

DISCIPLINARY RULES AND PROCEDURES

In Effect from February 1, 2022

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ARTICLE 1: INTRODUCTION

1.1 Introduction

A division of FP Canada®, the FP Canada Standards Council™ (the “Standards Council”) establishes and enforces financial planning standards, sets the certification requirements for professional financial planners and develops and delivers certification examinations. The Standards Council ensures FP Canada certificants — CERTIFIED FINANCIAL PLANNER® professionals and QUALIFIED ASSOCIATE FINANCIAL PLANNER™ professionals — meet appropriate standards of competence and professionalism through rigorous requirements of education, examination, experience and ethics.

The *FP Canada Standards Council Standards of Professional Responsibility* (the “*Standards of Professional Responsibility*”) establish minimum standards of acceptable professional conduct for FP Canada certificants. Adherence to the *Standards of Professional Responsibility* is mandatory for all FP Canada certificants and will be strictly enforced by the Standards Council. The Standards Council has a duty to investigate allegations of misconduct about an FP Canada certificant.

The *FP Canada Standards Council Disciplinary Rules and Procedures* (the “DRP”) guide how the Standards Council’s investigations and hearings into actions by FP Canada certificants (and former certificants, where the conduct occurred while the individual was certified) that may represent a breach of the *Standards of Professional Responsibility*. FP Canada publishes the DRP as a resource for Canadian consumers, clients, complainants, those considering making a complaint, the individual against whom the complaint is made, and other stakeholders.

The purpose of the DRP is to:

1. Establish fair processes that consider the interests of the public, the financial planning profession, and the individual certificant;
2. Ensure processes and proceedings are clear, understandable, timely and transparent; and
3. Allow certificants to participate in the process, with or without legal representation.

1.2 General Principle

The DRP shall be liberally interpreted and implemented to secure the most reasonably expeditious and fairest determination with respect to every proceeding.

ARTICLE 2: GROUNDS FOR DISCIPLINE

2.1 Grounds for Discipline

A complaint against, or other indication of misconduct by, an FP Canada certificant or former certificant, that, pursuant to the DRP, is investigated and found to constitute misconduct shall constitute grounds for discipline, whether or not the misconduct arose in the course of a client relationship and irrespective of the individual's certification status at the time of the complaint or resulting proceedings.

Misconduct may include:

1. Any act or omission that violates the provisions of the *Standards of Professional Responsibility*;
2. Non-compliance with an Order by a Disciplinary Hearing Panel ("Hearing Panel") or Appeal Hearing Panel;
3. Failure to cooperate with a Standards Council investigation;
4. Any false or misleading statement made by an FP Canada certificant to FP Canada or its Divisions (the FP Canada Standards Council™ and the FP Canada Institute™) whether or not in the course of an investigation; and
5. Any other act or omission amounting to misconduct or which may bring the reputation of the Certification Marks into question.

Cheating or other instances of examination misconduct on certification examinations delivered by the Standards Council, will be addressed in accordance with the provisions of the [FP Canada Standards Council Disciplinary Rules and Procedures for Examination Misconduct](#).

Complaints involving an individual holding FP Retired status, will be addressed in accordance with the provisions of the [FP Retired™ Status Policies](#).

ARTICLE 3: THE EXECUTIVE DIRECTOR

3.1 Powers of the Executive Director

The President & CEO of FP Canada shall appoint an Executive Director and Head of the Standards Council Division (the "Executive Director") who shall be responsible for, among other things, standards and enforcement, and having regard to the necessity for expeditiously concluding all disciplinary matters, shall have the power to:

1. Oversee the process for receipt and investigation of complaints from any person or entity, in accordance with Article 4;

2. Make a complaint in the absence of a third-party allegation of misconduct where the Executive Director has a reasonable suspicion that the FP Canada certificant may have engaged in conduct that may breach the *Standards of Professional Responsibility*;
3. Facilitate the review of matters before the Conduct Review Panel (CRP);
4. Represent the Standards Council's position before a Hearing Panel or an Appeal Panel;
5. Engage professionals, experts and other persons to assist in the enforcement process;
6. Engage counsel or other qualified individuals to act on behalf of the Standards Council in a Hearing or Appeal; and
7. Do anything else necessary or desirable for the proper discharge of the Executive Director's duties including raising possible changes to the DRP to the President & CEO.

ARTICLE 4: INVESTIGATION

Complaints

4.1 Initial Review

Standards Council Staff (Staff) shall acknowledge receipt of complaints within ten (10) business days of receipt and then conduct an initial review. On average, the initial review will be completed within 90 days of receipt of the complaint. This initial review period may be increased to up to 120 days where the complaint involves complex or multiple allegations or where the initial review requires the gathering of information from the certificant and/or the complainant. Any complaint that does not include an allegation of misconduct and/or does not meet the requirements set out in Article 2 shall be dismissed, with or without a written Staff caution reminding the FP Canada certificant of their professional obligations.

4.2 Notice of Investigation

Where it is determined that a complaint includes a proper allegation of misconduct and a formal investigation is warranted:

1. Staff shall give written notice to the FP Canada certificant, in accordance with Article 16 that a formal investigation has been commenced. Such notice shall set out the substance of the complaint.
2. The FP Canada certificant shall provide a detailed response within 30 days or receipt of the notice, or any other deadline set by staff, and provide copies of relevant documents in the FP Canada certificant's possession or control.

4.3 Cooperation

Every FP Canada certificant under initial review or investigation, or is subject to an inquiry by the Standards Council, has an obligation to fully cooperate, including by making available to the Standards Council, upon request, any relevant documents and records in the certificant's possession or control, and meeting with the investigator (in-person or by way of telephone or videoconference) to answer questions. Relevance shall be determined by the Standards Council. Failure to cooperate or provide relevant documents is grounds for discipline under Article 2.

Where the FP Canada certificant fails to respond to the Standards Council's communications and/or to cooperate with an initial review, investigation or inquiry by the Standards Council, the Executive Director or their delegate may refer the matter to a Hearing Panel for consideration of the allegation that the FP Canada certificant has contravened the *Rules of Conduct*, in accordance with Article 5.

4.4 The Conduct Review Panel

The findings of an investigation shall be presented to the Conduct Review Panel (CRP) for consideration, other than in the circumstances set out in Article 4.5.

Following its consideration of the findings of an investigation, the CRP shall:

1. Dismiss the matter where it is determined that the complaint is unlikely to result in a finding of misconduct or the conduct is minor in nature or represents an administrative or practice management error; or
2. Dismiss the matter with a letter of Guidance and Advice, where the Panel has concerns about a certificant's conduct but determines that a remedial approach is appropriate in the circumstances and that referral to a Hearing Panel is not required to protect the public interest; or
3. Refer the matter to a Hearing Panel.

The CRP shall advise the FP Canada certificant of its decision in writing.

4.5 Administrative Resolution of Investigations

An investigation may be dismissed by Executive Director or their delegate, in the following circumstances:

1. The death of the FP Canada certificant or former certificant under investigation, during the course of the investigation;
2. Where the Hearing Panel has previously revoked the individual's certification or permanently banned the individual from reapplying for certification or reinstatement; or
3. In the circumstances set out in Article 4.8.

Fitness Standards

4.6 Initial Review

Where the Standards Council becomes aware that an FP Canada certificant or former certificant applying for certification (referenced below as an applicant) has engaged in conduct that may give rise to a Bar to Certification pursuant to the *Fitness Standards*, staff shall conduct an initial review to assess the conduct and determine if a Bar to Certification has been triggered. Where the assessment concludes that the conduct or violation is minor in nature, staff may caution the FP Canada certificant or applicant and remind them of their professional obligations or take no further action.

4.7 Notice of Presumptive Bar

Where it is determined that the conduct gives rise to a Bar to Certification pursuant to the *Fitness Standards*, staff shall advise the FP Canada certificant or applicant in accordance with Article 16, and provide them with an opportunity to explain their conduct in a Request for Reconsideration.

4.8 Request for Reconsideration

A Request for Reconsideration is an FP Canada certificant's or applicant's opportunity to request that the Bar to Certification be set aside and that they be permitted to maintain or obtain, FP Canada Certification.

Failure to deliver a Request for Reconsideration within 30 days of receipt of the Notice of Presumptive Bar detailed in Article 4.7, or by the deadline set by Standards Council staff, will result in the FP Canada certificant's certification being cancelled and/or the FP Canada certificant or applicant being permanently barred from certification. The failure may also result in the dismissal, by the Executive Director or their delegate, of any related open investigation matter relating to the FP Canada certificant or applicant, with or without a written Staff caution reminding the FP Canada certificant or applicant of their professional obligations.

4.9 Cooperation

Every FP Canada certificant or applicant who has filed a Request for Reconsideration has an obligation to fully cooperate, including by making available to the Standards Council, upon request, any relevant documents and records in their possession, or control and meeting with the investigator (in-person or by way of telephone or videoconference) to answer questions. Relevance shall be determined by the Standards Council. Failure to cooperate or provide relevant documents is grounds for discipline under Article 2.

Where an FP Canada certificant or applicant fails to respond to the Standards Council's communications and/or to cooperate with an initial review, investigation or inquiry by the Standards Council, the Executive Director or their delegate may, refer the matter to a Hearing Panel for consideration of the allegation that the certificant or applicant has contravened the *Rules of Conduct*, in accordance with Article 5.

4.10 The Conduct Review Panel

Following consideration, the CRP shall:

1. Allow the certification or continued certification;
2. Allow the certification and issue a letter of Guidance and Advice, where appropriate; or
3. Refer the matter to a Hearing Panel.

The CRP shall advise the FP Canada certificant of its decision in writing.

ARTICLE 5: HEARING PANEL

5.1 Statement of Allegations

Where the CRP determines that a matter should be referred to a Hearing Panel in accordance with Article 4, the Executive Director or their delegate shall, within 45 days of the decision of the CRP, serve the FP Canada certificant with, and file with the Secretary to the Hearing Panel (the Secretary), the Standards Council's Statement of Allegations and request that the Secretary establish a Hearing Panel. The Statement of Allegations shall particularize the alleged misconduct, the circumstances giving rise to the proceeding and the specific principles and/or rules of the *Standards of Professional Responsibility* alleged to have been breached.

The Statement of Allegations shall be publicized on FP Canada's website within five business (5) days of being filed.

The allegations may be amended at any time prior to ten (10) days prior to the delivery of submissions as set out Articles 6.5 and 6.6, on notice to the FP Canada certificant, and at any time thereafter, with leave of the Panel. Any amendments to the Statement of Allegations shall be publicized on FP Canada's website within five (5) business days of being filed.

5.2 Hearing Panel Roster

FP Canada shall maintain a Hearing Panel Roster. The Hearing Panel Roster supports the fulfillment of FP Canada Standards Council's professional-oversight mandate by establishing a list of members who can serve on FP Canada Standards Council Hearing and Appeal Panels, in the public interest. The Roster shall at all times be comprised of a majority of CFP professionals.

5.3 Hearing Panel

The Secretary shall appoint three members of the Hearing Panel Roster to serve as members on the Hearing Panel. In selecting members from the Hearing Panel Roster, the Secretary shall consider area of expertise and, where applicable, geographic location. The Secretary shall make every effort to rotate Hearing Panel Roster members. The Hearing Panel must be comprised of a majority of FP Canada certificant members.

The selected members shall appoint one member, from amongst themselves, to serve as Chair of the Hearing Panel. If a member of a Panel who is engaged in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision or order, the remaining member(s) may:

1. complete the hearing, make the decision and any order, and give the reasons; or
2. request the Secretary appoint a substitute Hearing Panel member for the balance of the proceeding.

Subject to the provisions of Article 11, the Hearing shall be held at a location chosen by the Secretary who shall give due consideration to the convenience of all parties concerned. The Secretary shall be responsible for all aspects of administering the hearing process including maintaining administrative records of all Hearings and decisions.

ARTICLE 6: HEARING

6.1 Notice of Hearing

Upon the fixing of the time and place for the hearing, the Secretary shall give written notice (the Notice of Hearing) to the Executive Director or their delegate, the FP Canada certificant, and the members of the Hearing panel. The Notice of Hearing shall set out the Standards Council's and the FP Canada certificant's respective deadlines for delivery of supporting evidence and submissions.

6.1.1 Format and Location of the Hearing

The Notice of Hearing will also detail the location and format of the hearing i.e., in-person, by way of telephone or videoconference, by way of written submissions or a combination thereof. Where a hearing is in writing, the hearing date will be used for deliberations by the Hearing Panel and the parties will not be in attendance.

Generally speaking, hearings shall be held in-writing. Requests to change the location or format of the hearing must be made to the Chair of the Hearing Panel, through the Secretary, in accordance with the deadline set within the Notice of Hearing. Where the request is not on consent of the parties, the Hearing Panel may require the party making the request to bring a motion in accordance with Article 6.4. When considering a request to vary the format of a hearing, the Chair of the Hearing Panel may consider any relevant factors including:

1. Whether the nature of the evidence is not appropriate for a written hearing, including whether credibility is in issue and the extent to which facts are in dispute; and
2. Ensuring a fair process.

6.1.2 Hearing Proceedings Together or Consecutively

Requests to have two or more proceedings, in whole or in part, be heard at the same time or one immediately after the other, may be made to the Chair of the Hearing Panel, through the Secretary, in

accordance with the deadline set within the Notice of Hearing. Where the request is not on consent of the parties, the Hearing Panel may require the party making the request to bring a motion in accordance with Article 6.4.

When considering a request to hear proceedings together or consecutively, the Chair of the Hearing Panel may consider whether:

1. The proceedings have a question of fact, law or mixed fact and law in common;
2. The proceedings involve the same parties or witnesses;
3. The proceedings arise out of the same transaction or occurrence or series of transactions or occurrences; and/or
4. Any other facts or circumstances that the Hearing Panel considers relevant.

6.2 Disclosure by the Standards Council

As soon as is reasonably possible after the Notice of Hearing is issued, the Standards Council shall disclose to the FP Canada certificant copies of all non-privileged documents in the Standards Council's possession, that are relevant to the allegations as set out in the Statement of Allegations.

6.3 Expert Reports

A party that intends to call an expert witness shall provide every other party with a signed copy of the expert's report at least 60 days prior to the date of the hearing, unless otherwise agreed to by the Hearing Panel. A party who intends to call an expert witness to respond to the expert witness of another party shall provide a signed copy of the expert's report at least 20 days prior to the date of the hearing, unless otherwise agreed to by the Hearing Panel.

An expert's report shall contain the name, address and qualifications of the expert and the substance of the expert's opinion.

A party that fails to comply with the timelines noted above may not call the expert as a witness, or rely on the expert's report at the hearing.

6.4 Requests for Direction and Written Motions

All requests for direction and motions made by a party shall be delivered to the other party in writing and shall be filed with the Secretary. Where the parties have not agreed to a timeline for the exchange of materials, the Secretary will set out the schedule for the exchange of materials in a Notice of Motion Hearing and serve the Notice of Motion Hearing on the parties.

Where the request for direction or motion is on consent of all parties, the party bringing the motion or making the request for direction, shall notify the Hearing Panel, through the Secretary, that the request is on consent and set out the specific direction(s) or consent order(s) being sought. The Hearing Panel may provide directions or grant such orders without evidence or submissions.

6.4.1 Administrative Requests and Motions

Where the request for direction or motion is administrative in nature, the Hearing Panel may provide directions or grant such orders without evidence or submissions and without issuing a formal decision. Examples of such motions include, but are not limited to: timetabling or scheduling; deadline extension requests which do not impact the hearing deliberation date or where the hearing deliberation date is impacted, but are on consent of all parties.

Directions and orders made by the Hearing Panel in accordance with this Article, will not be published in accordance with Article 10.

6.4.2 Substantive Requests and Motions

Where the request for direction or order is substantive in nature, the Hearing Panel may require the party seeking the direction or order, to bring a formal motion and may establish a timetable for the exchange of evidence and/or submissions. The Secretary will set out the schedule for the exchange of materials in a Notice of Motion Hearing and serve the Notice of Motion Hearing on the parties. The timetable must be adhered to by the parties unless amended by the Hearing Panel.

The Hearing Panel shall provide its written decision, including reasons, to the Secretary as soon as practicable, but by no later than 30 days after the date on which the Hearing Panel meets to deliberate in respect of the motion. In the event the matter is time-sensitive and all three (3) members of the Hearing Panel are not available, one (1) or two (2) members of the Hearing Panel may deliberate and determine the motion.

All written decisions issued by the Hearing Panel in accordance with this Article will be published in accordance with Article 10.

6.5 Written Hearings

6.5.1 The Standards Council's Evidence and Submissions

The Standards Council shall file with the Secretary, and deliver a copy to the FP Canada certificant, not later than 45 days prior to the date of the hearing, or such other date as established in a decision or order of the Hearing Panel or as set out in the Notice of Hearing:

1. Written submissions;
2. A book of authorities, if any; and
3. Supporting evidence, including affidavits and documents that the Standards Council intendsto rely on.

6.5.2 FP Canada Certificant's Response

The FP Canada certificant, either directly or through counsel, shall file with the Secretary, and deliver a copy to counsel for the Standards Council, not later than 30 days prior to the date of the hearing detailed in the Notice of Hearing or such other date as established in a decision or order of the Hearing Panel or as set out in the Notice of Hearing:

1. Written submissions;
2. A book of authorities, if any; and
3. Supporting evidence, including affidavits and documents that the FP Canada certificant intends to rely on (the Response).

The FP Canada certificant has the right, but not the obligation, to retain counsel to assist in the preparation of their Response.

6.5.3 The Standards Council's Reply

The Standards Council shall file its Reply, if any, with the Secretary, and deliver a copy to the FP Canada certificant, not later than ten (10) days prior to the date of the Hearing or such other date as established in a decision or order of the Hearing Panel or as set out in the Notice of Hearing.

The Secretary shall deliver copies of: the Standards Council's Submissions, the FP Canada certificant's Response and the Standards Council's Reply to the members of the Hearing Panel.

Absent the consent of the other party or leave of the Hearing Panel, neither the Standards Council nor the FP Canada certificant shall be allowed to submit any additional material (evidence or submissions) to the Secretary or the Hearing Panel subsequent to delivery of the Standards Council's Reply.

6.6 In-Person, Video and/or Telephone Conference Hearings

In most cases, hearings shall be conducted in writing. The following procedures only apply where a party to the proceedings has requested that the hearing proceed in-person or by video and/or telephone conference; or where a party has brought a successful request to change the format of the hearing in accordance with Article 6.1.

6.6.1 The Standards Council's Evidence

The Standards Council shall provide to the FP Canada certificant, not later than twenty (20) days before the hearing or such other date as established in a decision or order of the Hearing Panel or as set out in the Notice of Hearing:

1. A copy of every document upon which the Standards Council intends to rely as evidence;
2. A list of witnesses that the Standards Council intends to call or whose Affidavit evidence the Standards Council intends to rely on; and
3. A signed witness statement for every witness or, where there is no signed witness statement for a witness, a summary of the anticipated oral evidence of the witness.

6.6.2 FP Canada Certificant's Evidence

The FP Canada certificant shall provide to the Standards Council, not later than ten (10) days before the hearing or such other date as established in a decision or order of the Hearing Panel or as set out in the Notice of Hearing:

1. A copy of every document upon which the FP Canada certificant intends to rely as evidence;

2. A list of witnesses that the FP Canada certificant intends to call or whose Affidavit evidence the Standards Council intends to rely on; and
3. For every witness upon whose oral evidence the FP Canada certificant intends to rely, a signed witness statement or, where there is no signed witness statement for a witness, a summary of the anticipated oral evidence of the witness.

The FP Canada certificant has the right, but not the obligation, to retain counsel to assist in the preparation of their Response.

6.6.3 Receiving Evidence

The Panel may receive any evidence it finds relevant and reliable, including both oral testimony and documents.

The Panel may direct that a witness be excluded from a hearing until the witness is called to give evidence. A party or their counsel may not be excluded from a hearing but the party may be required to give evidence before the party's other witnesses. Any witness giving testimony shall do so upon making a solemn promise to tell the truth.

6.6.4 Submissions

At the conclusion of the hearing, the parties may make submissions and provide a book of authorities to the Panel. The Panel may direct whether the submissions are to be made orally or in writing.

6.7 Conduct of Hearing Panel

The members of the Hearing Panel shall not discuss any aspect of the matter before the Hearing Panel, other than among themselves, with the Secretary or with Independent Legal Counsel.

6.8 Independent Legal Counsel

The Standards Council may retain Independent Legal Counsel to support the Hearing Panel.

6.9 Representation

The Executive Director or their delegate shall represent the Standards Council at the hearing. The FP Canada certificant may represent themselves or retain counsel to represent them at the hearing.

6.10 Case Conference

Prior to the commencement of the hearing, at a mutually convenient time and place, the Executive Director or their delegate shall convene a case conference with the FP Canada certificant and, where applicable, their counsel to consider:

1. Any matters that may simplify the hearing including facts or evidence that may be agreed upon, the narrowing of any issue and any other matter that may assist in the fair and expeditious disposition of the matter; or
2. A settlement of the matter.

6.11 Settlement

Where a settlement is agreed upon, the parties shall file with the Hearing Panel, a Settlement Agreement consisting of an agreed statement of facts, admissions to the allegations, in whole or in part, or to the basis for the Bar to Certification, and an agreed penalty. The parties may also file joint submissions in support of the Settlement Agreement.

The Hearing Panel shall review the Settlement Agreement and, unless the Hearing Panel considers the terms of the Settlement Agreement to be inappropriate in the circumstances, shall make an order consistent with the agreed terms of the Settlement Agreement.

If the Hearing Panel determines the Settlement Agreement to be inappropriate, it shall either:

1. Request an amendment to the Settlement Agreement in accordance with its recommendations; or
2. Reject the Agreement in its entirety and refer the matter back to the Executive Director or their delegate.

If the Hearing Panel rejects the Settlement Agreement, the parties may enter into another Settlement Agreement or proceed to a new hearing.

6.12 Agreed Statements of Fact and Joint Submissions on Penalty

Where the parties agree on all or part of the facts or evidence relevant to the allegations, the parties may enter into an Agreed Statement of Fact with respect to those facts or evidence.

Where the parties agree on all or part of the penalty to be imposed on the FP Canada certificant, the parties may enter into a Joint Submission on Penalty with respect to those penalties.

The Hearing Panel may receive and rely on any facts or evidence agreed to by the parties without having to prove the admitted facts or the admitted evidence through a full hearing.

6.13 Withdrawal of Allegations

The Executive Director or their delegate may, at any time prior to a hearing, withdraw the Standards Council's allegations in whole, or in part, when events or considerations subsequent to the CRP's decision make a successful prosecution outcome unlikely; or in the event of the death of the FP Canada certificant.

Where the Executive Director or their delegate decides to withdraw the Standards Council's Statement of Allegations in whole, the Executive Director or their delegate shall notify the CRP, the Secretary, the FP Canada certificant and the complainant of the decision to withdraw.

Any withdrawal of the Statement of Allegations shall be publicized on FP Canada's website within five business days of being filed.

ARTICLE 7: ADJOURNMENTS

7.1 Adjournments on Consent

The Chair of the Hearing Panel may grant a request for an adjournment of a hearing, without further submissions, where all parties consent to the adjournment and the parties notify the Chair of the Hearing Panel, in writing, of their consent.

In deciding whether to grant an adjournment, with or without conditions, the Chair may consider all relevant factors, including those set out in Article 7.2.

Within five (5) business days of the Hearing Panel's decision, the Secretary will provide an Amended Notice of Hearing to the parties.

Decisions made by the Hearing Panel further to a consent request for an adjournment, will not be published in accordance with Article 10.

7.2 Adjournment Requests Without Consent

Where the parties do not consent to a request for an adjournment, the Hearing Panel may require the party requesting the adjournment to bring a formal motion setting out the reasons for the adjournment and the length of the adjournment requested in accordance with Article 6.4.2.

In deciding whether to grant an adjournment, with or without conditions, the Hearing Panel shall consider all relevant factors, including:

1. The timing of the request for the adjournment and the proximity of the request to the scheduled hearing;
2. The length of the adjournment requested;
3. The impact, if any, of an adjournment on the public interest;
4. Whether granting or denying the adjournment would unduly prejudice a party;
5. Previous adjournments granted and any prior adjournment requests by the same party;
6. The reasons provided to support the adjournment request;
7. Evidence that the party made reasonable efforts to avoid the need for the adjournment;
8. Whether the adjournment is necessary to provide an opportunity for a fair hearing; and
9. Any other factors the Hearing Panel considers relevant.

Within five (5) business days of the Hearing Panel's decision, the Secretary will provide an Amended Notice of Hearing to the parties.

Decisions made by the Hearing Panel further to a request for an adjournment that is opposed, will be published in accordance with Article 10.

ARTICLE 8: HEARING PANEL DECISIONS

8.1 Decision

The Hearing Panel shall, on a balance of probabilities, determine that there has been misconduct or dismiss the matter. The decision of the Hearing Panel shall be by majority vote and may be delivered by the Chair orally at the conclusion of an in-person hearing or reserved at the discretion of the Hearing Panel.

The Hearing Panel shall provide its written decision, including reasons, to the Secretary as follows:

- a) If the Hearing Panel is considering a Settlement Agreement or Agreed Statement of Facts, within 30 days of the date of the hearing; or
- b) If the Hearing Panel is considering a contested hearing, within 45 days of the date of the hearing

Upon receipt, the Secretary shall deliver a copy of the Hearing Panel's decision to the FP Canada certificant and the Executive Director or their delegate.

8.2 Disciplinary Penalty

Following a finding of misconduct, the Hearing Panel shall consider evidence and submissions on penalty from the Standards Council and the FP Canada certificant, which may include a review of any information with respect to the FP Canada certificant held by FP Canada including, without limitation, evidence of prior complaints. The Secretary shall notify the Standards Council and the FP Canada certificant of their respective deadlines for evidence and submissions on penalty as set by the Hearing Panel.

Following deliberations, the Hearing Panel may order any one, or a combination, of the following forms of discipline:

1. A letter of admonishment, delivered by the Hearing Panel;
2. Imposition of a remedial action plan;
3. Temporary suspension of the right to use the Certification Marks;
4. A temporary or permanent ban from seeking renewal or reinstatement of certification;
5. Permanent revocation of certification and the right to use the Certification Marks;
6. An award of costs of the proceedings against the FP Canada certificant; and
7. Such other penalty as the Hearing Panel may deem appropriate.

Where costs of the proceeding are sought by the Standards Council and the Hearing Panel awards costs against the FP Canada certificant, the Hearing Panel may consider, among other factors, the following:

1. The costs and expenses incurred by FP Canada or its Divisions including, without limiting the generality of the foregoing:
 - Costs incurred during the investigation (applying the tariff rate of \$106 per hour for time spent by the investigator); and

- Out-of-pocket expenses incurred by FP Canada or its Divisions during the course of the investigation and prosecution; and
- 2. Legal or other costs associated with the investigation and prosecution, including preparing or responding to allegations, evidence, submissions, requests for direction, motions, etc. (applying the tariff rate of \$150 per hour for time spent by the prosecutor);
- 3. Whether the FP Canada certificant delayed or prolonged the proceedings, including any failure to cooperate with the Standards Council's initial review, investigation or inquiry;
- 4. The respective degree of success of the parties in the proceedings; and
- 5. Any other matter the Hearing Panel considers relevant.

8.2 Notice of Decision on Penalty

The Chair shall provide a written decision on Penalty to the Secretary within 30 days of the Penalty Hearing. Upon receipt, the Secretary shall deliver a copy of the Hearing Panel's Decision on Penalty to the FP Canada certificant and the Executive Director or their delegate.

8.3 Correction of Errors

The Secretary or the Chair of the Hearing Panel may at any time correct a typographical error, error of calculation or similar minor error made in directions or decisions of a Hearing Panel, including, but not limited to, merits, penalty, appeal or motion decisions.

8.4 Appeal of Decision

The FP Canada certificant and the Executive Director or their delegate shall have 30 days following receipt of the written decision on penalty to deliver to the Secretary a written request for Appeal. If neither party appeals within the allowed time, the decision of the Hearing Panel is final.

ARTICLE 9: APPEALS

9.1 Right to Appeal

Either party may appeal the decision of a Hearing Panel on the grounds that there has been a significant and material error interpreting a provision of the *Standards of Professional Responsibility* or the facts before the Hearing Panel, such that the Hearing Panel would likely have reached a different decision but for that error.

9.2 Notice of Appeal

The party bringing the Appeal (the Appellant) shall, in accordance with Article 8.5, provide the other party (the Respondent) and the Secretary, with a written notice of the intention to appeal (the Notice of

Appeal). The Notice of Appeal shall detail the Appellant's grounds for appeal in the form of a concise statement, without argument, of the issues and findings under appeal.

Where the FP Canada certificant is the Appellant, the FP Canada certificant may submit a request to the Secretary, that the disciplinary penalty imposed by the Hearing Panel be stayed pending the outcome of the Appeal.

9.3 Appeal Panel

Upon receipt of a Notice of Appeal, the Secretary shall appoint three members of the Hearing Panel Roster to serve as members on the Appeal Panel. Members of the original Hearing Panel are ineligible to sit on the Appeal Panel.

In selecting members from the Hearing Panel Roster, the Secretary shall consider area of expertise and, where applicable, geographic location. The Secretary shall make every effort to rotate Hearing Panel Roster Members. The Appeal Panel must be comprised of a majority of FP Canada certificant members.

The selected members shall appoint one member, from amongst themselves, to serve as Chair of the Appeal Panel. Subject to the provisions of Article 11, the Appeal Hearing shall be held at a location chosen by the Secretary who shall give due consideration to the convenience of all parties concerned.

9.4 Notice of Appeal Hearing

Following the appointment of the Appeal Panel, the Secretary shall fix a time and place for the Appeal Hearing and shall give notice to the Appellant, the Respondent and the members of the Appeal Panel. The Notice of Hearing shall set out the Appellant's and Respondent's respective deadlines for submissions. The Notice of Hearing will also detail the format of the hearing i.e., whether in-person, by telephone or videoconference, in-writing or a combination thereof.

9.5 Submissions to the Appeal Panel

9.5.1 Appellant's Submissions

The Appellant shall deliver to the Secretary and to the Respondent, not later than 30 days prior to the Appeal Hearing date or such other date as established by the Hearing Panel or Secretary and set-out in the Notice, a written submission setting out the grounds for appeal and the relief sought. The Applicant must include all documentation relied on and referenced in their submissions. No fresh evidence can be filed or relied on for the Appeal.

9.5.2 Respondent's Submissions

The Respondent may reply to the Appellant's submissions. Any such submissions shall be filed with the Secretary, and delivered to the Appellant, not later than ten (10) days prior to the Appeal hearing date or such other date as established by the Hearing Panel or Secretary and set out in the Notice.

The Secretary shall deliver copies of the Appellant's and Respondent's Submissions to the members of the Appeal Panel.

9.6 Submissions at Appeal Hearing

Where the Appeal proceeds in-writing, the Appellant's and Respondent's submissions are the parties' respective submissions.

Where the Appeal proceeds in-person or by telephone or videoconference, both parties may make oral submissions to the Appeal Panel. The Appeal Panel shall not hear witnesses and no fresh evidence shall be admitted except with leave of the panel. If a party seeks to tender evidence which was not before the Hearing Panel, the party shall make a request to the Appeal Panel. The Appeal Panel shall give written reasons for its decision in respect of any such request.

9.7 Standard of Review on Appeal

The standard of review on Appeal shall be reasonableness.

9.8 Decision and Order

The Appeal Panel shall decide the Appeal by majority vote and its written decision, with reasons, shall be delivered to the Secretary within 45 days of the date of the Appeal Hearing. The Appeal Panel may maintain, vary or partially vary any penalty imposed by the Hearing Panel or make such orders as it sees fit.

Where costs of the proceeding are sought by the Standards Council and the Appeal Panel awards costs against the FP Canada certificant, the Appeal Panel may consider, among other factors, the following:

- a) Legal costs and expenses incurred by FP Canada or its Divisions;
- b) The respective degree of success of the parties; and
- c) Any other matter the Appeal Panel considers relevant.

Upon receipt of the Appeal Panel's written decision, the Secretary shall provide the Appellant and the Respondent with a written copy of the final reasons for decision.

9.9 Decision Final

The decision of the Appeal Panel is final.

ARTICLE 10: PUBLICATION

10.1 Publication of Disciplinary Decisions and Reasons

For Hearing Panel and Appeal Panel decisions ("Disciplinary Decisions") released after September 1, 2020, in which a Hearing Panel or Appeal panel determines whether an FP Canada certificant has engaged in misconduct, the full decision and reasons (including any Settlement Agreements appended to the decisions), as well as a summary of the decision, setting out the name of the FP Canada certificant, their location, a brief summary of the facts of the case, the investigative process, any provision(s) of the

Standards of Professional Responsibility that were violated, and the decision (the “Summary”) shall be publicized on FP Canada’s website, within ten (10) business days of the decision, in a dedicated section for review by members of the profession and the public.

In addition, all motion decisions made by the Hearing Panel in accordance with Article 6.4.2, released after February 1, 2022, shall be publicized on FP Canada’s website, within ten (10) business days of the date of the decision.

The disclosure of Disciplinary Decisions and/or the Summary and/or motion decisions can also be made in such other medium as deemed appropriate, including in the FP Standard, FP Canada newsletter or other FP Canada publications, local or national newspapers, social media, and in any other manner deemed appropriate by the Standards Council to facilitate the purpose of informing and protecting the public, including notification of the individual's employer, associates, partners or the relevant governing bodies of other professions.

For Disciplinary Decisions released prior to September 1, 2020, only the Summary will be available on the FP Canada website.

The FP Canada website enforcement section will be searchable using common website search tools.

10.2 Protecting Confidentiality

The Executive Director or their delegate may redact the published versions of Disciplinary or motion Decisions as necessary to protect the confidentiality of any clients or other individuals, as well as to prevent unnecessary disclosure of personal information relating to the FP Canada certificant or others (such as personal financial and health information).

The Executive Director or their delegate may notify any person of a Disciplinary or motion Decision including, without limitation, the FP Canada certificant’s employer, associates, partners and the governing bodies of other professions.

10.3 Retention of Disciplinary Actions

Disciplinary and motion Decisions will be maintained in an FP Canada database and will be available to the public on the FP Canada website indefinitely.

The Executive Director may remove a Disciplinary or motion Decision from the FP Canada website taking into consideration, without limitation, the following considerations (1) the FP Canada certificant has applied in writing for the removal of the information; (2) more than 10 years have passed since the date of the Hearing Panel or Appeal Panel decision; and (3) any disciplinary action did not involve a suspension or permanent ban from seeking renewal or reinstatement of certification or permanent revocation of certification and the right to use the Certification Marks.

ARTICLE 11: GENERAL RULES FOR HEARINGS

11.1 General Rules

In accordance with Article 1.2, the following general rules shall apply, depending on the context, to the proceedings of any Hearing Panel or Appeal Panel:

1. The Chair shall establish such procedures as are appropriate in the circumstances;
2. The Chair may admit any evidence relevant to the proceedings;
3. The Chair may impose reasonable time limits during the proceedings;
4. The Chair may make such orders or give such directions in proceedings as the Chair considers proper to maintain order or prevent abuses of the panel's processes;
5. The Secretary shall maintain administrative minutes of all Panel proceedings;
6. A hearing may be adjourned by the Chair in accordance with Article 7;
7. The Chair may engage counsel or experts to assist the panel in a hearing and in making its decision;
8. The Chair may extend or abridge the time for service, filing or delivery of any document pursuant to the DRP, on such terms as are just;
9. The Chair shall have the discretion to hold any hearing by such means as may be appropriate in accordance with Article 6.1;
10. All in-person hearings shall be open to the public, subject to the discretion of the Chair to order the hearing, or a portion of the hearing, be held in camera, where, for example, personal financial or personal information may be disclosed.
11. No one other than a court reporting service may, without leave of the Hearing Panel, make a video or audio recording or take a screen shot or make a video or audio recording of a proceeding.

ARTICLE 12: COSTS

12.1 Costs

Unless otherwise provided herein, the Standards Council shall bear the costs of the investigation and related proceedings. The FP Canada certificant shall be responsible for their own costs.

In keeping with Articles 8.2 and 9.8, in all disciplinary cases where a hearing is convened, the Hearing Panel or Appeal Panel may award costs to the Standards Council against the FP Canada certificant.

Costs may not be awarded against the Standards Council or its staff.

ARTICLE 13: SUSPENSION OR REVOCATION

13.1 Suspension

Unless otherwise provided in the decision or order of the Hearing Panel or Appeal Panel, an FP Canada certificant who has been suspended must continue to meet all certification requirements and shall be reinstated upon the expiration of the period of suspension, provided the FP Canada certificant demonstrates that he or she has fully complied with the order of the Hearing Panel or Appeal Panel.

13.2 Revocation or Ban on Recertification

Unless the Hearing Panel or Appeal Panel directs otherwise, where there has been a permanent ban from seeking renewal or reinstatement of certification; or where there has been permanent revocation of certification, the FP Canada certificant may not apply for recertification. The Hearing Panel or Appeal Panel shall only grant leave to allow recertification where the individual successfully shows extenuating circumstances.

ARTICLE 14: CONFIDENTIALITY

14.1 Compulsory Disclosure

Any records with respect to the FP Canada certificant and all records of an investigation and/or hearing under the DRP will only be disclosed to a third party if such disclosure is required by legal process of a court of law or other governmental body or agency having appropriate jurisdiction.

14.2 Consent

All FP Canada certificants, by completing their application for certification, consent to any notice, publication or release of information made in accordance with the DRP, including the publication or release of such information after an individual is no longer certified.

ARTICLE 15: COMPLAINANTS

15.1 Complainant's Role in Hearing

The complainant shall have the right to be present at any hearing (where the hearing is held in-person) but shall have no right to participate in such hearings unless requested.

The complainant may be invited to give evidence to the Hearing Panel by either the FP Canada certificant, the Executive Director or their delegate but cannot be compelled to give evidence.

The complainant will be notified of the hearing date, and following completion of the hearing will be notified of the outcome by staff.

ARTICLE 16: SERVICE OF DOCUMENTS

16.1 Service

Documents required to be served on the FP Canada certificant (“Notices”) may be delivered by: personal service, courier, registered mail, ordinary mail and/or e-mail.

16.2 Deemed Service

Where service is challenged, the Standards Council has the burden of establishing delivery of Notices. Notices delivered by personal service shall be deemed to be delivered on the day delivered. Notices delivered by registered mail and courier shall be deemed delivered on the fourth business day following mailing or as set out on the delivery receipt.

16.3 Time Period

Any time periods specified in the DRP shall include and begin to run from the date of actual delivery or deemed delivery in accordance with Article 16.2.

16.4 Address

As the *Rules of Conduct* require FP Canada certificants to notify FP Canada of any changes to the certificant’s employment and/or contact information, an FP Canada certificant may not challenge service properly given to the address recorded in the files of FP Canada. The FP Canada certificant may challenge service if he or she did not, in good faith, receive the notice due to matters beyond their control, by providing proof to the Secretary, the Executive Director or their delegate and the Hearing and/or Appeal Panel.

16.5 Substituted service or dispensing with service

On the request of a party, an order may be made permitting service in a manner other than provided in this Article, or dispensing with service, where it appears that it is impractical for any reason to serve the FP Canada certificant, or where it is necessary in the interests of justice. The Hearing Panel may require the party making the request to bring a motion in accordance with Article 6.4.2.

APPENDIX A: POLICY ON THE DISCLOSURE OF INVESTIGATIONS AND INTERIM SUSPENSIONS

Purpose

The purpose of this policy is to protect the public interest, and promote fairness and transparency, by establishing guidelines for disclosure of investigations and interim suspensions in exceptional circumstances.

Scope

Investigations refers only to investigations conducted by Standards Council™ Staff (Staff). It does not include those instances in which Staff is requested or required to participate in reviews or investigations conducted by other regulatory bodies.

Objective

Ensure that the disclosure of Standards Council investigations is made in only exceptional circumstances where the protection of the public warrants it, and that such disclosure is made in a fair manner that considers the rights of both the public and the former or current CFP professional or QAFP professional (collectively FP Canada certificants) involved.

Responsibilities

Where the Executive Director or their delegate wishes to disclose an investigation and/or, where appropriate, the immediate interim suspension of an FP Canada certificant's certification in accordance with the provisions of this Policy, the request for approval shall be made to the Secretary, who shall appoint a Hearing Panel in order to consider the motion.

GUIDELINES FOR DISCLOSURE OF INVESTIGATIONS AND INTERIM SUSPENSIONS

General Policy on Disclosure of Disciplinary Proceedings

As a general rule, there is no public disclosure by Staff of information about an ongoing or a closed investigation. This position is based primarily on the following factors:

- Potential prejudice to the investigation;
- Potential prejudice to those who are under investigation; and
- Restrictions imposed by the provisions of confidentiality detailed in the FP Canada Privacy Policy.

Disclosure of Investigations – Exceptional Circumstances

Staff may request to disclose the name of the former or current FP Canada certificant who is under investigation in the following, exceptional circumstances:

- Protection of the public outweighs factors favouring non-disclosure (e.g. where there is apparently credible evidence of continuing fraudulent behaviour, and non-disclosure would be likely to result in losses to members of the public). This can also be triggered during the course of an investigation, where the amount of information gathered reaches a level such that lack of disclosure would be prejudicial to the public;
- A criminal investigation for possible criminal activity is underway at the same time as a Standards Council investigation;
- The investigation relates to conduct or issues that are substantially in the public domain and there are credible allegations which engage the enforcement jurisdiction of the Standards Council. Confidence in the CFP designation or the QAFP designation may be harmed by failure to confirm that the matter is under the Standards Council's consideration;
- A similar investigation by another regulator or law enforcement agency has been disclosed regarding the same individual or individuals; or
- The former or current FP Canada certificant has disclosed the Standards Council investigation. The Standards Council may confirm and, if necessary, correct any misleading or inaccurate information disclosed by the former or current FP Canada certificant.

Interim Suspension

The Executive Director or their delegate may recommend suspension of the FP Canada certificant's certification pending the investigation and adjudication of the matter if there are reasonable grounds to believe:

- That there is a significant risk of harm to members of the public or public interest, and
- The suspension of the FP Canada certificant's certification would be likely to reduce such risk.

Unless ordered otherwise, an interim suspension order remains in effect until a final order is made in the proceeding to which the motion relates, or the Hearing Panel varies or cancels the order.

Motion to the Hearing Panel to Disclose Investigation

Once a determination has been made by the Executive Director or their delegate that an exceptional circumstance exists in accordance with the above Guidelines, the Executive Director or their delegate shall make an ex parte motion to the Hearing Panel (i.e. without notice to the certificant) to disclose the investigation and where appropriate, suspend the FP Canada certificant's certification pending the conclusion of the investigation and adjudication of the matter.

The Hearing Panel shall consider the recommendation and make a decision based on balancing the public interest with the prejudice that disclosure and suspension may have on the FP Canada certificant or former certificant.

Manner of Disclosure

Disclosure of an investigation and where applicable, the suspension of the FP Canada certificant's certification shall be made on the FP Canada website, in the FP Standard, in the FP Canada newsletter and in such other proprietary or media publications as Staff deems appropriate. In addition, the Hearing Panel's decision shall be published in accordance with Article 10.

Where the Hearing Panel decides not to disclose an investigation or suspend the FP Canada certificant's certification, the Secretary shall anonymize the decision and redact: the certificant's name; their place of business; as well other distinct or unique identifiers which would otherwise identify the certificant. Upon being notified by the Secretary of the decision, the certificant may request, within five (5) business days, that the Secretary publish their name and not anonymize the decision.

Right to Hearing

Where the FP Canada certificant's certification has been suspended pursuant to this policy, the FP Canada certificant may request, in writing, that the Secretary schedule a hearing on the matter of the suspension within 30 days of the Hearing Panel's decision. The Secretary shall use every effort to schedule the hearing to occur within 30 days of the certificant's request.

Conclusion of Investigation

Where, at the completion of a publicly disclosed investigation, no further proceedings or discipline action will be taken, Staff will make public notice of such outcome in the same manner(s) as disclosure was initially made.

Where a breach of the *Standards of Professional Responsibility* has been found and disciplinary measures have been taken, in accordance with the provisions of the DRP, such disciplinary measures shall be made public, in accordance with the Article 10.




Contact Details

FP CANADA™

902-375 University Avenue, Toronto, Ontario M5G 2J5

416.593.8587 | 1.800.305.9886 | fpcanada.ca

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