

## INVESTIGATION COMMITTEE MEETINGS

POLICY NUMBER: PC-007-01

DATE APPROVED: November 13, 2020

DATE TO BE REVIEWED: November 13, 2023

DISTRIBUTION: NSCMIRTP Board and Staff

COMMITTEE: Professional Conduct Pool

DATE(S) REVIEWED (REVISED):

ISSUING AUTHORITY: NSCMIRTP Board

APPROVAL: 

### POLICY STATEMENT

The Investigative Committee considers all complaints referred to it in an objective manner in order to determine an appropriate outcome consistent with the objects of the College and the professional conduct process.

The Investigative Committee may have additional duties (e.g., as set out in Policy PP-008, Interim Measures for Public Protection).

The Investigative Committee may set its own procedures for investigations and the review of complaints if procedures are not set out by the Act or Regulations or policies.

### Panel Selection/Committee Composition

1. The Registrar refers the complaint to the Chair of the Investigative Committee.
2. The Chair of the Investigative Committee will appoint an Investigative Panel from the Investigative Committee pool.
3. The Panel will consist of 2 registrants in good standing (at least one from the same discipline as the respondent) and 1 public member.
4. The Chair of the Investigative Committee will designate the Chair of the Investigative Panel.
5. All members of the Investigative Panel will be required to sign conflict of interest and privacy agreements.
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.
7. The Panel will consider and decide on any objections before considering the merits of the complaint.
8. The Registrar or College staff may act as administrative and procedural support to the panel.



## **Role of the Chair**

9. The Panel Chair will:
  - a. direct the selection of Panel members;
  - b. assume responsibility for directing Panel meetings and ensuring all procedural requirements have been fulfilled;
  - c. guide the Panel's preparation for the questioning of individuals appearing before the Panel, including ensuring that the questioning is appropriate and determining information requiring clarification;
  - d. ensure all Panel members have had an opportunity to provide substantive input into the decision-making process;
  - e. ensure that the Panel's written decision is complete, reviewed by all members, and forwarded to appropriate persons.

## **Role of Investigation Panel Members**

10. Prior to Investigative Panel meetings, the appointed Investigative Panel members shall comprehensively review the investigative material relevant to a complaint.
11. Investigative Panel members will attend meetings to discuss the investigative report and other information received with other members of the panel and may seek procedural and administrative guidance from a panel support person.
12. The Investigative Panel will, at all times, act in accordance with the duties established in the College's enabling legislation, College bylaws, policies, and applicable common law principles.
13. The Investigative Panel may appoint an investigator, who may or may not be a member of the Investigative Panel, to conduct or to further an investigation of a complaint that is referred to the Investigative Panel. When investigating a complaint, the Investigative Panel or investigator may do 1 or more of the following:
  - a. request additional information in written or oral form from the complainant, the respondent or a third party;
  - b. request to interview the complainant, the respondent or a third party
14. An Investigative Panel or investigator may investigate any matter relating to the respondent that arises in the course of the investigation, in addition to the complaint, that may constitute any of the following:
  - a. professional misconduct;
  - b. conduct unbecoming the profession;
  - c. incompetence;
  - d. incapacity.
15. A respondent may submit medical information and any information relevant to the complaint to an investigator or the Investigative Panel.
16. With the registrant's consent, the Investigative Panel may refer a matter to the Fitness to Practise Committee at any time.
17. The Investigative Panel may dismiss a complaint and notify the complainant and the respondent of the dismissal if the Investigative Panel decides that any of the following apply:
  - a. the subject matter of the complaint is outside the jurisdiction of the College;
  - b. the complaint cannot be substantiated;

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- c. the complaint is frivolous or vexatious;
  - d. the complaint constitutes an abuse of process;
  - e. the complaint does not allege facts that, if proven, would constitute professional misconduct, conduct unbecoming the profession, incompetence or incapacity, or would merit a counsel or a caution;
  - f. the processing of the complaint would not advance the objects of the College.
18. On dismissing a complaint, if the Investigative Panel considers it useful, it may provide written advice relevant to the complaint that is of a non-disciplinary nature to any of the following persons:
    - a. the complainant;
    - b. the respondent;
    - c. any person or organization affected by the complaint.
  19. The Investigative Panel must provide a copy of any written advice provided to the respondent.
  20. Unless a complaint is dismissed, the Investigative Panel must give the respondent a reasonable opportunity to appear before the Panel before it disposes of the complaint, and may request or require other persons to appear before it.
  21. The Investigative Panel may require a respondent to do 1 or more of the following:
    - a. submit to physical or mental examinations by a qualified person or persons designated by the Investigative Panel, and authorize the reports from the examinations to be given to the Investigative Panel;
    - b. submit to a review of the respondent's practice by a qualified person or persons designated by the Investigative Panel, and authorize a copy of the review to be given to the Investigative Panel;
    - c. submit to a competence assessment or any other assessment or examination the Investigative Panel directs to determine whether the respondent is competent to practise, and authorize the assessment or examination report to be given to the Investigative Panel;
    - d. produce any records or documents regarding the respondent's practice.
  22. After providing a respondent with an opportunity to appear before it, the Investigative Panel must do 1 or more of the following:
    - a. dismiss the complaint;
    - b. counsel the respondent;
    - c. caution the respondent;
    - d. refer the respondent to the Registrar for a competence assessment as determined by the Registrar, and require the respondent to pay for any costs arising from the assessment;
    - e. if the Investigative Panel believes the matter involves an issue of incapacity that should be addressed through the Fitness to Practise Program, refer the matter to the Fitness to Practise Committee with the registrant's consent;
    - f. informally resolve the complaint, including authorizing the respondent's resignation from the register and any relevant rosters;
    - g. if the Investigative Panel is satisfied the respondent has been practising without a valid licence, direct the respondent to pay a fine in an amount determined by the Investigative Panel;
    - h. make a determination that there is sufficient evidence that the respondent's actions, if proven,
      - i. would constitute any of the following:
        - professional misconduct,

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- conduct unbecoming the profession,
  - incompetence,
  - incapacity, and
- ii. warrants imposing a licensing sanction.
23. On making a determination under clause (22)(h), the Investigative Panel must do 1 of the following:
- a. with the respondent's consent, order 1 or both of the following:
    - i. that the respondent receive a reprimand, which must be communicated to the respondent, the complainant and any other person the Investigative Panel considers appropriate,
    - ii. that conditions or restrictions, or both, be imposed on the respondent's licence;
  - a. refer the matter or matters for a hearing and, if the Investigative Panel considers it appropriate, direct the Registrar on behalf of the College to attempt to negotiate a settlement proposal.
24. When considering referral to a hearing, in addition to the criteria above, the Investigative Panel must assess whether there is a reasonable prospect that the allegations would be proven on a balance of probabilities before a Professional Conduct Committee.
25. The Investigative Panel will ensure that written reasons of its decision are prepared in accordance with Policy PC-008, Written Decisions of the Investigative Committee.

### **Role of Committee Support Person(s)**

26. The Investigation Committee may have a support person present during committee meetings, which may include College staff, legal counsel, and/or the investigator(s). The committee support person(s) may attend meetings of the Investigation Committee to answer procedural questions or questions about the investigation. The committee support person(s) will not ask questions of the respondent or other individuals attending the committee meeting, except for clarification. The committee support person(s) may be present during deliberations of the committee, but shall not become a decision-maker.

### **Appearances Before the Committee**

27. The purpose of questioning individuals appearing before the Panel is to seek clarification on issues raised in the investigation report. If any individual provides new information during the Panel meeting which is not already known to the respondent, the respondent must be provided with that information and be given an opportunity to respond to it. For this reason, the respondent should be the last individual making an appearance before the Panel.
28. Individuals may appear in person, by video or teleconference. The respondent, at his or her own expense, has the right to be represented by legal counsel or a union representative and to make submissions to the Panel.
29. The Investigative Panel, where it determines it is appropriate (taking into consideration relevant factors including transparency, public accountability, the need to clarify investigatory issues, etc.) may request or require (by subpoena) the attendance of:
- a. the complainant; and/or
  - b. any other individual who can provide relevant information.



Where individuals in addition to the respondent appear before the Panel, they will appear before the Panel at separate times.

### **General Issues**

30. Panel members shall initially retain all notes taken at Panel meetings and upon request, shall provide them to the College after the decision has been issued. If the College does not request that the notes be provided, the Panel member shall retain or dispose of the notes in accordance with any applicable document retention policies.