

Investigations Committee: Appeal of Registrar Decisions

NAME OF POLICY	Appeal of Registrar Decisions		
APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS and/or PURPOSE	CPATA Act ss. 38.1(1) to (5); By-laws Part 6		
RESPONSIBILITY	Manager of Professional Responsibility		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Investigations Committee	2023-11-16		

In this policy :

- a) « Complainant » means a complainant who is appealing a decision of the Registrar to dismiss their complaint under s. 38.1(4);
- b) “Licensee” means the licensee (or “agent”) who is the subject of the complainant’s complaint;
- c) “Dismissal” means the written decision with reasons prepared by the Registrar notifying the complainant of the decision to dismiss their complaint.

1. Purpose & Authority

This policy sets out the considerations and process for the Investigations Committee when considering an appeal of a decision of the Registrar to dismiss a complaint under s. 38.1 of the CPATA Act and by-law 86:

Dismissal or referral

38.1(1) The Registrar must consider all complaints received by the College relating to professional misconduct or incompetence by a licensee and may, subject to and in accordance with the by-laws, dismiss any complaint, in whole or in part, for any of the reasons set out in the regulations, but if they do not dismiss the complaint the Registrar must refer it to the Investigations Committee for consideration.

Notice of dismissal

(2) If the Registrar dismisses the complaint, the Registrar must notify the complainant in writing of the decision and the reasons for the dismissal and the notice must inform the complainant of their right to appeal the decision to the Investigations Committee within 30 days after the date of the notice.

Appeal

(4) The complainant who receives a notice under subsection (2) may, within 30 days after the date of the notice, request an appeal of the Registrar's decision to the Investigations Committee.

Decision

(5) The Investigations Committee must dispose of the appeal by dismissing it or allowing it and, if they allow it, they must consider the complaint.

By-laws Part 6

Investigations

85 The Registrar must not dismiss a complaint when there are reasonable grounds to believe that the licensee who is the subject of the complaint has committed professional misconduct or was incompetent.

Request for appeal

86 A complainant's request under subsection 38.1(4) of the Act for an appeal of the Registrar's decision must be made in writing.

2. Considerations

2.1 When the Investigations Committee receives notice of an appeal from a complainant under s. 38.1(4), they will first consider whether the notice of appeal was filed in accordance with this section (within 30 days after the date of the Registrar's notice) and By-law 86 (notice in writing).

2.2 If the notice of appeal was not filed in accordance with the requirements (s. 38.1(4) and By-law 86), the Committee retains discretion to consider whether any reasonable grounds exist for the delay or failure to provide notice in writing by the complainant. If not, they may refuse to consider the appeal, and must notify the complainant and the Registrar of their decision in writing.

2.3 If the notice of appeal was filed in accordance with the requirements noted in 2.2, the Committee may then proceed with consideration of the appeal.

2.4 When considering an appeal, the Committee must consider all materials that the Registrar had at their disposal when making their decision, and the information contained in the notice of appeal filed by the complainant.

- 2.5 The Committee may meet in any manner to consider an appeal, including teleconference, video conference, via email or in person.
- 2.6 The Committee may consult with counsel and/or a subject matter expert at any stage of the appeal consideration.
- 2.7 Unless otherwise decided, the Committee will consider an appeal based solely on written materials.

3. Standard of review

The Committee's role in this case is to determine whether the decision of the Registrar to dismiss the complaint was reasonable. This does not involve an assessment of whether the Registrar's decision was correct, but rather an assessment of whether the decision reflects a consideration of the relevant information and demonstrates that the Registrar reached the decision in a manner consistent with the Act, Regulations, By-laws, and the College's Regulatory Objectives.

4. Procedures

- 4.1. A complainant must electronically submit a notice of appeal to the Registrar outlining the details of their basis and reasons for appeal, within 30 (thirty) days of the date of notice of the Registrar's dismissal decision.
- 4.2. Upon receipt of the notice of appeal, the Manager, Professional Responsibility will:
 - 4.2.1. acknowledge receipt of the notice of appeal;
 - 4.2.2. notify the licensee that a notice of appeal has been received; and
 - 4.2.3. forward a copy of the notice of appeal together with a copy of the complaint file to the Investigations Committee Chair.
- 4.3. On receipt of the materials in 4.2.3, the Chair will convene a meeting of the Investigations Committee in such manner as the Chair determines appropriate for purposes of considering the appeal.
- 4.4. If the Committee decides that the decision of the Registrar to dismiss the complaint was reasonable, the Chair or designate will prepare a written decision with reasons and provide a copy of the decision to the complainant and the Registrar. There are no further appeal processes available.
- 4.5. If the Committee decides that the decision of the Registrar to dismiss the complaint was not reasonable, the Committee will proceed with investigation of the complaint in accordance with the Act, and will notify the complainant and the Registrar of their decision with reasons.