

INSTITUTE OF
CHARTERED PROFESSIONAL ACCOUNTANTS OF SASKATCHEWAN
DISCIPLINE COMMITTEE RULES

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VI. DISCIPLINE COMMITTEE RULES (500-599)

The Discipline Committee Rules are made by the discipline committee pursuant to its authority in *The Accounting Profession Act* (the Act) subsection 30(3) and unless otherwise noted, are effective January 12, 2023.

A. GENERAL

Note: Sections 23 – 41 of the Act and Regulatory Bylaws 40 to 50 are applicable to discipline proceedings.

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Definitions and Interpretations

501.1 Definitions established in the Act or Bylaws which apply to the Discipline Committee Rules include but are not limited to:

- (a) “registrant” means a person that holds a valid registration and includes a member, firm and candidate (subsection 2(o) of the Act);
- (b) “registrar” means the registrar appointed pursuant to section 12 (subsection 2(p) of the Act);
- (c) In sections 24 to 41:
 - a) “firm” includes a former firm,
 - b) “member” includes a former member, and
 - c) “registrant” includes a former registrant (section 23 of the Act);
- (d) “formal complaint” means the complaint or charges contained in the report prepared by the professional conduct committee for determination by the discipline committee under subsection 28(2)(a) of the Act (Bylaw 40.1(a));
- (e) “Institute” means the Institute established pursuant to section 3 (subsection 2(i) of the Act);
- (f) “parties” means the respondent against whom the formal complaint has been made and the professional conduct committee (Bylaw 47.1);
- (g) “respondent” means the registrant whose conduct is the subject of the formal complaint made pursuant to subsection 28(2)(a) of the Act (Bylaw 40.1(d));
- (h) “rule” means any right, requirement or obligation of a registrant or duty or power of the Institute that is set out in the Act, a Bylaw, a Board rule, a discipline committee rule and the Rules of Professional Conduct, as established or amended from time to time (Bylaw 2.1(nn));
- (i) “suspended registrant” means a person whose registration with the Institute has been suspended (subsection 2(r) of the Act); and
- (j) “suspend” or “suspension” means an action taken by the Institute to temporarily or conditionally remove a registrant’s rights and privileges established pursuant to the Rules (Bylaw 2.1(pp)).

501.2 Additional defined terms for purposes of the Discipline Committee Rules:

- (a) “closed session” means the portion of a hearing where only the panel members and, if requested by the discipline panel chair, the panel’s counsel are present;
- (b) “discipline hearing panel” means a ‘discipline hearing panel’ established in accordance with Bylaw 46.1;

- (c) “discipline panel chair” means a member of the discipline committee appointed by the discipline committee chair to act as a chair of a discipline hearing panel for a specified discipline proceeding;
- (d) “discipline proceeding” means a proceeding governed by Sections 31 to Section 34 inclusive of the Act;
- (e) “in-camera” means that portion of a hearing during which one or more persons have been excluded from the hearing pursuant to subsection 31(17) of the Act;
- (f) “prosecutor” means, unless otherwise specifically stated in the Discipline Committee Rules, a person appointed by the chair of the professional conduct committee pursuant to Bylaw 42.1(f) to represent that committee and to prosecute the specified formal complaint;
- (g) “report of the professional conduct committee” means the report to the discipline committee, which contains the formal complaint, made pursuant to subsection 28(2) of the Act;
- (h) “sanction” means the components of an order of the discipline hearing panel made pursuant to Section 32 of the Act; and
- (i) ‘Table of Costs and Expenses’ means a schedule of the costs and expenses:
 - a) which relate to a specific investigation, prosecution and discipline proceeding; and
 - b) that have been or may be expected to be incurred (if determinable) by the Institute in carrying out its duties and exercising its powers pursuant to Sections 28, 29, 31, 32 and 34 of the Act.

501.3 Further to subsection 31(1) of the Act, the ‘place of the hearing’ may include more than one physical location from which the discipline hearing panel members, the parties and witnesses can participate in the hearing collectively or separately.

501.4 In the Discipline Committee Rules, the professional conduct committee chair or discipline committee chair includes a person appointed under *The Accounting Profession Administrative Bylaws, 2020* Bylaw 111.2(a) and (c), or a member of the respective committee designated by the appointed chair of the respective committee.

501.5 Any reference to the discipline committee chair, the discipline hearing panel, the discipline panel chair, the respondent, the professional conduct committee or the professional conduct committee chair shall also include their respective counsel as may be reasonably determined in the context of a specific rule.

B. HEARING MANAGEMENT

Hearing Management Conference

502.1 The discipline committee chair may arrange a ‘hearing management conference’ with the parties for purposes, including but not limited to identifying:

- (a) whether any preliminary applications will be made by a party and if so, when they shall be made, and when responses shall be made by the other party;
- (b) whether any joint submission will be made;
- (c) the contact information for the parties required under Rules 504.1 and 504.2, and
- (d) the proposed date, time, duration (i.e. number of days), and municipal location in Saskatchewan of the hearing or the resumption of the hearing, as the case may be.

502.2 The Institute shall inform the parties of the date, time , and the means for conducting the hearing management conference. The notice shall be sent at least five (5) business days before the date of the hearing management conference.

502.3 The discipline committee chair shall chair the hearing management conference and may request attendance of the discipline panel chair, and the discipline panel's counsel, as well as the Registrar or designate for administrative purposes.

502.4 A hearing management conference may be conducted, at the discretion of the discipline committee chair, by any reasonable means that permits reliable communication with the parties, and other participants noted in Rule 502.3, including any one, or more in combination of:

- (a) in person,
- (b) telephone conference,
- (c) live video conference, or
- (d) electronic mail.

502.5 Where the respondent does not respond to or declines a request of the discipline committee chair to participate in a hearing management conference, the discipline committee chair shall request written submission from each of the parties as to each of the matters set out in Rule 502.1.

502.6 A hearing management conference is for purposes of arranging a hearing and is not part of a hearing. Further, a ruling on a matter subject to preliminary application shall not be made during a hearing management conference.

502.7 A hearing management conference is confidential and without prejudice. Except for information noted in Rules 502.1(c) and (d), no one may disclose what occurred at a hearing management conference or what is contained in the notes related to a hearing management conference, unless otherwise ordered or required by law. The discipline committee chair may prepare a summary of the results of the discussion and directions made.

502.8 The discipline committee chair may delegate any of the responsibilities and authorities set out in Rules 502.1, 502.3, 502.4, 502.5 and 502.7 to the discipline panel chair.

Date, Time, Place, Methods and Means for a Hearing

503.1 The discipline committee chair, in consultation with the discipline hearing panel chair, shall approve to be included in the Notice of Hearing:

- a) the date and time the hearing will commence, and
- b) the place of the hearing.

For purposes of these decisions, the discipline committee chair shall consider:

- a) the submissions by the parties; and
- b) timely conclusion of the discipline proceeding in the public interest.

503.2 Unless other means are determined in accordance with the Discipline Committee Rules, a hearing shall be conducted at the place specified in the Notice of Hearing with attendance in person by:

- (a) each member of the discipline hearing panel,
- (b) the prosecutor, and

(c) subject to subsection 31(11) of the Act, the respondent.

503.3 The discipline panel chair may authorize that a hearing be conducted with one or more of the persons set out in Rule 503.1 participating by telephone conference call, or video conference, and may include other electronic means of document transmission.

Service of Documents

504.1 A respondent shall provide their current contact information throughout the duration of the discipline proceeding, including:

- (a) business address and telephone number;
- (b) residential address and telephone number; and
- (c) designated electronic address.

504.2 The professional conduct committee shall provide current contact information throughout the duration of the proceeding, including the name, business address, telephone number, and electronic address of the appointed prosecutor for the discipline proceeding.

504.3 Any notice or other document required to be served upon a respondent may be served:

- (a) by personal service, registered mail or substituted service order, in accordance with Section 53 of the Act; or
- (b) by email to a designated electronic address, in accordance with Bylaws 5.1 and 5.2.

504.4 Where a discipline proceeding is bifurcated into the hearing on the merits from the hearing on sanction a separate Notice of Hearing under subsection 31(1)(b) of the Act shall not be issued for the hearing on sanction. The parties shall be informed of the date, time, place, method and means of the hearing on sanction.

Hearing proceedings together or consecutively

505.1 The discipline panel chair may order that two or more discipline proceedings, in whole or in part, be heard at the same time or one immediately after the other, if:

- (a) the proceedings have a question of fact, law or mixed fact and law in common;
- (b) the proceedings involve the same parties;
- (c) the proceedings arise out of the same transaction or occurrence or series of transactions or occurrences; or
- (d) for any other reason an order ought to be made under this Rule.

505.2 Where an order is made under Rule 505.1, the discipline panel chair shall determine the effects of hearing the merits of the proceedings together or one immediately after the other, and may give directions about those effects.

Adjournments

506.1 Any party seeking an adjournment shall do so as soon as practical or as soon as circumstances are such that an adjournment may be required.

506.2 An application for adjournment may be heard with the parties and a decision made by the discipline panel chair, and at his discretion shall be heard by any one or more in combination means including:

- (a) in person,

- (b) by telephone conference,
- (c) by live video conference, or
- (d) electronic mail.

506.3 An order of adjournment may include such terms and conditions as the discipline panel chair or discipline hearing panel considers appropriate.

C. HEARING

Applications

507.1 Applications and submissions made to the discipline hearing panel or the discipline panel chair shall be filed with the Registrar in the manner and form specified in the Discipline Committee Rules or by the discipline panel chair.

Preliminary Applications

507.2 If a party intends to object to the jurisdiction of the discipline hearing panel, or intends to raise any preliminary objection or preliminary issue of law before the panel, such party shall, at any time after the formal complaint has been sent to the respondent pursuant to 31(1)(a) of the Act but not less than twenty (20) business days prior to the date set for commencement of the hearing under Rule 503.1, serve the other party and file with the Registrar a Notice of Application.

507.3 The Notice of Application shall include a statement outlining

- (a) The nature of the preliminary application;
- (b) The grounds upon which the preliminary application is being made; and
- (c) The remedy sought;

and shall be accompanied by:

- (d) Any evidence to be relied upon in support of the preliminary application; and
- (e) A supporting brief of law.

507.4 The other party shall serve on the applicant party and file with the Registrar a response to the preliminary application in Rule 507.2 within ten (10) business days from receiving service of the Notice of Application, which response shall include:

- (a) The nature of matters, grounds and remedies stated in the preliminary application that are opposed;
- (b) Any evidence to be relied upon in opposition to the preliminary application; and
- (c) A supporting brief of law.

507.5 All such materials, as filed with the Registrar, shall be distributed to the discipline hearing panel or the panel chair, as the case may be under Rule 506.2, 507.6, or Rule 507.8.

507.6 Subject to Rule 506.2, the preliminary application shall be heard with the parties and a decision made by the discipline hearing panel. At the discretion of the discipline panel chair the application shall be heard by any one, or more in combination means including:

- (a) in person,
- (b) by telephone conference, or
- (c) by live video conference.

507.7 Where the preliminary application by one party is not opposed by the other party, the parties may make a joint submission in writing of their agreement on the remedy set out in the preliminary application.

507.8 Upon receipt of a joint submission described in Rule 507.7, the discipline panel chair may grant the remedy set out in the preliminary application without convening with the parties to hear the preliminary application.

507.9 The discipline panel chair shall sign and the Registrar shall send to the parties the written decision on the preliminary application made under Rule 506.2, Rule 507.6, or Rule 507.8.

507.10 The discipline panel chair has the authority to extend the timelines for any filing or receiving of preliminary applications.

Hearing Procedures

508.1 Subject to the Rules, the discipline panel chair has the authority to establish procedures for administration of a specific discipline proceeding.

508.2 The discipline panel chair has responsibility for the orderly administration of a hearing and shall have the authority to exclude any person whose conduct is disruptive to the hearing.

508.3 During the period from the adjournment of the hearing to finalize the written decision and order to the date the decision and order is signed by the discipline panel chair, the discipline hearing panel is deemed to be in closed session.

Documents

509.1 Other than physical documents filed at an in-person appearance, all documents must be filed in electronic form.

509.2 Where possible, electronic documents must be filed in pdf format or, alternatively, in both pdf and other formats such as .doc, .ppt and .xlsx. Electronic documents may be filed by electronic mail (if less than 20 MB), on a USB drive, by the Institute's file sharing platform or by such other method as the discipline panel chair or the discipline hearing panel may permit.

509.3 The electronic copy of the physical document filed by the party, or an electronic copy created by the discipline panel chair or the discipline hearing panel if no electronic copy is filed by the party, becomes part of the record of proceeding but the physical document does not.

Distribution of Documents in Advance

510.1 With the written consent of the parties to a discipline proceeding, the discipline panel chair may authorize the distribution of documents, including a submission of a party or joint submission of the parties, to members of the discipline hearing panel prior to commencement of the hearing.

Transcripts

511.1 A person wishing to have a copy of the transcript of a public appearance shall order it, at their own expense, from the reporting service that recorded the appearance.

511.2 The first party to obtain a transcript of an appearance is responsible for the cost of the electronic and paper copies, which will be provided to the discipline hearing panel directly by the reporting service.

512-514 are left blank at this time.

Joint Submissions at the Hearing

515.1 The parties may make written joint submission to the discipline hearing panel in relation to the following matters:

- (a) the respondent's admission that they are guilty of some or all of the professional incompetence or professional misconduct described in the formal complaint;
- (b) an agreed statement of facts as to some or all of the evidence to be entered with respect to the formal complaint;
- (c) the nature, and quantum, if applicable of the components of sanction;
- (d) additional agreed statement(s) of facts as evidence, if any, that are relevant to the determination of sanction; or
- (e) representations supporting appropriateness of the sanction components.

515.2 The professional conduct committee chair or the prosecutor shall have authority on behalf of the professional conduct committee to approve a joint submission.

515.3 A joint submission shall be filed with the Registrar no later than ten (10) business days prior to the commencement of the hearing or of the resumption of the hearing, as the case may be.

515.4 Where the discipline hearing panel determines additional evidence may be relevant to the discipline proceeding, the discipline panel chair may request the parties consider whether the submission of an agreed statement of facts can be amended to include the additional evidence.

Additional evidence for this purpose includes evidence that is not included in the submission of agreed facts and is either:

- (a) Referenced in a party's representation; or
- (b) Noted by the discipline panel as necessary to clarify one or more of the statements of fact in the submission of agreed facts.

515.5 Discipline proceedings shall be heard without a Court Reporter where all of the evidence submitted to and accepted by the discipline hearing panel in the proceeding has been tendered by agreed statement(s) of facts.

Table of Cost and Expenses

516.1 Where in a discipline proceeding, the discipline hearing panel makes a determination of guilt on one or more formal complaints, the prosecutor shall provide to the respondent and discipline hearing panel a *Table of Costs and Expenses* relating to that proceeding as certified by the Registrar.

517-519 are left blank at this time.

D. POST-HEARING

Decision and Order

520.1 A decision made pursuant to subsections 31(4), 32(1) and 32(2) of the Act by the majority of the members of a discipline hearing panel is a decision of the discipline hearing panel.

520.2 Subject to Rule 520.3, a decision made pursuant to subsection 31(4) of the Act shall be deemed to be made on the date the decision is signed by the discipline panel chair.

520.3 Where the discipline hearing panel makes an order pursuant to subsections 32(1) or 32(2) of the Act the discipline hearing panel's decision pursuant to subsection 31(4) of the Act shall be deemed to be made on the date the order is signed by the discipline panel chair.

520.4 Further to subsection 32(5) of the Act, the decision on the formal complaint, the order, or the decision and order, as the case may be, shall be in writing and be sent by the Registrar on behalf of the discipline committee.

Record of Hearing

521.1 The 'Record of Hearing' shall contain the following:

- (a) All materials filed with the discipline hearing panel;
- (b) All exhibits, including any marked "for identification";
- (c) All other documents and correspondence from a party or other participant, reviewed by the discipline hearing panel, except for the purpose of a hearing management conference;
- (d) All Notices of Hearing;
- (e) The Decision and Order, if applicable;
- (f) Hearing Transcript of Testimony filed with the discipline hearing panel;
- (g) Copy of public notice published or sent by the Registrar pursuant to Bylaws 52.1 and 52.2 or the Order;
- (h) Order compliance summary with attachments; and
- (i) Any other document as specified by the discipline panel chair.

521.2 Items listed out in Rule 521.1 that became part of the Record of Hearing shall be maintained in electronic form unless the discipline hearing panel determines otherwise.

Transitional Provision

522.1 A hearing that commenced under the Discipline Committee Rules brought into force on August 28, 2019 under the Peer-to-Peer format shall proceed under those Discipline Committee Rules.

523-599 are left blank at this time.

Schedule of Amendments:

August 28, 2019

October 11, 2019

November 30, 2020

March 3, 2021

January 12, 2023