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## HEARINGS

*Settlement Agreement* - Should the matter be forwarded to a hearing committee, a proposed settlement agreement may be tendered in writing by the member to the Investigation Committee at any time prior to a formal hearing. A settlement proposal must be agreed upon by both of these parties. If such agreement is reached, the settlement proposal is forwarded to the Hearing Committee, who can accept or reject it. If the Hearing Committee accepts the agreement, it then becomes part of the order of the Hearing Committee and no formal hearing will be held into the matter as long as the member complies with such order. In the event a settlement agreement is rejected by the Hearing Committee, the matter is forwarded to a new Hearing Committee for a formal hearing. Further information on settlement agreements can be found under Section 50 of the Act.

*Formal Hearing* - When a matter is forwarded by an Investigation Committee to a Hearing Committee, and there is no settlement agreement, a formal hearing is held. At a hearing evidence is given before a Hearing Committee. After hearing all evidence, the Hearing Committee must make a determination as to whether one or more of the charges have been proven and, if so, whether such proof amounts to a finding of professional misconduct, conduct unbecoming an occupational therapist, or incompetence. If the Committee makes one or more of the above findings, the Hearing Committee must then decide on appropriate action.

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The following measures may be taken:

- (a) the members' license be revoked;
- (b) the member's license be suspended for a fixed period or an indefinite period, pending compliance with conditions;
- (c) put conditions on a license;
- (d) mandate treatment or re-education;
- (e) impose a fine up to \$15,000.00;
- (f) impose a reprimand;
- (g) such other disposition as the committee considers appropriate;
- (h) carry out any combination of the above.

If the Hearing Committee finds the evidence does not support any of the charges, the Committee can dismiss the complaint.

In the event the Member wishes to appeal on any point of law from the findings of the Hearing Committee, the appeal is to the Nova Scotia Court of Appeal.

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College of  
Occupational  
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Nova Scotia

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## DISCIPLINE PROCESS

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The discipline process of the College of Occupational Therapists of Nova Scotia (COTNS) is initiated when a written complaint against an occupational therapist is received at COTNS, or when a matter is referred by the Registrar of COTNS. A letter is then sent to the complainant (the person who laid the complaint) verifying receipt of their letter of complaint and informing them that an investigation will begin. A letter is also sent informing the respondent (the member against whom a complaint is laid) that a complaint against them has been received and that an investigation into the complaint will be conducted. A copy of the letter of complaint; a copy of the *Occupational Therapists Act* and the College *Regulations* are forwarded to the complainant and the respondent with the initial letter.

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## INVESTIGATIONS

After the above information is forwarded to the complainant and the member, an Investigation Committee is appointed by the Board of the College to investigate the complaint. The investigation is carried out in an impartial manner. All information, whether it supports or refutes the information contained in the letter of complaint, is collected. Persons being interviewed should be aware that any information given by them and that is relevant to the complaint, is potentially disclosable to the member.

The Investigation Committee has power to do all things necessary to provide a full investigation and may appoint other persons to conduct and assist in an investigation or practice audit. As well, it may require a member to submit to physical/mental examination, inspections or practice audit by a qualified person designated by the Committee, submit to competency examinations and produce records. In such instances, the Committee shall deliver to the member any report it receives from the designated qualified individual. Where the member fails to comply with these requests, the Committee may suspend or restrict the registration or licence, or both of the member until the member complies.

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After reviewing all information it has received, the Investigation Committee can

**(a) dismiss the complaint;**

An Investigation Committee can dismiss a complaint. If a complaint is dismissed, there will be no further action on the file.

**(b) attempt to informally resolve the complaint;**

**(c) with parties' consent, refer the matter, in whole or in part, for mediation;**

An Investigation Committee may informally resolve a complaint or refer any matter for mediation. Informal resolution or mediation may be considered in cases where all interested parties (ie. the complainant, the member, and the Investigation Committee) believe addressing the complaint through such a resolution is appropriate. Any one of the interested parties can approach the other parties to suggest such a resolution.

**(d) refer to the matter to a hearing committee for a formal hearing;**

**(e) counsel the member;**

**(f) caution the member;**

**(g) counsel and caution the member;**

An Investigation Committee may issue a counsel, a caution or both. **A counsel and a caution are not considered disciplinary findings.**

A counsel is a determination that the member could benefit from professional guidance from the Committee with regard to the subject matter of the complaint in circumstances that do not constitute professional misconduct, conduct unbecoming an occupational therapist, or professional incompetence. A caution is a finding that the member has breached the standards of professional ethics or practice expected of members, but in circumstances where such breach does not constitute professional misconduct, conduct unbecoming an occupational therapist, or incompetence.

**(h) issue a reprimand, with the consent of the member;**

Should the Investigation Committee wish to issue a reprimand, the member will be asked to consent to that reprimand. A reprimand is considered a disciplinary finding and requires the consent of the member. Should the member consent to a reprimand, that reprimand is considered the same as one issued by a hearing committee following a formal hearing and becomes part of the member's permanent record at COTNS.

**(i) with the member's consent, require him or her to undergo treatment or re-education.**

An Investigation Committee can suspend a member at any time throughout the investigative process. This is done in cases where the Investigation Committee concludes that the public interest requires an immediate suspension. The suspension would remain in place until final resolution by a hearing committee.

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