



AGENDA

Plenary Session

Friday, October 29, 2021 / 9:00 a.m. – 2:00 p.m.

Virtual Delivery / Zoom details:

Join Zoom Meeting

<https://us02web.zoom.us/j/83450495252?pwd=RzZ3VTR5Wnl2RXVDcnQzakVicnZrUT09>

Meeting ID: 834 5049 5252

Passcode: 421441

| 1. <u>OPENING</u> | | Spokesperson | Type |
|---|--|--------------------------|-----------------|
| 1.1 | Welcome and Opening Remarks | President Bellini | |
| 2. <u>PLENARY ITEMS</u> | | Spokesperson | Type |
| 2.1 | SUMMARY OF AUGUST 25, 2021 PLENARY | Chair | Information |
| 2.2 | GOVERNANCE COMMITTEES: <ul style="list-style-type: none"> • Audit and Finance Committee (AFC) • Governance and Nominating Committee (GNC) • Human Resources and Compensation Committee (HRCC) • Regulatory Policy and Legislation Committee (RPLC) | Committee Chairs | Written Updates |
| 2.3 | GOVERNANCE ROADMAP <ul style="list-style-type: none"> • Council Attributes • Phase 4 Launch Approach: Consultation Process on Chapters and Volunteers | President Bellini GSI | Update |
| 2.4 | AGENDAS AND MINUTES RULES | President Bellini | Information |
| 2.5 | ANTI-RACISM AND ANTI-DISCRIMINATION EXPLORATION WORKING GROUP (AREWG) | Councillor MacCumber | Update |
| 2.6 | MLTSD INITIATIVE ON CANADIAN EXPERIENCE | President Bellini | Update |
| 2.7 | ONTARIO SOCIETY OF PROFESSIONAL ENGINEERS (OSPE) - SUBMISSION TO THE ATTORNEY GENERAL | President Bellini | Discussion |
| 2.8 | NEXT STEPS | President Bellini | |
| 3. <u>NEXT MEETINGS</u> | | | |
| Board Meetings and Plenaries | | | |
| <ul style="list-style-type: none"> • November 19, 2021 – C-544 • January 28, 2022 – Plenary • February 18, 2022 – C-545 • April 8, 2022 – C-546 (Close-off) | | | |

| Committee meetings | | |
|---|--|--|
| <ul style="list-style-type: none"> • Audit and Finance Committee (AFC) <ul style="list-style-type: none"> ○ November 17, 2021 • Governance and Nominating Committee (GNC) <ul style="list-style-type: none"> ○ November 4, 2021 ○ January 10, 2022 ○ February 3, 2022 • Human Resources and Compensation Committee (HRCC) <ul style="list-style-type: none"> ○ • Regulatory Policy and Legislation Committee (RPLC) <ul style="list-style-type: none"> ○ January 24, 2022 ○ March 14, 2022 | | |

Reading Materials

Summary of August 25, 2021 Plenary (2.1)

Governance Committee Updates (2.2)

Council Attributes (2.3)

Agendas and Minutes Rules (2.4)

Anti-Racism and Anti-Discrimination Exploration Working Group (AREWG) Briefing Note (2.5)



Plenary Session Summary

The plenary session of the COUNCIL of PROFESSIONAL ENGINEERS ONTARIO (PEO) was held via ZOOM Videoconference on Wednesday, August 25, at 9:00 a.m.

- Present:
- C. Bellini, P.Eng., President and Council Chair
 - M. Sterling, P.Eng., Past President
 - N. Colucci, P.Eng., President-Elect [present for 9:00-10:30]
 - M. Spink, P.Eng., Vice President Elected
 - A. Arenja, P.Eng., Lieutenant Governor-in-Council Appointee
 - P. Broad, P.Eng., Western Region Councillor
 - R. Brunet, P.Eng., Lieutenant Governor-in-Council Appointee
 - T. Bruyere, P.Eng., Lieutenant Governor-in-Council Appointee
 - M. Chan, P.Eng., Councillor-at-Large
 - J. Chisholm, P.Eng., West Central Region Councillor
 - C. Chiddle, P.Eng., Eastern Region Councillor
 - L. Cutler, P.Eng., Lieutenant Governor-in-Council Appointee
 - A. Dryland, CET, Lieutenant Governor-in-Council Appointee
 - Q. C. Jackson Kouakou, Barrister and Solicitor, Lieutenant Governor-in-Council Appointee
 - L. MacCumber, P.Eng., West Central Region Councillor
 - S. MacFarlane, P.Eng., Western Region Councillor
 - P. Quinn, P.Eng., Councillor-at-Large
 - L. Roberge, P.Eng., North Region Councillor
 - S. Schelske, P.Eng., Lieutenant Governor-in-Council Appointee
 - R. Subramanian, P.Eng., Northern Region Councillor
 - S. Sung, Lieutenant Governor-in-Council Appointee
 - R. Walker, P.Eng., Eastern Region Councillor
- Regrets:
- C. Chahine, P.Eng., East Central Region Councillor
 - P. Cushman, P.Eng., East Central Region Councillor
 - L. Notash, P.Eng., Councillor-at-Large
- Staff:
- J. Zuccon, P.Eng., CEO and Registrar
 - L. Maier, Vice President, Governance
 - C. Mehta, Director, Finance
 - D. Smith, Director, Communications
 - M. Wehrle, Director, Information Technology
 - J. Chau, P.Eng., Manager, Government Liaison Programs
 - R. Martin, Manager, Secretariat
 - J. Max, Manager, Policy
 - E. Chor, Research Analyst, Secretariat
 - D. Power, Secretariat Administrator
 - M. Feres, Supervisor, Council Operations
- Guests:
- D.A. Brown, Governance Solutions Inc.

D.L. Brown, Governance Solutions Inc.
R. DeRooy, Governance Solutions Inc.
D. McComiskey, Governance Solutions Inc.
S. Perruzza, Ontario Society for Professional Engineers

CALL TO ORDER

Notice having been given and a quorum being present, President Bellini called the meeting to order at 9:07 a.m. He advised that the plenaries are the evolution of the highly effective strategic conversations and are a continuation of that opportunity for Council to have a less formal and more in-depth discussion of topics before coming to Council meetings. He advised that the plenaries are advertised on the PEO website and are open to the public.

President Bellini advised that the purpose of the plenaries is to provide a foundation for discussion around key governance items via the governance committees and gives Councillors a chance to engage with each other and with senior staff and consultants. He noted that the 2021/22 plenary sessions would be focussed on governance reform issues. The aim is to further understand and to reach informal consensus on issues likely to come to Council for debate and decision by setting the tone and testing the approach. He noted that these sessions were not to make formal decisions but to provide some direction and to gauge the feelings around the table.

President Bellini advised that plenary participants are all Councillors, consultants as needed and senior staff at the discretion of the President and the CEO/Registrar. The plenary sessions will typically be chaired by the President and are open to the public.

President Bellini discussed the plenary schedule, which is four weeks prior to Council meetings, noting that the plenaries will be informal in nature and are non-binding. This timing provides an opportunity for the governance committees (as applicable) to make refinements/changes to materials slated for inclusion in the Council package based on discussions at the plenaries. The Board governance cycle is as follows:

- Define (Governance Committees)
- Understand and agree (Plenary)
- Refine (Governance Committees)

With respect to the governance work the idea is to allow everybody to provide feedback on items that are not ready for “prime time” so they can be refined. President Bellini stated that with respect to the governance work Council today would be discussing Board Composition which is Phase 3 of the Governance Roadmap.

GOVERNANCE COMMITTEES

The President advised that one of the standing items on the plenary agendas will be updates from the four governance committees.

Audit and Finance (AFC)

- The committee reviewed the preliminary budget assumptions by staff and directed staff to prepare the draft budget. The committee will meet the week of August 30th to review the budget in preparation for the presentation to Council on September 24th.
- The five-year contract for PEO's auditor is up for renewal. The committee approved the RFP prepared by staff. The bids received are now being reviewed by staff.
- In the past the Audit Committee had a sub committee that looked at investments; however, the Pension assets were outside that purview and was handled by HR rather than Finance. This will now change. HR has prepared draft terms of reference for a responsibility matrix for setting up a pension committee. Further discussion will take place at the next AFC meeting.

Governance and Nominating Committee (GNC)

- GNC met on August 9th
- GNC has taken over the stewardship of the Governance Roadmap from the Executive Committee as decided by Council on April 30, 2021.
- The committee received the preliminary report from GSI regarding the comparator analysis on self-regulation, etc. The committee discussed Council composition.

Human Resources and Compensation Committee (HRCC)

- The main focus of the committee has been to discuss the CEO/Registrar's objectives and performance. This will be further discussed at the September 1st meeting.

Regulation Policy and Legislation Committee (RPLC)

- Committee members were provided with a list of policy type activities that the other non-board committees are currently working on. The committee, at its August 30th meeting, will discuss items for Council approval such as licence stabilization and two sets of regulations currently in development. The Not-For-Profit Corporation Act changes previously approved in-camera by Council are now in effect and will be made public.

ANTI-RACISM AND ANTI-DISCRIMINATION EXPLORATORY WORKING GROUP (AREWG)

Following discussion regarding the creation of a process to manage circumstances in which committee chairs are not available (eg, resignation, illness, or temporary absence), it was agreed that the GNC will discuss the potential solution of having a vice-chair on each committee and will report back to Council with recommendations in that regard.

Councillor MacCumber advised that following the June 25th Council meeting staff prepared an RFP which was sent out for bids. The working group is in the process of finalizing the contract awarded to the consultant based on a merit-based selection process. AREWG has scheduled a kick-off meeting the week of August 30th with the consultant. Councillor MacCumber noted that this item will likely be deferred to the November Council meeting due to timing constraints.

GOVERNANCE ROADMAP IMPLEMENTATION

David Brown, GSI, discussed the “PEO Governance Workplan Status Update at a Glance” document that was included in the agenda package. This document provided a status update of the activities and outputs in each of the four phases.

A summary of suggestions and concerns discussed are:

- Further discussion is required, need further study on what has been done so far and what PEO needs to do
- It is better to do things right, not fast
- Concerned about getting too far into specific details before dealing with the real issues
- Should be holding town hall meetings for member input, particularly through the chapter system

The Chair noted that it was important that Council find common ground which was the point of plenary discussions and that there was flexibility in timelines to achieve this.

Further to a comment regarding the inclusion of GNC minutes, A. Arenja, GNC Chair, advised that these could be made available for upcoming plenary sessions.

ONGOING TRANSFORMATION PLAN

The Chair introduced the ongoing transformation plan by advising that while the strategic plan that was in place had now come to an end, it had not been actively followed well before it ended. There are, however, plans that have been executed by way of the work that has been done over the past few years such as the plan with respect to implementation of the Cayton Report, the Governance Roadmap, etc. that inform PEO’s activities. PEO is currently in a unique position to modernize and enhance its regulatory activities. Once governance is in place Council can put its full effort into its regulatory modernization. It is important that Council keep in mind

its objectives and direction and ultimately be prepared to endorse a sensible way forward.

The CEO/Registrar reviewed his report that was included in the agenda package. He advised that he was presenting a five-year strategy that began when he was hired as Registrar in 2018 to lead unprecedented change in the history of PEO.

He noted that despite not having a current strategic plan, considering the multi-year initiatives that are currently in progress, PEO has been working from a plan which is about laying the foundation to move PEO towards being a modern regulator. Strides have been made in putting in place key strategic pieces captured in the three pillars which are enhanced governance, modernized operations, and superior organization.

CEO/Registrar Zuccon's report included the roadmap to transformation, clarity of purpose, transformational pillars, governance, operational and organizational priorities, update on key strategies and activities related to the ongoing transformational roadmap as well as priorities.

CEO/Registrar Zuccon advised that he would be bringing to HRCC as part of his goals the option for encapsulating his transformational plan into a formal document that Council can endorse.

Feedback was received as follows:

- The strategic plan looks totally inward rather than outward as to what PEO could and should be doing
- There are pressing issues such as the Elliot Lake Mall collapse and climate change
- Importance of prioritizing equity, diversity, and inclusion
- Agree with GSI that the CEO/Registrar should be responsible for putting the strategic plan together
- How to deal with issues that have come up due to the virus such as ventilation, cyber security threats, and climate change
- Look long term to define what is modern
- How does Council deal with urgent matters?

Further to the first comment above, CEO/Registrar Zuccon reiterated that this was not an exercise in strategic planning and that the information he presented is not a substitute for a strategic plan. He stated that when he was hired there was a strategic plan that was not being acted on or even budgeted for. Looking ahead, he

estimated that planning for the 2023-25 strategic plan will begin in mid-2022.

PHASE THREE – COUNCIL COMPOSITION

David Brown advised that when GSI started on the transformation roadmap, they realized that phase 3 could be polarizing and controversial so they looked at what information Council would benefit from to make informed decisions about governance choices. There are two main streams, one of which is hearing from people that are leading authorities in regulatory governance. To that end, in the past couple of years Council has received diagnostic review and reports from Harry Cayton and Governance Solutions as well as intensive custom presentations from Richard Steineke and Jim Casey. There is a trend and movement of governance reform in self-regulating professions. The second stream is evidence-based research -- what are leading regulatory professions doing in Canada regarding governance reform and why?

David Brown advised that GSI conducted comparator research among 9 different self-regulatory bodies that are responsible for the regulation of professions in Canada. He provided an excerpt from GSI's research report noting that the bodies he was discussing (CPSA, CN, OCT, CARNA in Group 1; EGBC and RCDSO in Group 2; and LSO, APEGA, APEGS and PEO in Group 3) had undertaken recent governance reviews and were divided into three distinct groups which he discussed.

GSI shared and discussed some poll questions which identified the choices that they believe Council faces in Phase 3 in September and November.

Highlights of discussion points noted below:

- Changing Council Composition would require an Act change
- The Skills Matrix overlooks many engineering disciplines, including mining, metallurgy, pulp and paper, etc.
- A 50/50 representation of engineers and the public could result in a group of non-engineers completely controlling PEO
- There is a lack of diversity around gender equity – should be non-binary rather than male/female
- Further discussion is needed before moving forward
- Concerned about the lack of member consultation
- Need to find a way to include equal representation for all disciplines -- look to the Institute of Electrical and Electronic Engineers (IEEE)
- There should be more people on committees to make decisions rather than Council
- The Skills Matrix is lacking in many ways from a first principles perspective. PEO is primarily a regulator, not a

corporation. It is missing someone who works in government, infrastructure, someone working on building code issues, etc. Merit-based selection should be a component.

- Focus energy on what the Act allows PEO to do
- The current balance of elected and appointed should be maintained
- President and Vice-President should be elected positions by the membership
- Difficult to populate committees with a reduced Council size
- To the question of listing disciplines as a necessary skill, do not feel having disciplines as a skill set is relevant to Council's role. This is more applicable to ARC, ERC and professional standards
- Concerned about the education component of the Skills Matrix wherein it sets a target that 80% of Council members have a formal governance designation.
- PEO governs based on authority delegated by the province so PEO Council is a representative of the province and therefore the public at large, not the membership. Some of GSI's proposals are a balance of engineers and non-engineers in keeping with the spirit of being self-regulating profession
- It is important to keep regional representation, particularly in the east, west, and north
- While Council would be unable to manage 39 disciplines, PEO could make those disciplines as part of committees that report to Council
- If PEO is going to have town halls as a public interest engineering regulator with licence holders PEO also needs to have similar or parallel sessions for the public and other key stakeholders, i.e., insurance industry

In response to a query about the best way to influence the most suitable public appointees for PEO, David Brown advised that other organizations have found it helpful to use a competency matrix to identify gaps as a way to communicate and engage with government. Secondly, after the appointments have been made there is significant need for orientation. Once the gaps have been identified this becomes a primary tool for recruitment and training.

Following discussion there was consensus via a straw vote to proceed with the poll questions prepared by GSI. This will provide direction to GNC in preparing next steps. It was noted that there were some poll questions that were not discussed. These polls are non-binding.

POLL RESULTS

| Zoom Poll Question | Response Options |
|--|---|
| 1. What changes will be implemented for this election year (2022)? | a) Put Competencies Matrix and gaps in place: communicate (3/19 = 16%) b) a) plus Pre-orientation of interested candidates (8/19 = 42%) c) b) plus Vetting of competencies by Nominating Committee communicated to electorate (4/19 = 21%) d) Other (4/19 = 21%) |
| 2. What Officers will we have? | a) No change: 3P's and 2 Vice-Presidents (4/19 = 21%) b) Keep 3P's but not the 2 Vice-Presidents (3/19 = 16%) c) Keep the President and President-Elect, not Past President (4/19 = 21%) d) Keep the President only (8/19 = 42%) |
| 3. Who is eligible to be President? NOT POLLED | a) Member of the Profession in good standing b) Member of Council: also a member of Profession c) Member of Council: may be a public member d) Other |
| 4. How will be President be chosen? | a) Elected directly by members (13/21 = 62%) b) Elected by Council (8/21 = 38%) c) Other (0/21 = 0%) |
| 5. What is the optimal size of Council based on its chosen governance models and regulatory mandate? | a) 16 (5/21 = 24%) b) Between 18 and 22 (9/21 = 43%) c) 25: no change (5/21 = 24%) d) Other size (2/21 = 10%) |
| 6. How will Council be composed – how many professional engineers and how many public members? | a) 50/50 equal (4/20 = 20%) b) Two-thirds Profession; one-third Public (9/20 = 45%) c) 22 Profession; 3 Public: no change (6/20 = 30%) d) Other mix (1/20 = 5%) |
| 7. How will Council be chosen (elections, appointments, double key)? ¹ | a) Elected by members: including by district (8/21 = 38%) b) Elected by members: province-wide (1/21 = 5%) c) Double key: competencies vetted and communicated to electorate (11/21 = 52%) |

| | |
|---|--|
| | <p>d) Appointed by Council based on competencies (1/21 = 5%)</p> <p>¹Two Councillors provided information via email to the Secretariat after the plenary indicating that they would like to change their votes. These changes are reflected in the results shown.</p> |
| 8. What terms are optimal for the PEO Council? | <p>a) Three year staggered terms (14/21 = 67%)</p> <p>b) Two year terms (6/21 = 29%)</p> <p>c) Four year terms (1/21 = 5%)</p> <p>d) Other term length (0/21 = 0%)</p> |
| 9. What maximum term limits are optimal for the PEO Council? (NOT POLLED) | <p>a) Four year limit</p> <p>b) Six year limit</p> <p>c) Eight year limit</p> <p>d) Ten year limit</p> <p>e) No limit</p> |

The result of a straw poll taken regarding support for re-opening the Professional Engineers Act to accommodate some governance changes was 13 in favour out of 21 Councillors present.

NEXT PLENARY SESSIONS

October 29, 2021

January 28, 2022

Plenary – October 29, 2021
Agenda item 2.2

Audit and Finance Committee

Chair's Report: October 29, 2021 - Plenary

Since the last Audit and Finance Committee (AFC) report to Council on September 24, 2021, the Committee met on October 26, 2021 to discuss several key items in preparation for future Council deliberations. These are summarized below.

2022 Budget Review

AFC has reviewed and approved for recommendation the draft 2022 budget. This proposed budget will be brought forward at the November 19th Council meeting for final approval. There have been some minor changes to the draft budget as previously seen by Council at the September 24th meeting to reflect further information provided by Staff. The budget format is similar to previous years. As PEO defines and become more focused on strategy, AFC will examine what modifications should be made to the future budgets to make sure it supports our strategic objectives.

Review of Auditor RFP

AFC reviewed the analysis provided by Staff with regards to the 7 bids received in respect of a selection of an Auditor for the next 5 years. AFC agreed with the Staff recommendation and this will be brought forward at the November 19th Council meeting for approval. While the motion to Council will approve the Auditor for the fiscal years 2022-2026, it should be noted that the Auditor must be approved on an annual basis by the general membership at PEO's AGM.

Various Motions

AFC will be bringing forward motions with respect to the 2022 Borrowing Resolution and Minimum Cash Balance Requirement for approval at the November 19th Council meeting for approval.

ONCA

The Ontario Not-for-Profit Act is now in effect as of October 19, 2021 and organizations have three years to comply. AUC expressed interest in learning more about the impacts of ONCA on PEO, particularly those, if

any, that might affect the financial operations of PEO. This has been part of a more general discussion on what are the financial requirements of a not-for-profit organization such as PEO with respect to financial holdings, surpluses and real estate ownership.

Plenary – October 29, 2021
Agenda item 2.2

Governance & Nominating Committee (GNC)

Chair's Report: October 29, 2021 Plenary

Since the last GNC report to Council on September 24, the Committee met on October 5 to discuss several key items in preparation for future Council deliberation. These are summarized below. In addition, the approved minutes of the Committee's September 9, 2021 meeting are enclosed in the plenary package.

Governance Roadmap

As part of its continued stewardship of the Governance Roadmap, GNC's discussion focused on the following areas:

Council Attributes

The Committee reviewed a "Council Attributes" profile as part of Phase 3 in the governance roadmap. In its current draft form, it outlines both individual and collective Council attributes. The Committee provided feedback on the Attributes for the next version which will be presented and discussed at this plenary.

Phase 3 Status Update

The Committee also discussed GSI's recommendation that the remaining portions of Phase 3 related to Council composition, size, and selection methods be deferred, with the option to revisit these matters in the Spring of 2022. There was general agreement with the overall approach to defer the aforementioned remaining Phase 3 matters, in particular those that would require longer term legislative changes.

There was further Committee discussion about the potential for Council to address, more immediately, some aspects of Phase 3 and not include these in the deferral plan. The President's term of office and the Vice President position were cited as examples.

Phase 4 Launch Approach

A proposal was outlined for a broad consultation process to launch Phase 4 of the governance roadmap to include facilitated focus groups and one-on-one interviews with Councillors, and Chapter leaders and volunteers about their role in the new governance structure. It is anticipated that the Chapter Leaders Conference (CLC) in November will present an opportunity to begin the consultation process. More details on the consultation process will be provided this plenary.

Agendas and Minutes Rules

Based on advice received from PEO's parliamentarian with respect to agendas and minutes for PEO Council and its committees, the GNC reviewed a series of topics and recommended approaches or "rules" related to what should be listed on agendas and recorded in minutes, both open session and in camera. There was general agreement among Committee members with the recommended approaches/rules and the inclusion of this item on today's plenary agenda.

It was suggested that related policy may be incorporated into the special rules which are passed at the opening Council meeting each term. Further to that, we may explore making the special rules ongoing, rather than revisiting them at the beginning of each Council year.

CESC Communications Policy

The GNC considered the Central Elections and Search Committee's (CESC) request for the GNC to provide its view on establishing an official policy to fully operationalize an administrative survey of Councillors whose terms expire in the current year (inquiring about their plans to stand as candidates in the next election). There was a general consensus among GNC members that it would be useful and beneficial in future election cycles if the CESC put such a policy in place. This feedback was reported to the CESC at its October 19 meeting.



Minutes

Plenary - October 29, 2021
Agenda item 2.2

The 3rd Meeting of the GOVERNANCE AND NOMINATING COMMITTEE of PROFESSIONAL ENGINEERS ONTARIO was held on Thursday, September 9, 2021 at 1:00 p.m.

Present: A. Arenja, P.Eng., Chair and Lieutenant Governor-in-Council Appointee
C. Bellini, P.Eng., President
M. Chan, P.Eng., Councillor-At-Large
N. Colucci, P.Eng., President-elect (ex officio) (signed off at 2:10 pm)
P. Cushman, P.Eng., East Central Region Councillor
L. Cutler, P.Eng., Lieutenant Governor-in-Council Appointee
S. MacFarlane, P. Eng., Western Region Councillor
L. Roberge, P.Eng., Northern Region Councillor
R. Subramanian, P.Eng., Northern Region Councillor

Regrets: None

Staff: J. Zuccon, P.Eng., CEO/Registrar
D. Abrahams, Vice-President, Legislation and Policy
L. Maier, Vice-President, Governance
J. Chau, Manager, Government Liaison Programs
R. Martin, Manager, Secretariat
M. Feres, Supervisor, Council Operations

Guests: David Brown, Governance Solutions Inc. (GSI)
Debra Brown, GSI

CALL TO ORDER

Notice having been given and a quorum being present, Councillor Arenja, acting as Chair, called the meeting to order.

Quorum was confirmed.

APPROVAL OF AGENDA

Moved by Councillor MacFarlane, seconded by Councillor Chan:

That the agenda for the September 9, 2021 meeting be approved as presented.

CARRIED

No conflicts were declared.

MINUTES – 2nd GOVERNANCE AND NOMINATING COMMITTEE MEETING – AUGUST 9, 2021

The Governance and Nominating Committee (GNC) reviewed the minutes of its 2nd meeting held on August 9, 2021.

An omission was noted with respect to the information provided by D. Abrahams during the discussion of Council size and composition

concerning the implications and differences associated with two ways of making legislative changes. The addition to the minutes will be placed at the end of the relevant section and is noted below in *italics*.

D. Abrahams noted that changing the regulation is within Council's jurisdiction, subject to Attorney General and Cabinet approval. It is a less complicated process than amending the Professional Engineers Act. Opening the Act for amendment also affords the legislature an opportunity to make other changes apart from those expressly requested.

To illustrate, a change affecting the minimum or maximum number of elected or appointed Councillors would require an amendment to the Professional Engineers Act. In contrast, the titles and duties of office holders and the method of election of Councillors can be addressed through amendments to the regulation.

Moved by Councillor Subramanian, seconded by Councillor Roberge:

That the minutes, as amended, of the 2nd open session meeting of the Governance and Nominating Committee, held on August 9, 2021, accurately reflect the business transacted at that meeting.

CARRIED

The Committee shared views related to the level of detail appropriate for its minutes. L. Maier noted that PEO has received a Parliamentary Opinion answering several questions related to best practices and requirements for agendas and minutes across the organization. This opinion will form part of the agenda for the GNC's next meeting, in keeping with one of its workplan responsibilities.

FEEDBACK AND ACTIONS FROM PLENARY

The Committee reviewed a feedback summary of issues and themes discussed at the August 25, 2021 Council plenary. Highlights of the Committee's discussion points are outlined below by issue.

Issue 1: Committee Chair Unavailability

Council has asked the GNC to recommend a process for governance committees to manage circumstances in which committee chairs are unavailable for a particular meeting. The Committee discussed two methods.

"Method A" endorses an approach whereby at the beginning of a meeting, a governance committee may appoint an acting chair from among its members for that meeting only.

"Method B" endorses an approach whereby a permanent vice-chair is appointed from among the members of a governance committee to chair meetings as required.

The Committee voted and a majority agreed to recommend “Method A” to Council.

Issue 2: Changes to be Implemented for 2022 Election Year

It was noted that 79% of the Councillors who voted believe in a process that, at a minimum, involves competencies.

There was a clarification from staff that the reference to 2022 relates to the potential to use competency profile information in a pre-orientation and education session for candidates, only if Council has approved any by early 2022.

Committee members discussed a variety of views and perspectives on the usefulness, fairness, and effectiveness of considering or factoring in candidates’ competencies as a way to improve PEO’s Council election process.

Following the discussion, the Chair noted that it appears the Committee requires more time and discussion regarding the stewardship of this part of the governance roadmap and ultimately making recommendations to Council. He provided a summary of three primary sources of data and information to assist the Committee in its future deliberations:

1. The work produced by GSI to date, including the report titled *“Self-Regulatory Professions Governance Practices Comparator Research”*, examining the Board/Council composition, size, and selection approaches of nine other Canadian regulators; and a “Straw Model” of a *“Council Competencies and Attributes Profile”*.
2. The work produced by PEO’s Succession Planning Task Force (SPTF), which presented its report and recommendations at the March 20, 2020 Council meeting. Of particular relevance to the GNC’s current deliberations on competencies, the report included recommendations from an external advisor on a competency-based succession plan and selection process for candidates. In the report, the consultants provided a sample PEO Council skills matrix and inventory.
3. The work produced by staff outlining advice and suggestions provided to the Ministry of the Attorney General with respect to competency and skills considerations for the Lieutenant Governor-in-Council appointees to PEO Council.

Debra Brown noted that GSI will work to consolidate the primary sources of data and information. Further, GSI plans to consult with Councillors to hear their specific views in this area.

There was also a discussion related to an approach whereby skills and competencies are developed and nurtured via a formalized Council training and education program, for both existing and new

Councillors. In this way, it was noted that there need not be a sole reliance on the pre-existence of competencies and skills upon joining Council.

Issues 3 and 4: Council Composition and Council Size

It was noted that there was no consensus or majority view at the plenary with respect to Council composition and size.

As it continues its deliberations related to Council composition, CEO/Registrar J. Zuccon noted the importance of clarity of purpose and encouraged the Committee to use it as a reference point in considering and deliberating: i/ the purpose of Council composition, given that the overarching objective is for PEO to become a better, modern regulator; and ii/ identification of the key competency ingredients needed to put Council in the best position to excel in its direction and control role.

J. Zuccon further noted that it may benefit the Committee to make the first iteration of recommendations to Council those that can be implemented without changes to the Act, given that opening it for amendment is a longer, more complex process and also affords the legislature an opportunity to make other changes apart from those expressly requested.

ACTIONS

It was agreed that the following actions will be undertaken with respect to preparation for the next GNC meeting:

- 1) GSI to consolidate the three primary sources of data regarding competency profile and skills matrix as outlined in Issue 2 above.
- 2) Discussion of a formalized program for Council orientation/training as outlined in Issue 2 above.

NEXT MEETING

The Committee agreed to change its next scheduled meeting from October 4, 2021, 1:00 – 3:00 pm to October 5, 2021, 1:00 – 2:30 pm.

There being no further business, the meeting concluded at 2:30 p.m.

These minutes consist of 4 pages.

“Arjan Arenja”
A. Arenja, P.Eng., Committee Chair

“Ralph Martin”
R. Martin, Corporate Secretary

Plenary – October 29, 2021
Agenda item 2.2**Human Resources and Compensation Committee [HRCC]****Chair's Report: October 29, 2021 Plenary**

Since the last **HRCC** report to Council on September 24, the Committee met on **October 13th** to discuss several key items. These are summarized below.

Posting to Diligent Board

1. Agendas and meeting material are not all being posted by the 4 committees.
 - a. Only GNC & HRCC have material posted as verified on Oct 25th. Requires further clarification specific to this item.
2. Minutes are not being posted by any of the 4 committees.
 - a. Nothing has been posted as of Oct 25th. Requires further clarification specific to this item.

Minutes of Meeting

1. Awaiting guidelines.

CEO / Registrar

1. General discussion regarding goals and objectives with CEO / Registrar following approval from the last Council meeting
2. Mid-year review has been scheduled for January.

PEO Employee Handbook– Section 4.2 Anti-Workplace Violence and Harassment Policy

1. Document to be refreshed by staff.

Posting to PEO website

1. Agendas, meeting material and minutes are not all being posted. As of Oct 25th:
 - a. GNC: posting minutes only
 - b. HRCC: nothing posted
 - c. AFC: nothing posted from 2021
 - d. RPLC: the latest minutes have not yet been posted
2. What are the guidelines?

Volunteer Compensation

1. Topic is generating a lot of conversation.
 - a. It was felt by HRCC that we should have the lead on this.
 - b. HRCC to reach out to the other 3 committees to avoid duplication of effort

Plenary – October 29, 2021
Agenda item 2.2

Regulatory Policy and Legislation Committee (RPLC)

Chair's Report: October 29, 2021 Plenary

Since the last RPLC report to Council on September 24, the Committee met on October 25 to discuss several key items. These are summarized below.

Regulation Changes - Use of Seal

The committee reviewed and recommended to Council a sealed regulation change relating to the use of seal. The regulation, which must be dealt with in camera to respect Cabinet confidentiality, reflects the policy intent that was previously approved by Council. It will be before Council in November.

Legislative Framework for Licensing

The committee received a presentation on this topic from Dan Abrahams, VP Policy and Legislation, to better inform future regulatory policy discussions and decisions. The presentation reviewed relevant sections of the *Professional Engineers Act*, Regulation 941, and Council's, Registrar's, and ARC/ERC's respective statutory roles in policymaking and operations.

Licensing Stabilization Policy Direction Report Back – P.Eng. Academic Qualifications

The Committee received a report back from staff on methods for assessment of academic qualification equivalency used across the country.

Role of Engineers in the Climate Crisis

The Committee considered a proposal from an RPLC member for PEO's adoption of Engineers Canada's Guidelines on *Sustainable Development and Environmental Stewardship for Professional Engineers* and *Principles of Climate Change Adaptation for Engineers*. The committee directed staff to report back at next meeting with the development process for Professional Practice guidelines and standards. There will also be an opportunity to discuss how regulatory policy items make it to Council and RPLC's role in that.

2.1.2 Council Attributes¹

Individual Council Member Attributes

Values

PEO's Council is committed to regulating in the public interest in accordance with PEO's Core Values². This commitment is maintained by the Council collectively and by each individual member.

Each Council member is expected to understand and apply the following values:

- **Accountability:**
 - ⊖ Council members accept responsibility for their actions and decisions and deliver what they promise to deliver within desired time frames.
 - ⊖ Council members are committed to honouring PEO's legislated and financial obligations.
- **Respect:**
 - Council members respect each other, staff, volunteers, applicants, licence holders, and external stakeholders as demonstrated through fair practices and timely, informative communications.
- **Integrity:**
 - Council members are honest with each other, staff and all stakeholders and act always in accordance with high moral principles
- **Professionalism:**
 - Council members demonstrate competence, impartiality and reliability.
- **Teamwork:**
 - Council members work collaboratively with each other and all stakeholders to achieve PEO's mandate

General Skillset

Each Councillor should demonstrate the following:

- **Leadership Qualities:**
 - Confidence and good judgment in inspiring, motivating, resolving conflicts, making decisions, and offering direction and leadership to others.
 - Reinforces the high standards of professionalism, accountability, integrity, commitment, and ethics.
 - Fosters the values and principles of PEO.
- **Technological Literacy:**
 - Ability to work electronically in order to uphold security, privacy and efficiency of PEO's work

¹ CESC Human Resources Plan – approved by Council November 2013

² PEO Core Values – approved by Council January 2005

- Effective audio/video call management and etiquette.

Collective Council Attributes

Council acts as a team and no individual Council member is expected to have all of the skills or attributes set out below. Optimally, the individuals who form Council will collectively demonstrate the following attributes and skills:

Industry Experience Attributes

- **Engineering Industry:**
 - Detailed knowledge of important issues in engineering as an active senior leader of an engineering firm or as a practicing professional engineer
 - An understanding of the needs and aspirations of a diverse range of sectors and branches of practice in the engineering profession, including knowledge and experience of the standards of practice and professional ethics in engineering at provincial, national and international levels, particularly the Code of Ethics and Section 72 of the Regulation O.Reg. 941/90 concerning Professional Misconduct.
- **Regulatory Knowledge:**
 - Experience in a regulatory environment and familiarity with recent issues in engineering regulations
 - Good understanding of the role of the regulator, PEO's regulatory function (i.e., self-governing a profession in the public interest), factors influencing effective regulatory performance, and policy development.
- **PEO Committee Experience:** Committee members with backgrounds in major issues affecting PEO.
- **PEO Specific Knowledge:** Working current knowledge of the *Professional Engineers Act*, the Regulations and PEO's By-Laws. Engagement with the PEAK program.

Equity, Diversity & Inclusion Attributes

- **Diversity:** Including diversity of race and ethnicity, gender, abilities, sexual orientation, religious affiliation and economic status and age.
- **Awareness:** Awareness of the values of equity, diversity and inclusion, and how these relate to the practice of professional engineering and the role of PEO as a regulator.
- **Inclusive:**
 - Ability to foster an environment of openness and respect.
 - Ability to ensure participation and decision-making processes are inclusive and non-biased.

- **Cultural Fluency:** Ability to understand, reflect, and respect cultural differences.

Skillset Attributes

- **Board & Governance Experience:** Possesses experience as a director/ member of a board of directors; good understanding of the role of a strategic governing board versus the operational role of management.
- **Change Management:** Experience in the oversight of change management initiatives and processes at a corporate level.
- **Communications & Marketing:** Experience in communications, public outreach or media relations.
- **Finance & Accounting:** Understanding of and familiarity with reading, interpreting and understanding a set of financial statements, information and principles that present a breadth and level of complexity of accounting issues that are comparable those of PEO, and can contribute meaningfully to discussions about financial objectives and performance.
- **Government Relations or Public Policy Experience:** Experience in developing and influencing public policy with varying levels of government (e.g., municipal, provincial, national).
- **Risk Governance:** Familiarity with principles of risk oversight, management, and controls; possesses a good understanding of legal and regulatory requirements.
- **Stakeholder Relations and Engagement:** Ability to build networks and nurture relationships with communities and stakeholders.
- **Strategic Planning:** Ability to critically assess strategic opportunities and threats to the organization and to identify the strategic directions needed to give effect to the Board's/Council's vision.
- **Talent Management and Executive Compensation (HR):** Experienced with, or can demonstrate knowledge or expertise in, strategic human resource management. This may include workforce planning, employee engagement, succession planning, organizational capacity, compensation, CEO performance management and evaluation, and/or professional development.

Lori Lukinuk, CP-T, PRP
Parliamentary Services
Professional Registered & Certified Parliamentarian
PARLIAMENTARY OPINION

August 10, 2021

INTRODUCTION

I have been asked to provide a parliamentary opinion answering the following questions:

1. When the agenda is prepared, what is the best practice / requirement for how in camera items are listed in the public portion of the agenda? Is there any guidance to be gleaned from our own materials, including our by-laws and approved rules of order?
2. When in camera minutes are prepared, what is the best practice for what to include in them? To what extent do in camera minutes differ from regular minutes, eg., with respect to the recording of specific member comments? What happens if someone reviewing the in-camera minutes objects to a failure to record their comments, either by attribution or anonymously? Should subsequent minutes record an objection?

BACKGROUND INFORMATION

In an email dated June 25, 2021, concerns were expressed relating to in-camera PEO Council meetings specific to the agenda and the recording of member comments in the minutes. My professional parliamentary opinion is provided below.

SOURCES CONSULTED

- Bylaws of Professional Engineers Ontario
- Nathan and Goldfarb's Company Meetings – The adopted parliamentary authority of Professional Engineers Ontario
- *Robert's Rules of Order Newly Revised*, 12th edition (**RONR**) – While not binding on PEO, can be considered persuasive.

OPINION

AGENDA QUESTIONS

Question #1: When the agenda is prepared, what is the best practice / requirement for how in camera items are listed in the public portion of the agenda?

An agenda is a listing of items to be brought up and discussed and disposed of during a meeting. I can see no reference in Nathan and Goldfarb's specifically to the listing of in-camera items on

an agenda. The agenda is separate and distinct from the package that contains all the reference materials for Council members to read through.

The public agenda would list as one of its items, "In-camera". It is common practice to list the topic but not the details for which the meeting will move in-camera. (Legal, personnel, personal, property matter, etc.) The Ontario College of Teachers for instance would list on the agenda under the in-camera section, the topic, Legal matter. Such an item is often brought forward by a board committee and their report would include a motion to move in-camera also stating who would be allowed to attend the in-camera meeting. Example Motion: "To move in-camera to discuss a legal matter with Council, Registrar, Recording Secretary, Parliamentarian, and Legal Council in attendance."

The Council has the authority to decide who they wish to attend an in-camera meeting. All attendees are bound by confidentiality even if not a member of Council.

While the agenda would only state the general topic, confidential materials, as deemed necessary, would be provided in a separate package from a publicly available package.

Question #2: Is there any guidance to be gleaned from our own materials, including our by-laws and approved rules of order?

There is no reference to an agenda for Regular Council meetings in the PEO Bylaws, but the bylaws do stipulate the topics for which a meeting or part of a meeting may be closed to the public in Section 15 (4) and (5).

Section 15 (4) and (5).

(4) The meeting or part of a meeting may be closed to the public by the Chair of the meeting at his or her discretion if the subject matter being considered concerns:

- (a) the security of the property of the association;
- (b) personal matters about an identifiable individual;
- (c) the proposed or pending acquisition of assets by the association;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals affecting the association or a Member;
- (f) the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and
- (g) any other matter which the Council determines.

(5) Before holding a meeting or part of a meeting that is to be closed to the public, the Council or the committee of Council shall state by resolution the fact of the holding of the closed meeting or part of the meeting.

PEO's bylaw Section (4) and (5) conflict when stating the Chair may close a meeting at their discretion when the subject matter being considered concerns the items listed in (a) through (g) and yet also requires the Council or committee of Council to adopt a resolution before holding a meeting or part of a meeting that is to be closed to the public. It is unclear if the Chair can at their discretion close the meeting to the public without a resolution and simply state the fact that the meeting went in-camera in the minutes.

IN-CAMERA MINUTES QUESTIONS

Question #1: When in camera minutes are prepared, what is the best practice for what to include in them?

Answer: If an in-camera meeting consists of discussion only, there may be little in the way of minutes from the in-camera session. Such minutes would only state that information was provided on say a Legal matter, and the matter was discussed. If action was taken, the minutes would include any motions, but such a record would only be available to those who had a right to be in the in-camera session.

Question #2: To what extent do in camera minutes differ from regular minutes, e.g., with respect to the recording of specific member comments?

Answer: Members of a board need to be safe and feel safe to have open and frank discussions. To that end, it is best practice for the minutes to contain only enough detail to show that the Council was engaged and focused and summarize important discussions and actions without providing a verbatim record. This is true both for open and in-camera meetings and therefore the minutes differ very little.

Question #3: What happens if someone reviewing the in-camera minutes objects to a failure to record their comments, either by attribution or anonymously?

Answer: A record of a member's comments in the minutes is not best practice. Nathan and Goldfarb's page 175 states, "Minutes should contain date, time and place of meeting, persons present, names of chairman and secretary, resolutions passed, appointments made and business conducted and should be signed by the chairman of the meeting, or by the chairman of the next meeting at which they are approved." Nathan and Goldfarb's goes on to quote the Corporate Director's Guidebook which states, "Although different opinions exist about the appropriate level of detail included in the minutes, directors may reasonably insist that minutes be sufficiently detailed to support the availability of the protections provided by substantive law. **This means summarizing important discussions and actions, but without purporting to provide a verbatim record or attributing specific words or points of view to particular directors.**"

An objection by a member to a failure to record their comments, either by attribution or anonymously, has no merit. The member has no right to object as they have no right to have their comments recorded unless agreed to by a majority vote of the members or if a special rule exists that allows such comments to be recorded. I am not aware of any such rule for PEO.

Robert's Rules of Order Newly Revised 12th edition (RONR) states, "In an ordinary society, the minutes should contain mainly a record of what was done at the meeting, not what was said by the members." "To modify the rules governing what is regularly to be included in the minutes requires adoption of a special rule of order, although a majority vote may direct the inclusion of specific additional information in the minutes of a particular meeting." While RONR is not binding, it can be viewed as persuasive.

Nathan and Goldfarb's does not state a similar clause, but it does agree that the majority rules. Therefore, if a member wishes to have their comments recorded in the minutes, they would be required to move a motion to that affect which would then be handled without objection or by vote. A majority vote in favour would result in the comments being recorded in the minutes, otherwise they are not, and a member has no right to insist on such comments being recorded.

Question #4: Should subsequent minutes record an objection?

Answer: As such an objection is dilatory, it should not be entertained and therefore does not need to be recorded in subsequent minutes.

CONCLUSION

Disclaimer: The opinion provided is that of the author and should not be construed as legal advice or a legal opinion.



Lori Lukinuk, CP-T, PRP
Parliamentary Services



SUMMARY OF PARLIAMENTARIAN'S ADVICE:
AGENDAS AND MINUTES (INCLUDING IN CAMERA ITEMS)

| Topic | Recommended Approach |
|--|---|
| Listing in camera items in the public agenda and dealing with materials and participants | <p>Include an item on the agenda called "In camera matters." List the topic but not the details, unless identifying the topic would breach confidentiality.</p> <p>Continue to provide documentation on confidential matters in advance, as appropriate, but only to those participating in the in camera session (may include non-Councillors as Council requires). All are bound to maintain confidentiality.</p> |
| Topics for in camera meetings | By-laws stipulate the areas for which a meeting or part thereof may be closed to the public. Optimally there are motions to go in and out of in camera sessions. |
| Contents and circulation of in camera minutes | Minutes are sparse and should say only that information was provided on a particular topic. Minutes should also record any motions that were made. Minutes are only circulated to those entitled to be present at the in camera session (whether or not they were actually in attendance). |
| Minutes generally | Both open and in-camera minutes include only enough detail to summarize discussions, and record decisions made as a result of those discussions. Minutes are not a verbatim record nor do they record every point made in the discussion. |
| Recording comments and objections | Minutes do not record all member comments or attribute comments to specific members. If a member wishes to have specific comments or objections noted and attributed to them in the minutes, this would require a majority vote at the meeting where the matter was discussed. |
| Objections to the minutes for failing to record individual comments | Unless a motion to record and attribute comments or objections was passed at the original meeting, such an objection is out of order. |

Briefing Note – Decision

Plenary – October 29 21
Agenda item 2.5

ANTI-RACISM & ANTI-DISCRIMINATION EXPLORATORY WORKING GROUP (AREWG)

Purpose: To continue the AREWG to assist Council in fulfilling its public interest duties by exploring and making recommendations regarding matters related to racism, and other equity and human rights affairs.

Motion(s) to consider: (requires a simple majority of votes cast to carry)

1. That Council continues the AREWG as presently established and tasks it to develop recommendations further to its mandate for next steps.
2. That the AREWG's mandate, until any further Council decision, is to assist Council in fulfilling its public interest duties by exploring and making recommendations regarding matters related to racism, and other equity and human rights affairs, relevant to PEO's function as a regulator, employer, and organization.
3. That Council approves the mandate document attached as **Appendix A**.
4. That the AREWG is to proceed to Phase 3 of its work, with possible next steps as shown in **Appendix B**.
5. That Council tasks the AREWG to recommend to Council, before the 2022 AGM, any appropriate changes to Appendix A to coincide with PEO's governance transformation and journey to becoming a modern inclusive regulator that is a trusted leader in professional self-regulation.
6. That new AREWG members or Chairs shall be appointed based on merit. Recognizing the AREWG's mandate, merit in this context means a demonstrated interest in, understanding of, and/or commitment to anti-racism and equity, with value placed on the lived experiences of candidates who are members of equity-seeking groups.

Moved by: Lisa MacCumber, P.Eng.

Seconded by: Qadira Jackson, BA, BSW, LL.B.

1. Need for PEO action

As acknowledged by previously approved Council motions, the problem of widespread systemic racism has been a major focus of international public attention, particularly in the past two years. As a regulator in the public interest, PEO is required to identify and address any such concerns as they relate to its mandate and activities. To this end, in November 2020, Council approved the creation of the AREWG.

For **Phase 1** of the AREWG's work, Council required it to explore and report to Council regarding:

- a) What potential vulnerabilities exist for PEO in relation to systemic racism and discrimination, in all major areas of PEO's operations and its role as regulator of the practice of professional engineering and governor of the engineering profession;
- b) What best practice methodologies are available to identify, study and produce recommendations on how to address any issues of systemic racism and/or discrimination that exist;
- c) What options are preferred and recommended, based on the Working Group's (and consultant's) understanding of PEO and the environment in which it operates;
- d) What mechanisms (e.g., a further working group, additional consultants, surveys, interviews, focus groups, etc.) are required in order to oversee and pursue the recommended options; and

- e) Any other foundational or background information that Council needs in order to address these issues.

The AREWG completed Phase 1 and engaged Council in further discussions between May 2021 and June 2021. In June 2021, Council formally accepted and confirmed a decision to make public and circulate the Report prepared in AREWG's Phase 1. Council also continued the AREWG with its current membership and tasked it, with the allocation of appropriate people and financial resources, to develop recommendations for the next steps. This commenced the AREWG's Phase 2, during which staff recruited again, via a Request for Proposals (RFP), a qualified consultant skilled in equity, diversity, and inclusion, to support the AREWG's work.

In its present recommendations to proceed to Phase 3, the AREWG has leveraged Council's feedback during Phase 2. The above-noted motions accommodate an expanded scope regarding equity affairs.

Phase 3 is primarily about working towards establishing an anti-racism and equity code ("**ARE Code**") that articulates policy principles, the PEO's commitment, and expectations for the profession and the organization regarding anti-racism and equity.

More specifically, Phase 3 will focus primarily on:

- a) developing an ARE Code for Council's approval at the policy level, which addresses systemic racism and equity issues in keeping with Ontario's public policy direction and the primacy of these matters per human rights laws;
- b) consultations with a fair cross-section of stakeholders regarding the above-noted ARE Code; and
- c) collaboration – among the AREWG, the CEO/Registrar or their delegates, and relevant PEO committees – towards developing for Council's approval appropriate accountability mechanisms and sustainability measures relevant to the AREWG's mandate.

As a regulator in the public interest, PEO must appropriately engage relevant stakeholders as it articulates an ARE Code and evolves its function as a regulator accordingly.

PEO's governance transformation and strategic plans contemplate conducting public consultations throughout 2022. The AREWG's recommended next steps (see **Appendix B**) align well with PEO's wider transformation and strategic timelines. The AREWG aims to collaborate with the CEO/Registrar and PEO's transformation team towards proposing a final draft of an integrated timeline, as may be needed.

2. The public policy environment re racism and equity issues

To help orient Council as it approaches the present public interest decision, the AREWG has attached relevant reference materials as **Appendix C**. These include salient excerpts from PEO's own existing guidelines, and policy approaches/strategies of the Ontario government and certain relevant public bodies.

PROPOSED Mandate
Anti-Racism and Anti-Discrimination Exploratory Working Group

Issue Date: November 19, 2021

Review Date: N/A

Approved by Council: November 19, 2021

Review by: N/A

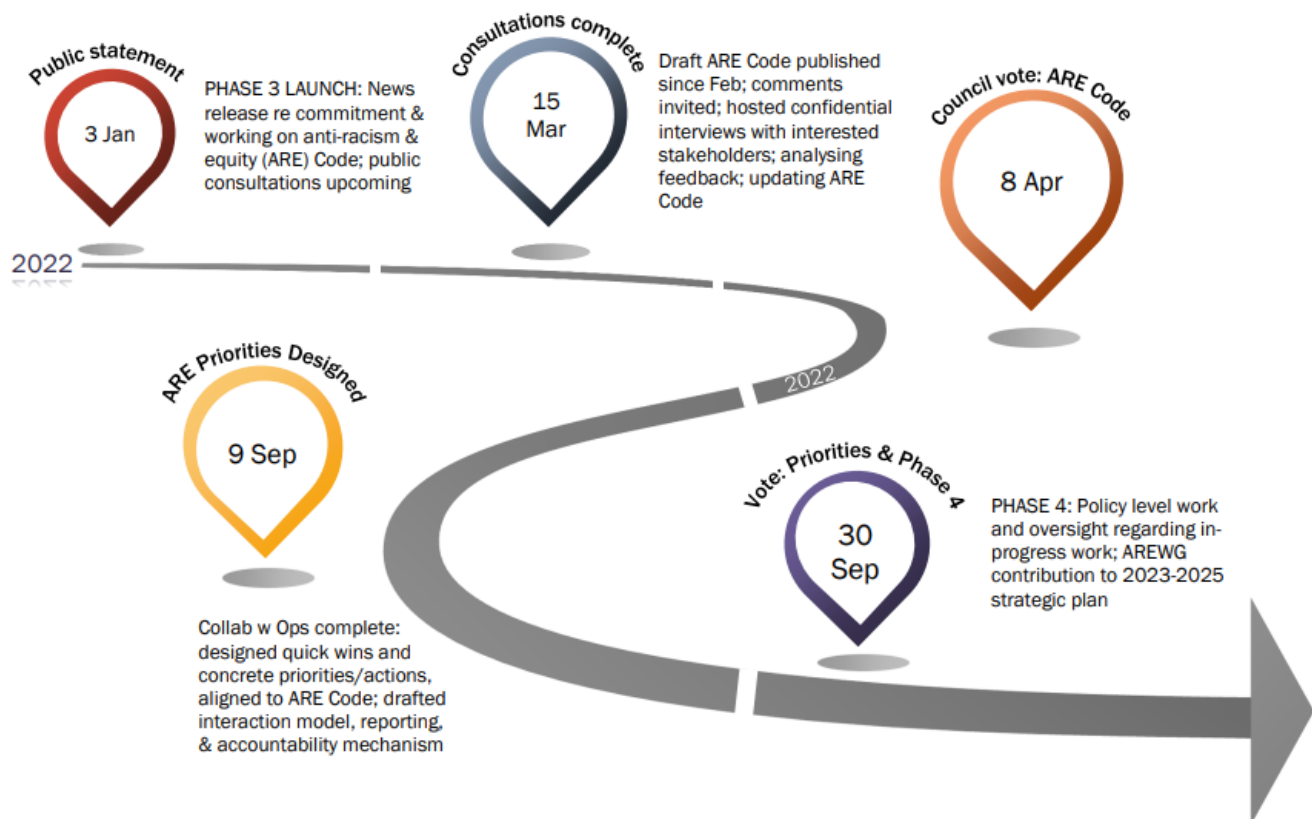
I. Mandate

The mandate of the AREWG is to assist Council in fulfilling its public interest duties by exploring and making recommendations regarding matters related to racism, and other equity and human rights affairs, relevant to PEO's function as a regulator, employer, and organization.

II. Duties and Responsibilities

1. The AREWG will explore and recommend options for Council's approval to help fulfill Council's role as a governing board, ensuring policy, direction, and control in relation to the AREWG's mandate. These options may include:
 - a) A policy Code that addresses systemic racism and related equity issues in keeping with Ontario's public policy direction and the primacy of these matters per human rights laws.
 - b) Consultations with a fair cross-section of stakeholders relevant to the AREWG's mandate.
 - c) Contributions to Council's function regarding strategy development, review, and/or approval, using the lens of the AREWG's mandate.
 - d) Public reporting requirements regarding PEO's commitment and progress relevant to the AREWG's mandate.
 - e) Accountability mechanisms to help Council ensure effectiveness of the regulator regarding the AREWG's mandate.
 - f) Periodic reassessments to help ensure up-to-date recommendations and decisions.
2. In performing its responsibilities, the AREWG will collaborate appropriately with the CEO/Registrar or their delegates, and other relevant PEO Committees. In particular, the AREWG will work in conjunction with the HRCC, the RPLC, and the GNC to help achieve coherence in PEO's journey to becoming a modern inclusive regulator and a trusted leader in professional self-regulation.

DRAFT Timeline: AREWG Next Steps



EXCERPTS RE PUBLIC POLICY ENVIRONMENT

C.1. Excerpts from PEO's Guideline on Human Rights in Professional Practice (2009)

These excerpts (emphasis added) provide assurance that the AREWG's recommendations are in keeping with PEO's aspirations, and that they help to meet PEO's human rights obligations.

"Professional Engineers Ontario aims to promote a workplace free of harassment and discrimination, and to encourage its members to create such an environment in their own workplaces... PEO will hear complaints against members who are accused of employment-related harassment and discrimination as defined in the Ontario Human Rights Code... In instances **where ... infringements of human rights are found to have occurred**, the responsible professional engineers **may be considered to be guilty of professional misconduct, in accordance with section 72(2)(j) of Regulation 941/90 made under the Professional Engineers Act, and may be subject to disciplinary action.**

The Ontario Human Rights Code sets out requirements to provide for equal rights and opportunities... This philosophy is expressed in paragraph two of the preamble to the Code, which states: "And whereas **it is public policy in Ontario** to recognize the dignity and worth of every person and **to provide for equal rights and opportunities without discrimination** that is contrary to law..." This means employers have a responsibility to provide a working environment that is free from harassment and discrimination. **Employers could be held liable by a court or tribunal if they or their managers do not act to put an end to discrimination** or harassment in the workplace.

To fulfill this responsibility, **employers are expected to take appropriate actions and wherever possible should:**

- educate... • inform... • take proactive steps to prevent...
- establish a process and disciplinary procedure... • ... **establish a hiring procedure that complies with the Ontario Human Rights Code, and instruct anyone who may be involved in hiring**, so that discrimination does not occur in the procedure; • **develop and implement an organizational policy**... • hold managers and supervisors accountable... • encourage all ... • encourage employees who feel that they have been harassed or discriminated against to come forward; • **regularly review the effectiveness** of the education, policy and procedures in preventing harassment and discrimination, and revise those that are not working effectively; • provide a knowledgeable, helpful person to consult with employees, to whom employees can comfortably bring their concerns; • investigate complaints promptly, impartially and in a dignified manner; • implement suitable remedial action... and • undertake not to engage in reprisal actions...

Documentation, like other aspects of running an operation, is **important for analyzing effectiveness**, as well as for **reducing exposure to liability**. To ensure that policies are effective and are being applied, **regular audits** (at least annually) should be carried out...

Like many other aspects of an organization, there needs to be some statement of what is expected ... Developing it should involve as many of the people expected to implement the policy as is practical...

...where a claim is serious, hiring an outside investigator may convey a message of fairness and professionalism to both the complainant and the alleged perpetrator... Care should be exercised to ensure the process is confidential...

Indirect discrimination occurs when a requirement, qualification or factor ... which, on its face, is not directly discriminatory has, when imposed, a greater negative effect on individuals protected by the Code than on others. One example would be a requirement that a person have 10 years Canadian experience as a condition of hire. Such a requirement may discriminate against people newly arrived in this jurisdiction and may therefore be discriminatory on the basis of race, place of origin, citizenship or possibly ethnic origin...

The main advantage of an active, ongoing, vigorously applied policy against harassment and discrimination is **a cooperative and more productive workforce**. Although policy implementation may be difficult initially, the effort involved will be rewarded by more cooperation, less absenteeism, **more productivity, and a more successful organization.**"

Professional engineer employees should also be proactive in preventing harassment and discrimination ... This means that in all aspects of their employment, **professional engineers should:** • **be proactive in understanding human rights issues**; • become familiar with applicable legislation, such as the Ontario Human Rights Code; • **avoid** collusion in acts of harassment and discrimination – not only active collusion, but also **collusion through silence or denial**; and • follow appropriate complaint procedures when reporting claims of harassment or discrimination.

C.2. Excerpts regarding Ontario's Public Policy Environment

These excerpts (emphasis added) demonstrate relevant aspects of Ontario's public policy environment, in which PEO must demonstrate leadership in protecting the public interest.

Re Ontario's Anti-racism Act (2017), and Anti-racism Directorate (ARD):¹ "Advancing racial equity and enabling real, lasting change **requires a solid policy, research and accountability framework** through which **to examine government policy, legislation, programs and services.** To that end, the **Anti-Racism Act, 2017** ("Anti-Racism Act") was passed, and an **Anti-Racism Strategic Plan** (Plan) was released. The Anti-Racism Act requires Ontario's **Anti-Racism Directorate (ARD)** to assist the **Minister Responsible for Anti-Racism** in carrying out the Minister's duties under the Act...

Created strategies for populations experiencing the most critical forms of systemic racism. Specific strategies were implemented to **focus on impacts to Black, Indigenous and racialized populations...**

Bringing together community leaders and organizations with **expertise and lived experience** was an important step...

The next phase of work will focus on **policy development, data collection** and analysis, **strategic partnerships** with public and private organizations, **public awareness** building, and implementing more **measurable actions...**

Tackling racism, hate and discrimination in all its forms is essential, but we cannot have a one size fits-all approach. **Population-specific strategies recognize the disparities faced by racialized communities in social, economic and health outcomes.** Efforts have also been made to identify and address any disparities and systemic barriers in the Ontario Public Service, one of Ontario's largest employers...

A focus on Anti-Black Racism Strategy. Ontario's Anti-Black Racism Strategy (ABRS) was released... The ABRS focuses on five objectives: [including]... 1. Lead long-term change across systems, taking a collaborative government approach. 2. Build system capacity and competency and make sure the right tools are in place to change the system within government and its institutions. 3. Partner with 'early adopter' public sector organizations that serve a high percentage of Black Ontarians to identify strategies that could be applied on a wider scale across the province to identify, monitor and address systemic racism. 4. Increase Black

community engagement and capacity by facilitating stronger government-community relationships and access to government decision-making processes. 5. **Increase public awareness and understanding of anti-Black racism and its devastating impacts...**

Indigenous-focused anti-racism... **Acknowledging historical and continued impacts of colonization, and affirming the Ontario Government's commitment to reconciliation,** Ontario collaborates with First Nations, Inuit and Métis partners to specifically target anti-Indigenous racism... Responding to the Truth and Reconciliation Commission... Major progress on reconciliation commitments is ongoing and extends across ministries and government initiatives...

Ontario Public Service Anti-Racism Strategy... With over 66,000 staff, the Ontario Public Service (OPS) is one of the largest employers in the province. The OPS Anti-Racism Policy was established in 2018 and commits the organization to **create equitable human resources policies, procedures and practices** for all employees, including Indigenous, Black and racialized employees, through: • Identifying and removing systemic racism barriers in human resource policies, programs and practices. • Making sure that the diversity of the senior leadership reflects the Ontario labour force by 2025. • Ensure all staff have a foundational awareness and understanding of systemic racism, and the skills to address it...

*Excerpts from Ontario's Anti-racism Strategic Plan:*² ... **Research shows** Ontario's Indigenous and Black populations are **experiencing especially critical forms of systemic racism and inequitable outcomes.** It is essential we address these disproportionalities, and the following three population-specific anti-racism initiatives are a start to this work... Anti-Black Racism Strategy: **The intergenerational impact of slavery and a long history of overt and ongoing systemic racism** continues to shape poorer outcomes for Black people today. This is **confirmed by numerous reports and years of research and consultation** with community partners who have identified key areas of action to address anti-Black racism.... **A targeted approach is urgently needed in order to change these consequences...**

¹ Excerpts from Annual progress report 2020: Ontario's Anti-Racism Strategic Plan. Online at: [Annual progress report 2020: Ontario's Anti-Racism Strategic Plan | Ontario.ca](https://files.ontario.ca/ar-2020-ard-report-tagged-final-s.pdf)

² Online at: <https://files.ontario.ca/ar-2020-ard-report-tagged-final-s.pdf>

Indigenous focused anti-racism strategy... In response to the Truth and Reconciliation Commission, the province released *The Journey Together: Ontario's Commitment to Reconciliation with Indigenous Peoples* (2016). It **sets out Ontario's commitment to address the ongoing impacts of Canada's legacy of residential schools and other devastating colonial policies, remove barriers, support Indigenous culture and reconcile relationships with Indigenous peoples.**

Excerpts from the OPS' Anti-racism Policy Progress Report:³ Launched in 2017, the OPS Inclusion and Diversity Blueprint includes a priority for setting a corporate goal to diversify senior leadership in the OPS, so it is more representative of the Ontario labour force. Effective April 2018, the **OPS Anti-Racism Policy commits the OPS to lead by example** through the development and implementation of an evidence-based OPS-wide anti-racism approach that includes the Systemic Racism Barrier Identification and Removal, Systemic Organizational Change Planning and Equity Review, Senior Leadership Diversification and Anti-Racism Competency and Capacity (ARCC) Building Program...

The implementation of the OPS Anti-Racism Policy is guided by the following principles: Systemic focus... Whole-of-government, collective impact approach... **Targeted universalism: Everyone benefits from government's removal of systemic racism barriers faced by the most disadvantaged communities.** Reducing barriers and disparities leads to a better Ontario for everyone. Distinctness and **intersectionality** of racism: We acknowledge racism is experienced differently by various racialized groups, and within groups along intersectional lines, including gender identity, creed,

class, sexual orientation, ability, history of colonization and any other social or personal attributes. **Inclusive process:** Indigenous and racialized people **must be meaningfully engaged. Their perspectives and guidance inform the strategy and government decision-making...**

There has been a longstanding call for change by public servants, particularly Indigenous, Black and racialized OPS employees. These calls have been **supported by key stakeholders, who have consistently reported a difference related to hiring practices, learning and development opportunities** and the workplace discrimination and harassment complaint management process.

As Ontario continues to grow and change, the OPS must strive to increasingly reflect the public we serve...

A diverse workforce is critical to adopting innovative ideas and approaches to solving problems...

Diversifying the OPS **requires examining our policies, practices and systems and using data to take concrete, measurable actions** that will reduce systemic barriers and eliminate discrimination and harassment ...

With more than 14.5 million residents speaking over 200 languages, **Ontario has the most culturally diverse population in Canada.** Ontario is home to the largest population of Indigenous people in the country. By 2036, racialized people will account for an estimated 48 per cent of Ontario's population.

[The AREWG proposes next steps to help prepare PEO to lead in this future Ontario.]

C.3. Excerpts regarding risks, oversight, and public interest frameworks

These excerpts (emphasis added) illustrate some risks if public sector organizations are perceived as lacking requisite performance in their public interest duties.

Example 1: Class Action Lawsuit. August 2021: "Black federal employees involved in a **proposed class-action lawsuit** launched last December **against the federal government** alleging years of discrimination and **seeking some \$2.5 billion in damages...** Since then, the proposed class-action lawsuit has **become one step closer to reality after a motion was filed for it to be certified.**" September 2021: "A proposed class-action lawsuit from Black civil servants **has reached 1,000 plaintiffs**"⁴

Example 2: Imposition of a Superintendent to oversee professional regulators: "British Columbians want and deserve to know that decisions made about natural resources and the environment are science-based and **in the public interest,**" said George Heyman, Minister of Environment and Climate Change Strategy. "**The new superintendent's office will bring independent oversight and help restore public trust** in qualified professionals by ensuring transparent and consistent

³ <https://www.ontario.ca/page/ontario-public-service-anti-racism-policy-progress-report>

⁴ [Black civil servants want discrimination addressed by federal campaigns \(yahoo.com\)](https://www.yahoo.com/news/black-civil-servants-want-discrimination-addressed-by-federal-campaigns-120000312.html)

best practices regarding qualifications, continuing education and potential conflicts of interest...

The superintendent's office will have the **power to issue guidelines and directives to regulators to ensure compliance and enforcement of best practices and high professional and ethical standards.**

Staff will be able to **investigate potential breaches of whistleblower protections and administer penalties.**⁵

Example 3: OHRC powers.⁶ *The Chief Commissioner of the OHRC is now Patricia DeGuire, who co-authored the AREWG's Phase 1 report and recommendations.*

About the OHRC: "The OHRC is an arms-length agency, **with a promotion, monitoring and enforcement role, which includes targeted legal action.**

Under the Human Rights Code, the OHRC is mandated to prevent discrimination and harassment on the basis of race, sex, disability and age, to name a few of the 17 protected grounds..."

The OHRC Chief Commissioner's powers include, among other things...

"(c) to undertake, direct and encourage research into discriminatory practices and to make recommendations designed to prevent and eliminate such discriminatory practices;

(d) to examine and review any statute or regulation, and any program or policy made by or under a statute, and make recommendations on any provision, program or policy that in its opinion is inconsistent with the intent of this Act;

(e) to **initiate reviews and inquiries into** incidents of tension or conflict, or **conditions that lead or may lead to incidents of tension or conflict, in a community, institution, industry or sector of the economy**, and to make recommendations, and encourage and **co-ordinate plans, programs and activities**, to reduce or prevent such incidents or sources of tension or conflict;

(i) to make applications to the Tribunal under section 35;

(j) to **report to the people of Ontario** on the state of human rights in Ontario and on its affairs;

31 (1) The Commission **may conduct an inquiry** under this section for the purpose of carrying out its functions under this **Act if the Commission believes it is in the public interest to do so...**

(4) A person conducting an inquiry under this section **may, without warrant, enter** any lands or **any building**, structure or premises where the person has reason to believe there may be documents, things or information relevant to the inquiry. 2006, c. 30, s. 4..."

Example 4: OFC powers.⁷ *The Fairness Commissioner's powers include, among other things...*

About the OFC: the OFC "assesses the registration practices of certain regulated professions and trades to make sure they are transparent, objective, impartial and fair for anyone applying to practice his or her profession in Ontario."

"...26 (1) If the Fairness Commissioner concludes that a regulated profession has contravened Part III or VI or the regulations, the Fairness Commissioner **may make such orders requiring compliance** with Part III or VI or the **regulations as he or she considers appropriate and the order may require the regulated profession to do or to refrain from doing such things** as are specified in the order. 2006, c. 31, s. 26 (1).

Exception. (2) No order under subsection (1) shall require a regulated profession to make, amend or revoke any regulation that it has the authority to make under the Act that governs the regulated profession, but **the Fairness Commissioner may,**

(a) recommend to the regulated profession that it make, amend or revoke the regulation; and

(b) **recommend to the minister responsible** for the regulated profession that the minister exercise any power or powers that the minister has to request or require the profession to make, amend or revoke the regulation. 2006, c. 31, s. 26 (2).

[The AREWG understands that an OFC compliance order would have significant impact regarding public confidence and related ministerial actions.]

⁵ <https://news.gov.bc.ca/releases/2019ENV0075-001265>

⁶ See: http://www.ohrc.on.ca/en/news_centre/ohrc-statement-ontario%E2%80%99s-new-anti-racism-directorate and <https://www.ontario.ca/laws/statute/90h19>

⁷ See:

<https://www.fairnesscommissioner.ca/en/About/Pages/Mandate.aspx> and <https://www.ontario.ca/laws/statute/06f31>