# Prosecutor’s Worksheet

## About This Worksheet

This worksheet is filled out by the Prosecutor (the lawyer for the College) to explain their point of view about the case.

The Prosecutor’s point of view might change as they hear from the RECE during Case Management. This worksheet is the starting point for conversations and not final.

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| **Without prejudice:** This document is confidential. It can only be used during Case Management. It cannot be used during a hearing, including to hold the Prosecutor to any statements they make. It cannot be used in any other way unless the RECE and the Prosecutor agree.  However, information in the form might affect how the RECE thinks about or responds to the Prosecution’s case. |

## When and How to Use This Worksheet

The Prosecutor must complete this form and file it with the Hearings Office at least 10 days before the scheduled Case Conference for Understanding.

The Hearings Office will send a copy of the completed form to the RECE at least 7 days before the scheduled Case Conference for Understanding.

The Discipline Committee and the Hearings Office use plain language in all of their processes. The Prosecutor is expected to use plain language for their worksheet, too.

This worksheet allows the Prosecutor to meet the requirements of Rule 3.05 in the [Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee](https://www.hearings-ece.ca/wp-content/uploads/resources/Rules.pdf).

Please enter your information without changing or deleting any of the wording in the form. That will help readers (such as the RECE or the Facilitator) understand your responses. You may use attachments if there is additional information you want to include.

# Prosecutor’s Worksheet

## Background Information

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| RECE’s name: |
| RECE’s registration #: |
| RECE’s representative (if applicable): |

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| --- | --- | --- | --- |
| Can the RECE practise the profession now? | | | |
|  | **Yes** |  | **No** |
|  |  | If not, is the reason: | |
|  |  | Administrative Suspension. Type: |
|  |  | Suspension by order of a committee. Type: |
|  |  | Resignation |
|  |  | Revocation |
|  |  | Other. Please describe: |

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| Are there terms, conditions or limitations on the RECE’s certificate of registration? | | | |
|  | **Yes** |  | **No** |
| If yes, is the reason: | |  |  |
|  | An agreement/Undertaking signed by the RECE |  |
|  | An order of a Committee |  |
|  | Other. Please describe: |  |

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| How did the investigation in this case begin (check all that apply): | |
|  | Mandatory Employer Report |
|  | Public Complaint |
|  | Registrar’s Complaint |

## PART 1: Accusations

Accusations are the “charges” or “allegations” against the RECE.

The Discipline Committee does **not** assume that any accusations are true. Part of their job is to decide what happened. The Discipline Committee can decide the RECE is guilty of all, some, or none of the accusations.

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| Accusation (from the [*Early Childhood Educators Act, 2007*](https://www.ontario.ca/laws/statute/07e07)  (ECE Act) or its [*Professional Misconduct Regulation*](https://www.ontario.ca/laws/regulation/080223)) | If the RECE is guilty, does the ECE Act **require** revocation (cancellation) of their license? | | | |
|  |  | Yes |  | No |
|  |  | Yes |  | No |
|  |  | Yes |  | No |

## PART 2: Evidence and Disclosure

The Prosecutor will list all of the relevant documents and other materials (such as photos or videos) they have about the case. These materials are called “disclosure”.

Disclosure is the information (evidence) the Prosecutor can use to try to show that the RECE is guilty, so it helps the RECE decide how to respond to the case.

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| A light bulb with rays of light  AI-generated content may be incorrect. | If the RECE has different documents or information about the case, they can use those to help show a different version of events. They are **not required** to give disclosure to the Prosecutor, but they might **choose** to share these documents or information if they think it would help them defend themselves. Later, if they plan to use these things at a hearing, they **will have to** disclose them. This is something Duty Counsel (the lawyer available at Case Conferences to support the RECE) can give advice about. |

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| **File name:**  List each file that has been or will be disclosed, including the file name and a brief description.  For files that contain multiple documents/parts, list the contents or attach a table of contents. | **Disclosure date:**  If the item was shared with the RECE before, include the date on which it was shared. If the item is being shared for the first time, include today’s date. |
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| **A light bulb with rays of light  AI-generated content may be incorrect.** | **The Hearings Office will send the Prosecutor’s disclosure to the RECE in separate documents/files at the** same time as they send this form to the RECE.  If the Prosecutor has any new disclosure to give to the RECE later on in the case, the Prosecutor will send it to the RECE directly. |

## PART 3: Guilty or Not Guilty – The “Liability” Phase

In the first part of a discipline case, the Prosecutor tries to prove that the RECE is guilty of the accusations.

### Theory of the Case

A “theory of the case” is one side’s idea of what happened. The Prosecutor’s theory of the case is based on information (evidence) from their disclosure and includes

1. The events: What does the Prosecutor think happened?
2. The legal consequences of the events: Why the Prosecutor believes the events mean the RECE is guilty?

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| A light bulb with rays of light  AI-generated content may be incorrect. | The Prosecutor and the RECE sometimes have different theories of the case.  The RECE might   * challenge the accuracy of the Prosecutor’s information * argue that the Prosecutor’s information means something different than what the Prosecutor says it means * introduce new or different information   This is something Duty Counsel can give advice about. |

1. **The Events**

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| **Summary:** |
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| **To try to prove the information in the summary, the Prosecutor will try to prove:** List the key facts | **Evidence:** Refer to the file name, document name and/or page number |
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1. **The Legal Consequences of the Events**

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| **The Prosecutor will argue that the RECE is guilty of:** | **Facts that support this conclusion:** |
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| A light bulb with rays of light  AI-generated content may be incorrect. | During the Case Conference for Understanding, the Facilitator will share their opinion about the Prosecutor’s case, including how likely it is that the Prosecutor could show the RECE is guilty. This is **not** a guarantee and it is **not** a decision, but it can help the RECE and the Prosecutor decide what they want to do. |

## PART 4: Appropriate Consequences – “Penalty” Phase

The second part of a discipline case happens **only if** the Discipline Committee decides the RECE is guilty of some or all of the accusations.

In this part of the case, the Discipline Committee decides what consequences to order (require) to help protect children and the public. An appropriate Discipline Committee order addresses all of the facts of the case.

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| A light bulb with rays of light  AI-generated content may be incorrect. | Even though the Discipline Committee has **not** yet decided if the RECE is guilty or not guilty, these discussions happen during Case Management because:   1. Both the Prosecutor and the RECE should understand what is likely to happen **if** the Discipline Committee decides the RECE is guilty of some or all of the accusations. This helps them make informed decisions about what to do in the case. 2. The RECE and the Prosecutor might be able to agree about what consequences to suggest to the Discipline Committee. |

## Relevant Circumstances

Different circumstances affect what consequences would protect children and the public. Some **possible** examples include:

* If the incident was isolated or part of a pattern of behaviour
* What the RECE did or did not do after an incident happened or during the investigation
* What happened to children who were involved or information about the children’s ages or other traits
* Other factors (for example, conditions in the workplace) that contributed to the incident happening
* Whether or not the RECE has a history of misconduct

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| A light bulb with rays of light  AI-generated content may be incorrect. | The RECE’s perspective is important here. These lists often change as the RECE and the Prosecutor discuss the case together. |

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| What shows **more** consequences are needed to protect children and the public?  (sometimes called “aggravating factors”) |
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| What shows **fewer** consequences are needed to protect children and the public?  (sometimes called “mitigating factors”) |
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## Past Cases

The Prosecutor will look at past (“precedent”) cases and highlight a few examples. These are cases that have already been decided by the Discipline Committee, regulators of other professions, or other decision makers. Similar decisions are usually made in cases that are similar.

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| A light bulb with rays of light  AI-generated content may be incorrect. | The RECE can suggest that the Discipline Committee look at different past cases. There is information about finding past cases [here](https://www.hearings-ece.ca/wp-content/uploads/resources/CanLII.pdf), and duty Counsel can give advice about finding past cases. |

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| --- | --- | --- |
| **Case:** Case name and link (CanLII preferred). Attach a copy if not available online for free | **How the case compares:** Describe how it’s similar to or different from this case | **Consequences ordered:** Summarize the Panel’s order |
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## Proposed Consequences

The Prosecutor will propose consequences they think the Discipline Committee should order based on their theory of the case, relevant circumstances, and past cases.

Think about whether the consequences would:

* Protect children and the public
* Help the RECE practise safely and ethically in the future (if it would be appropriate for them to practise the profession again)
* Maintain public confidence in the early childhood educators and the College’s protection of children and the public
* Cause harm to the RECE. If so, what harm would there be, and are there ways to reduce the extent or likelihood of the harm?

Other factors might also matter on a case-by-case basis.

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| A light bulb with rays of light  AI-generated content may be incorrect. | The Prosecutor and the RECE may have different ideas about what consequences would be appropriate. This is something Duty Counsel can give advice about. |

### The Prosecutor will propose:

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| --- | --- | --- | --- |
| Revocation (cancellation) of the RECE’s certificate | | | |
|  | **Yes** |  | **No** |
| If yes, why: | |  |  |

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| --- | --- | --- | --- |
| Reprimand – Discipline Committee Panel shares their concerns with the RECE orally | | | |
|  | **Yes** |  | **No** |
| If yes, why: | |  |  |

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| --- | --- | --- | --- |
| Suspension of the RECE’s certificate – time period when the RECE is not allowed to practise the profession | | | |
|  | **Yes** |  | **No** |
| If yes, how long of a suspension, and why? | |  |  |

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| --- | --- | --- | --- |
| Courses or other education | | | |
|  | **Yes** |  | **No** |
| If yes, what continuing education, and why? | |  |  |

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| --- | --- | --- | --- |
| Mentorship | | | |
|  | **Yes** |  | **No** |
| If yes, what are the details of the mentorship, and why? | |  |  |

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| Costs – reimbursement of expenses for a hearing | | | |
|  | **Yes** |  | **No** |
| If yes, what amount of costs, and why? | |  |  |

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| --- | --- | --- | --- |
| Other | | | |
|  | **Yes** |  | **No** |
| If yes, what other consequences, and why? | |  |  |