

## DISMISSAL OF COMPLAINTS BY REGISTRAR

POLICY NUMBER: PC-003-01

DATE APPROVED: November 13, 2020

DATE TO BE REVIEWED: November 13, 2023

DISTRIBUTION: NSCMIRTP Board

COMMITTEE: Professional Conduct Pool

DATE(S) REVIEWED (REVISED):

ISSUING AUTHORITY: NSCMIRTP Board

APPROVAL: 

### POLICY STATEMENT

A complaint may be dismissed by the Registrar if any of the following applies:

- a. the complaint is outside the jurisdiction of the College;
- b. the complaint cannot be substantiated;
- c. the complaint is frivolous or vexatious (e.g., a frivolous complaint may be one that has no merit whatsoever; a vexatious complaint may be a complaint made for the sole purpose of harassing or injuring the respondent);
- d. the complaint constitutes an abuse of process (e.g., a complaint that is clearly unfounded in fact; is made in bad faith; is made for an improper purpose, etc.);
- e. the complaint does not allege facts that, if proven, would constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would merit a counsel or caution, or both.
- f. the processing of the complaint would not advance the objects of the College.

*Note: Prior to dismissing a complaint on the basis of grounds (c) or (d), College staff may consult with legal counsel.*

### PROCEDURE

1. Where a complaint is dismissed by the Registrar (or delegate), the Registrar will forward the decision, together with written reasons for the dismissal, to the complainant and respondent. The reasons will include reference to the legislative authority under which the dismissal was made. The complainant shall also be notified of their ability to request a review of the dismissal within 30 days of receipt of the Registrar's decision.
2. Within 30 days of receipt of the Registrar's decision dismissing the complaint, the complainant may submit a written request to the Registrar for review of the dismissal. The complainant must indicate in their written request the reason(s) for the requested review.
3. Upon receiving the request for review pursuant to paragraph 2, the Registrar must send the request to:
  - a. the respondent; and
  - b. the Chair of the Investigative Committee.

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4. Within 30 days of receiving the request for review, the Chair of the Investigative Committee must appoint an Investigative Panel to review the dismissal. The Investigative Panel shall consist of 2 registrants and 1 public representative who are members of the Investigative Committee. The Chair of Investigative Committee shall designate from among these members a Panel Chair.
  5. Investigative Committee members shall not sit on a Panel to review a complaint dismissal where they believe a reasonable apprehension of bias or conflict of interest may exist.
  6. Once a Panel has been appointed, the Chair of the Investigative Committee shall provide the names of the Panel members to the respondent and the complainant and provide an opportunity for any objections to the composition of the Panel to be raised. Reasons for the objection(s) must be made in writing within 10 days of receipt of the names of the Panel members and must include the following:
    - a. identification of whom the conflict is with;
    - b. an explanation of the basis for the conflict; and
    - c. any supporting explanation pertaining to the conflict.The Panel will consider and decide on any objections before considering the merits of the review.
  7. The review of a complaint dismissal is conducted in writing. The Investigative Panel shall review the complaint; any material considered by the Registrar; and the Registrar's decision. After reviewing all of the material before it, the Investigative Panel may do any of the following:
    - a. confirm the dismissal of some or all of the complaint;
    - b. overturn the dismissal of some or all of the complaint and do 1 or both of the following:
      - i. order an investigation of any aspects of the complaint that have not been dismissed,
      - ii. refer the matter be considered by a differently constituted Investigative Panel.
  8. The Investigative Panel must render its decision in writing, with reasons. Within a reasonable amount of time, the Panel must provide a copy of its decision to the Registrar, the complainant, and the respondent.
  9. A decision of the Investigative Panel is final.