Passenger Transportation Board
MOVING FORWARD, TOGETHER

Appeal an administrative penalty

Passenger transportation licensees may appeal an administrative penalty imposed by the Registrar of Transportation (Registrar). The Passenger Transportation Board (Board) is responsible for deciding these appeals.

The appellant is the licensee who has received an administrative penalty. The respondent is the Registrar who has imposed an administrative penalty on the licensee.

Note: If the Board requests information from the Registrar for the purposes of an appeal, the Registrar may, in writing, designate an office or employee of the Registrar's Office to attend before the Board if, in the opinion of the Registrar, that designated person is knowledgeable in the respect of the appeal being considered by the Board.

The Registrar uses the administrative penalty framework to guide them when imposing penalties.

After considering the information provided by the licensee and the Registrar, the Board must:

- Rescind any or all of the penalties, or
- Confirm any or all of the penalties

Timeline for filing a notice of appeal

A notice of appeal must be filed no more than 30 calendar days after a licensee receives notice from the Registrar that an administrative penalty has been imposed on the licensee.

Exceptions to timelines for filing a notice of appeal

The Board may extend the time to file a notice of appeal if the Board is satisfied that:

- Special circumstances existed that precluded the filing of a notice of appeal within the 30-day period, and
- An injustice would otherwise result

Orders to suspend administrative penalties

Other than an administrative fine, the Board may order that the Registrar's order is suspended until the outcome of the appeal.

Steps in the appeal process

Notification

The Registrar's notification to a licensee of an administrative penalty must include written notification that the licensee may appeal the Registrar's decision to the Board.

A notice of appeal(80 KB) must be filed with the Board within 30 calendar days of receipt of notice of administrative penalty (either on form prepared by Board(80 KB) or in a document prepared by the appellant).

All notice of appeals must be in writing and contain the following information:

- Identification of the decision that is being appealed

- Why the decision should be changed
- The outcome requested
- The name, address and telephone number of the appellant, and, if the appellant has an agent to act on the appellant's behalf in respect of the appeal, include the full name of the agent and a telephone number at which the agent may be contacted during normal business hours
- An address for delivery of any notices in respect of the appeal
- Signature by the appellant or the appellant's agent

The notice of appeal must be accompanied by the $150 fee.

Board staff will send the appellant an acknowledgement of receipt and confirm if the notice of appeal was filed within 30-day time period.

If the notice of appeal was not filed within the 30-day time period, and the appellant has not explained the special circumstances or why an injustice would result, the appellant will be notified that the appeal may be summarily dismissed unless the appellant can satisfy the Board in writing in 10 business days that a special circumstances existed that prevented the filing of a notice of appeal within the 30-day time period and an injustice would otherwise result.

If a notice of appeal is incomplete (missing the required information) or not accompanied by the fee, the Board may allow an appellant a reasonable time to complete the notice or pay the fee. If the notice is not completed or the fee not paid within the time period specified by the Board, the Board may dismiss the appeal.

Request to suspend administrative penalties

The appellant may request that the Board suspend an administrative penalty (except for an administrative fine) imposed by the Registrar.

The appellant may submit a Request to Suspend Administrative Penalties form(71 KB) to the Board.

If a request to suspend is made, the appellant must provide reasons for the request, identify any hardships resulting from the Registrar's order, and whether (and why) there is any urgency to the request.

The Board will copy the Registrar on any Request to Suspend Administrative Penalties form and accompanying documents. Unless the appellant specifies that there is an emergency, the Registrar will have 5 business days to provide written comments to the Board, with a copy to the appellant. The appellant will have 10 business days to respond in writing to the Board, unless the Registrar supports the request.

If the request to suspend is an urgent request, the Board may waive these procedural requirements and timelines.

The Board may arrange a conference with the appellant and respondent before making a decision on a request to suspend.

When the Board issues its decision on the request to suspend, it will provide its decision to the appellant, with a copy to the Registrar.

Deciding appeals

Appeal dismissed for non-compliance with filing requirements

An appeal may be summarily dismissed because the appellant did not meet filing requirements or the appeal was filed late and the Board did not approve an extension.

Constitutional matters

The Board does not have jurisdiction to decide constitutional matters. If a constitutional question is raised with respect to an appeal, the Board will proceed with the appeal unless an appellant makes an

application to a Court in the nature of a prohibition to prevent the Board from considering the application. In such a case, the Board may adjourn the proceedings pending a decision from the court.

Appeal proceeds

- When filing and time requirements have been met, Board staff sends the notice of appeal and all documents provided by the appellant to the Registrar.
- Subject to the Freedom of Information and Protection of Privacy Act, the Registrar must, within 10 business days, provide the Board and the appellant copies of all documents relevant to the appeal other than those filed by the appellant.
- When the information is received by the Board, the Board Chair will appoint an appeal panel.

Appeal management conference

The Board may arrange an appeal management conference (AMC), usually by teleconference, to discuss the issues, potential evidence and format for the appeal (written submissions, virtual/telephone hearing, oral hearing).

File reviews

Most appeals will proceed as file reviews at the outset, unless the Board feels that the appeal could be resolved more effectively by way of an oral hearing.

Once the Registrar's material has been received, the Board will provide parties with a comment schedule. The submissions will normally be scheduled to proceed as follows:

1. Appellant's comments – the appellant will be given 10 business days to provide additional submissions to the Board and the respondent. (If the applicant has no submissions other than those submitted with the notice of the appeal, then it should advise the Board and Registrar of this).

2. Respondent's reply – the respondent will be given 10 business days to reply to the material filed by the appellant (i.e. the notice of appeal and any additional comments. Replies must be sent to both the Board and the Registrar.

3. Appellant's final comments – the appellant will be given 10 business days to provide final comments to the Board and respondent.

4. Parties may request an extension to the submission timelines. Any such requests should be submitted in a timely manner and include reasons for the request and the length of the extension requested.

5. If the appellant or the respondent do not provide written comments by the date specified (or as extended), then the Board may dismiss the appeal as having been abandoned or proceed to make a decision.

6. The appellant's comments should contain the following information:

    - the substance of the appellant's objections to imposition of an administrative penalty by the Registrar
    - the arguments and evidence which support these objections
    - any documents the appellant is providing in support of their arguments

7. The respondent's reply should contain the following information:

    - the substance of the respondent's objections to the appeal
    - the arguments and evidence which support these objections

- reference to any documents previously provided that support these comments

8. At the end of the “Comment/Reply Period” the Board may make a decision or it may hold an oral hearing, by whichever mode the panel selects.

Oral hearing

If the appeal proceeds by way of an oral hearing, the Board will provide parties with the date, time, and place of the hearing.

If the oral hearing is called after a written file review, the information accumulated as part of the file review, will form part of the hearing material. Additionally, parties must provide to the Board and each other 10 business days before the scheduled date of the appeal:

- The names of the people the appellant or respondent intends to call as witnesses at the hearing
- The author and title of any additional documents the appellant or respondent intends to introduce as evidence at the hearing
- Any authority supporting the appellant’s or respondent’s position

If an oral hearing is held based on the notice of appeal and Registrar’s documentation only (with no additional comments), the Board will request the appellant and respondent to provide a “Statement of Points” and list of documents and witnesses prior to the hearing.

- The appellant must deliver its Statement of Points to the Board and the Respondent at least 10 business days prior to the hearing date. If the Statement of Points is not received within this time, then the Board may dismiss the appeal as having been abandoned, proceed to make a

decision based on the material on file or adjourn the hearing.

- The respondent must deliver its Statement of Points to the Board and the appellant at least 10 business days prior to the hearing date. If the Statement of Points is not received within this time, the Board may adjourn the hearing, or cancel the oral hearing and make a decision on the appeal based on the material on file.
- The appellant's Statement of Points should contain the following information:
    - The substance of the appellant's objections to imposition of an administrative penalty by the Registrar
    - The arguments which the appellant will make at the hearing
    - The names of the people the appellant intends to call as witnesses at the hearing
    - The author and title of any documents the appellant intends to introduce as evidence at the hearing
    - Any authority supporting the appellant's position
- The respondent's Statement of Points should contain the following information:
    - The substance of the respondent's objections to the appeal
    - The arguments which the respondent will make at the hearing
    - The names of the people the respondent intends to call as witnesses at the hearing

- The author and title of any documents the appellant intends to introduce as evidence at the hearing
- Any authority supporting the respondent's position

Once the Statements of Points have been received, the Board may order an appeal management conference.

The Board will hold the hearing, or a teleconference, which will proceed as follows:

1. Appellant's opening statement
2. Appellant's witnesses
3. Respondent's opening statement
4. Respondent's witnesses
5. Respondent's closing statement
6. Appellant's closing statement

Board rules of practice and procedure regarding evidence, adjournments and hearing procedures will apply to appeal hearings.

Oral hearings, excluding video or teleconferences, are open to the public.

Decisions

Board decisions will be in writing, with reasons, and will be sent to the appellant and the respondent.

Board decisions will be published on this page of its website.

Related topics:

- Appeals-Administrative Penalties Policy
- Rules of Practice and Procedure (RPP 53-59)
- Appeal Procedures Handbook
- Appeal Process Overview