



POLICY

POLICY	Engineers and Geoscientists BC Indemnification Policy
NUMBER OF POLICY	CO-21-78
DATE OF POLICY	June 25, 2021
APPROVED BY	Council

DEFINITIONS

“**Council**” means the governing council of the Association of Professional Engineers and Geoscientists of the Province of British Columbia, also operating as Engineers and Geoscientists BC.

“**EGBC**” means the Association of Professional Engineers and Geoscientists of the Province of British Columbia, also operating as Engineers and Geoscientists BC.

“**Indemnification**” means to:

- (a) retain or pay for legal representation for an individual:
 - (i) who is a defendant or respondent in a civil claim or proceeding;
 - (ii) against whom a complaint has been made to a professional regulatory body or administrative tribunal; or
 - (iii) who has been legally compelled to give evidence in a court proceeding or at an inquiry or hearing of a complaint to a professional regulatory body or administrative tribunal; or
- (b) pay an amount to settle a civil claim or proceeding or satisfy a judgment or other monetary penalty.

INDIVIDUALS ELIGIBLE FOR INDENMIFICATION

1. The following categories of individuals are eligible for Indemnification:
 - (a) members of Council;
 - (b) employees of Engineers and Geoscientists BC;
 - (c) individuals acting on behalf of or under the direction of Council or Engineers and Geoscientists BC; and
 - (d) individuals who formerly held one of the roles in (a) through (c), but only in relation to anything done or omitted while they held that role.

DETERMINANTS OF ELIGIBILITY

2. With respect to any matter, an individual is eligible for Indemnification only where all of the following conditions are met:
 - (a) the individual has not acted in bad faith;
 - (b) the individual's impugned conduct or omission was:
 - (i) in the performance or intended performance of a duty under the *Professional Governance Act* or the former *Engineers and Geoscientists Act* (the "Acts");
 - (ii) in the exercise or intended exercise of a power under the Acts; or
 - (iii) in the case of an Engineers and Geoscientists BC employee, within the employee's course of employment;
 - (c) Engineers and Geoscientists BC is not itself a plaintiff or complainant against the individual in that matter;
 - (d) the individual has in a timely and forthright manner informed Engineers and Geoscientists BC of the matter; and
 - (e) the individual does not refuse or cease to cooperate with Engineers and Geoscientists BC or make any admission of liability, compromise or other agreement that could compromise an available defense or increase EGBC's costs associated with the requested Indemnification, without prior written consent from EGBC.
3. In assessing an individual's request for Indemnification, there will be an initial presumption that the individual has met the eligibility criteria set out at paragraph 2 above, unless or until there is evidence to the contrary.

THE RIGHTS OF ENGINEERS AND GEOSCIENTISTS BC

4. Where an individual is eligible for Indemnification under this policy:
 - (a) Engineers and Geoscientists BC may make such investigations, conduct such negotiation toward settlement, and settle any civil claim or proceeding as it deems fit;
 - (b) Engineers and Geoscientists BC may ask the individual to retain his or her own independent legal counsel at EGBC's expense, or EGBC may elect to retain legal counsel for the individual;
 - (c) no obligation to indemnify the cost of legal counsel is engaged until EGBC has approved in writing the selection of legal counsel and their billing rates, and for greater certainty, Engineers and Geoscientists BC has discretion to decline any proposed legal counsel for any reason;
 - (d) if an individual retains his or her own independent lawyer, and if the lawyer submits a bill for legal services that is excessive in the opinion of EGBC then EGBC may require the individual to apply to Court to challenge the lawyer's bill; and
 - (e) if EGBC has retained or paid for legal representation for an individual, the individual must pay to Engineers and Geoscientists BC any costs recovered within the same proceeding.

REVIEW DATES

June 25, 2021 (CO-21-78) – Updated and approved by Council

February 12, 2016 (CO-16-22) – Approved by Council