

Discipline procedure: prosecution and adjudication

- (1) The adjudication of charges of professional misconduct shall be carried out in accordance with the provisions of the *Statutory Powers Procedure Act* by an adjudicative committee appointed by the board of directors or governing council of the authorized designated body that includes licensees and public representatives.
- (2) An authorized designated body shall at its expense retain or employ a person who is licensed by the Law Society of Upper Canada to practise law or provide legal services in Ontario to prosecute all charges of professional misconduct.
- (3) An authorized designated body shall provide that a panel of not fewer than three drawn from the members of the adjudicative committee may hear charges or allegations of professional misconduct made against a licensee, provided that a minimum of one public representative and one licensee shall serve on every panel.
- (4) The authorized designated body shall at its expense retain or employ a person who is licensed by the Law Society of Upper Canada to practise law or provide legal services in Ontario to advise the adjudicative committee.
- (5) The authorized designated body shall ensure that the members of the adjudicative committee have, and are provided with, ongoing appropriate training.
- (6) The authorized designated body shall, in respect of all hearings, prominently set out on its website the place, date and time of the hearing, along with the licensee's name, a description of the charge(s) and a notice that the hearing is open to the public.
- (7) The adjudicative committee shall have the power, through the enactment of by-laws, rules or regulations, to compel a licensee or partnership to produce working paper files, books, documents or other materials in paper or electronic form, provided that only documents and information that are compellable by law are producible (e.g. documents and information subject to legal privilege of the licensee, partnership or the licensee's or partnership's client are not producible, unless privilege is waived by the licensee, partnership or the client, respectively).
- (8) If it appears to the adjudicative committee that a member or members of the public would be at risk by reason of the fact that a licensee charged with professional misconduct remains a licensee in good standing with the authorized designated body, the adjudicative committee may order that the rights and privileges of such licensee be suspended in whole or in part until the final disposition of the charge(s). In the event that the adjudicative committee makes such order, it must proceed expeditiously with a hearing to consider the matter.
- (9) The decision of the adjudicative committee, including the reasons for the decision, shall be provided in writing to each party together with a notice of each party's right to appeal the decision.
- (10) Subject to 13(8), an authorized designated body shall provide in respect of sanctions, that:
 - (a) a sanction must only be considered after a finding of professional misconduct;

- (b) the sanction(s) shall be imposed by the same adjudicative committee or panel of the adjudicative committee that made the determination of professional misconduct;
 - (c) the power to impose sanctions shall include the power to:
 - (i) suspend or expel from membership in the authorized designated body;
 - (ii) suspend or revoke a licence or, in the case of a professional corporation, suspend or revoke its certificate of authorization to practise public accounting;
 - (iii) limit the scope of the professional practice or activities either for a specified time or on such terms and conditions as may be ordered;
 - (iv) complete a period of supervised practice;
 - (v) order a re-investigation by the investigating committee by a prescribed date;
 - (vi) prescribe professional development or other courses or successful completion of examinations;
 - (vii) fine;
 - (viii) formally reprimand;
 - (ix) require a practice inspection;
 - (x) impose such other sanction(s) as the case may require in the public interest.
- (11) An authorized designated body shall require, in respect of a finding of professional misconduct, that unless an appeal of the decision and order has been filed with the authorized designated body, a notice of the decision and order of the adjudicative committee, disclosing the name of the licensee or partnership and brief particulars of the professional misconduct shall:
- (a) be given to the board of directors or governing council of the authorized designated body;
 - (b) be given to all members of the authorized designated body;
 - (c) be made available to the public;
 - (d) be published on the authorized designated body's website and in a daily newspaper in the geographic area where the licensee practised or in which the partnership or professional corporation is located, if:
 - (i) the licensee is expelled from membership in the authorized designated body;

- (ii) the licence is suspended or revoked;
- (iii) the certificate of authorization of the professional corporation to practise public accounting is suspended or revoked;
- (iv) a limitation is placed on the practice of the licensee or partnership;

unless the adjudicative committee or the panel thereof that made the decision or order determines that disclosure of the name of the licensee or partnership to or in any or all of the above is not required in the public interest and its disclosure would be unfair to the licensee or partnership.

- (12) An authorized designated body shall require that, unless an appeal of the decision and order has been filed with the authorized designated body, a notice of any decision and order of the adjudicative committee together with the written reasons for decision that disclose the name of the licensee or partnership and brief particulars of any finding of professional misconduct shall promptly be given to the Council. In cases where there is a finding of professional misconduct or where a settlement of a discipline matter is approved by the adjudicative committee, the Council will publish the decision and order on its website; provided, however, if the adjudicative committee pursuant to Section 13(11) orders that the name of the licensee or partnership not be disclosed, the publication on the Council's website shall not disclose the name of the licensee or partnership.
- (13) The authorized designated body shall, upon notice of a decision and order of the adjudicative committee making a finding of professional misconduct, publish and maintain on its website in a manner that is accessible to the public the decision and order of the adjudicative committee together with the written reasons for the decision, and disclose the name of the licensee or partnership with brief particulars of the finding of professional misconduct. However, if the adjudicative committee pursuant to Section 13(11) orders that the name of the licensee or partnership not be disclosed, the publication on the authorized designated body's website shall not disclose the name of the licensee or partnership.