

# The Ontario Association of Certified Engineering Technicians and Technologists

[www.oacett.org](http://www.oacett.org)

## **Making a complaint**

A public information guide to OACETT's  
complaints and discipline process



Revised August 2011

## Institute of Engineering Technology of Ontario Complaints and Discipline Information

### Engineering Technology in Ontario

OACETT is a non-profit, self-governing, professional association of over 24,000 members that functions under the OACETT Act for the purpose of protecting public safety, governing its members and providing member benefits and services.

OACETT was incorporated in 1962 and was first legislated under the Statutes of Ontario by the OACETT Act of 1984 and of 1998. The Act recognizes OACETT as a professional body whose main objective is to establish and maintain high standards for the profession of engineering/applied science technology.

The certifying arm of OACETT is the Institute of Engineering Technology of Ontario (IETO). IETO, through its standing committees, evaluates applications and certifies engineering/applied science technicians and technologists who meet recognized national standards in education and experience.

**OACETT certified members may have earned one of the following professional certification marks:**

- Certified Engineering Technologist: C.E.T.
- Applied Science Technologist: A.Sc.T.
- Certified Technician: C.Tech.

These symbols of achievement in engineering/applied science technology are legally protected for use by certified members. The designations are recognized across Canada

by employers and other engineering professionals through the efforts of provincial associations.

In Ontario, a council of certified technicians and technologists elected by members and public representatives governs OACETT's affairs.

### **OACETT Member Conduct**

All Members shall abide by and comply with the Act, the By-laws and the resolutions of the Association.

Besides meeting rigorous professional standards, one of the requirements for OACETT membership is a commitment to adhere to the association's Code of Ethics and Rules of Professional Conduct. It is OACETT's responsibility to discipline members who breach the Code of Ethics and Rules of Professional Conduct as stated in OACETT's By-law 19, Section 2.7.

### **OACETT's Code of Ethics**

Members of the Association recognize the precepts of personal integrity and professional competence as fundamental ethics, and as such each Member shall:

- a) hold paramount the safety, health and welfare of the public, the protection of the environment and the promotion of health and safety within the workplace;
- b) undertake and accept responsibility of professional assignments only when qualified by training or experience;
- c) provide an opinion on a professional subject only when it is founded upon adequate knowledge and honest conviction;

- d) act with integrity towards clients or employers, maintain confidentiality and avoid a conflict of interest but, where such conflict arises, fully disclose the circumstances without delay to the employer or client;
- e) uphold the principle of appropriate and adequate compensation for the performance of their work;
- f) keep informed to maintain proficiency and competence, to advance the body of knowledge within their discipline and further opportunities for the professional development of their associates;
- g) conduct themselves with fairness, courtesy and good faith toward clients, colleagues and others, give credit where it is due and accept, as well as give, honest and fair professional comment;
- h) present clearly to employers and clients the possible consequences if professional decisions or judgements are overruled or disregarded;
- i) report to the appropriate agencies any hazardous, illegal or unethical professional decisions or practices by fellow members or others; and
- j) promote public knowledge and appreciation of engineering and applied science technology and protect the Association from misrepresentation and misunderstanding.

### **Rules of Professional Conduct**

Rules of Professional Conduct are defined from the point of view of what constitutes professional misconduct. Professional misconduct means:

1. negligence, an act or omission in the carrying out of the work of a practitioner that constitutes a failure to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances;
2. failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible;
3. failure to act to correct or report a situation that the practitioner believes may endanger the safety or the welfare of the public;
4. failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, by-laws and rules in connection with work being undertaken by or under the responsibility of the practitioner;
5. signing or sealing a final drawing, specification, plan, report or other document not actually prepared or checked by the practitioner;
6. failure of a practitioner to present clearly to his/her employer the consequences to be expected from a deviation proposed in work, if the judgement of the practitioner is overruled by non-technical authority in cases where the practitioner is responsible for the technical adequacy of the work;
7. a breach of the Act or By-law, other than an action that is solely a breach of the Code of Ethics, or the Rules of Professional Conduct;
8. undertaking work the practitioner is not competent to perform by virtue of his/her training and experience;

9. failure to make prompt, voluntary and complete disclosure of an interest, direct or indirect, that might in any way be, or be construed as, prejudicial to the professional judgement of the practitioner in rendering services to an employer or to a client, and in particular without limiting the generality of the foregoing, carrying out any of the following acts without making such a prior disclosure:
  - a) accepting compensation in any form for a particular service from more than one party;
  - b) submitting a tender or acting as a contractor in respect of work upon which the practitioner may be performing as a technology professional;
  - c) participating in the supply of material or equipment to be used by the employer or client of the practitioner;
  - d) contracting in the practitioner's own right to perform engineering technology services for other than the practitioner's employer; or
  - e) expressing opinions or making statements concerning matters within the practice of public interest, where the opinions or statements are inspired or paid for by other interests;
10. conduct or an act relevant to the practice of engineering technology that, having regard to all the circumstances, would reasonably be regarded by technology professionals as disgraceful, dishonorable or unprofessional.

## **How the Complaints Process Works**

The complaints process, as outlined in the IETO Terms of Reference, is designed to provide clear and transparent means for the association to deal with the conduct of a member in an expeditious manner.

Any member of the public, a member of OACETT, or the Registrar may file a complaint against a member.

Except in limited circumstances, e.g. where the complaint does not relate to professional misconduct or incompetence or is frivolous or vexatious, the Complaints Committee must consider any complaint received about the conduct of a member.

## **Communication Between the Parties**

OACETT encourages complainants to discuss their concerns directly with the OACETT member before filing a complaint. However, if no resolution of the complaint occurs, and a complainant wishes to proceed with a complaint, he or she should send the complaint in writing to the Registrar (see *How to File a Complaint* below).

## **Our Volunteers**

Members of the Complaints and Discipline Committees are volunteers who assist OACETT in assessing the ethical conduct and competence of OACETT members to protect the public interest.

## **How to File a Complaint**

A formal complaint must:

1. be made in writing using the form provided and addressed to the Registrar in an envelope marked Confidential;
2. include sufficient information to clearly identify the member, such as the full name, mailing address, e-mail address, membership number (if available) and telephone number of the member against whom the complaint is made;
3. include reasonable information about any allegations contained in the complaint, including the date, times, as many details as possible about the concern(s), and wherever possible, the names of individuals to be contacted and/or documentation to be reviewed in investigating the complaint;
4. be made under oath (OACETT has a qualified commissioner on staff for taking affidavits if required) or affirmed by the complainant, or where there is no complainant, by the Registrar;
5. include copies of any documents or other information pertinent to the complaint;
6. include the complainant's name, mailing address, e-mail address and telephone numbers.

If you have questions about the process, please contact the Registrar at:

**OACETT**

10 Four Seasons Place  
Suite 404

Toronto, Ontario M9B 6H7

Telephone: 416-621-9621

E-mail: [registrar@oacett.org](mailto:registrar@oacett.org)



If the evidence does not support a formal complaint, the Registrar may suggest other ways to address your concerns.

There is no cost involved in filing a formal complaint. Association staff and committee members keep all complaints confidential; however, the Registrar will send a copy of your complaint to the member in question.

### **The Complaints Process**

Once a complaint is filed, the Registrar reviews it. Both the complainant and the member are advised of the complaints and discipline process, the impact of failing to respond on a timely basis, and the requirement for full disclosure. A copy of the complaint is sent to the member within 15 days asking him/her to respond to the complaint. A copy is also sent to the Complaints Committee.

The member has 30 calendar days to provide a formal response to the complaint and must provide any pertinent information that will help deal with the complaint. An extension of time may be granted in appropriate circumstances.

The member is reminded that failure to respond will result in the Complaints Committee concluding that the content of the complaint is true and thereafter proceeding on the basis of the complaint. Failure to respond without a reasonable explanation constitutes a breach of the Rules of Professional Conduct in and of itself.

If there is no response after 30 days and the member hasn't informed the Registrar of any extenuating circumstances, the Complaints Committee will proceed to deal with the complaint.

If a response is received from the member within the 30-day period, the Registrar updates the complaint by forwarding the member's response to the Complaints Committee. The Registrar will also perform any required follow-up (such as appointing an investigator in more complicated matters or obtaining further information) based on the response or post-complaint activity, or as directed by the Complaints Committee.

### **Determinations by the Complaints Committee**

The Complaints Committee's function is to review complaints and decide whether a member has committed a breach of the Code of Ethics and/or is guilty of professional misconduct pursuant to the Rules of Professional Conduct.

The Complaints Committee recommends the appropriate disposition of the matter. This can range from a determination that there has been no breach to a referral to the Discipline Committee for a prosecution of the complaint.

Upon the completion of its investigation, the Complaints Committee gives its decision and the reasons for it, in writing, to the Registrar within 120 days from receipt of the member's response to the complaint. The Registrar sends the decision to the complainant and the member complained against.

The Complaints Committee may:

1. refer the complaint, in whole or in part, to a Discipline Committee established for this specific complaint by IETO;

2. where no breach has been found, direct that the complaint not be referred to a Discipline Committee, thereby dismissing it;
3. direct the registrar to provide advice to the member;
4. require the member to appear before the Complaints Committee to be cautioned or admonished;
5. take such action as is considered appropriate in the circumstances and that is consistent with the Act and/or By-law 19 and the IETO Terms of Reference.

### **Referral to the Discipline Committee**

When the Complaints Committee deems that there has been a breach of the Code of Ethics and/or the Rules of Professional Conduct, it may refer the complaint to a Discipline Committee for a hearing. The association will establish an ad hoc Discipline Committee to consider the complaint within 45 days from referral by the Complaints Committee.

Discipline hearings are conducted in accordance with the Statutory Powers Procedures Act, R.S.O. 1990 c. S.22 (SPPA). The members of the Discipline Committee will be given all necessary information about the complaint. The hearing is usually attended by the member against whom the complaint was made, legal counsel prosecuting the case for OACETT (if required), witnesses called by either side in the proceedings, the member's legal counsel (if the member so chooses and at the member's expense). The Registrar is not a member of the Discipline Committee but may attend. The hearing will be held within 60 days of the appointment of the Discipline Committee.

Hearings are open to the public unless the Discipline Committee makes an order that the public be excluded from a hearing or any part of a hearing if the committee is satisfied that:

- a) financial, personal or other matters may be disclosed at the hearing of such a nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public;
- b) a person involved in a civil or criminal proceeding may be prejudiced; or
- c) the safety of the person may be jeopardized.

Any party to the hearing may request the committee hold the session in camera.

After hearing all the evidence, the Discipline Committee makes its findings on each allegation before it and issues a written decision that includes reasons for its decision.

1. The Discipline Committee may, after a hearing, determine that a member is guilty of professional misconduct if the member has breached the Code of Ethics of the association, or has failed to comply with the rules of professional conduct of the association.
2. The Discipline Committee may, after a hearing, find a member to be incompetent if in its opinion:
  - a) the member has displayed in his or her professional responsibilities a lack of knowledge, skill or judgement or disregard for the welfare of the public of a nature or extent that demonstrates that the member is unfit to continue carrying out his or her

professional responsibilities or that membership in the association should be made subject to terms, conditions or limitations; or

- b) the member is suffering from a physical or mental condition or disorder such that the member is unfit to continue to carry out his or her professional responsibilities or that membership in the association should be made subject to terms, conditions or limitations.

### **Disciplinary Action**

Where the Discipline Committee finds a member guilty of professional misconduct or to be incompetent, it may decide on one or more of the following actions:

1. Direct the Registrar to revoke membership in the association;
2. Direct the Registrar to suspend membership in the association;
3. Direct the Registrar to impose specific terms, conditions or limitations on the member's certification and membership in the association, including but not limited to, terms, conditions and or limitations requiring the member:
  - a) to successfully complete certain specified courses of study;
  - b) to accept periodic inspections by the Committee or its delegate for a specified or indefinite period;
  - c) to report to the Registrar or to a specified committee on specified matters relating to the

member's professional responsibilities for a specified or indefinite period.

4. Require that the member be reprimanded, admonished or counselled by the Committee or its delegate and, if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded in the Register for a specified or unlimited period;
5. Direct that the finding and order of the Discipline Committee be published, with or without the name of the member, in the official publication of the association or in any other manner or medium that the Committee considers appropriate in the particular case; or
6. Fix costs to be paid by the member to the association.

### **Discipline Appeal Committee**

The member may appeal the decision of the Complaints Committee or the Discipline Committee within 30 days of the serving of the decision on the member by the Registrar. The appeal is heard by the Discipline Appeal Committee, set up by IETO as an ad hoc committee with members who have not participated in the complaint or discipline process.

The appeal must be launched by a Notice of Appeal in writing and delivered to the Registrar. The Notice of Appeal must set out the grounds for appeal and must contain a list or description of the evidence or record upon which the member intends to appeal.

The Discipline Appeal Committee must give its decision in writing, with reasons. The Registrar will serve each party with a copy of the decision.

### Complaints Committee: Timelines

- Member advised within **15 days** that a complaint has been filed against him/her.
- Member has **30 calendar days** to respond to the complaint.
- Member is notified of the findings of the Complaints Committee within **120 days** of the member submitting his/her response to the Complaints Committee. The decision could include referral to a Discipline Committee.

### Discipline Committee: Timelines

- Discipline Committee to be appointed by IETO within **45 days** from the referral by the Complaints Committee.
- Hearing shall take place within **60 days** of the appointment of the Discipline Committee.
- Discipline Committee renders its decision within **30 days** of the Hearing.
- Both parties to the complaint shall be notified within **15 days** of a decision being made.

### Appeals Committee: Timelines

- Member may appeal a decision of the Complaints or the Discipline Committee within **30 days** of receiving the decision.
- Appeal to be heard within **90 days** from the receipt of the Notice of Appeal by the Registrar.
- Appeals Committee renders its decision within **30 days** of the Appeal.

- ❑ Both parties to the complaint shall be notified within **15 days** of a decision being made.

### **For More Information**

The complete complaints and discipline process is described in the IETO Terms of Reference, Sections 3.4 – 3.8 may be found at this link [http://www.oacett.org/page.asp?P\\_ID=641](http://www.oacett.org/page.asp?P_ID=641) on the association's web site.



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