

CHARTERED PROFESSIONAL ACCOUNTANTS OF BC

Professional Conduct Complaint Process

CPABC's professional conduct process is governed by the Chartered Professional Accountants Act ("the Act") (primarily Part 7) and the Bylaws (primarily Parts 11 and 12).

A. Professional Conduct Complaint (Part 11 of the Bylaws)

1. Upon receipt of a complaint concerning a member, former member, student, licensed firm or former firm of CPABC (the Respondent), the Director, Professional Conduct ("DPC") undertakes a preliminary review of the complaint and supporting material to determine if the matter falls within CPABC's jurisdiction.
2. The Respondent may be notified of the complaint and requested to provide a preliminary response to the matter and/or provide any necessary documentation.
3. If the DPC determines the matter falls within CPABC's jurisdiction, the matter will be referred to a Panel Vice Chair of the Investigation Committee ("Assigned Member"). The Assigned Member will review the matter and decide whether it gets referred for investigation or that it be dismissed under Bylaw 1103(4). In the latter case, two public representatives (non-CPAs) on the Investigation Committee must agree to dismiss the complaint.
4. If an investigation is to proceed, the Chair of the Investigation Committee sends written notice to the Respondent. The Respondent is also provided with a copy of the applicable Bylaws and this complaint process; and is notified of the assigned Investigator. The Professional Conduct Case Manager provides the assigned Investigator with all relevant information.
5. The Investigator, under the supervision of the DPC, conducts an investigation pursuant to Bylaw 1102. After assembling the facts, the Investigator discusses his/her preliminary findings with the DPC and prepares a draft investigation report. The report contains the nature of the complaint, a list of the rules to be considered, and a summary of the investigation. The Investigator discusses these matters with the assigned Committee member and, if necessary, carries out further investigation work.
6. Under Bylaw 1105, if, at any stage of an investigation, it becomes apparent that there is no evidence to support a breach of the Act, bylaws or rules or that the subject of the investigation is beyond the jurisdiction of the Investigation Committee, the matter is referred back to the Assigned Member for a decision that the investigation proceed no further. Two public representatives on the Investigation Committee must also approve this step.
7. Upon completion of the investigation, a copy of the draft investigation report is provided to the Respondent for review and comments (if any) are requested. The covering letter includes the target Investigation Committee meeting date with an invitation for the Respondent to attend, with or without legal counsel
8. After consideration of comments from the Respondent, the investigation report, in its final form, is delivered to the Respondent. The covering letter includes confirmation of the Investigation Committee meeting date and confirmation that the Respondent is attending (with or without counsel) or that the Respondent is not attending (or attendance remains unknown).
9. The final investigation report is sent to the Investigation Committee prior to the Committee's meeting to allow for adequate review of the material.
10. At the meeting, after the Investigator presents his/her report, the Investigation Committee may ask questions of the Respondent (if in attendance) as well as the Investigator. The DPC may also provide comments.

11. Upon conclusion of the meeting, the Investigation Committee makes a determination pursuant to Bylaw 1106(1) that either (i) no grounds exist for a disciplinary action against the Respondent or (ii) that grounds do exist for a disciplinary action against the Respondent. In the first case, two public representatives of the Committee must be in favour of the determination pursuant to Bylaw 1106(2).
12. If the Investigation Committee makes a determination that no grounds exist for a disciplinary action against the Respondent, the Committee must refer the determination to an independent reviewer for confirmation pursuant to Bylaws 1106(4) and 1107. The independent reviewer is a member of the Law Society of British Columbia, retained to conduct independent reviews of no grounds determinations made by the Investigation Committee under Bylaw 1106(1)(a). The independent reviewer must review the investigation report, and any other materials that were considered by the Investigation Committee, to consider the reasonableness of the determination.
The independent review process will be conducted in accordance with Bylaw 1107.
13. The Investigation Committee is deemed to make a determination that grounds do exist for a disciplinary action if at least three public representatives attend the meeting and no fewer than two of them are in favour of a determination that no grounds exist for a disciplinary action (Bylaw 1106(3)).
14. If the Investigation Committee determines that grounds do exist for a disciplinary action (Bylaw 1106(5)), then the Committee, depending on the seriousness of the matter, either (i) makes a recommendation that the Respondent accepts a reprimand, complete one or more professional development courses, pay a fine of up to \$25,000 for a member (\$4,000 for a student) and not more than \$100,000 for a registered firm, pay expenses and take remedial action, or do any combination of these actions; or (ii) delivers a Statement of Complaint to the Disciplinary Committee. A minimum of two public representatives on the Committee must approve (i). Statements of Complaint are approved by the Chair of the Investigation Committee.
15. If the Investigation Committee makes a recommendation under Bylaw 1106(7), it may also request that the Respondent agree to a named publication on CPABC's public website of a notice concerning the Investigation Committee's determination and recommendation, or such other publication or disclosure, as the Committee may consider to be in the public interest. If the Committee declines to make such a request, it must be approved by two public representatives.
16. The Investigation Committee's determination and recommendation is communicated to the Respondent by letter from the Chair (Bylaw 1106(8)) and also advises the complainant (person/persons who filed the complaint against the Respondent) as to whether the matter was dismissed or disciplinary action was taken. Communication is restricted under section 69 of the Act.
17. If the Respondent accepts the determination and complies with the recommendation, the matter is concluded (Bylaw 1106(11) and (12)).
18. For complaints received after April 1, 2017 that are referred to the Investigation Committee for investigation and review, an anonymous publication of a determination and recommendation will be posted CPABC's public website, unless the Investigation Committee recommends otherwise.
19. If the Respondent disagrees with the recommendation or the determination on which it is based, he/she/it can enter the binding opinion process which will facilitate the resolution of a disagreement over a determination and recommendation between the Investigation Committee and the Respondent in an informal and expeditious manner (Bylaws 1109 and 1110).
20. If the Respondent fails to respond to or declines the determination and recommendation, or fails to comply with the terms agreed to, the Investigation Committee may deliver a Statement of Complaint to the Disciplinary Committee (Bylaws 1106(12) and (13)).

B. Binding Opinion (Bylaws 1109 and 1110)

21. If the Respondent believes that a determination and recommendation is unfair or inappropriate, he/she/it can advise the Chair of the Investigation Committee or the DPC that he/she/it wishes to use the binding opinion process.
22. The use of the binding opinion process must be acceptable to the Investigation Committee, and both parties must agree, in writing, that any opinion given will be final and binding, and may not be challenged, reviewed or appealed.
23. The administrative fee referred to in Bylaw 1109(1) is \$1,000.
24. The Chair of the Disciplinary Committee will select a Binding Opinion Panel of three reviewers to provide the opinion. The reviewers will be selected from among members of the Disciplinary Committee. A public representative is included on the Panel.
25. The Binding Opinion Panel will not be appointed, and the binding opinion process will not be commenced or proceed, until the administrative fee is paid. The fee is not refundable, except as provided in Bylaw 1110(6).
26. The binding opinion process will be conducted in accordance with Bylaw 1110.
27. In proposing any changes to the recommendation, the Binding Opinion Panel will be limited by the outcomes specified in Bylaw 1110(4).
28. The binding opinion will be provided as expeditiously as possible, without reasons or explanations.

C. Disciplinary Committee (Part 12 of the Bylaws)

29. The Disciplinary Committee is appointed by the Board and comprises senior, experienced CPABC members and at least three non-CPA public representatives. None of the Disciplinary Committee members are members of the Board, or any CPABC regulatory committees.
30. The Disciplinary Committee hearings are formal, open to the public, and are heard by a panel of three, or five, members of the Disciplinary Committee, including a public representative. Usually, a lawyer is appointed to assist the Committee; CPABC retains a lawyer (prosecutor) to present the case outlined in the Statement of Complaint; and the Respondent is generally represented by a lawyer (Bylaw 1204).
31. The panel of the Disciplinary Committee must make a decision to either dismiss or confirm the Statement of Complaint in whole or in part, and give reasons for its decision (Bylaw 1207).
32. If the Statement of Complaint is confirmed, the panel may make an Order (Section 53(4) of the Act) including one or more of a reprimand, a suspension, a cancellation, imposition of conditions upon continuation of membership, a fine of up to \$25,000 for a member (\$4,000 for a student) and not more than \$100,000 for a registered firm and an award of costs.
33. Under Section 56 of the Act, the Respondent or CPABC may appeal the Order of the Disciplinary Committee to the Supreme Court of BC

D. Extraordinary Suspension (Act, Section 57)

34. Under Section 57 of the Act, if the matter is very serious and the public interest may be

prejudiced by the delay of the usual discipline process, a panel of any three members of the Board may order a suspension without giving the Respondent an opportunity to be heard.

35. The Respondent may appeal this extraordinary suspension to the Supreme Court of BC.
36. Regardless of whether the Respondent appeals, CPABC will go through the usual discipline process outlined above as expeditiously as possible.

E. Resolutions of Discipline Proceedings – Bylaws 1111 and 1205

37. At any time, but typically before the commencement of a Disciplinary Committee hearing, CPABC and the Respondent may agree to a resolution of the discipline proceedings.
38. Such a resolution may include any terms or conditions that are agreed to by the Respondent and CPABC, including, for example:
 - the Respondent's agreement to the cancellation of his/her CPABC membership;
 - if the Respondent has resigned or agreed to the cancellation of his/her membership, an agreement never to apply for readmission, or not to apply for readmission for a specified period of time, or until specified conditions are met;
 - agreement to pay CPABC costs for the investigation and discipline proceedings; and;
 - an agreement as to what information about the circumstances and terms of the resolution of the discipline proceedings may be published on CPABC's website and/or in other media, including an agreement as to specified content of the publication.

F. Transition Provisions

39. The Act has transitional provisions addressing the completion of ongoing legacy investigations, hearings and appeals, specifically sections 80, 81 and 82.
40. The Bylaws also have transitional provisions addressing the procedures to be followed for completion of ongoing legacy cases, specifically Bylaws 1112 and 1209.