

**INSTITUTE OF
CHARTERED PROFESSIONAL ACCOUNTANTS OF SASKATCHEWAN**
DISCIPLINE COMMITTEE RULES

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VI. DISCIPLINE COMMITTEE RULES (500-599)

The Discipline Committee Rules are made by the discipline committee pursuant to its authority in *The Accounting Profession Act* (the Act) subsection 30(3) and unless otherwise noted, are effective August 28, 2019.

A. RULE - DISCIPLINE PROCEEDINGS GENERAL - Applicable to all discipline proceeding formats (500 to 519)

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

500 is left blank at this time.

Definitions and Interpretations

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

- (a) “registrant” means a person that holds a valid registration and includes a member, firm and candidate (the Act subsection 2(o));
- (b) “registrar” means the registrar appointed pursuant to Section 12 (the Act Section 2 clause(p));
- (c) In sections 24 to 41:
 - a) “firm” includes a former firm,
 - b) “member” includes a former member, and
 - c) “registrant” includes a former registrant (the Act Section 23);
- (d) “formal complaint” means the complaint or charges contained in the report prepared by the professional conduct committee for determination by the discipline committee under clause 28(2)(a) of the Act (Bylaw 40.1(a));
- (e) “Institute” means the Institute established pursuant to Section 3 (the Act subsection 2(i));
- (f) “respondent” means the registrant whose conduct is the subject of the formal complaint made pursuant to clause 28(2)(a) of the Act (Bylaw 40.1(c));
- (g) “parties to a discipline proceeding” means the respondent against whom the formal complaint has been made and the professional conduct committee (Bylaw 48.1);
- (h) “rule” means any right, requirement or obligation of a registrant or duty or power of the Institute that is set out in the Act, a Bylaw, a Board rule, a discipline committee rule and the Rules of Professional Conduct, as established or amended from time to time (Bylaw 2.1(nn));
- (i) “suspended registrant” means a person whose registration with the Institute has been suspended (the Act subsection 2(r)); and
- (j) “suspend” or “suspension” means an action taken by the Institute to temporarily or conditionally remove a registrant’s rights and privileges established pursuant to the Rules (Bylaw 2.1(pp)).

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

- (a) “closed session” means the portion of a hearing where only the panel members and, if requested by the discipline panel chair, the panel’s counsel are present;
- (b) “discipline committee” means the committee established pursuant to subsection 30(1) of the Act;
- (c) “discipline hearing panel” means a ‘discipline hearing panel’ established in accordance with Bylaw 47.1;
- (d) “discipline panel chair” means a member of the discipline committee appointed by the discipline committee chair to act as a chair of a discipline hearing panel for a specified discipline proceeding;
- (e) “discipline proceeding” means a proceeding governed by the Act Section 31 to Section 34 inclusive;
- (f) “in-camera” means that portion of a hearing during which one or more persons have been excluded from the hearing pursuant to the Act subsection 31(17) or Rule 506.2;
- (g) “parties” means the parties to a disciplinary proceeding as defined in Bylaw 48.1;
- (h) “professional conduct committee” means the committee established pursuant to subsection 27(1) of the Act;
- (i) “prosecutor” means, unless otherwise specifically stated in the Discipline Committee Rules, a person appointed by the chair of the professional conduct committee pursuant to Bylaw 42.1 to represent that committee and to prosecute the specified formal complaint;
- (j) “report of the professional conduct committee” means the report to the discipline committee, which contains the formal complaint, made pursuant to subsection 28(2) of the Act;
- (k) “sanction” means the components of an order of the discipline hearing panel made pursuant to the Act Section 32; and
- (l) ‘Table of Costs and Expenses’ means a schedule of the costs and expenses:
 - a) which relate to a specific investigation, prosecution and discipline proceeding; and
 - b) that have been or may be expected to be incurred (if determinable) by the Institute in carrying out its duties and exercising its powers pursuant to the Act sections 28, 29, 31, 32 and 34.

[March 2021]

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

[November 2020]

501.4 In the Discipline Committee Rules, the professional conduct committee chair or discipline committee chair includes a person appointed under clauses Administrative Bylaw 111.1(a) and (c), or a member of the respective committee designated by the appointed chair of the respective committee.

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

501.6 A discipline proceeding consists of three (3) stages:

- (a) Pre-hearing stage - the period from the date the report of the professional conduct committee is received or deemed to be received by the respondent, to the commencement of the hearing as set out in the notice of hearing. The notice period (from date notice of hearing is served to first date of hearing) is part of pre-hearing stage;
- (b) Hearing stage - the period from the commencement of the hearing, to and including the date the written decision, or the order, is signed by the discipline panel chair under Rule 513.1, or Rule 513.2 as the case may; and
- (c) Post-hearing stage - the period from the date immediately following the last day of the hearing stage, to the date the respondent has complied with all components of the order, and required notices are sent and published pursuant to the rules or the order.

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

Hearing Management Conference

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

- (a) Determining whether any preliminary applications will be made by a party and if so, when they shall be made, and when responses shall be made by the other party;
- (b) Determining the proposed format of the hearing, subject to the criteria set out in the Discipline Committee Rules; and
- (c) Determining the proposed date, time, duration (i.e. number of days), and municipal location in Saskatchewan of the hearing.

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

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

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

- (a) in person,
- (b) telephone conference,

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

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

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

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

Preliminary Applications

503.1 If a party intends to object to the jurisdiction of the discipline hearing panel, or intends to raise any preliminary objection or preliminary issue of law before the panel, such party shall, at any time after the formal complaint has been sent to the respondent pursuant to the Act clause 31(1)(a) but not less than twenty (20) business days prior to the date set for commencement of the hearing under Rule 508.1, serve the other party and file with the Registrar a Notice of Application.

503.2 The Notice of Application shall include:

- (a) The nature of the application;
- (b) The grounds upon which the application is being made;
- (c) Any evidence to be relied upon in support of the application;
- (d) The remedy sought; and
- (e) A supporting brief of law.

503.3 The other party shall serve on the applicant party and file with the Registrar a response to the application in Rule 503.1 within ten (10) business days from receiving service of the Notice of Application, which response shall include:

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

503.4 All such materials, as filed with the Registrar, shall be distributed to the discipline hearing panel or the panel chair, as the case maybe under Rule 503.5, Rule 503.6 or Rule 503.8.

503.5 Subject to Rule 503.6, the application shall be heard with the parties and a decision made by the discipline hearing panel. At the discretion of the discipline panel chair the application shall be heard by any one, or more in combination means including:

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

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

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

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

503.8 Upon receipt of a joint submission described in Rule 503.7, the discipline panel chair may grant the remedy set out in the application without convening with the parties to hear the application.

503.9 The discipline panel chair shall sign and the Registrar shall send to the parties the written decision on the preliminary application made under Rule 503.5, Rule 503.6 or Rule 503.8.

504–505 are left blank at this time.

Hearing Procedures

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

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

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

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

508.1 The discipline committee chair, in consultation with the discipline hearing panel chair, shall approve:

- a) the date and time of the hearing will commence, and
- b) the place of the hearing to be included in the Notice of Hearing.

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

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

[November 2020]

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

[November 2020]

- (a) each member of the discipline hearing panel,
- (b) the prosecutor, and
- (c) subject to the Act subsection 31(11), the respondent.

508.3 The discipline panel chair may authorize that a hearing be conducted with one or more of the persons set out in Rule 508.1 participating by telephone conference call, or live video conference, and may include other electronic means of document transmission.

[November 2020]

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

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

[November 2020]

510-511 are left blank at this time.

Decision and Order

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

513.1 Subject to Rule 513.2, a decision made pursuant to the Act subsection 31(4) shall be deemed to be made on the date the decision is signed by the discipline panel chair.

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

513.3 Further to Rule 513.2, the period within which the notice of appeal of the decision or the order shall be filed pursuant to the Act subsection 37(1) commences on the date the order, signed by the discipline panel chair, is deemed to be received by the respondent.

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

Forms

514.1 The templates of forms, which are authorized by the discipline committee for the consistent administration of discipline proceedings, are attached, and form part of the Discipline Committee Rules.

B. RULE –DISCIPLINE PROCEEDINGS- ‘PEER-TO-PEER’ (RULES 520 TO 539)

Definitions and Interpretations

520.1 Other defined terms for purposes of Rules 521 to 539:

- (a) “discipline panel secretary” means a member of the discipline hearing panel appointed by the discipline committee chair to act as a secretary at a specified discipline hearing;
- (b) “minutes of hearing” means written record of the hearing that documents the main aspects of the hearing including motions of decisions by the discipline hearing panel;
- (c) “prosecutor” means a member of the professional conduct committee, including the chair, who is a member in good standing and has been appointed pursuant to Bylaw 42.1 clause (i);
- (d) “representation” means a submission, whether oral or in writing, made by a party to the discipline hearing panel that:
 - (i) correlates evidence to the formal complaint and includes argument on how the evidence does or does not represent professional misconduct by the respondent; or
 - (ii) where the discipline hearing panel has made a determination of professional misconduct, recommends the nature, and quantum if applicable, of the sanction components, and arguments as to the appropriateness of such sanction; and
- (e) “submission of agreed facts” means a document containing statements of fact agreed to by the parties that:
 - (i) represents all the evidence to be entered at a hearing relating to either the formal complaint only, or both the formal complaint and the recommended sanction; and
 - (ii) is signed by both the respondent and the professional conduct committee chair or the prosecutor.

Authority

521.1 The discipline committee chair shall have the authority to determine, based on the criteria set out in Rules 522.1 and 522.2, whether a discipline proceeding is conducted as a ‘Peer-to-Peer’ discipline proceeding to which Rules 520 to 539 apply.

‘Peer-to-Peer’ Discipline Proceeding Criteria

522.1 Subject to Rule 521.1, a discipline proceeding is a ‘Peer-to-Peer – Uncontested’ discipline proceeding where, the parties have notified the Registrar in writing during the pre-hearing stage that all of the following criteria apply:

- (a) Neither party will be represented by legal counsel in pre-hearing communication with the other party, or at the hearing;
- (b) The parties will agree to a submission of agreed facts;
- (c) The respondent will admit in writing that he is guilty of professional misconduct as set out in the formal complaint;
- (d) The parties will make a written joint submission on sanction which includes:
 - (i) the nature, and quantum if applicable, of the components of sanction;
 - (ii) additional statements of fact as evidence, if any, that are relevant to the determination of sanction;

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- (iii) representations supporting appropriateness of the sanction components set out in sub-clause (d)(i);
- (e) Subject to the discipline hearing panel accepting and making an order in accordance with the written submission set out in clause (d), the respondent will waive his right to appeal under the Act Section 37; and
- (f) The parties will agree that the joint submissions may be provided to the discipline hearing panel members before the commencement of the hearing.

522.2 Subject to Rule 521.1, a discipline proceeding is a 'Peer-to-Peer – Contested' discipline proceeding where:

- (a) The parties have notified the Registrar in writing during the pre-hearing stage that the criteria described in Rule 522.1 clauses (a), and (b) apply;
- (b) The representations at the hearing will be made by the respondent on his own behalf and the prosecutor as defined in Rule 520.1(c) on behalf of the professional conduct committee; and
- (c) The recommended sanction by the professional conduct committee will not include:
 - (i) a fine exceeding twenty thousand dollars (\$20,000),
 - (ii) suspension of a specified period exceeding three (3) months,
 - (iii) a combination of suspension of a specified period and a fine, or
 - (iv) expulsion.

Agreement on Facts as Evidence

524.1 The professional conduct committee chair or the prosecutor shall have authority on behalf of the professional conduct committee to approve a submission of agreed facts.

524.2 Each statement of fact shall be corroborated by one or more documents, except where either:

- (a) The parties have agreed that corroborating documents are not necessary; or
- (b) A fact states that a specified document does not exist.

524.3 Where the discipline hearing panel determines additional evidence may be relevant to the discipline proceeding, the discipline panel chair may request the parties consider whether the submission of agreed facts can be amended to include the additional evidence. Additional evidence for this purpose includes evidence that is not included in the submission of agreed facts and is either:

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

Without Counsel Representation

523.1 Pursuant to the Act subsection 31(6), the respondent may, at his own expense, be represented by counsel in a discipline proceeding. However, prior to a proceeding being conducted as a 'Peer-to-Peer' discipline proceeding, the respondent shall confirm in writing to the Registrar, not to be represented by counsel:

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- (a) In communication with the professional conduct committee chair and prosecutor during the pre-hearing stage; and
- (b) In any manner during the discipline hearing.

523.2 In respect of a 'Peer-to-Peer' discipline proceeding the professional conduct committee chair and prosecutor shall not be represented by legal counsel:

- (a) In communication with the respondent during the pre-hearing stage; and
- (b) In any manner during the discipline hearing.

525-527 are left blank at this time.

HEARING PROCEDURES:

Joint Submissions

528.1 In order to be accepted by a discipline hearing panel, a joint submission (whether a submission of agreed facts, a representation, or a recommended sanction) shall be signed by the respondent and the professional conduct committee chair or the prosecutor.

528.2 A joint submission as described in Rule 528.1 shall be filed with the Registrar no later than ten (10) business days prior to the commencement of the hearing.

Withdrawal of Agreement to 'Peer-to-Peer' Format

529.1 Notwithstanding that the respondent has notified the Registrar pursuant to Rule 522.1 or Rule 522.2, the respondent may file a written notice that he will be represented by counsel at the hearing. The notice shall be filed with the Registrar at least ten (10) business day before the commencement of the hearing. Upon receipt of such notice the Registrar shall advise the parties in writing that the discipline proceeding will not be conducted under the rules for 'Peer-to-Peer' discipline proceedings.

529.2 If the Registrar is not notified pursuant to Rule 529.1, the hearing will proceed under the rules for 'Peer-to-Peer' discipline proceedings, and shall commence as scheduled whether the respondent is or is not in attendance as provided in the Act subsection 31(11).

Hearing Date Scheduling and Attendance

530.1 Where 'Peer-to-Peer – Uncontested' discipline proceeding as described in Rule 522.1 applies, the hearing date shall be scheduled at the discretion of the discipline committee chair in consultation with the discipline panel chair and without consultation with the respondent and prosecutor.

Discipline Hearing Panel Decisions

531.1 The discipline hearing panel secretary shall record, in the form of a motion, each decision made by the discipline hearing panel while in closed session relating to its decision on the formal complaint, and order of sanction components if applicable.

[October 2019]

532.1 Where the discipline hearing panel cannot determine whether the recommended sanction is appropriate the discipline panel chair shall:

- (a) Direct the parties, either separately or jointly, to make additional submissions;
- (b) Advise the parties as to the means and date by which the submissions shall be made; and
- (c) Adjourn the hearing.

The hearing shall be reconvened at the call of the discipline panel chair for purposes of considering the further submissions of the parties on the recommended sanction.

532.2 For purposes of 'Peer-to-Peer - Contested' discipline proceeding, the authority of the discipline hearing panel to order sanction pursuant to the Act Section 32 is limited by the sanction parameters set out in Rule 522.2.

533.1 Further to the Act subsection 32(5), the discipline panel chair and the discipline panel secretary shall have the authority to sign the decision on the formal complaint and order, if any, of the discipline hearing panel.

Record of Hearing

534.1 The 'Record of Hearing' for 'Peer to Peer – Uncontested' shall contain the following:

- (a) Minutes of Hearing;
- (b) Decision and Order;
- (c) Joint Submission Document – as filed with the Registrar under Rule 528.2;
- [October 2019]**
- (d) Copy of public notice published or sent by the Registrar pursuant to Regulatory Bylaw 52.1 or the order;
- (e) Order compliance summary with attachments; and
- (f) Any other documents as specified by the discipline panel chair.

534.2 The 'Record of Hearing' for 'Peer-to-Peer – Contested' shall contain the following:

- (a) Minutes of Hearing;
- (b) Decision and Order;
- (c) Notice of Hearing with Formal Complaint;
- (d) Proof of delivery of Notice of Hearing;
- (e) Joint Submission Document - as filed with the Registrar under Rule 528.2;
- [October 2019]**
- (f) Representation on Formal Complaint (if in writing):
 - (i) Professional Conduct Committee;
 - (ii) Respondent;
- (g) Representation on Sanction (if in writing):
 - (i) Professional Conduct Committee;
 - (ii) Respondent;
- (h) Copy of public notice published or sent by the Registrar pursuant to Regulatory Bylaw 52.1 or the order;
- (i) Order compliance summary with attachments; and

(j) Any other documents as specified by the discipline panel chair.

534.3 The 'Record of Hearing' for 'Peer-to-Peer' hearings described in Rule 534.1 or Rule 534.2 will be the only written record and will not include a full transcript of the hearing.

534.4 Minutes of hearing shall be signed by the discipline panel chair and the discipline panel secretary.

535-539 are left blank at this time.

C. RULE – DISCIPLINE PROCEEDINGS – 'LEGAL REPRESENTATION'

Definitions

540.1 "prosecutor" means legal counsel engaged by the professional conduct committee pursuant to the Act subsection 31(2) to prosecute the formal complaint.

Discipline Proceeding Format

541.1 A discipline proceeding shall be a 'Legal Representation – Uncontested' discipline proceeding where one or both parties are represented by legal counsel, and the parties make a written joint submission which includes:

- (a) The respondent's admission that he is guilty of professional conduct described in the formal complaint;
- (b) Statements of agreed fact as all of the evidence to be entered with respect to the formal complaint;
- (c) A recommended sanction which includes;
 - (i) the nature, and quantum if applicable, of the components of sanction;
 - (ii) additional statements of agreed fact as evidence, if any, that are relevant to the determination of sanction;
 - (iii) representations supporting appropriateness of the sanction components set out in sub-clause (c)(i); and
- (d) The parties' agreement that the joint submission may be provided to the discipline hearing panel members before the commencement of the hearing.

541.2 The written submission with respect to matters noted in Rule 541.1 shall be filed with the Registrar no later than five (5) business days prior to the commencement of the hearing.

542.1 A discipline proceeding is a 'Legal Representation – Contested' discipline proceeding when it is neither a 'Peer-to-Peer' discipline proceeding, nor a discipline proceeding described in Rule 541.1.

Record of Hearing

543.1 The 'Record of Hearing' for 'Legal Representation – Uncontested' shall contain the following:

- (a) Decision and Order;
- (b) Joint Submission Documents – as filed with the Registrar under Rule 541.2; **[October 2019]**
- (c) Hearing Transcript (electronic form);
- (d) Copy of public notice published or sent by the Registrar pursuant to Bylaw 52.1 or the order;
- (e) Order compliance summary with attachments; and
- (f) Any other document as specified by the discipline panel chair.

543.2 The 'Record of Hearing' for 'Legal Representation – Contested' shall contain the following:

- (a) Decision and Order;
- (b) Hearing Books submitted by the parties;
- (c) Hearing Transcript (electronic form);
- (d) Copy of public notice published or sent by the Registrar pursuant to Bylaw 52.1 or the order;
- (e) Order compliance summary with attachments; and
- (f) Any other document as specified by the discipline panel chair.

544–599 are left blank at this time.

Schedule of Amendments:

August 28, 2019

October 11, 2019

November 30, 2020

March 3, 2021