



Association of Professional
Engineers Yukon (APEY)

Complaints Guideline

Web site: www.engineersyukon.ca

Registrar: Jon Dixon, P.Eng.

Email: registrar@engineersyukon.ca

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Purpose

This document has been prepared for the information of anyone who may have a complaint regarding the conduct of a member of the Association of Professional Engineers of Yukon (APEY).

It provides a summary of APEY's function with respect to the conduct of its members and the procedures followed by APEY to investigate complaints and administer discipline.

Throughout this document the term "member" refers to individuals and permit holders registered with APEY.

Background

Under the *Engineering Profession Act* of Yukon (the "Act"), APEY has been given the responsibility to regulate the practice of professional engineering and to govern the profession in accordance with the Act, regulations and bylaws. These

documents may be found on the APEY website: www.apey.yk.ca

Further, APEY has been given the responsibility to establish and maintain standards of knowledge, skill, care and professional ethics among its members in order that the interests of the public may be served and protected. One way that APEY fulfills its responsibility is through its power to discipline those who are guilty of unskilled practice of the profession and/or unprofessional conduct.

Complaints to the Association about its members are governed by sections 26-58 of the Act and sections 30-34 of the regulations.

Procedures to investigate complaints and decide on their outcome are stipulated by the Act. In case of any discrepancy between this document and the Engineering Profession Act, regulations or bylaws passed under the Act, the Act, regulations and bylaws shall govern.

Complaint

Any person may complain about a member's unskilled practice of the engineering profession and/or unprofessional conduct as described in section 27(1) of the Act.

Complaints are submitted to the Registrar and should be in writing with a full description of the complaint, and the signature, name and address of the complainant.

The Registrar determines if the complaint falls within the jurisdiction of the Act. The member is then given notice of the complaint.

Mediation

The Registrar may designate a *professional* member of APEY as a mediator to assist in settling a complaint provided the complainant and the member agree. This must occur within 60 days from the date of receipt of the complaint unless a longer period is agreed to by all parties.

If mediation is denied or fails, the Registrar shall refer the complaint to the Discipline Committee.

Preliminary Investigation

The Discipline Committee appoints a person to conduct a preliminary investigation of the complaint.

The Registrar will give written notice to the member that a preliminary investigation is being conducted.

The Discipline Committee may terminate an investigation at any time if:

- (a) the complaint is frivolous or vexatious; or
- (b) there is insufficient evidence of unskilled practice of the profession or unprofessional conduct.

The Registrar will notify the complainant and the member that

the investigation has been terminated.

The complainant may appeal the termination of an investigation to Council within 30 days of notification of the decision to terminate. Council shall hear the appeal immediately.

If the investigation is not terminated, the Discipline Committee will, upon receipt of the investigator's report, immediately hold a hearing into the complaint.

The Hearing

If the complaint proceeds to a formal discipline hearing, the Registrar prepares and serves a written notice of the hearing on the member. The complainant is also notified. The notice will include the date, time, place at which the hearing will be held and reasonable particulars of the complaint.

Hearings are closed to the public.

The complainant and the member or representative(s) of the permit holder may be called as witnesses.

A witness at the hearing may be examined on oath or affirmation on all matters relevant to the hearing.

The Association and the member may be represented by legal counsel. The panel may also be advised by legal counsel.

Decision

When the hearing has concluded, the panel will examine all the evidence and testimony presented before reaching a decision to dismiss or uphold the complaint.

Dismissal of complaint

The panel may find that the conduct of the member does *not* constitute unskilled practice of the profession and/or unprofessional conduct. No further action will be taken and the case will be dismissed. Notice of this decision will be given to the member and the complainant. Only

the Registrar may appeal this decision.

Complaint upheld

If the panel finds the member's actions constitute unskilled practice of the profession and/or unprofessional conduct, a range of orders may be imposed on the member as described in section 44 of the Act. Examples include: reprimand, fines, limiting the member's practise, suspension.

The decision is submitted in writing to the Registrar who then serves notice to the complainant and the member.

This decision may be appealed by the member or Registrar to Council within 30 days of the decision being served. Council shall commence its hearing of the appeal within 30 days of receiving notice of the appeal.

The member may appeal the decision of Council to Yukon Supreme Court.