



Summary:

In October 2017, the College issued a [Citation](#) against a member and a Discipline hearing was held in June 2018. The allegations against the member included conflict of interest, denigrating another professional and breaches in professional practice.

In 2003, the College established a contingency legal fund. In 2013 there was a reallocation of monies to increase the fund to \$350,000. Further investments topped the legal fund at approximately \$400,000. The 2018 Discipline hearing has resulted in approximately \$150,000 in expenses in 2018.

On September 14, 2018, the College Council determined that a special levy will be applied to the 2019 dues as authorized by [Section 19](#) of the *College of Applied Biology Act*. The special levy will be used to replenish the legal fund to its minimum level of \$350,000 set by Council in 2013. The levy will not be used for any operational activities. The special levy is to be paid with the 2019 Dues and will apply to College members as follows:

- RPBio: \$50
- RBTech: \$25
- ABT: \$15

FAQ

1. What is a discipline hearing and why is it so expensive?

When a Citation is issued against a member, the College is required to create a Discipline Panel to adjudicate the hearing. The Discipline Panel works with an independent legal counsel. The Discipline Panel reviews evidence and arguments presented by legal counsel for the subject member and legal counsel for the College. According to the College Rules (Rule 15.21), a Discipline Panel shall consist of an odd number of members and include one (1) public representative.

For this discipline hearing, the Panel consisted of two members of the College and one public member. Panel members were selected based on the following criteria: 1) they had no prior involvement with the subject member or the situation; 2) they did not have any conflict of interest with anyone else involved in the case, and 3) they had some experience in administrative justice. The subject member always has the opportunity to challenge any appointee that sits on the Panel. Although the Panel is volunteer, the College is required to cover all costs for legal Counsel for both the College and the Panel; all travel expenses for Panel members, expert witnesses and legal Counsel; plus ancillary hearing costs such as court recorder, facility rental and incidentals. In 2018, the discipline hearing resulted in approximately \$150,000 expenses. The College does not pay the costs of the lawyer for the subject member.



2. What was the outcome of the 2018 hearing?

The Discipline Panel for the hearing has not completed their final determinations as of yet. All matters related to the hearing will be posted as available on the College website.

3. How does the College's Discipline process work?

As a regulatory body, the College of Applied Biology has an established [Discipline process](#) to review all complaints received against members who are alleged to have breached the College Code of Ethics.

All complaints are reviewed by the Discipline Committee to determine if there has been a possible breach of ethics. As a first step, complaints are reviewed by the Registrar to determine if the subject member is/was a member of the College during the time of the alleged infraction. If the subject of the complaint was a member of the College at the time of the alleged infraction, the complaint will be forwarded to the Discipline Committee within 30 business days. The Discipline Committee will conduct a detailed review and may require submissions from both parties, and/or a separate investigation may be required.

The potential outcomes by the Discipline Committee include:

- 1) Dismissing the complaint,
- 2) Dismissing the complaint with a letter of advice,
- 3) Conditional admission by the subject member (this can happen at any stage during the Discipline process), or
- 4) Issuing a Citation to the subject member and proceed to a Discipline Hearing (see Question 1)

4. Will every Discipline hearing result in a Special Levy to College members?

No, discipline processes that result in a Special Levy only occur in exceptional circumstances.

5. Why didn't the College cut costs and set aside money in the budget when it became known that a hearing would be required?

In 2003, the College established a contingency legal fund. In 2013 there was a reallocation of monies to increase the fund to \$350,000. Further investments topped the legal fund at approximately \$400,000. The legal fund is to be used for extraordinary legal costs related to the discipline process.

The College accessed the legal fund to cover the costs for the 2018 hearing. Because hearings may be required from time to time, in order for the College to fulfill its mandate to protect the public interest, a special levy is being applied to maintain the legal fund at \$350,000 to cover future legal costs should they occur.

6. Isn't a membership vote required to impose a special levy?

No, a membership vote is not required. [Section 19](#) of the *College of Applied Biology Act* gives authority to the College Council to apply a Special Levy for situations such as legal costs of a hearing.



7. *Why do I need to cover these costs?*

All College members belong to a regulatory body with a mandate to protect the public interest. As such, costs incurred as a result of fulfilling this mandate are supported by the registered members. The College must proceed with Disciplinary action when a complaint is received if

determined by the Discipline Committee. Legal costs from the 2018 hearing resulted in significant expenses, consequently the College was required to draw on the College's legal fund. The College is applying the special levy to maintain the minimum amount of \$350,000 set by Council in 2013 for unknown future legal costs should they occur.

8. *Do other regulatory associations maintain a legal fund?*

Yes, other regulatory organizations (for example Association of BC Forest Professionals, Engineers and Geoscientists of BC) maintain legal funds in order to cover potential costs associated with their Disciplinary processes.

9. *If the hearing took place in June, why did it take so long for the College to advise the members that members would be required to pay a levy?*

The College has been providing regular updates to members about the status of the hearing in College Connections. After reviewing the costs of the hearing at the September 14, 2018 Council meeting, Council authorized the use of the legal fund to pay for the expenses incurred as a result of the hearing. The Special Levy is being administered to registered members to replenish the legal fund to the minimum amount of \$350,000 as set by Council in 2013.

10. *Why do different categories pay different amounts?*

Different categories pay a special levy in proportion to their annual dues. Registered members are fully practicing and need to support the costs incurred as a result of a disciplinary hearing.

11. *How did you determine the amount of the levy?*

The legal fund reached \$400,000 in 2018. The costs associated with the hearing in 2018 are estimated to be \$150,000 (see Question 1). The levy was calculated as the lowest amount across the membership needed to replenish the legal fund to the minimum amount of \$350,000 as set by Council in 2013. The goal is to replenish the legal fund to \$500,000 over time. The levy was amortized across all the practicing members of the College and it was set by Council in September 2018.

12. *Why can't you take the levy amount from our dues?*

Regular dues are already fully allocated to cover operational costs for the College. This includes fixed costs (office space, staff wages, utilities etc) as well as running statutory functions (Council meetings, Credentials, Audit, and Discipline), plus other priorities such as implementation of the Professional Reliance Review, communications and outreach. The College established the legal



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fund in 2003 for precisely this purpose and it must be replenished in the event another hearing
takes place in future.

13. *I can't afford this extra levy, can I go on leave?*

On-leave status is granted for parental or compassionate reasons, illness, or enrolment in an educational institution ([See rule 7.9](#)). Members that go on-leave in 2019, will be required to pay the levy when the reinstate ([See Rule 10.11](#)).

14. *I'm currently on leave, do I need to pay the levy?*

Members that are currently on-leave will be required to pay the special levy when they reinstate. Refer to Rule [10.11](#)

15. *What happens if I do not pay the levy?*

The levy is part of your 2019 annual dues. Failure to pay your annual dues will result in being removed from the College Register as per Rule [10.8](#).

16. *Who can I contact if I have more questions?*

Please call or email Christine Houghton, Executive Director ExecutiveDirector@cab-bc.org
(250) 383-3306 ext 1. Or Derek Marcoux, Registrar at (250) 383-3306 ext 2 Registrar@cab-bc.org