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Note: As of August 2016, the *Rules for the Professional Conduct Process* were replaced by AIBC Bylaws 37.0 through 37.42. New procedural rules authorized by these bylaws are in development. Readers should refer to the [bylaws](#).

Rules for the Professional Conduct Process of the Architectural Institute of British Columbia

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RULES FOR THE PROFESSIONAL CONDUCT PROCESS OF THE ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

1.0 INTERPRETATION

- 1.1 The object of the professional conduct process of the institute is to uphold and safeguard the public interest in maintaining appropriate standards of professional conduct and practice by members, architectural firms, licensees and associates.
- 1.2 The object of these *Rules* is to secure the just, speedy and cost-effective determination of every complaint on its merits as provided in the *Act* and these *Rules*, and where such complaint leads to allegations of unprofessional conduct, to resolve the matter preferably by consensual resolution but otherwise by adjudication by a disciplinary committee.
- 1.3 Unless otherwise clearly indicated, the words and expressions used in these *Rules* and defined in the *Act* and AIBC Bylaws have the same meanings as defined in the *Act* and AIBC Bylaws:
- (a) "**Act**" means the *Architects Act*, R.S.B.C. 1996, chapter 17, as amended;
 - (b) "**complainant**" has the meaning given to it in the *Architects Act* and AIBC Bylaw 36.0;
 - (c) "**consensual resolution**" has the meaning given to it in AIBC Bylaw 36.0;
 - (d) "**consensual resolution review panel**" or "**panel**" has the meaning given to it in the *Architects Act* and AIBC Bylaw 36.0;
 - (e) "**council**" has the meaning given to it in the *Architects Act*;
 - (f) "**disciplinary committee**" has the meaning given to it in the *Architects Act*;
 - (g) "**Executive Director**" means the executive director of the institute or person delegated authority hereunder by the Executive Director, pursuant to AIBC Bylaw 3.6 and section 2.0 of these *Rules*;
 - (h) "**institute**" has the meaning given to it in the *Architects Act*;
 - (i) "**investigations committee**" means the committee established by council pursuant to section 4.1 of these *Rules*;
 - (j) "**matter**" has the meaning given to it in AIBC Bylaw 36.0;
 - (k) "**member**" has the meaning given to it in the *Architects Act* and is synonymous with "architect";
 - (l) "**oral conduct review**" means the process established and described pursuant to section 12.0 of these *Rules*;
 - (m) "**respondent**" means the architect, architectural firm, licensee or associate who is the subject of a complaint and any resulting investigation, consideration, inquiry, consensual resolution or decision under these *Rules* or the *Act*.

- 1.4 These *Rules* are intended to provide procedural guidance regarding the professional conduct process of the institute to members and other registrants, complainants, respondents, institute staff, the investigations committee, the panel, disciplinary committees and council. These *Rules* shall not be applied to restrict or fetter the exercise of any discretion conferred on any person or body of persons by the *Act*.

2.0 EXECUTIVE DIRECTOR

- 2.1 Subject to section 2.2, the Executive Director is responsible for administering the professional conduct process of the institute and carrying out the duties assigned to the Executive Director by these *Rules*.
- 2.2 The Executive Director may be assisted by one or more persons appointed by council or the Executive Director to assist the Executive Director. The Executive Director may delegate powers and duties to persons so appointed, but such persons shall at all times remain subject to the direction and supervision of the Executive Director.

3.0 INVESTIGATIONS

- 3.1 The Executive Director may investigate or cause to be investigated complaints that a member, architectural firm, licensee or associate:
- (a) has been unprofessional;
 - (b) has contravened the *Act* or a Bylaw, or the *Code of Ethics and Professional Conduct*, or the Code of Conduct for Participating Members contained within the *Code of Conduct Including Conflict of Interest Guidelines*, or other rules of council;
 - (c) has been negligent or guilty of misconduct in the execution of a duty of office;
 - (d) is incompetent or unfit to practise architecture or is incapable of practising architecture; or
 - (e) is an architectural corporation that has ceased to meet the applicable qualifications for registration under section 26(2) or (3) of the *Act*.
- 3.2 The Executive Director shall decline to conduct an investigation in the absence of a written complaint unless the investigations committee otherwise directs. Circumstances in which the investigations committee may be asked to authorize initiation of a complaint, with the AIBC as nominal complainant, may include, but are not limited to:
- (a) reports or information provided by members or other registrants to the AIBC of apparent *Act*, Bylaw or council ruling infractions as required under Bylaw 32.5; and
 - (b) complaints that arise out of failures to satisfy consensual resolution agreements, disciplinary committee orders, undertakings or findings or recommendations arising out of professional conduct-generated oral conduct reviews, practice or peer reviews and related processes.
- 3.3 On receipt of a complaint against a member or other registrant, the Executive Director shall provide a copy of it, or a summary sufficient to describe the concerns or allegations, to the individual or firm, who shall provide a written response to the

Executive Director within two weeks of being requested to do so or within such extended period of time as the Executive Director may in writing allow.

3.4 Neither the investigation nor any resulting inquiry shall be limited in scope to the particular conduct or circumstance that was the subject of the complaint or concern which initially led to the investigation.

3.5 The Executive Director may:

- (a) conduct an investigation into a matter to the extent and by whatever fair and reasonable means the Executive Director determines are appropriate including the referral of a matter to the investigations committee for investigation by the investigations committee;
- (b) require the respondent or any other registrant who may be in possession or control of information, to submit original drawings, renderings or reproductions of the originals, specifications, records and other materials and documents reasonably relevant to the investigation;
- (c) conduct interviews of any person to obtain information reasonably relevant to the investigation;
- (d) attend at the business premises of a respondent during reasonable business hours and, with the respondent's consent (not to be unreasonably withheld) inspect the premises, make copies of documents and otherwise obtain evidence that is or may be reasonably relevant to the investigation;
- (e) seek the opinion of advisers and experts;
- (f) retain the services of a private investigator;
- (g) retain the services of mediators or other persons for the consensual resolution of matters;
- (h) facilitate a discussion between the complainant and the respondent to arrive at a resolution of the matter;
- (i) act on behalf of the institute in relation to the consensual resolution of a matter; and
- (j) arrange for the drafting and prosecution of the charges against the respondent.

3.6 Where the Executive Director concludes that:

- (a) a complaint is not within the jurisdiction of the Institute;
- (b) a complaint is incapable of substantiation; or
- (c) a complainant has insufficient personal knowledge of the matter or has an insufficient interest in the matter;

the Executive Director may decline to investigate the matter or terminate the investigation, in which case the Executive Director shall notify the complainant of the Executive Director's decision and no further action shall be taken in relation to the matter unless otherwise directed by the investigations committee.

3.7 A complainant may request the investigations committee to review a decision of the Executive Director under section 3.6. The request must be made in writing to the investigations committee within 30 days after notification of the decision of the Executive Director to the complainant.

- 3.8 If, as the result of an investigation by the Executive Director, it appears to the Executive Director that the matter may warrant an inquiry under section 46 of the *Act*, the Executive Director shall provide a written report of the results of the investigation to the investigations committee, with or without recommendations. A copy of the report shall be delivered to the respondent at least 10 days prior to its consideration by the investigations committee. The respondent may make written representations to the investigations committee in response to the report.

4.0 INVESTIGATIONS COMMITTEE

- 4.1 Council shall appoint an investigations committee of not less than five and not more than eight persons, one of whom shall be appointed as chairperson. Council may appoint one lay person to serve as a member of the investigations committee, but otherwise a person must be a member of the institute to be eligible for appointment to the investigations committee.
- 4.2 Council may provide for staggered terms of office of members of the investigations committee.
- 4.3 A majority of the members of the investigations committee shall constitute a quorum. While the investigations committee shall attempt to reach decisions and recommendations by consensus, the decision of a majority of the members of the investigations committee shall constitute the decision or recommendation of the committee. The investigations committee shall meet and deliberate *in camera*, but may ask complainants, respondents or third parties to attend for interviews. The investigations committee shall maintain a confidential record of its investigations, but as an investigative body is not required to issue formal reasons for its decisions or recommendations.
- 4.4 Members of the investigations committee shall hold office at the pleasure of the council.
- 4.5 A member of council may be appointed to the investigations committee but any such member will not be eligible, during the balance of that member's current term on council, for appointment to a disciplinary committee, nor consideration at council meetings of approval of any notice of inquiry.
- 4.6 The investigations committee shall have the following functions:
- (a) to investigate matters referred to it by the Executive Director, including requesting that the Executive Director further investigate a matter where the investigations committee considers more information or clarification is required;
 - (b) to consider whether to recommend that council order an inquiry into a matter by a disciplinary committee pursuant to section 46 of the *Act*; and
 - (c) to review decisions of Executive Director made under section 3.6, either on its own motion or at the request of a complainant.
- 4.7 If considered necessary, the investigations committee may invite the complainant, respondent or any other person(s) to a meeting with the committee for an informal interview concerning the matter. While the information elicited at the meeting will form part of the investigation, the meeting is not a formal hearing and evidence is not taken under oath. Although an interview is not a hearing, respondents are entitled to retain (at their own expense) and attend with legal representation. In

such cases, the investigations committee will make it clear to respondents and their counsel that it expects to hear primarily from the respondent.

- 4.8 On the basis of any report of the Executive Director and any written representations of the respondent, as well as any other information acquired in the course of the investigation, the investigation committee may:
- (a) conclude that charges are not warranted (which decision is final);
 - (b) refer the matter back to the Executive Director for further investigation or clarification; or
 - (c) if it concludes that charges are warranted, recommend to council that it order an inquiry into the matter by a disciplinary committee pursuant to section 46 of the *Act*.
- 4.9 If the investigations committee concludes that charges are not warranted, the Executive Director shall so notify the respondent and the complainant. This notification will include confirmation that there is no appeal from the decision under any AIBC process.

5.0 DISCIPLINARY COMMITTEE

- 5.1 Upon receipt of a recommendation from the investigations committee, the council shall consider whether to order an inquiry into the matter by a disciplinary committee pursuant to section 46 of the *Act*.
- 5.2 If council orders an inquiry by a disciplinary committee, the Executive Director shall serve a notice of hearing on the respondent and the complainant in accordance with section 48 of the *Act*.
- 5.3 Once selected, the disciplinary committee may engage the services of legal counsel or other assistance it thinks necessary or proper, by making a request to the Executive Director for such assistance. Legal counsel so retained may advise the disciplinary committee on questions of law and procedure, and may assist the disciplinary committee with the drafting and review of its decisions and orders. The reasons for decision of a disciplinary committee must be those of the disciplinary committee itself.
- 5.4 Unless the charges are withdrawn or stayed, or the matter is resolved by consensual resolution, the disciplinary committee shall conduct an inquiry into the matter. After conclusion of the inquiry, the disciplinary committee shall make its decision under section 50(1) or (2) of the *Act*, and if it makes a decision against a respondent under section 50(1), it shall, after hearing from the respondent, make any order it is authorized to make by section 50(3) of the *Act*.
- 5.5 The disciplinary committee may make any order as to costs it is authorized to make by section 51 of the *Act*.
- 5.6 The disciplinary committee shall conduct its hearings at the offices of the AIBC, unless an alternative venue is required. Hearings shall be open to the public. However, the disciplinary committee shall deliberate *in camera*.

6.0 PROSECUTION

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- 6.1 The Executive Director shall be responsible for the drafting and prosecution of the charges against the respondent to be included in the notice of inquiry and considered at an inquiry by a disciplinary committee.
 - 6.2 The Executive Director may retain and instruct legal counsel to assist with the drafting and prosecution of the charges.
 - 6.3 The Executive Director may withdraw charges against a respondent based on a legal opinion which, to the Executive Director's satisfaction, raises reasonable grounds for charge withdrawal, including but not limited to the likelihood of a successful prosecution. The Executive Director shall notify the respondent and any complainant in the matter as to a decision to withdraw charges. The legal opinion supplementing to the Executive Director's decision shall be retained as part of the matter records.

7.0 CONSENSUAL RESOLUTION

- 7.1 The consensual resolution process is established under section 51.1 of the *Act* and AIBC Bylaws 36.0 through 36.22.

8.0 CONSENSUAL RESOLUTION REVIEW PANEL

- 8.1 The panel appointment, composition and procedures are established under AIBC Bylaws 36.7 through 36.18.

9.0 CONFIDENTIALITY AND PUBLICATION

- 9.1 As a minimum level of publication and disclosure, the AIBC shall disclose to the membership and make publicly available, any decision or order of a disciplinary committee, or suitable summary thereof.
- 9.2 In keeping with AIBC Bylaw 36.20 and in accordance with the *Guidelines for Retention, Disclosure and Publication of AIBC Professional Conduct and Illegal Practice Records*, all approved consensual resolution agreements, or suitable summary thereof, shall be published to the membership and made public, with any specific publication requirements established within each consensual resolution agreement.
- 9.3 Institute staff, every member of council and all disciplinary committee, investigations committee or panel members, must keep all information concerning a matter strictly confidential, except insofar as:
 - (a) the person's official duty requires or permits the person to make disclosure of the information or to report or take official action on it;
 - (b) public disclosure or publication has been made pursuant to sections 9.1 and 9.2; and/or
 - (c) it may otherwise be directed by the order of a court of competent jurisdiction, or as provided in Section 51.2 of the *Act* in respect of consensual resolutions.
- 9.4 Nothing in these *Rules* restricts the ability of a disciplinary committee to order wider publication and disclosure of its decision, nor the ability for the AIBC and respondent to agree to wider publication and disclosure, if established within a consensual resolution agreement pursuant to AIBC Bylaw 36.20.

10.0 COMPLIANCE WITH SANCTIONS, REMEDIAL ACTIONS AND COSTS

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- 10.1 Unless otherwise provided by the disciplinary committee in its order, all fines and costs ordered to be paid by the respondent, shall be paid to the institute within 30 days of the date of the order.
 - 10.2 Where a respondent is ordered by the disciplinary committee to undertake remedial actions, or the respondent undertakes to do so in a consensual resolution, the respondent shall take the remedial actions within the time limit provided in the decision of the council or in the consensual resolution. Failure by the respondent to comply is grounds for disciplinary action, including automatic suspension if such term is provided for by way of disciplinary committee order or consensual resolution.
 - 10.3 The Executive Director is authorized to monitor and enforce sanctions, remedial actions and costs ordered by a disciplinary committee or provided for in a consensual resolution agreement.
 - 10.4 The Executive Director may extend the time for payment of fines or costs, or for the taking of remedial actions, as may be reasonable in all the circumstances.

11.0 DUTY TO COOPERATE

- 11.1 In keeping with AIBC 34.5, council rulings (f) and (g), the institute expects that every member or other registrant will cooperate with the Executive Director and the investigations committee in a course of an investigation of a matter. Members and other registrants are advised that a failure or refusal to respond promptly, or a failure or refusal to cooperate with an investigation, may be regarded as unprofessional conduct warranting disciplinary action.

12.0 ORAL CONDUCT REVIEWS

- 12.1 In the event that an order of a disciplinary committee or a term of a consensual resolution or undertaking provides that a respondent (including a former member or other registrant applying for reinstatement) must undertake an oral conduct review, such review will be conducted according to the guidelines or rules established by the AIBC for such process.

13.0 AUTHORITY

- 13.1 These *Rules* are passed by council pursuant to section 5 of the *Act*.