the Complainant..... 8
- Part 3: Alternative Dispute Resolution (ADR)** 9
 - 3.1 Addressing Allegations through Alternative Dispute Resolution 9
 - 3.2 Determining the Appropriateness for ADR by the Registrar 10
 - 3.3 Initiating the Alternative Dispute Resolution Process by the Registrar 11
 - 3.4 Mediation..... 12
 - 3.5 The Mediator 13
- Part 4: Complaints Authorization Committee (CAC) Review Process**..... 14
 - 4.1 Role of the Complaints Authorization Committee (CAC)..... 14
 - 4.2 Convening the Complaints Authorization Committee (CAC) 15
 - 4.3 Initial Review 16
 - 4.4 Referral by the Complaints Authorization Committee (CAC) for Alternative Dispute Resolution (ADR) 17
 - 4.5 Requiring a Respondent to appear before the Complaints Authorization Committee 18
- Part 5: Investigation** 19
 - 5.1 Referral for Investigation 19
 - 5.2 Criteria for Investigators 20
 - 5.3 Information to Facilitate the Investigation 21
 - 5.4 Role of the Investigator..... 22
 - 5.5 Investigation Report 24
- Part 6: Complaints Authorization Committee Decisions**..... 25
 - 6.1 Dismissal of an Allegation 25
 - 6.2 Appeal of the Decision of the Complaints Authorization Committee to Dismiss..... 26
 - 6.3 Allegations Reaching Complaint Status..... 27

6.4 Decision to Counsel or Caution a Respondent.....	28
6.5 CAC Recommendation to Restrict or Suspend a Registration to Practice	29
6.6 Referral for a Disciplinary hearing.....	30
Section 7: Disciplinary Hearing	31
7.1 Appointment of the Disciplinary Panel.....	31
7.2 Role of the Adjudication Tribunal	32
7.3 The Disciplinary Hearing	33
7.4 Requests for Postponement	34
7.5 Agreements Presented to the Adjudication Tribunal during Disciplinary Hearings.....	35
7.6 Distribution and Filing of the Decisions of the Adjudication Tribunal.....	36
7.7 Appeal of Adjudication Tribunal Decisions	37
7.8 Publication of the Decision of the Adjudication Tribunal	38
7.9 Monitoring Sanctions imposed by the Adjudication Tribunal	39

Part 1: Overview and Definitions

Introduction

This policy manual is intended to provide a framework for the objective and fair review of an allegation against the practice of a registered or formerly registered psychologist in the province of Newfoundland and Labrador. It is intended as a tool to assist the board of the Newfoundland and Labrador Psychology Board (NLPB), the Complaints Authorization Committee (CAC), the Disciplinary Panel and Adjudication Tribunals to execute their duties in a manner consistent with the legislation governing the practice of psychology in Newfoundland & Labrador.

A policy manual is an integral component of a regulatory framework. This manual aligns and assists with the administration of the legislation. The following is the current structure of NLPB regulatory documents related to allegation review:

An Act Respecting the Registration of Psychologists (2005)



Psychologists Regulations (2018 draft)



NLPB Allegation Review Manual (2018 draft)

The policies outlined in this manual do not give specific direction in every matter. Members of the Board, Complaints Authorization Committee, Adjudication Tribunals and staff should consult with legal counsel at any point in the allegation review process and as questions and issues arise. The policies will only become effective when approved and adopted by the board of the NLPB. As with any policy manual, following adoption by the board it will need to be consistently reviewed and revised to reflect practice.

The NLPB Allegation Review Policy Manual consists of seven sections.

Section one provides definitions for terms used throughout the manual.

Section two focuses on the initial receipt and review of an allegation.

Section three outlines policies and procedures related to the resolution of matters through alternative dispute resolution including mediation.

Section four details the roles, responsibilities and processes of the complaints authorization committee.

Section five addresses the investigation of an allegation.

Section six examines the options for decision making by the complaints authorization committee.

Section seven reviews the process of referral to the disciplinary panel including the functions of the adjudication tribunal.

Definitions

Act Respecting the Registration of Psychologists (2005): provincial legislation governing the practice of psychology in Newfoundland and Labrador. The short title is the *Psychologists Act, 2005*. All references to the “*Act*” in this manual means this legislation.

Adjudication Tribunal: three members of the disciplinary panel appointed by the chairperson to conduct a hearing into a complaint. The adjudication tribunal is comprised of two registered psychologists and one public representative.

Allegation: a written document alleging that a registered or formerly registered psychologist has engaged in conduct deserving of sanction.

Alternative Dispute Resolution (ADR): a process in which an attempt is made by the registrar to resolve an allegation in a manner which is acceptable to the complainant, the respondent and the Newfoundland and Labrador Psychology Board.

Board: means the board of the Newfoundland and Labrador Psychology Board. This board consists of five (5) registered psychologists who are elected by the registered psychologists in the province of Newfoundland and Labrador and 2 individuals who are not registered psychologists who are appointed by the Minister of Health and Community Services.

Code of Ethics: the code of ethics governing the practice of psychology in Newfoundland & Labrador is the Canadian Psychological Association Code of Ethics for Psychologists (fourth edition) January 2017.

Complaints Authorization Committee (CAC): committee appointed by the board for the purpose of reviewing allegations against the practice of a registered or formerly registered psychologist. The CAC consists of three persons, all of whom are members of the board of directors and at least one of whom is appointed by the Minister of Health & Community Services.

Complaint: Where the complaints authorization committee is of the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the allegation is considered to constitute a complaint as per Section 18 (3) of the Psychologists Act.

Complainant: a person making an allegation against the practice of a registered or formerly registered psychologist.

Conduct deserving of sanction: includes professional misconduct, professional incompetence, conduct unbecoming a psychologist and acting in breach of the legislation, regulations, code of ethics or standards of practice.

Disciplinary Panel: a panel of persons appointed under the Psychologists Act from which members of an adjudication tribunal are chosen. The disciplinary panel consists of not less than 10 registered psychologists who are not members of the board of the NLPB. At least 3 members of the disciplinary panel are not registered psychologists and are appointed to the disciplinary panel by the Minister of Health and Community Services to represent the public interest.

Mediation: the process of intervention between parties to promote settlement or compromise. Mediation is used by the Newfoundland and Labrador Psychology Board to attempt a resolution of an allegation initiated by a complainant against the practice of a registered or formerly registered psychologist.

Mediator: an individual contracted by the Newfoundland and Labrador Psychology Board to facilitate the mediation of an allegation against the practice of a registered or formerly registered psychologist.

Newfoundland and Labrador Psychology Board (NLPB): the organization which regulates the practice of psychology in Newfoundland and Labrador.

Personal Health Information Act (PHIA): provincial legislation governing the collection, use and disclosure of personal health information in Newfoundland & Labrador.

Policy: the term utilized in this manual means a statement outlining the position of the NLPB in relation to the review and disposition of allegations against the practice of a registered or formerly registered psychologist which are consistent with the Psychologists Act.

Registrar: the individual appointed by the NLPB in accordance with Section 6 of the Act to carry out the duties required by the Act and the regulations. The duties of the registrar are outlined in Section 9 of the Psychologists Act.

Registered Psychologist: means a person whose name is on the register of psychologists and whose registration is not suspended, cancelled or withdrawn. An individual who was previously but not currently on the register of the Newfoundland and Labrador Psychology Board is considered to be a *formerly registered psychologist*.

Regulations: refer to the current regulations having effect under the Psychologists Act.

Respondent: a registered or formerly registered psychologist against whom an allegation is made.

Standards of Practice: the standards of practice governing the practice of psychology in Newfoundland & Labrador is the NLPB Standards of Professional Conduct 2018.

Part 2: Initial Review of Allegation

2.1 Filing an Allegation

Policy: Allegations against the practice of a registered or formerly registered psychologist in the province of NL are filed with the registrar of the NLPB.

Procedures:

- 2.1.1 If the allegation does not refer to a registered or formerly registered psychologist, the registrar will advise the complainant.
- 2.1.2 Allegations against the practice of a registered or formerly registered psychologist are submitted in writing to the registrar.
- 2.1.3 Written allegations must be signed by the complainant or his/her solicitor.
- 2.1.4 The registrar may on his/her own motion make and file an allegation against the practice of a registered or formerly registered psychologist.
- 2.1.5 Where the registrar has been informed that a respondent has been convicted of an offense under the Criminal Code of Canada or a similar penal statute of another country, the registrar files an allegation.
- 2.1.6 Where the registrar has been informed that a respondent has been suspended by the governing body of psychologists in another province or territory of Canada or another country for reason of professional misconduct, conduct unbecoming a psychologist or professional incompetence, the registrar files an allegation.

2.2 Anonymous Allegations

Policy: Allegations against the practice of a registered or formerly registered psychologist cannot be anonymous.

Procedures:

- 2.2.1 Where a potential complainant chooses not to have their name associated with an allegation, the allegation is considered to be anonymous and the individual is advised that an anonymous allegation cannot be processed.

2.3 Notification of the Parties

Policy: The respondent and the complainant will receive notice of the filing of an allegation and timelines for response in accordance with the regulations governing the practice of psychology.

Procedures:

- 2.3.1 The registrar notifies the respondent in writing that an allegation has been received within thirty (30) days and provides a copy of the allegation.
- 2.3.2 A copy of the notification to the respondent is sent to the complainant.
- 2.3.3 A respondent has thirty (30) days from the notification of the allegation to respond in writing.
- 2.3.4 Requests by the respondent for an extension of the time frame to provide a response are submitted by the respondent or her/his legal counsel in writing to the registrar for consideration.
- 2.3.5 The registrar notifies the respondent or his/her legal counsel of the decision to extend or not extend the time frame.
- 2.3.6 Written notifications are sent in a manner where confirmation of receipt of the notification can be obtained.

2.4 Release of the Written Response to the Complainant

Policy: When requested, the written response is released to the complainant unless upon evaluation of the matter by the registrar it is determined that circumstances warrant otherwise.

Procedures:

- 2.4.1 A respondent is informed that the complainant has the right to request a copy of the response.
- 2.4.2 Requests from a complainant for a copy of the response are made in writing to the registrar.
- 2.4.3 The request is evaluated by the registrar and a copy is sent to the complainant unless circumstances related to the matter warrant otherwise.
- 2.4.4 The respondent is advised in writing that a copy of the response has been requested and sent to the complainant.
- 2.4.5 Where the request is denied by the registrar, the complainant is advised.

Part 3: Alternative Dispute Resolution (ADR)

3.1 Addressing Allegations through Alternative Dispute Resolution

Policy: Allegations against the practice of a registered or formerly registered psychologist may be resolved through an alternative dispute resolution (ADR) process in accordance with the Psychologists Act and Regulations.

Procedures:

3.1.1 The registrar reviews the allegation and response and makes a determination regarding appropriateness for ADR or,

3.1.2 The complaints authorization committee reviews the allegation and response and makes a determination regarding appropriateness for ADR.

3.2 Determining the Appropriateness for ADR by the Registrar

Policy: The registrar uses discretion and determines if an allegation is appropriate for ADR as per Section 17(1) of the Psychologists Act.

Procedures:

3.2.1 Upon receipt of the allegation and the response to the allegation, the registrar reviews each matter to determine if it may be satisfactorily resolved through alternative dispute resolution.

3.2.2 The registrar considers the following factors:

- (i) the public interest is protected and not compromised by the use of ADR
- (ii) the seriousness of the allegation
- (iii) the impact of the alleged action on the complainant, client, a member of the public and/or upon the profession of psychology
- (iv) if the respondent has had previous allegations and/or disciplinary findings by the NLPB or another regulatory body
- (v) if the respondent is currently registered as a psychologist
- (vi) the willingness of the complainant and respondent to achieve resolution by agreement
- (vii) any other factor which in the opinion of the registrar affects the appropriateness of resolution by ADR.

3.2.3 If the registrar is of the opinion that a matter may be satisfactorily resolved, then the ADR process is initiated.

3.2.4 If the registrar is of the opinion that a matter may not be satisfactorily resolved using the ADR process then it is referred to the complaints authorization committee for review.

3.3 Initiating the Alternative Dispute Resolution Process by the Registrar

Policy: When a determination is made by the registrar that an allegation against the practice of a registered or formerly registered psychologist may be resolved through alternative dispute resolution, the process is initiated in accordance with Section 17 of the Psychologists Act.

Procedures:

3.3.1 The parties are notified in writing of the option.

3.3.2 If the respondent and complainant agree, written consent from both parties is obtained within thirty (30) working days.

3.3.3 The parties to an ADR agreement are the complainant, the respondent and the NLPB as represented by the registrar.

3.3.4 Where the parties attempt to resolve a matter through ADR and the matter is not resolved within 120 days of the receipt of consent of all the parties, the registrar will refer the matter to the complaints authorization committee to be addressed as an allegation as per Section 18 of the Psychologist's Act.

3.3.5 Where all persons engaged in the ADR process agree, the time frame may be extended for an additional 60 days.

3.3.6 Where the matter is not resolved and where it is referred to the complaints authorization committee, the registrar will notify the complainant and the respondent.

3.3.7 Where the matter is satisfactorily resolved through ADR, the complainant and respondent are notified in writing and the matter is concluded.

3.4 Mediation

Policy: Mediation is a form of alternative dispute resolution and may be utilized to resolve a matter.

Procedures:

3.4.1 Consent to participate in mediation is obtained from the complainant and the respondent.

3.4.2 A mediator acceptable to the parties is appointed

3.4.3 A mediation agreement acceptable to the complainant, the respondent and the NLPB is developed.

3.4.4 A copy of the mediation agreement is provided to the complainant, the respondent and the registrar.

3.5 The Mediator

Policy: A mediator appointed to resolve an allegation against the practice of a registered or formerly registered psychologist must be acceptable to the parties and meet criteria acceptable to the NLPB.

Procedures:

3.5.1 The mediator has completed training in mediation recognized by the NLPB.

3.5.2 The mediator is an objective third party for whom there is no conflict of interest.

3.5.3 The mediator is given information respecting the role and responsibilities of the NLPB.

3.5.4 The mediator has professional liability insurance which covers their mediation services.

3.5.5 The mediator signs a contract with the NLPB which establishes the rate of pay and the time frame within which mediation must be completed.

3.5.6 The mediator develops the written agreement which is provided to the parties.

Part 4: Complaints Authorization Committee (CAC) Review Process

4.1 Role of the Complaints Authorization Committee (CAC)

Policy: The board of NLPB shall appoint a complaints authorization committee for the purpose of forming an opinion as to whether there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction.

Procedures:

4.1.1 The CAC consists of at least three members of the board of directors. Two registered psychologists and one director appointed by the Minister of Health & Community Services to represent the public interest.

4.1.2 The chairperson and vice chairperson of the CAC are appointed by the board.

4.1.3 Three members of the CAC must be present at each committee meeting to render a decision.

4.1.4 The chairperson is the signatory to all documents produced by the CAC.

4.1.5 In the event that the chairperson is unavailable, the vice chairperson is the signatory to documents produced by the CAC.

4.1.6 The CAC keeps minutes of its meetings indicating who was present, whether a conflict of interest was declared, decisions made on the day of the meeting and the plan arising as a result of the meeting.

4.1.7 Although not a member of the CAC and therefore not a decision maker, the registrar attends meetings of the CAC for the purpose of administration of the process.

4.2 Convening the Complaints Authorization Committee (CAC)

Policy: Where it has been determined that an allegation cannot be satisfactorily resolved by the registrar under Section 17 of the Psychologists Act, the allegation is referred to the complaints authorization committee.

Procedures:

4.2.1 The registrar advises the chair of a referral to the CAC and organizes a meeting of the committee.

4.2.2 The complainant and respondent are advised in writing that the matter has been referred to the CAC for review.

4.2.3 The respondent and complainant are advised of the members of the CAC to determine if an actual, potential or perceived conflict of interest is present.

4.2.4 Members of the CAC are advised of the name of the respondent and the complainant to determine if an actual, potential or perceived conflict of interest exists.

4.2.5 When it has been determined that there is no conflict of interest, a copy of the written allegation and written response are provided to the members of the CAC for review.

4.3 Initial Review

Policy: Upon receipt of an allegation against the practice of a registered or formerly registered psychologist, the complaints authorization committee convenes to engage in an initial review and may exercise one or more of its powers in accordance with Section 18 of the Psychologists Act.

Procedures:

4.3.1 Following the initial review, the complaints authorization committee may:

- (i) refer the allegation back to the registrar for ADR
- (ii) refer the allegation for investigation
- (iii) require a respondent to appear before it.

4.3.2 The chairperson of the complaints authorization committee informs the respondent and the complainant of whether the committee intends to exercise one or more of these powers as soon as possible but no later than 120 days after the receipt of the allegation as per section 8(3) of the Psychologists Regulations.

4.4 Referral by the Complaints Authorization Committee (CAC) for Alternative Dispute Resolution (ADR)

Policy: If upon initial review of the allegation and response documents, members of the complaints authorization committee are of the opinion that the matter may be satisfactorily resolved through alternative dispute resolution, the CAC may refer the allegation back to the registrar in accordance with Section 18(1)(a) of the Psychologists Act.

Procedures:

4.4.1 When a CAC decides to refer a matter back to the registrar for ADR, the registrar, complainant and respondent are notified of this decision in writing by the chair of the CAC.

4.4.2 The registrar then attempts resolution by ADR in accordance with established NLPB policies.

4.4.3 Where the matter that has been referred by the complaints authorization committee is resolved through alternative dispute resolution; the registrar will notify the complaints authorization committee in writing and provide details of the resolution in accordance with the Psychologists Regulations.

4.4.4 When the matter is satisfactorily resolved through ADR, the complainant and respondent are notified in writing and the matter is concluded.

4.4.5 Where the allegation is unable to be satisfactorily resolved through ADR, the matter is referred back to the CAC and the complainant and respondent are advised.

4.5 Requiring a Respondent to appear before the Complaints Authorization Committee

Policy: In order to form an opinion as to whether there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the CAC may require the respondent to appear before the committee in accordance with Section 18(1)(c) of the Act.

Procedures:

4.5.1 If the CAC requires the respondent to appear before them, the questions and information the CAC has decided to address is prepared in advance and the time and place of the interview is decided.

4.5.2 A quorum of the CAC must be present for the meeting with the respondent.

4.5.3 Following the meeting with the respondent, members of the CAC make a determination regarding if further powers under Section 18(1) will be exercised by the CAC to form an opinion as to whether the respondent has engaged in conduct deserving of sanction and informs the respondent in writing of that decision.

Part 5: Investigation

5.1 Referral for Investigation

Policy: The complaints authorization committee may conduct an investigation in order to form an opinion as to whether there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction as per Section 18 of the *Act*.

Procedures:

5.1.1 The respondent and the complainant are notified in writing of the decision of the CAC to refer the matter for investigation and are provided with the name of the investigator.

5.1.2 The investigation may be conducted by either of the following:

- (i) the registrar
- (ii) the complaints authorization committee
- (iii) another person appointed by the complaints authorization committee.

5.2 Criteria for Investigators

Policy: Individuals who are appointed as investigators under the Psychologists Act meet criteria as set forth by the board of the NLPB.

Procedures:

5.2.1 Investigators hired by NLPB will meet the following criteria:

- (i) training and experience as an investigator which is acceptable to the board.
- (ii) completion of the Personal Health Information Act (PHIA) on-line education course.

5.2.2 Investigators will be required to carry professional liability insurance adequate to cover their responsibilities as an investigator.

5.2.3 Investigators will not be in a position of perceived, potential or actual conflict of interest.

5.2.4 Investigators will be required to sign a contract with the NLPB outlining the rate of pay and expected time frames to complete the investigation and receive a copy of the contract.

5.2.5 Individuals appointed as investigators are familiar with the legislation and documents governing the practice of psychology in Newfoundland & Labrador and the current legislation governing personal health information in the province (Personal Health Information Act 2008).

5.2.6 Individuals duly appointed as investigators receive protection from liability when acting in good faith as per section 33(1) of the Psychologists Act.

5.3 Information to Facilitate the Investigation

Policy: Investigators are provided with sufficient information to facilitate a fair and objective investigation.

Procedures:

5.3.1 Investigators are provided with a letter of appointment signed by the chair of the complaints authorization committee.

5.3.2 Investigators receive a copy of the letter of allegation, letter of response and any documents provided to the CAC.

5.3.3 Contact information for the complainant, respondent and witnesses is shared with investigators.

5.3.4 The registrar ensures that investigators have a copy of the Psychologists Act, regulations, the current code of ethics and relevant standards of practice.

5.3.5 The CAC identifies the allegations to be investigated and whether there are specific questions or areas for further information.

5.4 Role of the Investigator

Policy: An investigator appointed by the complaints authorization committee gathers information relevant to the subject matter of the investigation, conducts an objective and fair investigation and submits a written report to inform the decision(s) of the CAC and if required, the adjudication tribunal.

Procedures:

5.4.1 Investigators appointed by the CAC have the powers, privileges and immunities that are conferred on a commissioner appointed under the Public Inquiries Act, 2006 as outlined in Section 15(9) of the Psychologists Act.

5.4.2 The investigator analyzes the documents provided by the complaints authorization committee to ensure understanding of the issues to be investigated and the scope of the investigation.

5.4.3 After analysis of the documents, an investigation plan is developed.

5.4.4 The investigator prepares a list of witnesses to be interviewed.

5.4.5 The investigator informs those interviewed of the limits of confidentiality.

5.4.6 The investigator determines the additional documents which are required for review and arranges for access to the documents.

5.4.7 The investigator may inspect and copy records of the respondent and other documents relating to the subject matter of the investigation, as per Section 18 (4)(a)(ii) & (b) of the *Act*.

5.4.8 The investigator determines the anticipated timelines to complete the investigation. These timelines are integrated into the contract by the registrar or chair of the complaints authorization committee.

5.4.9 The investigator informs the registrar or the chair of the complaints authorization committee if issues arise which may impact the timely completion of the report.

5.4.10 If the investigator considers it necessary for a respondent to undergo an examination or assessment, as per Section 18(4)(a)(i) of the Psychologists Act, the investigator contacts the registrar who arranges the examination or assessment.

5.4.11 Upon completion of the investigation, the investigator submits a written report to the registrar who ensures it is received by the members of the complaints authorization committee.

5.4.12 It is not the role of the investigator to form an opinion as to whether the respondent has engaged in conduct deserving of sanction.

5.4.13 The investigator may be called as a witness to testify at a hearing before the adjudication tribunal.

5.5 Investigation Report

Policy: The investigator submits a written investigation report which is objective, provides sufficient information and is presented in a format to facilitate decision making by the complaints authorization committee and, if required, by the adjudication tribunal.

Procedures:

5.5.1 The investigation report will include but is not limited to the following:

- Table of contents

- Introduction to provide overview of the investigation:

 - Summary of steps

 - Copy of letter of appointment of the investigator

 - List of people interviewed

 - List of documents reviewed

- Outline of Allegation:

 - Outline of specific issues raised

 - Copy of letter of allegation

 - Copy of letter of response

- Investigation:

 - Chronology of events

 - Documents obtained by the investigator during the course of investigation

 - Steps not taken and why

 - Results of any examination or assessment if completed as part of the investigation

 - Objective presentation of evidence presented to the investigator

- Summary and Appendices

5.5.2 The investigation report does **not** include an opinion as to whether the respondent has engaged in conduct deserving of sanction.

Part 6: Complaints Authorization Committee Decisions

6.1 Dismissal of an Allegation

Policy: Where the complaints authorization committee is of the opinion that there are no reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the allegation is dismissed.

Procedures:

6.1.1 Upon reaching a decision to dismiss, members of the CAC will outline the reasons for the decision during their meeting.

6.1.2 Reasons are recorded in the minutes of the meeting.

6.1.3 The chair of the CAC writes and signs the decision to dismiss.

6.1.4 Upon receipt of the written decision, the registrar ensures that a copy of the decision of the CAC is sent to the respondent and to the complainant.

6.2 Appeal of the Decision of the Complaints Authorization Committee to Dismiss

Policy: A complainant who has an allegation dismissed by the complaints authorization committee has the right to appeal in accordance with Section 18(8) of the Psychologists Act.

Procedures:

6.2.1 The complainant is advised of their right to appeal upon receipt of the written decision of the CAC to dismiss an allegation.

6.2.2 The complainant may within thirty (30) days of receipt of the written notification to dismiss their allegation appeal the dismissal to the Trial Division.

6.2.3 The complainant files a notice of appeal with the court.

6.3 Allegations Reaching Complaint Status

Policy: Where the complaints authorization committee is of the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the allegation is considered as constituting a complaint and the CAC may render one of the following decisions in accordance with Section 18 (3) of the Psychologists Act.

Procedures:

6.3.1 The CAC may counsel or caution a respondent.

6.3.2 The CAC may instruct the registrar to refer the matter to the disciplinary panel.

6.3.3 The CAC may recommend to the board that the respondent's practice be suspended or restricted.

6.3.4 The CAC may recommend to the board that the registrar conduct an investigation.

6.4 Decision to Counsel or Caution a Respondent

Policy: Where the complaints authorization committee is of the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the CAC may choose to counsel or caution the respondent.

Procedures:

6.4.1 To reach a decision to counsel or caution a respondent, the complaints authorization committee considers the following factors:

- (i) the CAC has reached the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction
- (ii) seriousness of the conduct deserving of sanction
- (iii) whether the duty of public protection does or does not warrant a referral to the disciplinary panel
- (iv) the value of a counsel or caution to address the conduct and prevent reoccurrence.

6.4.2 Upon reaching a decision to counsel or caution, the CAC will outline the reasons for the decision and decide upon the period of time for which the counsel or caution will be in effect.

6.4.3 Reasons are recorded in the minutes of the meeting.

6.4.4 The chair of the CAC writes and signs the decision and the letter of counsel or caution.

6.4.5 Upon receipt of the written decision, the registrar ensures that a copy of the decision and the letter of counsel or caution are sent to the respondent.

6.4.6 Upon receipt of the written decision, the registrar ensures that a copy of the decision of the CAC is sent to the complainant.

6.5 CAC Recommendation to Restrict or Suspend a Registration to Practice

Policy: Upon review of an allegation against the practice of a registered psychologist, if the complaints authorization committee is of the opinion that there are reasonable grounds to believe that the individual has engaged in actions which have harmed the public and risk of harm is ongoing, the CAC may recommend to the board that the registration to practice is suspended or restricted.

Procedures:

6.5.1 Upon reaching a decision to recommend suspension or restriction of practice, the CAC will outline the decision and reasons during the meeting.

6.5.2 Reasons are recorded in the minutes of the meeting.

6.5.3 The chair of the CAC instructs the registrar to file a complaint against the respondent and refer the matter to the disciplinary panel.

6.5.4 The chair of the CAC advises the chair of the NLPB in writing of the recommendation to restrict or suspend.

6.5.5 Upon receipt of a recommendation to restrict or suspend, the chair of the board convenes a meeting to review.

6.5.6 Where the board decides to follow the recommendation of the CAC, the reasons and time at which the suspension or restriction is effective is decided.

6.5.7 The chair of the board advises the respondent in writing that the registration is suspended or restricted and includes the time frame.

6.5.8 The public is advised of the suspension or restriction on the registry of the NLPB website.

6.5.9 The board may decide not to act on the CAC recommendation to restrict or suspend as per Section 18.7(a).

6.6 Referral for a Disciplinary hearing

Policy: Where a CAC is of the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the CAC may refer the matter to the disciplinary panel for a hearing.

Procedures:

6.6.1 Upon reaching a decision to refer for a hearing, the CAC will:

- (i) outline the decision and reasons for the decision
- (ii) identify the alleged conduct
- (iii) identify the alleged breaches of the relevant provisions of the legislation, regulations, code of ethics and/or standards of practice for the profession of psychology.

6.6.2 The minutes of the meeting reflect the decision and alleged conduct.

6.6.3 The chair of the CAC instructs the registrar to file the matter as a complaint and refer to the disciplinary panel.

6.6.4 The registrar ensures that the chair of the disciplinary panel is informed of the name of the respondent and complainant and receives notification of the referral in writing.

Section 7: Disciplinary Hearing

7.1 Appointment of the Disciplinary Panel

Policy: Members of the NLPB Disciplinary Panel are appointed in accordance with Section 15(4) of the Psychologists Act.

Procedures:

7.1.1 The disciplinary panel shall consist of not less than ten (10) registered psychologists who are not directors of the board of the NLPB.

7.1.2 The board of the NLPB appoints the registered psychologists for a three (3) year term.

7.1.3 Registered psychologists appointed by the board are members in good standing with the NLPB.

7.1.4 The board of the NLPB appoints one of the registered psychologists to serve as chairperson of the disciplinary panel.

7.1.5 The Minister of Health & Community Services appoints at least three (3) persons who are not registered psychologists as members of the disciplinary panel.

7.1.6 Members of the disciplinary panel may be reappointed.

7.1.7 Notwithstanding the expiry of their term, members of the disciplinary panel continue to be members until reappointed or until a replacement is appointed.

7.1.8 Members of the disciplinary panel serve without payment for their services unless appointed to an adjudication tribunal, as per Section 15(8) of the Psychologists Act.

7.2 Role of the Adjudication Tribunal

Policy: Where the complaints authorization committee instructs the registrar to file a complaint and refer to the disciplinary panel, an adjudication tribunal is appointed to hear the matter and render a decision as to whether or not a respondent is guilty of conduct deserving of sanction.

Procedures:

7.2.1 Upon receipt of the charges against a respondent, the chair of the disciplinary panel appoints three persons from the disciplinary panel to form an adjudication tribunal and ensures that those appointed are not in a perceived, potential or actual conflict of interest to hear the matter.

7.2.2 The adjudication tribunal is composed of two registered psychologists and one member appointed by the Minister of Health & Community Services.

7.2.3 The chair of the disciplinary panel appoints one of the registered psychologists to be the chairperson of the adjudication tribunal.

7.2.4 The adjudication tribunal is appointed by the chair of the disciplinary panel within thirty (30) days of the referral of the complaint to the disciplinary panel.

7.2.5 The adjudication tribunal has access to independent legal counsel to advise and assist the tribunal with any procedural and legal concerns before, during and after a hearing.

7.3 The Disciplinary Hearing

Policy: The disciplinary hearing is conducted by the adjudication tribunal in a manner which is procedurally fair and in compliance with the Psychologists Act.

Procedures:

7.3.1 The parties to a hearing are the Newfoundland and Labrador Psychology Board and the respondent.

7.3.2 The NLPB is represented by legal counsel and the respondent has the right to be represented by legal counsel.

7.3.3 The adjudication tribunal shall set the hearing date at the later of either 120 days after the decision of the complaints authorization committee that grounds exist to start a disciplinary proceeding or 90 days after the complaint is referred to the disciplinary panel. (Psychologists Regulations, Section 10).

7.3.4 The chair of the adjudication tribunal signs and issues a notice of hearing to the respondent which sets out the location, date, time and the allegations to be heard. It indicates that the hearing may proceed without the respondent.

7.3.5 The notice of hearing is sent by registered mail to the last known address of the respondent, the complainant and other relevant parties. The notice of hearing may also be served to the respondent by a process server or delivered in a manner where confirmation of receipt by the respondent can be obtained or verified.

7.3.6 The respondent may participate in person or an adjudication tribunal may permit a respondent to participate by electronic means.

7.3.7 A hearing is held in public unless the adjudication tribunal excludes the public from the hearing or part of it. In this circumstance, the adjudication tribunal must determine that the desirability of protecting a party or another person against the disclosure of personal matters outweighs the desirability of holding the hearing in public, as per Section 20(3) of the Act.

7.4 Requests for Postponement

Policy: Requests for postponement are considered by the adjudication tribunal and may be issued when deemed appropriate.

Procedures:

7.4.1 After a notice of hearing has been issued, requests for a postponement of the hearing by either party or jointly are submitted to the chair of the adjudication tribunal in writing.

7.4.2 The adjudication tribunal will consider requests on their merit and will provide a written response to the respondent and the NLPB.

7.4.3 A new schedule is determined by the adjudication tribunal.

7.4.4 An amended notice of hearing is issued.

7.5 Agreements Presented to the Adjudication Tribunal during Disciplinary Hearings

Policy: Disciplinary hearings may proceed by way of a consent agreement between the respondent and the NLPB.

Procedures:

7.5.1 Where a consent agreement has been reached between the parties prior to the hearing, the adjudication tribunal is convened on the scheduled date of the hearing and hears the submission of the parties.

7.5.2 The adjudication tribunal hears the submissions of the parties without hearing witnesses unless the tribunal believes it is appropriate to do so.

7.5.3 If the adjudication tribunal is of the opinion that the agreements presented reasonably address the complaint, the sanctions outlined in the agreement are accepted and integrated into the decision of the adjudication tribunal.

7.5.4 The adjudication tribunal has the power to amend or reject the agreement of the parties and render an alternate decision.

7.5.5 Hearings that proceed by way of agreement require a written decision of the adjudication tribunal.

7.5.6 Hearings that proceed by way of agreement require filing and publication consistent with the Psychologists Act (2005).

7.6 Distribution and Filing of the Decisions of the Adjudication Tribunal

Policy: Decisions of the adjudication tribunal must be written, filed with the registrar and distributed to the relevant parties within ninety (90) days of completion of the hearing.

Procedures:

7.6.1 The decision is written and signed by the chair of the adjudication tribunal and filed with the registrar.

7.6.2 The registrar ensures that copies of the written decision are sent by registered mail or other means by which confirmation of receipt can be obtained to the following:

- (i) the respondent
- (ii) the complainant
- (iii) the respondent's employer, if applicable
- (iv) the respondent's provisional registration professional experience supervisor, if applicable.

7.6.3 The registrar maintains a copy of the decision or order of the adjudication tribunal for a minimum of ten (10) years after the day the decision is filed.

7.6.4 For a minimum of ten (10) years after the day the decision or order of the adjudication tribunal is filed, the registrar will, upon receiving a written request to view the disciplinary records of a registered psychologist, permit a summary of the decision to be viewed.

7.7 Appeal of Adjudication Tribunal Decisions

Policy: Decisions or orders of the adjudication tribunal may be appealed to the Trial Division of the Supreme Court of Newfoundland & Labrador.

Procedures:

7.7.1 An appeal may be filed by the respondent or the board of the Newfoundland & Labrador Psychology Board.

7.7.2 An appeal by either party must be filed within thirty (30) days after receiving the written notice of the decision of the adjudication tribunal.

7.7.3 Unless ordered otherwise by the Trial Division, the process of appealing a decision does not stay the decision or order.

7.8 Publication of the Decision of the Adjudication Tribunal

Policy: The public are informed of decisions or orders of the NLPB adjudication tribunal in accordance with the Psychologists Act and NLPB policy.

Procedures:

7.8.1 The registrar shall publish a summary of the decision or order of the adjudication tribunal where that decision or order

- (i) suspends the respondent,
- (ii) allows or directs the respondent to withdraw his or her registration,
- (iii) restricts the respondent's practice,
- (iv) specifies conditions for the continuing practice of the respondent, or
- (v) requires that a summary of the decision or order be published.

7.8.2 A summary of the written decision is published within fourteen (14) days after the decision is filed with the registrar, in accordance with Section 24(3) of the Act.

7.8.3 Unless a court orders otherwise, a summary of the decision to be published includes the following:

- (i) the name of the respondent and the address where he/she practices
- (ii) the date, location and a brief description of the conduct of the respondent that was found to be deserving of sanction
- (iii) the name of the complainant unless the complainant has requested that his/her name be withheld
- (iv) the contents of the order
- (v) other information contained in the decision which the adjudication tribunal has specified for publication.

7.8.4 Decisions of the adjudication tribunal are published in a newspaper of general circulation in or nearest the community where the respondent practices.

7.8.5 Within fourteen (14) days after the appeal period, a summary of a decision of the adjudication tribunal is published on the website of the Newfoundland and Labrador Psychology Board and remains on that website for the duration of the period of sanction.

7.8.6 Summaries of adjudication tribunal decisions which do not meet the requirements set out in the Psychologists Act may be published with the consent of the registrant.

7.9 Monitoring Sanctions imposed by the Adjudication Tribunal

Policy: Sanctions imposed upon the respondent by the adjudication tribunal are monitored for compliance.

Procedures:

7.9.1 Following distribution and publication of the decision, the registrar notes all time frames within which sanctions have been issued.

7.9.2 The registrar monitors the completion of sanctions.

7.9.3 When all sanctions have been completed the registrar notifies the respondent in writing.

7.9.4 Where a respondent fails to comply with the completion of a sanction within the time frame indicated in the decision of the adjudication tribunal, the registrar will evaluate and address in a manner consistent with the Psychologist Act 2005.