



Appraisal Institute of Canada
Institut canadien des évaluateurs

CONSOLIDATED REGULATIONS OF THE APPRAISAL INSTITUTE OF CANADA

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1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Definitions of terms used in these Regulations shall be as set out in Article 1 and Article 5 of the Appraisal Institute of Canada By-Law No. 1. In addition, the following definitions shall apply:

AACI — means Accredited Appraiser Canadian Institute designation.

ADMISSIONS AND ACCREDITATION COMMITTEE or AAC — means the Committee established by the Board to fulfill the mandate of overseeing all matters regarding learning and education for AIC, including entry requirements, designation requirements and Continuing Professional Development (CPD).

ADMINISTRATIVE APPEAL - means those appeals referred to in sub-subsections 5.21.1.2, 5.21.1.3, and 5.21.1.4 of these Regulations.

AFFILIATED ASSOCIATION — means “Affiliated Association” as defined in the Institute’s By-Laws.

AFFILIATED ASSOCIATION DIRECTOR — means a member of an Affiliated Association Board of Directors.

AFFILIATED ASSOCIATION OFFICER — means the Affiliated Association president, vice-president(s), president-elect, secretary, treasurer or other equivalent titles in an Affiliated Association's by-laws.

BOARD — means the National Board of Directors of the Institute.

BY-LAWS — means the articles and the sections under each article of Appraisal Institute of Canada By-Law No. 1 and amendments thereto.

CHAPTER - means a sub-group of an Affiliated Association that is created to facilitate and support the policies and activities of the Institute and the Affiliated Association under which the Chapter is established.

CHAPTER OFFICER — means the chapter chair, vice-chair, secretary or treasurer.

COMMITTEE — means a committee constituted by the Board pursuant to section 4.1.1 of these Regulations.

COMPLAINANT — means the person or entity initiating a Complaint.

COMPLAINT — means the allegations made against a Member regarding conduct that breaches the Institute By-Laws, Code of Conduct, Regulations, Policies or CUSPAP.

COMPLAINT REVIEW — means a review or investigation of allegations submitted against a Member pursuant to these Regulations.

COMPLAINT RESOLUTION PROCESS — means the process by which Complaints are administered and resolved.

CONSUMER — means a Member's client, intended user of professional services, or any member of the general public.

CONTINUING PROFESSIONAL DEVELOPMENT PROGRAM or CPD PROGRAM — means the professional development program established by the Board or Board's designate from time to time.

COUNSELLOR — means an individual engaged by the Institute to evaluate and process Complaints, and to initiate Complaints on behalf of the Institute in accordance with these Regulations. Also referred to as Counsellor, Professional Practice.

CRA — means the Canadian Residential Appraiser designation.

CUSPAP — means the Canadian Uniform Standards of Professional Appraisal Practice and amendments to CUSPAP.

DAY — means a calendar day.

DECISION — means a determination, an order or other decision made pursuant to the Institute By-Laws, Regulations, or Policies, whether final or interim.

DECISION-MAKER — means any person or entity that makes or participates in a decision in connection with the official activities of the Institute and includes:

- the Board;
- members of the Board;
- the Institute;
- Institute officers, officials, and employees;
- AIC Committees and Sub-Committees;
- AIC Committee and Sub-Committee Chairs and members;
- an Investigator;
- Affiliated Associations and Chapters;
- Affiliated Association and Chapter officials, employees, officers and committees;
- a Member cooperating with the Institute.

ELIGIBLE MEMBERS — means Designated or Candidate Members of the Institute, with active or retiree status.

HEARING — means an oral, written, electronic, teleconference, or other process for a hearing before a member or Hearing Panel of the Adjudicating or Appeal Sub-Committee.

1 Definitions and Interpretation

HEARING PANEL — means a panel comprised of up to three members appointed by:

- a. the Chair of the Adjudicating Sub-Committee and will be referred to as an Adjudicating Hearing Panel if relating to a Hearing by that Sub-Committee; or
- b. the Chair of the Appeal Sub-Committee and will be referred to as an Appeal Hearing Panel if relating to a Hearing by that Sub-Committee.

INQUIRY — means an inquiry made to the Institute that does not result in a formal Complaint submission against a Member.

INTERIM ORDER - means any order that is not a final order.

INTERVENER — means a person or entity that is not the subject of a Complaint who is granted permission in accordance with these Regulations to participate in the Adjudicating or Appeal Hearing of the Complaint for their own or the public interest.

INVESTIGATOR — means a Member appointed by the Investigating Sub-Committee Chair to conduct a Complaint Review in accordance with these Regulations.

MEMBER - means any person granted membership under any membership category established by the Institute in accordance with the By-Laws.

NATIONAL PROFESSIONAL PRACTICE RECORD — means a database kept by the national office of the Institute containing information regarding Complaint files.

POLICIES — means those policies promulgated by the AIC from time and time.

PRESIDENT — means the president of the Institute.

PROFESSIONAL PRACTICE ADVOCATE — means a Member appointed to represent the AIC in matters of professional practice under the Complaint Resolution Process.

PROFESSIONAL PRACTICE COMMITTEE or PPC— means the Committee established by the Board to fulfill the mandate set out in sub-subsection 4.24.1 of these Regulations.

PROFESSIONAL PRACTICE SUB-COMMITTEE — includes the Standards Sub-Committee, the Investigating Sub-Committee, the Adjudicating Sub-Committee and the Appeal Sub-Committee.

REASONABLE APPRAISER — means a Member providing professional services within an acceptable standard of skill and expertise, and based on rational assumptions.

REASONABLE BELIEF — means a belief that is not completely without doubt but does not rely on speculation, suspicion, guesses or assumptions that have been made without foundation. A reasonable belief is, generally, based on information that is:

- a. reasonably believed to be reliable and accurate; and
- b. available to the Decision-Maker.

1 Definitions and Interpretation

REDACT or REDACTED - means the removal of any information that would identify any person involved in a matter before a Committee or Sub-Committee including: geographical location, the name of a Member, the name of a company, the name of a third party, or the address of a property.

REGULATIONS – means the Consolidated Regulations of the Institute as set forth in this document.

SANCTION — means one of a range of sanctions as set out in subsections 5.35 and 5.36. Sanctions in these Regulations address breaches of the Institute’s By-Laws, Code of Conduct, Regulations, Policies or CUSPAP.

SANCTION CONSENT AGREEMENT – means an agreement offered by the Institute and consented to by a Member who is subject to a Complaint Review applying one or more Sanctions listed in subsection 5.35 to address breaches of the Institute’s By-Laws, Code of Conduct, Regulations, Policies or CUSPAP.

SETTLEMENT AGREEMENT – means an agreement reached between a Member who is subject to Complaint Review and a Professional Practice Advocate suggesting one or more Sanctions listed in subsections 5.35 and 5.36 to address breaches of the Institute’s By-Laws, Code of Conduct, Regulations, Policies or CUSPAP submitted to an Adjudicating or Appeal Hearing Panel for decision.

SUB-COMMITTEE — means a sub-committee constituted by the Board pursuant to section 4.1.1 of these Regulations.

1.2 Interpretation

1.2.1 In these Regulations, except as otherwise expressly provided or unless the context otherwise requires:

- 1.2.1.1 headings are for convenience only and are not intended as a guide to interpretation of these Regulations or any portion thereof;
- 1.2.1.2 the word "including", when following any general statement or term, is not to be construed as limiting the general statement or term to the specific items or matters set forth or to similar items or matters, but rather as permitting the general statement or term to refer to all other items or matters that could reasonably fall within its broadest possible scope;
- 1.2.1.3 all references to currency mean Canadian currency;
- 1.2.1.4 a reference to a statute includes all regulations made thereunder, all amendments to the statute or regulations in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulations;

1 Definitions and Interpretation

- 1.2.1.5 a reference to an entity includes any successor to that entity;
- 1.2.1.6 words importing the masculine gender include the feminine or neuter, words in the singular include the plural, words importing a corporate entity include individuals, and vice versa.

1.3 Interpretation Priority

- 1.3.1 A conflict between the By-Laws, Code of Conduct, Regulations, Policies and CUSPAP will be resolved in accordance with the following priorities:
 - 1.3.1.1 By-Laws have priority over the Code of Conduct;
 - 1.3.1.2 The Code of Conduct has priority over the Regulations;
 - 1.3.1.3 Regulations have priority over Policies;
 - 1.3.1.4 Policies have priority over CUSPAP.

2. GOVERNING MEMBERSHIP

MEMBERSHIP STATUS

2.1 Authority

2.1.1 The Board shall be the sole authority for the establishment of:

- 2.1.1.1 policies and criteria for admission to the Institute;
- 2.1.1.2 the education program curriculum and the related policies; and
- 2.1.1.3 policies and criteria for the requirements for designation and for the establishment of the education program curriculum and the related policies.

2.1.2 The Board may delegate these responsibilities as well as their implementation and administration to Committees, Sub-Committees, Affiliated Associations, Chapters, staff and other organizations.

2.2 Member Responsibilities

2.2.1 All Members are subject to and may only provide professional services according to Institute By-Laws, Code of Conduct, Regulations, Policies, and CUSPAP.

2.3 Definition of Membership Status:

2.3.1 Membership status is defined as:

- 2.3.1.1 Active: a Non-Voting Member or a Voting Member;
- 2.3.1.2 Inactive: an individual who has been expelled or resigned from the Institute;
- 2.3.1.3 Retired: a Member who has applied for retiree status in accordance with the applicable Institute requirements and criteria and has been granted retiree status; or
- 2.3.1.4 On-leave: a Member who has requested and been granted leave on compassionate grounds.
- 2.3.1.5 Suspended: an individual whose membership with the Institute has been suspended.

ADMISSION PROCESS

2.4 Requirements

2.4.1 In order to be eligible to become a Member, an applicant must meet the requirements for admission to the Institute as set out in the Institute By-Laws and Policies.

DESIGNATION PROCESS

2.5 Requirements

- 2.5.1 In order to be eligible to become a Designated Member, an applicant must meet the requirements for designation as set out in the Institute By-Laws and Policies.

2.6 Co-signing

- 2.6.1 An active Designated Member of the Institute may co-sign for active Candidates in accordance with the Candidate Co-signing Policy of the Institute.
- 2.6.2 Failure to properly register a Candidate in the Co-signing Registry will constitute willful non-compliance with Institute Regulations, Policies and CUSPAP by both Candidate and Designated Member for the reports co-signed during the period in which the Candidate was not properly registered.

MAINTENANCE OF MEMBERSHIP

2.7 Membership Dues and Insurance Premiums

- 2.7.1 In addition to other requirements as set out in the Institute By-Laws, Regulations and Policies, in order to maintain active status in the Institute, Members are required to pay:
- 2.7.1.1 annual membership dues, and
 - 2.7.1.2 annual insurance premiums.

2.8 Continuing Professional Development

- 2.8.1 In order to maintain active status, all Designated Members and Candidate Members who are not retired are required to comply with the Institute's Continuing Professional Development (CPD) Policy requirements for each CPD cycle.
- 2.8.2 Designated Members and Candidate Members who fail to satisfy the Institute's CPD Policy requirements by the end of any CPD cycle, will be subject to disciplinary action according to Institute By-Laws, Regulations, and Policies.

TERMINATION OF MEMBERSHIP

2.9 Board Decision to Expel

- 2.9.1 The Board may decide to expel a Member from the Institute in accordance with Institute By-Laws, Regulations, and Policies.

2 Governing Membership

2.10 Appeal of Expulsion

- 2.10.1 Decisions of the Board to expel a Member are final and a Member has no right of appeal unless appeal of the decision is expressly permitted by Institute By-Laws or these Regulations.

2.11 Retirement

- 2.11.1 A Member must comply with the requirements for retirement as set out in the Institute By-Laws, Regulations and Policies.
- 2.11.2 A retired Member shall not provide professional service or Professional Assistance of any kind as set out in CUSPAP including as a member of an appraisal organization other than the Institute.
- 2.11.3 Retired Members must include the word "Retired" with any reference to their AIC designation (e.g. AACI Retired, CRA Retired, AIC Candidate Retired).

2.12 Resignation

- 2.12.1 A Member must comply with the requirements for resignation as set out in the Institute By-Laws, Regulations and Policies.

REINSTATEMENT OF MEMBERSHIP

2.13 Reinstatement

- 2.13.1 Retired or former Members of the Institute may be reinstated, subject to Institute Reinstatement Policy.

3. GOVERNING AFFILIATED ASSOCIATIONS

PURPOSE

3.1 Purpose of Affiliated Association

- 3.1.1 The purpose of an Affiliated Association shall be to support and advance the policy issues of the Institute as reflected in the corporate record.
- 3.1.2 The activities of an Affiliated Association will support and advance the Institute strategic plan, its governance documents, and its programs and initiatives except where the strategic plan and Institute policies contravene provincial legislation.

3.2 Authority

- 3.2.1 The Board retains the authority to establish regulations, policy and standards in all Institute matters.
- 3.2.2 Affiliation with a provincial association must be approved by the Board in accordance with the By-Laws.
- 3.2.3 Affiliated Associations shall have the authority to formulate provincial statements of policy when they are not at variance with the AIC By-Laws, Code of Conduct, Regulations, Policies, CUSPAP or any applicable legislation.
- 3.2.4 Where AIC By-Laws, Code of Conduct, Regulations, Policies, or CUSPAP conflicts with legislation, legislation will supersede.

NAME

3.3 Form of Affiliated Association Name

- 3.3.1 An Affiliated Association's name may be in one of the following forms unless mandated to take a different form by legislation:
 - 3.3.1.1 "[Province Name] Association of the Appraisal Institute of Canada"; or
 - 3.3.1.2 "[Nom de la province] Association de l'Institut canadien des évaluateurs."

IMPLEMENTATION

3.4 Affiliated Association Shall Prepare By-Laws

- 3.4.1 Each Affiliated Association shall prepare Affiliated Association By-Laws conforming to the appropriate legislation of the province in which it is located, which shall be approved by the members of the Affiliated Association.

ASSOCIATION FORMATION

3.5 Boundaries

- 3.5.1 The geographic boundaries of an Affiliated Association will be in accordance with an affiliation agreement between the Affiliated Association and the Institute.
- 3.5.2 Not more than one (1) Affiliated Association shall be approved in any province.

3.6 Application

- 3.6.1 Members in a province may apply to the Board to form an Affiliated Association.

3.7 Chapters

- 3.7.1 The purpose of a Chapter shall be to support and advance the policy issues of the Institute and its Affiliated Associations as reflected in the corporate record.
- 3.7.2 Affiliated Associations shall have the authority to establish or disband Chapters and branches of Chapters within their jurisdictions.
- 3.7.3 Affiliated Association By-Laws shall determine the manner in which Chapters are established, managed and disbanded.

MEMBERSHIP

3.8 Criteria

- 3.8.1 Affiliated Association members shall be Members in Good Standing located in the Affiliated Association's area of jurisdiction.

3.9 Affiliated Association Dues

- 3.9.1 An Affiliated Association shall have the right to establish annual dues in accordance with its Affiliated Association By-Laws.
 - 3.9.1.1 An Affiliated Association shall advise the Institute, in writing, of such approved dues.
 - 3.9.1.2 Approved Affiliated Association dues may be invoiced by the Institute, together with the National and Chapter membership dues.

3.10 Voting Rights

- 3.10.1 Voting rights of Affiliated Association Members in Good Standing shall be in accordance with the Affiliated Association By-Laws.

3.11 Eligibility to Hold Elected Affiliated Association Office

- 3.11.1 Eligibility of Affiliated Association Members in Good Standing to hold elected Affiliated Association office shall be in accordance with the Affiliated Association By-Laws.

AFFILIATED ASSOCIATION COUNCIL

3.12 Responsibilities

- 3.12.1 The property, funds, and affairs of an Affiliated Association shall be overseen by a council duly elected pursuant to the applicable Affiliated Association By-Laws (Affiliated Association Council) and managed within the limits of the applicable Affiliated Association By-Laws.

3.13 Term of Office, Vacancies and Removal

- 3.13.1 The term of office of members of the Affiliated Association board of directors, provisions for filling vacancies, and for removing such directors shall be in accordance with the applicable Affiliated Association By-Laws.

3.14 Signing Authority

- 3.14.1 Authority to execute and certify documents and sign cheques on behalf of an Affiliated Association shall be granted as provided for in the applicable Affiliated Association by-laws.

3.15 Special Assessments and Levies

- 3.15.1 An Affiliated Association Council may levy assessments from time to time on such members, or categories of members, as it may deem appropriate, and may require payment of such levies as a condition of maintaining the membership of a Member in Good Standing in the Affiliated Association.
- 3.15.2 Such levies shall be determined in the manner provided for in the applicable Affiliated Association by-laws, and may be invoiced by the Institute with or separately from the National, Affiliated Association, and Chapter dues, as appropriate.
- 3.15.3 The Affiliated Association shall forthwith advise the Institute, in writing, of such approved levies.

3.16 Dissolution

- 3.16.1 Should an Affiliated Association be dissolved for any reason, its assets, after payment of or provision for its liabilities, shall be dispersed in accordance with any applicable provincial legislation and in accordance with the Affiliated Association By-laws that do not conflict with provincial legislation.

MEETINGS

3.17 Voting in Affiliated Association Council Meetings

- 3.17.1 Voting in an Affiliated Association Council meeting shall be as provided for in the Affiliated Association's by-laws and any applicable regulations enacted by the Affiliated Association.

3.18 Affiliated Association Council Meeting Minutes

- 3.18.1 A copy of the minutes of meetings of an Affiliated Association Council shall be sent to the Institute within thirty (30) days of the meeting.
- 3.18.2 The number and names of Affiliated Association directors present at a meeting shall be recorded in the minutes of the meeting.

3.19 Annual General Meeting

- 3.19.1 An annual general meeting (AGM) of members of an Affiliated Association shall be held each year within the jurisdiction of the Affiliated Association at such time and place as is provided for in the applicable Affiliated Association by-laws.
- 3.19.2 A special meeting (SM) of members of an Affiliated Association may be held within the jurisdiction of the Affiliated Association at such time and place as is provided for in the applicable Affiliated Association by-laws.

3.20 Voting in Annual General Meeting

- 3.20.1 Voting at all Affiliated Association meetings shall be in accordance with the applicable Affiliated Association by-laws.

3.21 Annual General Meeting Minutes

- 3.21.1 Minutes of the AGM or SMs of an Affiliated Association shall be sent to the Institute within thirty (30) days following the date of each meeting.
- 3.21.2 The number of members present shall be recorded in the minutes of all meetings.

NOMINATIONS TO THE BOARD OF DIRECTORS

3.22 Affiliated Associations Shall Elect Nominees

- 3.22.1 Affiliated Associations shall elect nominees to the Board in the required number according to the procedure outlined in the applicable Affiliated Association by-laws.

4. GOVERNING COMMITTEES AND SUB-COMMITTEES

GENERAL BOARD AUTHORITY TO CREATE COMMITTEES

4.1 The Board Shall Establish Terms of Reference

- 4.1.1 The Board may constitute such Committees, Sub-Committees or task forces as it may deem necessary to assist the Board in carrying out the affairs of the Institute.
- 4.1.2 The Board shall establish terms of reference for each Committee and Sub-Committee.
- 4.1.3 The Board shall appoint a chair and members for each Committee and Sub-Committee.

COMMITTEES

4.2 Authority

- 4.2.1 Each Committee receives its authority from and is accountable to the Board.

4.3 Appointment to a Committee

- 4.3.1 The Board may in its sole discretion determine the number of Members that shall be appointed to a Committee and may establish conditions and qualifications for appointment to the Committee and its Sub-Committees.
- 4.3.2 A Voting Member or a Non-Voting Member, as defined in Article 1, Section 1.1(g) and (h) of the By-Laws, is eligible to serve on a Committee.

4.4 Committee Chair - Initial Appointment and Reappointment

- 4.4.1 The Board may in its sole discretion appoint a Committee chair ("the Chair") to hold office for a term of one (1) year and be reappointed for additional terms as the Board deems appropriate.
- 4.4.2 A Voting Member or a Non-Voting Member, as defined in Article 1, Section 1.1(g) and (h) of the By-Laws, is eligible to serve as the Chair of a Committee.

4.5 Committee Chair - Responsibilities

- 4.5.1 The responsibilities of the Chair include, but are not limited to:
 - 4.5.1.1 the effective management and operation of the Committee,
 - 4.5.1.2 the organization and allocation of work among the members of that Committee; and
 - 4.5.1.3 any other responsibilities accorded to the Chair under these Regulations or by direction of the Board.

4.6 Acting Committee Chair

- 4.6.1 If the Chair expects to be absent or is absent, they may designate a member of the Committee as acting Chair for the period that the Chair is absent.
- 4.6.2 If the Chair expects to be absent or is absent and is unable to designate an acting Chair, the Board may appoint a member of the Committee as acting Chair for the period that the Chair is absent.
- 4.6.3 Where the Chair recuses themselves subject to sub-sections 4.16 and 4.17, they shall designate a member of the Committee as acting Chair.

4.7 Committee Members - Temporary Non-Renewable Appointments

- 4.7.1 If the Committee requires additional members, or in cases where a sitting member is temporarily unable to fulfill their duties, the Board, after consultation with the Chair, may appoint an individual who is qualified for appointment as a Committee member.
- 4.7.2 A Voting Member or a Non-Voting Member, as defined in Article 1, Section 1.1(g) and (h), is eligible to serve on a Committee.
- 4.7.3 An appointment under this subsection 4.7, will be reviewed not less than every six (6) months to determine if there is a continuing need for the appointment.
- 4.7.4 Under this subsection 4.7, an individual may be temporarily appointed to the Committee only twice in any two (2) year period.
- 4.7.5 The Board may establish conditions and qualifications for appointments under this subsection 4.7.
- 4.7.6 If an individual performs duties under this subsection 4.7, section 4.20 applies.

SUB-COMMITTEES

4.8 Authority

- 4.8.1 A Sub-Committee will have authority related to the administration of one of the mandates of its Committee and any other direction that may occasionally be given by the Board.
- 4.8.2 A Sub-Committee receives its authority from the Board.
- 4.8.3 A Sub-Committee is accountable to the Board through its Committee.

4.9 Appointment to a Sub-Committee

- 4.9.1 The Board may establish conditions and qualifications that Members must meet for appointment to Sub-Committees.

4.9.2 A Voting Member or a Non-Voting Member, as defined in Article 1, Section 1.1(g) and (h), is eligible to serve on a Sub-Committee.

4.10 Sub-Committee Members - Initial Term and Reappointment

4.10.1 A Member may be appointed to a Sub-Committee after meeting the conditions and qualifications for appointment and consultation with the Chair for an initial term of two (2) years.

4.10.2 A Member may be reappointed upon the recommendation of the Chair as a member of a Sub-Committee for two (2) additional terms of two (2) years each (6 years in total).

4.10.3 A Member may be reappointed beyond the six (6) year maximum by the Board upon the recommendation of the Chair as a member of a Sub-Committee for terms as set out in sub-subsection 4.10.2.

4.10.4 Vacancies in unexpired terms of members of the Sub-Committees shall be filled as promptly as practical by the Board for the balance of the term.

4.11 Sub-Committee Chair - Initial Appointment and Reappointment

4.11.1 The Board will appoint one or more members of a Sub-Committee as the Chair or Co-Chair of that Sub-Committee ("Sub-Committee Chair" or "Chair").

4.11.2 The Board may establish conditions and qualifications that a Member must meet to be appointed as Sub-Committee Chair.

4.11.3 A Sub-Committee Chair may hold the position of Chair for an initial term of two (2) years and may be reappointed Sub-Committee Chair by the Board for two (2) additional terms of two (2) years (6 years in total).

4.12 Sub-Committee Chair - Responsibilities

4.12.1 A Sub-Committee Chair shall:

4.12.1.1 be responsible for the effective management and operation of that Sub-Committee,

4.12.1.2 be responsible for the organization and allocation of work among the members of that Sub-Committee;

4.12.1.3 assume any other responsibilities accorded to the Sub-Committee Chair under these Regulations or by direction of the Board.;

4.12.1.4 preside over meetings of that Sub-Committee;

4.12.1.5 prepare and submit reports to the Chair of its Committee for presentation at each meeting of the Board, with respect to the activities of that Sub-Committee; and,

4.12.1.6 prepare and submit any other reports that may be requested by the Chair of its Committee or occasionally from the Board.

4.13 Acting Sub-Committee Chairs

4.13.1 If a Sub-Committee Chair expects to be absent or is absent, they may designate a member of that Sub-Committee as the acting Sub-Committee Chair for the period that they are absent.

4.13.2 If a Sub-Committee Chair expects to be absent or is absent and unable to designate an acting Sub-Committee Chair, the Board may appoint an individual, who would otherwise be qualified for appointment as a Sub-Committee member.

4.13.3 Subject to subsections 4.16 and 4.17, where a Sub-Committee Chair recuses themselves for any reason, they shall designate a member of the Sub-Committee as acting Chair.

4.14 Sub-Committee Members - Temporary Non-Renewable Appointments

4.14.1 If a Sub-Committee requires additional members, or in cases where a sitting member is temporarily unable to fulfill their duties, the Board may appoint an individual who is otherwise qualified for appointment as a Sub-Committee member.

4.14.2 An appointment under this subsection 4.14, will be reviewed not less than every six (6) months to determine if there is a continuing need for the appointment.

4.14.3 Under this subsection 4.14, an individual may be temporarily appointed to a Sub-Committee only twice in any two (2) year period.

4.14.4 If an individual performs duties under this subsection 4.14, subsection 4.20 applies.

PROVISIONS APPLICABLE TO COMMITTEE AND SUB-COMMITTEE MEMBERS

4.15 Duties of Committee and Sub-Committee Members

4.15.1 Committee and Sub-Committee members must faithfully, honestly and impartially perform their duties.

4.15.2 Committee and Sub-Committee members must not, except in the proper performance of those duties, disclose to any person any information obtained as a member of a Committee or Sub-Committee.

4.16 Committee and Sub-Committee Members Must Declare Conflict

4.16.1 Committee and Sub-Committee members:

- 4.16.1.1 shall declare any actual personal or professional conflict of interest in any matter coming before him or her which could give rise to a reasonable perception of bias; and
- 4.16.1.2 must declare any business or personal relationship or professional affiliation, other than membership in the Institute, with a Member for any matter coming before him or her which could give rise to a reasonable perception of bias.
- 4.16.2 If a Committee or Sub-Committee member declares a conflict, the member must not participate in or be involved in any Decision on the matter.

4.17 Member May Request Recusal of Committee and Sub-Committee Member

- 4.17.1 A Member that is the subject of any matter before a Committee or Sub-Committee may request that any Committee or Sub-Committee member be recused from that matter if the Member has a Reasonable Belief that a conflict of interest exists.
- 4.17.2 The Committee or Sub-Committee Chair or, if a Hearing Panel has been created, a Hearing Panel Chair shall receive the request, advise the applicable Committee or Sub-Committee, consider the facts, and decide on the request.

4.18 Powers After Resignation or Expiry of Term

- 4.18.1 If a member of a Committee or a Sub-Committee resigns or their appointment expires, the Chair may authorize that individual to continue to exercise the powers as a member of the Committee or a Sub-Committee in any matter over which that individual had jurisdiction immediately before the end of their term.
- 4.18.2 An authorization under this subsection 4.18 continues until a final Decision regarding the matter is made.
- 4.18.3 If an individual performs duties under this subsection 4.18, subsubsection 4.20 applies.

4.19 Removal of Committee and Sub-Committee Member

- 4.19.1 The Board may, at its discretion, remove any Committee or Sub-Committee member from their position on a Committee or Sub-Committee.

4.20 Remuneration for Members

- 4.20.1 In accordance with Policies of the Institute, members of a Committee and its Sub-Committees shall be reimbursed for reasonable traveling and out of pocket expenses necessarily incurred in carrying out their duties.
- 4.20.2 Committee and Sub-Committee members serve as unpaid volunteers, unless otherwise approved in advance by the Board.

REPORTING REQUIREMENTS

4.21 Board's Duty to Oversee Activities

4.21.1 A Committee may be required to report to the Board annually in such manner as specified by the Board ("Annual Report").

4.22 Balancing Confidentiality and Thoroughness

4.22.1 A Committee shall consider the confidential nature of the information to be reported in an Annual Report and shall ensure that an Annual Report is Redacted.

4.22.2 However, the Committee shall also ensure that the Redacted information maintains the significance and accuracy of the content being reported on.

SPECIFIC TO THE PROFESSIONAL PRACTICE COMMITTEE

4.23 Professional Practice Committee Mandate

4.23.1 The Professional Practice Committee oversees the regulation of the Member professional practice standards through Complaint resolution, development of professional standards of practice, and provision of educational resources.

4.24 Professional Practice Committee Authority

4.24.1 The Professional Practice Committee terms of reference, and any other direction that may occasionally be given by the Board, authorize the Professional Practice Committee to oversee the activities of its members and the members of its Sub-Committees.

4.25 Appointment of Professional Practice Advocate

4.25.1 A Member may be appointed as Professional Practice Advocate.

4.25.2 A Professional Practice Advocate is appointed to consider Complaint Review reports referred by a Counsellor, or the Investigating Sub-Committee Chair, and to act on the reports.

4.26 Appointment of Interim Professional Practice Advocate

4.26.1 An interim Professional Practice Advocate may be appointed by the Chair of the Professional Practice Committee on an ad hoc basis to assist in the effective and timely management of Complaints. An interim Professional Practice Advocate shall be a:

4.26.1.1 current or former Counsellor;

4.26.1.2 current or former Chair of the Investigating Sub-Committee; or

4.26.1.3 former Chair of the Adjudicating Sub-Committee; or

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- 4.26.1.4 former Professional Practice Advocate.
- 4.26.2 If a former Member of the Professional Practice Committee, an interim Professional Practice Advocate will have been a Member of the Professional Practice Committee within the 5 years prior to the date of appointment.
- 4.26.3 If an interim Professional Practice Advocate cannot be selected from the list in sub-subsection 4.26.1, the Chair of the Professional Practice Committee will request that the President of the Institute, on an ad hoc basis, appoint an interim Professional Practice Advocate with similar qualifications as set out in sub-subsection 4.26.2.
- 4.26.4 If the President of the Institute is the subject of a Complaint, the Vice President will appoint an interim Professional Practice Advocate.

5. GOVERNING PROFESSIONAL PRACTICE

PRACTICE AND PROCEDURE RULE MAKING

5.1 Professional Practice Committee Rule Making

- 5.1.1 Subject to the Institute By-Laws, Code of Conduct, Regulations and Policies, the Professional Practice Committee will provide recommendations to the Board regarding rules respecting practice and procedure to facilitate the just and timely resolution of the matters before the Professional Practice Sub-Committees.
- 5.1.2 The absence of a specific rule does not limit the ability of the Professional Practice Committee or its Sub-Committees to manage and administer their own processes.
- 5.1.3 Without limiting subsection 5.1.2 the Professional Practice Committee may make rules respecting:
 - 5.1.3.1 the holding of pre-hearing conferences, including confidential pre-hearing conferences, and requiring the parties and any interveners to attend a pre-hearing conference;
 - 5.1.3.2 Dispute Resolution Processes;
 - 5.1.3.3 receipt and disclosure of evidence, including pre-hearing receipt and disclosure of evidence and pre-hearing examination of a party on oath, affirmation or by affidavit;
 - 5.1.3.4 the exchange of records and documents by parties;
 - 5.1.3.5 the filing of written submissions by parties;
 - 5.1.3.6 the filing of admissions by parties;
 - 5.1.3.7 the form of notice to be given by a party or Hearing Panel to another party requiring a party to diligently pursue a Complaint or Administrative Appeal and specifying the time within which and the manner in which the party must respond to the notice;
 - 5.1.3.8 service and filing of notices, documents and orders, including substituted service;
 - 5.1.3.9 requiring a party to provide an address for service or delivery of notices, documents and orders;
 - 5.1.3.10 providing that a party's address of record is to be treated as an address for service;
 - 5.1.3.11 procedures for preliminary or interim matters;

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- 5.1.3.12 amendments to an application or responses to it;
- 5.1.3.13 addition of parties to a Complaint or to an Administrative Appeal;
- 5.1.3.14 adjournments;
- 5.1.3.15 the extension or abridgement of time limits provided for in these Regulations;
- 5.1.3.16 the transcribing or tape recording of proceedings and the process and fees for reproduction of a tape recording if requested by a party;
- 5.1.3.17 establishing the forms it considers advisable;
- 5.1.3.18 joining of applications;
- 5.1.3.19 exclusion of witnesses from proceedings;
- 5.1.3.20 the effect of a party's non-compliance with a Hearing Panel's rules; and
- 5.1.3.21 access to and restriction of access to documents by any person.

INITIATION OF COMPLAINT PROCESS

5.2 Receipt of Complaints

- 5.2.1 Every Complaint must be submitted in writing to and acknowledged by the Institute.
- 5.2.2 Despite sub-subsection 5.2.1, a formal written Complaint is not required for any matter related to misleading advertising brought to the attention of the Institute.

5.3 Institute Initiated Complaint Arising from an Inquiry

- 5.3.1 In the case of an Inquiry, a Counsellor may initiate a Complaint on behalf of the Institute in order to investigate conduct that may be deserving of a Sanction that may otherwise not have been submitted to the Institute.

5.4 Institute Initiated Complaint Arising from Withdrawal of a Complaint

- 5.4.1 Where a Complaint is withdrawn in whole or in part, the Institute may:
 - 5.4.1.1 order that the Complaint or part of it be dismissed, and
 - 5.4.1.2 continue the investigation of the Complaint in order to investigate conduct that may be deserving of a Sanction.

5.5 Member-on-Member Complaints

- 5.5.1 A Member may submit a Complaint against another Member.

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- 5.5.2 A Member making a Complaint must do so in good faith, for the protection of the reputation of the profession or of the public good, and in accordance with CUSPAP Ethics Standard Rule.
- 5.5.3 A breach of CUSPAP Ethics Standard Rule may be pursued as an issue arising from the original Complaint matter.

5.6 Complaint Against a Committee, Sub-Committee, Council or Board Member

- 5.6.1 When a Complaint is filed against a member of an Institute Committee or Sub-Committee or any member on an Affiliated Association Council or the Board, a Counsellor will undertake an initial review in accordance with this subsection 5.6.
- 5.6.2 If a Counsellor resolves the Complaint, the Counsellor will notify the member's Committee or Sub-Committee Chair, a provincial President or the President of the Institute, as applicable.
- 5.6.3 If a Counsellor refers the Complaint to a Professional Practice Advocate or to the Investigating Sub-Committee for further investigation, the Counsellor will notify the Chair of the member's Committee or Sub-Committee, a provincial President or the President of the Institute, as applicable.
- 5.6.4 If referred to a Professional Practice Advocate, the member's Committee or Sub-Committee Chair, a provincial President, or the President of the Institute may order the member to discontinue any participation in, or the exercising of any power in relation to, the applicable Committee, Sub-Committee, Affiliated Association Council or the Board until the Complaint is resolved.

5.7 Administration of a French Language Complaint

- 5.7.1 An Investigator fluent in the French language shall be appointed to undertake a review of a Complaint if:
 - 5.7.1.1 a French-speaking Member requests administration of the Complaint in the French language; or
 - 5.7.1.2 the Complaint is submitted in the French language.
- 5.7.2 The French Complaint Review report and other French documents in the complaint file shall be translated into English as required.
- 5.7.3 If an Investigator fluent in the French language cannot be found:
 - 5.7.3.1 the Complaint file will be translated into English and investigated by an English-speaking Investigator, and

- 5.7.3.2 correspondence with the Member subject to the Complaint or with the Complainant will be translated into French.

5.8 Referrals, Considerations and Investigations not an Adjudication

- 5.8.1 The referral of a Complaint shall not constitute an adjudication of any aspect of a Complaint.
- 5.8.2 Consideration by a Counsellor of a Complaint or by a Professional Practice Advocate of a Complaint or a Complaint Review report pertaining to a Complaint shall not constitute an adjudication of any aspect of a Complaint.

SCOPE OF COMPLAINT REVIEW

5.9 Scope of Complaint Review

- 5.9.1 The focus of a Complaint Review shall be compliance with CUSPAP, the Institute By-Laws, Code of Conduct, Regulations, and Policies.
- 5.9.2 The scope of a Complaint Review is intended to be sufficiently broad to permit the investigation of:
 - 5.9.2.1 all Complaint matters, and
 - 5.9.2.2 other issues arising out of the Complaint Review, including:
 - 5.9.2.2.1 conduct by a Member who was not a subject of the initial Complaint.

5.10 Matters Outside the Scope of the Complaint Review

- 5.10.1 The Institute will not review or investigate a Complaint submitted anonymously.
- 5.10.2 A Complaint Review is not intended to arbitrate the final opinion of value. The Institute will not provide an opinion on the final opinion of value, conduct a new report, or direct that a new report be prepared by the Member.
- 5.10.3 A Complaint Review is not intended to be a technical review of a report as set out in the Review Standard.
- 5.10.4 A Complaint Review will not recommend financial compensation and the Professional Practice Sub-Committees cannot make any order for financial compensation to be paid to the Complainant.
- 5.10.5 A Complaint Review shall not be a review of a Member's fees and disbursements unless they are alleged to be fraudulent or there may have been a payment of concealed fees, a commission, or a thing of value in connection with the procurement of professional services.

5.11 Standard of Review

- 5.11.1 When the Institute considers alleged breaches of CUSPAP, the standard of review to be applied is that of the Reasonable Appraiser.
- 5.11.2 When the Institute considers alleged breaches of the Institute By-Laws, Code of Conduct, Regulations and Policies the standard of review to be applied is Reasonable Belief.

DISMISSAL

5.12 Dismissal of Complaint

- 5.12.1 At any time after a Complaint is filed, all or part of the Complaint may be dismissed in accordance with the Regulations if it is determined that any one or more of the following apply:
 - 5.12.1.1 the Complaint is not within the jurisdiction of the Institute;
 - 5.12.1.2 the Complaint is frivolous, vexatious or trivial, or gives rise to an abuse of process;
 - 5.12.1.3 the Complaint was made in bad faith or filed for an improper purpose or motive;
 - 5.12.1.4 there is no reasonable prospect the Complaint is valid;
 - 5.12.1.5 the substance of the Complaint is outside the scope of a Complaint Review; or
 - 5.12.1.6 the substance of the Complaint has been appropriately dealt with in another proceeding, including a court proceeding.

COUNSELLOR

5.13 Powers of a Counsellor

- 5.13.1 The powers of a Counsellor are the following:
 - 5.13.1.1 reviewing the substance of an Inquiry and, if deemed to be warranted, initiate a Complaint on behalf of the Institute;
 - 5.13.1.2 receiving and administer Complaint file referrals;
 - 5.13.1.3 performing an initial review of a Complaint and matters arising therein;
 - 5.13.1.4 referring a file to the Investigating Sub-Committee for further investigation;
 - 5.13.1.5 offering a without prejudice Sanction Consent Agreement;

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5.13.1.5.1 Where a Counsellor and the Member fail to reach a Sanction Consent Agreement, the Counsellor shall refer the matter to a Professional Practice Advocate.

5.13.1.5.2 Any proposed Sanction Consent Agreement as well as any record of negotiations for a proposed Sanction Consent Agreement shall not be included in a Counsellor's Complaint Review report to a Professional Practice Advocate, or any Hearing brief.

5.13.1.6 implementing a Sanction Consent Agreement;

5.13.1.7 referring a Complaint to a Professional Practice Advocate if:

5.13.1.7.1 there is reason to believe that the Member has knowingly violated the Ethics Standard;

- this sub-subsection does not apply to Ethics Standard Rule 4.2.9 (workfile).

5.13.1.7.2 there is reason to believe the Member has knowingly provided misleading information to the Institute; or

5.13.1.7.3 negotiations for a Sanction Consent Agreement between the Counsellor and the Member have failed.

5.13.1.8 undertaking any other investigation referred by the Board;

5.13.1.9 providing advice to the Member as a way to educate and prevent reoccurrence;

5.13.1.10 dismissing a Complaint; and

5.13.1.11 doing anything else necessary for the proper discharge of their duties.

5.14 Conflict

5.14.1 Where a Counsellor is in conflict with or must ask to be recused from, a Complaint matter, the Complaint will be referred to another Counsellor. If no other Counsellor is available, the file will be referred to a Professional Practice Advocate.

PROFESSIONAL PRACTICE ADVOCATE

5.15 Powers of Professional Practice Advocate

5.15.1 The powers of a Professional Practice Advocate are the following:

5.15.1.1 receiving and consider Complaint files referred from a Counsellor;

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- 5.15.1.2 referring a Complaint to the Investigating Sub-Committee for further investigation;
- 5.15.1.3 offering a without prejudice Sanction Consent Agreement;
 - 5.15.1.3.1 Where a Professional Practice Advocate and the Member fail to reach a Sanction Consent Agreement, a Professional Practice Advocate shall requisition a Hearing before an Adjudicating Hearing Panel;
 - 5.15.1.3.2 Any proposed Sanction Consent Agreement as well as any record of negotiations for a proposed Sanction Consent Agreement shall not be included in any Hearing brief;
- 5.15.1.4 implementing a Sanction Consent Agreement;
- 5.15.1.5 providing advice to the Member as a way to educate and prevent reoccurrence;
- 5.15.1.6 dismissing a Complaint;
- 5.15.1.7 considering Complaint Review reports;
- 5.15.1.8 submitting a requisition for a Hearing before the Adjudicating Sub-Committee;
- 5.15.1.9 negotiating a Settlement Agreement;
- 5.15.1.10 presenting a Settlement Agreement to a Hearing Panel for consideration;
- 5.15.1.11 filing a Notice of Appeal for a Hearing before the Appeal Sub-Committee;
- 5.15.1.12 acting as the Institute representative at any Hearing; and
- 5.15.1.13 doing anything else necessary for the proper discharge of their duties.

INVESTIGATING SUB-COMMITTEE REVIEW OF COMPLAINT AND MATTERS ARISING

5.16 Assignment of Investigator to a Complaint File

- 5.16.1 An Investigating Sub-Committee Chair shall assign an Investigator to investigate a Complaint that has been referred by a Counsellor, Professional Practice or a Professional Practice Advocate to the Investigating Sub-Committee for investigation.
- 5.16.2 An Investigator will complete an investigation and prepare a Complaint Review report and provide any further support or assistance to the Institute that may be required including participation as a witness before a Hearing Panel.

5.17 Complaint Review Report

- 5.17.1 The Complaint Review report will address the allegations made in the Complaint and any issue arising from the review of the Complaint.

5.17.2 The Complaint Review report shall be considered confidential and will not be disclosed. Neither a party to the Complaint, including the Member, nor any third party shall be provided with a copy of the investigation report.

5.17.3 The Complaint Review report shall not be entered as evidence at any Hearing.

ADJUDICATING SUB-COMMITTEE

5.18 Adjudicating Powers and Duties

5.18.1 An Adjudicating Hearing Panel empaneled by the Chair of the Adjudicating Sub-Committee to hear and resolve a Complaint matter shall provide its Decision with reasons in writing.

5.18.2 An Adjudicating Hearing Panel may take one or more of the following actions:

5.18.2.1 dismiss the Complaint on the basis that:

5.18.2.1.1 one or more of the grounds listed in subsection 5.12 apply in respect of the Complaint; or

5.18.2.1.2 the grounds of the Complaint have not been established.

5.18.2.2 issue a Decision to:

5.18.2.2.1 impose any one or more Sanctions pursuant to subsections 5.35 and 5.36;

5.18.2.2.2 impose the Sanctions included in a Settlement Agreement submitted for their consideration by a Professional Practice Advocate and a Member subject to a Complaint pursuant to subsection 5.51 if the Adjudicating Hearing Panel is satisfied that the Settlement Agreement is consistent with the Institute By-Laws, Code of Conduct, Regulations, Policies, and CUSPAP;

5.18.2.3 make an award of Costs in accordance with subsection 5.38.

5.18.3 The Adjudicating Hearing Panel may attach such terms or conditions to a Decision as it deems appropriate.

5.19 Adjudicating Hearing Panel Decision to be Issued within Sixty Days

5.19.1 The Adjudicating Hearing Panel Decision whenever possible will be issued within sixty (60) days of the date upon which a Hearing concludes, and is effective on the date on which it is issued, unless otherwise specified by the Adjudicating Hearing Panel.

5.20 Standard of Review before Adjudicating Hearing Panel

- 5.20.1 The standard of review to be applied when an Adjudicating Hearing Panel considers alleged breaches of CUSPAP is that of the Reasonable Appraiser.
- 5.20.2 The standard of review to be applied when an Adjudicating Hearing Panel considers alleged breaches of the Institute By-Laws, Code of Conduct, Regulations and Policies is Reasonable Belief.

APPEALS AND APPLICATION FOR APPEAL

5.21 Right of Appeal

- 5.21.1 A Member may apply to the Appeal Sub-Committee for appeal of:
 - 5.21.1.1 a Decision of an Adjudicating Hearing Panel;
 - 5.21.1.2 any decision of the AAC identified as appealable by AAC Policy;
 - 5.21.1.3 a Board vote to remove a Member from membership in accordance with By-Law 5.9; and
 - 5.21.1.4 a Board decision to deny membership or regarding the imposition of conditions of membership.
- 5.21.2 The Institute may apply to the Appeal Sub-Committee for appeal of a Decision of an Adjudicating Hearing Panel.

5.22 Form of Application for Appeal

- 5.22.1 An application for appeal must be:
 - 5.22.1.1 made on the applicable official Institute forms;
 - 5.22.1.2 submitted to the Institute within thirty (30) days of the date of the Decision being appealed;
 - 5.22.1.3 accompanied by payment of an administrative fee in accordance with applicable, current AAC or Professional Practice Committee policy; and
 - 5.22.1.4 signed by the Member or by the Member and their Counsel or agent or in the case of an appeal by the Institute signed by a Professional Practice Advocate or their delegate.

5.23 Application Fee May be Refunded

- 5.23.1 The appeal application fee may be refunded as directed by an Appeal Hearing Panel in its Decision if the Appeal Hearing Panel determines that the Member was substantially or fully successful in the appeal.

5.24 Extension May be Granted

5.24.1 If the thirty (30) day deadline has not expired, the Member or the Institute may request an extension beyond the thirty (30) day deadline to submit the application for appeal.

5.24.1.1 An Appeal Sub-Committee Chair shall consider the request and may allow a reasonable extension to the deadline.

5.24.2 Despite sub-subsection 5.22.1.2, if the deadline of thirty (30) days has expired, the Member or the Institute may request an extension.

5.24.2.1 An Appeal Sub-Committee Chair may allow a reasonable extension, if satisfied that special circumstances exist.

5.24.3 Despite subsection 5.22, if an application for appeal is deficient or if the prescribed fee is outstanding, an Appeal Sub-Committee Chair may allow a reasonable period of time for correction of the application or payment of the fee.

5.25 Appeal Operates as a Stay

5.25.1 The submission of an application for appeal shall operate as a stay of a Decision until such time as:

5.25.1.1 the appeal application is rejected, or

5.25.1.2 the appeal is finally determined, or

5.25.1.3 otherwise directed in a written Decision.

APPEAL SUB-COMMITTEE

5.26 Powers and Duties

5.26.1 An Appeal Hearing Panel shall hear all appeals permitted under these Regulations [see subsection 5.21].

5.26.2 In determining an appeal, the Appeal Hearing Panel may make an order to:

5.26.2.1 affirm the appealed Decision;

5.26.2.2 vary the appealed Decision;

5.26.2.3 quash the appealed Decision; or

5.26.2.4 remit the Complaint to the Adjudicating Sub-Committee for a new Hearing before a new Adjudicating Hearing Panel with any directions or instructions the Appeal Hearing Panel deems appropriate.

5.27 Appeal Sub-Committee May Decide Not to Hear Appeal

5.27.1 At any time after the submission of an application for appeal but not less than thirty (30) days before a scheduled Appeal Sub-Committee Hearing, on motion by a Professional Practice Advocate or the Member, or on their own volition, the Appeal Sub-Committee Chair or an Appeal Hearing Panel may decide not to consider an appeal for one or more of the following reasons:

5.27.1.1 the appeal is frivolous or without reasonable chance of success;

5.27.1.2 the appeal was not submitted within the timelines established, or

5.27.1.3 there is no substantive basis in support of the appeal set out in the notice of appeal.

5.28 Evidence Allowed at Appeal Hearing

5.28.1 An Appeal Sub-Committee Hearing of an appeal of a Decision of the Adjudicating Sub-Committee is not a hearing “de novo”.

5.28.1.1 New evidence shall not be considered unless the Appeal Hearing Panel is satisfied that such evidence was not reasonably available at the time of the Adjudicating Sub-Committee Hearing.

5.28.2 Despite sub-subsection 5.28.1.1, in the case of an Administrative Appeal, the Appeal Hearing Panel may in its discretion admit and consider evidence not presented in the original proceeding that resulted in the Decision being appealed.

5.29 Standard of Review at Appeal Hearing

5.29.1 The standard of review to be applied to a Decision that has been appealed to the Appeal Sub-Committee is correctness for all questions except those respecting:

5.29.1.1 the exercise of discretion,

5.29.1.2 findings of fact, and

5.29.1.3 the application of the common law rules of natural justice and procedural fairness.

5.29.2 An Appeal Hearing Panel must not set aside a discretionary Decision unless it is patently unreasonable.

5.29.3 A discretionary Decision is patently unreasonable if the discretion:

5.29.3.1 is exercised arbitrarily or in bad faith;

5.29.3.2 is exercised for an improper purpose; or

5.29.3.3 is based entirely or predominantly on irrelevant factors.

5.29.4 An Appeal Hearing Panel must set aside a finding of fact if:

5.29.4.1 there is no evidence to support it; or

5.29.4.2 in light of all the evidence, the finding of fact is otherwise unreasonable.

5.29.5 Decisions involving the application of the common law rules of natural justice and procedural fairness must be decided based on whether, in all of the circumstances, the Decision-Maker acted fairly.

5.30 Appeal Hearing Panel Decision to be Issued Within Sixty Days

5.30.1 An Appeal Hearing Panel Decision whenever possible will be issued within sixty (60) days of the date upon which a Hearing concludes, and is effective on the date on which it is issued, unless otherwise specified by the Appeal Hearing Panel.

5.31 Appeal Hearing Panel Decision is Final

5.31.1 Appeal Hearing Panel Decisions shall be final without any further right of review or appeal.

DECISIONS

5.32 Notice of Decisions

5.32.1 The Institute must send the Advocate, the Member and any intervener a copy of a final Decision made by the Adjudicating Sub-Committee or, in the case of an appeal, by the Appeal Sub-Committee.

5.32.2 If a Complainant has provided written consent for the release of information, the Complainant shall be entitled to a copy of a final Decision.

5.33 Compliance with the Resolution of a Complaint File

5.33.1 The Institute shall ensure compliance with the resolution of a Complaint file.

5.33.2 Where a Member has failed to comply with the terms of a Sanction Consent Agreement or an Adjudicating or Appeal Sub-Committee Decision, final or otherwise, within the timelines established in that agreement or Decision and the Member has not made arrangements with the Institute for an extension, and no appeal is pending:

5.33.2.1 a Suspension for Non-Compliance will be imposed upon the Member; and

5.33.2.2 the Institute will provide notice of suspension to the Member.

5.33.3 This is an administrative action and does not require a Hearing.

5.33.4 If at the end of the thirty (30) day suspension period as provided in sub-subsection 5.33.2 the Member has still not complied with the Sanction Consent Agreement or the Decision,

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a recommendation for Expulsion will be submitted by the Institute to the Board for a vote in accordance with Institute By-Laws. This is an administrative action and does not require a Hearing.

5.33.5 The Member will remain suspended until the Board vote.

5.33.6 If the Board votes for Expulsion, Notice of the Expulsion shall be published in accordance with subsection 5.37 and notice shall be provided to the Member in the manner required by these Regulations.

5.33.7 Where a Member has retired or passed away after a Decision has been rendered, compliance may be placed in abeyance as set out in subsections 5.40 and 5.42.

5.33.8 Where a Member has retired or resigned compliance with all Decisions affecting the Member will become a requirement for re-instatement as set out in subsection 5.41.

SANCTIONS AVAILABLE TO DECISION-MAKERS

5.34 Actions that are Sanctionable

5.34.1 Sanctions may be applied for any one or more acts or omissions including:

5.34.1.1 any act or omission that is detrimental to the best interests of the public or harms the integrity of the profession;

5.34.1.2 any intentional or unintentional act or omission that violates CUSPAP;

5.34.1.3 invalid insurance;

5.34.1.4 administrative infractions including:

5.34.1.4.1 not properly registered in the Candidate Co-Signing Registry maintained by the Institute;

5.34.1.4.2 not properly registered in the Non-Member Registry maintained by the Institute;

5.34.1.4.3 improperly registered in the fee or non-fee category;

5.34.1.5 any non-compliance with an order or an undertaking or a Sanction;

5.34.1.6 any non-cooperation with an Institute investigation;

5.34.1.7 any false or misleading statements made by a Member during an investigation;

5.34.1.8 any harassment or inappropriate conduct directed towards any of the Board of Directors of the Institute; or any member of the Professional Practice Committee or its Sub-Committees or any employee or officer of the Institute;

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- 5.34.1.9 any inappropriate disclosure of information that is confidential including the contents of all reports and documents, including the source of a Complaint and the existence of any Complaint Review and any interim or final Decision;
- 5.34.1.10 any inappropriate conduct directed towards a Complainant that may be deemed as being retaliatory or retribution for the submission of a Complaint.
- 5.34.2 Record of previous sanctions in the Institute's National Professional Practice record can be considered in determining an appropriate Sanction in a current Complaint Review.

DEFINITIONS OF SANCTIONS

5.35 The following Sanctions may be implemented by agreement or ordered by a Hearing Panel Decision:

- 5.35.1 **Reprimand.** A Reprimand is a written warning calling the attention of a Member to a breach of the Institute By-Laws, Code of Conduct, Regulations, Policies, or CUSPAP.
 - 5.35.1.1 A Reprimand is entered into the Institute's National Professional Practice Record for a period of five (5) years of being ordered or implemented, and may create adverse consequences on similar findings during that five (5) year period.
- 5.35.2 **Education.** An Education Sanction is a specific educational course or courses drawn from the Institute's program of professional studies or the CPD Program or equivalent offered by the Institute or the Institute's educational partners.
 - 5.35.2.1 An Education Sanction is to be:
 - 5.35.2.1.1 completed at a Member's own expense;
 - 5.35.2.1.2 completed within the period of time indicated in the Decision ordering the Education Sanction or, alternatively, as stipulated in the conditions under which the Member has agreed to complete the educational course or courses unless a Member requests and is granted additional time; and
 - 5.35.2.1.3 entered into and remain in the Institute's National Professional Practice Record for a period of five (5) years.
 - 5.35.2.2 A Member:
 - 5.35.2.2.1 is required to provide proof of successful completion of the Education Sanction; and
 - 5.35.2.2.2 may claim CPD credits as permitted by the Institute.

5.35.3 **Peer Review.** A Peer Review is a compliance review of professional services conducted in accordance with the Institute's peer review program.

5.35.3.1 If Peer Review is required pursuant to a Decision or, alternatively, a Member has agreed to submit to Peer Review, the Member will deliver a report in accordance with the requirements of the Decision or in accordance with the conditions under which the Member has agreed to submit to Peer Review.

5.35.3.2 If the report provided by the Member fails the initial Peer Review, the Member must revise and resubmit the report for a second Peer Review. If the report fails the second Peer Review, the Member must revise and resubmit the report for a third Peer Review.

5.35.3.3 If the report submitted by the Member fails a third Peer Review, the Member must revise and resubmit the report for a fourth Peer Review and the Member must pay a fine of \$1,000.

5.35.3.4 If the report submitted by the Member for a fourth Peer Review fails the Peer Review, the matter will be referred to the Board for consideration and determination if the Member will be allowed to continue membership in the Institute and if so under what conditions such membership can continue.

5.35.3.5 The Peer Review is to be completed within the period of time indicated in the Decision ordering the Peer Review or, alternatively, as stipulated in the conditions under which the Member has agreed to submit to Peer Review unless the Member requests and is granted additional time.

5.35.3.6 Peer Review is completed at a Member's expense.

5.35.3.7 The Peer Review sanction is to be entered into and remain in the Institute's National Professional Practice Record for a period of five (5) years.

5.35.3.8 The Member participating in Peer Review may claim CPD credits as permitted by the Institute.

5.35.4 **Fine.** A fine is a payment of money.

5.35.4.1 A fine shall not exceed \$10,000.00.

5.35.4.2 The amount of each fine for a series of consecutive breaches of the Institute By-Laws, Code of Conduct, Regulations, Policies, or CUSPAP may be increased at the discretion of the Decision-Maker.

5.35.4.3 Fines are to be paid within the period of time indicated in the order or implementation unless a Member requests and is granted additional time.

5.35.4.4 The fine sanction is to be entered into and remain in the Institute's National Professional Practice Record for a period of five (5) years.

5.36 The following sanctions may only be ordered by a Hearing Panel in a Decision:

5.36.1 **Censure.** A Censure is a formal written expression of criticism and disapproval for a breach of the Institute By-Laws, Code of Conduct, Regulations, Policies, or CUSPAP.

5.36.1.1 Subject to subsection 5.37, a Censure may be ordered to be made public and may be published in a public forum.

5.36.1.2 The censure sanction is to be entered into and remain permanently in the Institute's National Professional Practice Record, and may create adverse consequences on similar findings.

5.36.2 **Suspension:** A suspension is a temporary revocation of a Member's privileges of membership in the AIC for a period of up to two (2) years, and upon such terms as determined by order of a Hearing Panel; and

Interim Suspension for Non-Compliance with an Investigation: An Interim Suspension for Non-compliance with an Investigation is a temporary revocation of a Member's privileges of membership in the AIC for a period of thirty (30) days. A separate Suspension for Non-Compliance may be imposed against a Member for each instance of non-compliance.

5.36.2.1 A suspended Member continues to be a Member of the Institute but is not considered to be a Member in Good Standing.

5.36.2.2 During the period of suspension, a suspended Member:

5.36.2.2.1 loses all Member privileges including coverage under the Institute's Professional Liability Insurance Program;

5.36.2.2.2 may not in any way identify themselves as a Member in good standing of the Institute;

5.36.2.2.3 may not use their designation for any purpose including co-signing;

5.36.2.2.4 must advise their employer and clients of their suspension and insurance status; and

5.36.2.2.5 may not perform any Professional Services or Professional Assistance as defined in CUSPAP during the period of suspension.

5.36.2.3 The suspension sanction is to be entered into and remain permanently in the Institute's National Professional Practice Record, and may create adverse consequences on similar findings.

5.36.3 **Suspension of Co-signing privileges.** Suspension of co-signing privileges means the revocation of a Designated Member's privilege to co-sign reports signed by Candidate Members for a period of up to two (2) years.

5.36.3.1 The Designated Member will be banned from the AIC Co-signing Registry during this period.

5.36.3.2 Any co-signing relationships the Designated Member has registered in the AIC Co-signing Registry will be deactivated until the period of suspension of Co-signing privileges has expired.

5.36.4 **Expulsion.** Expulsion of a Member means the removal of a Member from membership in the AIC.

5.36.4.1 A Decision recommending Expulsion of the Member will be submitted to the Board for a vote in accordance with the By-Laws.

5.36.4.2 A decision by the Board to expel a Member cannot be appealed except as provided in the By-Laws. There shall be no right to a further Hearing.

5.36.4.3 Expulsion from the AIC is to be entered into and remain permanently in the Institute's National Professional Practice Record.

5.36.4.4 A Member that has been expelled shall not be considered for re-instatement of membership in the Institute for a period of not less than five (5) years.

5.36.4.5 Expulsion shall be published on a public forum.

PUBLICATION OF SANCTION

5.37 Publication

5.37.1 A case summary of the facts relating to and the outcome of a Complaint matter shall be published on the Institute's public website for a period of twelve (12) months.

5.37.1.1 Case summaries for a Complaint matter resolved by any Sanction listed in section 5.35 shall be Redacted.

5.37.1.2 Case summaries for a Complaint matter resolved by any Sanction listed in section 5.36 shall not be Redacted.

5.37.1.3 Despite sub-subsection 5.37.1, the period of publication of the case summary may be varied at the Hearing Panel's discretion and if varied, will be stated in their Decision.

5.37.2 In addition to sub-subsection 5.37.1 and despite sub-subsection 5.37.1.1, at their discretion, a Hearing Panel may order that a publication, not to be Redacted, be placed in a local media source in the interests of public confidence and consumer protection.

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- 5.37.2.1 Where publication in a local media source is ordered, the Member will reimburse the Institute for the costs of publication.
- 5.37.2.2 Failure to reimburse the Institute shall result in a recommendation to the Board for Expulsion from the Institute.
- 5.37.3 At its discretion, the Institute may use redacted case summaries for educational, training, or professional practice instruction purposes.

COSTS

5.38 Costs

- 5.38.1 The calculation of costs may be based on factors including:
 - 5.38.1.1 the travel and accommodation expenses incurred by authorized Committee and Sub-Committee members, external resources, and staff of the Institute arising from the administration and resolution of a Complaint or an Administrative Appeal;
 - 5.38.1.2 the fees of any internal or external advisors or resources arising from the administration and resolution of a Complaint or an Administrative Appeal;
 - 5.38.1.3 the administrative costs incurred by the Institute arising from the Complaint or the Administrative Appeal; and
 - 5.38.1.4 the cost of publication in external media.
- 5.38.2 A Member and the Institute may make submissions on Costs.
- 5.38.3 A Member will pay Costs within the period of time indicated in the order or implementation unless a Member requests and is granted an extension.
- 5.38.4 Failure to pay Costs within the period of time indicated in the order or implementation or by a granted extension shall result in suspension of membership for a period of thirty (30) days.
 - 5.38.4.1 This is an administrative action and does not require a Hearing or further consideration.
- 5.38.5 Failure to pay Costs within 30 days after suspension, shall result in a recommendation for Expulsion by the Institute to the Board for a vote in accordance with By-Laws.
 - 5.38.5.1 This is an administrative action and does not require a Hearing or further consideration.
- 5.38.6 Members shall not be entitled to claim or otherwise seek reimbursement of expenses, charges, or costs in any form incurred in connection with a Complaint or an

Administrative Appeal, regardless of the outcome of the Complaint or the Administrative Appeal.

EFFECT OF MEMBER STATUS ON COMPLIANCE

5.39 Resignation

5.39.1 Where a Member has resigned prior to the rendering of a final Decision;

5.39.1.1 the Complaint Review shall proceed to a final Decision;

5.39.1.2 any Sanctions and orders for Costs imposed on the Member will remain on the Member's record until such time as the Member applies for reinstatement regardless of the defined duration of the Sanction;

5.39.1.3 the resignation period prior to re-instatement of the Member will not be counted toward the duration of the Sanctions imposed on the Member; and

5.39.1.4 the reinstatement date will be considered the start date of the duration of any imposed Sanctions and orders for Costs during the resignation period of the Member as defined in sections 5.35, 5.36, 5.37, and 5.38 regardless of the date of the final Decision.

5.39.2 A Sanction listed in subsections 5.35 or 5.36 shall be published subject to section 5.37.

5.40 Retirement

5.40.1 Where a Member has retired prior to the rendering of a final Decision:

5.40.1.1 the Complaint Review shall proceed to a final Decision;

5.40.1.2 compliance with a Sanction listed in section 5.35 and any order for Costs shall be placed in abeyance until such time as the Member applies for re-instatement to active status;

5.40.1.3 any Sanctions listed in section 5.35 will remain on the Member's record until such time as the Member applies for reinstatement to active status;

5.40.1.4 the retirement period prior to re-instatement of the Member will not be counted toward the duration of the Sanctions imposed on the Member; and

5.40.1.5 the reinstatement date will be considered the start date of the duration of any Sanctions imposed and orders for Costs during the retirement period of the Member as defined in sections 5.35, 5.36, 5.37, and 5.38 regardless of the date of the final Decision.

5.40.2 Despite sub-subsection 5.40.1.2, a Sanction listed in subsection 5.36 will not be placed in abeyance.

5.40.2.1 If ordered, a Sanction listed in subsection 5.36 shall be published subject to subsection 5.37.

5.41 Requirements for Reinstatement

5.41.1 If a Resigned or a Retired Member applies for reinstatement to active status, compliance with Sanctions listed in subsection 5.35 remaining on Member's record and payment of Costs the Member has been ordered to pay will be prerequisites for reinstatement.

5.41.2 The Member shall have thirty (30) days after reinstatement to appeal any Sanctions listed in section 5.36 imposed on the Member during a period of resignation or retirement.

5.42 Deceased

5.42.1 Where a Member passes away prior to a Decision or implementation of a Decision, compliance with a Sanction listed in section 5.35 and any order for Costs shall be placed in abeyance in perpetuity.

5.42.2 Upon the death of a Member, any publication in accordance with subsection 5.37 shall cease.

DISCLOSURE

5.43 Disclosure Protection

5.43.1 Except as provided by these Regulations, the Institute, its employees and members of the Professional Practice Committee shall hold as confidential the contents of a Complaint file as well as the existence of any Complaint Review.

5.43.2 The identity of the Complainant shall be released to the Member under investigation.

5.43.3 Where a Complainant withdraws their Complaint, but the AIC continues the Complaint Review, the Complainant shall be identified as the Appraisal Institute of Canada to the Member.

5.43.4 Where a Counsellor, Professional Practice initiates a Complaint as a result of an Inquiry, the Complainant shall be identified as the Appraisal Institute of Canada to the Member.

5.43.5 The Complainant shall be provided with:

5.43.5.1 the findings and any resulting Sanctions relating to the substance of their Complaint provided in a Sanction Consent Agreement; or

5.43.5.2 the final Decision and reasons of the Adjudicating Sub-Committee in relation to the Complaint unless an application for appeal has been made; or

5.43.5.3 the final Decision and reasons of the Appeal Sub-Committee in relation to the Complaint.

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- 5.43.6 The resignation, retirement, or death of a Member will not preclude the provision of a copy of a final Decision.
- 5.43.7 Where a Complainant withdraws their Complaint, but the AIC continues the Complaint Review, the Complainant shall not be provided with:
- 5.43.7.1 the findings and any resulting Sanctions relating to the substance of their Complaint provided in a Sanction Consent Agreement; or
 - 5.43.7.2 the final Decision and reasons of the Adjudicating or Appeal Sub-Committee in relation to the Complaint.
- 5.43.8 The Institute may release any final Decision and other information from the Complaint record to parties listed in sub-subsection 5.43.9:
- 5.43.8.1 if the Member provides written consent; or
 - 5.43.8.2 if a Court or tribunal of competent jurisdiction issues an order; or
 - 5.43.8.3 if the Institute is designated as an Investigative Body in accordance with the federal Personal Information Protection and Electronic Documents Act (PIPEDA) and any jurisdictional privacy requirements; or
 - 5.43.8.4 in order for the Institute to properly perform its duties.
- 5.43.9 The Institute may release any final Decision and other information from the Complaint record to:
- 5.43.9.1 any Institute Committee or Sub-Committee;
 - 5.43.9.2 the National Board of the Institute;
 - 5.43.9.3 a Counsellor or a Professional Practice Advocate;
 - 5.43.9.4 any government ministry, agency, board or commission, self-regulatory agency or association having jurisdiction to compel production of the information;
 - 5.43.9.5 any Canadian law enforcement agency; and
 - 5.43.9.6 any other person authorized to receive such information.
- 5.43.10 Except as provided by these Regulations or otherwise required by law, personal information will be redacted from any Complaint, Decision, case summary, or records which are disclosed or published as per section 5.37.

SANCTION WHILE COMPLAINT UNDER INVESTIGATION: MEMBER NON-COOPERATION

5.44 Member Refusal to Cooperate with Investigation

- 5.44.1 Where a Member refuses to fully cooperate with a Complaint Review or any other investigation pursuant to these Regulations, the Counsellor or Investigator shall prepare and submit a report summarizing the findings to date and details of the non-compliance to a Professional Practice Advocate.
- 5.44.2 On receipt of a report pursuant to sub-subsection 5.44.1, a Professional Practice Advocate may requisition a Hearing before an Adjudicating Hearing Panel to seek an order for Suspension pursuant to sub-subsection 5.44.6.
- 5.44.3 Notice of requisition of a Hearing under sub-subsection 5.44.2 shall be provided to the Member.
- 5.44.4 An Adjudicating Sub-Committee Hearing shall be scheduled not less than ten (10) days after the date of the notice to the Member.
- 5.44.5 Standard Adjudicating Sub-Committee hearing procedures shall be observed at a Hearing requisitioned under sub-subsection 5.44.2 including: presentation of evidence and submission of documents.
- 5.44.6 The Adjudicating Hearing Panel on considering the facts and submissions of the parties, may make an Interim Order for Suspension against the Member as provided in sub-subsection 5.36.2, and for any other Sanction as provided in subsections 5.35 and 5.36 that may be appropriate.
- 5.44.6.1 The order shall be served upon the Member along with written reasons for the imposition of any Sanction.
- 5.44.6.2 The order may also address any interim matter(s) that the Hearing Panel deems necessary for the just and timely resolution of the Complaint.
- 5.44.7 The order shall indicate that if the Member does not comply with the terms of the order within sixty (60) days of date of the order:
- 5.44.7.1 The Complaint Review may proceed without their participation; and
- 5.44.7.2 a Hearing may take place which may result in a recommendation for Expulsion.
- 5.44.8 Where a Member has not complied with the order within a period of sixty (60) days from the date of the order, the Counsellor or Investigator shall prepare and submit a report summarizing the findings to date and details of the continued non-compliance to a Professional Practice Advocate.

- 5.44.9 A Professional Practice Advocate may requisition a Hearing before an Adjudicating Hearing Panel to seek an order to recommend Expulsion pursuant to sub-subsection 5.36.4 without any further notice to the Member.

SANCTION WHILE COMPLAINT UNDER INVESTIGATION: IN PUBLIC INTEREST

5.45 Procedure for Sanction

- 5.45.1 If the interests of public protection require immediate action before the completion of a Complaint Review and a final Decision is rendered, the Counsellor or Investigator shall prepare and submit a report outlining the particulars of the public interests that require protection to a Professional Practice Advocate.
- 5.45.2 On receipt of a report pursuant to sub-subsection 5.45.1, a Professional Practice Advocate shall requisition a Hearing before an Adjudicating Hearing Panel seeking an order for the Suspension of the Member, any other sanction that may be appropriate pursuant to subsections 5.34, 5.35, and 5.36, and any other order that can be made by the Adjudicating Sub-Committee in a Hearing.
- 5.45.3 Notice of requisition of a Hearing under sub-subsection 5.45.2 shall be provided to the Member.
- 5.45.4 An Adjudicating Sub-Committee Hearing shall be scheduled not less than ten (10) days after the date of the notice to the Member.
- 5.45.5 Standard Adjudicating Sub-Committee Hearing procedures shall be observed at a Hearing requisitioned under sub-subsection 5.45.2 including: presentation of evidence and submission of documents.
- 5.45.6 The Adjudicating Hearing Panel on considering the facts and submissions of the parties, may make an Interim Order for Suspension against the Member and for any other Sanction that may be appropriate as provided in subsections 5.34, 5.35, and 5.36.
- 5.45.6.1 The order shall be served upon the Member along with written reasons for the imposition of any Sanction.
- 5.45.6.2 The order may also address any interim matter(s) that the Hearing Panel deems necessary for the just and timely resolution of the Complaint.

VACATING AN INTERIM ORDER

5.46 Advocate or Member may Apply for Vacation of Interim Order

- 5.46.1 A Professional Practice Advocate may submit an application to the Adjudicating Hearing Panel to vacate the Sanction imposed pursuant to subsections 5.44 and 5.45 if the Member who is subject to the Sanction has complied or has demonstrated a willingness to comply with any orders made pursuant to sub-subsection 5.44.6 or 5.45.6.

- 5.46.2 Where a Professional Practice Advocate does not apply to the Adjudicating Hearing Panel to vacate the Sanction, the Member may apply to vacate the Sanction to the Adjudicating Hearing Panel.
- 5.46.3 Upon receiving the application to vacate the Sanction, the Adjudicating Hearing Panel may do any one of the following:
- 5.46.3.1 decline to order that the Sanction be vacated;
 - 5.46.3.2 order that the Sanction be vacated; or
 - 5.46.3.3 order that the Sanction be vacated with conditions, including pertaining to timetables, deadlines, exchange of documents or the exchange of witness statements.
- 5.46.4 There shall be no appeal of any order made pursuant to subsection 5.45.

PROCEDURAL MATTERS

NOTICE AND SERVICE

5.47 Notice and Service of Documents

- 5.47.1 If the Institute is required to provide a notice or any document to a party or other person in a Complaint matter or an Administrative Appeal, it may do so by personal service of a copy of the notice or document or by sending the copy to the party or other person by any of the following means:
- 5.47.1.1 ordinary mail;
 - 5.47.1.2 electronic transmission, including electronic mail or transmission of a facsimile; or
 - 5.47.1.3 if specified in the Professional Practice Committee rules, another method that allows proof of receipt.
- 5.47.2 If the copy is sent by ordinary mail, it must be sent to the most recent address known to the Institute and shall be considered to be received on the fifth (5th) day after the day it is mailed, unless that day is a holiday, in which case the copy must be considered to be received on the next day that is not a holiday.
- 5.47.3 If the copy is sent by electronic mail or transmission of a facsimile it shall be considered to be received on the day after it was sent, unless that day is a holiday, in which case the copy must be considered to be received on the next day that is not a holiday.
- 5.47.4 If the copy is sent by means other than by regular mail, electronic mail or transmission of a facsimile it shall be considered to be received on the day after it was sent, unless that

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day is a holiday, in which case the copy must be considered to be received on the next day that is not a holiday.

- 5.47.5 If, through absence, accident, illness or some other cause beyond the control of a Member and the Member, acting in good faith, does not receive the copy until a date later than the date provided under sub-subsections 5.47.2, 5.47.3, or 5.47.4, the Member may make a request for an extension of time.
- 5.47.6 Any notice or reply or correspondence by a Member that is required to be delivered to the Institute must be delivered to the Institute's national office in the manner provided for in sub-subsection 5.47.1. The Institute shall be responsible to ensure copies are provided to the appropriate Professional Practice Committee members.
- 5.47.7 Unless directed, a Member shall not send correspondence or other form of communication to Professional Practice Committee or Sub-Committee members or Board of Directors at their residence or place of employment in relation to a Complaint or Administrative Appeal.
- 5.47.8 If a notice or document is not served in accordance with subsection 5.47, the proceeding is not invalidated if:
- 5.47.8.1 the Member knew that the contents of the notice or document had been served within the time allowed for service;
 - 5.47.8.2 the Member consents; or
 - 5.47.8.3 the failure to serve within the time allowed for service does not result in prejudice to the Member, or any resulting prejudice can be remedied by an adjournment or other means.

ORGANIZATION OF A HEARING PANEL

5.48 Organization of Hearing Panel

- 5.48.1 The Chairs of the Adjudicating and Appeal Sub-Committees, as appropriate, may organize their Sub-Committee into Hearing Panels, each comprised of one (1) to three (3) members. Only Members can be appointed to Hearing Panels.
- 5.48.2 If the Chair organizes a Hearing Panel comprised of more than one (1) member, the Chair must designate one (1) of those members as Chair of the Hearing Panel.
- 5.48.3 The members of the Hearing Panel sit as representatives of their Sub-Committee.
- 5.48.4 Two (2) or more Hearing Panels may sit at the same time on different matters.
- 5.48.5 A Hearing Panel has the jurisdiction of, and may exercise and perform the powers and duties of, its Sub-Committee.

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- 5.48.6 The decision of a majority of the members of a Hearing Panel is considered to be a Decision of its Sub-Committee.
- 5.48.7 In the case of a tie among the members of the Hearing Panel, the decision of the Chair of the Hearing Panel governs.
- 5.48.8 If a member of a Hearing Panel is unable for any reason to complete their duties, the remaining members of that Hearing Panel, with the consent of the Sub-Committee Chair, may continue to hear and determine the matter, and the vacancy does not invalidate the proceeding.
- 5.48.8.1 If a Hearing Panel is comprised of one (1) member and that member is unable for any reason to complete their duties, the Sub-Committee Chair shall organize a new Hearing Panel to hear and determine the matter and the vacancy does not invalidate the proceeding.
- 5.48.9 The Hearing Panel Chair or a member of the Hearing Panel designated to act as the Hearing Panel Chair may hear and decide any interim or preliminary matter in a Complaint or an Administrative Appeal.
- 5.48.10 Wherever possible, the composition of a Hearing Panel shall be disclosed to the Member at least thirty (30) days prior to the date set for a Hearing.
- 5.48.10.1 The sole basis upon which a Member may object to the composition of the Hearing Panel is conflict of interest.
- 5.48.10.2 Any objections should be brought to the attention of the Hearing Panel not later than seven (7) days after receipt of the notice of the composition of the Hearing Panel as provided in subsection 5.47.

ORDERS

5.49 Interim Orders

- 5.49.1 A Hearing Panel, or if a Hearing Panel has not yet been empaneled, the Chair of the Adjudicating Sub-Committee or the Appeal Sub-Committee as applicable, on their own initiative or if requested by a Professional Practice Committee member, an officer of the Institute, the Member, or an intervener to a Hearing may make an Interim Order:
- 5.49.1.1 for which a rule is made by the Professional Practice Committee under subsection 5.1; or
- 5.49.1.2 in relation to any matter that the Sub-Committee Chair or Hearing Panel considers necessary for purposes of controlling the process and proceedings to facilitate the just and timely resolution of a matter involving:
- 5.49.1.2.1 the investigation or Hearing of a Complaint or an Appeal, or

5.49.1.2.2 an application under subsection 5.44 or 5.45 of these Regulations.

5.50 Non-Compliance with Interim Order

5.50.1 If a Member or the Institute fails to comply with an Interim Order the Chair of the Adjudicating Sub-Committee or Appeal Sub-Committee or the Hearing Panel, after giving notice to the non-compliant party, may do one or more of the following:

5.50.1.1 make an order for an investigation to proceed with or without providing an opportunity to the non-compliant party to make submissions;

5.50.1.2 proceed with or continue to proceed with any Hearing underway and make a Decision based on the information before it, with or without providing an opportunity to the non-compliant party to make submissions; and

5.50.1.3 make any further order it considers appropriate in the circumstances.

5.51 Settlement Agreements

5.51.1 If, after a Hearing has been requisitioned, the Member and a Professional Practice Advocate reach a Settlement Agreement for the resolution of a Complaint or an Appeal; a Professional Practice Advocate may submit the Settlement Agreement to the Hearing Panel, if one has been empaneled for the matter, or to the Chair of the Adjudicating or Appeal Sub-Committee, as applicable, if a Hearing Panel has not yet been created, for a Decision regarding the Settlement Agreement.

5.51.2 The Chair or Hearing Panel considering the Settlement Agreement must do one of the following:

5.51.2.1 make an Order that does not modify or vary in any way the terms of the Settlement Agreement reached by the parties if the terms of settlement are deemed to be an appropriate resolution to the Complaint and consistent with the Institute By-Laws, Code of Conduct, Regulations, Policies, and CUSPAP; or

5.51.2.2 decline to make an Order and provide the parties with reasons for declining.

5.51.3 If the Settlement Agreement is declined the Chair or the Hearing Panel, as applicable, may provide an opportunity for the parties to:

5.51.3.1 modify the Settlement Agreement to ensure consistency with the Institute By-Laws, Code of Conduct, Regulations, Policies, and CUSPAP; and

5.51.3.2 submit the modified Settlement Agreement for reconsideration.

DELAY OF PROCEEDING

5.52 Hearing Adjournments

- 5.52.1 A Hearing Panel or, if no Hearing Panel has been empaneled the Chair of the Adjudicating or Appeal Sub-Committee, may adjourn a Hearing on their own motion or upon an application by a party to the proceeding if the Hearing Panel or Chair is satisfied that the adjournment is required to permit a fair Hearing.
- 5.52.2 In considering whether a Hearing should be adjourned, the Hearing Panel or the Chair of the Adjudicating or Appeal Sub-Committee must consider the following:
- 5.52.2.1 the reason for the adjournment request;
 - 5.52.2.2 whether the adjournment would cause unreasonable delay;
 - 5.52.2.3 the impact of refusing the adjournment on the Member and the Institute;
 - 5.52.2.4 the impact of granting the adjournment on the Member and the Institute; and
 - 5.52.2.5 the impact of the adjournment with regard to consumer protection.

5.53 Stay of Proceedings

- 5.53.1 A stay of proceedings may be granted to place a Complaint Review or Hearing of a Complaint in abeyance.
- 5.53.2 Where a Complaint is under review and a Hearing Panel has not been empaneled, the Professional Practice Committee member with carriage of the Complaint Review may review and decide upon the application for a stay of proceedings made pursuant to this subsection 5.53.
- 5.53.3 Where a Hearing Panel has been empaneled, the Hearing Panel Chair may review and decide upon the application for a stay of proceedings made pursuant to this subsection 5.53.
- 5.53.4 A stay of proceedings may be granted on such terms and conditions as the Professional Practice Committee member or the Hearing Panel Chair deem in their sole discretion to be fair and reasonable.
- 5.53.5 In considering a request for a stay of proceedings the Professional Practice Committee member or the Hearing Panel Chair must consider the following:
- 5.53.5.1 the age of the Complaint and the Member's status;
 - 5.53.5.2 the Member's history of cooperation with the Complaint investigation, including any delays or postponements previously granted;
 - 5.53.5.3 verification of the reasons for the request for a postponement or abeyance;

- 5.53.5.4 the existence of active or pending litigation related to the Member's professional services involved in the Complaint including professional liability insurance-related litigation, other civil or legal proceedings, or some external form of alternative dispute resolution process; and
- 5.53.5.5 any compassionate grounds which mitigate in favour of granting a stay of proceedings.

5.54 Time Limit for Stay of Proceedings

- 5.54.1 Subject to subsection 5.56, a stay of proceedings requested by a Member will not exceed a ninety (90) period.
- 5.54.2 After ninety (90) days, the Complaint Review or Hearing will resume.
- 5.54.3 The decision to grant or deny a stay of proceedings is final and cannot be appealed.

5.55 Member Must Submit One Report for Peer Review

- 5.55.1 The Member must submit one (1) recent report for Peer Review as a condition of granting a stay of proceedings.

5.56 Member May Apply for a Continuance of Stay of Proceedings

- 5.56.1 A Member may make an application for a continuance of a stay of proceedings granted under subsection 5.53 before the expiry of the ninety (90) day period granted for the original stay of proceedings or of a continuation of the original stay of proceedings.
- 5.56.2 Regardless of a Member's request for a continuance, the stay of the Complaint Review or Hearing may be discontinued at the discretion of the Professional Practice Committee Member who has carriage of the Complaint Review or the Hearing Panel Chair.

REPRESENTATION

5.57 Representation by Counsel or an Agent

- 5.57.1 A Member or a Professional Practice Advocate may be represented by counsel or an agent with notice in writing to all parties.
 - 5.57.1.1 If a Hearing has been scheduled notice must be provided by no later than thirty (30) days prior to a Hearing date.
- 5.57.2 Counsel or an agent may make oral and written submissions as to facts, law and jurisdiction.

5.58 Chair or Hearing Panel May Appoint a Qualified Individual to Assist

- 5.58.1 A Hearing Panel on its own initiative at any stage of a Hearing may appoint a qualified individual to assist the Hearing Panel address a procedural or substantive issue in the Hearing provided that in all cases the Hearing Panel will make any decision that is required to be made in or arising from the Hearing.

5.59 Communications with Counsel or Agent

- 5.59.1 The Member or a Professional Practice Advocate may direct in writing that all communication from the other party is to be received by counsel or an agent until notice is given otherwise or the Complaint is finally resolved.

INTERVENERS

5.60 Interveners May be Allowed

- 5.60.1 A Hearing Panel or its Chair, if the Hearing has not commenced, may allow a person to intervene in a Hearing if the Hearing Panel or the Chair is satisfied that:
- 5.60.1.1 the person can make a valuable contribution or bring a valuable perspective to the Complaint; and
 - 5.60.1.2 the potential benefits of the intervention outweigh any prejudice to the parties caused by the intervention.

5.61 Participation of Intervener May be Limited

- 5.61.1 The Hearing Panel, or its Chair, may limit the participation of an intervener as the Hearing Panel or its Chair deems appropriate including limits in relation to:
- 5.61.1.1 cross-examination of witnesses;
 - 5.61.1.2 the right to lead evidence;
 - 5.61.1.3 any issue raised in the Complaint; and
 - 5.61.1.4 written and oral submissions.

5.62 Two or More Interveners May be required to Make Joint Submissions

- 5.62.1 If two (2) or more interveners have the same or substantially similar views, information, or expertise, the Hearing Panel, or its Chair, may require them to make a joint submission.

WITNESSES

5.63 Witnesses May be Called

5.63.1 A Member or a Professional Practice Advocate may call and examine witnesses and conduct cross-examination of witnesses as reasonably required for a full and fair disclosure of all matters relevant to the issues in the Complaint Review at a Hearing.

5.63.1.1 Notice of the attendance of a witness at a hearing must be provided to the other party at least thirty (30) days prior to the date of the Hearing.

5.64 Power to Compel Witnesses and Order Disclosure

5.64.1 A Member or a Professional Practice Advocate may request in writing not less than thirty (30) days before the scheduled date of a Hearing that the Chair of the Hearing Panel make an order requiring another Member or a director, officer, employee or agent of the Institute:

5.64.1.1 to attend a Hearing to give evidence that is admissible and relevant to an issue in the Complaint Review; or

5.64.1.2 to produce to the Chair of the Hearing Panel a document or other thing in the person's possession or control that is admissible and relevant to an issue in the Complaint Review.

5.65 Order to Attend Must Not Bind Any Third-Party Non-Member

5.65.1 An order made pursuant to subsection 5.64 must not seek to bind any third-party who is not a Member or a director, officer, employee or agent of the Institute, and shall specify that compliance by any such person or entity is voluntary.

5.66 Hearing Panel May Limit Examination of Witness

5.66.1 The Hearing Panel may limit further examination or cross-examination of a witness if it is satisfied that the examination or cross-examination has been reasonably sufficient to disclose fully and fairly all matters relevant to the issues in the Complaint Review.

5.67 Hearing Panel May Question Witness

5.67.1 The Hearing Panel may question any witness who gives evidence in a Hearing.

RECORDING OF PROCEEDINGS

5.68 Proceedings May be Recorded or Transcribed

5.68.1 A Professional Practice Committee, a Professional Practice Sub-Committee, or a Hearing Panel may transcribe or tape record its proceedings.

5.69 Transcript or Recording to be Considered Correct

5.69.1 If a proceeding is transcribed or tape recorded, the transcription or tape recording must be considered to be correct and to constitute part of the record of the proceeding.

5.70 Validity of Proceeding is Not Affected if Transcription or Recording is Destroyed

5.70.1 If, by a mechanical or human failure, or other accident, the transcription or tape recording of a proceeding is destroyed, interrupted or incomplete, the validity of the proceeding is not affected.

5.71 Requests for Written Transcription of Proceedings

5.71.1 The Chair of a Hearing Panel, the Member, or a Professional Practice Advocate may request that a written transcript of the tape recording of a Hearing be produced.

5.71.1.1 If requested by the Member, the written Hearing transcript will be produced only if the Member undertakes to pay the costs of transcription.

FORM OF HEARING

5.72 Written, Electronic Teleconference and Oral Hearings

5.72.1 The hearing of a Complaint or an interim or preliminary matter may be conducted by any combination of written, electronic, telecommunication and in-person Hearing.

COMPLAINTS OF SIMILAR QUESTIONS

5.73 Powers of Hearing Panel Regarding Complaints of Similar Questions

5.73.1 If a Hearing in respect of a Complaint involves two (2) or more Members concerning the same or similar issues, or two (2) or more Complaints involving the same Member, the Hearing Panel may:

5.73.1.1 combine the Complaint Hearings or any part of them;

5.73.1.2 hear the Complaints at the same time;

5.73.1.3 hear the Complaints one immediately after the other; or

5.73.1.4 stay one or more of the Complaints until after the determination of another one of them.

5.74 Hearing Panel May Make Additional Orders

5.74.1 The Hearing Panel may make additional orders the Hearing Panel deems appropriate respecting the procedure to be followed relating to Hearings under this subsection 5.74.

INFORMATION RECEIVED/EXCLUDED

5.75 The Hearing Panel May Receive Relevant Information

5.75.1 The Hearing Panel may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

5.76 The Hearing Panel May Exclude Information

5.76.1 Despite subsection 5.75, the Hearing Panel may on its own initiative or upon application by one of the parties exclude anything it deems to be unduly repetitious or irrelevant or lacking in probative value to the matter at hand.

5.77 The Hearing Panel May Direct Information be received in Confidence

5.77.1 If deemed necessary, the Hearing Panel may direct that all or part of the evidence of a witness or documentary evidence be received in confidence to the exclusion of a party or parties or any interveners, on terms the Hearing Panel considers necessary.

5.78 Hearings Are Considered to be In-Camera

5.78.1 A Hearing in whatever form shall be held in-camera.

5.78.2 Despite 5.78.1, the Hearing Panel may direct that all or part of the Hearing be open on such terms as the Hearing Panel may direct upon request made by any of the parties or on its own initiative, unless other interests, such as public security or the possible disclosure of confidential financial or personal matters, outweigh the benefit of holding the Hearing open to the public or other members of the Institute.

NATIONAL PROFESSIONAL PRACTICE RECORD

5.79 Institute Shall Maintain Record

5.79.1 The Institute shall maintain a record of Complaints against a Member and resolution of such Complaints in the Institute's National Professional Practice Record for a period of not less than seven (7) years.

5.80 Member Record May be Provided to Authorized Professional Practice Committee Members

5.80.1 The record of Complaints against a Member stored in the Institute's National Professional Practice Record may be provided to Professional Practice Committee members when determining the most appropriate resolution of a subsequent Complaint against that Member.

5.0 Governing Professional Practice

5.81 Record is Confidential

- 5.81.1 The Institute, its employees and authorized members of the Professional Practice Committee shall hold as confidential the contents of the record of Complaints against a Member stored in the Institute's National Professional Practice Record.

6. GOVERNING THE PROFESSIONAL LIABILITY INSURANCE PROGRAM

6.1 Authority

- 6.1.1 The Institute has the authority to establish and maintain a Professional Liability Insurance Subsidiary (the "Insurance Subsidiary"). All of the issued and outstanding shares in the capital stock of the Insurance Subsidiary shall be owned by the Institute.

6.2 Mandatory Program

- 6.2.1 All Members of the Institute practicing or employed in Canada shall participate in the Institute's Professional Liability Insurance Program by:
- 6.2.1.1 properly and truthfully completing the required insurance application when registering with the Professional Liability Insurance Program;
 - 6.2.1.2 complying at all times with the terms and provisions of the insurance policy and program; and
 - 6.2.1.3 paying all insurance premiums when they become due.
- 6.2.2 Failure by a Member to comply with this section 6.2 shall be grounds for termination of membership in the Institute.
- 6.2.3 Student, Associate and Honorary Members are not eligible to participate in the Professional Liability Insurance Program of the Institute.

6.3 Management

- 6.3.1 The management of the business and affairs of the Insurance Subsidiary shall be supervised by the Board of Directors of the Insurance Subsidiary (the "Subsidiary Board"). The members of the Subsidiary Board shall be elected on an annual basis by the Board of Directors of the Institute.

6.4 Statements of Claim Against Institute Committee and Board Members

- 6.4.1 Members sitting on any Committee or Sub-Committee of the Institute, or on provincial Councils or National Boards must notify the Institute and their respective Chair or provincial or National President of any claim or other legal process brought to the Member's attention.
- 6.4.1.1 Depending on the nature and the seriousness of the allegations, the Member may be requested to step down from their duties until a final determination is reached.

7. GENERAL PROVISIONS

TRANSITION

7.1 Provisions Apply to Current and Future Complaints

7.1.1 These provisions replace and supersede past versions of these Regulations.

AMMENDMENTS

7.2 Amendments May Occur

7.2.1 Amendments may occur in accordance with Institute By-Laws.

IMMUNITY FOR DECISION-MAKERS

7.3 Immunity

7.3.1 Subject to sub-subsection 7.3.3, no action, no legal proceeding for damages and no other claim for compensation may be commenced or maintained against a Decision-Maker or the Institute arising out of, or in connection with, any act or failure to act by any Decision-Maker or the Institute in connection with the official activities of the Institute.

7.3.2 Acts or failures to act referred to in sub-subsection 7.3.1 include acts or failures to act in connection with:

7.3.2.1 the performance or intended performance of any duty under the Institute By-Laws, Regulations or Policies;

7.3.2.2 the exercise or intended exercise of any power under the Institute By-Laws, Regulations or Policies; and

7.3.2.3 taking disciplinary action against a Member as a Candidate or as a Designated Member.

7.3.3 Sub-subsection 7.3.1 does not apply to a Decision-Maker in relation to anything done or omitted by that decision-maker in bad faith.

7.3.4 A Member must utilize all of the provisions available to them under AIC's By-Laws and Regulations before bringing any action or claim on the Decision-Maker or the Institute.