

The hearing before the inquiry committee

You filed a complaint with the Conseil de la justice administrative. It was found admissible and a committee was set up to conduct an investigation.

You have just received a *notice of meeting* indicating the date and place of the inquiry committee hearing.

The purpose of this document is to briefly explain the course of an investigation conducted by the Conseil de la justice administrative.

What is the nature of the hearing?

The hearing is the period when an inquiry committee, the parties (the complainant and the person affected by the complaint) and their attorneys, if the case arises, get together. On this occasion, the parties submit to the inquiry committee the facts that caused the complaint to be filed, and argue their case.

What is the makeup of the inquiry committee?

The inquiry committee is made up of three people:

- A member of the tribunal to which the person affected by the complaint belongs;
- A member of the Conseil who is not a member of the tribunal to which the person affected by the complaint belongs;
- A member of the Conseil who represents the public and is neither lawyer nor a notary.

The Conseil appoints the chairman of the inquiry committee among the committee members who are lawyers or notaries.

What is the role of the inquiry committee?

The inquiry committee acts somewhat like an investigator in charge of shedding light on a case. The committee does not hear a trial: it conducts an investigation. The inquiry committee seeks the truth of the matter.

The members of an inquiry committee have all the powers necessary for discovering the truth. They can request all pertinent documents and ask anyone to come and answer their questions or produce a document. If necessary, the inquiry committee has the legal powers to force anyone to appear at the hearing.

Who is present at the hearing?

In addition to the people making up the inquiry committee, the following people attend the hearing:

- The parties;
- Their attorneys, if the case arises;
- One or more permanent employees of the Conseil, as technical support.

Moreover, since inquiry committee hearings are public, everyone can attend. However, in order to maintain public order, the inquiry committee may decide that the public will not be admitted at the hearing.

How does the hearing develop?

The hearing develops along very simple lines. First, the people in the room identify themselves. Then, the inquiry committee chairman reviews the grounds for the complaint and the subject-matter of the investigation, and explains how the hearing will progress.

The hearing is recorded. At this point, the parties submit to the committee all the facts that gave rise to the complaint and argue their case. They can call witnesses and submit documents to the inquiry committee. People who testify must pledge to tell the truth by solemn affirmation.

Any party wishing to submit a document during the hearing must provide a copy of this document to the following people:

- the three members of the inquiry committee;
- the complainant or his or her attorney, when he or she is represented;
- the person against whom the complaint has been filed, or his or her attorney, when he or she is represented;
- the appointed attorney, if the case arises;
- the Minister or his or her attorney, if the case arises.

When a party calls a witness, the other party is also entitled to question this witness. It is up to the inquiry committee to assess the relevance of the various evidence submitted.

During the hearing, the members of the inquiry committee may question the parties on the elements relating to the case. The inquiry committee has a great deal of freedom to discover the truth.

The inquiry committee provides each of the parties with fair and unbiased assistance.

During the hearing, the parties and those present must maintain a respectful attitude and dress appropriately.

How can you prepare for the hearing?

Keep the notice of meeting sent by the Conseil. Appear at the specified place and time.

Write down the important information you wish to bring to the attention of the inquiry committee.

Promptly send to the Conseil any new document you intend to submit to the inquiry committee.

Moreover, if you think you will need witnesses to help you establish certain facts, you can ask the inquiry committee, at least two weeks prior to the hearing, to subpoena these witnesses so that they may testify or produce a document during the hearing.

Keep in mind that:

- This is your sole opportunity to explain in person the grounds for your complaint;
- The decision of the inquiry committee is final and without appeal.

Pre-hearing conference

In certain cases, the inquiry committee may summon the parties for a pre-hearing conference. The purpose of such a procedure is to specify and define the debate, allow each party to become acquainted with the other party's arguments, agree on the facts that can be admitted, and determine the course of the hearing.

Rules of evidence and procedure

The leaflet "Rules governing complaints processing" describes, in section III, the rules of evidence and procedure applicable during an inquiry committee hearing. This leaflet is available at the offices of the Conseil, or on its Web site at www.cja.gouv.qc.ca.

Reserved judgment and inquiry report

At the end of the hearing, if the inquiry committee has all the information necessary to hand down its decision, the committee reserves judgment, which means that it gives itself some time before handing down a written decision, with reasons. The committee has a three-month period to write its inquiry report.

When the report is completed, the inquiry committee sends it to the Conseil, along with its conclusions and recommendation. The Conseil will then get acquainted with the recommendation.

Then, the Conseil forwards a copy of the inquiry report to the person affected by the complaint, to the concerned Minister and to the attorneys, if necessary. The Conseil notifies these people in writing of its conclusions and of the determined penalty, if the case arises.

For information:

Conseil de la justice administrative
575 rue Saint-Amable, bureau RC-01
Québec (Québec) G1R 2G4

Telephone: 418 644-6279
Toll-free: 1 888 848-2591
Fax: 418 528-8471