



Code of Conduct

Effective July 3, 2014

Metis Settlements Appeal Tribunal Code of Conduct

Introduction

The role of the Metis Settlements Appeal Tribunal (MSAT) is to independently resolve disputes in a fair and effective manner while preserving Metis culture and identity under the *Alberta-Metis Settlements Accord*.¹ To fulfill this role, MSAT members² commit themselves and each other to the principles of **fairness, effectiveness, accountability, and privacy** set out in this Code of Conduct. MSAT members recognize that professional and personal integrity is critical for fair investigations and proper decision-making. They also recognize and value that MSAT has a unique mandate to consider Metis culture and identity and to further the attainment of self-governance by Metis Settlements when investigating and resolving disputes.³

The standards of conduct set out in this Code apply to MSAT members, including members of the Land Access Panel and the Existing Leases Land Access Panel. These standards can be relied on by all those who use MSAT, as well as by the Minister of Aboriginal Relations and by the Metis Settlements General Council. MSAT staff, who are employees of the Alberta Public Service are bound by the *Code of Conduct and Ethics for the Public Service of Alberta*.

The Appeal Tribunal Chair is responsible for MSAT's administrative affairs. This includes following, overseeing, and ensuring the uniform application of the standards set out in this Code.

In the spirit of transparency and accountability, this Code of Conduct can be accessed on MSAT website (www.msat.gov.ab.ca) or through the Agency Governance Secretariat.

Part 1: Core Values and Guiding Principles

1. Fairness

Statement of principle

Fair dispute resolution processes lead to outcomes that are respected and followed. In fulfilling their roles, MSAT members will act with integrity, honour, and cultural sensitivity.

Rules

- 1.1 *Conduct*: MSAT members and staff must treat colleagues and all participants with courtesy and respect. Moreover, MSAT members must conduct themselves in an unbiased and neutral manner, treating all cases with impartiality and objectivity.
- 1.2 *Integrity*: MSAT members must be fair and appear to be fair. The following considerations apply:
 - a. allow participants to present and consider all evidence and arguments;
 - b. seek clarification of evidence and opinions, but not act as an advocate;
 - c. not allow participants to be disruptive, abusive, or discourteous to each other or to the Panel;
 - d. not discuss impressions of the dispute in issue other than with fellow members;

¹ Signed in 1989, the *Alberta-Metis Settlements Accord* called for joint action by the Government of Alberta and the Metis Settlements General Council to protect Settlement lands and to build viable and vibrant Metis communities with good local and collective governance systems. The Accord provided tools for developing a full body of Metis Settlement law through General Council Policies, local by-laws, and judicial (MSAT) decisions.

² MSAT members are the three Tribunal members appointed by the Metis Settlements General Council, the three members appointed by the Minister, and the Chair, who is appointed by both.

³ *Metis Settlements Act* 187.1

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- e. allow participants the right to representation by counsel; and
- f. avoid direct communications with participants until a dispute is resolved.

1.3 *Bias/conflicts of interest*: MSAT members must advise the Chair if they believe they or their colleagues cannot objectively deal with a dispute, or if they think others may hold or form a reasonable apprehension of bias concerning their involvement. When coming to this determination, consider whether:

- a. the matter originates within an MSAT member's home Settlement;
- b. the investigation or decision will affect an immediate and/or extended family member; or
- c. there is a direct or indirect financial interest⁴ in the outcome.

To maintain public confidence in MSAT, members must refrain from personal or professional conduct that brings discredit to MSAT, including, but not limited to the following considerations:

- d. speaking to MSAT members about matters before MSAT or matters that are about to be put before MSAT;
- e. counseling, advocating, or appearing to advise in matters before MSAT;
- f. appearing before members of MSAT⁵;
- g. accepting payments, honorariums, or other rewards for any work done in connection with their duties to MSAT for which a prescribed salary or other rate is already received;
- h. using information acquired during the investigation or hearing process for personal gain; or
- i. accepting appointments to Metis or provincial political offices during their tenure as MSAT members.

1.4 *Harassment*: MSAT members must not verbally harass or threaten a colleague, staff, hearing participant, or any other person.

2. Effectiveness

Statement of principle

MSAT members are committed to resolving disputes in a timely and competent manner with the view of preserving Metis culture and identity.

Rules

2.1 *Timeliness*: MSAT members must not allow processes or decisions to be unduly delayed by either their own conduct or by the conduct of others. This includes ensuring that all appeals assigned to MSAT members are decided before the expiration of their terms.

2.2 *Practicality*: MSAT members are committed to using legal instruments and forms as tools—not as end results onto themselves—to enhance its processes and to produce consistent results that make sense to MSAT's stakeholders.

2.3 *Reviews*: MSAT members must work to improve investigation and decision-making processes through communications and consultations with stakeholders, internal reviews, and strategic action planning.

⁴ MSAT members will not be considered in conflict where the conflict or benefit is so remote or the amount of financial interest is so insignificant that it cannot reasonably be regarded as likely to influence decision making.

⁵ Where the interests and rights of a member are affected, or may be affected, a member cannot appear directly before MSAT, but must seek a representative to speak on his/her behalf.

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2.4 *Capacity-building*: To ensure continued competency, MSAT members will strategically build or maintain required skill sets through relevant training provided by accredited bodies.

3. Privacy

Statement of Principle

Investigation and hearing procedures give MSAT members access to documents and information that are of a private nature. MSAT members will protect the information that comes into their possession and its privacy except where disclosure is justified by law.

Rules

- 3.1 *Prevention*: MSAT members will keep all records in their possession concerning MSAT business, including electronic records, secure so that they cannot be accessed by unauthorized persons. Files, laptop computers and other sources of information should not be left unattended and locks or passwords should be used when practical.
- 3.2 *Confidentiality*: MSAT members will not disclose private information contrary to the *Freedom of Information and Protection of Privacy Act*. Such information will only be disclosed for the purposes it was collected in order to carry out the MSAT's functions.

4. Accountability

Statement of principle

MSAT members are committed to upholding the highest standards of conduct on both personal and professional levels so as to retain the trust, respect, and confidence of colleagues and stakeholders.

Rules

- 4.1 *Accountability*: MSAT members will hold themselves and each other to the principles and rules set out in this Code. All MSAT members are responsible for reading, understanding, and complying with the Code of Conduct.
- 4.2 *Concerns or complaints*: Concerns or complaints over the conduct of an MSAT member should be raised with the Tribunal Chair, who is the Code Administrator. If the concern involves the Code Administrator, the Vice-Chairs may be approached for advice. For more information, see the 'Administrative Procedures' section below.

Part 2: Administrative Procedures

1. Code Administrator

- a. The Code Administrator for MSAT members is the MSAT Chair.
- b. The Code Administrators for the MSAT Chair are the Vice-Chairs.

2. Administration - The Code Administrator is responsible for:

- a. Receiving and ensuring the confidentiality of disclosures of apparent or real breaches of the Code;
- b. Managing misconduct; and,
- c. Receiving concerns about an alleged breach of the Code and making a decision about whether a breach has occurred.

3. Disclosure – Full disclosure to the Code Administrator provides an opportunity for avoiding or resolving a situation before any difficulty arises.

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- a. It is the responsibility of each member to declare in writing to the Code Administrator those private interests and relationships that they think could be seen to impact the decisions or actions they take on behalf of MSAT. When there is a change in their responsibilities within MSAT or in their personal circumstance, members shall disclose in writing any relevant new or additional information about those interests as soon as possible.
 - b. Where a real or apparent conflict of interest cannot be avoided, members must take the appropriate steps to manage the conflict by:
 - i. removing themselves from matters in which the conflict exists or is perceived to exist;
 - ii. giving up the particular private interest causing the conflict; and,
 - iii. in rare circumstances, resigning their position with MSAT.
4. *Reporting a Potential Breach* – Anyone who is concerned about an alleged breach can report it in writing to the Code Administrator. The concern will be treated confidentially and seriously.
5. *Responding to a Potential Breach* – When an alleged breach is reported to the Chair, the following steps will be taken to respond in the most effective manner:
- a. The Code Administrator will review the circumstances and details of the potential breach and will notify and discuss the matter with the member in question;
 - b. MSAT members have the right to complete information and the right to respond fully to concerns or complaints against them;
 - c. The identity of the reporter will not be disclosed unless required by law or in a legal proceeding.
 - d. The Code Administrator will make a decision and compile a report regarding the alleged breach. The decision may range from finding no potential breach or confirming that a breach has taken place.
6. *Review of a Decision* – MSAT members found to be in breach of the Code of Conduct by the Code Administrator can submit a request, in writing, to review the decision. The review is to be conducted by one of MSAT's Vice-Chairs.
7. *Consequences of a Breach* – depending on the gravity of the breach, the Code Administrator may resort to one or more of the following options:
- a. attempt to resolve the breach by working with both parties;
 - b. cease to appoint the member in question to any MSAT panel while the issue of the breach remains unresolved;
 - c. advise the Minister of Aboriginal Relations and the Metis Settlements General Council of the breach, who can then take further disciplinary action;⁶ and
 - d. assess if changes are needed to MSAT's operations and practices in order to limit future breaches.

Affirmation

This Code of Conduct was approved by the Board of the Metis Settlements Appeal Tribunal on July 3, 2014. It is recognized that the Code is not a static document and as such will be reviewed on an ongoing basis by the board.

⁶ Section 183(1) of the *Metis Settlements Act* indicates that MSAT members may be removed before the expiration of their term by agreement between the Minister and the Metis Settlements General Council.