

# **Guide to Discipline Hearings**

**CPA Ontario Adjudicative Tribunals  
Tribunals Office**

## **Guide to Discipline Hearings**

This guide is for general information only and does not provide a complete summary of the law. Independently or together with other guides, this guide should not be taken as legal advice or a determination of how the Adjudicative Tribunals of the Chartered Professional Accountants of Ontario (CPA Ontario) would decide any particular issue, or interpret rules, legislation, practice directions, policies or other documents.

This guide is meant to be read with other information found on the Tribunals website, including:

- [Act, Bylaws and Regulations](#);
- [Rules of Practice and Procedure](#) (Rules); and
- [Statutory Powers Procedure Act](#).

Cases decided by the Tribunal can be found on its [website](#) and, on [CanLII](#), a free public legal database.

## **Table of Contents**

<b><i>Introduction</i></b>	<b>4</b>
<b><i>Commencement of the proceeding (Rule 9):</i></b>	<b>5</b>
Representation (Rule 4)	6
Abandonment and Deemed Abandonment (Rule 7.03)	6
Adjournments (Rule 14)	6
Motions (Rule 13)	6
<b><i>Before the hearing</i></b>	<b>8</b>
Pre-hearing Conference (Rule 12)	8
Scheduling and Preparation	8
Attendance	8
Purpose	8
PHC Report	8
Disclosure (Rule 10)	8
Expert Reports	8
Filing of Electronic Documents	9
Electronic hearing requirements	9
<b><i>During the hearing</i></b>	<b>10</b>
Attendance at the hearing	10
Hearing process where allegations of professional misconduct have been made	10
Agreed Statement of Facts	10
Presentation of Evidence	10
Submissions	11
Deliberations and Decision on Finding	11
Sanction	11
Hearing process where a motion for reconsideration or application for readmission has been filed	12
Agreed Statement of Facts	12
Presentation of Evidence	12
Submissions	12
Deliberations and Decision	12
Costs (Rule 20)	12
<b><i>After the hearing</i></b>	<b>14</b>
Reasons (Rule 21)	14
Posting of documents on CPA Ontario's website (Regulation 6-2, s. 52)	14
Compliance with the decision and order of a hearing panel	14
Transcripts	14

# CPA Ontario Adjudicative Tribunals

## Tribunals Office

### Introduction

Panels of the Discipline Committee ([Regulation 6-2](#) under the [Chartered Professional Accountants of Ontario Act, 2017](#)):

- Hear and decide allegations of professional misconduct made by the Professional Conduct Committee;
- Hear and decide applications for a preliminary suspension prior to a finding of professional misconduct;
- Review and approve settlement agreements;
- Hear and decide motions to reconsider prior orders, including orders revoking membership or student registration; and
- Hear and decide applications for readmission.

Proceedings can generally be divided into the following stages, each of which is explained in more detail in this guide:

- [Commencement of the proceeding](#);
- [Before the hearing](#);
- [During the hearing](#); and
- [After the hearing](#).

## CPA Ontario Adjudicative Tribunals Tribunals Office

### Commencement of the proceeding ([Rule 9](#)):

Proceedings are initiated by an applicant. An applicant can be:

- The Professional Conduct Committee (PCC);
- A member;
- A firm;
- A student;
- A revoked or suspended member; or
- A suspended or deregistered student.

#### When the PCC is the applicant

The PCC may initiate a discipline proceeding by serving the document that begins the case (“originating process”) on a member, student, or firm and then filing the originating process with the Tribunals Office. An originating process by the PCC is:

- Allegation(s) of professional misconduct;
- An application for a preliminary suspension; or
- A settlement agreement.

#### When a member/student or former member/student is the applicant

A member/ student or a former member/ student may initiate a discipline-related proceeding by serving an originating process on the PCC. Serving an originating process on the PCC means sending it to them by email, or by other means, in accordance with [Rule 8](#)). The originating process must then be filed with the Tribunals Office, which is done by email. An originating process by a member/student or former member/student is:

- a motion for reconsideration, which is a request to reconsider a past disciplinary decision; or
- an application for readmission, which is a request by a revoked member/student to regain membership in CPA Ontario.

The Tribunals Office can provide a notice of motion form upon request.

Before a member/student or a former member/student initiates a motion for reconsideration or an application for readmission, they are required to satisfy a number of conditions, including obtaining written confirmation from the CPA Ontario Registrar ([cpaoregistrar@cpaontario.ca](mailto:cpaoregistrar@cpaontario.ca)) that they otherwise meet the requirements for readmission, reregistration or admission. The conditions and process for bringing a motion for reconsideration are provided under in Regulation 6-2, ss. 24 – 28, and for bringing an application for readmission in Regulation 6-2, ss. 30 – 37.

The obligations of the applicant and the responding party are provided under [Rule 13](#) of the Rules.

Once an originating process has been properly served on the other party and filed with the Tribunals Office (with proof of service pursuant to [Rule 8](#)), the parties will receive an email from the Tribunals Office requesting that they provide, within 30 days, the information set out in [Rule 7.01\(2\)](#) of the Rules (Rule 7 information). The Rule 7 information requests, among other things, the identity and contact information of any legal representative and each party’s available dates for a pre-hearing conference.

#### Settlement Agreements ([Regulation 6-2, ss. 19 – 23](#))

## CPA Ontario Adjudicative Tribunals Tribunals Office

If a member or student or firm enters into a settlement agreement with the PCC, the proposed settlement agreement will be brought before a hearing panel for its consideration. Settlement proceedings are held in writing unless all parties consent, or a panel orders it to proceed as an oral or electronic hearing. A panel shall either approve or reject a settlement agreement. The parties do not attend a settlement hearing if it is held in writing and the panel's decision is issued to the parties by the Tribunals Office.

### **Representation ([Rule 4](#))**

A party can choose to represent themselves in a proceeding or appoint a representative to act on their behalf. "Representative" under the Rules means a person under the [Law Society Act](#) who represents a person in a proceeding, such as a lawyer or paralegal, or any other person with leave of the panel.

The Tribunals Office can provide a change of representative form upon request.

### **Abandonment and Deemed Abandonment ([Rule 7.03](#))**

A proceeding can be abandoned before the hearing by serving notice on all parties and filing it with the Tribunals Office (with proof of service pursuant to [Rule 8](#)).

If an initiating party fails to meet filing requirements, as set out in the Rules or as directed at a pre-hearing conference, any party can move to dismiss the proceeding as abandoned after notifying all parties.

The Tribunals Office can provide a notice of abandonment form upon request.

### **Adjournments ([Rule 14](#))**

An adjournment is a request to postpone an already scheduled pre-hearing conference or hearing date to a later date. Adjournment requests should only be made in exceptional circumstances and should be supported by documentation and/or an explanation of why an adjournment is required, and the length of the adjournment being requested.

If a party is making a request for an adjournment *before* the scheduled pre-hearing conference or hearing date, they should do so as soon as practicable by emailing the Tribunals Office and copying the other party.

If a party is making a request for adjournment *on the hearing date* or *during the hearing*, it must be made to the hearing panel.

In either circumstance, the other party may oppose or consent to an adjournment request, or they may take no position.

An adjournment request may be granted, denied, or deferred.

### **Motions ([Rule 13](#))**

A motion is a written or oral request for a panel to make an order. A party can bring a motion by serving a notice of motion and a motion record on every other party and filing same with the Tribunals Office (with proof of service pursuant to [Rule 8](#)). The Tribunals Office can provide a notice of motion form upon request.

Some examples of where a party might bring a motion include seeking disclosure of documents from the other party, removing a representative of record at a hearing, staying proceedings, excluding evidence from the hearing, or combining two or more proceedings.

## **CPA Ontario Adjudicative Tribunals Tribunals Office**

After hearing a motion, a hearing panel may make the order that was sought; grant relief on such terms and conditions as the hearing panel considers appropriate; dismiss the motion, in whole or in part; adjourn the hearing of the motion, in whole or in part; or if the motion is heard prior to the hearing on the merits, adjourn the hearing of the motion to be considered at the hearing on the merits.

# CPA Ontario Adjudicative Tribunals Tribunals Office

## Before the hearing

### Pre-hearing Conference ([Rule 12](#))

#### *Scheduling and Preparation*

Once the Rule 7 information has been provided by the parties, the Tribunals Office will schedule a pre-hearing conference ("PHC"). PHCs are held electronically and are scheduled for one hour. The PHC invite will include a Zoom link.

Parties are required to prepare and exchange PHC memoranda using a template provided by the Tribunals Office and file them with the Tribunals Office at least seven days prior to the scheduled PHC.

#### *Attendance*

A PHC is typically conducted by the Head of the Adjudicative Tribunals, who does not sit on any hearing panels deciding the merits of a case. All parties to the proceeding, or their representatives, are required to attend the PHC.

#### *Purpose*

The purpose of a PHC is to facilitate the just and most expeditious disposition of a proceeding. All PHCs are confidential and without prejudice; PHC discussions will not be disclosed to the hearing panel deciding the merits of the case unless both parties have agreed to it. However, directions from the PHC may be provided to the panel either by motion of a party or on the panel's own initiative.

PHCs typically address matters such as: any preliminary matters to be addressed at the hearing; the scope of the anticipated evidence and witnesses; the possibility of the parties resolving some or all of the issues; the status of disclosure; the estimated length of the hearing, the scheduling of hearing dates; and any requests for accommodations in the proceeding.

#### *PHC Report*

After the PHC, a report summarizing the discussions and any directions for managing the proceedings, including hearing dates and procedural steps, will be issued by the Tribunals Office to the parties. PHC directions are binding on the parties.

### Disclosure ([Rule 10](#))

The parties to a proceeding must disclose to one another, no later than 10 days before the start of the hearing, unless otherwise ordered by a hearing panel or directed at a PHC:

- all documents that they intend to rely on as evidence at the hearing;
- witness lists; and
- summaries of the anticipated oral evidence of each witness.

Evidence not disclosed as required may not be introduced in a hearing without leave of the panel. The panel may set terms and conditions for granting leave to introduce undisclosed evidence.

#### *Expert Reports*

If either party intends to call expert witnesses, they must provide to the other party, at least 90 days before the hearing, a list of the expert witnesses that they intend to call, a curriculum vitae for every expert witness listed, and a summary of the anticipated oral evidence of every expert



## **CPA Ontario Adjudicative Tribunals Tribunals Office**

witness listed. They must also provide, at least 60 days before the hearing, a copy of the written report of every expert witness listed.

### **Filing of Electronic Documents**

All documents for a proceeding must be filed electronically and must adhere to the Tribunals Office's [Practice Direction on Filing of Electronic Documents](#).

Parties are expected to file with the Tribunals Office, in advance of a hearing, all documents they intend to rely on at the hearing. The timing for the filing of these documents will typically be directed at the PHC.

Unless the parties request otherwise, any documents filed with the Tribunals Office in advance of the hearing will be provided to the hearing panel before the hearing.

### **Electronic hearing requirements**

All parties are required to adhere to the Tribunals Office's [Practice Direction on Electronic Proceedings](#), which will be provided by the Tribunals Office to the parties along with the notice of hearing or notice of pre-hearing conference.

# CPA Ontario Adjudicative Tribunals

## Tribunals Office

### During the hearing

#### Attendance at the hearing

Each hearing is attended by:

- the parties and their representatives, if any;
- the hearing panel;
- Independent Legal Counsel (ILC); and
- the Tribunals Clerk.

As further set out below, hearings are open to members of the public unless a panel orders it to be held in the absence of the public.

A hearing panel's role is to hear and decide the issues raised in an originating process. A hearing panel is typically comprised of three to five adjudicators, including at least one professional member (CPA) and one public representative. One member of the hearing panel is designated as the Chair of the hearing panel and the Chair's role is to lead and direct the hearing.

ILC's role is to provide legal advice to the hearing panel as needed; beyond providing advice, they are not involved in the hearing panel's deliberations or decision-making. A panel may seek the advice of ILC at any time. Any advice sought during the course of a hearing will be given on the record and the parties will have the opportunity to make submissions on that advice.

The Tribunals Clerk's role is to facilitate and administer the hearing process.

All discipline hearings, other than settlement hearings, are open to the public. For every hearing, notice of the time, date and place of the hearing, along with the originating process, will be posted on CPA Ontario's website.

In-person hearings are typically held in the hearing room at the offices of CPA Ontario at 69 Bloor Street East, Toronto. Electronic hearings are conducted on Zoom. Members of the public who are interested in observing a hearing may contact the Tribunals Office by email at [tribunals@cpaontario.ca](mailto:tribunals@cpaontario.ca).

#### Hearing process where allegations of professional misconduct have been made

A hearing panel commences such a hearing by introducing themselves and the parties and addressing any preliminary matters. They then invite the party who initiated the proceeding to present their evidence. The PCC bears the onus of establishing, on a balance of probabilities, the facts in the allegations, and that the responding party has breached the [Code](#) or [Student Code](#) and has engaged in professional misconduct.

##### *Agreed Statement of Facts*

In some instances, the parties agree to some or all of the facts of the case in advance of the hearing and jointly file an Agreed Statement of Facts (ASF). In cases involving allegations of professional misconduct, the ASF may also include an admission of professional misconduct by the responding party. Even when the ASF includes an admission of professional misconduct, the hearing panel will ask the responding party on the record whether they admit or deny the allegations.

##### *Presentation of Evidence*

In instances where there is partial or no agreement on the facts, each party has an opportunity to call witnesses. The PCC's witnesses testify first, and once they are all completed, the responding

## CPA Ontario Adjudicative Tribunals Tribunals Office

party's witnesses testify. Each witness is questioned by the party who called them as a witness, then there is an opportunity for cross-examination, followed by a brief opportunity for the party who called the witness to ask any follow-up questions, and finally, any questions from the panel.

### *Submissions*

In all instances - whether there is full, partial or no agreement on the facts - the hearing panel will invite the PCC to make submissions in support of their position, followed by an opportunity for submissions by the responding party, as well as an opportunity for the PCC to reply. The hearing panel may ask questions of each party.

### *Deliberations and Decision on Finding*

After evidence and submissions are complete, the hearing panel will deliberate privately on the evidence and submissions in order to come to a decision. The hearing panel has to decide which facts have been established and whether, based on the facts that have been established, the PCC has met their onus on a balance of probabilities.

The hearing panel may make their decision directly after their deliberations and return to the hearing room to deliver their decision to the parties. Alternatively, they may reserve their decision in order to deliberate further, and the parties will be notified by the Tribunals Office of hearing panel's decision at a later date.

Where the hearing panel decides that the PCC has not proved their case, the hearing is over, subject to submissions on costs.

### *Sanction*

In professional misconduct cases, where the hearing panel decides that the PCC has proven the allegations, the hearing panel will make findings of professional misconduct and then move on to address the issue of sanction.

The hearing panel will invite each party to present evidence on sanction, including calling witnesses, if any, followed by submissions in support of the proposed sanction and costs. If the parties have agreed on what some or all of the sanction and costs should be, they may present a joint submission to the hearing panel. In general, a hearing panel will not reject a joint submission unless the proposed sanction would bring the administration of justice into disrepute or is not in the public interest.

After making a finding of professional misconduct, a hearing panel may order sanctions such as:

- revocation of membership or deregistration;
- suspension of membership or registration, with or without conditions;
- supervised practice for a specified period of time, with or without conditions;
- a fine;
- completion of professional development courses;
- newspaper publicity; and/or
- notice of the decision to be given to the members of CPA Ontario, all provincial bodies, and the public.

[Section 16](#) of Regulation 6-2 contains the full list of sanctions that may be imposed by a hearing panel.

In the case of members or firms that engage in the practice of public accounting, sanctions may also include:

## CPA Ontario Adjudicative Tribunals Tribunals Office

- suspension of licence or authorization to practice public accounting, for a specified period, with or without conditions; and
- revocation of licence or authorization to practice public accounting.

For the powers of a hearing panel in settlement hearings, reconsiderations or applications for readmission, see Regulation 6-2, [sections 19 – 37](#).

### **Hearing process where a motion for reconsideration or application for readmission has been filed**

A hearing panel of the Discipline Committee may reconsider a decision or order previously made by a panel of the Discipline Committee.

A hearing panel commences such a hearing by introducing themselves and the parties and addressing any preliminary matters. They then invite the party who initiated the proceeding to present their evidence.

#### *Agreed Statement of Facts*

In some instances, the parties agree to some or all of the facts of the case in advance of the hearing and jointly file an ASF.

#### *Presentation of Evidence*

An applicant bringing a motion for reconsideration bears the onus of establishing that the decision or order should be struck or varied, and an applicant seeking readmission bears the onus of establishing that they should be readmitted or reregistered. Each party has an opportunity to call witnesses. The applicant's witnesses testify first, and once they are all completed, the responding party's witnesses testify. Each witness is questioned by the party who called them as a witness, then there is an opportunity for cross-examination, followed by a brief opportunity for the party who called the witness to ask any follow-up questions, and finally, any questions from the panel.

#### *Submissions*

In all instances - whether there is full, partial or no agreement on the facts - the hearing panel will invite the applicant to make submissions in support of their position, followed by an opportunity for submissions by the responding party, as well as an opportunity for the applicant to reply. The hearing panel may ask questions of each party.

#### *Deliberations and Decision*

After evidence and submissions are complete, the hearing panel will deliberate privately on the evidence and submissions in order to come to a decision. The hearing panel has to decide which facts have been established and whether, based on the facts that have been established, the applicant has met their onus on a balance of probabilities.

The hearing panel may make their decision directly after their deliberations and return to the hearing room to deliver their decision to the parties. Alternatively, they may reserve their decision in order to deliberate further and the parties will be notified by the Tribunals Office of hearing panel's decision at a later date.

Where the hearing panel decides that the applicant has not proved their case, the hearing is over, subject to submissions on costs.

### **Costs ([Rule 20](#))**

A hearing panel may make an order requiring a party other than CPA Ontario to pay costs as provided in Regulation 6-2.

## **CPA Ontario Adjudicative Tribunals Tribunals Office**

Each party may present evidence and make submissions on the issue of costs. It is customary for the PCC to file a costs outline seeking to recover some of the costs incurred during the investigation and prosecution of the matter or costs incurred in responding to an unsuccessful readmission application or reconsideration motion.

## **CPA Ontario Adjudicative Tribunals Tribunals Office**

### **After the hearing**

#### **Reasons ([Rule 21](#))**

A panel is required to give written reasons for any final decision or order, including the reasons for any minority or dissent.

After a hearing is concluded, the final decision, order, and written reasons for decision will be sent to the parties by email.

In professional misconduct cases, if a hearing panel reserves its decision on finding, the parties will be notified of the decision at a later date by email from the Tribunals Office. In these circumstances, the Tribunals Office will also contact the parties to reconvene for a hearing on sanction, if necessary.

#### **Posting of documents on CPA Ontario's website ([Regulation 6-2, s. 52](#))**

The originating process, decision, order, and written reasons, as well as every approved settlement agreement, shall be and remain posted on a publicly accessible and searchable area of CPA Ontario's website.

#### **Compliance with the decision and order of a hearing panel**

If a party is ordered to pay a fine and/or costs, they should contact CPA Ontario's Office of the General Counsel ([generalcounsel@cpaontario.ca](mailto:generalcounsel@cpaontario.ca)) to arrange for payment.

#### **Transcripts**

Please reach out to the Tribunals Office by email at [tribunals@cpaontario.ca](mailto:tribunals@cpaontario.ca) for more information on obtaining transcripts.