



Office of the Ethics Commissioner

Assisting Constituents and Friends

2023

1. Matters before the courts and quasi-judicial tribunal

a) Courts

- There are three branches of government: Legislative (MLA), Executive (Cabinet) and Judicial. The judicial branch is an independent branch of government and cannot be influenced by the other two levels of government.
- Judicial independence is a cornerstone of democracy.
- The Legislative branch can make policy decisions culminating in legislation that touches on the judicial system (eg. Criminal Code, breaches of Provincial legislation, organizing of the court system).
- However, there can be no interference with the internal workings of the judicial system.
- The result is that neither the Legislative Branch of government nor the Executive Branch can interfere in particular cases, or groups of cases, working their way through the legal system.
- A Member of the Legislative Branch should not request information about nor share an opinion about a particular case that is before the courts.
- With respect to criminal or quasi-criminal matters that are before the courts, a Member of the Executive Branch may, in writing, request a status update on a particular case if there has been media coverage of it and the case is of substantial public interest. It should be done in writing and no editorial comment or opinion about the case should be expressed.
- The request should be made to the Minister of Justice and Attorney General. The Minister's response should be in writing.
- The Attorney General has a unique role and it is clear the Attorney General, when making a prosecutorial decision, must be independent.
- It must be remembered that virtually all prosecutorial decisions are made without any involvement by the Attorney General. It would be exceptional and highly unusual for the Attorney General to make direction or take over a prosecution in a specific case.
- Executive Council may make broad policy decisions about legislation that may be, or is, before the courts. Any discussion should be recorded in some fashion. The Minister of Justice and Attorney General may ask members of Executive Council for advice on a policy.
- With respect to civil matters before the courts that involve the Government, the Minister of Justice may make decisions and may consult with Cabinet colleagues, particularly those where Ministers are affected.

- In addition, Members of the Legislative Assembly and their constituency staff should never assist or intervene for parties appearing before courts in Alberta nor should they provide letters of reference for those appearing in court. This prohibition protects judicial independence.

b) Quasi-judicial tribunals

- Members of the Legislative Assembly and their constituency staff should not appear with a constituent or friend to provide assistance during a hearing nor merely to support the constituent or friend as their mere presence may create a perception of bias.
- Members of the Legislative Assembly and their constituency staff should not write a letter of support for a constituent or a friend appearing before a quasi-judicial tribunal.
- Quasi-judicial tribunal members are appointed by the government and appearing before them for a constituent or a friend or providing a letter would be considered as improperly using the Member's influence as a Member.
- Quasi-judicial tribunals include Worker's Compensation Board Appeals Commission, Alberta Utilities Commission, Alberta Gaming and Liquor Commission (board hearings only), Alberta Labour Relations Board, Alberta Energy Regulator, Land Compensation Board, Surface Rights Board, Environmental Appeals Board, Mental Health Review Panels, AISH Appeal Panels, Child Care Licensing Appeal Panel, Student Financial Assistance Appeals Committee. This list is not complete and the Office of the Ethics Commissioner should be consulted if there are any questions about whether a body is a quasi-judicial tribunal.
- Constituents may be assisted by obtaining information for them (eg. regarding policies and procedures, dates and times of hearings, status of the case, general information), helping them to understand basic processes or assisting them fill out forms. Members and their constituency staff should take care not to give legal advice.
- Members, and particularly the Minister responsible for a tribunal, should not contact the chair or a member of a board about any quasi-judicial matter before the board.

c) Agencies and programs

- Members may contact provincial agencies or programs to assist constituents but communication is to be limited to clarification of policy and obtaining information.

2. Letters of Support

- Members may write letters of support for constituents for events and projects provided there is no possibility that the Member, or any of their direct associates, will benefit from the Member writing the letter.
- Ministers may not write letters of support for constituents for any grants or provincial funding that is administered or funded by their own ministry.

3. Personal References

- Members should only write letters of reference for friends and business associates.
- Members should not write letters of reference for their spouses or children.
- Any such letters should not be written on the Member's or on constituency letterhead.
- The letter should not indicate that the author is a Member of the Legislative Assembly.
- A Member may write a reference for a former employee or volunteer if their relationship arose out of the Member's role as a Member. A Member may use official letterhead and title for these letters.

(For a more detailed discussion of this area, refer to the report of Honourable A. Anne McLellan - Review of the Roles of the Minister of Justice and Attorney General of Canada)