

RAPA

REGULATED ACCOUNTING PROFESSION ACT

Complaint Review and Discipline Process



Certified General Accountants' Association of Alberta

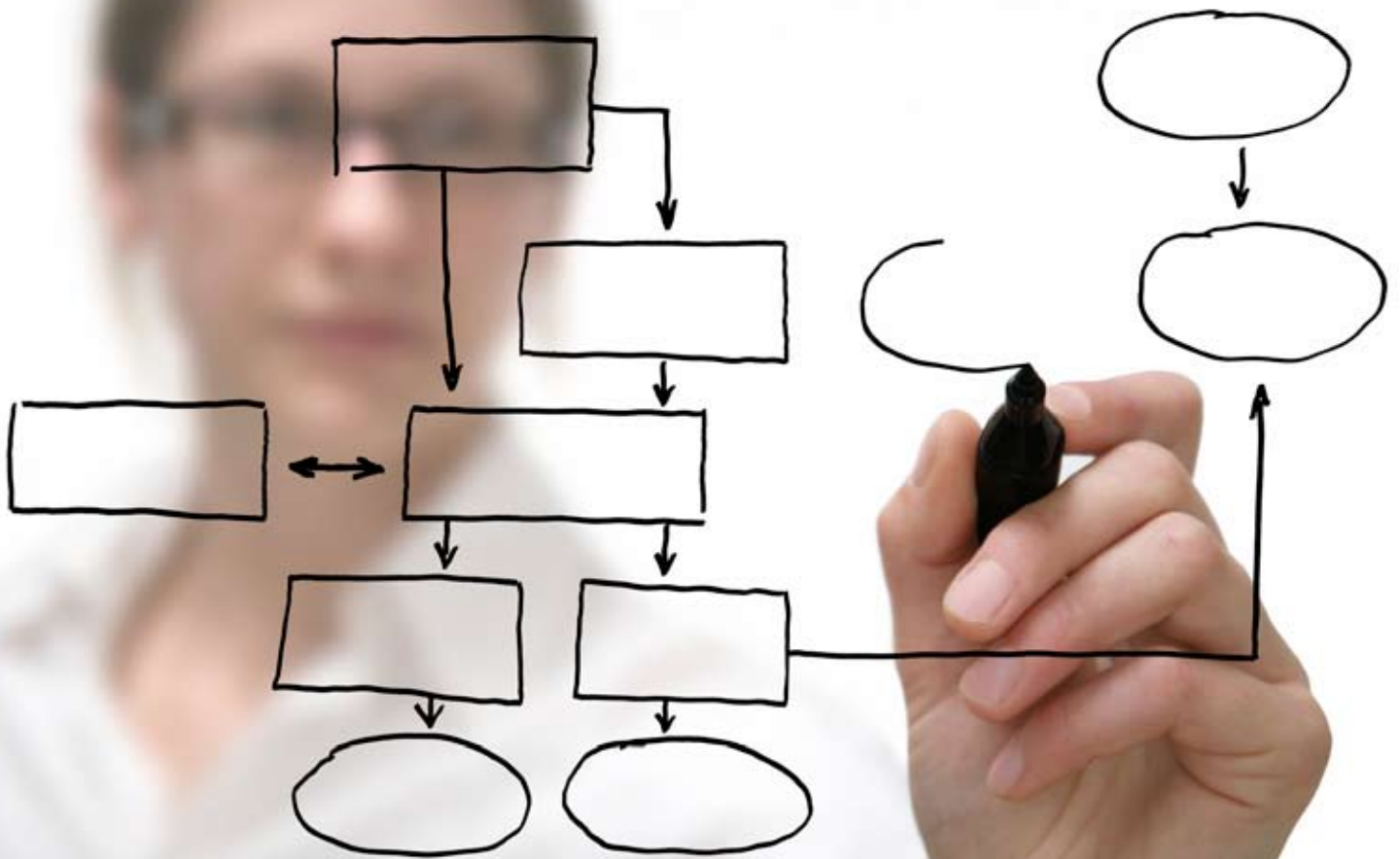


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GENERAL INFORMATION

CGAs represent a group of professional accountants acting as trusted advisors and leaders in business. CGAs in Alberta work in public practice, industry, government, and education, providing a wide variety of services, including assurance and taxation expertise, financial management, non-financial performance measurement, corporate control, strategic counsel, information technology, consulting and executive management. The CGA Association continues to serve the public interest by ensuring members adhere to the highest measure of professional and ethical conduct. It is our intention to maintain the ideals of the original founders: encourage improvement in accountancy.

The Certified General Accountants' Association of Alberta regulates CGAs, their professional corporations and public accounting firms, as well as registered students. Collectively, these individuals are referred to as registrants.

A self-governing professional organization since 1913, the Association derives its powers from the *Regulated Accounting Profession Act* of Alberta (RAPA). Regulations, by-laws, and the Code of Ethical Principles and Rules of Conduct are passed in accordance with this Act.

The purpose of RAPA is to protect public interest and the integrity of the accounting profession, while promoting and increasing the competence of registrants, and regulating the conduct of registrants.

CGAs meet prescribed standards and only members are permitted to use the designation, Certified General Accountant (CGA). Registrants have a duty to conduct themselves in a professional manner in serving clients, employers, and the public at all times.

OUR VOLUNTEERS

Regulating the ethical conduct and competence of CGAs and protecting the public interest is an important part of the profession's responsibility, which the Association and its members readily accept. Members of the Complaints Inquiry Committee, Discipline Tribunals, and Appeal Tribunals are a few examples of the many volunteer members that assist the Certified General Accountants' Association of Alberta in maintaining the integrity of the Association. Analysis of the conduct of fellow professionals is difficult and time-consuming. Regulating the ethical conduct and competence of CGAs while protecting the public's interest is a professional responsibility these volunteers accept.

CONDUCT OF REGISTRANTS

All who use the CGA designation and their public accounting firms are subject to the high expectations and standards of the professional-ethical principles established to protect the public and ensure orderly conduct within the profession. The Code of Ethical Principles and Rules of Conduct sets out the principles the registrants must follow. Registrants who breach these rules are subject to the disciplinary process and sanctions granted to the Association by RAPA.

This Act describes “unprofessional conduct” as any act or conduct by a registrant that:

- is detrimental to the best interests of the public or harms the integrity of the profession,
- contravenes the Act, regulations, by-laws, rules of professional conduct, or practice standards,
- displays a lack of competence,
- contravenes or fails to comply with a discipline order, an order of the Court, or a restriction or undertaking given to or by the Association.

HOW DOES THE COMPLAINT PROCESS WORK?

The complaint process set out in RAPA is designed to protect the public interest, enforce practice standards and rules of professional conduct, provide a means by which conduct complaints can be dealt with expeditiously, and preserve the integrity of the accounting profession.

As the governing body of Alberta’s CGAs, the Association is obligated to deal with all complaints received about the conduct of its registrants.

If a person suspects a registrant has breached the ethical or performance standards of the profession, a written complaint may be lodged with the Association.

This process does not serve to compensate the complainant for any damages but, rather, ensures that alleged unprofessional conduct by a registrant is identified, recognized and disciplined (see range of sanctions on page 8). Although the complainant may take legal action independently from the Association’s complaint proceedings, evidence from disciplinary proceedings cannot be used in civil proceedings.

The following outlines the principal stages in the disciplinary process governing Alberta CGAs.

COMMUNICATION ENCOURAGED

The Association encourages discussion and communication between all parties before lodging a complaint. If communication at this early stage does not result in resolution, a complaint may be lodged with the Association.

FEE DISPUTES

Fee disputes are not recognized as a form of unprofessional conduct by the Association.

The Association does not regulate fees or make directives to registered individuals or firms regarding fees.

HOW TO LODGE A COMPLAINT

Anyone may lodge a complaint with the Association regarding the conduct of a CGA, professional corporation, public accounting firm or a registered student.

Complaints should be submitted to the Association in writing and signed by the complainant. The complaint should contain a summary of the facts and the specific concerns. Supporting documentation should be submitted at the same time. A complaint may be made against a public accounting firm, the CGAs directly involved, or both.

Once received, the Complaints Inquiry Committee (CIC) Secretary will review and acknowledge the complaint. The person or firm against whom the complaint was lodged (the investigated party) will receive a copy of the complaint and any supporting documentation and is required to provide information and comments in response to it.

COMPLAINT RESOLUTION

The CIC Secretary may encourage the resolution of the complaint and, with the agreement of the parties, appoint a mediator, conciliator or other person (facilitator) to assist with the resolution of the complaint.

The resolution process is informal and is often used to resolve complaints that result from a failure to communicate. Facilitators assist by helping identify issues and clarifying alternatives.

To encourage open communication, all evidence or communication arising in the complaint resolution process is confidential. If the facilitator determines the matter is substantially different from the original complaint, the resolution process may be discontinued.

The Association monitors any agreement reached to ensure the registrant complies with the terms. Failure to comply can result in a finding of unprofessional conduct.

If there is no resolution during this process the CIC Secretary must forward the complaint to the Complaints Inquiry Chair.

CIC SECRETARY REVIEW

The CIC Secretary reviews unresolved complaints, seeks comment from the investigated party, and makes inquiries or requests additional information. The CIC Secretary provides the results of the review, the complaint and response to the CIC chair.

DECISION OF THE CIC CHAIR

The CIC Chair reviews the complaint and other information. If the CIC Chair is of the view that the conduct complained about:

- was not unprofessional conduct,
- was not within the jurisdiction of the complaints inquiry committee,
- was too minor to warrant any sanction or further investigation,

the CIC Chair will direct no further action be taken and provide the complainant and the registrant of the decision made with an explanation.

Otherwise, the CIC chair will appoint an investigator to investigate the matter and a notice of investigation will be provided to the complainant and the registrant.

CONDUCTING THE INVESTIGATION

An independent investigator reviews the complaint and accompanying documentation and communicates with both parties and reviews with them their submissions to the Association, as well as any other relevant information, documents or evidence. If additional matters are brought to the attention of the investigator, those matters may also be investigated, but the investigated party will be advised of any additional matter and be given an opportunity to provide comment on it. The investigator will either record or make notes of interviews.

After considering all material, the investigator prepares a report for presentation to the Complaints Inquiry Committee. This report is not provided to either the complainant or the investigated party at this time, although the investigated party may receive a copy if the matter is referred to hearing.

DECISION OF THE COMPLAINTS INQUIRY COMMITTEE

The Complaints Inquiry Committee is comprised of CGAs and a public representative. After reviewing the investigator's report, the Complaints Inquiry Committee may:

- direct that no further action be taken,
- make recommendations or provide guidance in respect of future conduct or practice, or
- refer one or more allegations of unprofessional conduct to the Discipline Tribunal Roster chair.

The complainant and the investigated party are notified of the committee's decision and provided an explanation for it.

COMPLAINANT'S RIGHT TO APPEAL

If the CIC Chair or the Complaints Inquiry Committee directs that no further action be taken, the complainant has the right to an appeal. To appeal, a complainant must send a written notice of appeal to the Association that explains what is being appealed, why the appeal is being made and the results sought from the appeal. The Association must receive the notice of appeal within 30 days from the date the complainant received notification that no further action be taken.

An Appeal Tribunal appointed by the Appeal Tribunal Roster Chair hears the complainant's appeal. The complainant, the investigated party, and the CIC Chair or CIC Committee are parties to the appeal and may present arguments to the Appeal Tribunal. The Appeal Tribunal makes any decision the CIC Chair or CIC Committee may make. If the Appeal Tribunal determines that the appeal is frivolous or vexatious, and the complainant is a registrant, the complainant may be ordered to pay to the Association the costs of the investigation and appeal.

MATTERS REFERRED TO THE DISCIPLINE TRIBUNAL ROSTER CHAIR

If one or more allegations of unprofessional conduct are referred to the Discipline Tribunal Roster Chair, the Chair appoints a Discipline Tribunal to hear the matter. A Discipline Tribunal normally consists of two CGAs and one member of the public who have been appointed to hear disciplinary matters. The chair may also hear applications for adjournments prior to the commencement of the hearing.

SETTLEMENT

In some cases the CGA or registrant may admit to unprofessional conduct prior to the hearing. In this case, the Complaints Inquiry Committee and the registrant may enter into an agreement that admits unprofessional conduct and specifies the sanction to be imposed. A proposed settlement must be approved by a panel before it can be provided to the Complaints Inquiry Committee for approval. The panel consists of two CGAs and one member of the public. If the settlement is approved, the admissions are considered the same as a finding of unprofessional conduct and the settlement is treated for all purposes as a decision and order of a Discipline Tribunal. Complainants are advised of the settlement agreement and compliance with the terms of the agreement is enforced. If no settlement is reached, the matter is dealt with at a hearing by the appointed Discipline Tribunal.

HEARING BEFORE A DISCIPLINE TRIBUNAL

The two CGAs and the member of the public sitting as a Discipline Tribunal have no prior knowledge of the case and are considered free from bias or conflict. The hearing is usually attended by the investigated party and legal counsel, a representative of the Complaints Inquiry Committee, the CIC Secretary, witnesses called by either side (of which the complainant may be one), and a court reporter and staff recording secretary. The Act requires that hearings before a Discipline Tribunal be open to the public. In rare circumstances, all or part of a hearing can be closed if the matter involves public security or if the need to protect the confidentiality of intimate financial, personal, commercial or other matters outweighs the desirability of an open hearing. After hearing the evidence and arguments, the Discipline Tribunal makes its findings on each allegation.

POTENTIAL SANCTIONS IF THERE IS A FINDING OF UNPROFESSIONAL CONDUCT

If the Tribunal determines a finding of unprofessional conduct against the investigated party, the Tribunal orders penalties that may include, but are not limited to:

- a reprimand,
- suspension of registration for a stated time period, or pending compliance with specified conditions,
- restriction on entitlements to practice for a stated period of time, or pending compliance with specified conditions, or until otherwise ordered by a specified body,
- direction to successfully complete a course of studies or examinations or both,
- direction to work under supervision,
- direction to take counselling or to overcome disabilities or addictions,
- directing a public accounting firm to develop or implement quality control procedures or professional development policies,
- cancellation of registration,
- fines up to \$20,000 per finding,
- costs of the investigation and hearing and compliance with the orders,
- publication of the findings and orders (e.g., in newspaper, to clients, to members, etc., as prescribed by the committee).

WRITTEN DECISION

The Discipline Tribunal must issue a written decision that includes reasons for its decision. The complainant is provided with a copy of the decision, but cannot appeal. Only the investigated party and the Complaints Inquiry Committee may appeal the decision and orders of a Discipline Tribunal.

APPEAL PROCESS

The Appeal Tribunal Roster chair appoints an Appeal Tribunal consisting of two CGAs and a public member to hear the appeal.

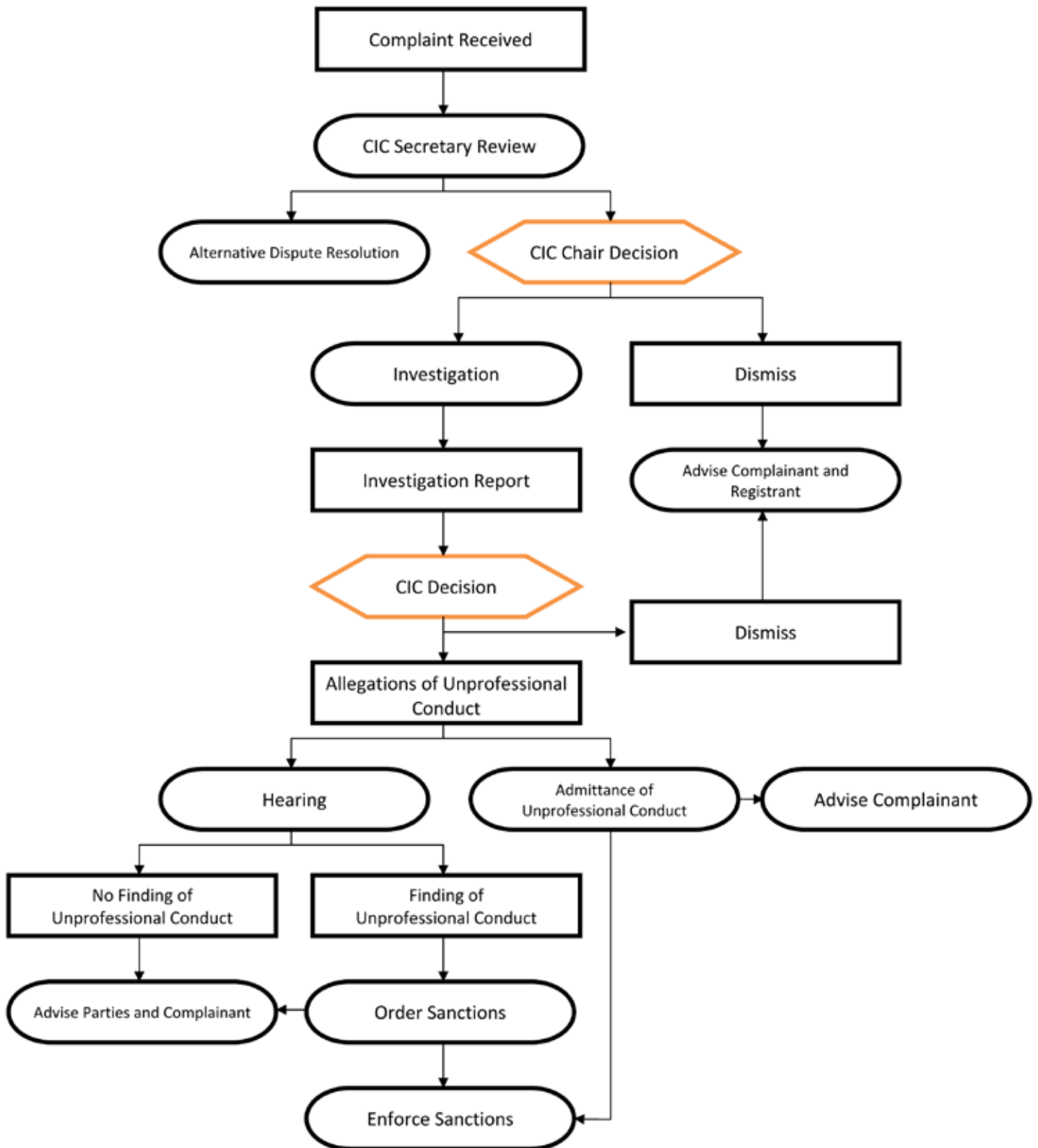
The appeal is based on the decision of, and the record before, the Discipline Tribunal. However, permission may be sought to enter new evidence. The people normally in attendance at an appeal are the investigated party and legal counsel, a representative of the Complaints Inquiry Committee, the CIC Secretary, and a court reporter and staff recording secretary. The Act requires that hearings before an Appeal Tribunal be open to the public, but the hearing can be closed, similar to a discipline hearing.

The Appeal Tribunal can quash, confirm, vary or reverse all or any part of a decision or order. The Appeal Tribunal must provide a written decision with reasons. A copy of the decision is provided to the complainant who cannot appeal the decision. Only the investigated person or the Complaints Inquiry Committee can appeal the Appeal Tribunal's decision to the Court of Appeal.

OMBUDSMAN

After the discipline process has been concluded, if a complainant or an investigated party is dissatisfied, they can make a complaint about the discipline process the Ombudsman appointed under the Ombudsman Act. The Ombudsman cannot change the decision, but may make recommendations to the Association.

**GRAPH OF COMPLAINT REVIEW AND DISCIPLINE PROCESS
(EXCLUDING APPEALS)**



FURTHER INFORMATION

Questions regarding the complaint process can be directed to the *Certified General Accountants' Association of Alberta*:

Suite 100, 325 Manning Road NE

Calgary, Alberta T2E 2P5

T: 403-299-1300

F: 403-299-1339

Toll Free: 1-800-661-1078

www.cga-alberta.org

For online access to the Certified General Accountants' Regulations of Alberta, visit the Queen's Printer Bookstore website at www.gov.ab.ca/qp, click on Alberta's Legislation and then Regulations of Alberta. To access the *Regulated Accounting Profession Act*, click on Alberta's Legislation and then Statutes of Alberta.

For general information about the CGA profession, comments on RAPA or the Association's processes contact:

Member Services

MemberServices@cga-alberta.org

CGA Alberta gratefully acknowledges the contributions of the Institute of Chartered Accountants of Alberta to this document.