

How the Disciplinary Process Works

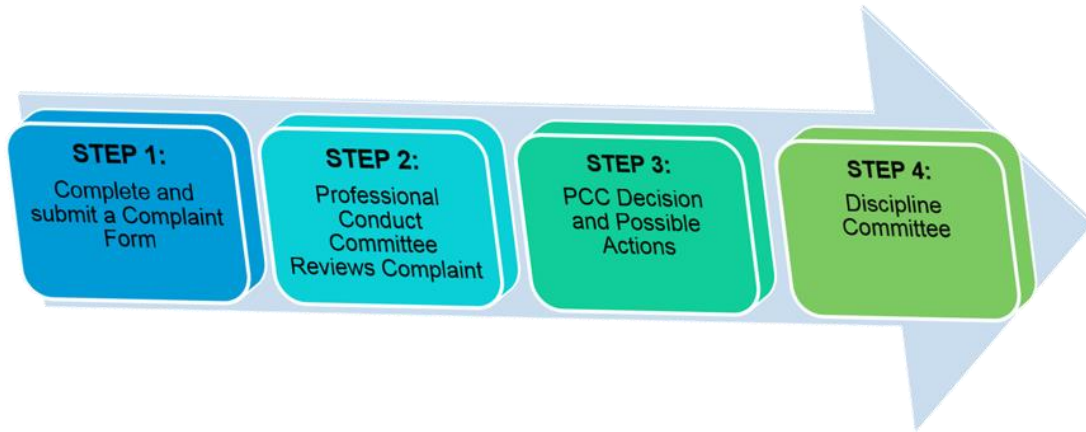


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Background and How to File a Complaint

SIA takes all complaints seriously and will review each complaint to determine if an investigation is required. In some cases, a decision will be made not to investigate a complaint. A complaint may also be referred to another agency.

If you are concerned about the conduct or competency of a member or individual practicing agrology without a license, a formal complaints process is available. The complaints process is part of the process by which SIA protects the public from the unauthorized or unprofessional practice of agrology.

Your complaint will be treated confidentially unless required by law. Anonymous and confidential submissions will only be disclosed to persons who need to know in order to carry out an investigation of the complaint.

The Institute does not charge a fee to file a complaint or to investigate a complaint. Agrologists that are subject to a complaint are responsible for the cost of a hearing if it is required and for any witnesses they choose to bring. If agrologists decide to hire a lawyer or other outside expertise, they will also be responsible for those costs.

The Institute will **NOT** investigate complaints such as *(but not limited to)*:

- A dispute over fees or contractual terms and conditions
- Concerns outside the practice of agrology
- Rumors or innuendo not supported by facts

Q: Who Can Make a Complaint?

A: Any member of the public, employer, client or professional can make a complaint about the conduct or competency of:

- A member of the Institute
- A former registered member of the Institute whose membership was valid within two years of the date of the complaint
- An individual practicing agrology without a license

Step 1 – Complete and Submit a Complaint Form

SIA takes all complaints seriously and investigates each complaint independently and objectively to determine if there is merit or no merit.

If you are concerned about the conduct or competency of an agrologist or individual practicing agrology without a license, a formal complaint can be made to SIA, by using the [complaint form](#).

WHO CAN MAKE A COMPLAINT

Any member of the public, employer, client or other professional can make a complaint about the conduct or competency of:

- A member of the Institute
- A former registered member of the Institute whose membership was valid within two years of the date of the complaint
- An individual practicing agrology without a license

The party filing the complaint must provide sufficient background information and factual proof to support the complaint. Once that initial complaint process is complete SIA takes responsibility for the investigation. The person filing the complaint usually has no other role or obligation except in certain circumstances when they may be asked to give testimony at a Hearing.

A complaint is treated confidentially during the initial investigation. Submissions will only be disclosed to persons who need to know in order to carry out an independent and objective investigation.

The Institute does not charge a fee to file a complaint or to investigate a complaint.

The Institute will NOT investigate complaints such as *(but not limited to)*:

- A dispute over fees or contractual terms and conditions
- Concerns outside the practice of Agrology
- Rumors or innuendo not supported by facts

Step 2- Reviewing a Complaint and the Role of the Professional Conduct Committee

A formal complaint against a member occurs when there is factual evidence that a registered agrologist failed to meet the requirements of the Institute's Code of Ethics (conduct) and Standards of Practice (competence).

A formal complaint must be in writing using the complaint form available on the SIA website. Usually those making a complaint will include additional information regarding their particular situation.

The written complaint is sent in confidence to the SIA Registrar's office. The Registrar will contact the chair of the Professional Conduct Committee (PCC) and pass the file to the chair. The PCC is a standing committee with a roster of seven members appointed by Council each year. At this point the Registrar is no longer involved in any part of the complaint investigation. The PCC acts independently in an unbiased manner.

WHEN A COMPLAINT IS FILED, THE FOLLOWING STEPS TAKE PLACE:

1. The chair of the PCC will consult with the roster and select three members who are available and have no conflict of interest with either of the parties.
2. The PCC will arrange for legal counsel to provide advice to ensure each step complies with *The Agrologists Act* and the Institute's Bylaws.
3. The PCC committee will contact both parties in writing to confirm that there will be an investigation, which will be done independently and in confidence, with no disclosure.
4. The PCC may, as part of its investigation, summon the individual being investigated to appear before it.
5. The PCC will conduct a thorough investigation of the facts presented and may seek other sources to clarify the charges and seek to understand the situation. The PCC prepares a written report of the conclusion of its investigation.
6. The individual being investigated has the right to respond to the allegations made by the complainant.
7. Based on the response from the individual being investigated and the other evidence gathered in the investigation, the PCC will determine whether the complaint has merit or no merit. If there is merit, the complaint is referred to the Discipline Committee. If the determination is that the complaint has "no merit," the case is dismissed, and the file closed with no public disclosure of the complaint.
8. If the PCC determines that the matter be referred to the Discipline Committee, a notice shall be provided to the Discipline Committee. If the PCC determines that no further action is to be taken with respect to the matter under investigation, a copy of their report will be provided to:
 - a. The Council
 - b. The Complainant
 - c. The Member

If the PCC recommends that the DC hear and determine a decision, the Registrar shall, at least 14 days prior to the hearing date

- a. Send a copy of the formal complaint to the individual being investigated;
- b. Serve notice on the individual being investigated of the date, time and place of the hearing.

Note: The PCC investigation is done in confidence, with no disclosure, to protect the member being investigated. If the complaint is dismissed as having "no merit" the member's personal and professional reputation is not tarnished.

Step 3 – PCC Decisions and Possible Actions

If the PCC determines the complaint “has merit” meaning the investigation confirms the member has breached the Code of Ethics (conduct) or the Standards of Practice (competence) the procedure is to refer the file to the Discipline Committee.

However, if the individual being investigated admits that there was a breach in their conduct or action, the PCC has alternative resolution options without referring the member for discipline. This can result in mutually agreed remedial action(s) to ensure the conduct or action does not occur again. This can include additional ethics training or practicing under supervision for a period of time or other action(s). The PCC has successfully used this alternative resolution process in the past, and it is the preferred option. However, the member under investigation must be willing to admit there was a breach in conduct and accept corrective action(s).

ADDITIONAL INFORMATION

It usually takes 60-90 days to investigate a complaint. This is because of two reasons:

1. The investigation process follows a very precise sequence of steps, outlined in *The Agrologists Act*, and each step requires specific procedures. There are formal notices to both parties, an investigation based on “a matter of fact” and opportunities for the parties to respond before the final determination.
2. The PCC is composed of three members who volunteer to serve the profession. It can take two weeks or more for members volunteering their time to complete each step of the investigation to ensure proper due diligence.

The cost to SIA of a PCC investigation can range from \$3,500 to \$5,000 over the 60-90-day period. The majority of the costs are for legal counsel who provide support to the committee members to ensure fairness, compliance with the legislation and search for legal precedent on similar complaints against regulated professionals. There can also be travel costs for volunteer PCC members to meet. The cost to the individual being investigated can be similar, which underscores the importance of members to carry professional liability (errors and omissions) insurance.

The number of complaints each year are increasing as the profession grows and there is more awareness of agrologists obligation to serve and protect the public interest. Most complaints come from other agrologists, which is very important for a self-regulated profession. It is each member’s duty to hold each other accountable in order to enhance and protect the reputation of agrology and agrologists.

Step 4 – Discipline Committee

If the Professional Conduct Committee (PCC) investigation determines there is “merit” to a complaint against a member for professional misconduct, the committee will prepare a notice of hearing to the Discipline Committee (DC) recommending the DC hear and determine the complaint.

As background, the Act, Section 28(1), defines **professional misconduct** as a “*question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, that:*”

- a. is harmful to the best interest of the public or the members of the Institute;*
- b. tends to harm the standing of the profession of agronomy;*
- c. is a breach of the Act or the bylaws; or*
- d. is a failure to comply with an order of the professional conduct committee, the discipline committee or the council;*

is professional misconduct within the meaning of the Act.”

The Act, Section 28(2), defines **professional incompetence** as a “*question of fact, but the display by a member of:*”

- a. A lack of knowledge, skill or judgement; or*
- b. A disregard for the welfare of the public served by the profession;*

of a nature or to an extent that demonstrates that the member is unfit to continue in the practice of the profession, is professional incompetence within the meaning of the Act.”

The DC roster is made up of 10-12 members identified by Council each year who are recognized within the profession as people with integrity, fairness and good judgement. When the DC receives a report from the PCC recommending a hearing, the chair of the DC will consult with the roster of members and identify four individuals who do not have a conflict of interest with the individual being investigated or the person who filed the original complaint and have the time to serve.

In addition, the public representative serves as the fifth member of DC. The role of the public representative is to ensure fairness, objectivity and that due process is followed.

The role of the DC is different from the PCC. The five persons on the DC are only provided with the charge of the complaint, as reported by the PCC. The DC members do not receive any information regarding the investigation other than the statement of the charges against the member. The reason is to eliminate any bias and to ensure that the individual’s right to fully respond to the allegations is not breached.

During the hearing, the DC members serve as the jury that will decide whether the allegations of misconduct against the individual being investigated are proven. They hear the evidence and make their determination only on the evidence that is presented during the hearing by the PCC and the individual being investigated. The PCC bears the onus of proving the allegation. During the hearing there is a court reporter present that records the evidence presented at the hearing by both sides and prepares a written transcript. At the conclusion of the hearing, the DC will make a decision as to whether the allegation(s) of misconduct have been proven.

If the DC determines that the allegations are not proven, the complaint will be dismissed. If the DC determines that the member has been guilty of misconduct, the PCC and individual being investigated will make submissions as to the appropriate penalty/order. If the individual being investigated has been found guilty by the DC, the individual being investigated has a right to appeal the decision or order of the DC within 30 days of the decision or order to a judge at the Court of Queen’s Bench.

Summary

Regulated professions are defined and directed by legislation with the sole mandate to protect the public and the public interest. The major regulated professions such as accounting, engineering, law, medicine (and including agrology) have mandatory registration embedded in the legislation with specific education and training requirements for admission. As well, regulated professions have compulsory continuing professional education as a requirement to maintain “good standing” within the profession.

The oldest regulated professions such as accounting, engineering, law, medicine (including agrology) are “self-regulated” meaning that the legislation enables the members of the profession set the standards of ethical practice and enforce compliance among peers.

It is a privilege for professionals to be trusted with the legal obligations to regulate themselves. It is a privilege that can be taken away. During 2016, there were two professional bodies that lost the legislative ability to self-regulate because they could not or would not discipline members for unethical behavior. These include the Professional Engineers and Geoscientists of Quebec and the BC Real Estate Association.

The profession of agrology in Saskatchewan has all the legislative provisions of other established professions, and the legal obligations of compliance. *The Agrologists Act* follows a legislative template called the “Model Professions Act”. This template is the base for all the regulated professions in Saskatchewan. Therefore, the requirements of the SIA Council are no more nor no less than the legislative requirements of other professions in Saskatchewan.

Approximately 40% of the Model Professional Act deals with “protecting the public interest,” which are the specific steps required to investigate complaints about a member and, if necessary, undertake disciplinary action. This action can range from a letter of reprimand, to requirements to correct the unprofessional behaviour, or in an extreme situation, the suspension of a member’s license to practice.

Q&A – SIA Action on Illegal Practice

QUESTION: From a Member. “So the regulations deal with members but doesn't address someone practicing agrology and isn't a registered member. We seem to spend a lot of time, effort and \$\$ on former and little on latter.”

ANSWER: This is a common question and a concern of many members. Council has made enforcing mandatory registration a priority in recent years, which has resulted in an increase in registered members from 1,150 in 2012 to over 1,700 in 2017 (45% increase). While some of this growth is from the expansion of the agriculture and environment sectors, most of the 550 new registrations are from those who are qualified, practicing and not (yet) registered.

A common method is that a SIA member will contact the office with a name of a person that is practicing and should be registered. The office will have a phone or personal conversation with that person explaining the benefits and protection from registration. Once understood the individual applies for registration. Another method is a member who becomes an internal advocate with their employer with support from the SIA office. This has resulted in some larger employers understanding their liability of employing individuals who are practicing without a license and then require employees to register to comply with the legislation.

The end goal is to have employers and employees “want” to be registered because they understand the benefits and protection. This requires Council and the SIA office continuing with education and awareness initiatives. It also requires giving members the tools (information and support) to encourage colleagues and peers to be registered. The goal is to use the “carrot approach” versus the “stick approach.”

Agrology is a self-regulated profession, meaning that this is our profession. It is as strong as we want to make it. Council and the provincial office are working on compliance, but it requires the active support of every member. Starting January 1, 2020 Council will implement the “stick approach” with fines and penalties for those that are qualified (i.e. holding an agrology-type diploma or degree), practicing but not registered with no license to practice.

The Act has this provision like other regulated professions in Saskatchewan such as accountants, engineers, lawyers, nurses, physicians, surgeons, teachers, veterinarians, etc. The Act states that the fine for “practicing without a license” is \$2,000. This is the last step and requires a member or Council providing proof of non-compliance to a judge who will issue a court injunction. Council expects to achieve full compliance without a need for this final action.