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Registration	Registration Hearings	POL-R-08
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Section 21		Section 20
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## PURPOSE

To provide clear and concise language regarding the process for conducting registration hearings.

## SCOPE

All applicants seeking registration with the College of Speech and Hearing Health Professionals of British Columbia (the “College”).

## POLICY

### 1.0 OVERVIEW

As a part of the College, the Registration Committee has a statutory duty to serve and protect the public, and to exercise its powers and discharge its responsibilities in the public interest under section 16(1) of the *Health Professions Act* (the “HPA”).

The Registration Committee is responsible for granting registration, including reinstatement of registration (HPA s. 20(1)). Its powers and duties include:

- deciding if an applicant “meets the conditions or requirements for registration in class of registrants” (HPA s. 20(2)(b));
- deciding if an applicant’s knowledge, skills and abilities are substantially equivalent to entry-level standards (Bylaw 4.04(3)); and
- deciding if any ground exists for the Registration Committee to exercise discretion (HPA s. 20(2.1)(a) to (c)), and in such a case, to exercise that discretion (HPA s. 20(2.1)).

### 2.0 REGISTRATION COMMITTEE DECISION-MAKING PROCESS

The Registration Committee must assess facts, and may make inquiries into facts, relating to an applicant’s academic or technical achievements, competencies or other qualifications, information relating to good character, or that person’s knowledge, skills and abilities, as part of exercising its powers and discharging its responsibilities:

- The Registration Committee need not accept that all information it receives is reliable or accept all assertions of an applicant or any third person as true.

- The Registration Committee is an inquisitorial body that may elicit information from an applicant, and seek information from others, relevant to its decision-making.

The Registration Committee controls its own process:

- To resolve any factual gaps or uncertainties, the Registration Committee may review any and all documents in the College's possession relevant to the application, except where prohibited by law; may make written inquiries to the applicant or to others; and may find facts and make decisions based on written materials only.
- The Registration Committee also may, but need not, engage in an oral (e.g., "in-person" or otherwise "live") "hearing" process of its own design, to allow the Registration Committee to receive and assess information from an applicant, or any other person, who appears before the Registration Committee.
- Where a person, such as the applicant, appears before the Registration Committee, the Registration Committee has an implied power to take witness testimony on oath or affirmation, and to allow cross-examination of witnesses.
- The Registration Committee lacks any power to compel a person to testify before or provide documents. However, where a witness or a document unavailable to the Registration Committee is reasonably necessary for the Registration Committee to fulfil its duties, the Registration Committee may seek assistance from the Supreme Court of British Columbia.

### **3.0 DIRECTIVES**

The following Directives are subject to any further directions of the Registration Committee.

#### **3.1. *Burden of proof and standard of proof***

Subject to applicable law, a burden of proof lies on each applicant to prove they meet conditions or requirements of registration. The standard of proof is proof on the balance of probabilities.

The Registration Committee will generally presume the good character of applicants, but if the Registration Committee has information of prior conduct by an applicant that, in the absence of an explanation or further information, indicates the applicant may presently lack good character, the applicant has the burden of satisfying the Registration Committee the applicant presently has good character consistent with the responsibilities of a registrant and the standards expected of a registrant.

#### **3.2 *Rules of evidence do not apply***

The Registration Committee is not bound by the rules of evidence applied by courts. For example, the Registration Committee may consider hearsay information, and the reliability and weight of such information is for the Registration Committee to decide.

#### **3.3 *Panels***

The Registration Committee may, particularly for any oral hearing, establish a three-member panel pursuant to Part 3 of the Bylaws, if one has not already been established, to conduct the oral hearing and decide the application for registration.

### **3.4 Representation by legal counsel**

The applicant may be represented by legal counsel.

The Registration Committee may direct the registrar to retain or otherwise obtain the assistance of legal counsel for the committee.

The Registration Committee may direct that legal counsel for the committee assist the committee during a hearing by fulfilling the role of public interest counsel.

Public interest counsel may, during an oral hearing,

- present information through witnesses or documents;
- ask questions of witnesses at any oral hearing to elicit or test relevant information; and
- articulate for the applicant and for the Registration Committee a public interest perspective on matters of fact, law, and discretion relating to the application for registration.

The appointment of public interest counsel does not alter the Registration Committee's role as an inquisitorial body.

### **3.5 Notice of an oral hearing**

Where the Registration Committee has directed an oral hearing, it shall provide to the applicant at least 30 days' written notice, or such lesser notice to which the applicant consents, of

- the date, time and place of the oral hearing, and
- the registration issues for the oral hearing.

### **3.6 Adjournments**

The applicant may apply to the Registration Committee for an adjournment of any part of a hearing.

The Registration Committee may adjourn any part of a hearing, based on a recommendation from public interest counsel, or at its own discretion.

### **3.7 Pre-hearing disclosure**

With respect to information that public interest counsel or the applicant intends to present at the hearing, at least fourteen (14) days before the hearing,

- the Registration Committee, acting either directly or through public interest counsel, must provide to the applicant, and
- the applicant, must provide to the Registration Committee, through public interest counsel if any, or otherwise directly,

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the following pre-hearing disclosure:

- in the case of documentary information, an opportunity to inspect the document;
- in the case of expert testimony,
  - the name and qualifications of the expert,
  - a copy of any written report the expert has prepared respecting the matter, and
  - a written summary of the information the expert will present at the hearing if the expert did not prepare a written report in respect of the matter, and
  - in the case of testimony of a witness who is not an expert, the name of that witness and an outline of their anticipated information.

The Registration Committee may treat documentary information provided by the applicant to the Registration Committee, including documents provided as part of an application for registration, as disclosed to the applicant.

The Registration Committee may decline to consider information which public interest counsel or the applicant has not disclosed pursuant to subsection (1).

The Registration Committee may consider information for which disclosure has not been given under subsection (1) where necessary to ensure that the public interest, or the legitimate interests of the applicant, will not be unduly prejudiced.

### **3.8 General hearing procedures**

**Court reporters:** The Registration Committee may arrange for a court reporter to keep a record of any oral hearing.

**Access by the public:** Subject to any requirements in or under the Act, and any direction of the Registration Committee to the contrary, an oral hearing is not open to the public.

**Non-attendance by the applicant:** If an applicant does not attend an oral hearing, the Registration Committee may proceed with the hearing in the applicant's absence, and may, without further notice to the applicant, proceed to address the application for registration.

**Order of hearing steps:** The applicant, and the public interest counsel if any, may

- present opening statements;
- present documentary information;
- present witnesses, cross-examine witnesses presented by others, and re-examine their witnesses; and
- make closing submissions.

**Order of presentations:** Subject to subsection (2), the order of presentation of opening statements, information, and closing submissions will be by the applicant first, and public interest counsel second.

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The Registration Committee may direct that public interest counsel present first, e.g., to set out information that the applicant must address to show present good character.

**Opening statements:** The Registration Committee may permit the second presenter to make an opening statement immediately after the first presenter, or the second presenter may wait until it presents its case to make its opening statement.

**Witness testimony on oath or affirmation:** The testimony of witnesses will occur on oath or affirmation, which any member of the Registration Committee may administer.

**Attendance by witnesses at the hearing:** A witness who has not testified may not see or hear the testimony of other witnesses, except where the witness is the applicant.

**Questioning of witnesses by the committee:** The Registration Committee may ask questions of any witness.

**Leave to present affidavits:** The Registration Committee may allow a presenter to present information through affidavits.

**Cross-examination of affiants:** The Registration Committee may request that a witness who has sworn an affidavit presented by a presenter attend before the committee to be cross-examined by another presenter or by the committee.

**Application for registration materials:** Public interest counsel, if any, may present documents provided by the applicant as part of any application for registration, in affidavit form or through a certificate under section 23 of the Act, without leave of the Registration Committee.

**Closing submissions:** The Registration Committee may allow the applicant and public interest counsel to present oral and/or written submissions.

#### **4.0 REASONS & PUBLICATION**

Where the Registration Committee has directed a hearing, the Registration Committee will ordinarily provide written reasons for a decision.

The Registration Committee may direct the registrar to publish the reasons of the registration committee for a decision, or a summary of such reasons, but the Registration Committee may direct the registrar to withhold any specific information (e.g., the applicant's identity, the applicant's personal health information, or information about third persons) for good reason, including the Registration Committee being satisfied that the privacy interests of the applicant or a third person outweigh the public interest in the publication.