

APPLICANTS/MEMBERS RIGHT-OF-APPEAL: DECISIONS OF APGO'S REGISTRATION COMMITTEE

APGO's applicants or members have the right-of-appeal of decisions of APGO's Registration Committee. The excerpt below is taken from the Association's By-Laws (By-law No. 2 – Fees and Dues) respecting appeal deposits.

APPEAL DEPOSITS

17. In the event that a member wishes to appeal a decision of the Association wherein an appeal is permitted, the member shall pay the deposit as set out in Schedule "B".
18. If the appeal is successful, the appeal deposit shall be refunded to the member.
19. Council may, from time to time, modify the amount and/or structure of any appeal deposit as set out in Schedule "B".

Schedule "B"

APPEAL DEPOSITS *

Appeal of Registrar's decision to Registration Committee	\$400
Appeal of Registration Committee decision to Council	\$400
Appeal of Examination Result	\$100
Appeal of Suspension or Revocation of Certificate of Registration	\$100
Appeal of Suspension or Revocation of Certificate of Authorization	\$100
Appeal of Complaint Hearing Decision	\$500
Appeal of Discipline Hearing Decision	\$500

* Applicants/members are responsible for any additional associated costs.

Professional Geoscientists Act, 2000

REGISTRATION AND MEMBERSHIP

Appeal of decisions

14. (1) The applicant or member, as the case may be, and the Association may appeal a decision of the registration committee with respect to the applicant or member to the council.

2000, c. 13, s. 14 (1).

Same, Divisional Court

(2) The applicant or member, as the case may be, and the Association may appeal a decision of the council under subsection (1) to the Divisional Court. 2000, c. 13, s. 14 (2).

Appeal of revocation

(3) A member whose registration has been revoked under section 13 may appeal the decision to the Divisional Court.

2000, c. 13, s. 14 (3).

Section 1:

Practice and Procedures for Appeal of a Decision of the Registration Committee

1. Under the *Professional Geoscientists Act, 2000*, Section 14 (1), an applicant or a member may appeal a decision of the Registration Committee with respect to the applicant or member to the Council.
2. An applicant or member who wishes to appeal a decision on an initial assessment or a reassessment of the Registration Committee has thirty (30) days in which to appeal the decision of the Registration Committee from the date of receipt of the letter to the applicant or member from the Registrar which sets out the decision of the Registration Committee. The letter from the Registrar shall advise the applicant or member of the right to appeal the decision, the time limit and procedures for filing an appeal.
3. A request for more information and/or assessment of examinations and/or experience does not constitute refusal of an application by the Registration Committee. In assessing examinations and/or experience requirements, the Registration Committee shall direct the Registrar to provide written notice to the applicant or member that the Registration Committee is deferring a decision pending completion of the stated requirements.
4. An appeal of a decision of the Registration Committee must be made in writing, directed to the Registrar, and:
 - a) include detailed reasons for the appeal; and
 - b) be accompanied by the fee as prescribed in By-law No. 2, Schedule "B".
5. On receiving a notice of appeal from a decision of the Registration Committee, the Registrar, in consultation with the Executive Director, shall, without undue delay, set a date and place for the hearing of the appeal. The Registrar shall notify the appellant, in writing, of the date, time, place and format of the appeal hearing not less than thirty (30) days before the appeal hearing is to take place.

Section 2:

Practice and Procedures of the Council on an Appeal of a Decision of the Registration Committee

1. An appeal of a decision of the Registration Committee shall be heard by Council at a special meeting of Council duly called in accordance with the by-laws and without undue delay. The determination of who is to act as Chair for the special meeting of Council shall be made prior to notification of Council of the special meeting. The designation of the Chair shall initially be made from among the officers of the Association, beginning with the President. In the event that the President is ineligible to sit as a member of Council at the special meeting under the provisions of section 2, the Vice President shall act as Chair. In the event that the President and Vice President are ineligible, the Secretary shall act as Chair. In the event that the President, Vice President and Secretary are ineligible, the Treasurer shall act as Chair. In the event that the officers are ineligible, the officers shall select a member of Council who shall act as Chair.
2. Prior to the special meeting, the designated Chair of the special meeting shall disclose the name of the appellant individually to each member of Council who is believed to be eligible to sit as a member of Council at the special meeting in order to determine the councillor's ability to render an impartial decision.
3. The Executive Director shall give notice of the date, time, place and format of the special meeting of Council to the Council members not less than thirty (30) days before the special meeting is to take place. In order for the special meeting of Council to be properly constituted for the purpose of hearing the appeal, there must be present at least five (5) members of Council, one (1) of whom must be a public member of Council.
4. Any member of the Council who participated as a member of the Registration Committee that made the decision affecting the particular appellant shall not be entitled to sit as a member of Council at the special meeting of Council that will be hearing the matter under appeal. However, any such members shall be entitled to appear before the special meeting of Council in order to make submissions on behalf of the Registration Committee. Any member of Council who has prior knowledge of the circumstances of the matter under appeal or who has a conflict of interest position with the appellant shall so declare prior to the special meeting and is not entitled to sit as a member of Council at the special meeting.

5. The Chair, at his or her discretion, may at the start of the special meeting declare the special meeting of Council to be closed to members and/or the public, with the exception of the members of Council, the appellant and legal representation, as provided for under By-law No. 1, Section 9 (4).
6. The format of the appeal hearing before Council may be by teleconference as provided for under the “electronic hearing” provisions in Sections 5.2 and 6 (5) of the Statutory Powers Procedure Act (appended).
7. If the appeal hearing is to be held as an “electronic hearing”, all written materials and submissions to be presented in the appeal hearing are to be provided to the Registrar not less than ten (10) days before the date of the hearing. The Registrar shall provide copies of the written materials and submissions to the appellant and all members of Council.
8. The Registrar shall represent the Association in presenting the decision of the Registration Committee to the appeal hearing.
9. The appellant may appear, with or without legal representation, and make representations, orally or in writing, to the Council. The appellant shall be requested to notify the Registrar not less than ten (10) days in advance of the appeal hearing if the appellant is intending to appear with legal representation.
10. On concluding the appeal hearing, the special meeting of Council may make any decision that the Registration Committee is authorized to make. The Chair of the special meeting of Council shall direct the Registrar to provide the decision in writing to the appellant. If the appeal is granted in favour of the appellant, the appeal fee will be refunded to the appellant.
11. Under the *Professional Geoscientists Act, 2000*, Section 14 (2), an applicant or member may appeal a decision of the Council on an appeal of a Registration Committee decision to the Divisional Court.

Excerpts from the Statutory Powers Procedure Act

(R.S.O. 1990, Chapter S.22 and amendments)

The Statutory Powers Procedure Act ("SPPA") defines an "electronic hearing" as a hearing held by conference telephone or some other form of electronic technology allowing persons to hear one another.

Section 5.2 of the SPPA provides as follows:

5.2(1) Electronic hearings - A tribunal whose rules made under section 25.1 deal with electronic hearings may hold an electronic hearing in a proceeding.

(2) Exception - The tribunal shall not hold an electronic hearing if a party satisfies the tribunal that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

(3) Same - Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters.

(4) Participants to be able to hear one another - In an electronic hearing, all the parties and the members of the tribunal participating in the hearing must be able to hear one another and any witnesses throughout the hearing.

Please also note, section 6 (4) of the SPPA provides for the following requirements in connection with the notice of an electronic hearing:

6(5) Electronic hearing - A notice of an electronic hearing shall include,

- (a) a statement of the time and purpose of the hearing, and details about the manner in which the hearing will be held;
- (b) a statement that the only purpose of the hearing is to deal with procedural matters, if that is the case;
- (c) if clause (b) does not apply, a statement that the party notified may, by satisfying the tribunal that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, require the tribunal to hold the hearing as an oral hearing, and an indication of the procedure to be followed for that purpose; and
- (d) a statement that if the party notified neither acts under clause (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding.