

**CHARTERED PROFESSIONAL
ACCOUNTANTS OF ONTARIO**

**RULES OF PRACTICE AND PROCEDURE
MADE UNDER SECTION 25.1 OF THE *STATUTORY POWERS PROCEDURE ACT***

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RULE 1 GENERAL RULES

Application

1.01

These Rules apply to all proceedings before the adjudicative committees of the Chartered Professional Accountants of Ontario (“CPA Ontario”).

Definitions

1.02

- (1) In these Rules, unless the context requires otherwise, words that are not defined in subrule (2) have the meanings defined in the Act, the bylaws, or the *Statutory Powers Procedure Act*.

- (2) In these Rules,

“**Act**” means the *Chartered Professional Accountants of Ontario Act, 2017*;

“**appeal**” means an appeal from any decision of the registrar, Discipline Committee or Capacity Committee for which there is an appeal provided in the Act;

“**Chair**” includes a Deputy Chair and any other person designated by the Chair;

“**CPA Ontario**” includes any committee or representative of CPA Ontario which is a party to a hearing under these rules;

“**document**” includes data and information in electronic form;

“**electronic**” includes created, recorded, transmitted or stored in digital form or other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission, or storage similar to those means, and “electronically” has a corresponding meaning;

“**governing documents**” includes the Act, and any other legislation governing the processes of CPA Ontario, and the bylaws, regulations, rules and policies of CPA Ontario;

“**hearing**” means a proceeding under the Act that commences with the service of an originating process, and includes a motion;

“**holiday**” means a holiday as defined in the *Rules of Civil Procedure*;

“**motion**” means a request for a ruling or decision by a tribunal on a particular issue at any stage in the proceeding which is subject to these Rules, other than a request for an adjournment;

“**person**” includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body

corporate, and a natural person in his or her capacity as trustee, executor, administrator, or other legal representative;

“Secretary” means the Secretary to the relevant adjudicative committee;

“reconsideration” means a tribunal’s reconsidering of its order, and includes an application for readmission to membership;

“tribunal” means the member or members of an adjudicative committee assigned to a hearing.

Interpretation of Rules

1.03

- (1) These Rules shall be liberally construed to secure the just and expeditious determination of proceedings.
- (2) Where matters are not provided for in these Rules, the practice shall be determined by analogy to them.

RULE 2 COMPLIANCE WITH RULES

Effect of non-compliance

2.01

- (1) A failure to comply with a procedural requirement in these Rules or to utilize a form prescribed by the Rules is an irregularity and does not render a proceeding or a step or document in a proceeding a nullity.

Orders on motion attacking irregularity

- (2) On the motion of a party to attack a hearing or a step or document in a hearing for irregularity, an order may be made,
 - (a) granting any relief necessary to secure the just determination of the real matters in issue; or
 - (b) dismissing the hearing or setting aside a step or document in the hearing in whole or in part only where and as necessary in the interests of justice.

Attacking irregularity

- (3) A motion to attack a hearing or a step or document in a hearing for irregularity shall not be made, except with leave of the tribunal,
 - (a) after the expiry of a reasonable period of time after the moving party knows or ought reasonably to have known of the irregularity;
 - (b) if the moving party has taken any further step in the hearing after obtaining knowledge of the irregularity; or
 - (c) if the moving party has otherwise consented to the irregularity.

Order dispensing with compliance

2.02

- (1) On the motion of a party, or on a panel's own motion, an order dispensing with compliance with any procedural requirement in these Rules may be made where it is necessary in the interests of justice.

Consent to non-compliance

- (2) A party may dispense with compliance with any procedural requirement in these Rules with the consent of all other parties.

RULE 3 TIME

Computing time

3.01

- (1) In computing time under these Rules, or under an order made under these Rules,
 - (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;
 - (b) where a period of less than seven days is prescribed, holidays shall not be counted;
 - (c) where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday; and
 - (d) where a document would be deemed to be received or service would be deemed to be effective on a day that is a holiday, the document shall be deemed to be received or service shall be deemed to be effective on the next day that is not a holiday.

Extension or abridgment of time periods

3.02

- (1) On the motion of a party, an order extending or abridging any time prescribed by these Rules, or prescribed by an order made under these Rules, may be made where it is just.
- (2) A motion for an order extending time may be made before or after the expiration of the time prescribed.

RULE 4 REPRESENTATION

Change in representation

Notice of change of representative

4.01

- (1) A party who has a representative of record may change the representative of record by serving on the representative and every other party and filing with the Secretary, with proof of service, a notice of change of representative giving the name, address, telephone number, fax number and e-mail address of the new representative.

Notice of appointment of representative

- (2) A party acting in person may appoint a representative of record by serving on every other party and filing with the Secretary, with proof of service, a notice of appointment of representative giving the name, address, telephone number, fax number and e-mail address of the representative.

Notice of intention to act in person

- (3) A party who has a representative of record may elect to act in person by serving on the representative and every other party and filing with the Secretary, with proof of service, a notice of intention to act in person that sets out the person's address for service, telephone number, fax number, if any, and e-mail address, if any.

Removal of representative of record

4.02

- (1) On the motion of a representative or a party, an order may be made removing the representative as the representative of record.
- (2) Notwithstanding rule 4.01, a representative of record may only be removed within thirty (30) days prior to the date set for the hearing of a matter on the merits by order of the tribunal.

RULE 5 COMMUNICATION WITH THE TRIBUNAL

Communication with panel

5.01

- (1) No party, representative or other person who attends at or participates in a hearing shall communicate with a tribunal outside of the hearing with respect to the subject matter of the hearing except,
 - (a) in the presence of all parties or their representatives; or
 - (b) in writing by sending the written communication to the Secretary and a copy of the written communication to all parties or their representatives.

RULE 6 COMBINING HEARINGS

6.01

- (1) On its own motion or the motion of a party, a tribunal may order two or more hearings be combined or heard together on such conditions it considers appropriate.

Effect of order

- (2) Where two or more hearings are combined or heard together, unless ordered otherwise by the tribunal:
 - (a) statutory procedural requirements for any one of the hearings apply to the hearing;
 - (b) the parties to each of the hearings are parties to the hearing; and
 - (c) evidence presented in each of the hearings is evidence in the hearing.

Separating hearings

- (3) Where the tribunal has made an order under subrule (1), the tribunal may, on its own motion or the motion of a party, amend or rescind its order if otherwise the hearing would be unduly complicated or prejudice would be caused to a party.

Dividing proceeding

6.02

- (1) On its own motion, or the motion of a party, the tribunal may make an order that a hearing be divided into two or more hearings.

Effect of order

- (2) Where the tribunal makes an order under subrule (1), it may give such directions and impose such conditions as it deems just with respect to the divided hearings.

RULE 7 COMMENCING, AMENDING AND ABANDONING

Commencing

7.01

- (1) A hearing is commenced by the serving of an originating process as set out in Rule 9 by the party seeking the hearing on all other parties.
- (2) The party seeking the hearing shall forthwith file the originating process, with proof of service on all other parties, with the Secretary.
- (3) Within thirty (30) days of the filing of the originating process, all parties shall provide, in writing, the Secretary with the following information:
 - (a) the identity and contact information of any representative;
 - (b) any anticipated preliminary motions;
 - (c) available dates for hearing for the party and representative, if any;
 - (d) anticipated length of the hearing;
 - (e) any agreed facts or issues; and
 - (f) whether a pre-hearing conference is requested.
- (4) The Secretary shall provide all parties with a notice of hearing (Form 7A), as soon as possible after receiving the information set out in subrule (3).

Amending

7.02

- (1) A party may amend its originating process,
 - (a) at any time prior to ten days before the hearing on the merits; and
 - (b) at any time thereafter, with leave of the tribunal.

Leave to amend

- (2) In considering whether to grant leave to a party to amend its originating process, the tribunal may consider,
 - (a) prejudice to any person;
 - (b) timeliness of notice to the other parties; and
 - (c) any other relevant factor.

Effective date of amendment

- (3) An amendment made under clause (1)(a) shall be effective from the date it is filed with the Secretary, with proof of service on all parties.
- (4) An amendment made under clause (1)(b) shall be effective from the date it is made.

Abandoning**7.03**

- (1) Prior to a hearing on the merits, a party may abandon its originating process by serving all other parties with written notice of abandonment and filing that notice, with proof of service, with the Secretary.

Deemed abandonment

- (2) A party that fails to abide by a filing requirement under these Rules shall be deemed to have abandoned its originating process.

Restoration

- (3) On the motion of the party deemed to have abandoned an originating process under subrule (2), an order may be made, on such terms as are just, setting aside the deemed abandonment.

Effect of deemed abandonment on subsequent proceeding

- (4) Where a party is deemed to have abandoned an originating process under subrule (2), the deemed abandonment is not a bar to a subsequent proceeding commenced by that party involving the same subject matter.

RULE 8 SERVICE OF DOCUMENTS

Originating process

8.01

- (1) An originating process shall be served by personal service or by an alternative to personal service.

All other documents

- (2) A document other than an originating process may be served,
 - (a) by personal service or by an alternative to personal service,
 - (b) by sending a copy of the document by courier to the address of the party contained in CPA Ontario's records or the last known address of the party's representative;
 - (c) by faxing a copy of the document to the fax number of the party contained in CPA Ontario's records or the last known fax number of party's representative; or
 - (d) by e-mailing a copy of the document to the e-mail address of the party contained in CPA Ontario's records or to the last known e-mail address of the party's representative.

Service by fax

- (3) A document that is served by fax under clause (2) (c) shall include a cover page indicating,
 - (a) the sender's name, address and telephone number;
 - (b) the name of the person to be served;
 - (c) the date and time of transmission;
 - (d) the total number of pages, including the cover page, transmitted;
 - (e) the fax number of the sender; and
 - (f) the name and telephone number of a person to contact in the event of transmission problems.

Service by e-mail

- (4) A document that is served by e-mail under clause (2) (d) shall be attached to an email message that shall include,
 - (a) the sender's name, address, telephone number, fax number and e-mail address;
 - (b) the date and time of transmission; and
 - (c) the name and telephone number of a person to contact in the event of transmission problems.

Personal service

- (5) Where a document is to be served by personal service, the service shall be made,
 - (a) on an individual, by leaving a copy of the document with the individual;

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- (b) on a person other than CPA Ontario, by leaving a copy of the document at the premises at which the person carries on business with an adult individual who appears to be connected with the place of business; and
 - (c) on CPA Ontario, by leaving a copy of the document with the person having carriage of the matter, or with their representative.

Alternatives to personal service

- (6) Where a document may be served by an alternative to personal service, the service shall be made,
 - (a) by leaving a copy of the document with a party's representative; or
 - (b) by mailing a copy of the document by regular mail or registered mail to the address of the party contained in the records of CPA Ontario.

Substituted service or dispensing with service

- (7) On the motion of a party, an order may be made permitting service in a manner other than otherwise provided in this Rule or dispensing with service where it appears that it is impractical for any reason to effect service as required under this Rule or where it is necessary in the interests of justice.

Effective date of service

8.02

- (1) Service under rule 8.01 is deemed to be effective,
 - (a) if a copy of the document is left with a person,
 - (i) before 4 p.m., on the day it is left with the person, or
 - (ii) after 4 p.m., on the day following the day it is left with the person;
 - (b) if a copy of the document is mailed to a person, on the fifth day after mailing;
 - (c) if a copy of the document is sent by courier to a person, on the second day after the document was provided to the courier;
 - (d) if a copy of the document is faxed to a person,
 - (i) before 4 p.m., on the day it is faxed to the person, or
 - (ii) after 4 p.m., on the day following the day it is faxed to the person;
 - (e) if a copy of the document is e-mailed to a person,
 - (i) before 4 p.m. on the day it is e-mailed to the person, on that day,
 - (ii) after 4 p.m., on the day following the day it is e-mailed to the person.

Effective date of service: substituted service

- (2) If an order is made permitting substituted service, the order shall specify when service in accordance with the order is effective.

Effective date of service: service dispensed with

- (3) If an order is made dispensing with service, the document shall be deemed to have been served on the effective date of the order for the purposes of the computation of time under these Rules.

Proof of Service

8.03

- (1) Service of a document may be proved by,
 - (a) an affidavit of the person who served it; or
 - (b) where the document is served on a representative of CPA Ontario, the written admission or acceptance of service of the representative.
- (2) Where a document is served by e-mail, a computer-generated confirmation of delivery from the recipient's server shall be included in the proof of service.
- (3) The affidavit or written admission or acceptance of service may be printed on the back sheet or on a stamp or sticker affixed to the back sheet of the document served.

Service on firm

8.04

- (1) Every firm shall designate an individual, and an alternate if there are two or more members of the firm, to act as the representative of the firm to be served with any originating process in which the firm is a named party.
- (2) If a firm fails to designate a representative, CPA Ontario shall designate a representative, and alternate as applicable.

RULE 9 ORIGINATING PROCESS AND DISCLOSURE

Misconduct

9.01

- (1) An originating process alleging professional misconduct shall be in the form of an Allegation (Form 9A).
- (2) Each Allegation shall specify the rule or rules of professional conduct alleged to have been breached, and shall provide sufficient information to enable the subject member or firm to identify the general allegation(s).

Capacity

- (3) An originating process alleging incapacity shall be in the form of a notice of application (Form 9B), and shall provide sufficient information to inform the subject member of the nature of the allegation(s).

Particulars

- (4) CPA Ontario may and, on request of the subject member or firm, shall provide the subject member or firm with a statement of particulars (Form 9C) setting out details of the allegation(s) contained in the Allegation or notice of application.
- (5) The statement of particulars does not form part of the Allegation or notice, and a failure to prove one or more of the particulars or the proving of other particulars has no effect on the Allegation or notice.

Appeals

- (6) The originating process for an appeal shall be a notice of appeal ([Form 24A](#)).

Disclosure

Obligations of CPA Ontario

9.02

- (1) CPA Ontario, as a party, shall make such disclosure to the subject of the hearing as is required by law and, without limiting the generality of the foregoing, shall provide to the subject of the hearing, not later than ten days before the hearing on the merits of the proceeding,
 - (a) a copy of every document upon which CPA Ontario intends to rely as evidence and the opportunity to examine any other relevant document;
 - (b) a list of witnesses that CPA Ontario intends to call; and
 - (c) a signed witness statement for every witness or, where there is no signed witness statement for a witness, a summary of the anticipated oral evidence of the witness.

Obligations of other parties

- (2) All parties other than CPA Ontario shall provide to CPA Ontario, not later than ten days before the hearing on the merits,

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- (a) a copy of every document upon which the party intends to rely as evidence;
 - (b) a list of witnesses that the party intends to call; and
 - (c) for every witness upon whose oral evidence the party intends to rely, a signed witness statement or, where there is no signed witness statement for a witness, a summary of the anticipated oral evidence of the witness.

Summary of evidence

- (3) A summary of the oral evidence of a witness shall be in writing and shall contain,
 - (a) the substance of the evidence of the witness;
 - (b) the witness's name and address or the name and address of a person through whom the witness may be contacted.
- (4) Attached to the summary should be a list of documents or things, if any, to which the witness will refer.

Expert Reports

9.03

- (1) Every party shall provide to every other party,
 - (a) not later than ninety days before the hearing on the merits,
 - (i) a list of the expert witnesses that the party intends to call,
 - (ii) a copy of the curriculum vitae of every expert witness included in the list mentioned in subclause (i), and
 - (iii) a summary of the anticipated oral evidence of every expert witness included in the list mentioned in subclause (i); and
 - (b) not later than thirty days before the hearing on the merits of a proceeding, a copy of the written report of every expert witness included in the list mentioned in subclause (a) (i), if the person intends to rely on the written report in the hearing.

Summary of evidence

- (2) A summary of the oral evidence of an expert witness shall be in writing and shall contain,
 - (a) the substance of the evidence of the expert witness;
 - (b) a list of documents or things, if any, to which the expert witness will refer; and
 - (c) the expert witness's name and address.

Failure to disclose: consequences

9.04

- (1) Evidence that is not disclosed as required under rule 9.02 or 9.03 may not be introduced as evidence in a hearing, except with leave of the tribunal.
- (2) The tribunal may prescribe such terms and conditions on any leave granted under subrule (1), including, but not limited to, the granting of an adjournment or the awarding of costs against any party other than CPA Ontario, as it sees fit.

RULE 10 PRELIMINARY SUSPENSION AND RESTRICTION

Authority to make

10.01

- (1) On motion by CPA Ontario, the tribunal may make a preliminary order suspending a member's membership or public accounting licence, or a firm's registration or certificate of authorization, or restricting or placing conditions on the rights of the member or firm.
- (2) Before making an order under subrule (1), the tribunal shall be satisfied that the public may be at risk should the order not be made, and that the making of the order is likely to reduce that risk.
- (3) An order made under subrule (1) is effective on pronouncement, unless otherwise ordered by the tribunal.
- (4) The order shall include such directions as are necessary to ensure the expeditious determination of the matter on the merits.

General

10.02

- (1) Except as otherwise provided for in this rule, Rule 12 applies with necessary modifications to a motion for a preliminary suspension or restriction order.
- (2) A motion for a preliminary suspension or restriction order may be brought either before or after an originating process has been served.

Making the Motion

10.03

A motion for a preliminary suspension or restriction order shall be made by notice of motion.

CPA Ontario's obligations

Service of motion record

10.04

- (1) CPA Ontario shall serve a motion record as set out in subrule 12.02(3) on the respondent member or firm at least three days before the hearing of the motion.

Method of service

- (2) The motion record shall be served in accordance with subrule 8.01 (1) as if it were an originating process.

Dispensing with service

- (3) On the motion of CPA Ontario made without notice, an order may be made dispensing with service of the motion record where,
 - (a) the circumstances render the service of the motion record impracticable or unnecessary; or
 - (b) the delay necessary to effect service might entail serious consequences.

Service of factum and book of authorities

- (4) Where the motion record has been served, CPA Ontario shall serve its factum and book of authorities, if any, on the respondent member or firm at least three days before the hearing of the motion.

Filing documents with the Secretary

- (5) Where the motion record has been served, CPA Ontario shall file with the Secretary, with proof of service, not later than 4 p.m. on the day before the hearing of the motion, six copies of any documents served on the respondent member or firm under this rule.

Filing documents with panel

- (6) Where an order has been made dispensing with service of the motion record, CPA Ontario shall file six copies of the motion record, factum and book of authorities, if any, with the tribunal in the hearing of the motion.

Respondent's obligations**Service of motion record, factum and book of authorities****10.05**

- (1) Where a motion record has been served under rule 10.04, the respondent member or firm shall serve on CPA Ontario, not later than 2 p.m. on the day before the hearing of the motion, the motion record, if any, factum, if any, and book of authorities, if any.

Filing documents with the Secretary

- (2) The respondent member or firm shall file with the Secretary, with proof of service, not later than 4 p.m. on the day before the hearing of the motion, six copies of any document served on CPA Ontario under this rule.

Disposition of Motion**10.06**

- (1) The motion shall be heard by a tribunal consisting of at least three members.
- (2) No member of the tribunal hearing the motion shall be a member of the tribunal at the hearing on the merits unless all parties consent.

Order
10.07

- (1) An order made under rule 10.01 shall specify that it remains in effect until the earliest of the following:
 - (a) Where an order was made dispensing with service of the motion record, a tribunal varies or cancels the order on the basis of evidence that is brought by the respondent member or firm to the tribunal within thirty days of service of the order on the respondent member or firm.
 - (b) A tribunal varies or cancels the order on the consent of CPA Ontario and the respondent member or firm prior to the hearing on the merits.
 - (c) A tribunal varies or cancels the order on the basis of fresh evidence or a material change in circumstances that is brought by CPA Ontario or the respondent member or firm to the panel prior to the hearing on the merits.
 - (d) The tribunal presiding at the hearing on the merits, prior to disposing of the hearing, varies or cancels the order.
 - (e) The tribunal presiding at the hearing on the merits disposes of the hearing.
- (2) Where an order was made dispensing with service of the motion record, CPA Ontario shall serve on the respondent member or firm any order made by the tribunal and a copy of the motion record and all other documents used in the hearing of the motion, unless the tribunal orders otherwise.

RULE 11 PRE-HEARING CONFERENCE

Purpose of pre-hearing conference

11.01

- (1) The purpose of a pre-hearing conference is to facilitate the just and most expeditious disposition of a proceeding.
- (2) Without limiting the generality of subrule (1), in a pre-hearing conference, the person conducting the pre-hearing conference may discuss with the parties,
 - (a) the identification, limitation or simplification of the issues in the hearing;
 - (b) the identification and limitation of evidence and witnesses;
 - (c) the possibility of settlement of any or all of the issues in the hearing; and
 - (d) the possibility of the parties entering into an agreed statement of facts with respect to all or part of the facts in issue in the hearing.

Pre-hearing conference to be conducted

11.02

A pre-hearing conference shall be conducted in a proceeding where,

- (1) one party to the proceeding estimates that the hearing on the merits will be longer than two days;
- (2) a member of the adjudicative committee directs the parties to attend at a pre-hearing conference; or
- (3) the parties agree to attend at a pre-hearing conference.

Who presides at pre-hearing conference

11.03

A pre-hearing conference shall be conducted by a member of the adjudicative committee assigned by the chair of that committee.

Timing of pre-hearing conferences

11.04

All pre-hearing conferences shall be conducted prior to the completion of the hearing on the merits and, unless otherwise directed by the tribunal, shall be conducted prior to the commencement of the hearing on the merits.

Method of conducting pre-hearing conference

11.05

- (1) Subject to subrule (2), a pre-hearing conference shall be conducted in person.

Pre-hearing conference by telephone conference

- (2) A pre-hearing conference may be conducted by telephone conference,
 - (a) if the parties consent; and
 - (b) the person conducting the pre-hearing conference permits it.

Scheduling of pre-hearing conference

11.06

- (1) The Secretary shall schedule the pre-hearing conference, taking into account the availability of the parties and the person conducting the pre-hearing conference.

Notice of pre-hearing conference

- (2) The Secretary shall send to all parties a notice of the date and time of every pre-hearing conference (Form 11A), including the name of the person conducting the pre-hearing conference.

Preparation for pre-hearing conference

11.07

- (1) Unless otherwise ordered, the parties shall prepare and exchange pre-hearing conference memoranda (Form 11B) and file such memoranda with the Secretary at least two days before the pre-hearing conference.
- (2) The Secretary shall provide the memoranda to the person conducting the pre-hearing conference prior to the pre-hearing conference.

Attendance at pre-hearing conference

11.08

Unless otherwise directed by the person conducting the pre-hearing conference, all parties, or their representatives, are required to attend at or participate in the pre-hearing conference.

Results of pre-hearing conference

11.09

- (1) At the conclusion of the pre-hearing conference, the person conducting the pre-hearing conference shall complete a pre-hearing report (Form 11C) setting out,
 - (a) who attended at or participated in, and who did not attend at or participate in, the pre-hearing conference; and
 - (b) any agreement reached.
- (2) Any agreement reached at the pre-hearing conference, as set out in the report, is binding on the parties.

No disclosure to tribunal

11.10

- (1) No communication shall be made to the tribunal presiding at the hearing on the merits or at the hearing of a motion with respect to any statement made at the pre-hearing conference, except as disclosed in the report made under rule 11.09.

Ineligible for tribunal

- (2) A person conducting a pre-hearing conference in a proceeding shall not be a member of the tribunal at the hearing on the merits, except with the consent of all parties.

RULE 12 MOTIONS

Making the motion

12.01

- (1) The following motions shall be made by notice of motion (Form 12A):
 - (a) A motion relating to the jurisdiction of the tribunal or committee.
 - (b) A motion to stay or dismiss a proceeding.
 - (c) A motion raising any constitutional issues.
 - (d) A motion relating to disclosure.
 - (e) A motion that a hearing or a part of a hearing in a proceeding be held in the absence of the public.
- (2) A motion not mentioned in subrule (1) shall be made by notice of motion unless the nature of the motion or the circumstances make a notice of motion unnecessary or impractical.
- (3) Unless otherwise ordered by the Chair of the adjudicative committee, a motion listed in subrule (1) shall be heard and determined by a tribunal hearing the matter on the merits.
- (4) Unless otherwise ordered by the Chair of the adjudicative committee or otherwise provided in the Rules, a motion, other than a motion listed in subrule (1), shall be heard and determined by a tribunal consisting of a single member.

Contents of notice of motion

- (5) In a motion for an order that a hearing or a part of a hearing in a proceeding be held in the absence of the public, the moving party shall include in the notice of motion the grounds upon which the order is sought but shall not include in the notice of motion the specific matters, document or communication in respect of which the order is sought.

Moving party's obligations

Application of rule

12.02

- (1) This rule applies where a motion is made by notice of motion.

Service of motion record

- (2) The moving party shall serve on every other party at least ten days before the hearing of the motion a motion record (Form 12B).
- (3) The moving party's motion record shall have consecutively numbered pages and shall contain,
 - (a) a table of contents listing each document contained in the motion record, including each exhibit, and describing each document by its nature and date and,

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- in the case of an exhibit, by its nature, date and exhibit number or letter;
 - (b) the notice of motion; and
 - (c) all affidavits and other material upon which the moving party intends to rely.

Service of factum and book of authorities

- (4) The moving party shall serve on every other party at least seven days before the hearing of the motion a factum, if any, and a book of authorities, if any.

Filing documents with the Secretary

- (5) The moving party shall file with the Secretary, with proof of service, at least seven days before the hearing of the motion any documents served on other parties under this rule.

Same

- (6) When filing a document with the Secretary, the moving party shall file,
 - (a) three copies of the document where the motion is to be heard by a tribunal consisting of one member; and
 - (b) six copies of the document in all other cases.

Responding party's obligations

Application of rule

12.03

- (1) This rule applies where a motion is made by notice of motion.

Service of motion record, factum and book of authorities

- (2) A responding party shall serve on every other party, at least three days before the hearing of the motion, its motion record, if any, its factum, if any, and its book of authorities, if any.

Responding party's motion record

- (3) The responding party's motion record (Form 12B) shall have consecutively numbered pages and shall contain,
 - (a) a table of contents listing each document contained in the motion record, including each exhibit, and describing each document by its nature and date and,
 - in the case of an exhibit, by its nature, date and exhibit number or letter; and
 - (b) any materials upon which the responding party intends to rely that are not contained in the moving party's motion record.

Filing documents with Secretary

- (4) A responding party shall file with the Secretary, with proof of service, at least three days before the hearing of the motion any document served on a person under this rule.

Same

- (5) When filing a document with the Secretary, a responding party shall file,
 - (a) three copies of the document where the motion is to be heard by a tribunal consisting of one member; and
 - (b) six copies of the document in all other cases.

Dispensing with materials**12.04**

- (1) On motion made by a party, the tribunal may dispense with the requirement that some or all of the materials required by this rule be served and filed.
- (2) An order pursuant to subrule (1) shall only be made in exceptional circumstances and may be made on such terms and conditions as the tribunal deems appropriate.

Abandoning a motion**12.05**

- (1) Prior to the hearing of a motion, the moving party may abandon the motion by serving on all other parties and filing with the Secretary a notice of abandonment (Form 12C).
- (2) Where a moving party serves a motion record but does not file it or appear at the hearing of the motion, the motion is deemed to have been abandoned by the moving party.

Motion on consent**12.06**

Where a motion is on consent, when filing the motion record with the Secretary, the moving party shall also file the consent of every person served with the motion record and a draft of the formal order sought.

Disposition of motion**12.07**

After hearing a motion, the tribunal may,

- (a) make the order sought;
- (b) grant relief on such terms and conditions as the tribunal considers appropriate;
- (c) dismiss the motion, in whole or in part;
- (d) adjourn the hearing of the motion, in whole or in part;
- (e) if the motion is heard prior to the hearing on the merits, adjourn the hearing of the motion to the tribunal hearing the merits of the proceeding.

RULE 13 ADJOURNMENTS

Before date of hearing

13.01

- (1) Where a hearing is scheduled and prior to the date of the hearing a party wishes to adjourn the hearing to another date, the party shall bring a motion to the tribunal as soon as practicable in accordance with this Rule.
- (2) A motion under subrule (1) shall be brought on notice unless circumstances that could not reasonably have been foreseen make notice impractical.

On date of or during hearing

- (3) Where a hearing is scheduled and on the date scheduled for the hearing or during the course of the hearing a party wishes to adjourn the hearing, or the remaining part of the hearing, to a future date, the party shall make a motion to the tribunal for an order adjourning the hearing, or the remaining part of the hearing, to a future date.

Adjournments by the Secretary

13.02

The Secretary may grant a request for an adjournment of a hearing or a motion where,

- (a) all parties consent to the adjournment; and
- (b) the parties notify the Secretary in writing of their consent.

Considerations

13.03

In considering whether to grant an adjournment, a tribunal may consider,

- (a) prejudice to a person;
- (b) the timing of the request or motion for the adjournment;
- (c) the number of prior requests and motions for an adjournment;
- (d) the number of adjournments already granted;
- (e) prior directions or orders with respect to the scheduling of future hearings;
- (f) the public interest;
- (g) the costs of an adjournment;
- (h) the availability of witnesses;
- (i) the efforts made to avoid the adjournment;
- (j) the requirement for a fair hearing; and
- (k) any other relevant factor.

RULE 14 FORM OF HEARING

Oral hearing

14.01

Subject to rules 14.02 and 14.03, and Rule 25, a hearing shall be held as an oral hearing with the parties and their representatives, if any, appearing in person.

Electronic hearing

Motions

14.02

- (1) The following motions may, without a motion or an order being made, be heard as an electronic hearing:
 - (a) A motion on consent.
 - (b) A motion for an adjournment.

Order for electronic hearing

- (2) On the motion of a party, or on a tribunal's own motion, an order may be made that a hearing or a part of a hearing be held as an electronic hearing.

Matters to consider in making order

- (3) In deciding whether to order that a hearing be held as an electronic hearing, a tribunal may consider,
 - (a) the suitability of an electronic hearing to the subject matter of the hearing;
 - (b) the nature of the evidence to be called at the hearing and whether credibility is in issue;
 - (c) whether the matters in dispute in the hearing are questions of law;
 - (d) the convenience of the parties;
 - (e) the cost, efficiency and timeliness of the hearing;
 - (f) the avoidance of delay or unnecessary length;
 - (g) the fairness of the process;
 - (h) public accessibility to the hearing;
 - (i) the fulfillment of CPA Ontario's statutory mandate; and
 - (j) any other matter relevant in order to secure the just and expeditious determination of the hearing.

Conduct of electronic hearing

- (4) An electronic hearing shall be conducted by telephone or other electronic means and all the parties and the tribunal must be able to hear one another and any witnesses throughout the hearing.

Arrangements for electronic hearing

- (5) Where a hearing is to be held as an electronic hearing, the Secretary shall make all the necessary arrangements for the hearing and shall give notice of those arrangements to all parties and their representatives, if any.

Written hearing

14.03

- (1) Subject to subrule (3) and subrules 14.02 (1) and (2), the following hearings shall be held as a written hearing:
 - (a) The hearing of a motion for an order that a hearing be held as an electronic hearing.

Written hearing of motions

- (2) The following motions may be heard as a written hearing:
 - (a) A motion on consent.
 - (b) A motion for an adjournment.

Order for oral hearing

- (3) On the motion of a party, or on a tribunal's own motion, an order may be made that a hearing mentioned in subrule (1) be held as an oral hearing.

Conduct of written hearing

- (4) A written hearing shall be conducted by the exchange of documents and all the parties are entitled to receive every document that the tribunal receives in the hearing.

Arrangements for written hearing

- (5) Where a hearing is to be held as a written hearing, the Secretary shall make all the necessary arrangements for the hearing and shall give notice of those arrangements to all the parties and their representatives, if any.

Motion under Rule 10

No notice required

14.04

The notice requirement in subrule 14.02 (5) and in subrule 14.03 (5) does not apply in the case of a hearing of a motion for an order sought under rule 10.01 where an order was made dispensing with service of a motion record.

RULE 15 LOCATION OF HEARING

Location of Hearings

15.01

- (1) Subject to subrules (2) and (3), every hearing shall be held at the offices of CPA Ontario in Toronto.
- (2) Where all parties consent to a hearing being held at a place other than the offices of CPA Ontario in Toronto, the hearing shall be held at that place.
- (3) On the motion of a party, an order may be made that a hearing be held at a place other than the offices of CPA Ontario in Toronto.
- (4) In deciding whether to order that a hearing be held at a place other than the offices of CPA Ontario in Toronto, a tribunal may consider,
 - (a) the convenience of the parties;
 - (b) the cost, efficiency and timeliness of the hearing;
 - (c) the avoidance of delay or unnecessary length;
 - (d) the fairness of the process;
 - (e) public accessibility to the hearing;
 - (f) the fulfillment of CPA Ontario's statutory mandate; and
 - (g) any other matter relevant in order to secure the just and expeditious determination of the hearing.
- (5) An order that a hearing be held at a place other than the offices of CPA Ontario in Toronto shall be made only after consultation with the Secretary.

RULE 16 ACCESS TO HEARING

Hearing to be public

16.01

Subject to rule 16.02, every hearing in a proceeding shall be open to the public.

Hearing in the absence of the public

16.02

On the motion of a party, an order may be made that a hearing or a part of a hearing shall be held in the absence of the public where,

- (a) matters involving public security may be disclosed;
- (b) it is necessary to maintain the confidentiality of a privileged document or communication;
- (c) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public; or
- (d) in the case of a hearing or a part of a hearing that is to be held as an electronic hearing, it is not practical to hold the hearing or the part of the hearing in a manner that is open to the public.

Attendance at hearing held in the absence of the public

16.03

Where a hearing or a part of a hearing is held in the absence of the public, unless otherwise ordered by the tribunal, the hearing may be attended by,

- (a) subject to rule 18.01, any witness the nature of whose testimony gave rise to the order that the hearing or the part of the hearing be held in the absence of the public;
- (b) the parties and their representatives; and
- (c) such other persons as the panel considers appropriate.

Non-disclosure of information

16.04

- (1) Subject to subrule (2), where a hearing or a part of a hearing is held in the absence of the public, no person shall disclose, except to his, her or its representative or to another person who attends at or participates in the hearing or the part of the hearing that is held in the absence of the public,

-
- (a) any information disclosed in the hearing or the part of the hearing that is held in the absence of the public; and
 - (b) if and as specified by the tribunal, the tribunal's reasons for a decision or an order arising from the hearing or the part of the hearing that is held in the absence of the public, other than the tribunal's reasons for an order that a subsequent hearing or a part of the subsequent hearing be held in the absence of the public.

Order for disclosure: hearing held in the absence of the public

- (2) On the motion of a person, an order may be made permitting a person to disclose any information mentioned in subrule (1).

Order for non-disclosure: hearing open to the public

16.05

On the motion of a party, or on a tribunal's own motion, if any of clauses 16.02 (a), (b) and (c) apply, an order may be made prohibiting a person who attends at or participates in a hearing or a part of a hearing that is open to the public from disclosing, except to his, her or its representative or to another person who attends at or participates in the hearing or the part of the hearing, any information disclosed in the hearing or the part of the hearing.

Review of order

16.06

If an order is made in respect of any matter dealt with in this Rule, on the motion of a person, the tribunal may at any time review all or a part of the order and may confirm, vary, suspend or cancel the order.

RULE 17 CONDUCT OF HEARING

Quorum

17.01

- (1) Except as otherwise provided in these Rules, a tribunal consisting of at least three persons shall preside over every hearing.
- (2) Notwithstanding subrule (1), unless otherwise provided for in the governing documents of CPA Ontario, the Chair of an adjudicative committee may order that a tribunal of fewer than three members preside over a specific hearing.
- (3) If a member of a tribunal who has participated in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision or order, the remaining member(s) shall complete the hearing, make the decision and any order, and give the reasons.

Transcripts

Production of transcript

17.02

- (1) The Secretary shall cause every oral and electronic hearing to be recorded by a reporting service to permit the production of a transcript of the hearing.

Ordering transcript

- (2) A person wishing to have a copy of the transcript of a hearing may order it from the reporting service that recorded the hearing.

Costs of transcript

- (3) The costs of acquiring a transcript of a hearing shall be borne solely by the person ordering the transcript of the hearing.

Requirement to file transcript

- (4) The first party to obtain a transcript of a hearing shall promptly file both a paper and an electronic copy of the transcript with the Secretary.

Interpreter

17.03

- (1) Where a witness does not understand the language or languages in which an examination at a hearing is to be conducted, the Secretary shall provide an interpreter.

Notice to Secretary

- (2) A person intending to call a witness who will require interpretation shall notify the Secretary of the witness' requirement for an interpreter as early as possible and, in

any event, not later than ten days before the hearing at which the witness will be examined.

Interpreter to be competent

- (3) An interpreter shall be competent and independent.

Interpreter to make affirmation

- (4) Where an interpreter is required under subrule (1), before the witness is called, the interpreter shall solemnly promise to interpret accurately the administration of the affirmation to the witness, the questions put to the witness and the witness' answers.

Accommodation required

17.04

A party shall notify the Secretary as early as possible of any needs of the party or any witnesses that may require accommodation.

Limitation on examination of witness

17.05

A tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been,

- (a) abusive, harassing or embarrassing;
- (b) unduly repetitive; or
- (c) sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

French Speaking Members

17.06

- (1) A member who speaks French may require that the hearing or any part of it be heard in French.
- (2) Any such requirement shall be set out in writing to the Secretary at least thirty (30) days in advance of the date scheduled for the commencement of the hearing.
- (3) Upon receipt of the requirement, the Secretary shall ensure an interpreter is provided to the member so that the member may hear the matter in French.

RULE 18 EVIDENCE

Receiving evidence

18.01

- (1) The tribunal may receive any evidence, subject to restrictions in the Act, it finds relevant and reliable.
- (2) The evidence in subrule (1) includes both oral testimony and documents.
- (3) Any witness giving testimony shall do so upon making a solemn promise to tell the truth.

Exclusion of witness

18.02

- (1) Subject to subrule (2), on the motion of a party, an order may be made excluding a witness or witnesses from a hearing until that witness is called to give evidence.

Order not to apply to party or witness instructing representative of party

- (2) An order under subrule (1) may not be made in respect of a party or a witness whose presence is essential to instruct the representative of the person calling the witness, but an order may be made requiring any such party or witness to give evidence before other witnesses are called to give evidence on behalf of the party or the person calling the witness.

No communication with excluded witness

- (3) Subject to subrule (4), where an order is made excluding a witness or witnesses from a hearing, there shall be no communication to any witness of any evidence given during that witness' absence from the hearing until after that witness has been called to give evidence and has given evidence.

Order permitting communication with excluded witness

- (4) On the motion of the person calling a witness who has been excluded from a hearing, an order may be made permitting communication to the witness of any evidence given during the witness' absence from the hearing.

Evidence by affidavit

18.03

At a hearing on the merits of a proceeding, the evidence of a witness or proof of a particular fact or document may be given by affidavit, subject to the tribunal ordering otherwise.

Agreed facts**18.04**

At a hearing on the merits of a proceeding, the tribunal may receive and act on any facts agreed to by the parties without further proof or evidence.

Admissibility of evidence from former proceeding**Interpretation****18.05**

- (1) In this rule, “previously admitted evidence” means evidence that was admitted in a proceeding before a court or tribunal, whether in or outside Ontario, at a hearing that occurred before the hearing in which the evidence is now sought to be admitted.

When may be admitted

- (2) At a hearing on the merits of a proceeding, previously admitted evidence may be admitted if there is no legal bar to its admission, and,
 - (a) the parties to the proceeding consent to its admission; or
 - (i) the tribunal is satisfied that there is a reasonably accurate transcript of the previous hearing,
 - (ii) the previously admitted evidence is relevant to the current proceeding,
 - (iii) the party against whose interest the evidence is sought to be admitted was or is a party or a witness in the previous proceeding, and
 - (iv) if the party against whose interest the evidence is sought to be admitted was not a witness at the previous hearing, the party had the opportunity to cross-examine the witness at the previous hearing.

Proof of prior commission of offence**18.06**

- (1) Proof that a person has, in a proceeding before an adjudicative body, been found to have committed an offence is proof, in the absence of evidence to the contrary, that the offence was committed by the person if,
 - (a) no appeal of the finding was taken and the time for an appeal has expired; or
 - (b) an appeal of the finding was taken but was dismissed or abandoned and no further appeal is available.
- (2) Subrule (1) applies whether or not the person is or was a party to the proceeding.
- (3) For the purposes of subrule (1), a document certifying the finding, purporting to be signed by the official having custody of the records of the adjudicative body, is sufficient evidence of the finding.

Proof of prior facts**18.07**

- (1) Specific findings of fact contained in the reasons for decision of an adjudicative body are proof, in the absence of evidence to the contrary, of the facts so found if,
 - (a) no appeal of the decision was taken and the time for an appeal has expired; or
 - (b) an appeal of the decision was taken but was dismissed or abandoned and no further appeal was taken.
- (2) If the findings of fact mentioned in subrule (1) are with respect to an individual, subrule (1) only applies if the individual is or was a party to the proceeding giving rise to the decision.

Transcript of proceeding**18.08**

- (1) At a hearing, a transcript of a hearing before an adjudicative body may be admitted as evidence.

Reasons

- (2) At a hearing, the reasons for decision of an adjudicative body may be admitted as evidence.

Taking official notice of facts**18.09**

The tribunal may take notice of,

- (a) facts that may be judicially noticed;
- (b) any generally accepted technical facts, information or opinions within its specialized knowledge; and
- (c) any rules or standards governing the profession or its members.

Bank and business records**18.10**

Any proof that must be given or any requirement that must be met prior to a bank record or a business record being received or admitted in evidence under any common law or statutory rule may be given or met by the oral testimony or affidavit of an individual given to the best of the individual's knowledge and belief.

Documentary evidence**18.11**

At a hearing, a party tendering a document as evidence shall provide,

-
- (a) a copy of the document to every other party; and
 - (b) six copies of the document to the tribunal.

Copies
18.12

Where the panel is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.

Summonses
18.13

- (1) The tribunal may, by summons (Form 18A), require any person,
 - (a) to give evidence at a hearing; and
 - (b) to produce in evidence at a hearing specified documents and things.

Signing of summons

- (2) A summons may be signed by the Secretary.

Summons may be issued in blank

- (3) On the request of a person, the Secretary shall issue to a party a blank summons and the party may complete the summons and insert the name of the witness to be summoned.

Service of summons

- (4) Subject to subrule (6), the party who obtains a summons shall serve the summons on the witness to be summoned.

Attendance money

- (5) Subject to subrule (6), the party who obtains a summons shall pay or tender to the witness to be summoned, at the same time that the party serves the summons on the witness, attendance money calculated in accordance with Tariff A under the Rules of Civil Procedure.

Service and attendance money not required

- (6) If a witness is in attendance at a hearing, a party is not required to serve a summons on the witness or to pay or tender to the witness attendance money in order to call the witness at the hearing.

RULE 19 COSTS

Awarding costs

19.01

- (1) Where a tribunal has made a determination in a hearing that is adverse to a party other than CPA Ontario, the tribunal may make an order requiring that party to pay all or part of,
 - (a) CPA Ontario's legal costs and expenses;
 - (b) CPA Ontario's costs and expenses incurred in investigating the matter, including any costs and expenses incurred in any further investigation;
 - (c) CPA Ontario's costs and expenses incurred in preparing for and conducting the hearing;
 - (d) the costs and expenses of the hearing; and
 - (e) CPA Ontario's costs and expenses incurred in monitoring, ensuring compliance with and fulfilling any decision or order of the tribunal.
- (2) A tribunal presiding over any interlocutory proceeding, including a motion, may make an order under subrule (1) or may defer the determination to the tribunal presiding over the hearing on the merits.
- (3) A tribunal presiding over any reconsideration pursuant to Rule 21 may make an order requiring a party to pay any or all of,
 - (a) CPA Ontario's legal costs and expenses;
 - (b) CPA Ontario's costs and expenses incurred in investigating the matter, including any costs and expenses incurred in any further investigation; and
 - (c) CPA Ontario's costs and expenses incurred in preparing for and conducting the hearing; and
 - (d) CPA Ontario's costs and expenses incurred in monitoring, ensuring compliance with and fulfilling any decision or order of the tribunal.

Wasted or Unreasonable Costs

19.02

- (1) Where a party other than CPA Ontario has caused costs to be incurred without reasonable cause or to be wasted by undue delay, negligence or other default, the tribunal may make an order awarding such costs as are just.
- (2) An order under subrule (1) may be made by the tribunal on its own motion or on the motion of CPA Ontario.

RULE 20 DECISIONS, ORDERS AND REASONS

Decisions Effective date

20.01

- (1) A decision is effective from the date on which it is made.

Endorsement

- (2) An endorsement of every decision shall be made by the chair of the tribunal,
 - (a) on the originating process; or
 - (b) on a separate sheet of paper that is attached to the originating process.

Orders

20.02

- (1) An order is effective from the date on which it is made, unless ordered otherwise by the tribunal.

Affecting status of member or firm

- (2) Any order affecting the status or practice rights of a member or firm shall be for a definite period of time.
- (3) Subrule (2) does not apply to an order of expulsion, revocation or readmission.

Fine

- (4) Any order imposing a fine on a party shall specify:
 - (a) the principal sum; and
 - (b) the time within which the fine is to be paid.

Costs

- (5) Any order awarding costs shall specify:
 - (a) the principal sum; and
 - (b) the time within which the costs are to be remitted.

Reprimands

- (6) A reprimand may be administered by any member of the tribunal.
- (7) A reprimand may be administered orally or in writing.

Endorsement

- (8) An endorsement of every order shall be made by the chair of the tribunal making it,
 - (a) on the originating process or a separate sheet of paper that is attached to the originating process; or
 - (b) if the order relates to a motion, on the motion record or a separate sheet of paper that is attached to the motion record.

Compliance

- (9) The party subject to the order bears the onus of proving compliance with the terms of the order.
- (10) The party subject to the order shall provide proof of compliance with the terms of the order to the Secretary.

Formal order or decision and order

20.03

A formal order (Form 20B) or decision and order (Form 20A) shall be prepared for any final decision or order made by a tribunal.

Written reasons

20.04

- (1) A tribunal shall give written reasons for its final order or final decision and order.
- (2) A tribunal may give written reasons for any other decision or order.
- (3) The reasons shall include the reasons for any minority or dissent.

Correction of errors

20.05

The Secretary or the tribunal may at any time correct a typographical error, error of calculation or similar minor error made in a decision, an order, a formal decision and order, a formal order or reasons of a tribunal.

Notice of decisions

20.06

- (1) The Secretary shall send to each party or to the representative of each party,
 - (a) who participated in a hearing,
 - (i) a copy of the formal decision and order,
 - (ii) a copy of the written reasons, if any, for the decision, order or decision and order, and
 - (iii) a copy of a corrected decision, corrected order, corrected formal decision and order or corrected reasons; or
 - (b) who participated in a motion,
 - (i) a copy of the formal order, if any,
 - (ii) a copy of the written reasons, if any, for the order, and
 - (iii) a copy of a corrected order, corrected formal order or corrected reasons.

Method of sending notice

- (2) A document required to be sent under subrule (1) shall be sent by,
 - (a) regular mail to the address of the party contained in CPA Ontario's records or to the last known address of the party's representative;
 - (b) fax to the fax number of the party contained in CPA Ontario's records or to the last known fax number of the party's representative;
 - (c) e-mail to the e-mail address of the party contained in CPA Ontario's records or the last known address of the party's representative; or
 - (d) hand delivery to CPA Ontario.

Use of mail

- (3) If a copy of a document is sent by regular mail, it shall be deemed to be received on the fifth day after mailing.

Use of fax or e-mail

- (4) If a copy of a document is faxed or e-mailed, it shall be deemed to be received on the day following the day it is faxed or e-mailed.

RULE 21 RECONSIDERATION

General

21.01

- (1) Except as provided in rule 20.05 or the Act, every decision and order of a tribunal is final when it is pronounced.

Grounds for reconsideration

- (2) Notwithstanding subrule (1), an adjudicative committee may, on its own motion or on the motion of a party, reconsider an order made by its tribunal at any time after the fifth anniversary of its pronouncement, on the following grounds:
 - (a) there has been a material change in circumstances significant enough that the order or a part of the order is no longer necessary;
 - (b) there has been a material change in circumstances significant enough that the order or a part of the order now obstructs or impedes the purpose and intent of the order;
 - (c) there has been a material change in circumstances significant enough that the order or a part of the order is no longer reasonably capable of being complied with or fulfilled; or
 - (d) the order or a part of the order is no longer legally valid or enforceable.

Same

- (3) Notwithstanding subrule (1), an adjudicative committee may, on its own motion or on the motion of a party, reconsider an order made by its tribunal prior to the fifth anniversary of its pronouncement, if:
 - (a) the order will result in a miscarriage of justice that may be prevented by the reconsideration; and
 - (b) the grounds in clause (2) (b), (c) or (d) exist.

Reconsideration

21.02

- (1) A motion for reconsideration shall be brought in accordance with Rule 12, with necessary modifications.
- (2) The motion shall be brought to a tribunal of the same adjudicative committee that made the original order.

Quorum

- (3) Unless ordered otherwise by the Chair of the adjudicative committee, and subject to subrule 17.01 (3), a tribunal consisting of at least three persons shall preside over every reconsideration.

Onus

- (4) The party bringing the motion shall bear the onus of proving the reconsideration should be granted.
- (5) If the adjudicative committee makes the motion, the party who would benefit from the reconsideration shall bear the onus.

Orders

- (6) After hearing the motion, the tribunal may:
 - (a) confirm the order in whole or in part;
 - (b) strike the order in whole or in part; or
 - (c) vary the order in whole or in part, on such conditions and terms as are appropriate.
- (7) The making of an order under clause (5) (b) or (c) does not expunge the original order, and the terms and conditions of the original order remain in full force and effect unless and until such time as they are struck or varied.

Readmission

21.03

- (1) An application for readmission after an order revoking membership made by a tribunal is a reconsideration.
- (2) In this rule, “membership” includes a licence to practise public accounting, and the registration and certificate of authorization of a firm.
- (3) In addition to any other requirements for reconsideration, an applicant for readmission shall satisfy the tribunal hearing the motion, that the applicant:
 - (a) is of good moral character;
 - (b) is competent to practise as a chartered professional accountant and, if applicable, as a public accountant;
 - (c) has fulfilled all the obligations of membership, including professional development;
 - (d) has abided by all terms of the original order;
 - (e) has not, since the pronouncement of the original order, engaged in conduct that could reasonably be considered to be a breach of the rules of professional conduct, the *Public Accounting Act, 2004*, or the *Chartered Professional Accountants of Ontario Act, 2017*, and
 - (f) will not pose a risk to the public.

RULE 22 HEARING RECORD

Requirement

22.01

- (1) The Secretary shall compile a record of every hearing.

Contents of record

- (2) A record of a hearing shall contain the following:
 - (a) Every document filed with the Secretary under these Rules in respect of the hearing or a step in the hearing.
 - (b) Every document received by a tribunal under these Rules in respect of the hearing or a step in the hearing.
 - (c) The notice of a hearing on the merits of a proceeding.
 - (d) The endorsement of the decision and order in the hearing and of the order in a motion.
 - (e) The formal decision and order in the hearing and the formal order in a motion.
 - (f) The reasons, if any, for the decision or order in the hearing and for the order in a motion.
 - (g) The transcript of a hearing if obtained by the Secretary.

Record is public record

- (3) Subject to subrule (4) and the Act, the hearing record is a public record.

Documents not available for public inspection

- (4) A document or a part of a document contained in the hearing record that contains information that may not be disclosed under rule 16.04 or 16.05 is not available for public inspection.

RULE 23 SETTLEMENTS

Originating process

23.01

- (1) The originating process for a matter to be considered as a settlement agreement is the proposed agreement itself.

Review

- (2) The tribunal reviewing a settlement agreement shall either approve or reject the agreement.

Effect

- (3) An agreement that is approved takes effect immediately upon approval, unless the agreement provides otherwise.

Further review

- (4) An agreement that is rejected shall not be reviewed by any other tribunal, but the parties may revise the agreement and have it reviewed by the same tribunal.

No reasons

- (5) The tribunal is not required to provide written reasons for its approval or rejection of a settlement agreement.

No appeal

- (6) There is no appeal of the tribunal's approval or rejection of a settlement agreement.

Public record

23.02

- (1) A settlement agreement is a matter of public record from the time of its approval.

Use of rejected agreement

- (2) A settlement agreement that has been rejected is confidential, and neither the fact of the agreement nor its contents shall be referred to by any person in any proceeding except with the consent of all parties to the agreement.

RULE 24 APPEALS

General

24.01

- (1) There is no appeal from an interlocutory order of a tribunal.
- (2) Rule 7 applies to an appeal, except as otherwise provided in this Rule.

Stay pending appeal

24.02

- (1) A party seeking a stay of a final order or any part thereof of a tribunal shall bring a motion to a tribunal of the adjudicative committee with jurisdiction to hear the appeal in accordance with Rule 12 with necessary modifications.
- (2) In making an order under subrule (1), the tribunal shall consider:
 - (a) the possible impact on the public interest;
 - (b) the possible impact on the reputation of the profession;
 - (c) the fulfilment of CPA Ontario's statutory mandate;
 - (d) the detriment to the party seeking the stay should a stay not be granted, and whether such detriment can be otherwise mitigated; and
 - (e) the merits of the appeal.
- (3) The tribunal may prescribe such terms and conditions on any order made under subrule (1), as it sees fit
- (4) A motion under subrule (1) may be served and filed at the same time as the serving and filing of the notice of appeal or cross-appeal, or at any time thereafter.

Commencement of appeal

24.03

- (1) An appeal shall be commenced by a notice of appeal ([Form 24A](#)).
- (2) The notice of appeal shall be served on all parties and filed with the Secretary:
 - (a) within 30 days of the pronouncement of the order; or
 - (b) after 30 days on consent of the parties, or with leave of the tribunal.
- (3) Any party served with a notice of appeal may cross-appeal.
- (4) The notice of cross-appeal ([Form 24B](#)) shall be served on all parties and filed with the Secretary:
 - (a) within 30 days of the service of the notice of appeal; or
 - (b) after 30 days on consent of the parties, or with leave of the tribunal.

Materials on the Appeal

Certificate

24.04

- (1) A party delivering a notice of appeal shall contemporaneously serve and file a certificate of the contents of the appeal book ([Form 24C](#)), listing the contents of the appeal book necessary for that party's purposes.
- (2) Within five days of delivery of a certificate of the contents of the appeal book, all other parties shall serve and file a certificate of the contents of the appeal book.
- (3) Subject to subrule (5), the contents of the appeal book shall contain the documents listed in the certificate(s), as the case may be, unless ordered otherwise by the tribunal.

Appeal Book

- (4) Within thirty days of delivery of the first certificate of the contents of the appeal book, the party delivering a notice of appeal shall serve an appeal book ([Form 24D](#)) on the opposing party or the representative for that party and shall file 6 copies of the appeal book with the Secretary.

Failure to comply

- (5) Where a party fails to deliver a certificate of the contents of the appeal book, that party shall be deemed to accept the other party's certificate of the contents of the appeal book, unless the party obtains the consent of the other party or an order from the tribunal.

Contents

- (6) The appeal book shall contain, in consecutively numbered pages, the following,
 - (a) a table of contents describing each document by its nature and date and, in the case of an exhibit, by exhibit number or letter;
 - (b) a copy of each notice of appeal;
 - (c) a copy of the originating process;
 - (d) a copy of the decision and order;
 - (e) a copy of the reasons of the tribunal, if any;
 - (f) a copy of each document required;
 - (g) all relevant transcripts or a list of all relevant transcripts together with a certificate of the court reporter confirming that such transcripts have been ordered and any deposit required for preparation of transcripts has been paid, or, alternatively, the order of the tribunal dispensing with the requirement to provide transcripts; and
 - (h) a copy of each certificate of the contents of the record book.

Transcripts

- (7) The party delivering a notice of appeal shall, unless a tribunal orders otherwise on a motion, no later than the date the notice of appeal is filed, order the transcript of the entire hearing from which the appeal is taken, and shall comply with rule 17.02.

Factum

- (8) The party delivering a notice of appeal shall serve a factum on all other parties within 15 days of the delivery of the appeal book.
- (9) Within 30 days of receipt of a factum, a party shall serve a responding factum on all other parties.
- (10) Each factum shall contain a concise statement, without argument, of the facts, issues to be argued, a concise statement of law, and authorities relating to each issue and the order sought.
- (11) Each party shall serve with their factum, a book of authorities unless the authorities to be relied upon are contained in the standard book of authorities.
- (12) Each party shall file 6 copies of that party's factum and book of authorities with the Secretary.

Deemed abandonment

- (13) Where the party who files a notice of appeal fails to file a certificate of contents of the appeal book, or appeal book in the time prescribed by this rule, the notice of appeal shall be deemed to be abandoned, unless the party obtains the consent of the other party or an order from the tribunal.
- (14) No appeal shall be deemed to have been abandoned for the failure to file a factum or book of authorities in the time prescribed by this rule.

Effect of failure to comply

- (15) A party who fails to file any document required by this rule within the time prescribed by this rule or an order of the tribunal, shall not thereafter file such document except on the consent of all other parties or with leave of the tribunal.

Fresh evidence

24.05

- (1) If a party seeks to tender evidence to the tribunal which was not before the tribunal or person whose decision or order is the subject of the appeal, the party shall bring a motion before the tribunal in accordance with rule 12 with necessary modifications.
- (2) All parties shall be prepared to proceed with the appeal on its merits following a motion to tender fresh evidence, in any event of the result of the motion.
- (3) Where the party who files a notice of motion to tender fresh evidence fails to file supporting materials in the time prescribed by this rule or by the tribunal, the notice of motion to tender fresh evidence shall be deemed abandoned, unless the party obtains the consent of the other party or an order from the tribunal.

RULE 25 MEMBERSHIP COMMITTEE

General

25.01

Notwithstanding any other provision in these Rules, all hearings before the Membership Committee shall be in writing, unless ordered otherwise by the tribunal or otherwise provided in the governing documents.

Considerations

25.02

In considering whether to order a hearing not be held in writing, the tribunal may consider:

- (a) convenience of the parties;
- (b) nature of any prior hearing or decision in the same proceeding;
- (c) cost and efficiency of the process;
- (d) the requirement for a fair hearing;
- (e) the need for evidence to be called; and
- (f) any other relevant factor.

Originating Process

25.03

- (1) The originating process for a hearing over which the Membership Committee has original or referred jurisdiction shall be a notice of hearing (Form 7A), and Rule 7 shall apply with necessary modifications.
 - (a) The originating process for a hearing over which the Membership Committee has review jurisdiction shall be a request for review (Form 25A)
 - (b) The originating process for a hearing over which the Membership Committee has appeal jurisdiction shall be a notice of appeal (Form 24A)

Review

25.04

- (1) An applicant seeking a review shall file 6 copies of the request for review with the Secretary within 30 days of the decision to be reviewed.
- (2) A request to review may only be filed more than 30 days after the decision to be reviewed with the leave of the tribunal.
- (3) The Secretary shall not accept the request to review for filing unless it contains all the required information and documents, including:
 - (a) the grounds for the review;
 - (b) a copy of the decision to be reviewed;
 - (c) a copy of each relevant document; and
 - (d) written submissions of the applicant.

Powers on Review

25.05

- (1) The tribunal may, on a review, order the matter to be reconsidered by the same or a differently constituted panel of the tribunal making the original decision if it finds the original tribunal:
 - (a) acted outside its jurisdiction;
 - (b) violated the rules of natural justice or procedural fairness, including allegations of bias; or
 - (c) failed to give due consideration to all the information available to it.
- (2) The decision of the tribunal on the review is final.

Appeal

25.06

- (1) Except as set out in this Rule, the provisions of Rule 24 apply to appeals to the Membership Committee, with necessary modifications.
- (2) In all cases where the appeal is heard as a written hearing, any factum of a party shall include the written submissions of that party.

