Passenger Transportation Board
MOVING FORWARD, TOGETHER

Fit and proper

Context

Section 28(1) of the Act sets out the criteria the Board must consider on an application. The first criteria (Fit and Proper) is a threshold test and considers whether the applicant is a fit and proper person to provide the service the applicant proposes. The Board must first consider that an applicant is a fit and proper person, and capable of providing a service before it can continue on to other criteria. If the applicant passes the threshold test, the Board will then consider whether there is a public need for the service and whether the application, if granted, would promote sound economic conditions in the passenger transportation business in BC.

The Board's Fit and Proper policy explains how the Board interprets this concept. The policy does not list all the ways in which the Board might consider fit and proper, as the Board has discretion to consider other factors. However, the policy should give an idea of how the fit and proper criteria may be demonstrated by applicants and submitters and interpreted by the Board.

Applicability

This policy applies to:

- New or amended applications for a special authorization
- Transfer applications for a special authorization
- Urgent public need applications (section 26(3) of the Act)

- Temporary Operating Permit applications (section 38(2) of the Act)
- Any person making a submission to the Board respecting an application

Policy

Fit and Proper person is not defined in the Act. The Oxford English Dictionary defines fit as including "well adapted or suited to the conditions or circumstances of the case, answering the purpose, proper or appropriate … possessing the necessary qualifications, properly qualified, competent, deserving." The Oxford English Dictionary defines proper as including "suitable for a specified or implicit purpose or requirement; appropriate to the circumstances or conditions; of the requisite standard or type; apt, fitting; correct, right." When looking at whether an applicant is Fit and Proper, the Board does so in the context of the passenger transportation industry in BC. This includes the regulatory system that grants businesses a licence which confers on them both the authorization they need to provide their service and an ongoing obligation to operate in accordance with proper standards of conduct.

Board considerations

Assessing conduct

When assessing whether an applicant is Fit and Proper, the Board considers factors such as the applicant's past conduct and the potential risk of harm to the public and the integrity of the industry if a licence is granted to the applicant. The Board will consider any relevant information concerning the conduct of the principal in order to assess how the business is likely to be run.

Fit and Proper people:

- Conduct themselves and their business lawfully
- Uphold the integrity of the passenger transportation Industry

- Promote public confidence in the passenger transportation Industry
- Abide by certain standards of conduct

Charges or convictions

In assessing whether an applicant or licensee is a Fit and Proper person, the Board may consider charges or convictions related to the controlling members of the business or the incorporated business as a legal entity. Considerations may include:

- What were the circumstances of any charges, convictions, or findings of guilt and any sentence imposed?
- How much time has passed between the charge, conviction, or finding of guilt and this Application?
- Does the behavior for which the charges were laid (or convictions or finding of guilt) indicate a pattern of poor conduct and character, lack of financial integrity or a threat to the public?
- What, if any, corrective or remedial activities have been undertaken in relation to any charges or convictions?

The Board may examine charges or convictions that indicate a risk to the public with potentially serious implications, including those relating to:

- Provisions of the Criminal Code of Canada, Controlled Drugs and Substances Act and Motor Vehicle Act, including those listed in sections 12.63 to 12.67 of the Passenger Transportation Regulation

Regulatory compliance

In assessing whether an applicant or licensee is a Fit and Proper person, the Board may consider their history of regulatory compliance. Considerations may include:

Administrative penalties and offences:

- Is there a record of non-compliance or administrative penalties imposed by the Registrar under the Act or Passenger Transportation Regulation?
- Have there been any violation of sections 12.2 and 12.3 of the Passenger Transportation Regulation and related licence requirements that protect the safety of unaccompanied minors carried in perimeter seating buses?

National Safety Code (NSC): Is the NSC safety profile status satisfactory?

Bankruptcy: Is there a history of financial insolvency or fraudulent activity?

Legislation

28 (1) The board may approve, in whole or in part, an application forwarded to the board under section 26(1) [other licence applications] after considering the following:

(a) whether the applicant

(i) is a fit and proper person to provide the service the applicant proposes to provide under the special authorization, and

(ii) is capable of providing the service

(b) if the board considers that the applicant is a fit and proper person to provide the service and is capable of providing the service,

(i) whether there is a public need for the service, and

(ii) whether the application, if granted, would promote sound economic conditions in the passenger transportation business in British Columbia.

Related topics:

- Capable policy
- Fitness
- Fitness reviews
- Resumes, criminal record checks and business registration documents