

Conduct By-Law



**Commitment to ensure the highest standards
of public trust and integrity**

Approved by Council
September 2017



By-Law No. 3: Conduct of councillors and committee members

Approved on September 20, 2017 to come into effect on December 1, 2017

Note: To support understanding, this version of the by-law includes examples for the articles 3 regarding conflict of interest and 4 regarding confidentiality.

Purpose

The College has a duty to serve and protect the public interest.

Council is committed to ensuring that, in all aspects of its affairs, it maintains the highest standards of public trust and integrity.

The Code of Conduct supports individual Council and committee members in understanding and meeting their individual accountability.

The Code of Conduct supports Council in meeting its commitment to the public.

Definitions and Interpretations

1.01 In this by-law,

“Code of Conduct” means the expectations set out in Article 2.03 below;

“panel” means a panel of a statutory committee of the College;

“affiliated entity” means an organization in which a councillor or committee member has a leadership, employment or contractual role or position or which a councillor or committee member owns in whole or in part.

1.02 This by-law shall be interpreted in such a manner as to promote and enhance public confidence in the regulation of the nursing profession in the public interest.

1.03 This by-law shall be interpreted in such a manner as to be consistent with Council’s governance principles such as that Council has designated spokespeople, usually the Executive Director or the President, and that Council speaks with one voice.

1.04 This by-law applies to councillors and to committee members.

1.05 This by-law does not apply to and shall not be interpreted as in any way limiting the ability of Council or the Executive Committee under By-Law No. 1 to remove a councillor or committee member from a committee or office or to disqualify a councillor. When removing or disqualifying a councillor under By-Law No.1 there is no requirement to follow the procedure set out in Article 5 of this by-law.



2. Code of Conduct

2.01 Councillors and committee members shall comply with the Code of Conduct to the extent reasonable in the circumstances.

2.02 Each councillor and committee member shall, prior to commencing service, deliver to the Executive Director a fully completed form, prepared by the Executive Director, expressing understanding of and a commitment to comply with the Code of Conduct. Each councillor and committee member shall immediately notify the Executive Director of any new information or changes of information to the form and shall also update the form annually.

2.03.1 Accountability

Councillors and committee members shall fulfill their accountability to the public by:

- a) making all decisions in the best interests of the public;
- b) participating in discussion constructively and in a respectful, non-judgemental and reasoned manner;
- c) attending meetings and being on time;
- d) understanding and complying with their duties as set out in the *Regulated Health Professions Act, Nursing Act*, the regulations and by-laws made under them and the policies of the College;
- e) respecting the Executive Director's authority as Chief Executive Officer and Registrar and holding the Executive Director accountable for her or his performance;
- f) respecting the boundaries between the roles of councillors and committee members and staff; and
- g) raising concerns when observing apparent wrongdoing by councillors and committee members.

2.03.2 Adaptability


Councillors and committee members shall demonstrate adaptability by:

- a) considering the views of other councillors and committee members and of stakeholders; and
- b) supporting and endorsing Council and committee decisions regardless of the level of prior personal disagreement.

2.03.3 Competence

Councillors and committee members shall demonstrate competence in their roles by:

- a) coming prepared for meetings;

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- b) participating in required applicable orientation and learning sessions for councillors and committee members;
 - c) addressing matters clearly and succinctly without undue repetition; and
 - d) taking part in committee work diligently and actively serving on committees as appointed.

2.03.4 Diversity

Councillors and committee members shall support diversity by:

- a) welcoming alternative points of view;
- b) demonstrating respect for others;
- c) recognizing and respecting the value of diversity and the contribution of all councillors and committee members and respecting their diverse background, skills and expertise; and
- d) respecting staff and all others with whom councillors and committee members interact.

2.03.5 Independence

Councillors and committee members shall act independently by:

- a) making decisions impartially, fairly, using best evidence and without discrimination or bias;
- b) not directing the work of individual College staff; and
- c) refraining from attempting to influence a decision affecting an individual unless part of the panel or committee assigned to do so.

2.03.6 Integrity

Councillors and committee members shall act with integrity by:

- a) not acting when in a conflict of interest (see Article 3 for further explanation);
- b) complying with their confidentiality obligations (see Article 4 for further explanation);
- c) fostering trust and demonstrating confidence in colleagues;
- d) being courteous to others and refraining from behaviour that may reasonably be perceived as verbal, physical or sexual abuse or harassment and intervening as appropriate when observing such behaviour by others; and
- e) referring all requests for comment by the media and others to the designated College spokesperson.

2.03.7 Transparency

Councillors and committee members support transparency by:

- a) being honest and accurate in all communications; and
- b) being transparent in providing the reasons and supporting rationales contributing to decisions made by the Council.

3. Conflicts of Interest

	By-Law	Examples/explanation
3.01	The purpose of this part of the by-law is to provide helpful explanations as to how to comply with the conflict of interest provisions of the Code of Conduct. These provisions in no way limit the full extent of the duties set out in the Code of Conduct.	
3.02	A conflict of interest may be actual or potential, real or perceived, direct or indirect.	<p>A perceived conflict of interest can be as damaging as an actual conflict.</p> <p>For example, in the United States the failure of the regulatory Board to act on a serious, substantiated concern of billing fraud against the previous Chair of the Board, who practised with the current Chair of the Board, severely damaged the regulator's reputation.</p>
3.03	A conflict of interest exists where a reasonable member of the public would conclude that a councillor's or committee member's personal or financial interest, relationship or affiliation may affect his or her judgment or the discharge of his or her duties to the College.	<p>The purpose of the Code of Conduct is to support public trust. For that reason – the test for conflict is what a <i>reasonable member of the public</i> would conclude if they knew the circumstances.</p> <p>When considering whether an affiliation you have is a conflict with your role at the College – please keep this test in mind:</p> <p><i>If a reasonable member of the public knew of this involvement would she/he believe that my sole consideration when making decisions on Council/committee is the public interest?</i></p>
3.04	The terms “conflict of interest” and “appearance of bias” are often used interchangeably. The term “conflict of interest” generally applies best to policy or administrative decisions while the term “appearance of bias” generally applies best to an adjudicative type of decision. For the purpose of this by-law, they mean the same thing.	<p>The fiduciary duties of members of corporate Boards of Directors and of tribunal adjudicators have evolved separately. The first is a part of corporate law and the second is part of administrative law. As a result, while the concepts are similar, different terminology is often used.</p> <p>For example, a director voting on a contract that would benefit the director is often said to be in a conflict of interest while a tribunal member hearing a case involving a friend or enemy is often said to have an appearance of bias. Many, but not all, corporate conflicts of interest are financial. Many, but not all, appearances of bias are non-financial.</p>



	By-Law	Examples/explanation
		In statutory committees, it is critical to be absolutely scrupulous in addressing any appearance of bias.
<i>Examples of Conflicts of Interest</i>		
3.05	Some examples of activities or circumstances that in most circumstances would constitute a conflict of interest or an appearance of bias for a councillor or committee member include the following:	
(a)	Where the decision could confer a more than trivial financial or other benefit to the councillor or committee member or their close relative or friend or affiliated entity;	<p>If a Council member was influenced in a vote because the decision could benefit a family member that would be a conflict of interest.</p> <p>On the other hand, it is not a conflict of interest for Council members to vote on a change to increase the stipend. Input is provided by a third party expert committee. The change impacts all Council and committee members equally and generally does not involve a significant amount. Also, members of Council need to participate or there would not be quorum to make the decision.</p>
(b)	Where the decision could impose a more than trivial financial or other burden on the councillor or committee member or their close relative or friend or affiliated entity;	<p>If a close friend was being fined for late payment – it would be a conflict for a Council or committee member to intervene. Even though the amount may not be huge, the Council or committee member is seeking special treatment for a friend and is acting outside of their role.</p> <p>It is not a conflict for Council members to participate in making a decision to increase renewal fees as these impact on all nurses equally, do not involve special treatment. As above, members need to vote or there will not be a decision.</p>
(c)	Where the councillor or committee member or their close relative or friend or affiliated entity seeks or accepts more than a nominal a gift from a person or entity connected to or affected by the College or its mandate or a gift which could reasonably be viewed as influencing the councillor or committee member;	Almost any gift related to the work of a Council or committee member at the College could be perceived as an attempt to impact a Council or committee member's decision making and should not be accepted. The status of the giver (e.g., a person or entity that has an interest in College decisions) is significant as is the perception in our society that gifts reflect either a special relationship or something which is expected to be reciprocated.



	By-Law	Examples/explanation
		<p>However, ordinary and customary hospitality may not be a conflict of interest.</p> <p>For example, where a delegation from the College is meeting at a stakeholder's premises, it would be appropriate to accept refreshments and a working lunch.</p>
(d)	<p>Where the councillor or committee member or their close relative or friend or affiliated entity uses the councillor's or committee member's position with the College to advance their personal or financial interests;</p>	<p>This might arise where a Council member is pressured by a close relative who wants special access to the College to provide services. For example if a family member is a lawyer interested in providing legal services to regulators, it would be a conflict of interest to act on it by forwarding the request to staff.</p> <p>Another example would be placing a Council or committee member's College position (e.g., chair of the Discipline Committee) on their signature block for their "day job" or in an advertisement to recruit staff for their workplace.</p>
(e)	<p>Where the councillor or committee member has a leadership, employment or contractual role or position with a provincial, national or international entity that advances the interests of nurses, has policy making responsibilities for nurses or oversees the regulation of nurses;</p>	<p>The public must be confident that members of Council or committees are not influenced because of loyalties to either nursing organizations or organizations that have policy making decisions for nurses (e.g. Ministry of Health & Long-Term Care) or oversee the regulation of nursing (e.g. Ministry of Health and Long-Term Care, Office of the Fairness Commissioner).</p> <p>It is not a conflict of interest to be a member of a nursing association or union. Nor is it a conflict to be involved at the local level.</p> <p>It is a conflict to hold a leadership position. Council has defined a leadership position as either involvement in the provincial, national or international board of directors or, at a local level, a position that would result in the member participating in provincial decision making. For example – if the Bargaining Unit President attends provincial negotiating meetings – that is a position that you cannot hold and serve on Council. It would also be a conflict of interest to be selected as a voting delegate for a professional association meeting.</p>

	By-Law	Examples/explanation
(f)	Where the councillor or committee member is running for national or provincial public office and where the councillor or committee member has not taken a leave of absence from all Council and committee positions at the College;	Any provincial or national office has the potential for conflict of interest and cannot be pursued or held at the same time as actively serving on Council or a committee. A leave of absence must be taken during the election and, if elected, the person should then resign from Council or the Committee.
(g)	Where the councillor or committee member agrees to give or gives a presentation on an issue related to the College's role or activities without prior College approval;	Invitations related to College business belong to the College, not to individual Council or committee members. The invitation should be forwarded to the President or Executive Director for processing.
(h)	Where the councillor or committee member agrees to participate or participates in a committee, working group, task force or other group related to the College's role or activities without prior College approval;	Invitations to participate in an initiative related to the College's mandate belong to the College. Again, the invitation should be forwarded to the President or Executive Director for processing.
(i)	Where the councillor or committee member, who is not the official spokesperson for the College, is in communication with government officials, politicians or the media on any matter related to the College without prior College approval;	It is important that the official College spokespeople are involved in all official communication. This ensures that a clear and consistent message is conveyed.
(j)	Where the councillor or committee member publishes, including a posting on social media, a statement that could impair the public's confidence in the College or the councillor's or committee member's ability to make transparent, objective, impartial and fair decisions that are in the public interest;	<p>There is a significant risk of harm to the Council or committee member's or the College's credibility from publications including posting on social media.</p> <p>This article sets a test for appropriate posts – excluding those that could impair the public's confidence in the councillor, committee member and/or the College.</p> <p>This provision can apply to inappropriate communications unrelated to College matters. For example, some years ago the Chair of the Discipline Committee of the College of Teachers of Ontario had to step down for publishing a sexually explicit novel about students. Social media postings of a discriminatory nature (e.g., sexist, racist) have also created serious issues.</p> <p>Council and committee members are encouraged to refrain from posting about their role at the College on social media, as</p>

	By-Law	Examples/explanation
		there is also the potential for the perception that confidentiality has been breached.
(k)	Where the councillor or committee member appears to give special access to a person or entity that advances the interests of nurses or that has policy making responsibilities for nurses or that oversees the regulation of nurses without prior College approval;	The appearance of giving special access to a stakeholder can be quite harmful. For example, it would not be appropriate for a Council member to meet privately with representatives of a professional association of nurses prior to Council meetings to hear their perspectives on the agenda.
(l)	Where the councillor or committee member advises or assists anyone in their dealings with the College;	For example, it would not be appropriate to assist your employer in preparing a report to the College (or a response to a complaint) because of your involvement in the College (and the potential that you have additional knowledge). However, if it is a part of your job responsibilities to prepare reports to the College, and it cannot be delegated, then it may be acceptable to do so, so long as you do not use your position to gain special consideration of the report. It would be inappropriate to help a colleague prepare their response to a complaint or report.
(m)	Where the councillor or committee member demonstrates a closed mind on an issue that is coming up, or is likely to come up, before the College;	Members are expected to come to meetings open to the perspectives of others. It is not appropriate to come with your mind already firmly made up and unwilling to consider the perspectives of Council or committee colleagues. For example it would be inappropriate for a Council member to tell anyone, particularly a stakeholder, how they will vote on an agenda item before the Council meeting.
(n)	Where the councillor or committee member participates in a legal proceeding against the College, except on behalf of the College;	It is a conflict of interest to sue, or help sue, the College if you serve on the board or on a committee. This article includes the potential that a member of Council or a committee may be called to participate in a legal proceeding as a witness for the College. Of course, compelled attendance (e.g. by a summons) is acceptable.

	By-Law	Examples/explanation
(o)	Where the councillor or committee member is the subject of an inquiry or investigation by the College, the police or another authority that impairs the ability of the councillor or committee member to participate in a decision or to continue to serve in his or her position or has the potential to jeopardize public trust in the member, the Council, the committee or the College;	<p>This provision is focused on supporting public trust.</p> <p>For example, if the College received a complaint about a member of Council related to poor communication, it would likely not be a conflict. However; if the Registrar appoints an investigator on reasonable and probably grounds, with the approval of the ICRC, to look into serious allegations of sexual abuse – that could impact on the member’s ability to act on behalf of the College and College’s credibility and would constitute a conflict.</p>
(p)	Where the councillor or committee member applies for employment with the College without first resigning all Council and committee member positions;	This provision is to ensure that there is no perception of favouritism or bias in hiring.
(q)	Where the councillor or committee member has a connection with a person or issue to be determined that would reasonably be seen by those who know all of the circumstances as incompatible with his or her responsibilities as an impartial decision-maker; and	<p>This provision applies most often in statutory decision making. For example:</p> <ul style="list-style-type: none"> • a member of the Inquiries, Complaints and Reports Committee should declare a conflict and withdraw if they have a relationship with the nurse or knows other details about the matter; • a member should not serve on a discipline panel if they work together with the nurse facing discipline or a key witness.
(r)	Where the councillor or committee member or their close relative or friend or affiliated entity uses materials developed for the College for commercial purposes without prior College approval.	<p>This is a particular example of using a position with the College for personal gain.</p> <p>For example, it would be inappropriate for a member of the Quality Assurance Committee, who assisted in the development of a jurisprudence quiz, to use those materials in presenting courses preparing nurses for the quiz.</p> <p>Members of the Council are expected to treat the College’s resources the same as they would treat the College’s money.</p>
<i>Preventing and Addressing Conflicts of Interest</i>		
3.06	Councillors and committee members shall avoid, where feasible, situations where they would have conflicting duties of confidentiality and disclosure between their	An example of this is where a member serves on the board of a charity that provides health care and learns something that should be declared to the College. The member has conflicting fiduciary (board



	By-Law	Examples/explanation
	<p>role with the College and with another person or entity.</p>	<p>members are fiduciaries) duties – to the charity and to the College. It is a good strategy to avoid such involvements, especially if serving on Council.</p> <p>Not every situation can be avoided, for example confidentiality duties to one's employer. Where a conflict arises, Council and committee members are encouraged to seek guidance.</p>
3.07	<p>Where a councillor or committee member is in doubt as to whether he or she has a conflict of interest, the councillor or committee member shall consult with an appropriate person such as the Chair of the affected committee, the President, the Executive Director, or independent legal counsel in a hearing.</p>	<p>The identity of the appropriate person would vary in the circumstances. In some situations there may be more than one appropriate person.</p> <p>For example, where the conflict relates to a Council issue, it is probably best to consult with either the President or the Executive Director.</p> <p>Where there is an appearance of bias concern relating to a discipline hearing, the committee member should probably consult with independent legal counsel.</p>
3.08	<p>If a councillor or committee member believes that he or she has a conflict of interest in a particular matter, he or she shall,</p> <ul style="list-style-type: none"> a) prior to any consideration of the matter, declare to the Council or the committee that he or she has a conflict of interest that prevents him or her from participating; b) not take part in the discussion of or vote on any question in respect of the matter; c) leave the room for the portion of the meeting relating to the matter even where the meeting is open to the public; and d) not attempt in any way to influence the voting or do anything which might be reasonably perceived as an attempt to influence other councillors 	<p>This provides clear guidance on how to deal with an identified conflict of interest.</p>



	By-Law	Examples/explanation
	or committee members or the decision relating to that matter.	
3.09	Where a councillor or committee member declares a conflict of interest, that fact shall be recorded in the minutes of that meeting of Council or the committee.	This protects the integrity of the member and of the decision and promotes transparency.
3.10	Where a councillor or committee member believes that another councillor or committee member has a conflict of interest that has not been declared despite any appropriate informal communications, the first councillor or committee member shall advise an appropriate person such as the Chair of the affected committee, the President, the Executive Director, or independent legal counsel in hearing matters.	<p>It is the duty of every member of Council or a committee to safeguard the integrity of the decision-making process by intervening appropriately to prevent a conflict of interest from occurring.</p> <p>This provision identifies that, where possible, a first step should be communication with the member who has the conflict and is not declaring it.</p> <p>Since this is an intervention to prevent someone from acting while in a conflict of interest and speed may be important, verbal communication is sufficient.</p> <p>However, where informal communications do not resolve the concern, Council and committee members have a duty to bring the issue up to the appropriate person for action.</p>
3.11	Where a councillor or committee member believes that another councillor or committee member has acted in or is in an ongoing conflict of interest, he or she shall advise in writing an appropriate person such as the Chair of the affected committee, the President, the Executive Director or independent legal counsel in hearing matters.	<p>This provision describes the duty to intervene appropriately when a conflict of interest has already occurred.</p> <p>Since a conflict has occurred, this is a serious matter. However, since speed is not needed to prevent the conflict, the intervention is required to be in writing. The written report should, however, still be made promptly.</p>
3.12	Where the Council or a committee concludes that one of its members has a conflict of interest that has not been declared, it can direct that the councillor or committee member not participate in the discussion or decision, leave the room for that portion of the meeting and not try to or otherwise exert influence in the matter.	This article provides guidance to Council or committees on how to address a conflict of interest that is either not being declared or where the person with the conflict is not dealing with appropriately. The goal of these actions is to preserve the integrity of the decision and the reputation of the organization.

4. Confidentiality

	By-Law	Examples/explanation
4.01	The purpose of this part of the by-law is to provide helpful explanations as how to comply with the confidentiality provisions of the Code of Conduct. These provisions in no way limit the full extent of the duties set out in the Code of Conduct.	
4.02	Councillors and committee members shall treat all information learned in the course of their duties, whether or not the information is related to an individual, as confidential and shall not disclose it unless an exception applies.	<p>Members of Council and committees need to treat College information with the same care they would treat College money.</p> <p>The “exception” recognizes that there are times when information is not confidential – for example, as of September 2017, the full Council package is available on the website.</p>
4.03	Councillors and committee members shall review at least annually and when there are changes, the provisions in the Regulated Health Professions Act (especially section 36) and the Health Professions Procedural Code (especially sections 83 and 83.1), relating to confidentiality.	<p>Council and committee members need to be aware of the confidentiality provisions of the legislation.</p> <p>The confidentiality provisions will be sent to Council and committee members together with the Conduct By-Law as part of the annual review and commitment to act in accordance with the by-law. Council and committee members will also be informed promptly of any changes to the confidentiality provisions.</p> <p>Council and committee members have an obligation to read and understand the provisions and any changes to them.</p>
4.04	Councillors and committee members shall generally leave to College staff the disclosure of information under the legal exceptions to the duty of confidentiality. However, in appropriate circumstances, councillors and committee members may disclose information directly such as when performing their duties, such as in rendering a decision and reasons on behalf of a committee, when appropriately discussing information that is public under the legislation and when consulting with their own legal counsel.	This article provides clarification as to how College information is usually communicated (i.e., through staff). Having staff conduct the communications helps ensure a consistent approach that is in compliance with the <i>RHPA</i> and is accompanied by a record preserving the details of the communication. However, there are some times when it is appropriate for Council or committee members to make the communications directly. This provision gives the most common examples of this – such as preparing a committee decision.
4.05	Even for communications within the College, councillors and committee	The duty of confidentiality applies within the College too. It is not just an external duty.



	By-Law	Examples/explanation
	members shall only obtain or disclose information on a need-to-know basis.	
4.06	Councillors and committee members shall take reasonable measures to safeguard College information including the safe management of paper documents and portable electronic devices and avoiding the use of unsecure electronic forms of communication or the use of social media for such communications.	<p>Members have a duty to safeguard College information.</p> <p>The media contains numerous stories of individuals and organizations that enabled serious privacy breaches through carelessness.</p>
4.07	Where a councillor or committee member believes that there has been a breach of confidentiality by a councillor or committee member, whether intentional or unintentional, he or she shall immediately advise the Executive Director in writing providing all of the details. The Executive Director shall notify the President as soon as possible of any breach of confidentiality by a councillor or committee member.	<p>A privacy breach has the potential to cause serious harm to nurses, patients, complainants and other individuals and damage the reputation of the College. It is imperative that action be taken immediately to address any privacy breach.</p> <p>The Executive Director is the College's privacy officer and must be notified immediately of any privacy breach. The member must provide the Executive Director with as much information as is known to assist the Executive Director in assessing the scope of the breach and in identifying the appropriate steps to mitigate the risk posed by the breach.</p> <p>The President should also be advised so that consideration can be given to whether additional policies or other organizational-level action is needed.</p>




5. Code of Conduct Proceedings

- 5.01 Unless it is inappropriate to do so, informal resolution between the person with the concern and the councillor or committee member about whom the person has the concern should be attempted before engaging the formal complaints process. Nothing in this by-law prevents the informal resolution of Code of Conduct concerns including by providing feedback, guidance, reminders, advice or counselling or by negotiating agreements or undertakings.
- 5.02 The following procedure shall be followed to address a complaint filed about a Code of Conduct concern if there is no informal resolution before or during the process.
- 5.03 A written complaint shall be filed with both the Chair of the Conduct Committee and the Executive Director. If the complaint is about the Chair of the Conduct Committee, it may be filed with another member of the Committee instead. A complaint may be made by a member of the public, a councillor or committee member or the Executive Director. If the complaint is made to only one of the Chair of the Conduct Committee, or another member of the Committee, or the Executive Director, that person shall immediately file a copy of the complaint with the other person.
- 5.04 If the Conduct Committee as a whole has a conflict of interest with respect to the complaint or if the Committee is otherwise unable to act on the complaint, it shall appoint an independent investigator from a list approved by the Council to investigate on its behalf under this Article and it shall appoint an independent commissioner from a list approved by the Council to make decisions on its behalf under this Article.
- 5.05 The Conduct Committee or its delegate shall conduct any investigation it deems appropriate. If material facts are in dispute, the Committee or its delegate shall adopt a fair and reasonable process to determine those facts which may include the appointment of an independent investigator to investigate and provide a written report respecting those facts.
- 5.06 Where, after providing the councillor or committee member an opportunity to make written submissions, the Conduct Committee or its delegate believes that the complaint warrants formal resolution, it shall refer the complaint for formal determination by the Executive Committee or its delegate.
- 5.07 If the Executive Committee as a whole has a conflict of interest with respect to the complaint or if the Committee is otherwise unable to act on the complaint, it



shall appoint an independent commissioner from a list approved by the Council to make decisions on its behalf under this Article.

- 5.08 Where the Conduct Committee or its delegate believes that the complaint does not warrant formal resolution, it shall provide a report to the Executive Committee or its delegate about the investigation and conclusion, with reasons for the conclusion. The Executive Committee or its delegate may accept the report, return the matter for additional investigation or other action, initiate informal resolution, or schedule the complaint for formal determination before the Executive Committee or its delegate.
- 5.09 The Conduct Committee or its delegate or the Executive Committee or its delegate, may make an interim direction at any time to protect the integrity and reputation of the College including directing that the councillor or committee member be suspended from his or her positions or duties until the matter is finally resolved.
- 5.10 The Executive Committee, after receiving a referral from the Conduct Committee or its delegate under Article 5.06 or scheduling the complaint for formal determination under Article 5.08, shall determine whether there has been a breach of the Code of Conduct and, if so, impose an appropriate sanction.
- 5.11 The Conduct Committee, or its delegate, the complainant and the councillor or committee member whose conduct is the subject of concern shall be the parties at the determination. The councillor or committee member whose conduct is the subject of concern shall be given reasonable notice of the complaint and all parties shall be given the opportunity to make written and oral submissions. The Executive Committee or its delegate is not required to hold a hearing.
- 5.12 An appropriate sanction may include one or more of the following:
- (a) censure of the councillor or committee member verbally or in writing;
 - (b) removal of the councillor or committee member from any committee on which he or she serves;
 - (c) removal of a councillor or committee member as a Chair of any committee on which he or she serves;
 - (d) exclusion of the councillor or committee member from all or part of meetings of the Council or any committees;

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- (e) restricting access to confidential information by the councillor or committee member;
 - (f) disqualification of an elected councillor;
 - (g) delivery of a report to the Public Appointments Secretariat requesting the removal of a councillor who has been appointed by the Lieutenant Governor in Council; or
 - (h) any other sanction appropriate to the circumstances.

5.13 A sanction under Article 5.12 requires a - majority vote of the members of the Executive Committee or its delegate (if more than one), present at the meeting.

5.14 Any party may appeal the decision of the Executive Committee or its delegate to the Council. The Council is not required to hold a hearing and may establish its own procedures. The Council has all of the powers of the Executive Committee or its delegate making the determination. Since Council is acting in an appellate capacity, any decision requires a majority of the votes cast at the meeting by councillors present. The councillor whose conduct is in issue and the complainant, if a councillor, shall be deemed not to be present at the Council meeting for the purpose of counting votes.