

Introduction

You can appeal decisions made by staff of the Ontario Teachers' Pension Plan Board (OTPP) about your entitlement to, or the amount of, a pension benefit. Here's how:

1. Contact our Client Services department at 416 226-2700 or 1 800 668-0105 to discuss your concerns with a Pension Benefits Specialist. Specialists are available weekdays, from 9 a.m. to 4:30 p.m.
2. If you still have concerns following your discussion with the Pension Benefits Specialist, outline them in writing and send to the attention of a Client Services Manager. Specify the basis on which you believe your entitlement to, or amount of pension benefit, was determined incorrectly.
3. If you disagree with the Manager's response to your letter, you can write to the Manager to ask Pension Law and Policy (a department within OTPP) to review your letter and provide a written decision. (Instead of responding directly to your letter in step 2 above, the Manager may forward your letter to Pension Law and Policy for review and response.)
4. If you believe Pension Law and Policy's decision is incorrect, you can begin a formal appeal to the Benefits Adjudication Committee (BAC), an administrative tribunal of OTPP. You must begin the appeal process within **two years** of the delivery of the Pension Law and Policy decision letter, and it can only begin if the first three steps fail to resolve your dispute. Starting an appeal means you're asking to present your case to this tribunal at a hearing.
5. Depending on the nature of your issue, the BAC may not be the right place to bring your complaint. Please see below regarding the limits on the BAC's authority. You may also wish to obtain independent legal advice about your options.

BAC's authority

The BAC considers and decides on appeals about a person's entitlement to, or amount of, a pension benefit provided under the Ontario Teachers' Pension Plan (the Plan).

The BAC doesn't have the ability to:

- award payments or benefits that aren't in accordance with Plan terms and applicable legislation (including the *Pension Benefits Act* (Ontario) and the *Income Tax Act* (Canada)); or
- pay "damages" or other discretionary amounts, including those based on personal circumstances.

The BAC isn't empowered to change the terms of the Plan. The Ontario Teachers' Federation (OTF) and the Ontario government, through the Minister of Education, set pension benefit and contribution levels. If you're unhappy about the benefits provided under the terms of the Plan, contact the OTF, your affiliate pension representative or the Ministry of Education. Only the OTF and the government can change the Plan terms.

More about the BAC

The BAC is an independent and impartial committee of OTPP made up of:

- five nominees of the OTF;
- three nominees of the Ontario Ministry of Education; and
- two members of OTPP Board.

No OTPP employees sit on the committee. For a list of current BAC members, please consult the Board Members page on our website at www.otpp.com.

A hearing before the BAC is an adversarial process. This means a person appealing OTPP's decisions puts forward arguments and reasons why they're entitled to benefits under terms of the Plan, and employees who will represent OTPP at the hearing (OTPP Staff) defend their decision and advocate that the BAC deny the person's appeal. The BAC is an administrative tribunal and its decisions may be subject to judicial review. The BAC is not a mediation or an alternative dispute resolution forum where the parties negotiate.

Election to appeal to the BAC

This Guide is just a summary of the appeal process. The *Rules of Practice and Procedure for Appeals* govern appeals to the BAC. Please refer to these *Rules* for further information governing the BAC appeal process. In the event of any conflict or inconsistency between this Guide and the *Rules of Practice and Procedure for Appeals*, the Rules shall prevail.

1. File an appeal hearing form

If you want to appeal a decision of Pension Law and Policy to the BAC, download and complete the *Benefit appeal hearing request form* from OTPP's website. This form must be completed and returned to the Board Secretariat (the department within OTPP that manages the BAC appeal process) at least **100 days** before your preferred hearing date. The form requires you to select your choice of hearing format. You can present your case in person or your written submission can be considered without an in-person hearing. More information on the hearing process is provided later in this Guide.

After the Board Secretariat receives your hearing request form, you'll receive a Notice of Hearing. This notice confirms the purpose, date, time and place of the hearing. They'll also provide you with a copy of the Pre-hearing Conference Questionnaire. The Board Secretariat will reach out to you or your representative directly to schedule additional dates for the Procedural Conference and the Pre-hearing Conference.

2. Attend a Procedural Conference

You and OTPP Staff will attend a Procedural Conference presided by the Chair or Vice-Chair of the BAC to review the process for appeals. This review will include confirmation of key timelines, the process for submitting and receiving documents, and any other procedural matters.

3. File a written submission

At least **65 days** before your hearing, submit an appeals package to the Board Secretariat that contains:

- A written submission that sets out the basis for your appeal (Appellant Submissions)
 - Outline what you believe you should be entitled to and why.
 - Explain why you dispute Pension Law and Policy's decision and how you believe staff incorrectly interpreted Plan provisions.
 - Include all letters and other documents that are relevant to your appeal.
 - A completed Pre-hearing Conference Questionnaire.

- Your representative's name, address, and telephone number (if applicable).
 - You can appoint a representative to assist with your appeal any time before your hearing. The representative can be a lawyer, or can be a family member, union representative or anyone else that you choose, provided they adhere to the *Rules of Practice and Procedure for Appeals*. Your representative can accompany you to the hearing and even present on your behalf.
 - Before we can release personal information to your representative, we require your express authorization. Once authorization is received, both you and your representative will receive all future correspondence about the hearing.
- A signed statement affirming that the facts included in your submission are true.

Confidentiality

All personal information you submit to the BAC as part of your appeal is treated as confidential in accordance with OTPP's Privacy Policy and Code of Conduct. Decisions of the BAC may be disclosed to other persons (subject to redaction of personal information).

Preparing for the hearing

At least **30 days** before your hearing date, OTPP Staff must submit their submissions to the Board Secretariat. Within **five days** after receipt, a copy of the Staff Submissions will be sent to you. The Staff Submissions explains Pension Law and Policy's decision and includes copies of all supporting documents. Review this submission as soon as you can. If, after reviewing it, you want to make an additional submission or provide more information in support of your appeal, you must do so at least **15 days** before the hearing date by sending a copy to the Board Secretariat. This gives the BAC hearing panel members time to review the new submissions. If you cannot meet the deadline, contact the Board Secretariat.

At least **20 days** before your hearing date, a Pre-hearing Conference will be held to discuss and plan the management of the hearing. This is a meeting supervised by the BAC Chair or Vice-Chair that's conducted by teleconference.

Hearings

Hearing dates

Hearings are scheduled at least four times a year – in January, April, June and October. Dates are published in the *Benefit appeal hearing request* form.

Presentation

You can present your case in person or appoint a representative to present on your behalf. If you elect a hearing in person, you or your representative and OTPP Staff or its representative will make formal presentations to the BAC hearing panel. Make sure all the information you want to present at the hearing has been submitted to the Board Secretariat at least **15 days** before the hearing date. The BAC hearing panel will ensure both you and OTPP Staff are given a fair and equal chance to present your information and argument.

In general, you'll present your appeal first and then OTPP will present their case. Any party is then permitted to ask questions. After the question period, OTPP will summarize their position and then you'll be given the opportunity to summarize your position. As this is an adversarial hearing, OTPP Staff will be defending Pension Law and Policy's decision and advocating that the BAC should deny the appeal.

BAC hearing panel

A panel of six BAC members will review your appeal, with the following composition:

- either the Chair or Vice-Chair, or both; and
- a minimum of one BAC member appointed by the OTF and one BAC member appointed by the Ministry of Education.

The decision

The BAC hearing panel will meet privately to consider all oral and written submissions presented and will determine whether the appeal should be allowed or dismissed.

A written decision, with the reasons for it, will be provided to both parties within a reasonable time following the completion of the hearing.

After the hearing

If your appeal is allowed, an OTPP employee will contact you to explain what's required to receive the benefit in accordance with the BAC hearing panel's decision at the hearing.

If your appeal is dismissed, and you remain dissatisfied with the result of the hearing, you may seek a judicial review of the BAC's decision by the Ontario Divisional Court.

Key appeal deadlines

Deadline	Item
Within 2 years of the delivery of Pension Law and Policy's decision letter	Complete a <i>Benefit Appeal hearing request form</i> and submit the form to the Board Secretariat no later than 100 days before your preferred hearing date.
At least 85 days before hearing	A Procedural Conference is held to discuss the process for appeals.
At least 65 days before hearing	You provide an appeals package to the Board Secretariat.
At least 30 days before hearing	OTPP Staff provide a submission to the Board Secretariat in response to your appeals package and a copy is provided to you within 5 days after receipt.
At least 20 days before hearing	A Pre-hearing Conference is held to discuss and plan the management of the hearing.
At least 15 days before hearing	You may provide additional information in response to OTPP Staff's Submissions.

Help available

Contact the Board Secretariat by email at BoardSecretariat@otpp.com if you have questions about the appeal process or procedures.

Contacts

Ontario Teachers' Pension Plan
5650 Yonge Street
Toronto, ON M2M 4H5
Attention: Board Secretariat
BoardSecretariat@otpp.com

Pension Benefit Specialists and Client Services Managers

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