



**Canadian
Institute
of Actuaries**

**Institut
canadien
des actuaires**

Respondents' Handbook

**The Canadian Institute of Actuaries
Disciplinary Process**

December 13, 2023

*This document is to be
provided automatically to a respondent in the Institute's
disciplinary process, and upon request to any Fellow, Associate, Candidate or Student.*

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This document, published in July 2001 and updated in September 2005, December 2006, September 2010, March 2011, April 2020 and September 2023, reflects the Institute's disciplinary process in effect on January 1, 2024.

1. Introduction

The designation, "Fellow of the Canadian Institute of Actuaries" ("FCIA"), carries high standards of professional practice and ethics. These high standards are recognized under various provincial and federal statutes, such as the *Insurance Companies Act* and federal and provincial legislation dealing with pension benefits standards, which require actuaries who sign certain actuarial reports to hold an FCIA designation.

To preserve the confidence and responsibility entrusted to it, the Canadian Institute of Actuaries (the "Institute") has adopted the *CIA Bylaws* (the "Bylaws"), *Rules of Professional Conduct* and *Standards of Practice*, which shall be referred to as "Professional Requirements" in this document, with which all Fellows, Associates, Candidates and Students must comply. The Institute has also developed a disciplinary process, including the *Policy on the CIA Disciplinary Process* and the *Rules of Practice and Procedure of a Disciplinary Tribunal*, in order to enforce its Professional Requirements. These documents set out the disciplinary framework for the handling of complaints and the consideration of disciplinary action against members of the CIA.

This handbook seeks to provide the Institute's members with a brief overview of how the disciplinary process works, and how the disciplinary process may affect the Institute's members in the event that a member's conduct or work becomes subject to the Institute's disciplinary process. We caution that this handbook is not exhaustive and is meant to serve only as a general guide. Nevertheless, we hope that it will assist members in their understanding of the disciplinary process. For more details, refer to the *Bylaws*, *Rules of Professional Conduct*, *Rules of Practice and Procedure of a Disciplinary Tribunal* and the *Policy on the CIA Disciplinary Process*, which are the formal binding documents that govern the Institute's disciplinary process. These documents are available on the Institute's website at cia-ica.ca.

Bylaws 4.2.4 and 4.2.5 also provide for a process related to violations of the Institute's *Code of Conduct and Ethics for Participants in the CIA Education System*, which is applicable to members (i.e., Students, Candidates, or Associates) when participating in the Institute's education system. These violations are initially assessed and handled through a process outside the normal disciplinary system. The *Policy on the Enforcement of the Code of Conduct and Ethics for Participants in the CIA Education System* provides detailed information regarding that process, which includes the potential referral of the matter to the Professional Conduct Board (PCB) if the violation could also be a violation of the Professional Requirements.

2. The Professional Conduct Board

Pursuant to subsection 5.2 of the Bylaws, the disciplinary process is overseen by the PCB.

It should be noted that, prior to January 1, 2020, the PCB was known as the "Committee on Professional Conduct," and prior to November 20, 1998, it was known as the "Committee on Discipline."

2.1 Composition of the PCB

The PCB is composed of at least 10 members and since 2005 includes two or three public members (non-actuaries). Members of the PCB are appointed annually by the Actuarial Profession Oversight Board (APOB) for their experience and high standing within the profession. They are generally chosen to ensure that there is regional representation from the various practice areas and representation from various types of employers (large consulting firms, insurance companies, self-employed consultants, etc.). As full

members of the PCB, the public members are also chosen for their experience and high standing and have been added to provide an additional perspective in the PCB's deliberations and improve the transparency and public perception of the work of the PCB.

To preserve a clear separation between the administration of the Institute's leadership and the administration of the disciplinary process, the Board of the Institute stands distinct from the PCB. Consequently, no member of the Institute's Board is allowed to serve as a member of the PCB.

The PCB includes a chair and a vice-chair.

2.2 Prevention of conflicts of interest

An overarching objective of the Institute is to ensure that the disciplinary process is fair and impartial and that it is visibly so. This imposes a duty on each actual or potential participant in the process, including members of the PCB, to ensure that they are independent and free of any bias when making decisions that may affect a member of the Institute. To this end, the PCB has adopted guidelines that apply to the PCB and to the members of investigation teams who are appointed by the PCB.

These guidelines prevent a person from participating in the disciplinary process of any situation that would present a conflict of interest, or in any situation that would give rise to a reasonable belief that the person might be biased in any way, either in favour of or against the member against whom an allegation of professional misconduct has been made. For example, a conflict of interest would arise:

- if the person was a member of the same firm or partnership as the member against whom an allegation of professional misconduct has been made; or
- if the situation affected the practice of that person, that person's firm or partnership, or the interests of one of their clients, in a manner that would be personal and specific to that person, their firm or partnership or one of their clients.

Additionally, the conflict of interest guidelines prevent a person from participating in any deliberations of the PCB or of an investigation team (IT) if that person:

- is currently charged with an Offence (as defined in Bylaw 2.22)¹ and the case is pending before a disciplinary tribunal (DT) or appeal tribunal (AT); or
- has either admitted guilt or has been found guilty of an Offence by a DT within the last five years.

2.3 Preservation of confidentiality of the disciplinary process

The members of the PCB are also very conscious of the confidential nature of the disciplinary process. Although members of the PCB are not precluded from speaking to members about the disciplinary Bylaws and about the general functioning of the disciplinary process, they may not disclose any information obtained that is confidential, including information about the PCB's deliberations. Furthermore, a member of the PCB may not participate in the deliberations of the PCB if they are in a conflict of interest, as discussed above.

To further ensure confidentiality, all documents sent by the PCB to a member against whom an allegation of professional misconduct has been made or to a third party are sent by PCB members or IT members, electronically using secure software or password protected files following an initial email confirming the preferred email address to be used for receipt of confidential documents. If documents are sent via

¹ "Offence" is capitalised in this handbook to emphasize its distinct meaning of "Any violation of the Bylaws, Standards of Practice or Rules of Professional Conduct of the Institute," as defined in the Institute's [Bylaw 2.22](#).

courier or registered mail, they are clearly marked “Strictly confidential - To be opened by addressee only.”

2.4 Procedure at meetings of the PCB

Regular meetings of the PCB will normally be held at least twice per year, either in person, virtually or by such methods of communication as the PCB may select from time to time by resolution. At these meetings, the various disciplinary matters before the PCB are discussed, together with general issues regarding the discipline, education and counselling of members.

The presence of at least five members of the PCB is required to constitute a quorum for discussion on any matter. However, where the PCB is voting on whether to file a charge against a member, a quorum of at least seven members is required.

Any disciplinary matter that is brought to the attention of the PCB is discussed only by those members who are not in a conflict of interest, in accordance with the PCB’s conflict of interest guidelines discussed above.

The PCB does its best to deal with disciplinary cases as quickly as possible and to inform involved parties as quickly as possible of any developments in their case. Despite its efforts, it should be noted that disciplinary cases can often take a long time to resolve, especially in cases where the issues are complex. Indeed, should a matter be required to be brought before a DT, the length of time necessary to resolve a case can be years.

3. General outline of the disciplinary process

The disciplinary process itself may be divided into three parts:

1. **Initial review:** In this first step, a complaint or information against a member is received and initially reviewed by the PCB. The PCB must typically decide whether to dismiss such complaint or information, which may include sending them a letter of advice for educational or counselling purposes, or proceed to an investigation. A letter of advice shall be kept on record for five years and shall be made available only to the PCB. If only information is provided, the PCB must first lay a complaint against the member before proceeding with an investigation. If the matter is a general inquiry, the PCB will refer it to the appropriate committee of the Institute, which will handle the matter. Finally, if the matter involves an individual who is a member of a foreign actuarial organization practising in Canada or a member of the Institute practising in a foreign jurisdiction, international agreements may come into play (see Section 7 below).
2. **Investigation:** In this second step, should it be decided that an investigation is warranted, it is performed by an IT as a confidential fact-finding mission. A detailed investigation report is then prepared and sent to the member in question (referred to as the “respondent” once the investigation has begun), who is given the opportunity to respond to the report. The PCB then reviews the report, and any response provided, and decides whether to dismiss the matter, or file a charge against the member in question.
3. **Filing a charge:** Once an investigation is complete, should the PCB decide that filing a charge is warranted, it may proceed with any of the following options at its discretion, depending on the gravity of the case and the interests of the public and of the Institute:
 - Request a DT to order that a respondent be suspended for the duration of an inquiry.

- Negotiate, with the respondent, a written settlement agreement, which would include an admission of guilt by the respondent, subject to review by a DT in accordance with Bylaw 5.4.9.
- File a charge and refer it to a DT, which will decide whether the member is guilty of an Offence. The DT may impose penalties against the member. The following sections will examine each of these steps in greater detail. These sections should be read in conjunction with the flow charts appended to this document, which provide a more visual explanation of the process.

4. Initial review

4.1 How matters come before the PCB

The PCB becomes involved in a matter whenever an individual or organization contacts the PCB and either:

- lays a complaint about a named member of the Institute or their work;
- provides information about a named member of the Institute or their work; or
- makes a general inquiry of the PCB, without reference to the work or identity of a member of the Institute.

Anyone may contact the PCB and raise a matter, including members of the public, outside organizations (including regulators) or members of the Institute.

If the matter involves an individual who is a member of a foreign actuarial organization practising in Canada or a member of the Institute practising in a foreign jurisdiction, international agreements that may have been entered into between the Institute and other actuarial organizations may come into play. The process to be followed is set out in these international agreements, as well as in Bylaw 5.9. This is also described in general terms in Section 7 below.

Frequently, matters are raised by clients or regulators, who are concerned with the work of a member of the Institute. In these cases, the client or regulator has previously attempted to contact the member directly to resolve the matter, before turning to the PCB. However, this is not always the case, as the client or regulator is under no obligation to contact the member before approaching the PCB.

Additionally, matters are sometimes reported by other members pursuant to their obligation to follow Rule 13 of the *Rules of Professional Conduct*, when they believe that another member has committed an apparent material non-compliance. In **all** cases, a member is **first** required to approach the member who is believed to have committed an apparent material non-compliance, in an effort to discuss the situation and, if necessary, to reach agreement on action to be taken to ensure that the non-compliance is rectified. Reporting to the PCB **only** takes place if the member, who believes that an apparent material non-compliance has been committed, knows that the efforts were unsuccessful or cannot confirm the success of such efforts.

Finally, if the PCB is made aware that an insurance organization regulated in Canada is insolvent, the PCB will also become involved. As a result, the work of the Appointed Actuary or the valuation actuary for the insolvent insurance organization at the material time will be subject to review.

4.2 Initial classification of the matter as a general inquiry, complaint or information

The issue is reviewed by the PCB, which begins by determining whether the issue refers specifically to the identity of, or work performed by, any member of the Institute. This classification is important because it determines whether the issue falls within the PCB's mandate and how it should be dealt with:

- If the issue does not refer specifically to the identity of, or work performed by, a member, the issue will be treated as a “general inquiry” and not as a complaint or information. It will be referred by the PCB to the appropriate committee of the Institute. The committee will examine the issue and respond directly in writing to the inquirer within a reasonable timeframe, normally 30 days for an initial response. In the event that the inquiry is not within the mandate of any committee of the Institute, the matter shall be referred to the Officers (that is, the President, the President-elect and the Immediate Past President), who will decide on the appropriate forum for consideration of the inquiry. Once the inquiry has been dealt with as above, nothing further is done.
- If the issue does refer specifically to the identity of, or work performed by, a member, it is first determined whether the issue constitutes a complaint or information. A complaint constitutes a specific allegation of wrongdoing by a member and often specifically requests that a charge be filed against the member. Information, on the other hand, does not generally include a specific request that a charge be filed; the informant simply wishes to bring a matter to the Institute's attention. If this is unclear, the complainant or informant will be contacted to determine whether they wish to lay a complaint or simply provide information.

The investigation of cases must always be grounded on a complaint, the case where information alone is provided means that the PCB would be required to lay a complaint against the member in its own name, if warranted.

- If the PCB is made aware that an insurance organization regulated in Canada is insolvent, this knowledge will be treated as information with respect to the work of the Appointed Actuary or the valuation actuary for the insolvent insurance organization at the material time. The review will follow the normal rules of procedure under the disciplinary process for all subsequent steps.

Should the matter be determined to be a complaint or information, several further steps are required in the initial review process.

4.3 Steps to preserve confidentiality and to gather additional preliminary information

First, the complainant or informant is immediately asked to sign a confidentiality agreement in order to ensure that the disciplinary process is kept confidential. Complainants and informants must sign such an agreement to receive **any** confidential information concerning the application of the disciplinary process to the member in question.

Complainants and informants, particularly those who have signed confidentiality agreements, are provided with information regarding the developments of the case in question, as described throughout this text. Complainants and informants do not normally play an active role in the disciplinary process.

Either prior to or at the next scheduled meeting of the PCB, the PCB decides whether it requires additional facts before being able to decide whether the complaint or information should be dismissed or not. To help the PCB with its decision, the chair may appoint a subgroup consisting of no more than three members of the PCB (the “subgroup”) to gather this additional initial information:

- If additional facts are required, the PCB or the subgroup may contact the complainant/informant to obtain more details. At this stage, the PCB or the subgroup is limited in the scope of questions it may ask; it should only make inquiries to the extent required to determine whether an Offence may have been committed (i.e., whether the member in question may have violated the Professional Requirements).
- If additional facts are required, the PCB or the subgroup may also request a response from the member in question, by sending such member a copy of the complaint or information and asking for a written response or explanation within a certain amount of time. Normally, the period is 30 days, but this may be extended by the PCB if circumstances warrant.

Again, it should be stressed that the PCB or the subgroup is not conducting an investigation into the matter but is conducting initial fact-finding only to the extent required to determine whether an Offence may have been committed in order to decide how the PCB should proceed.

The respondent in question will be well advised to use this opportunity to provide any relevant information or comments before the PCB decides whether to dismiss the complaint or to refer the matter to an IT. The member should in these early stages of the process retain all documents pertaining to the facts alleged in the complaint or stated in the information until the matter has been completed. In addition, the member is encouraged to rectify the violation alleged in the complaint or stated in the information and to advise the PCB if the matter has been rectified. It is important to note that if the matter is rectified, it will not automatically result in a dismissal of the complaint, but it will be taken into account by the PCB when it determines whether an Offence may have been committed and what (if any) sanction may be appropriate.

4.4 Decision whether or not to proceed with an investigation

Once the PCB or the subgroup has completed its initial fact-finding, if any, the PCB then decides, based on the information before it, whether an Offence **may** have been or has been committed.

If the PCB is of the opinion that the member in question has **not** violated the Professional Requirements, it will **dismiss** the complaint/information. Many matters are in fact dismissed at this point, because it is clear that the actions described in the complaint or information do not constitute professional misconduct, or that the matter is not disciplinary in nature (e.g., it is a commercial dispute between the member and the client). The PCB will inform the member of its decision to dismiss the complaint/information as soon as possible (often within 10 days of the PCB making that decision) and will provide the member in question with a copy of the complaint/information (if one has not already been provided pursuant to a previous PCB request for additional information). In certain cases, the PCB may also include a letter of advice to the respondent along with the notice of dismissal, which may include educational or counselling materials as the PCB considers appropriate in the circumstances. This is done if the PCB believes the member may benefit from such advice. Additionally, the letter is confidential and disclosed only to the respondent, but will be kept in the member's record for a period of five years, and will only be made available to the PCB. All those involved in the preparation of the letter are bound to secrecy. Finally, the PCB will inform the complainant/informant of the decision to dismiss the complaint/information on a confidential basis, but only if a confidentiality agreement has been signed.

If the PCB is of the opinion, based on the information that it may have received from the member and/or the complainant/informant, that the member **may** have violated the Professional Requirements, it will **accept the complaint laid** or it will **lay its own complaint** based on the information obtained, and proceed to a formal **investigation** by an IT, as described in Section 5 below.

5. Investigation

Should the PCB decide to proceed with an investigation, it will inform the member in question (who is now referred to as the “respondent”) as soon as possible (usually within 10 days) and provide a copy of the complaint/information originally laid (if a copy has not already been provided pursuant to a previous request for additional information). At this point, the respondent is reminded that they are required to retain all documents pertaining to the facts alleged in the complaint or stated in the information until the matter has been completed. Additionally, the complainant/informant is advised of the decision to proceed with an investigation if a confidentiality agreement has been signed.

5.1 Appointment of an IT

To carry out the actual investigation of a complaint, the PCB appoints an IT. Depending on the complexity of the case, the IT may be composed of one to three individuals. If there is more than one member, one of the members will be appointed as the chair of the IT. Members of an IT shall not be in a conflict of interest with respect to the case at hand. This is determined based upon the conflict of interest guidelines, as discussed above in subsection 2.2.

No other condition of any kind, be it membership in the Institute or other such requirement, appears formally in the Bylaws. However, the PCB is guided by the following informal rules in selecting members of an IT:

- Members of the PCB will not normally be appointed to an IT.
- The PCB will normally pick individuals who have knowledge of and experience in the practice area in question (if any).
- IT members will be chosen by the PCB or subgroup from a pool of trained investigators who are usually FCIAAs, whenever possible.

As soon as possible after the appointments have been completed, the names of the members of the IT are sent to the respondent (in most cases, this is done within two or three weeks of the decision to refer the complaint to an IT).

Should the respondent have an objection to these appointments on the grounds that a conflict of interest exists, the respondent should immediately write to the chair of the PCB and state the objection and its grounds. It then falls to the PCB to determine whether the objection raised is valid and to replace the IT member(s) in question, if necessary.

5.2 Powers, obligations and rights of parties involved in the investigation

The IT will conduct an investigation of the complaint. This is not a trial of the respondent, but a good faith effort to obtain as much information as possible surrounding the complaint so that these findings can be forwarded to the PCB.

5.2.1 Powers and obligations of the IT in gathering information

The IT has wide powers to carry out its mandate. They have the power to obtain documents and to review any documents received and contact any person that it considers to be appropriate. In most cases, this will include the informant or complainant. Furthermore, all members, including the respondent, have an obligation to provide assistance to any IT, including providing information and documents. Failure to provide such assistance to an IT during its investigation constitutes a violation of Rule 12 of the *Rules of Professional Conduct*, as well as of Bylaw 5.3.

At the same time, the Institute recognizes the importance of protecting the respondent's reputation. Consequently, the IT's investigation is carried out on an entirely confidential basis, as discussed above in subsection 2.3. All individuals contacted by the PCB are informed of the confidentiality of the process and are asked to sign a confidentiality agreement.

The protection of confidentiality does not, however, mean that information is kept secret from the respondent in the event that a charge is later filed against the respondent and the matter is referred to a DT. In this situation, information and documents collected by the IT will be disclosed to the respondent as part of the disclosure process to allow the respondent to prepare a full and proper defence (*Rules of Practice and Procedure of a Disciplinary Tribunal*, Section 2).

5.2.2 Obligations of members to produce documents

During its investigation, an IT may require the production of any books, documents, records or other papers relevant to the investigation, which may be in the possession or control of any member including the respondent.

This power is an important one, as it is the cornerstone of the IT's ability to provide support for its findings. Consequently, co-operation by members is essential. Should there appear to be legitimate confidentiality concerns at stake in the documents, the individual can be reassured that the documents will be treated with the utmost confidentiality at the investigation stage of the proceedings. In addition, if the case reaches a DT, measures can then be taken to protect the confidentiality of those documents at the discretion of the DT. Only a specific court order to the effect of maintaining the confidentiality of a document or information would apply.

5.2.3 Right to representation by legal counsel

Even though an investigation is not a trial of the respondent, anyone involved in an investigation, including a respondent, may retain legal counsel at any point for advice and assistance.

Additionally, while interviews by an IT are not intended to be conducted in an adversarial manner, anyone being interviewed by an IT may be assisted or represented by their own legal counsel at the interview.

The IT may itself also be assisted or represented at an interview by legal counsel. Generally, legal counsel for an IT is **not** present at interviews; they will normally only be present if the person being interviewed is also being assisted at that interview by legal counsel.

It is also important to note that the right to be represented by legal counsel should not be interpreted as a right to remain silent and to not collaborate with the IT or the PCB in accordance with Rule 12 of the *Rules of Professional Conduct*.

5.3 The investigation process

The investigation timeframe varies, depending on the time constraints of the IT members and of the individuals being interviewed (including the respondent), and the complexity of the matter. Investigations may take a few weeks or a few months.

5.3.1 Interview of the complainant or informant

As an initial step in gathering information, the IT will usually approach the complainant or informant, in order to obtain further details surrounding the events that gave rise to laying the complaint.

Such an interview will take place, even if the complainant or informant had previously been contacted in the initial review of the matter. The information obtained in the interview of the complainant/informant will be useful in helping the IT prepare for its interview of the respondent.

5.3.2 Interview of the respondent

There is always an interview between an IT and a respondent, which is ideally held in person. The interview is not a formal examination, but rather an effort in good faith to obtain as much information as possible about the complaint from the respondent.

Normally, the interview is preceded by a letter of introduction from the IT. In some cases, the interview may be preceded by preliminary letters exchange introductory questions and replies to establish the subjects to be covered during the interview.

The meeting itself is designed to provide a respondent with a full opportunity to:

- provide their version of events;
- comment upon or rectify information obtained through other sources; and
- provide any additional information that may be useful concerning the complaint.

Given the importance of this interview, it is important for the respondent to prepare thoroughly and to bring all supporting documentation to the interview. Additionally, the respondent should be prepared to provide names, addresses and details of individuals who might corroborate the respondent's version of events. In sum, if there are any facts that might help explain matters, it is vitally important that they come to light during this interview, as they may help lead to a dismissal of the complaint and avoid a charge being filed against the respondent.

5.3.3 Interview of other individuals

Although the IT usually begins its investigation by interviewing the complainant/informant and the respondent, the members of the IT normally also interview any other individual who may provide useful information regarding the events that gave rise to the complaint. This will include any individuals named by the respondent as being able to provide supporting information.

Should any new information be uncovered in this process, the respondent will be given an opportunity to comment on or rectify such information, usually via written correspondence or a telephone call.

5.3.4 Investigation of conduct by the respondent not contained within the complaint

The IT is not limited to the specific allegations of professional misconduct contained in the complaint. If, during its investigation, the IT comes across information that could be the basis for a charge beyond the scope of the original complaint, it is required to investigate further.

During its investigation, an IT may examine matters that are related to the initial complaint. This could include, for example, other potential infractions (such as the potential violation of other *Rules of Professional Conduct* not specified in the initial complaint) relating to the same work or events. Should this occur, the respondent will be advised that the IT has uncovered other potential infractions and will be given an opportunity to comment.

Furthermore, in the course of its investigation, if an IT has reason to believe that an Offence may have been committed by the respondent with respect to similar work done by the respondent or similar events involving the respondent (i.e., for example, previous valuation reports for the same client, or similar actuarial work for other clients), it will report back to the PCB, which will decide how to proceed. If the PCB is of the opinion that an Offence may have been committed by the respondent, it shall lay a complaint with respect to the similar work or events and refer such complaint to the same IT to conduct an investigation of this new complaint. In such event, the respondent in question will be informed of this decision and the process followed is the same as that regarding any other complaint.

5.3.5 Investigation of conduct of other Fellows, Associates, Candidates and Students

During its investigation, an IT may also investigate the conduct of any other Fellow, Associate, Candidate or Student to the extent that such conduct is relevant to the complaint being investigated.

If the IT determines that an Offence may have been committed by that member, it will report back to the PCB and recommend that the PCB lay a complaint against that member. If the PCB lays a complaint, then the same IT will investigate this new complaint. In such event, the member in question will be informed of this decision and the process followed is the same as that regarding any other complaint.

5.4 Preparation of the IT report

After the investigation has been completed, the IT prepares a report that summarizes the steps they are undertook to investigate the complaint. The report will generally include the following items:

- A list of the persons interviewed together with a summary of their statements.
- A list of documents obtained from these persons.
- A summary of the findings of the IT.

Once the report is completed, it is sent to the subgroup of the PCB who initially reviewed the complaint/information for a preliminary assessment to ensure that the investigation has been conducted properly and has been completed. Subsequently, a copy of the report is sent by the PCB to the respondent for their comments.

While a respondent is required to co-operate with the IT during the investigation, the respondent is **not** required to respond to the IT report. However, the respondent is encouraged to do so, as this is the final opportunity for the respondent to provide any comments that they feel are relevant, before the PCB considers the IT report and decides whether to dismiss the complaint or to file a charge.

The respondent's response must be sent to the PCB in writing, although there are no rules as to the format or the content. Normally, the deadline for providing such comments is within 30 days after the respondent receives the report. However, the PCB may extend the time frame if it feels such an extension is warranted.

5.5 Decision whether to dismiss the complaint or to file a charge

After receiving a respondent's response (or after expiry of the deadline for the response, should none be provided), the PCB will carefully review the IT report and any response provided by the respondent. The PCB will then meet to decide how to proceed. Given the importance of this decision, this discussion normally takes place during a formal meeting of the PCB. The PCB must then decide whether the complaint should be dismissed or whether a charge should be filed.

The PCB may decide, based on the findings contained within the IT report and on the respondent's response to the report, that an Offence has not been committed and that the complaint is not justified. In these circumstances, the PCB will dismiss the complaint. The respondent will be informed as soon as possible of the decision to dismiss the complaint, normally within 30 days of the decision. Additionally, the complainant/informant who has signed a confidentiality agreement will also be informed of the decision.

In some cases, the PCB may also send a letter of advice to the respondent along with the notice of dismissal. This is done if the PCB believes that the respondent may benefit from such advice. A letter of advice is not a disciplinary sanction but will be kept in the member's file for a period of five years and made available only to the PCB. Additionally, the letter remains entirely confidential, and anyone involved in the preparation of the letter is bound to secrecy.

If the PCB, however, finds that the complaint is justified, the PCB must then file a charge against the respondent. Again, the respondent will be informed of this decision as soon as possible, normally within 30 days of the decision, as will the complainant/informant who has signed a confidentiality agreement.

6. Filing of a charge

Should a charge be filed, the PCB will have to consider the relative gravity of the matter and the interests of the public and of the Institute, and then decide exactly how to proceed, either through the negotiation of a written settlement agreement with a respondent who wishes to plead guilty to the charge or through a hearing before a DT.

6.1 Settlement agreement

The PCB may file a charge and give the respondent the opportunity to negotiate a written settlement agreement that will include an admission of guilt by the respondent. Such an agreement would also include any reprimand or sanction, payment of a fine, payment of costs incurred by the Institute, remedial education or any other corrective or remedial action the PCB considers appropriate, suspension or expulsion. The agreement will be subject to review by a DT in accordance with Bylaw 5.4.9.

If the respondent admits guilt and accepts the conditions of the agreement, the PCB will initiate the appointment of a DT to review the written settlement agreement within 10 days of reaching the agreement with the respondent, and the chair of the Tribunal Panel will appoint a DT within 20 days of being contacted.

A DT that is asked to review a written settlement agreement negotiated in accordance with Bylaw 5.2.2.1.vi shall review only written submissions from the parties, but may, if needed, contact the parties to request clarification or additional information.

The DT shall decide whether the agreement reached between the PCB and the respondent:

- i. is fair and unbiased, based on the gravity of the Offence;
- ii. does not bring the administration of justice into disrepute; and
- iii. is not contrary to the public interest.

The DT will normally render a decision within 30 days from the date of the receipt of the written settlement agreement and will formally record its decision with reasons and send it to all parties within 10 days of reaching a decision.

If the DT does not confirm the settlement agreement, it becomes null and void, and the PCB will decide within 30 days what further action to take in accordance with Bylaw 5.2.2.1.

If a written settlement agreement is reached by the parties and confirmed by the DT, the DT shall then formally notify the PCB and the respondent within 10 days of this decision and the Executive Director shall publish, within 30 days of notifying the respondent, a notice of the written settlement agreement that is available to the public.

The notice shall contain:

- the name and the principal practice address of the respondent;
- the specialty area in which the respondent practices, if any;
- the charge and sanctions; and
- confirmation that the written settlement agreement has been reviewed and confirmed by a DT.

6.2 Referral to a disciplinary tribunal

Referral to a DT is reserved for cases where the PCB finds that neither a settlement agreement or a dismissal are appropriate, having regard to the relative gravity of the matter and the interests of the public and of the Institute, or the respondent is not willing to accept a settlement agreement.

If a charge is referred to a DT, within 30 days after notifying the respondent of the PCB's decision, a notice of the charge is published to the public and the membership. The notice will contain the charge, and the respondent's name, address and practice area. In addition, the notice includes a statement advising the public that the respondent has been charged, but that the DT hearing has not yet been held, and therefore that no decision has yet been rendered as to whether or not the respondent is guilty of the charge. Finally, a complainant who has signed a confidentiality agreement is also sent a copy of this notice.

6.2.1 Nature of a hearing before a DT

A hearing before a DT resembles a court case, although it is more informal. A certain analogy can be made with a Crown attorney whose role is to prosecute an accused person on behalf of the Crown (and of the public); the PCB prosecutes a respondent on behalf of the Institute (and of the profession and of the public). In turn, the respondent may be represented by their own lawyer and has a full opportunity to present a defence to the charge.

The members of the DT listen to both sides and weigh the evidence and arguments presented to it, and then decide whether the respondent is guilty of the charge.

If the DT does not find the respondent guilty, it will dismiss the case and will typically order the Institute to pay the respondent's legal costs incurred in defending the matter.

If the DT finds the respondent guilty, then the members of the DT hear arguments by both sides and decide upon the most appropriate penalty. As stated above in Section 3, these may include one or more of the following:

- public reprimand
- suspension of membership in the Institute and of the right to use the FCIA or ACIA designation
- expulsion from membership in the Institute and withdrawal of the right to use the FCIA or ACIA designation
- a fine
- remedial education

In addition, if the respondent is found guilty, the DT may order them to pay all or part of the fees and expenses that the Institute's legal counsel incurred over the full course of the proceedings. Furthermore, if there is a finding of guilt, a notice of this and of the penalties imposed is published and shared with the membership. If either a suspension or expulsion is imposed, a copy of the notice is also sent to all appropriate regulators, and a summary of the notice is published with a prominent news outlet in the community where the respondent principally practices in Canada and in other appropriate publications.

Following the appointment of the DT that is to hear the case, the hearing process involves several steps, notably pre-trial procedures (including the possibility of a guilty plea and mediation), procedures at the trial itself and post-trial procedures.

6.2.2 Composition and independence of the DT

A DT is comprised of three individuals, one of whom is a retired judge, and two of whom are members of the Institute in good standing. The DT members are selected by the chair of the Tribunal Panel, from the Tribunal Panel, if possible, for their experience and expertise in the practice area relating to the case at hand. Additionally, the members of a DT are selected for their impartiality. The Bylaws protect such impartiality in three ways:

1. First, the following individuals are automatically disqualified from sitting on a DT: the President, the President-elect, the Immediate Past President, the members of the IT that investigated the complaint laid against the respondent, the chair of the Tribunal Panel, the vice-chair of the Tribunal Panel and the members of the PCB.
2. Second, the parties must be informed of the composition of a DT within 10 days after its appointment so that they can ensure that the members of the DT are not in a conflict of interest. To this end, a party may request the removal of a member of the DT, should there be a conflict of interest between that member of the DT and one of the parties, or should a member of the DT appear biased for any other reason under the circumstances.
3. Third, members of the DT must themselves ensure that they are not in a conflict of interest and remove themselves from the DT if they are in such a conflict of interest.

All these measures are designed to ensure that the members of a DT remain independent of the parties and that they remain unbiased in their decision-making.

6.2.3 Pre-hearing procedure

The *Rules of Practice and Procedure of a Disciplinary Tribunal* (the “Rules”) (in force since November 20, 1997, and revised in 1998, 2014, 2020 and 2022) set out in detail what procedures must be followed by the parties before the hearing begins.

The purpose of these Rules is to ensure that documents and information are exchanged well in advance of the hearing, which will allow the parties to better prepare themselves for the hearing. This in turn may result in a settlement or at least speed up the process and reduce the length of the hearing, thereby reducing the costs incurred by both parties.

Essentially, the Rules provide that the PCB will disclose all relevant documents to the respondent and will provide the respondent with a statement of facts and conclusions that underlie the charge. The respondent will then provide a response to the charge, which should include a statement of the material facts and a copy of documents on which they intend to rely. A pre-hearing conference is then organized with the parties and the members of the DT to set a hearing date that is convenient for all parties involved and to discuss other issues, such as preliminary objections, names of witnesses, evidence to be adduced by affidavit, etc. In order to ensure that progress is made during this meeting, certain information must be provided to the other party and to the DT in advance of the meeting.

These Rules also set out the order and manner in which the hearing shall be conducted so that the parties can better prepare and organize themselves and their witnesses, and to clarify certain details of the process and of the evidence to be adduced and the manner in which it can be introduced (i.e., by affidavit, viva voce, will-say statements, etc.).

It is strongly advised that a respondent and their legal counsel (if any) refer to and become familiar with these Rules.

6.2.4 Guilty plea

It is important to understand that at any time before the hearing begins, the respondent may plead guilty to the charge filed, in which case an appropriate penalty may be negotiated between the parties.

Generally, the penalty is negotiated between the PCB and the respondent through their respective lawyers, and then jointly submitted to the DT for its consideration.

At this point in the process, however, it should be noted that it is the DT that retains sole discretion as to the penalty that may be imposed; while it may consider the negotiated penalty submitted to it, it is not bound to follow it and may render any decision it deems just in the circumstances. In the cases that were brought, DTs have tended to accept the negotiated penalties submitted to it with few or no modifications.

6.2.5 Mediation

In addition, at any time before the hearing begins, the parties may agree to submit the matter to mediation before a mediator. Mediation may be used to attempt to resolve a variety of disputed issues that may arise between the PCB and the respondent, including:

- the facts at issue;
- the terms of the plea that is to be entered by the respondent before the DT;
- the wording of the charge that is to be presented to the DT;
- an appropriate penalty to be presented to the DT for its consideration;
- an appropriate order concerning costs and publication to be presented to the DT for its consideration;
- the terms of an appropriate notice to be presented to the DT for its consideration; and
- additional materials and submissions to be presented to the DT for its consideration.

The mediator is an independent and neutral party, who is selected by agreement of both the respondent and the PCB. Mediation takes place in the presence of the parties and their legal counsel, if any. The mediator has no power to force a settlement upon the respondent or the PCB. The mediator's goal is simply to encourage communication.

Four additional points should be made about mediation.

First, mediation is a strictly voluntary process, which requires the consent of both the PCB and the respondent. More specifically:

- all terms and conditions of the mediation process (including such things as the exact process to be followed, who is to serve as mediator and how the costs of the process are to be divided among the parties) must be negotiated between the parties; and
- either party participating in mediation may discontinue the mediation process at any time.

Second, mediation is a confidential process. Anyone involved in mediation must sign a confidentiality agreement concerning all information obtained in connection with the mediation process.

Third, mediation is designed to ensure full and frank discussion between the parties. Nothing said or done by a party during mediation may be used against that party in any later disciplinary proceedings.

Additionally, no document produced by a party during mediation may be used against that party in later disciplinary proceedings (unless the document would inevitably have been produced in any event outside the mediation).

Finally, it should also be noted that, as with a guilty plea, any agreement reached by the parties through mediation must be presented to the DT for its consideration. Again, it is the DT that retains full discretion to render any decision it deems appropriate in the circumstances.

6.2.6 Procedure at the hearing

In all cases, whether there is a guilty plea or a mediated agreement in place, a hearing of the matter must ultimately be conducted before the DT. Hearings are usually held in the community where the circumstances surrounding the complaint arose. If the respondent fails to appear, the DT may conduct a hearing in the respondent's absence and without the benefit of the respondent's submissions. As already stated, the respondent may also be accompanied by legal counsel, who may assist or represent the respondent before the DT.

It should further be noted that hearings before a DT are generally open to public attendance. Nevertheless, of its own initiative or upon request, the DT may, at its discretion, order that a hearing be held on camera or ban the publication or release of any information or document it indicates to preserve professional secrecy, to protect a person's privacy or reputation or in the public interest.

If there is a guilty plea, this is presented at the outset of the hearing for the DT's consideration. The DT may make additional inquiries of the parties as it sees fit. It will then conclude the hearing and will subsequently render a single decision concerning both the guilt of the respondent and the penalty to be imposed.

If there is no guilty plea, the procedure at the hearing follows that of a court case but is more informal. The hearing procedure is divided into two parts. The first hearing deals solely with the question of whether the respondent is guilty of an Offence. If there is a guilty finding, a second hearing is required to determine an appropriate penalty to be imposed against the respondent. In certain circumstances, these two parts could be done together at one hearing.

In the first hearing, any joint submissions that may have been agreed upon between the PCB and the respondent are presented to the DT for its consideration. The DT shall then hear the parties, their legal counsel and their witnesses, may inquire into the relevant facts and may call any person to testify on such facts. The witnesses may be examined and cross-examined by the parties. A member testifying before a DT shall be bound to answer all questions.

As for the conduct of the prosecution itself, it is not the mandate of the PCB to secure a finding of guilt by any means. Instead, the prosecution will present its case to the DT with dispassion: its role is not only to maintain the high standards of the profession, but also to ensure that only the guilty are publicly disciplined. The members of the IT will in most cases appear as the main witnesses for the prosecution. Their role and that of the PCB is to enlighten the DT by presenting all relevant evidence for its consideration, but always in a manner to uphold the dignity of the profession.

After hearing the evidence and argument, the DT concludes the hearing and, within 90 days, renders a decision as to whether the respondent is guilty of an Offence. A copy of this decision is sent to all parties within 10 days of the decision. Additionally, if the investigation had been initiated by a complainant, the complainant will also be informed of this decision, normally within 30 days of the decision.

If there is a finding of guilt, the second hearing, concerning the appropriate penalty, must be held within 30 days. Here, any further argument or joint submissions are provided regarding the question of an appropriate penalty. After this portion of the hearing, the DT will conclude the hearing, and, within 15 days, render its decision concerning the appropriate penalty to be imposed. A copy of this decision is sent to all parties within 10 days of the decision. Additionally, if the investigation had been initiated by a complainant, the complainant will be informed of this decision, normally within 30 days of the decision.

6.2.7 Appeals and judicial review of decisions by the DT

After the decision on penalty has been rendered or the respondent has been found not guilty, either party may appeal from either or both decisions, unless the respondent's right of appeal has been revoked, in accordance with Bylaw 5.4.8.v. Should the respondent wish to appeal, a notice of appeal of a decision must be filed with the Institute's Executive Director within 30 days after the decision on penalty is rendered.

The PCB may also appeal decisions, but only in more limited circumstances.

The DT may also revoke the right of appeal of a respondent who fails to participate in their own DT. The DT will consider all information available when making a decision to revoke the right of appeal and will do so only in cases where it is clear that the respondent is not willing to adequately participate and present their defence. Circumstances that are beyond the respondent's control (i.e., illness) will not warrant the revocation of the right of appeal and all such circumstances, if communicated to the DT, will be considered.

Appeals are heard by an appeal tribunal (AT), appointed by APOB. As with DTs, ATs consist of two members in good standing from the Tribunal Panel (if possible) and a retired judge, who are not in a conflict of interest.

The length of the AT hearing will depend on the complexity of the appeal material filed. It should be noted, however, that an appeal is not a re-trial of the matter, and save in exceptional circumstances, new evidence is not permitted.

The AT hears the arguments of both sides. Within 30 days, the AT renders its decision. It may confirm, alter or quash the prior decision, and render the decision that it considers should have been rendered in the first instance.

Following the DT and AT hearings, a dissatisfied party may seek further review of the matter before the civil courts in a process that is called "judicial review." This procedure is subject to the rules and limitations of the civil courts.

6.2.8 Communication of final decisions

A decision becomes final only if it is not appealed or made subject to an application for judicial review within the appropriate limitation period. As stated above, once a decision becomes final, a notice of the decision is published to the membership. Such notice provides: the name of the respondent, the principal practice address of the respondent, the area of speciality in which the respondent practices, the charge and a summary of the guilty plea or decision(s) rendered.

It should also be noted that, if a respondent is found guilty of an Offence, and either a suspension or expulsion is imposed, a copy of the notice is also sent to all appropriate regulators. Furthermore, a summary of the notice is published with a prominent news outlet in the community where the respondent principally practices in Canada and in other appropriate publications.

The publication or release of the notice shall take place within 60 days of the decision being rendered.

7. International issues

The disciplinary process described above is the standard process that applies to questions concerning the practice or professional conduct of members of the Institute. It is important to point out that this process also applies to individuals who are members of a "bilateral organization," i.e., the actuarial organization responsible for profession-wide counselling and discipline in a foreign jurisdiction with which the Institute has entered into a bilateral agreement.

As of October 2016, the Institute has entered into a trilateral, cross-border discipline agreement with the various Mexican- and US-based actuarial organizations (i.e., the American Academy of Actuaries, the American Society of Pension Actuaries, the Casualty Actuarial Society, the Conference of Consulting Actuaries, the Society of Actuaries, CONAC, AMAC and AMA). The Institute has the power to enter into similar agreements with other actuarial organizations but has not yet done so. It is also important to distinguish between agreements regarding discipline and various mutual recognition agreements that have been signed with various actuarial organizations, which serve to recognize members from other actuarial organizations around the world and which may or may not include an agreement to the effect that the disciplinary process of one organization applies to the members of the other organization.

The disciplinary process that will apply in any given case depends on whether the practice of the individual in question is considered as “practice in Canada” or practice in a foreign jurisdiction, and on whether the foreign actuarial organization has entered into a bilateral agreement with the Institute (i.e., whether the foreign actuarial organization is a “bilateral organization”).

In order to determine which disciplinary process applies, one must first determine whether the practice is “in Canada” or elsewhere. The Reciprocal Agreement (also referred to as the Cross-Border Discipline Agreement) signed with the Mexican- and US-based organizations, as well as the Bylaws, stipulate that the location of the practice of an individual for the purpose of determining if the practice is “in Canada” is determined by the ultimate purpose of the work, which is determined by establishing the jurisdiction of the legal or regulatory requirements pursuant to which the work is performed or by establishing the jurisdiction for which the work is intended for use. The residence or physical location of the individual is irrelevant to the determination of the location of such person’s practice.

It is important to understand that CIA members must comply with the *Rules of Professional Conduct* of the Institute at all times, regardless of where they are practising.

If a member is practising in a jurisdiction of an actuarial organization that has not entered into a bilateral agreement with the Institute, any questions concerning the practice or professional conduct of such a member shall be governed by the regular disciplinary process of the Institute described above.

If questions arise concerning the practice or professional conduct in Canada of a member of the Institute and/or a member of a Mexican- or US-based actuarial organization, the regular disciplinary process of the Institute described above will apply. The Institute will determine whether the individual is guilty or innocent. If the individual is found guilty pursuant to the Institute’s disciplinary process and is only a member of a Mexican- or US-based actuarial organization, the file will be remitted to the Mexican- or US-based actuarial organization in question so that it may determine the appropriate penalty to be imposed against the individual. If the individual is found guilty pursuant to the Institute’s disciplinary process and is both a member of the Institute and a member of a Mexican- or US-based actuarial organization, the Institute shall impose an appropriate penalty and the file will be remitted to the Mexican- or US-based actuarial organization so that it may determine the appropriate penalty to be imposed against the individual as well.

If questions arise concerning the practice or professional conduct in the United States of an individual who is a member of the Institute and/or a member of a Mexican- or US-based actuarial organization, the disciplinary process shall be governed by the rules and procedures of the Mexican- or US-based actuarial organization. The Mexican- or US-based actuarial organization will determine whether the individual is guilty or innocent. If the individual is found guilty pursuant to the Mexican- or US-based actuarial organization’s process and is only a member of the Institute, the file will be remitted to the Institute so that it may determine the appropriate penalty to be imposed against the member. If the individual is found guilty pursuant to the Mexican- or US-based organization’s process and is both a member of the Institute and a member of the Mexican- or US-based actuarial organization, the Mexican- or US-based actuarial

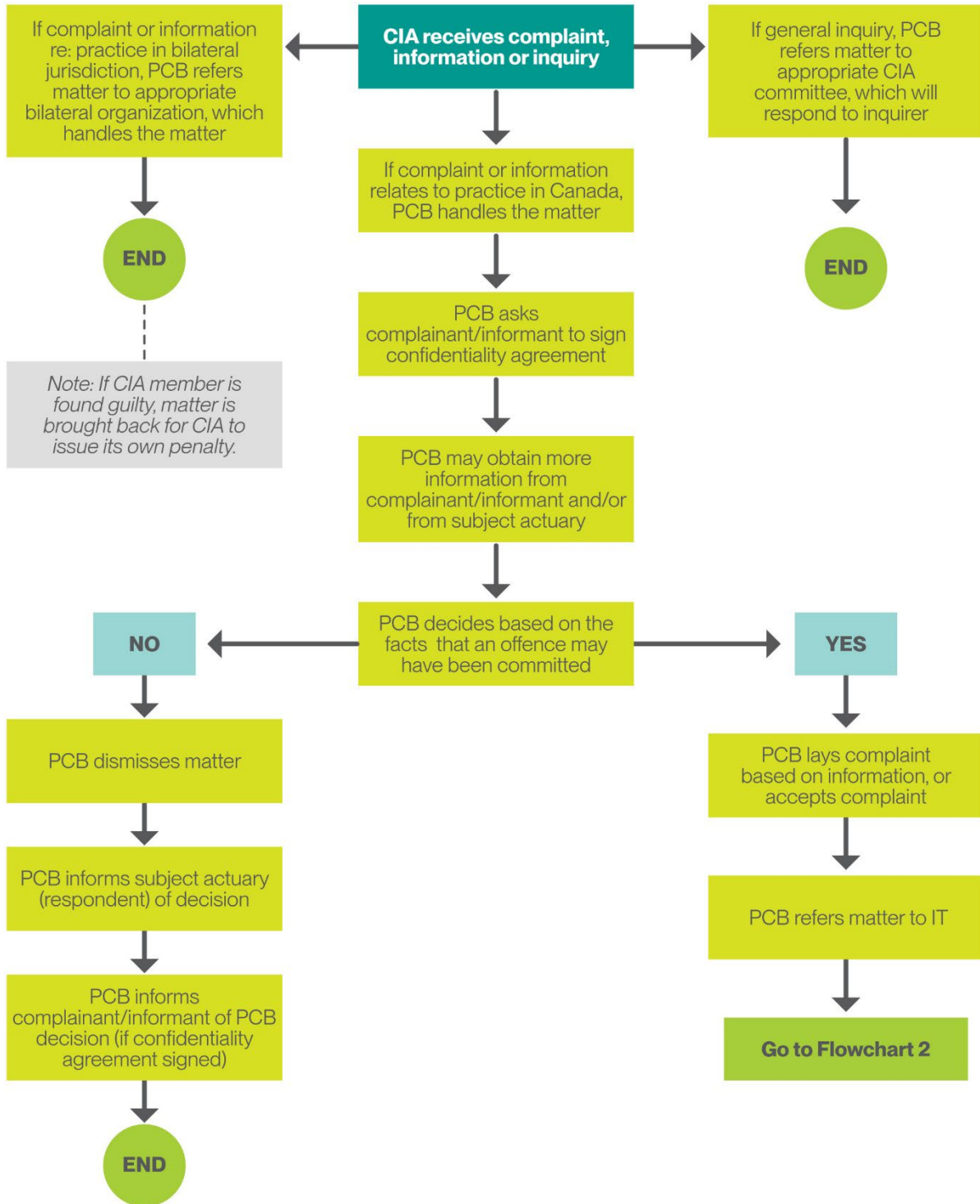
organization shall impose an appropriate penalty and the file will be remitted to the Institute so that it may determine the appropriate penalty to be imposed against the individual as well.

8. To obtain further information

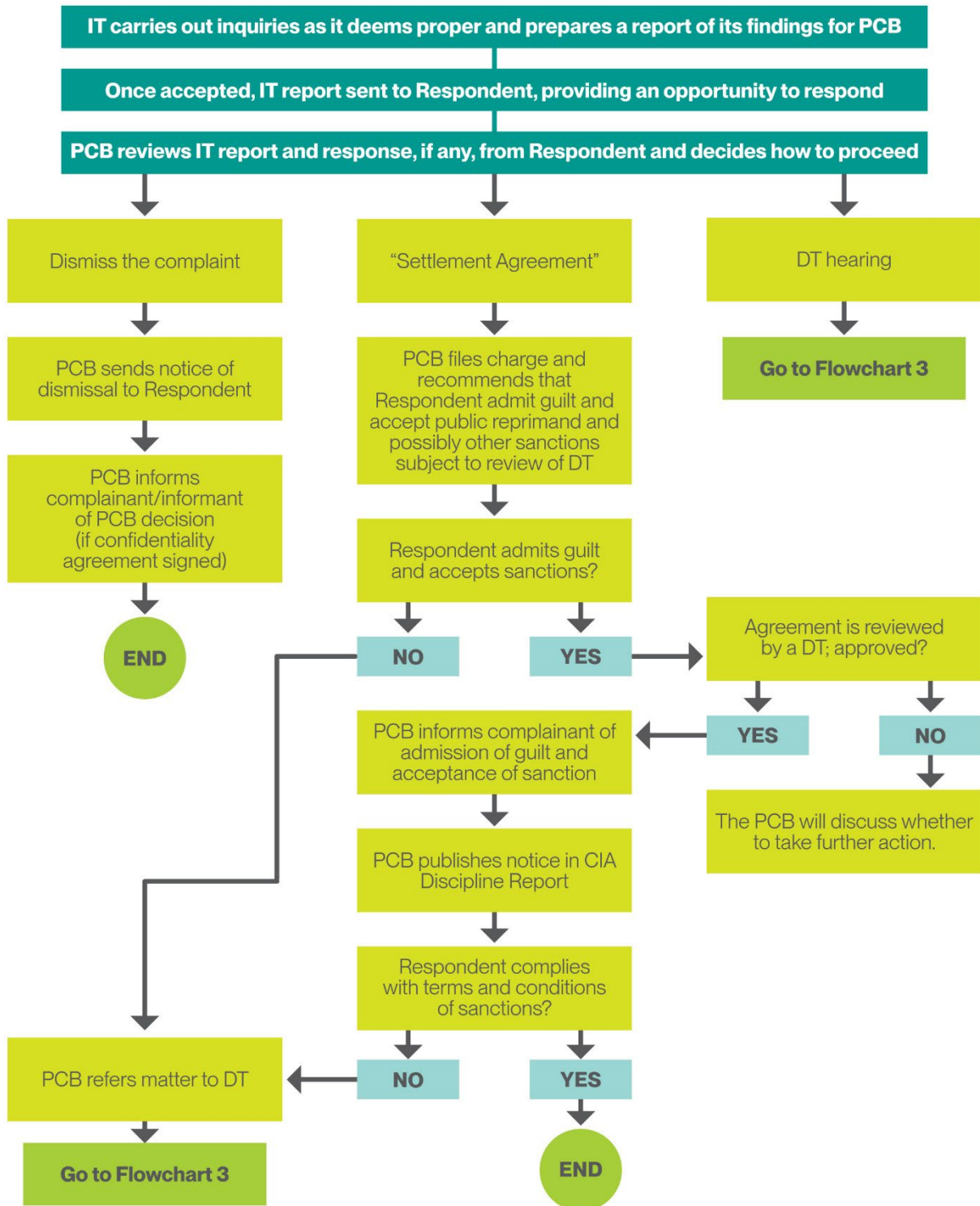
For more information about the disciplinary process of the Institute, please contact the chair of the PCB, the **Executive Director of the Institute** or the **Senior Coordinator, Professional Practice and Conduct of the Institute's Head Office**.

Flowcharts to illustrate the disciplinary process related to practice in Canada

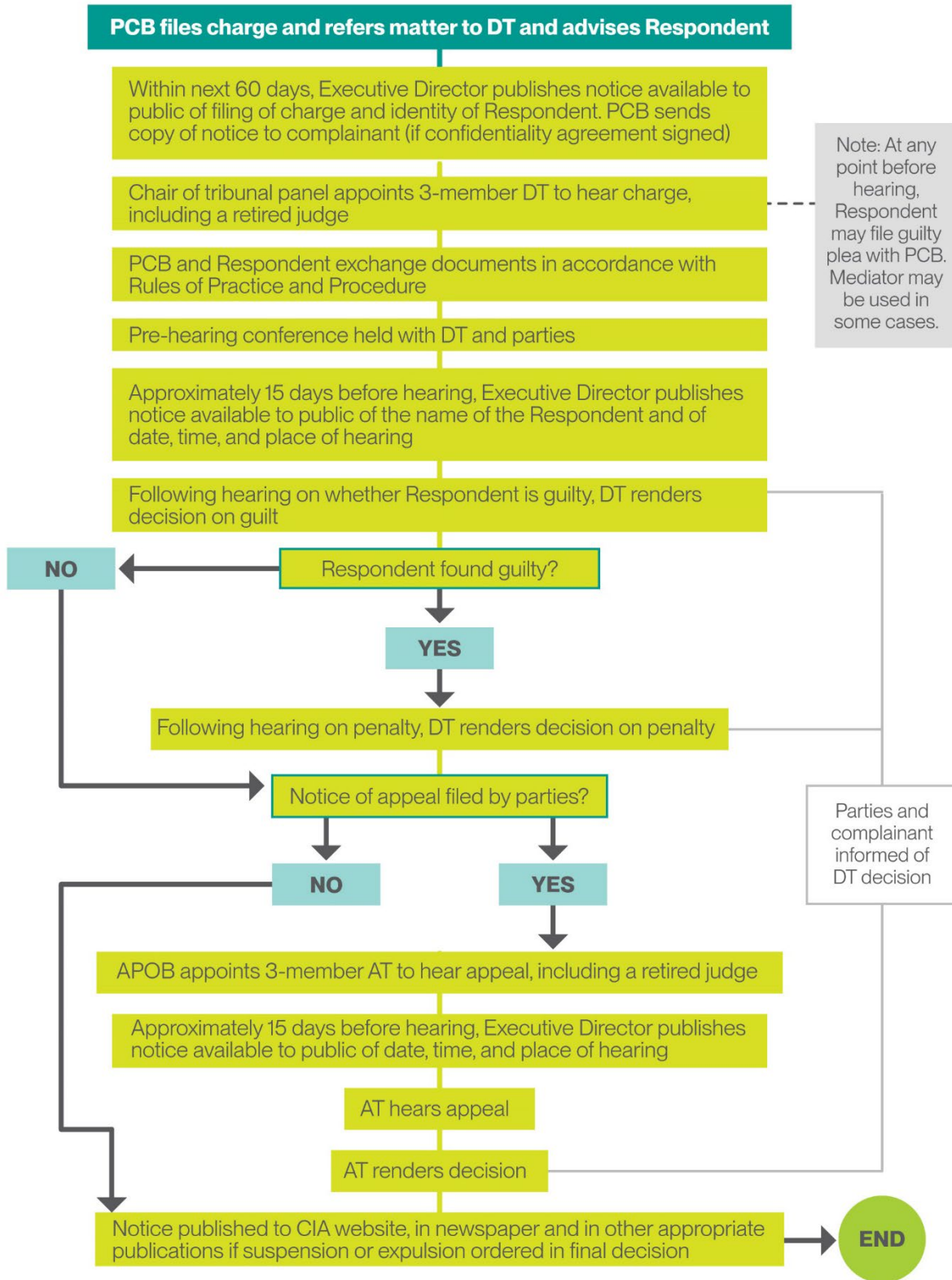
Flowchart 1




Flowchart 2



Flowchart 3





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