

Hearing Commissioner Code of Conduct

July 2023

Hearing commissioners are independent decision-makers at the Alberta Energy Regulator (AER). Their duties and functions are primarily set out in the *Responsible Energy Development Act*.

Hearing commissioners conduct public hearings to inform their decisions on resource development applications, regulatory appeals and reconsiderations of AER decisions, and other matters referred to them by the AER. Hearing commissioners also mediate disputes. When requested by the AER's chief executive officer or the lieutenant governor in council, hearing commissioners conduct inquiries.

Decisions made by hearing commissioners reflect the AER's mandate: to ensure the safe, efficient, orderly, and environmentally responsible development of oil, oil sands, natural gas, coal resources, geothermal, and mineral resources over their entire life cycle.

A panel of hearing commissioners is an administrative tribunal and is less formal than a court. Hearing commissioners seek to be fair, transparent, and impartial.

1 Purpose

This Code of Conduct (Code) identifies the values and responsibilities that hearing commissioners demonstrate in their work. It outlines what the public, governments, stakeholders, Indigenous communities, and other parties can expect from the hearing commissioners.

The Code should be read together with the AER's *Conflict of Interest Policy and Procedures* that also govern the behaviour of hearing commissioners. Where a discrepancy may exist, the *Conflict of Interest Policy and Procedures* takes precedence.

2 Values

The work and decisions of the hearing commissioners are grounded in respect, fairness, integrity, accountability, and reconciliation—these are the values we uphold.

Respect

Respect means treating people with dignity. We demonstrate respect by

- being courteous to others;
- understanding different worldviews and perspectives;
- being mindful of social, cultural, and economic differences, and human rights;

- acting honestly and in good faith; and
- being open and empathetic to the needs and interests of others.

Fairness

Fairness means being impartial and unbiased. We demonstrate fairness by

- upholding the principles of natural justice and procedural fairness;
- making decisions objectively and without bias;
- maintaining a level of separation and independence from other government and elected officials; and
- disclosing real and perceived conflicts of interest.

Integrity

Integrity means upholding the highest ethical standards and contributing to confidence in the regulatory system. We demonstrate integrity by

- providing clear, transparent, and understandable information and processes that are accessible to parties and the public;
- respecting confidentiality;
- striving for consistency in hearing and alternative dispute resolution processes and decisions; and
- exhibiting courage and resolution in making decisions.

Accountability

Accountability means being responsible to Albertans, the AER, and the Government of Alberta. We demonstrate accountability by

- committing to competency, diligence, and service;
- upholding legislative and regulatory requirements; and
- considering the effects of our decisions on parties and the public.

Reconciliation

Reconciliation means a commitment to the Truth and Reconciliation Commission's principles of reconciliation with Indigenous peoples. We practise reconciliation by

- educating ourselves about the history and status of Canada's relationship with Indigenous peoples, including the evolving legal and legislative landscape;
- committing to ongoing learning about Indigenous cultures, and traditions; and
- striving to deliver processes and decisions that are respectful of Indigenous peoples.

3 Responsibilities

How we fulfil our duties and functions as hearing commissioners reflects our values. Our responsibilities are outlined in legislation and reflect a quasi-judicial role.

Consider the Contextual and Regulatory Guidance

We interpret and apply the *Responsible Energy Development Act* and other statutes and regulatory instruments administered by the AER. We also consider relevant court decisions, previous AER decisions, and government and AER policies applicable to our work.

Demonstrate Independence

We make decisions independently, impartially, and free from outside influence.

We exercise our judgement and expertise to make independent decisions with the support of AER staff and other experts.

We strive for consensus in making decisions when acting as part of a panel. However, commissioners may issue dissenting decisions.

Behave Professionally

We are prepared and consider all the information provided to us.

We participate in training and development opportunities to improve our procedural and technical knowledge and skills. We share our skills, knowledge, and expertise with our fellow hearing commissioners and AER staff.

We build and maintain positive working relationships with AER staff and our fellow commissioners.

We comply with all AER policies and the requirements of our professional designations.

Maintain Neutrality and Avoid Conflicts of Interest

We avoid situations and behaviours that violate this Code or are perceived as violating it.

We avoid activities that could undermine our independence and impartiality or harm the AER's reputation.

We disqualify ourselves from being assigned or involved in a hearing, inquiry, or mediation when we know, or should know, that our involvement puts us in a conflict of interest. Also, we disqualify ourselves when we know, or should know, that our involvement could create a reasonable apprehension of bias among others.

We do not engage socially with a party, representative, or witness during a proceeding.

We do not share opinions about government organizations, elected officials, AER decisions, or the AER's work with the public or in media (including social media). We do not share opinions that may create a concern about bias.

Provide Transparency

We only communicate with a hearing party, witness, or representative through direct, transparent means such as written correspondence, formal prehearing meetings, and the hearing process. Our communications about a hearing will be accessible through the public record.

Make Timely and Robust Decisions

We strive to issue timely decisions in accordance with regulatory and organizational timelines.

We base our decisions on the merits of each case by examining the facts and issues of each proceeding and considering all the evidence. We identify which laws, regulations, and legal principles apply to the evidence.

We try to write our decisions in plain language, so they are clear, concise, and understood by all.

We are responsible for the accuracy and quality of our decisions.

Protect Confidentiality

We protect sensitive or personal information that forms part of our working documents.

We consider whether there is a need to protect the sensitive personal, financial, or commercial information of a party or others. We do not disclose personal information about a party or others in our decisions.

We maintain confidentiality and integrity in performing our dispute resolution or mediation function. We do not communicate with nonparticipants about a mediation unless all involved agree.

We do not discuss aspects of proceedings with anyone other than panel members or support staff.

4 Administration

The chief hearing commissioner and the chair of the AER's ethics committee are responsible for administering the Code for the hearing commissioners. The chair of the AER's board of directors and the chair of the AER's ethics committee are responsible for administering the Code for the chief hearing commissioner.

The Code administrator will advise and manage concerns and complaints about potential breaches of the Code and deal with issues of interpreting the Code. The Code administrator will ensure any real or apparent conflicts of interest are avoided or effectively managed, and the confidentiality of all disclosures is according to the Code.

A hearing commissioner who does not follow the Code may face disciplinary action or be required to take steps to correct the situation or behaviour.

The Code is effective July 6, 2023, and replaces all earlier versions.

5 Affirmation

All hearing commissioners will confirm their understanding of and commitment to this Code annually.