

Complaint review and discipline process

Acronyms and Definitions

RAPA - *Regulated Accounting Profession Act*

CIC - Complaints Inquiry Committee

CIC Chair - Chair of the Complaints Inquiry Committee

CIC Secretary - Secretary to the Complaints Inquiry Committee

Investigated party - person or firm against whom the complaint was lodged

Registrant - a chartered accountant, student, public accounting firm, or professional corporation



General Information

Alberta CAs are premier accountants and preferred business leaders and advisors. CAs work in public accounting, industry, government, and education, providing a wide variety of services, including assurance and taxation, financial management, non-financial performance measurement, corporate control, strategic counsel, information technology, consulting and executive management. Recognized worldwide, the CA designation denotes vision, integrity and excellence.

The Institute of Chartered Accountants of Alberta (the “Institute”) regulates CAs, their professional corporations and public accounting firms, as well as registered students. Collectively, these are referred to as registrants.

A self-governing professional organization since 1910, the Institute derives its powers from the *Regulated Accounting Profession Act (“RAPA”)*. The Chartered Accountants Regulation, Bylaws, Council Resolutions, and Rules of Professional Conduct are passed in accordance with *RAPA*.

The purpose of *RAPA* is to protect the public interest, protect the integrity of the accounting profession, promote and increase the competence of registrants, and regulate the conduct of registrants. CAs meet prescribed standards and, by law, only chartered accountants or registered public accounting firms are permitted to use the name “Chartered Accountant” or the initials “CA”. Similarly, only a chartered accountant who has been elected as a Fellow of the Chartered Accountants by the Council may use the name “Fellow of the Chartered Accountants” or the initials “FCA”.

Registrants have a duty, at all times, to conduct themselves in a professional manner in serving clients, employers, and the public.

Our Volunteers

Regulating the ethical conduct and competence of CAs and protecting the public interest is an important part of the profession's responsibility, which the Institute and all Alberta CAs readily accept. Members of the Complaints Inquiry Committee ("CIC"), Discipline Tribunals, and Appeal Tribunals are some of the many volunteer chartered accountants that assist the Institute in meeting this obligation. In addition, a public member from the public member roster (appointed by the Alberta government) is involved in any decision made by either the CIC or a discipline or appeal tribunal. The tasks that all of these volunteers perform in judging the conduct of registrants are difficult and time-consuming.

Conduct of Registrants

All registrants are subject to high professional and ethical standards—the ethical principles are established to protect the public interest and protect the integrity of the profession. *The Rules of Professional Conduct and Related Guidelines* set out the ethical principles registrants must follow. Registrants who breach these rules or other governing documents are subject to the disciplinary process and sanctions available to the Institute under *RAPA*.

RAPA describes "unprofessional conduct" as any conduct, by a registrant, that:

- is detrimental to the best interests of the public or harms the integrity of the profession;
- contravenes *RAPA*, the Chartered Accountants Regulation, Bylaws, Rules of Professional Conduct, or practice standards;
- displays a lack of competence; or
- contravenes or fails to comply with a discipline order, an order of the Court, or a restriction or undertaking given to or by the Institute.

"Conduct" as defined in *RAPA*, includes an act or omission, whether or not the conduct relates to the professional activities of a registrant or former registrant.

"The complaint process is designed to protect the public interest..."

How does the complaint review process work?

The complaint review 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 fairly and expeditiously; and
- preserve the integrity of the accounting profession.

As the governing body of Alberta's CAs, the Institute is obliged to deal with all complaints received concerning the conduct of its registrants.

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

This process does not serve to compensate the complainant for any damages but, rather, ensures that unprofessional conduct by a registrant is identified, recognized and disciplined (see range of sanctions on pages 8 and 9). Although the complainant may take legal action independently from the Institute's complaint proceedings, evidence from disciplinary proceedings cannot be used in civil proceedings.

The following outlines the principal stages in the complaint review process governing Alberta CAs.

COMMUNICATION ENCOURAGED – The Institute encourages discussion and communication among all parties before a complaint is made in order to resolve or settle the matter, if possible. If communication at this early stage does not result in resolution, a complaint may be lodged with the Institute.

FEE DISPUTES – If the issue is a fee dispute, specific fee arbitration and mediation services are available from the Institute. The procedures in this brochure do not apply to fee disputes, but registrants or members of the public may contact the Institute at advisory@icaa.ab.ca or visit our website at www.albertaCAs.ca for more details on arbitration and mediation of fee disputes.

HOW TO LODGE A COMPLAINT – Any person may make a complaint regarding the conduct of a registrant or former registrant¹. Complaints must be submitted to the Institute in writing and be signed by the complainant. The complaint should contain a summary of the facts and listing of the concerns. Supporting documentation can be submitted at the same time or at a later date. A complaint may be made against any registrant. The CIC Secretary may also treat as a complaint any questionable conduct of registrants that comes to the attention of the Institute.

Once received, the 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 is required to provide information and comments in response to it.

¹ In order to deal with a complaint about a former registrant, the conduct must have occurred while the person was registered and the complaint must be received within two years from the date the registration ceased.

COMPLAINT RESOLUTION – The CIC Secretary may encourage the resolution of the complaint and, with the agreement of all 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. A facilitator assists by helping identify issues and clarify 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 or if the matter cannot be resolved, the resolution process may be discontinued.

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

CIC SECRETARY REVIEW – The CIC Secretary reviews the complaint, seeks a response/comments from the investigated party, and makes inquiries and/or requests additional information from either/both parties. The CIC Secretary provides the results of the review, the complaint and response to the CIC chair.

CIC CHAIR DECISION – The CIC Chair reviews the results of the CIC Secretary's review, the complaint, response and other information. The CIC Chair will direct no further action be taken if the CIC Chair is of the view that the conduct complained about:

- was not unprofessional conduct;
- was not within the jurisdiction of the CIC; or
- was too minor to warrant any sanction or further investigation.

If the CIC Chair directs that no further action be taken, the CIC Chair must notify the complainant and the investigated party of the decision and provide a written explanation of it. 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 investigated party. If the CIC Chair dismisses the complaint, the complainant can appeal the dismissal to an Appeal Tribunal.

CONDUCTING THE INVESTIGATION – The investigator reviews the complaint and accompanying documentation, and communicates with both parties. The investigator reviews the parties' submissions to the Institute, discusses relevant information, and obtains documents or evidence from the parties and others who may have relevant knowledge. 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 will be given an opportunity to provide comment on it. The investigator will most often record any interviews, provided consent is given.

After considering all material, the investigator prepares a report for presentation to the CIC.

COMPLAINTS INQUIRY COMMITTEE DECISION – The CIC is generally comprised of 13 members, including two public representatives who are appointed by the

government. After reviewing the investigator's report, the CIC must:

- decide that no further action be taken, in which case the CIC may also make recommendations or provide guidance in respect of future conduct or practice;
- direct that a further or other investigation be carried out; or
- refer one or more allegations of unprofessional conduct to the Discipline Tribunal Roster Chair.

A public member must participate in all decisions made by the CIC.

If any member of the CIC has a conflict or is of the view that he would not be able to objectively review the matter, he/she must recuse himself/herself.

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

COMPLAINANT'S RIGHT TO APPEAL – If the CIC Chair or the CIC directs that no further action be taken, the complainant has the right to appeal the decision to an Appeal Tribunal. The CIC Chair or the CIC is the respondent. To appeal, a complainant must send to the Institute a written notice of appeal that explains what is being appealed, why the appeal is being made and the results that are sought from the appeal. The Institute must receive the notice of appeal within 30 days from the date the complainant received notification that no further action be taken.

The Appeal Tribunal Roster Chair appoints two members from the Appeal Tribunal Roster and one public member from the Public Member Roster to hear the complainant's appeal. A record of proceedings or appeal book is prepared and is provided, in advance of the appeal hearing, to the Appeal Tribunal. The appeal book consists of all material that was before the decision maker. Both the appellant and the respondent may present arguments to the Appeal Tribunal. The Appeal Tribunal may confirm, quash, vary or reverse all or any part of a decision; make any finding that, in its opinion, ought to have been made; or refer the matter back to the CIC Chair or CIC with or without direction. 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 Institute the costs of the investigation and appeal. The decision of the Appeal Tribunal is final and cannot be appealed to the courts by the complainant.

How does the discipline process work?

MATTERS REFERRED TO THE DISCIPLINE TRIBUNAL ROSTER CHAIR – Upon receiving one or more allegations of unprofessional conduct from the CIC, the Discipline Tribunal Roster Chair appoints a Discipline Tribunal to hear the matter. A Discipline Tribunal consists of two members from the Discipline Tribunal Roster and one public member from the Public Member Roster.

SETTLEMENT – In some cases, prior to the Discipline Tribunal hearing evidence, the registrant proposes a sanction agreement. In that case, the CIC and the registrant may enter into an agreement. The agreement must contain an

admission of guilt and specify the sanction(s) to be imposed. A proposed settlement must be recommended by a panel before it can be considered by the remaining members of the CIC for approval. A panel consists of the CIC Chair, two CA members of the CIC, and one public member from the public member roster. If the settlement is approved by the CIC, 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. The complainant is advised of the settlement agreement, which is a public finding, and compliance with the terms of the agreement is enforced. If no settlement is approved by the CIC, the matter continues with no prejudice resulting from the proposal.

HEARING BEFORE A DISCIPLINE TRIBUNAL – The two CAs and member of the public sitting as a Discipline Tribunal have no prior knowledge of the case and must be free from bias or conflict. The hearing is usually attended by the investigated party and his/her legal counsel, counsel for the CIC, the CIC Secretary, witnesses called by either side (of which the complainant may be one), a court reporter, and counsel to the Tribunal. *RAPA* requires that hearings before a Discipline Tribunal be open to the public. However, in rare circumstances the Discipline Tribunal can direct that all or part of a hearing 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.

The Discipline Tribunal acts as judge and jury. After hearing the evidence and arguments, the Discipline Tribunal makes its findings on each allegation, and advises all parties of its findings.

If a finding of unprofessional conduct is made, the Discipline Tribunal orders appropriate sanctions. In making its determination, it considers the seriousness of the conduct, any mitigating and/or aggravating factors, what is required to protect the public, whether rehabilitation is possible and what will deter the investigated party and other registrants.

POTENTIAL SANCTIONS FOR A GUILTY FINDING – If the investigated party is found guilty of unprofessional conduct, the Discipline Tribunal orders sanctions which 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 Discipline Tribunal or a person or a body specified by the Discipline Tribunal;
- direction to successfully complete a course of studies or examinations or both;
- direction to work under supervision;
- direction to take counseling;
- direction to satisfy a committee or person specified by the Discipline Tribunal that a disability or addiction can be or has been overcome, and suspension of the investigated party until the committee or person is so satisfied;

- direction that a public accounting firm develop or implement quality control procedures or professional development policies;
- prohibition or restriction from training registered students;
- cancellation of registration;
- fines up to \$20,000 per finding of unprofessional conduct;
- direction to pay costs of the investigation and hearing and compliance with the orders; and
- publication of the findings and orders (e.g., in newspaper, in an Institute publication, to clients, etc., as prescribed by *RAPA* and the Bylaws).

WRITTEN DECISION - The Discipline Tribunal must produce 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 CIC may appeal the decision and/or orders of a Discipline Tribunal.

How does the appeal process work?

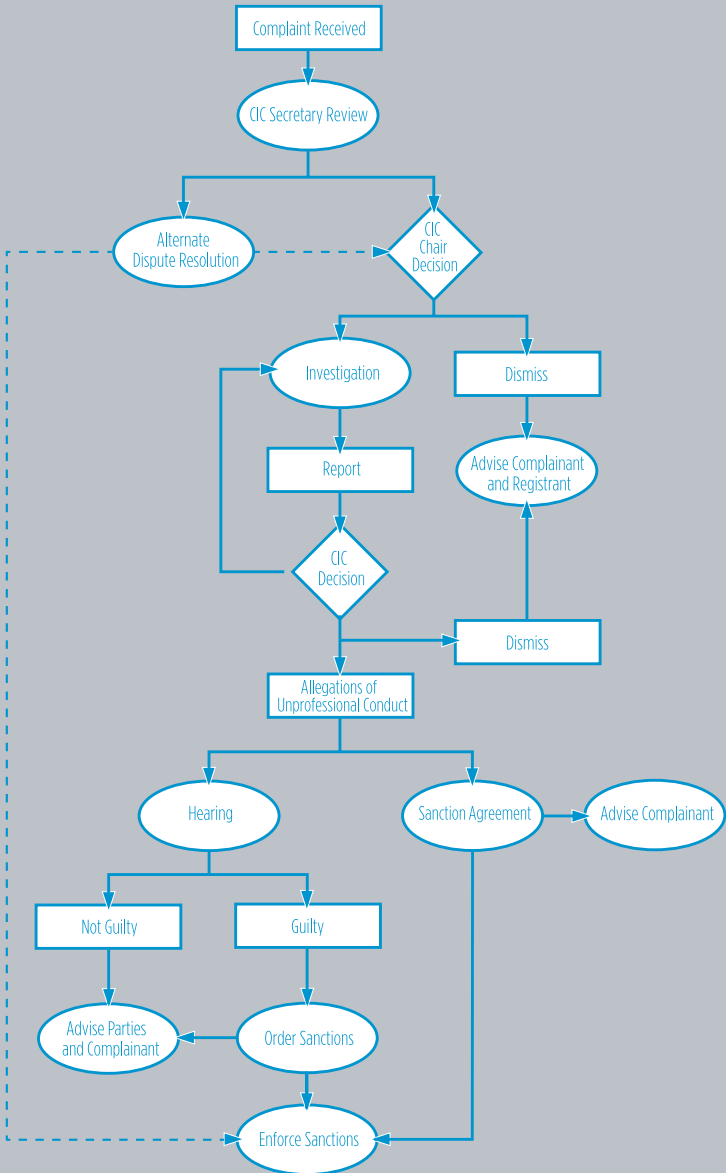
APPEAL PROCESS - Where a Discipline Tribunal has made a decision, both the investigated party and the CIC have a right to appeal the decision to an Appeal Tribunal. The other party is the respondent. The Appeal Tribunal Roster Chair appoints an Appeal Tribunal to hear the appeal. The Appeal Tribunal is normally comprised of two members from the Appeal Tribunal Roster and one public member from the Public Member Roster.

The appeal is based on the decision of, and the record before, the Discipline Tribunal. However, leave may be sought to enter new evidence. The people usually in attendance at an appeal are the investigated party and his/her legal counsel, counsel for the CIC, the CIC Secretary, a court reporter and counsel to the Tribunal. *RAPA* requires that hearings before an Appeal Tribunal be open to the public, but the hearing can be closed in rare circumstances, similar to a discipline hearing.

The Appeal Tribunal can quash, confirm, vary or reverse all or any part of a decision or order and 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 CIC can appeal the Appeal Tribunal's decision to the Court of Appeal.

ALBERTA OMBUDSMAN - The Ombudsman is an Officer of the Legislative Assembly of Alberta and reports directly to the Legislative Assembly. After the discipline process has been concluded, if a complainant or an investigated party is dissatisfied, he/she can make a complaint about the decision or the complaint review and discipline process to the Ombudsman appointed under the Alberta Ombudsman Act. The Ombudsman is tasked with analyzing administrative fairness. The Ombudsman cannot change the decision, but may make recommendations to the Institute.

Complaint review and discipline process excluding appeals



For Further Information

For information about the Institute's complaint and discipline process or to file a complaint, contact:

Professional Standards/Complaints

complaints@icaa.ab.ca

For information regarding discipline hearings contact:

Tribunals

tribunals@icaa.ab.ca

To access the governing documents of the CA profession in Alberta, including the *Regulated Accounting Profession Act*, *Chartered Accountants Regulation*, *Bylaws and Rules of Professional Conduct*, visit www.albertaCAs.ca and then click on "Governing Documents" at the bottom left-hand side of the screen, under "Services for the Public".

For general information about the CA profession or comments on *RAPA* or the Institute's complaint review and discipline process, contact:

Regulatory Affairs

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Contact information for specific individuals is available on our website at:

www.albertaCAs.ca

The Institute of Chartered Accountants of Alberta (the “Institute”) is a professional body of over 12,500 CAs and CA students.

The Institute, a self-regulating body, protects the public interest, fosters public confidence, helps its members excel, and positively contributes to the CA profession in Canada.

www.albertaCAs.ca

