



BC COUNCIL OF  
ADMINISTRATIVE  
TRIBUNALS

# **SAMPLE ADMINISTRATIVE RULES**



**MODEL RULES  
FOR TRIBUNALS AND  
OTHER ADMINISTRATIVE BODIES**

**JUNE 1, 2009**

# SAMPLE ADMINISTRATIVE RULES

The following is a set of administrative rules prepared using the *Model Rules for Tribunals and Other Administrative Bodies*, prepared for the British Columbia Council of Administrative Tribunals, June 1, 2009.

## Part 1 – Guiding Principles

### Rule 1.1 Guiding principles

1.1.1 The purpose of these rules is to make it as easy as possible to resolve matters brought to the administrative body for resolution.

1.1.2 These rules:

- a) facilitate the fair and just resolution of matters before the administrative body
- b) ensure the conduct of a proceeding is proportional to the complexity of the matter before the administrative body
- c) allow flexibility in the conduct of a proceeding, when fair and just to do so
- d) facilitate the timely resolution of matters.

### Rule 1.2 Power of the administrative body

1.2.1 The powers of the administrative body include:

- a) accepting or rejecting an application for review
- b) using dispute resolution processes
- c) directing pre-hearing conferences be held
- d) directing the matter be resolved by written submissions or oral hearing, or a combination of both.

## Part 2 – Definitions

### Rule 2.1 Glossary

#### 2.1.1 In these Rules:

**Act** means [...*enabling legislation*...]

**address for delivery** means contact information consisting of a postal address, phone number and, when available, e-mail address

**applicant** means the person who makes the request to the administrative body under Part 4

**chair** means the individual who is the Chair of the administrative body

**document** includes a photograph, film, recording of sound, any record of a permanent or semi-permanent nature and any information recorded or stored by means of any device

**other party** means a person who delivers a reply to the administrative body as required under Rule 13.4

**party** means the applicant(s), the respondent(s) and, if any, the other party(ies)

**potential respondent** means any person to whom the administrative body has sent a copy of the application under Part 7

**respondent** means any person who responds to the application under Part 7

**witness** includes an expert witness.

2.1.2 A requirement to provide a document or communication “in writing” or to provide “written notice” or a “written request” is met if the document, communication or notice is sent by email, unless these rules provide otherwise.

## **Part 3 – Compliance with rules**

### **Rule 3.1 Application of rules**

3.1.1 All parties must comply with these Rules and any practice directives issued under these rules unless the administrative body otherwise orders.

3.1.2 At any time, the chair of the administrative body may waive or vary a requirement in these Rules on its own initiative or at the request of a party.

### **Rule 3.2 Effect of non-compliance**

3.2.1 A failure to comply with a requirement in these Rules does not invalidate a proceeding of the administrative body.

3.2.2 Where there has been a failure to comply with a requirement in these Rules or a direction of the administrative body, or an order of the administrative body, the administrative body may take any action it considers appropriate in the circumstances.

## **Part 4 – Starting the proceedings**

### **Rule 4.1 Information required in an application**

An application must include:

- a) the name of the applicant
- b) the applicant's address for delivery in British Columbia
- c) a statement of facts
- d) the name of any other person with an interest in the application and their address or contact information, if known.

### **Rule 4.2 Application form**

An application to the administrative body may be made using the application form provided in Schedule A of these Rules.

### **Rule 4.3 Delivery of application**

4.3.1 An application must be delivered to the administrative body as described in Rule 13.5.

4.3.2 An application must be delivered in both paper form and in electronic form as a PDF file.

## **Part 5 – Review of application**

### **Rule 5.1 Preliminary review of application**

The administrative body will review an application to ensure:

- a) the application is complete, and
- b) the matter for review is within the jurisdiction of the administrative body.

### **Rule 5.2 – Incomplete applications**

5.2.1 If on review of an application the administrative body is of the opinion the application is incomplete or determines the fee has not been paid, the administrative body may request that the applicant send further information or pay the fee within 30 days of the date of the request.

5.2.2 If the applicant does not provide the requested information or pay the fee within the 30 day period, the administrative body may refuse the application.

### **Rule 5.3 Summary dismissal**

The administrative body may refuse an application or part of an application at any time for one or more of the following reasons:

- a) the matter for review is not within the administrative body's jurisdiction
- b) the application is frivolous, vexatious or trivial or gives rise to an abuse of process
- c) the application was made in bad faith or for an improper purpose or motive
- d) there is no reasonable prospect the application will succeed
- e) the substance of the application has been appropriately dealt with in another proceeding.

### **Rule 5.4 – Notification of intention to refuse application**

5.4.1 If on review of the application, the administrative body is of the opinion that the application or part of the application should be refused for one or more of the reasons set out in Rule 5.3, the administrative body will notify the applicant that it intends to refuse the application or part of the application and the basis for the intended refusal.

5.4.2 Within 30 days of the date of the notice, the applicant may make a submission to the administrative body in response to its intention to refuse the application.

5.4.3 After reviewing a submission made under Rule 5.4.2, the administrative body may:

- a) accept the application
- b) refuse the application, or
- c) request more information.

**Rule 5.5 Notifying the applicant**

The administrative body will notify the applicant, in writing:

- a) of a request for further information under Rule 5.2.1 or Rule 5.4.3
- b) of an intention to refuse an application under Rule 5.4.1
- c) of a decision to accept or refuse an application under Rule 5.4.3 and give reasons for that decision.

## **Part 6 – Changing or withdrawing an application**

### **Rule 6.1 Amendments to application**

- 6.1.1 The applicant may make amendments to the application before a response has been delivered to the administrative body by delivering to the administrative body a revised application with the amendments highlighted or marked.
- 6.1.2 The administrative body must forward the amended application to the respondent and may extend the time for responding.

### **Rule 6.2 Withdrawal of an application**

- 6.2.1 An applicant may withdraw an application or part of an application before a response has been delivered to the administrative body by sending a notice of withdrawal to the administrative body.
- 6.2.2 An applicant may only withdraw an application or part of an application after a response has been delivered to the administrative body, with the consent of the administrative body.
- 6.2.3 If the administrative body consents to the withdrawal of the application under Rule 6.2.2, the administrative body will send written notice of the withdrawal of the application to the respondent.

## Part 7 – Responding to an application

### Rule 7.1 Notifying a potential respondent

The administrative body will send a copy of the application to any person it believes may be a potential respondent.

### Rule 7.2 Responding to an application

7.2.1 A potential respondent may deliver a response to the administrative body. The response must be delivered in the manner provided in Rule 13.5.

7.2.2 The response must include:

- a) a list of any statements or other matters set out in the application that the respondent disputes and why
- b) a statement of the facts the respondent says the administrative body should consider in its review of the application
- c) the outcomes the respondent believes should happen in relation to the application
- d) the address for delivery of the respondent, if different from the address set out in the application
- e) the name of any other person(s), other than the applicant, with an interest in this application that is (are) not listed in the application including their address, if known.

7.2.3 The response may be made using the response form in Schedule B of these Rules.

7.2.4 The response must be in both paper form and in electronic form as a PDF file.

### Rule 7.3 Time limit for responding

A response must be delivered to the administrative body within [...*time limit, e.g. 30 days, or the legislative time limit, if any...*] of the postmarked date on the package containing the copy of the application sent to the potential respondent by the administrative body.

**Rule 7.4 Failure to respond**

If a response is not delivered within the time limit, the administrative body may take any action it considers appropriate including:

- a) extending the time for responding
- b) applying case management processes
- c) setting a hearing date
- d) making a final or other decision or order based on the information provided by the applicant.

## Part 8 – Case Management

### Rule 8.1 Streaming

8.1.1 At any time, the administrative body may direct an application into one or more of the following process streams:

- a) pre-hearing conference (*Rule 8.2*)
- b) collaborative dispute resolution (*Rule 9*)
- c) hearing (*Rule 10*)
- d) any other alternative dispute resolution process adopted by the administrative body.

8.1.2 At any time, the administrative body may use more than one process stream or change the process stream being used if it considers using an additional stream or making the change may assist conducting the proceedings or resolving the matter.

### Rule 8.2 Pre-hearing conference

8.2.1 The administrative body may

- a) on its own initiative, or
- b) on the written request of a party

require the parties to attend a pre-hearing conference.

8.2.2 At a pre-hearing conference, the administrative body may direct the parties to consider and discuss one or more of the following, and may make orders or directions about:

- a) the issues
- b) amendments or changes to the application or response
- c) documents to be disclosed and the method and timing of disclosure
- d) production of lists of witnesses, including expert witnesses, and summaries of the anticipated evidence of witnesses
- e) joint retaining of expert witnesses by two or more of the parties

- f) production of any written reports that may be relied upon
- g) conduct of and date for mediation, settlement conference or a hearing
- h) any other matter relevant to the conduct of the proceeding or resolution of the matter.

### **Rule 8.3 Requests**

8.3.1 At any time after the response has been delivered to the administrative body, a party may make a written request to the administrative body for a direction or decision:

- a) to permit an amendment to the application or the response, or
- b) on any other aspect of the conduct of the proceedings or any other matter.

8.3.2 After considering the request and any information the administrative body considers relevant in the circumstances, the administrative body will notify the parties, in writing, of its direction or decision.

### **Rule 8.4 Directions**

At any time, the administrative body may make directions requiring a party to take action the administrative body considers may assist the conduct of the proceedings or the matter being resolved, including directions on one or more of the following:

- a) to disclose documents and the method and timing of disclosure including disclosure by persons who are not parties
- b) to produce lists of witnesses, including expert witnesses, and summaries of the anticipated evidence of witnesses
- c) the joint appointment of expert witnesses by two or more of the parties
- d) to prepare, exchange and deliver written submissions
- e) to prepare, exchange and deliver a statement of the facts agreed on and facts in dispute.

## Part 9 – Collaborative dispute resolution

### Mediation Rules

#### **Rule 9.1 Commencing mediation**

9.1.1 The administrative body may direct an application to mediation:

- a) on its own initiative , or
- b) on the written request of a party.

9.1.2 The administrative body will select the mediator.

9.1.3 The administrative body will notify the parties, in writing, of the scheduled date of the mediation.

#### **Rule 9.2 Confidentiality**

9.2.1 The proceedings of mediation are confidential and may not be raised before the administrative body during any other proceeding without the consent of all parties.

9.2.2 Parties must sign a confidentiality agreement before mediation begins.

#### **Rule 9.3 Failure to attend mediation**

If a party fails to attend mediation, the administrative body may:

- a) stream the application into another process without providing notice to that party, and
- b) continue with a new process in the absence of that party.

#### **Rule 9.4 Post mediation action**

At any time after a proceeding has been directed to mediation, the administrative body, on its own initiative or at the request of a party, may:

- a) dismiss the application, or
- b) continue with a new process.

### **Settlement Conference Rules**

(Note: If the rules of the administrative body include both mediation and settlement conference provisions, re-number this section starting at 9.5)

#### **Rule 9.1 Commencing a settlement conference**

The administrative body may direct an application to a settlement conference:

- a) on its own initiative , or
- b) on the written request of a party

#### **Rule 9.2 Conduct of a settlement conference**

9.2.1 A settlement conference will be conducted by the administrative body. The member of the administrative body who conducts the settlement conference will not preside or participate at a hearing of the matter without the written consent of all parties.

9.2.2 The proceedings at a settlement conference are confidential and may not be raised before the administrative body during any other proceeding without the consent of all parties.

9.2.3 The administrative body may direct the parties to bring evidence or documents to the settlement conference and be prepared to discuss all issues.

9.2.4 A person attending a settlement conference on behalf of a party must have authority to resolve and reach agreement on all issues.

9.2.5 If the parties do not resolve the matter at the settlement conference, the administrative body may stream the application into another process.

#### **Rule 9.3 Failure to attend a settlement conference**

If a party fails to attend a settlement conference, the administrative body may:

- a) stream the application into another process without providing notice to that party, and
- b) continue with the new process in the absence of that party.

## Part 10 – Hearing

### Rule 10.1 Commencing a hearing

The administrative body may direct the matter to a hearing:

- a) on its own initiative, or
- b) on the written request from a party.

### Rule 10.2 Hearing Notice

10.2.1 The administrative body will inform the parties, in writing, of the date, time and location of the hearing.

10.2.2 If it is impracticable to give notice to each party in writing, the administrative body may give notice to the parties by other means determined by the administrative body.

### Rule 10.3 Hearing Procedures

10.3.1 Unless otherwise decided by the administrative body, hearings are open to the public.

10.3.2 The administrative body may determine the order of proceedings at a hearing.

10.3.3 During a hearing, the administrative body, on the request of a party or on its own initiative, may:

- a) require the production of documents or other material
- b) require the attendance of witnesses
- c) make a determination as to the admissibility of evidence
- d) adjourn the hearing
- e) proceed in the absence of a party who has had notice of the hearing
- f) ask questions
- g) require written submissions
- h) schedule a site visit and determine the terms of participation for a site visit
- i) make any direction the administrative body considers necessary for the conduct of the proceeding, or for a just and timely resolution of the matter.

#### **Rule 10.4 Adjournments**

At any time, the administrative body, on its own initiative or on the request of a party, may adjourn a hearing and may set a date for the hearing to resume.

#### **Rule 10.5 Composition of hearing panel**

10.5.1A hearing may be conducted by one or more members of the administrative body.

10.5.2If two or more members of the administrative body are designated to conduct the hearing, the hearing will be chaired by the member designated as such by the chair of the administrative body.

#### **Rule 10.6 Recording**

10.6.1Unless otherwise decided by the administrative body, the administrative body will not record the hearing.

10.6.2If the administrative body makes a recording of the hearing, the recording will form part of the official record of the proceeding. The proceeding is not invalidated as a result of a malfunction of the recording equipment, the failure to record the whole or part of the hearing, or the destruction of the recording.

10.6.3Parties, and any other person in attendance at the hearing, may record the hearing only with the consent of and on the terms set by the administrative body. A recording made by a party or other person is not part of the official record of the proceedings.

#### **Rule 10.7 Failure to attend hearing**

If a party fails to attend a hearing, the administrative body may:

- a) proceed in the absence of that party
- b) adjourn the hearing
- c) decide the matter solely on the material before it
- d) make any direction the administrative body considers necessary for the conduct of the proceedings or for a just and timely resolution of the matter .

## Part 11 – Evidence

### Rule 11.1 Admission of evidence

11.1.1 Subject to Rule 11.1.2, the administrative body is not bound by the legal rules of evidence and may admit any evidence it considers relevant to the matter before it and appropriate in the circumstances.

11.1.2 The administrative body will not admit evidence that is privileged in law.

### Rule 11.2 Witnesses

11.2.1 The administrative body may require that a witness give testimony under an affirmation.

11.2.2 Subject to any directions of the administrative body, a party may:

- a) call persons as witnesses and ask them questions
- b) submit written reports, statements, documents or recordings of any kind
- c) ask questions of any persons called as witnesses by another party.

11.2.3 The administrative body may ask questions of a witness.

## Part 12 – Decision

### Rule 12.1 General

12.1.1A decision of the administrative body (except a ruling on procedural and other similar matters) will be made in writing and include reasons.

12.1.2 The administrative body will provide each party with a copy of the decision.

12.1.3 The decision will be effective on the date it is issued, unless otherwise specified in the decision.

12.1.4 All written decisions concluding a matter before the administrative body will be made available to the public.

### Rule 12.2 Corrections

The administrative body may correct a typographical error, an error of calculation, an omission or any other similar error in its decision.

## Part 13 – General provisions

### Rule 13.1 Format of proceedings

The administrative body may direct, on its own initiative or on the request of a party, that a proceeding be conducted in-person, in writing, or by using an electronic format such as video or teleconference or by internet, or any combination of these formats.

### Rule 13.2 Practice Directives

The chair may issue practice directives to provide information or set requirements for the practices and procedures of the administrative body.

### Rule 13.3 Representation

13.3.1A party may represent themselves in a proceeding or be represented by legal counsel.

13.3.2Legal counsel must notify the administrative body if they cease to represent the party and must provide the administrative body with the most current contact information they have for the party.

13.3.3With the permission of the administrative body, a party may be assisted by a friend, family member or other person while representing themselves in the proceeding.

13.3.4Legal counsel for a party or any person permitted by the administrative body to assist the party under Rule 13.3.3 may appear without the party only with the permission of the administrative body.

### Rule 13.4 Other parties

13.4.1The administrative body may, on its own initiative or on the request of a party, forward a copy of the application, response, or any other information the administrative body considers relevant, to a person the administrative body believes may have an interest in the proceedings.

13.4.2If a person receives information from the administrative body under Rule 13.4.1, that person may deliver to the administrative body a reply that contains the following:

- a) a list of any statements or other matters set out in the application and/or response that the other party disputes and why
- b) statement of the facts the other party says the administrative body should consider in its review of the application
- c) the outcomes the other party believes should happen in relation to the application

d) the address for delivery of the other party.

13.4.3A reply must be delivered to the administrative body, in the manner required by these rules, within [...*time limit, e.g. 30 days, or the legislative time limit, if any...*] of the postmarked date on the package containing the copy of the application, response and other information or documents sent to the other party.

13.4.4A reply may be made using the form provided in Schedule D.

13.4.5 If a reply is not delivered within the time allowed, the administrative body may take any action it considers appropriate in the circumstances including:

- a) extending the time for replying
- b) applying case management processes
- c) setting a hearing date
- d) making a final or other decision or an order based on the information before the administrative body.

**Rule 13.5 Delivering a document to the administrative body**

13.5.1A document may be delivered to the administrative body as follows:

- a) by hand to the offices of the administrative body at [...*address of the administrative body...*]
- b) by mail to the offices of the administrative body at [...*address of the administrative body...*]
- c) by email at [...*email address of the administrative body...*], or
- d) by any other means allowed by the administrative body.

13.5.2A document sent by mail is delivered the day it is received by the administrative body.

13.5.3A document sent by email to the administrative body is delivered on the day it is sent, if sent on or before 4:00 p.m., or, if sent after 4:00 p.m., on the next business day.

**Rule 13.6 Delivering a document to participants in the process**

13.6.1A document may be delivered to an applicant, respondent as follows:

- a) by mail to the address for delivery provided in the application, response, or reply of other party
- b) by email to the email address for delivery provided in the application, response, or reply of other party, or
- c) by any other means permitted by the administrative body.

13.6.2A document sent by mail to an applicant, respondent, or other party] is delivered:

- a) five (5) days after the post mark date, if that day is a business day, or
- b) the next business day five (5) days after the post mark date, if the fifth (5<sup>th</sup>) day falls on the weekend or a holiday.

13.6.3A document sent by email to an applicant, respondent, or other party is delivered on the day it is sent if sent on or before 4:00 p.m., or, if sent after 4:00 p.m., on the next business day.