

plainant and the PEO member are unable to resolve the issues through mediation, the mediator will not be called as a witness, or have his or her notes introduced at any other proceeding.

However, the mediator may disclose to PEO any information disclosed during the mediation that the mediator believes raises or might raise a concern about the public interest. The mediator may adjourn the mediation to advise PEO of information that might give rise to a public interest concern and to obtain guidance on whether the case should be removed from the ADR process.

Selecting mediators

PEO has compiled a roster of experienced mediators who have agreed to mediate disputes between members of the public and PEO licence holders, grouped according to geographical area. PEO will ask the complainant to review the list of mediators in his or her geographical area.

In areas where there are more than three roster mediators available, the complainant selects three mediators from the roster. The PEO member then receives the list of three mediators and ranks them. PEO will contact the first ranked mediator to discuss availability and suitability. Provided PEO is satisfied the mediator is available within a reasonable timeframe and there is no conflict of interest, PEO will retain the mediator to mediate the case. If the mediator is not available, or if there is a conflict of interest, PEO will contact the next ranked mediator.

In locations where there are only two or three roster mediators, PEO will ask the complainant and the PEO member separately to advise PEO of their preferences regarding the mediators. If both parties

choose the same mediator, PEO will contact the mediator to discuss availability and suitability. Provided PEO is satisfied the mediator is available within a reasonable timeframe and there is no conflict of interest, PEO will retain the mediator to mediate the case. If the mediator is not available, or if there is a conflict of interest, PEO will contact one of the other mediators. If the parties select different mediators, PEO will decide which mediator to retain, based on his or her availability and no conflict of interest.

In locations where there is only one roster mediator available, PEO asks the complainant and the PEO member to accept that mediator, or to agree jointly to select another local mediator who agrees to be bound by PEO's process.

If the complainant and the PEO member agree on a mediator not on the roster of mediators, and the mediator agrees to be bound by PEO's process, they may use that mediator.

PEO pays all mediator fees and expenses.

Representation

Although representation is not required, because mediation is to be less formal, both the complainant and PEO member may have lawyers present during the mediation. Other people may also be present for the mediation, provided the parties and the mediator consent.

Mediation

Once a mediator is selected, he or she receives a copy of the completed Request for Mediation, as well as the PEO member's Response to the Request for Mediation and any reply.

PEO schedules the mediation for one full day on an acceptable date to both parties and the mediator. The mediation generally takes place within 60 days of the date on which the PEO member consented to participate in the mediation process.

PEO receives a copy of any agreement concluded through the mediation process.

Complainant's right to pursue a formal complaint

A decision to participate in PEO's ADR process does not compromise a complainant's right to pursue a formal complaint. PEO simply freezes the time limits imposed in the complaint process from the date the complainant indicates a desire to participate in the mediation (by completing the Request to Mediate form) until the mediation is over, or the process is abandoned by either party or cancelled by PEO.

Need more information?

If you have questions about the information in this public information guide, or if you require more information about PEO's Alternative Dispute Resolution (ADR) process, please contact the Deputy Registrar, Regulatory Compliance at 416-840-1076 or 1-800-339-3716, ext. 1076.



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**Professional Engineers
Ontario**

ALTERNATIVE DISPUTE RESOLUTION FOR COMPLAINTS

A PUBLIC INFORMATION GUIDE

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What is Professional Engineers Ontario?

Like doctors and lawyers, engineers are licensed professionals. Professional engineers practise in industry, government, education and private practice. In Ontario, there are almost 67,000 licensed professional engineers, working as designers, administrators, project managers, consultants and in many other jobs, in such industries as manufacturing, utilities, construction and transportation.

Under authority of the *Professional Engineers Act*, Professional Engineers Ontario (PEO) licenses practitioners, maintains professional standards and is responsible for a Code of Ethics that governs practitioners in their relations with the public, employers and other practitioners. PEO also disciplines practitioners found guilty of professional misconduct or incompetence.

With few exceptions, anyone practising professional engineering in Ontario must be licensed by PEO. Only those who hold a professional engineer licence may use the title “P.Eng.,” although PEO grants temporary, provisional and limited licences, too. Individuals or firms in the business of offering or providing engineering services directly to the public must hold a Certificate of Authorization (C of A), also granted by PEO. PEO may enforce these licensure and C of A requirements through the courts, if necessary.

Through licensing, PEO ensures only properly qualified individuals are entitled to practise engineering, or lead others to believe they are entitled to practise. Through its complaints and discipline processes, PEO maintains the profession’s high standards of professional practice and ethics.

If you have a question about the professional practice or conduct of a licence or C of A holder, you should contact PEO.

How does PEO handle complaints?

First, PEO assesses the situation. Where incompetence is alleged or there are issues of public safety, or where the situation has resulted in serious injury, death, or a major structural failure, PEO investigates the matter, which may proceed through the formal complaints and discipline processes.

Where the issues raised involve ethics, contractual matters or professionalism, PEO offers those involved an opportunity to try to resolve the issues through an alternative dispute resolution (ADR) process.

How does PEO’s alternative dispute resolution (ADR) process work?

PEO’s ADR process involves voluntary mediation to provide the parties to a dispute an opportunity to resolve the issues effectively and efficiently.

The parties to the mediation (the complainant and the PEO licence or C of A holder) meet with a mediator to discuss the dispute. The mediator is a neutral person, responsible for ensuring the process is fair and for helping the parties determine whether there is an opportunity to resolve the issues in a mutually satisfactory way.

Most mediations begin with each party providing his or her perspective on what gave rise to the dispute. The mediator then works with the parties to determine what issues the parties should discuss

and resolve. The parties in turn develop and explore options for resolution. If any option makes sense for both parties, they can resolve the dispute. The parties, not the mediator, decide what is acceptable to each of them and whether they can reach an agreement.

PEO pays the mediator’s fees, although the parties help select the mediator.

Request for mediation

Initially, PEO screens complaints to ascertain whether the issues are appropriate to mediate, and monitors the case as the ADR proceeds to determine the appropriateness of continuing. PEO reserves the right to remove any case from the ADR process at any time if it appears to PEO to be in the public interest to do so.

If PEO considers a complaint suitable for ADR, the complainant will be required to complete and forward to PEO a Request for Mediation form that outlines the issues and concerns regarding the conduct of the PEO member. PEO will review the completed Request for Mediation to determine that it raises no additional issues to indicate the case should not be mediated.

If PEO is satisfied the case is appropriate for mediation, PEO will forward a copy of the Request for Mediation, along with written information about PEO’s ADR process, to the PEO member. The PEO member will have 10 days from the date on which the member received the Request for Mediation to advise PEO whether he or she wants to participate in the mediation process.

The matter proceeds to mediation only if both parties agree to participate.

If the PEO member agrees to participate, he or she will have 15 days to complete a Response to Request for Mediation and to provide copies of it to the complainant and to PEO. In the Response to Request for Mediation, the PEO member must respond to all issues raised in the Request for Mediation and identify any additional issues he or she might wish to address during the mediation.

On receipt of the PEO member’s Response to Request for Mediation, the complainant will have 15 days to reply, if desired. The reply should be limited to responding to new issues raised by the PEO member in the member’s response. In most cases, the reply will be brief (if required at all), since the original Request for Mediation should have raised all of the issues.

Again, PEO has the right to review the Response to Request for Mediation and the reply, if any, to determine whether, in PEO’s view, any of the issues raised indicate the case should be taken out of the ADR process.

Agreement to Mediate

Before starting the mediation, the complainant and the PEO member must sign an Agreement to Mediate, which sets out the terms and conditions under which the mediation will be conducted.

Confidential/without prejudice

Participation in PEO’s ADR process is confidential and without prejudice to either party. That is, the Agreement to Mediate confirms that everything said during the mediation is confidential and documents shared during the mediation cannot be disclosed to anyone outside of the mediation, unless that person would otherwise be entitled to the documents. The Agreement to Mediate also stipulates that if the com-