
Council Policy

Policy Name	Continuing Education Non-Compliance Procedure
Issue Date	November 2, 2007
Revision Dates	June 5, 2013; November 6, 2014; May 10, 2022

Background

Non-compliance with the OAA's Mandatory Continuing Education Program (ConEd) is a serious matter. A failure to complete the requirements set out in section 54 of Regulation 27 could result in a finding of professional misconduct.¹

All members who are non-compliant with the ConEd requirements will have their names forwarded to the Office of the Registrar (OOTR) for action, and, in more serious matters of non-compliance, prosecution for misconduct. The OAA shall apply a right-touch approach to the administration and application of this policy. To that end, wherever possible, the OAA shall simplify processes, focus on dispositions that promote ongoing member competence and preserve the reputation of the architectural profession, and prosecute for misconduct when necessary.

Process

The following process shall be followed:

1. Once the End of Cycle has passed, or shortly thereafter, the OOTR shall perform a preliminary review of all members who have been non-compliant with the ConEd requirements, having regard to:
 - a. The number of times the member has been non-compliant in previous cycles;
 - b. Whether the member has substantially complied with the ConEd requirements within three months after the deadline;
 - c. Whether the member surrendered their licence, has taken Retired status, or is otherwise no longer entitled to practice architecture; and/or
 - d. Whether the member has identified extenuating circumstances.²

¹ Section 54

- 1) The Council shall establish a program of continuing education for members. O. Reg. 287/99, s. 12.
- 2) The program shall include continuing education activities that may be offered by the Council or by other persons, consisting of courses of study, seminars, workshops, self-directed learning and professional activities approved by the Council. O. Reg. 287/99, s. 12.
- 3) In each two-year period determined by the Council for the purpose of this section, a member of the Association shall spend 70 hours in continuing education activities approved by the Council. O. Reg. 287/99, s. 12.

Non-compliance with any requirements of the Regulation is professional misconduct under Section 42(1) of the Regulation as follows:

42. For the purpose of the Act, "professional misconduct" means,

- 1) Contravention of any provision of the Act, or the regulations.

² Extenuating circumstance will be considered having regard to the OAA's duty to accommodate in accordance with the [Human Rights Code, R.S.O. 1990, c. H.19 Code](#)

2. The OOTR may proceed as follows:
 - a. Dismiss the matter;
 - b. Issue a written administrative caution from the OOTR, which shall remain on their membership record (not published publically);³
 - c. Issue an administrative undertaking, which shall remain on their membership record (not published publically);⁴
 - d. Refer the matter to the Complaints Committee.
3. Only members who are actively entitled to practise architecture will be referred to the Complaints Committee. All non-active members will be required to comply with the administrative and regulatory requirements should they wish to reactivate their status.
4. Referral to the Complaints Committee shall be made when:
 - a. The member is actively entitled to practise architecture;
 - b. The member continues to be substantially non-compliant three months after the prescribed deadline of the preceding Continuing Education cycle and/or the member has been non-compliant for three or more cycles; and
 - c. The OOTR has not resolved the matter on the basis of extenuating circumstances.
5. The Complaints Committee has the discretion to review any written submissions provided by the member, as it relates to extenuating circumstances, and may issue the following dispositions, in accordance with section 30(1) of the Architects Act:
 - a. Dismissal
 - b. Referral to Discipline
6. For matters referred to the Discipline Committee, the disposition of the matter shall be determined in accordance with the penalty matrix set out in Appendix A which includes:
 - a. Dismissal
 - b. Recorded in the OAA Register and publication in an official publication of the Association including the member's name
 - c. Costs
 - d. Suspension
7. The Discipline Committee shall follow the procedures set out in the OAA Discipline Committee Manual for Written Hearings.
8. Nothing in this policy shall fetter the Registrar's discretion to make decisions related to fines for non-compliance, pursuant to the Council Policy "Continuing Education – Fines for Non-Compliance".

³ Unless, it would be unreasonable to do so, written administrative cautions may be issued to members who are first-time non-compliant

⁴ Unless, it would be unreasonable to do so, administrative undertakings may be issued to members who are second-time non-compliant



Appendix A: Penalty Matrix

To ensure consistency, fairness, transparency and impartiality of decision-making by the Discipline Committee, the following steps will be applied to reaching a decision on all written hearings relating to Con Ed non-compliance.

Step One: Consider, is there sufficient evidence to dismiss the matter?

The Discipline Committee may dismiss a complaint if:

- The number of times the member has been non-compliant in previous cycles is fewer than two cycles;
- If the member has complied with the ConEd requirements at the time of the hearing or, if the member has not complied, the ability of the member to demonstrate ongoing competence through other means; and
- Extenuating circumstances that are supported by evidence that demonstrates how these circumstances impacted the member's ability to meet the ConEd Requirements.

Step two: Dispositions when not dismissed

	Recorded in Register and Publication with Name	Costs Order	Suspension
Completed requirements after referral but prior to the Discipline hearing.	YES	YES	NO
Did not complete requirements prior to Discipline hearing.	YES	YES	YES



Written Hearings Rules for the Continuing Education Program Non-Compliance

1. Where the Council by resolution has directed that the Discipline Committee hold a hearing under Section 33(5) of the *Architects Act* to determine allegations of professional misconduct on the part of a member or where the Complaints Committee has referred in whole or in part the subject matter of a written complaint filed with the Registrar to the Discipline Committee with respect to a member's failure to comply with the mandatory program of continuing education of members as prescribed by Section 54 of the Regulation under the *Architects Act*, the hearing shall be conducted as a written hearing, unless the Association or the member satisfies the Tribunal that there is good reason for not holding a written hearing.
2. At least forty-five (45) days prior to the date of the hearing, the Association shall serve on the member all documents that will be submitted to the Tribunal for the purpose of the written hearing.
3. At least thirty (30) days prior to the date of the hearing, the member who is the subject of the proceeding shall serve on the Association all documents that will be submitted to the Tribunal for the purpose of the written hearing.
4. At least twenty (20) days prior to the date of the hearing, the Association shall deliver to the member who is the subject of the proceedings its written submissions to the Tribunal.
5. At least ten (10) days prior to the date of the hearing, the member shall deliver to the Association his or her written submissions to the Tribunal.
6. At least five (5) days prior to the date of the hearing, the Association shall deliver to the member its reply, if any, to the written submissions of the member.
7. Following the service of the documents and delivery of the written submissions, the documents and written submissions shall be filed with the Tribunal.
8. Notwithstanding Rule 7, where a member fails to comply with Rules 3 or 5, the Association shall, following compliance with Rules 2 and 4 file its documents and submissions and such documents and submissions, if any, that have been received from and delivered by the member with the Tribunal.
9. Where a member does not comply with Rules 3 or 5, the Tribunal may proceed with the written hearing on the basis of the Association's documents and submission and without either the member's documents or submission.
10. The documents referred to in Rules 2 and 3 shall include all written or documentary evidence that will be adduced by the party for the purpose of the written hearing including witness statements and reports of expert witnesses.
11. The report of an expert witness shall set out the expert's name, address, qualification and the expert's evidence.
12. No medical evidence will be accepted at the written hearing unless it is corroborated by a report signed by a practitioner as defined in Section 52(1) of



the *Evidence Act*, R.S.O. 1990, c. E.23 and the report is in compliance with Rule 11.

