

**CHARTERED PROFESSIONAL
ACCOUNTANTS OF ONTARIO**

REGULATION 6-2

DISCIPLINE COMMITTEE

Adopted by the Council under the *Chartered Professional Accountants of Ontario Act, 2017* and the By-law on September 21, 2018, effective as of November 19, 2018 and as amended to June 18, 2021.

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**REGULATION 6-2
DISCIPLINE COMMITTEE**

Application

This Regulation deals with the powers and obligations of the Discipline Committee, and applies to Members, Students, and Firms.

Definitions

1. In this Regulation, words have the same meaning as they do in the Act and By-law, and for the purpose of this Regulation:
 - 1.1 “Panel” means a panel of the Discipline Committee constituted in accordance with section 7;
 - 1.2 “Potential Capacity Application” means a matter where there are reasonable grounds to believe a Member may be Incapacitated;
 - 1.3 “Secretary” means the secretary to the Discipline Committee.

Jurisdiction

2. The Discipline Committee is established under the Act and the By-law and has the powers of a statutory tribunal under the Statutory Powers Procedure Act.
3. The Discipline Committee shall:
 - 3.1 hear and decide every:
 - 3.1.1 Allegation brought before it by the Professional Conduct Committee;
 - 3.1.2 application for a preliminary suspension brought before it by the Professional Conduct Committee;
 - 3.1.3 motion for reconsideration as provided in section 24; and
 - 3.1.4 motion for readmission, reregistration, or admission referred to the Discipline Committee under Regulation 7-1, 9-1 and 10-1; and
 - 3.2 consider every settlement agreement brought before it by the Professional Conduct Committee; and
 - 3.3 regulate the processes and procedures for the hearings before the Discipline Committee,

in accordance with the by-laws and Regulations.

Composition

4. The Discipline Committee shall consist of between 15 to 35 members, including a Chair and at least two Deputy Chairs, and between three and eight public representatives. The Discipline Committee members shall generally be representative of CPA Ontario's membership by occupation and geographic location, and shall include public accounting licensees or those who held public accounting licences within the three year period prior to their current appointment to the Discipline Committee. The Head, Adjudicative Tribunals is an *ex officio* member of the Discipline Committee, and is exempt from the provisions of section 5.
5. The Discipline Committee members shall be appointed for a one-year term, and shall be eligible for reappointment for a maximum of three additional three-year terms. The Council may extend the maximum term of a Discipline Committee member in extraordinary circumstances.
6. The Chair and Deputy Chairs of the Discipline Committee shall be appointed from among the Discipline Committee members for a two-year term, and shall be eligible for reappointment for a maximum of three additional two-year terms. The Council may extend the maximum term of the Chair or a Deputy Chair in extraordinary circumstances.

Panels and Quorum

7. All hearings before the Discipline Committee shall be heard by a Panel constituted as follows:
 - 7.1 each Panel shall include at least three Discipline Committee members including, where a subject of the hearing holds a Public Accounting License:
 - 7.1.1 a public representative; and
 - 7.1.2 a public accounting licensee or a person who held a public accounting licence within the three year period prior to their current appointment to the Discipline Committee;
 - 7.2 each Panel shall usually be chaired by the Discipline Committee Chair or a Deputy Chair, but may be chaired by another Discipline Committee member in exceptional circumstances, at the discretion and direction of the Discipline Committee Chair; and
 - 7.3 the Head, Adjudicative Tribunals shall not sit on a Panel considering the merits of a hearing.
8. The Chair and Deputy Chairs of the Discipline Committee and the Head, Adjudicative Tribunals are empowered to decide all matters referred to in section 3.3 including adoption of Rules.

Hearings

9. All hearings before a Panel shall be conducted in accordance with the Rules and this Regulation.
10. The Professional Conduct Committee may withdraw an Allegation or any portion of an Allegation up to the time that the subject of the Allegation either admits or declines to admit professional misconduct as set out in the relevant portion of the Allegation, and afterwards, shall only withdraw the Allegation or the relevant portion of it with the consent of all parties and with leave of the Panel hearing the Allegation.
11. A Panel may, at any time, seek the advice of independent counsel. The Head, Adjudicative Tribunals may act as independent counsel. Any advice from independent counsel on an issue before the panel during the course of a hearing shall be given on the record. All parties shall have the opportunity to make submissions on that advice. The Panel is not bound by the advice of independent counsel.
12. A Panel shall consider the evidence and determine if, on the evidence, the party bearing the onus in the hearing has met that onus on the balance of probabilities.
13. Only Panel members hearing a matter shall participate in deliberations and make any decision or order on the matter.

Sanctions for Findings of Professional Misconduct

14. A Panel shall not consider the sanctions referred to in section 16 unless and until it has made a finding of professional misconduct under the Code or the Student Code.
15. In determining appropriate sanctions, the Panel:
 - 15.1 shall consider any aggravating and mitigating factors; and
 - 15.2 may consider relevant principles, that may include:
 - 15.2.1 protection of the public interest;
 - 15.2.2 general deterrence of the membership;
 - 15.2.3 specific deterrence of the Member;
 - 15.2.4 rehabilitation of the Member; and
 - 15.2.5 denunciation.
16. A Panel may, by order, impose one or more of the following sanctions on a person found to have committed professional misconduct:
 - 16.1 in the case of all Members, Firms, and, to the extent applicable, Students:

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- 16.1.1 formal reprimand, orally or in writing;
 - 16.1.2 fine;
 - 16.1.3 completion of specified professional development or examinations;
 - 16.1.4 supervised practice for a specified period of time, with or without conditions;
 - 16.1.5 re-investigation by the Professional Conduct Committee by a specified date;
 - 16.1.6 practice inspection, with or without conditions;
 - 16.1.7 counselling or treatment;
 - 16.1.8 restriction of or conditions on practice or employment for a specified period;
 - 16.1.9 establishment and implementation of quality control procedures or professional training programs, as specified;
 - 16.1.10 monitoring of compliance;
 - 16.1.11 suspension of membership or registration, with or without conditions;
 - 16.1.12 resignation of membership by a specified date;
 - 16.1.13 revocation of membership or deregistration;
 - 16.1.14 payment of compensation to a person for losses arising from the professional misconduct; and
 - 16.1.15 any other sanction appropriate in the circumstances; and
- 16.2 in the case of Members and Firms that engage in the Practice of Public Accounting, in addition to the sanctions set out in section 16.1:
- 16.2.1 suspension of licence or authorization to practise public accounting, for a specified period, with or without conditions;
 - 16.2.2 revocation of licence or authorization to practise public accounting; and
17. A Panel has the power to informally admonish any person under the jurisdiction of CPA Ontario, either during or at the conclusion of the hearing, regardless of any finding of professional misconduct.
18. A party may appeal the Panel's decision and order on misconduct and sanctions to the Appeal Committee.

Settlement Agreements

19. A Panel shall either approve or reject a settlement agreement brought before it by the Professional Conduct Committee.
20. A Panel's decision to approve a settlement agreement shall:
 - 20.1 be recorded in writing; and
 - 20.2 have the force and effect of an order.
21. A settlement agreement that is rejected by a Panel shall not be reviewed by any other Panel, but the parties may revise the agreement and have it reviewed by the same Panel.
22. The Panel is not required to provide written reasons for its approval or rejection of a settlement agreement.
23. There is no right to appeal the Panel's approval or rejection of a settlement agreement. However, a decision made under section 20 is subject to reconsideration as provided in section 24.

Reconsiderations

24. The Discipline Committee may reconsider a decision or order made by a Panel of the Discipline Committee:
 - 24.1 at any time after the fifth anniversary of the decision or order becoming final, if:
 - 24.1.1 there has been a material change in circumstances that makes the decision or order, or a part of the decision or order, unnecessary;
 - 24.1.2 there has been a material change in circumstances that obstructs or impedes the purpose and intent of the decision or order, or a part of the decision or order;
 - 24.1.3 there has been a material change in circumstances that makes the decision or order, or a part of the decision or order, incapable of being reasonably complied with or fulfilled; or
 - 24.1.4 the decision or order, or a part of the decision or order, is no longer legally valid or enforceable; and
 - 24.2 at any time, if:
 - 24.2.1 one or more of the conditions set out in sections 24.1.2, 24.1.3, or 24.1.4 exist; and
 - 24.2.2 the decision or order, or a part of the decision or order, will result in a miscarriage of justice that may be prevented by the reconsideration.

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25. The Panel hearing a motion for reconsideration may include Panel members who did not participate in the decision or order being reconsidered.
26. The responding party to a motion under section 24 shall be the Professional Conduct Committee.
27. The party bringing the motion under section 24 bears the onus of establishing, on a balance of probabilities, that the reconsideration should be granted.
28. After hearing the motion for reconsideration, the Panel may:
 - 28.1 confirm the decision or order in whole or in part;
 - 28.2 strike the decision or order in whole or in part; or
 - 28.3 vary the decision or order in whole or in part, on terms and conditions and with such restrictions as the Panel considers appropriate.
29. A party may appeal the Panel's decision under section 28 to the Appeal Committee.

Applications for Readmission

30. An application for:
 - 30.1 readmission after an order revoking Membership or permitting the Member to resign made by the Discipline Committee;
 - 30.2 reregistration as a Firm after an order deregistering the Firm or permitting the Firm to surrender its registration made by the Discipline Committee; or
 - 30.3 reregistration as a Student or admission to Membership, after an order deregistering the Student or permitting the Student to resign made by the Discipline Committee,

under Regulations 7-1, 9-1, and 10-1, requires a motion for reconsideration of the original order by the Discipline Committee.
31. The Panel hearing a motion under section 30 may include Panel members who did not participate in the decision or order being reconsidered.
32. The responding party to a motion under section 30 shall be the Professional Conduct Committee.
33. Before bringing a motion under section 30, the applicant shall obtain written confirmation from the Registrar that the applicant otherwise meets the requirements for readmission, reregistration or admission as provided in Regulations 7-1, 9-1, or 10-1;

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34. If the confirmation referred to in section 33 cannot be obtained only because:
- 34.1 the applicant has not provided evidence of good character satisfactory to the Registrar; or
 - 34.2 the Registrar requires assessment of the applicant's credibility,
- the Registrar shall provide confirmation that all other requirements for readmission, reregistration, or admission as provided in Regulations 7-1 or 9-1 have been met.
35. The applicant on a motion under section 30 bears the onus of establishing that:
- 35.1 the confirmation under section 33 or section 34 has been obtained;
 - 35.2 in the case of a confirmation under section 34, that:
 - 35.2.1 the applicant is of good character; and/or
 - 35.2.2 that the issue of the applicant's credibility should be resolved in the applicant's favour,
- as the case may be;
- 35.3 the requirements for reconsideration provided in section 24 have been met; and
 - 35.4 the applicant has abided by all terms of the order revoking membership or deregistration, as the case may be.
36. If the Panel is satisfied that the provisions of section 35 have been met, it may:
- 36.1 grant the application for readmission, reregistration, or admission on terms and conditions and with such restrictions as the Panel considers appropriate; and
 - 36.2 vary or strike the original order as provided in sections 28.2 and 28.3.
- 36A. An application for readmission after the applicant,
- 36A.1 resigned their membership or whose membership was revoked pursuant to the terms of a settlement agreement; or
 - 36A.2 whose membership was revoked or may be subject to revocation by the Registrar for failure to meet an obligation imposed by a settlement agreement,
- requires a motion to the Discipline Committee.
- 36B. The Discipline Committee may consider a motion under section 36A,
- 36B.1 at any time after the fifth anniversary of the decision approving the settlement agreement under section 19, if there has been a material change in circumstances that makes the continued exclusion of the applicant from membership unnecessary; and

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- 36B.2 at any time, if:
- 36B.2.1 the condition set out in section 36B.1 exists; and
 - 36B.2.2 the continued exclusion of the applicant from membership will result in a miscarriage of justice that may be prevented by considering the application for readmission.
- 36C. Before bringing a motion under section 36A, the applicant shall obtain written confirmation from the Registrar that the applicant otherwise meets the requirements for readmission as provided in Regulation 7-1.
- 36D. If the confirmation referred to in section 33 cannot be obtained only because:
- 34D.1 the applicant has not provided evidence of good character satisfactory to the Registrar; or
 - 34D.2 the Registrar requires assessment of the applicant's credibility,
- the Registrar shall provide confirmation that all other requirements for readmission as provided in Regulations 7-1 have been met.
- 36E. The responding party to a motion under section 36A shall be the Professional Conduct Committee.
- 36F. The applicant on a motion under section 36A bears the onus of establishing that:
- 36F.1 the confirmation under section 36C or section 36D has been obtained;
 - 36F.2 in the case of a confirmation under section 36D, that:
 - 36F.2.1 the applicant is of good character; and/or
 - 36F.2.2 that the issue of the applicant's credibility should be resolved in the applicant's favour, as the case may be;
 - 36F.3 the requirements provided in section 36B have been met; and
 - 36F.4 the applicant has abided by all other terms of the settlement agreement.
- 36G. If the Panel is satisfied that the provisions of section 36F have been met, it may grant the application for readmission on terms and conditions and with such restrictions as the Panel considers appropriate.
37. A party may appeal the Panel's decision under section 36 or 36G to the Appeal Committee.

Orders, Decisions, and Reasons

38. The decision or order of a Panel is final when it is pronounced, except that the Panel or the Secretary may at any time correct minor administrative errors in the decision, order, or reasons of a Panel.

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39. The Panel shall provide its final order, decision, and reasons, if applicable, in writing, to all parties along with a notice of the right to appeal that order where a right to appeal exists.
40. The final order of the Panel may:
 - 40.1 require the subject of the order to pay all or part of the costs of the investigation and hearing, as the case may be; and
 - 40.2 provide for sanctions for non-compliance with the terms of the order.

Capacity Determinations

41. If a party to a hearing before the Discipline Committee has been referred to the Registrar for consideration as a Potential Capacity Application, or if the issue of the capacity of the party arises during the Discipline Committee hearing, the Panel shall determine if the party is competent to participate in the hearing, and if the Panel determines that the party is not competent to participate in the hearing, the Panel shall stay the hearing on such terms as it deems appropriate.
42. In all cases where the Panel has not stayed a hearing as provided in section 41 and where evidence is presented on the capacity of the party, the Panel shall consider the evidence in the same manner as it would consider any other evidence properly before it in reaching its decision and imposing a sanction.
43. If the party has not been referred to the Registrar for consideration as a Potential Capacity Application, and if the Panel determines that there are reasonable grounds to believe a party who is a Member may be Incapacitated, the Panel shall, at the conclusion of the hearing, refer the matter to the Registrar as a Potential Capacity Application under Regulation 16-1.

Notice to be Provided by the Discipline Committee

44. Notice of the time, date, and place of all hearings of Allegations, motions for reconsideration and for readmission or reregistration and considerations of settlement agreements, shall be posted on CPA Ontario's website, along with the names of the subject Members or Firms, and the originating process. In the case of hearings of Allegations, reconsiderations, and applications for readmission or reregistration, the notice shall also provide that the hearing is open to the public.
45. Notice of a finding of professional misconduct, including brief particulars of the misconduct, the name of the subjects of that finding (unless the Panel orders otherwise), and the sanction imposed shall be given to:
 - 45.1 all Members;
 - 45.2 the Public Accounting Standards Committee, if the subject is licensed or authorized to practise public accounting; and

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- 45.3 all Provincial Bodies;
46. In the case of motions for reconsideration and for readmission or reregistration, the decision, order, and written reasons of the Discipline Committee shall be posted on a publicly accessible area of CPA Ontario's website.
47. If a finding of professional misconduct for which notice has been given under section 45 is reversed on appeal, CPA Ontario shall give notice of the reversal to the persons referred to in sections 45.1 to 45.3.
48. Notice of the revocation of membership of a Member and of any restriction, suspension, or revocation of a Public Accounting Licence or PALB Certificate of Authorization, including the name of the subject of the restriction, suspension, or revocation shall be given in a newspaper distributed in the geographic area where the subject practised, if applicable, and in any other area ordered by the Panel, and, unless otherwise ordered by the Panel, the subject shall pay CPA Ontario the cost of the publication.
49. Despite section 48, the Panel may order no newspaper publication if it finds that it is not required for the protection of the public and that it would be unfair to the subject, and provides written reasons for its decision.
50. In addition to section 48, the Panel may order any publication or notice in any form or media it finds appropriate.
51. If the revocation of membership of a Member or any restriction, suspension, or revocation of a Public Accounting Licence for which notice has been given under sections 47 or 49 is reversed on appeal, CPA Ontario shall give notice of the reversal in the same form or media as the notice was originally provided.
52. The Allegation, decision, order, and written reasons for every finding of professional misconduct, and every approved settlement agreement, shall be posted on a publicly accessible area of CPA Ontario's website, and shall be provided to any person on request, and, unless the Panel otherwise orders, the posting and production shall disclose the name of the subject(s) of the finding or settlement agreement.
53. The Discipline Committee shall report on the disposition of every matter referred to it and of any decision to stay a matter under section 41:
- 53.1 to the parties;
- 53.2 to the Council; and
- 53.3 if the subject of the matter is licensed or authorized to practise public accounting, to the Public Accounting Standards Committee, along with the written reasons for the decision, disclosing the name of the subject.