

**CHARTERED PROFESSIONAL
ACCOUNTANTS OF ONTARIO**

REGULATION 6-3

APPEAL 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 April 30, 2021.

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**REGULATION 6-3
APPEAL COMMITTEE**

Application

This Regulation deals with the powers and obligations of the Appeal 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 the By-law, and for the purpose of this Regulation:
 - 1.1 “Panel” means a panel of the Appeal Committee constituted under 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 Appeal Committee.

Jurisdiction

2. The Appeal Committee is established under the Act and By-law and has the powers of a statutory tribunal under the Statutory Powers Procedure Act.
3. The Appeal Committee shall:
 - 3.1 hear and decide every appeal, as provided in the Regulations, from decisions of:
 - 3.1.1 the Discipline Committee;
 - 3.1.2 the Admission and Registration Committee;
 - 3.1.3 the Capacity Committee; and
 - 3.1.4 such other Adjudicative Committee for which a right to appeal to the Appeal Committee may be provided in the By-law or Regulations;
 - 3.2 hear and decide every motion for reconsideration as provided in section 14;
 - 3.3 hear and decide every motion for readmission, reregistration, or admission referred to the Appeal Committee under Regulations 7-1, 9-1 and 10-1; and
 - 3.4 regulate the processes and procedures for the hearings before the Appeal Committee,

in accordance with the by-laws and the Regulations.

Composition

4. The Appeal Committee shall usually consist of 11 to 25 members, including a Chair and at least one Deputy Chair, and two to five public representatives. The Appeal Committee members shall generally be representative of CPA Ontario's membership by occupation and geographic location, and shall include public accounting licensees or persons who held a public accounting licence within the three year period prior to their current appointment to the Appeal Committee. The Head, Adjudicative Tribunals is an *ex officio* member of the Appeal Committee, and is exempt from the provisions of section 5.
5. The Appeal 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 an Appeal Committee member in extraordinary circumstances.
6. The Chair and Deputy Chairs of the Appeal 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 appeals before the Appeal Committee shall be heard by a Panel constituted as follows:
 - 7.1 each Panel shall include at least three Appeal Committee members including, where a subject of the appeal 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 Appeal Committee;
 - 7.2 each Panel shall usually be chaired by the Appeal Committee Chair or a Deputy Chair, but may be chaired by another Appeal Committee member in exceptional circumstances, at the discretion and direction of the Appeal Committee Chair; and
 - 7.3 the Head, Adjudicative Tribunals shall not sit on a Panel considering the merits of an appeal.
8. The Chair and Deputy Chairs of the Appeal Committee and the Head, Adjudicative Tribunals are empowered to decide all matters referred to in section 3.4, including the adoption of Rules.

Appeal Hearings

9. All hearings before the Appeal Committee shall be conducted in accordance with the Rules and this Regulation.
10. The Panel shall not rehear a matter, but shall decide if, on the record, the final decision and order made are reasonable on the evidence and law.
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 an appeal 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 its counsel.
12. Only Panel members hearing an appeal shall participate in deliberations and make any decision and order on the appeal.
13. The Panel has the power to:
 - 13.1 dismiss the appeal;
 - 13.2 vary the final decision and order of the Adjudicative Committee appealed from, and make any decision and order that the Adjudicative Committee appealed from could have made; or
 - 13.3 order a new hearing before the same or a differently constituted panel of the original Adjudicative Committee.

Reconsiderations

14. The Appeal Committee may reconsider a decision or order made by a Panel of the Appeal Committee:
 - 14.1 at any time after the fifth anniversary of the decision or order becoming final, if:
 - 14.1.1 there has been a material change in circumstances that makes the decision or order, or a part of the decision or order, unnecessary;
 - 14.1.2 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;
 - 14.1.3 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

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- 14.1.4 the decision or order, or a part of the decision or order, is no longer legally valid or enforceable; and
- 14.2 at any time, if:
 - 14.2.1 one or more of the conditions set out in sections 14.1.2, 14.1.3, or 14.1.4 exist; and
 - 14.2.2 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.
- 15. The Panel hearing a motion for reconsideration may include Panel members who did not participate in the decision or order being reconsidered.
- 16. The responding party to a motion under section 14 shall be the person or Committee at CPA Ontario that was the party to the appeal on the original hearing of the appeal.
- 17. The party bringing the motion under section 14 bears the onus of establishing, on a balance of probabilities, that the reconsideration should be granted.
- 18. After hearing the motion for reconsideration, the Panel may:
 - 18.1 confirm the decision or order in whole or in part;
 - 18.2 strike the decision or order in whole or in part; or
 - 18.3 vary the decision or order in whole or in part, on such terms and conditions and with such restrictions as the Panel considers appropriate.

Applications for Readmission

- 19. An application for:
 - 19.1 readmission after an order revoking Membership or permitting the Member to resign made by the Appeal Committee under section 13.2;
 - 19.2 reregistration as a Firm after an order deregistering the firm or permitting the Firm to surrender its registration made by the Appeal Committee under section 13.2; or
 - 19.3 reregistration as a Student or admission to Membership, after an order deregistering the Student made by the Appeal Committee under section 13.2,under Regulations 7-1, 9-1, and 10-1 requires a motion for reconsideration of the original order by the Appeal Committee.
- 20. The Panel hearing a motion under section 19 may include Panel members who did not participate in the decision or order being reconsidered.

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21. The responding party to a motion under section 19 shall be the Professional Conduct Committee.
22. Before bringing a motion under section 19, 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.
23. If the confirmation referred to in section 22 cannot be obtained only because:
 - 23.1 the applicant has not provided evidence of good character satisfactory to the Registrar; or
 - 23.2 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.
24. The applicant bringing a motion under section 19 bears the onus of establishing that:
 - 24.1 the confirmation under section 22 or section 23 has been obtained;
 - 24.2 in the case of a confirmation under section 23, that:
 - 24.2.1 the applicant is of good character; or
 - 24.2.2 that the issue of the applicant's credibility should be resolved in the applicant's favour,as the case may be;
 - 24.3 the requirements for reconsideration provided in section 14 have been met; and
 - 24.4 the applicant has abided by all terms of the order revoking membership or deregistration, as the case may be.
25. If the Panel is satisfied that the provisions of section 24 have been met, it may:
 - 25.1 grant the application for readmission, reregistration, or admission on such terms and conditions and with such restrictions as the Panel considers appropriate; and
 - 25.2 vary or strike the original order as provided in sections 18.2 and 18.3.

Orders, Decisions, and Reasons

26. 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.

27. The Panel shall provide its final order, decision, and reasons, if applicable, in writing, to all parties.
28. The final order of the Panel may:
 - 28.1 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
 - 28.2 provide for sanctions for non-compliance with the terms of the order.
29. There is no right to appeal the Panel's order, decision, or reasons.

Capacity Determinations

30. If the issue of the capacity of a party to an appeal before the Appeal Committee arises during the hearing of an appeal, 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 appeal on such terms as it deems appropriate.
31. In all cases where the Panel has not stayed a hearing as provided in section 30 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.
32. If the party has not been referred to the Registrar for consideration as a Potential Capacity Application and the Panel determines that there are reasonable grounds to believe a subject who is a Member may be Incapacitated, the Panel shall, at the conclusion of the hearing of the appeal refer the matter to the Registrar as a Potential Capacity Application under Regulation 16-1.

Notice to be Provided by the Appeal Committee

33. Notice of the time, date, and place of all appeals, motions for reconsideration and for readmission or reregistration shall be posted on CPA Ontario's website, along with:
 - 33.1 in the case of appeals from the Discipline Committee:
 - 33.1.1 the name(s) of the subject Member(s) or Firm(s);
 - 33.1.2 the notice of appeal; and
 - 33.1.3 notice that the hearing of the appeal is open to the public; and
 - 33.2 in the case of appeals from the Admission and Registration Committee or Capacity Committee, the information set out in section 33.1.2, unless the Admission and Registration Committee or the Capacity Committee made an

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- order varying the information to be posted when the matter appealed from was heard, in which case the posting shall be in conformity with that order;
- 33.3 in the case of motions for reconsiderations and for readmission or reregistration:
- 33.3.1 the name(s) of the applicant;
 - 33.3.2 the notice of motion; and
 - 33.3.3 notice that the hearing of the motion is open to the public.
34. In the case of an appeal from the Discipline Committee, motion for reconsideration, and motion for readmission or reregistration, the decision, order, and written reasons of the Appeal Committee shall be posted on a publicly accessible area of CPA Ontario's website.
35. In the case of an appeal from the Admission and Registration Committee or the Capacity Committee, the decision, order, and written reasons of the Appeal Committee shall be posted in the same manner as the decision, order, and written reasons of original decision of the Admission and Registration Committee under Regulation 6-1 and Capacity Committee under Regulation 16-1.
36. Despite section 35, the Panel may order that the full decision, order, and reasons of the Appeal Committee be posted, if it considers it to be in the public interest.
37. If a finding of professional misconduct is reversed on appeal, and notice of the finding of professional misconduct was provided in accordance with section 45 of Regulation 6-2, CPA Ontario shall give notice of the reversal to the persons referred to in sections 45.1 to 45.3 of Regulation 6-2.
38. If the revocation of membership of a Member, or any restriction, suspension, or revocation of a Public Accounting Licence, for which notice was provided in accordance with sections 48 or 50 of Regulation 6-2, is reversed on appeal, CPA Ontario shall give notice of the reversal in the same form or media as the notice was originally provided.
39. The Appeal Committee shall report on the disposition of every matter referred to it and of any decision to stay an appeal under section 30:
- 39.1 to the parties;
 - 39.2 to the Council; and
 - 39.3 if the subject of the matter is licensed or authorized to practice public accounting, to the Public Accounting Standards Committee, along with the written reasons for the decision, disclosing the name of the subject.