

The Institute of Chartered Accountants of Ontario
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**STANDARDS ENFORCEMENT
AND
DISCIPLINARY PROCEDURES**

***INFORMATION FOR COMPLAINANTS, MEMBERS,
STUDENTS, PROFESSIONAL CORPORATIONS
AND FIRMS***

INTRODUCTION

As the governing body of a self-regulating profession, the Institute of Chartered Accountants of Ontario (“Institute”) has a responsibility to protect the public interest by ensuring that all members, students, professional corporations and firms observe high professional and ethical standards. This responsibility is met through a program of inter-related activities that includes:

- high standards of qualification, involving both a demanding education program with a rigorous final examination and a significant period of prescribed practical experience under authorized supervision;
- mandatory continuing professional development;
- an internationally recognized, mandatory practice inspection program aimed at ensuring that members and firms engaged in public practice maintain prescribed professional standards;
- practice and ethics advisory and counselling services; and
- a comprehensive and well-resourced disciplinary process that, through experienced members of the profession and public representatives, deals on a timely basis with complaints and other matters concerning the professional conduct of members, students, professional corporations and firms.

Complaints against members, students, firms and professional corporations must be in writing and should be directed to the Institute’s Standards Enforcement service area by:

Mail: 69 Bloor Street East
Toronto ON M4W 1B3

Fax: 416-962-5538

E-mail: Standards_enforcement@icaoo.on.ca

The Institute does not have the power to compel a member, student, professional corporation or firm to pay monies or to perform acts in relation to third parties. These powers are exercised by the courts. Similarly, disputes in respect of fees, unless satisfied through the operation of the Institute’s fees mediation service, are determined by the courts.

PROFESSIONAL CONDUCT COMMITTEE

The Professional Conduct Committee (“Committee”) reviews and investigates complaints and determines whether to prepare formal allegations of professional misconduct for prosecution before the Discipline Committee. The Committee also provides formal, written advice to members on questions concerning the application of the rules of professional conduct to a specific situation.

The Committee, comprises 27 volunteers appointed by the Council, and sits in two divisions. It includes 23 Institute members, representing a broad cross section of the membership, both occupationally and geographically, and four public representatives.

Matters under review and investigation and information gathered by the Committee are confidential to the Committee except to the extent necessary to carry out a prosecution when allegations are prepared. Members under review and investigation (“responding members”) have the right to legal counsel at all stages of the proceedings.

Complaints Process

When a complaint is received, Institute staff will obtain full details and supporting documents from the complainant and the responding member. Information provided by either party may be shared with the other to ensure that full responses are obtained.

Correspondence and other information received from the complainant and the responding member, together with a report summarizing the pertinent details, are forwarded to a subcommittee of the Committee for review and recommendation. Where the subcommittee finds it necessary to obtain further information, they may request the responding member to attend a subcommittee meeting or recommend that the responding member attend a Committee meeting to answer questions.

Where the complaint is complex, the Committee may appoint an investigator to obtain more detailed information and documents, including statements from individuals. The investigator will prepare a report to the Committee which will then determine whether to close the file, provide guidance to the responding member, or prepare formal allegations of professional misconduct. Usually, the responding member will attend this meeting to answer direct questions from the Committee members based on the findings in the investigator’s report.

Failure on the part of the responding member to reply promptly to any communication from the Institute requesting information or comments about a complaint is a breach of the Rules of Professional Conduct. Such failure will be referred to the Professional Conduct Committee and may result in prosecution.

The Committee, after considering the information before it, may conclude:

- the responding member did not breach the rules of professional conduct and the file should be closed;
- a breach of the rules of professional conduct may have taken place, but the Committee is of the view that the public interest would be best served by providing guidance and advice to assist the responding member in improving or rehabilitating certain aspects of his or her professional practice so as to avoid similar situations in the future; or
- a breach of the rules of professional conduct has taken place and prepare allegations of professional misconduct for prosecution before the Discipline Committee. In some circumstances, the Committee may enter into negotiations with the responding member and propose a settlement rather than proceed with formal adjudication of the matter.

Complainants are informed of the disposition of their complaints after the Committee has reached a decision on the matter. If, after closing a file, new information is received that was not available at the time the complaint was filed, the Committee may reopen the file.

REVIEWER OF COMPLAINTS

Any complainant dissatisfied with the decision of the Committee not to refer a matter to the Discipline Committee may, upon payment of the appropriate fee, currently \$100, make a written application to the Independent Reviewer of Complaints (“Reviewer”). The Reviewer shall refer the matter to the Committee for reconsideration (and the Institute will refund the fee) if the Reviewer determines that:

- the Committee failed to follow appropriate procedures in arriving at its decision; or

- there is reason to suspect lack of independence on the part of any member of the Committee who participated in the decision; or
- the Committee did not give due consideration to all of the available evidence in arriving at its decision.

The decision of the Reviewer is final. When the Committee reconsiders a matter referred by the Reviewer, it will issue written reasons for its decision to the complainant, the responding member and the Reviewer.

PUBLIC ACCOUNTANTS COUNCIL

When the responding member is also licensed to practice public accounting, a further right of review may be exercised by application to the Public Accountants Council for the Province of Ontario.

DISCIPLINE COMMITTEE

When the Committee prepares allegations of professional misconduct, a formal hearing is held before the Discipline Committee of the Institute. The Discipline Committee's members are appointed by the Council and consist of Institute members and public representatives. Hearings are conducted in accordance with the provisions of the *Statutory Powers Procedure Act* (Ontario) and the Bylaws, Regulations and Rules of the Institute, and are open to the public unless a party requests that the hearing be held *in camera* and the Discipline Committee agrees.

At the hearing, legal counsel to the Committee acts as prosecutor and presents evidence in support of the allegations. Witnesses are examined and cross-examined and evidence is presented generally as it would be in a civil trial. The Discipline Committee has the authority to summon witnesses and require the production of evidence relevant to the case at the request of either the prosecution or the responding member.

After considering all the evidence and listening to arguments from both the Committee and the responding member, the Discipline Committee makes its decision. Courses of action open to the Discipline Committee include:

- a decision of not guilty; or
- a decision of guilty and an order or orders that the responding member:
 - be formally reprimanded, orally or in writing;
 - be fined;
 - complete a professional development course or courses and/or an examination, and/or engage an advisor or tutor;
 - complete a period of supervised practice;
 - be re-investigated by the Professional Conduct Committee;
 - be practice inspected;
 - seek counselling or treatment;
 - have restrictions or conditions on practice or employment;
 - establish, maintain and uphold quality control procedures for the practice; and
 - establish or complete a professional training program;
 - be monitored for compliance;
 - be suspended of licence or authorization to practice public accounting, for a specified period of time;
 - be suspended from membership or registration;
 - be revoked of licence or authorization to practice public accounting;
 - resign membership;

- be revoked of membership or registration;
- be disciplined in such other manner as appropriate in the circumstances;
- pay all or part of the costs of the investigation and hearing;
- be disciplined further for non-compliance with the terms of the order.

APPEAL COMMITTEE

As with the Professional Conduct Committee and the Discipline Committee, the Appeal Committee comprises of volunteer members of the Institute and public representatives, all appointed by the Council.

Either the responding member or the Committee may appeal a decision or order of the Discipline Committee. The appellant can request an appeal on the basis of the transcript of the proceedings before the Discipline Committee and, where it can be demonstrated that there has been a denial of natural justice or a deficiency in the transcript, by way of a hearing *de novo*. The Appeal Committee has all the powers conferred on the Discipline Committee, and can confirm, reject or amend a decision and/or order of the Discipline Committee. In addition, it may make any order that, in its discretion, the nature of the case or natural justice may require. The decisions and orders of the Appeal Committee are final and binding.

FURTHER INFORMATION

For further information on the Institute's disciplinary processes, please contact Standards Enforcement by e-mail at standards_enforcement@icao.on.ca or by phone at 416-962-1841 ext 480.