

Consistency in OLA Hearings

The OLA endorses the principles of natural justice and due process which allows any individual the right to a hearing and an appeal of any action which affects their rights.

B3.08 Section III OLA Code of Conduct Policy

February 29, 2020

General Guidelines and Considerations - Hearings

- ▶ There is no one size fits all, and each hearing should stand on its own merits and facts
- ▶ No check box that if certain conditions are met, the result will be determined (i.e. decision tree)
- ▶ OLA is a self-regulated body, so lawyers have no standing in the hearing process. This is not a court of law. Should they wish to speak then they will do so on behalf of the appellant. There can be no questions or comments made by the appellant, if so the hearing would be considered over and the committee will rule based on the information at hand.
- ▶ New information can't be added subsequent to the original request. If there is new information then the process will have to start all over.
- ▶ Video evidence; should not be accepted. There is never a full and complete picture of the specific issue when looking at video. It is generally from one perspective only.
- ▶ Releases should never be granted on the basis of quality or caliber of play.
- ▶ Watch for “copy cat” release forms. The name is changed but the wording is verbatim from a previous submission that was requesting a release.
- ▶ Release requested based on other factors that have never been raised with the Club or Association.

General Guidelines and Considerations - Hearings (cont'd)

- ▶ Be aware of potential for conflict of interest. It can be an avenue for an appeal. If you feel that one exists then you should recuse yourself from the hearing.
- ▶ This can impact having three people on your committee at the hearing. An option would be to still lead the hearing but recuse and not vote.
- ▶ The decision should note who was there, why is the hearing happening, what are the facts and what was discussed and your decision and conclusion.
- ▶ Your decision should tie back to the OLA rules and regulations and reference the relevant sections or even policies (e.g. Fair Play) wherever possible.
- ▶ Having these items included in your decision will help the OLA should it come to the next level. If the rules and regulations were properly applied and interpreted then it becomes much harder to overturn the decision.

Lets look at an example....

Hearing Decision Document

- ▶ What kind of hearing is it?
- ▶ Where was it and what date did it occur on?
- ▶ Who was present? Were all parties there? Can't have a hearing with both parties not being in the same meeting, if they are present.
- ▶ If invited and a party to the hearing decides not to attend, this should be noted.
- ▶ Why is the hearing occurring?
- ▶ What are the facts? What was discussed?
- ▶ How did you decide and conclude? What are the references used to come to your conclusion.

External Example - Hearing Decision

- ▶ One example of a discipline decision made by the Institute of Chartered Accountants of Ontario (ICAO)
- ▶ Very detailed but follows what we have just discussed.
 - ▶ Reasons for meeting and where was it
 - ▶ Who was there
 - ▶ Charges and Evidence
 - ▶ Findings
 - ▶ Decision