

Dismissing Complaints and Terminating Investigations

Improved Regulatory Effectiveness and Efficiency

To improve regulatory effectiveness and efficiency, APEGA should have the express authority to dismiss complaints and terminate investigations where the conduct complained of is too minor to warrant a sanction or there are not sufficient grounds to warrant further investigation.

Background

- Currently, the Investigative Committee may terminate an investigation if it is frivolous or vexatious, or if there is insufficient evidence of unskilled practice or unprofessional conduct.
- Currently, complaints must be referred to the Investigative Committee. APEGA does not have the express ability to dismiss a complaint without referring it to the Investigative Committee where it appears at the outset the complaint is frivolous or vexatious or there is insufficient evidence of unprofessional conduct or unskilled practice.

Why this is important

- In many cases a dismissal based on “insufficient evidence” of unskilled practice or unprofessional conduct is interpreted by complainants as an indication that they simply have not provided enough information, not that the conduct complained of does not constitute unskilled practice or unprofessional conduct.
- These complainants then file another complaint based on the same conduct but provide additional evidence. In many cases it is obvious at the outset this additional evidence is not relevant, but the complaint must be referred to the Investigative Committee. The APEGA Registrar or designate should be authorized to dismiss the complaint in such circumstances without needing to refer it to the Investigative Committee.
- In addition, the wording “frivolous and vexatious” is viewed as insulting by some complainants even if the conduct complained of is too minor to warrant sanction or further investigation.

Proposed
legislative
change

- Amend the *Engineering and Geoscience Professions Act* (the *EGP Act*) to expressly authorize the Registrar to dismiss complaints where there are not sufficient grounds to warrant proceeding with a further investigation or hearing, without the need to refer such complaints to the Investigative Committee.
- Amend the *EGP Act* to give the complainant the right to appeal the decision to the Appeal Committee if the Registrar dismisses a complaint.
- Amend the *EGP Act* to give the Investigative Committee the ability to similarly dismiss a complaint on the basis that the conduct is too minor to warrant a sanction or there are not sufficient grounds to proceed with further investigation or hearing rather than on the basis of the current “frivolous or vexatious” and “insufficient evidence” wording.
- Council may develop policy as to when a complaint may be dismissed to guide the Registrar and the Investigative Committee.

Effect of the
proposed
change

- It will give the Registrar the ability to dismiss complaints where the conduct complained of is too minor to warrant sanction or further investigation, without the need to refer such complaints to the Investigative Committee for investigation.
- It will introduce flexibility into the legislation and improve the effectiveness and efficiency of the Investigative Committee. By granting the Registrar the authority to dismiss complaints it will eliminate having to involve the Investigative Committee in matters that do not need to be pursued beyond an initial review or preliminary investigation. The Investigative Committee can then focus on complaints that merit further investigation. This will benefit the public because valid complaints can be dealt with more quickly.
- It will allow APEGA to better utilize its resources. It costs the Association time and money to conduct a full investigation. This should not be necessary in cases where it is obvious at the outset the conduct is too minor to warrant sanction or there are not sufficient grounds to proceed with further investigation.
- It will bring APEGA in line with other modern self-regulatory, professional associations in Alberta.