



ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

Investigation and Remedial **Discipline Recommendation** Bylaw Amendments: “Rules to Bylaws” Table

This document was updated as of May 19, 2016 to reflect changes made to the draft Investigation and Discipline bylaws following member consultation, council and BRC Review. All changes to the original document are shown in red.

This working document of the AIBC Bylaw Review Committee sets out each of the current Rules for the Professional Conduct Process and indicates how it would be affected by the proposed bylaw amendments. Some current Rules would be maintained as is; some amended; some deleted (removed) entirely and in some cases, new bylaws would be established.

Rules	Proposed Bylaws	Comment
1.0 Interpretation	Definitions 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.	REMOVED	Well-established concepts in the law of professional self-regulation; similar concepts also found in council policy.
1.2 The object of these <i>Rules</i> is to secure the just, speedy and cost-effective determination of every complaint on its merits as provided in the <i>Act</i> and these <i>Rules</i> , 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.	REMOVED	Appropriate guiding language for Rules-based document, not institute bylaws.



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<p>1.3</p> <p>Unless otherwise clearly indicated, the words and expressions used in these <i>Rules</i> and defined in the <i>Act</i> and AIBC Bylaws have the same meanings as defined in the <i>Act</i> and AIBC Bylaws:</p> <p>a) "Act" means the <i>Architects Act</i>, R.S.B.C. 1996, chapter 17, as amended;</p> <p>b) "complainant" has the meaning given to it in the <i>Architects Act</i> and AIBC Bylaw 36.0;</p> <p>c) "consensual resolution" has the meaning given to it in AIBC Bylaw 36.0;</p> <p>d) "consensual resolution review panel" or "panel" has the meaning given to it in the <i>Architects Act</i> and AIBC Bylaw 36.0;</p> <p>e) "council" has the meaning given to it in the <i>Architects Act</i>;</p> <p>f) "disciplinary committee" has the meaning given to it in the <i>Architects Act</i>;</p> <p>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 <i>Rules</i>;</p> <p>h) "institute" has the meaning given to it in the <i>Architects Act</i>;</p> <p>i) "investigations committee" means the committee established by council pursuant to</p>	<p>37.0</p> <p>In these investigations and discipline bylaws 37.0 through 37.42,</p> <p>"Chief Executive Officer" or "CEO" means the individual appointed by council under bylaw 3.6 and includes a person designated by the CEO to perform any of the duties assigned to the CEO in these bylaws;</p> <p>"complainant" means a person or other entity other than the institute who submits a written complaint to the institute about an architect, architectural firm, associate or licensee under bylaw 37.1;</p> <p>"complaint" means an allegation or assertion, provided to the institute in writing, that a respondent has committed a discipline violation or a potential complaint that has been reviewed by the investigations committee and deemed to be of sufficient concern to become a complaint;</p> <p>"disciplinary committee" has the meaning given to it in the <i>Architects Act</i>;</p> <p>"disciplinary violation" means any one or more of the following:</p> <p>i) a breach of the <i>Architects Act</i>;</p> <p>ii) a breach of any bylaw or council ruling in the Code of Ethics and Professional Conduct;</p>	<p>Updated definitions required that align with current definitions in existing bylaws (consensual resolution bylaw 36.0 definitions)</p> <p><i>[NOTE: CEO definition presumes change to existing bylaws to replace all ED mention with CEO. This definition allows delegation by CEO of investigative/ disciplinary roles – similar to Law Society of BC language.]</i></p> <p><i>[NOTE: Same definition as Bylaw 36.0 except for cross-out; consider also amending 36.0 definition given CES considerations (i.e., that for CES, the institute's professional services department is the nominal complainant)]</i></p>



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<p>section 4.1 of these <i>Rules</i>;</p> <p>j) "matter" has the meaning given to it in AIBC Bylaw 36.0;</p> <p>k) "member" has the meaning given to it in the <i>Architects Act</i> and is synonymous with "architect";</p> <p>l) "oral conduct review" means the process established and described pursuant to section 12.0 of these <i>Rules</i>;</p> <p>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 <i>Rules</i> or the <i>Act</i>.</p>	<p>iii) conduct constituting professional misconduct, unprofessional conduct or conduct unbecoming;</p> <p>iv) incompetency or lack of physical or mental fitness or capability to practise;</p> <p>"institute" has the meaning given to it in the <i>Architects Act</i>;</p> <p>"investigations committee" means the committee established pursuant to bylaw 37.10;</p> <p>"matter" has the same meaning as established in bylaw 36.0 means the issues and subjects relating to a complaint or potential complaint;</p> <p>"potential complaint" means information provided to the institute, by any means and from any source, that indicates a respondent's conduct or competency may constitute a discipline disciplinary violation;</p> <p>"public member" means a person not registered with the institute, appointed by council to the investigations committee or remedial review panel;</p> <p>"remedial discipline recommendation" means the process established under these bylaws;</p> <p>"remedial discipline review panel" or "remedial panel" means the panel established under these bylaws;</p>	<p>[36.0: "matter" means the issues and subjects relating to an inquiry against the architect, architectural firm, licensee or associate, including any charge(s) or allegation(s) arising out of an investigation into a complaint]</p> <p>"matter" definition revised</p> <p>Use of "public member" consistent with existing consensual resolution review panel bylaw concept and definition</p> <p>"remedial <u>recommendation</u>" changes made February 2016 throughout bylaws</p>



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	<p>“respondent” means the architect, architectural firm, licensee or associate who is the subject of a complaint has the same meaning as established in Bylaw 36.0.</p>	<p>“respondent” definition revised</p> <p>{36.0: “respondent” means the architect, architectural firm, licensee or associate who is the subject of an inquiry}</p>
<p>1.4</p> <p>These <i>Rules</i> 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 <i>Rules</i> shall not be applied to restrict or fetter the exercise of any discretion conferred on any person or body of persons by the <i>Act</i>.</p>	REMOVED	Appropriate for Rules-based document, not institute bylaws.
2.0 Executive Director		
<p>2.1</p> <p>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 <i>Rules</i>.</p>	Replaced by language in proposed bylaws 37.0 through 37.9.	Changes reflect ongoing CEO operational responsibility for investigations.



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2.2 <p>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.</p>	<p>Replaced by proposed bylaw 37.0 definition.</p>	
3.0 Investigations	Complaints and Investigations	
3.1 <p>The Executive Director may investigate or cause to be investigated complaints that a member, architectural firm, licensee or associate:</p> <ul style="list-style-type: none"> a) has been unprofessional; b) has contravened the <i>Act</i> or a Bylaw, or the <i>Code of Ethics and Professional Conduct</i>, or the Code of Conduct for Participating Members contained within the <i>Code of Conduct Including Conflict of Interest Guidelines</i>, 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 	37.1 <p>Any person may deliver a complaint concerning the conduct or competency of a respondent to the CEO, who shall investigate or cause to be investigated such complaint in accordance with these bylaws.</p>	<p>Simplified language consistent with full suite of proposed bylaws.</p>



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e) is an architectural corporation that has ceased to meet the applicable qualifications for registration under section 26(2) or (3) of the <i>Act</i> .		
<p>3.2</p> <p>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:</p> <p>a) reports or information provided by members or other registrants to the AIBC of apparent <i>Act</i>, Bylaw or council ruling infractions as required under Bylaw 32.5; and</p> <p>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.</p>	<p>Replaced by proposed bylaws 37.2 and 37.16(c) and definition of “potential complainant”:</p> <p>“potential complaint” means information provided to the institute, by any means and from any source, that indicates a respondent’s conduct or competency may constitute a discipline disciplinary violation;</p> <p>Bylaw 37.2:</p> <p>Information provided to the CEO from any source that indicates a respondent’s conduct or competency may constitute a discipline disciplinary violation must be treated as a potential complaint and processed in accordance with these bylaws.</p> <p>Bylaw 37.16(c):</p> <p>The investigations committee shall have the following functions:</p> <p>a) to investigate complaints referred to it by the CEO under bylaw 37.4(a);</p> <p>b) to review any written report from the CEO under bylaw 37.6 and to conduct any further investigation it may in its discretion deem necessary or advisable;</p>	<p>Changes reflect current AIBC practice and regulatory public interest expectation that matters of concern brought to regulator’s attention be given appropriate level of consideration. Addition of “observation letter” option at 37(16) (j) reflects and formalizes current practice at investigations committee.</p> <p>Bylaw 37.16(c) reflects current practice, under Rule 3.2, of having investigations committee consider whether potential matters should become “complaints” and be investigated in the normal course.</p>



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	<p>c) to consider any potential complaints referred to it by the CEO under 37.4(a) to determine whether such matter should be dismissed without investigation or should become a complaint for investigation under subsection (a) above, with the institute as the nominal complainant;</p> <p>d) after investigation of a complaint or review of and any investigation related to a ny written report from the CEO under bylaw 37.6, to consider determine whether to recommend that council order an inquiry into a matter by a disciplinary committee pursuant to section 46 of the <i>Act</i>;</p> <p>e) to determine whether, after investigation of any complaint, to make a remedial recommendation direction for remedial discipline under bylaws 37.20 through 37.25;</p> <p>f) upon receipt of a report from the remedial review panel indicating that a respondent has satisfied a remedial recommendation, to discontinue the investigation and close the matter per bylaw 37.18;</p> <p>g) upon receipt of a report from the remedial discipline review committee panel indicating that a respondent has failed to satisfy a remedial recommendation discipline directions, to consider determine whether to recommend that council order an inquiry into such failure by a disciplinary committee pursuant to section 46 of the <i>Architects Act</i> into the concerns that arose during the investigation or remedial recommendation process;</p> <p>h) upon a decision by a respondent to reject a</p>	



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	<p>remedial recommendation, to recommend that council order an inquiry into a matter by a disciplinary committee pursuant to section 46 of the <i>Architects Act</i>;</p> <p>i) to review decisions of the CEO made under bylaw 37.7 at the written request of a complainant per bylaw 39.9 and, in its sole discretion without further appeal or review by any party, determine whether to further investigate the matter and exercise any of its post-investigation powers or to concur with the CEO's decision; and</p> <p>j) where the committee deems it appropriate, and upon the discontinuance of an investigation, to provide written, non-binding observations to a respondent related to professional conduct, practice and ethics. Such observations do not constitute a disciplinary violation and are intended to assist the respondent with future practice.</p>	
<p>3.3</p> <p>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.</p>	<p>37.3 – AMENDED (highlighted)</p> <p>Except as permitted under Bylaw 37.7, on receipt of a complaint against a member or other registrant or potential complaint, the Executive Director CEO shall provide a copy of it, or a summary sufficient to describe the concerns or allegations, to the individual or firm respondent, who shall provide a written response to the Executive Director institute within two weeks of being requested to do so or within such extended period of time as the Executive Director CEO may in writing allow.</p>	



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<p>3.4</p> <p>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.</p>	<p>37.19 – NO CHANGE</p> <p>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 potential complaint that initially led to the investigation.</p>	<p>The institute has operated under this language since 2001; the concept is standard in self-regulation. If the IC determines there is a potential disciplinary violation other than that identified in the complaint, that issue can proceed through investigation and potentially to discipline. In such cases, the respondent is notified during the investigation process of the concerns (which may differ from those in the complaint) and given opportunity to respond – a basic procedural fairness expectation.</p>
<p>3.5</p> <p>The Executive Director may:</p> <p>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;</p> <p>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;</p>	<p>37.4 & 37.5 – Separated into two bylaws.</p> <p>Bylaw 37.4: Upon conclusion of the exchange of correspondence related to a complaint or potential complaint with the respondent, the CEO shall:</p> <p>a) refer the matter directly to the investigations committee; or</p> <p>b) conduct an investigation into a complaint or potential complaint to the extent and by whatever fair and reasonable means the CEO determines are appropriate.</p> <p>Bylaw 37.5: In any investigation conducted under bylaw 37.4, the CEO or investigations committee is authorized to do one or more of the following:</p>	



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<p>c) conduct interviews of any person to obtain information reasonably relevant to the investigation;</p> <p>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;</p> <p>e) seek the opinion of advisers and experts;</p> <p>f) retain the services of a private investigator;</p> <p>g) retain the services of mediators or other persons for the consensual resolution of matters;</p> <p>h) facilitate a discussion between the complainant and the respondent to arrive at a resolution of the matter;</p> <p>i) act on behalf of the institute in relation to the consensual resolution of a matter; and</p> <p>j) arrange for the drafting and prosecution of the charges against the respondent.</p>	<p>a) 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, contracts, records and other materials and documents reasonably relevant to the investigation;</p> <p>b) conduct interviews of any person to obtain information reasonably relevant to the investigation;</p> <p>c) 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;</p> <p>d) seek the opinion of advisers and experts;</p> <p>e) retain the services of a private investigator;</p> <p>f) facilitate a discussion between the complainant and the respondent to arrive at a resolution of the matter; and</p> <p>g) arrange for the drafting and prosecution of the charges against the respondent.</p>	
<p>3.6</p> <p>Where the Executive Director concludes that:</p> <p>a) a complaint is not within the jurisdiction of the Institute;</p>	<p>37.7 & 37.8 - Separated into two bylaws.</p> <p>Bylaw 37.7:</p> <p>The CEO may decline to take action pursuant to Bylaw 37.3 investigate with respect to a complaint</p>	<p>Change in 37.7 reflects regulatory law thresholds, including guarding against “frivolous, vexatious” and process-abusive complaints.</p>



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<p>b) a complaint is incapable of substantiation; or</p> <p>c) a complainant has insufficient personal knowledge of the matter or has an insufficient interest in the matter;</p> <p>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.</p>	<p>or potential complaint if the CEO is satisfied that:</p> <p>a) it is not within the jurisdiction of the institute;</p> <p>b) it is frivolous, vexatious, an abuse of process or incapable of substantiation; or</p> <p>c) it does not allege facts that, if proved, would amount to a discipline disciplinary violation.</p> <p>Bylaw 37.8:</p> <p>Within 30 days of any decision by the CEO not to investigate a complaint pursuant to bylaw 37.7, the CEO shall provide the complainant with a written explanation of such decision.</p>	
<p>3.7</p> <p>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.</p>	<p>37.9 – AMENDED (highlighted)</p> <p>A complainant may request that the investigations committee review a decision of the Executive Director CEO under bylaw 37.7. The request must be made in writing to the investigations committee within 30 days after notification of the decision of the Executive Director CEO to the complainant.</p>	
<p>3.8</p> <p>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 <i>Act</i>, the Executive Director shall provide a written report of the results of the investigation to the investigations committee, with or without</p>	<p>37.6 – AMENDED (highlighted)</p> <p>If, as the result of an investigation by the Executive Director CEO under bylaw 37.4 (b), it appears to the Executive Director CEO that the matter may warrant an inquiry under section 46 of the <i>Act</i>, the Executive Director CEO shall provide a written report of the results of the investigation to the investigations committee, with or without</p>	<p>Minor changes.</p>



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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.	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.	
	37.2 - NEW Information provided to the CEO from any source that indicates a respondent's conduct or competency may constitute a discipline disciplinary violation must be treated as a potential complaint and processed in accordance with these bylaws.	See comments under Rule 3.2, above.
4.0 Investigations Committee	Investigations Committee	
4.1 Council shall appoint an investigations committee of not less than five and not more than eight, 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.	37.10 – AMENDED (highlighted) Council shall appoint an investigations committee of not less than five individuals and not more than eight, one of whom shall be appointed as chairperson. Council may appoint one lay person public member to serve as a member of the investigations committee and one retired architect associate, but otherwise a person must be an architect a member of the institute to be eligible for appointment to the investigations committee.	Addition of retired architect committee member option addresses: <ul style="list-style-type: none"> council decision to retain retired architect associate class; and recognized need and desire to draw upon retired architects' experience for institute processes.
4.2 Council may provide for staggered terms of office of members of the investigations committee.	37.12 – AMENDED (highlighted) Council may provide for staggered terms of office of members of the investigations committee and otherwise establish terms of reference and other procedural matters to supplement these bylaws.	



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<p>4.3</p> <p>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 <i>in camera</i>, 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.</p>	<p>37.13 & 37.14 — Separated into two bylaws</p> <p>Bylaw 37.13:</p> <p>A majority of the members of the investigations committee shall constitute a quorum, and the quorum shall have a majority of architects. 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.</p> <p>Bylaw 37.14:</p> <p>The investigations committee shall meet and deliberate <i>in camera</i>, 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.</p>	<p>The majority architect for quorum requirement was added in the event the composition of the investigations committee fell to five members: three architects, a public member and a retired architect. Normal complement of investigations committee since 2001 has been eight architects.</p>
<p>4.4</p> <p>Members of the investigations committee shall hold office at the pleasure of the council.</p>	<p>37.11 – NO CHANGE</p> <p>Members of the investigations committee shall hold office at the pleasure of the council</p>	
<p>4.5</p> <p>A member of council may be appointed to the investigations committee but any such member</p>	<p>37.15 – NO CHANGE</p> <p>A member of council may be appointed to the investigations committee but any such member will</p>	



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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.	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.	
<p>4.6</p> <p>The investigations committee shall have the following functions:</p> <p>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;</p> <p>b) to consider whether to recommend that council order an inquiry into a matter by a disciplinary committee pursuant to section 46 of the <i>Act</i>; and</p> <p>c) to review decisions of Executive Director made under section 3.6, either on its own motion or at the request of a complainant.</p>	<p>37.16 – AMENDED (highlighted)</p> <p>The investigations committee shall have the following functions:</p> <p>a) to investigate complaints referred to it by the CEO under bylaw 37.4(a);</p> <p>b) to review any written report from the CEO under bylaw 37.6 and to conduct any further investigation it may in its discretion deem necessary or advisable;</p> <p>c) to consider any potential complaints referred to it by the CEO under 37.4(a) to determine whether such matter should be dismissed without investigation or should become a complaint for investigation under subsection (a) above, with the institute as the nominal complainant;</p> <p>d) after investigation of a complaint or review of and any investigation related to any a written report from the CEO under bylaw 37.6, to consider determine whether to recommend that council order an inquiry into a matter by a disciplinary committee pursuant to section 46 of the <i>Act</i>;</p> <p>e) to determine whether, after investigation of any complaint, to make remedial recommendation a</p>	Process clarified.



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	<p>direction for remedial discipline under bylaws 37.20 through 37.25;</p> <p>f) upon receipt of a report from the remedial review panel indicating that a respondent has satisfied a remedial recommendation, to discontinue the investigation and close the matter per bylaw 37.18;</p> <p>g) upon receipt of a report from the remedial discipline review committee panel indicating that a respondent has failed to satisfy a remedial recommendation remedial discipline directions, to consider determine whether to recommend that council order an inquiry by a disciplinary committee pursuant to section 46 of the <i>Act</i> into the concerns that arose during the investigation or remedial recommendation process;</p> <p>h) upon a decision by a respondent to reject a remedial recommendation, to recommend that council order an inquiry into a matter by a disciplinary committee pursuant to section 46 of the <i>Architects Act</i>;</p> <p>i) to review decisions of the CEO made under bylaw 37.7 at the written request of a complainant per bylaw 39.9 and, in its sole discretion without further appeal or review by any party, determine whether to further investigate the matter and exercise any of its post investigation powers or to concur with the CEO's decision; and</p> <p>j) where the committee deems it appropriate, and upon the discontinuance of an investigation, to provide written, non-binding observations to a</p>	



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	respondent related to professional conduct, practice and ethics. Such observations do not constitute a disciplinary violation and are intended to assist the respondent with future practice.	
<p>4.7</p> <p>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.</p>	<p>37.17</p> <p>If considered necessary, The investigations committee may invite the complainant, respondent or any other person(s) who may provide relevant information about a matter 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 such 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.</p>	<p>Deleted language unnecessary in bylaw; all respondents are notified of legal counsel rights during process – basic procedural fairness expectation. Lawyers regularly attend current IC meetings on behalf of respondents and complainants.</p>
<p>4.8</p> <p>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:</p> <p>a) conclude that charges are not warranted (which decision is final);</p>	<p>Proposed bylaw 37.16, above, addresses these committee options.</p>	



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<p>b) refer the matter back to the Executive Director for further investigation or clarification; or</p> <p>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 <i>Act</i>.</p>		
<p>4.9</p> <p>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.</p>	<p>37.18 – AMENDED (highlighted)</p> <p>If the investigations committee concludes that charges are not warranted, the Executive Director CEO shall so notify the respondent and the investigation shall be discontinued any complainant. This notification will must include confirmation that there is no appeal from the decision under any AIBC process and that the complainant can seek independent legal advice as to judicial review or other recourse.</p>	<p>Legal advice reminder requirement for <u>complainants</u> (most of whom are members of the public) seen as important for credibility of process.</p>
	<p>Remedial Discipline Recommendation-NEW</p>	
	<p>37.20 - NEW</p> <p>Where the investigations committee concludes after an investigation that a matter raises concerns about a respondent's conduct, competency or fitness to practise that would be better resolved through a remedial discipline process intended to improve a respondent's practice or otherwise protect the public, rather than referral to a disciplinary inquiry,</p>	<p>This suite of proposed bylaws is new but draws heavily on existing AIBC processes, such as consensual resolution.</p> <p>The remedial discipline process is intended to address competency and ethical deficiencies without resorting</p>



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	it shall provide a report with a direction remedial recommendation for remedial discipline to the remedial discipline review panel. There is no appeal from a decision of the investigations committee as to whether a remedial recommendation is appropriate for a particular investigation.	to a full inquiry or consensual resolution. However, it is still a disciplinary outcome. Through consultation and further review, 'disciplinary' element to remedial process has been removed. Completion of remedial recommendation not considered disciplinary.
	37.21 - NEW The investigations committee's remedial recommendation direction for remedial discipline may include, but is not limited to: (a) educational action, such as coursework; (b) an oral conduct review as may be established by the institute by council rule or bylaw; (c) a practice consultation or peer review process as may be established by the institute by council rule or bylaw; and/or (d) seeking assistance, assessment or counselling from a professional, such as a financial professional, registered social worker or health professional; and/or (e) such other reasonable remedial measures as may be appropriate to the circumstances.	Process contemplates a wide range of remedial recommendations, reflective of the investigations committee's experience over many years.



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Rules	Proposed Bylaws	Comment
	<p>37.22 - NEW</p> <p>A respondent may elect to accept or reject a remedial recommendation. If rejected, the investigations committee must recommend that council order a disciplinary inquiry per bylaw 37.16(d). A respondent's decision to reject a remedial recommendation does not constitute a separate allegation of a disciplinary violation.</p>	
	<p>37.23 - NEW</p> <p>Satisfaction by a respondent of a remedial recommendation does not constitute a disciplinary violation and is therefore not considered part of the respondent's professional disciplinary record.</p>	
	<p>37.24 - NEW</p> <p>Council shall appoint a remedial discipline review panel consisting of at least three and up to five individuals and, in its discretion, one lay person* public member and one retired architect associate. At all times the majority of the remedial review panel must be comprised of architects and the chairperson must be an architect.</p>	
	<p>37.25- NEW</p> <p>Remedial review panel members shall hold office at council's pleasure or on terms otherwise established by council.</p>	



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Rules	Proposed Bylaws	Comment
	<p>37.26 - NEW</p> <p>The remedial review panel shall meet as it deems necessary for the performance of its functions in a timely, fair and cost-effective manner, including meetings by teleconference, videoconference or otherwise electronically.</p>	
	<p>37.27 - NEW</p> <p>The remedial review panel shall attempt to carry out its functions by consensus, but where no consensus is possible, the decision of the remedial review panel majority shall be the remedial review panel's decision.</p>	
	<p>37.28 - NEW</p> <p>The remedial review panel shall have the following functions:</p> <ul style="list-style-type: none">(a) to receive remedial recommendations directions for remedial discipline from the investigations committee;(b) to monitor and assess the respondent's compliance with the remedial recommendation discipline directions; and(c) to provide a written report to the investigations committee as to the respondent's compliance with the remedial recommendation directions, which report shall include a determination whether, in the remedial review panel's sole discretion, the respondent has satisfied the remedial	



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Rules	Proposed Bylaws	Comment
	recommendation discipline directions.	
5.0 Disciplinary Committee	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 <i>Act</i> .	37.29 – NO CHANGE 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 <i>Act</i> .	
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 <i>Act</i> .	37.30 – AMENDED (highlighted) If council orders an inquiry by a disciplinary committee, the Executive Director CEO shall serve a notice of hearing on the respondent and the complainant in accordance with section 48 of the <i>Act</i> .	
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.	REMOVED	



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Rules	Proposed Bylaws	Comment
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 <i>Act</i> , 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 <i>Act</i> .	REMOVED	
5.5 The disciplinary committee may make any order as to costs it is authorized to make by section 51 of the <i>Act</i> .	REMOVED	
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, disciplinary committee shall deliberate <i>in camera</i> .	37.31 –AMENDED (highlighted) 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 except for the disciplinary committee's <i>in camera</i> deliberations and in any circumstance where the disciplinary committee deems it appropriate to exclude some or all non-parties to the proceeding. However, disciplinary committee shall deliberate <i>in camera</i> .	Updated language



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Rules	Proposed Bylaws	Comment
6.0 Prosecution		
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.	37.32 – AMENDED (highlighted) The Executive Director CEO 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. The Executive Director CEO may retain and instruct legal counsel to assist with the drafting and prosecution of the charges.	6.1 and 6.2 have been combined to form 37.30
6.2 The Executive Director may retain and instruct legal counsel to assist with the drafting and prosecution of the charges.	37.32 above	See above.
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 decision shall be retained as part of the matter records.	37.33 – AMENDED (highlighted) The Executive Director CEO may withdraw charges against a respondent based on a legal opinion which, to the Executive Director CEO's satisfaction, raises reasonable grounds for charge withdrawal, including but not limited to the likelihood of a successful prosecution. The Executive Director CEO 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 CEO decision shall be retained, as a privileged document as part of the matter records.	



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Rules	Proposed Bylaws	Comment
7.0 Consensual Resolution		
7.1 The consensual resolution process is established under section 51.1 of the <i>Act</i> and AIBC Bylaws 36.0 through 36.22	REMOVED	Exists within the current 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	REMOVED	Exists within the current bylaws: 36.7 through 36.18.
9.0 Confidentiality and Publication	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.	37.34 – NO CHANGE 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 <i>Guidelines for Retention, Disclosure and Publication of AIBC Professional Conduct and Illegal Practice Records</i> , all approved consensual resolution agreements, or suitable summary thereof, shall be published to the membership and made public, with any specific publication requirements established	37.37 NEW The institute shall publish summaries, without respondent's names, of successfully – completed remedial recommendations for the purpose of education architects, firms, associates and licensees regarding professional conduct and ethics.	This (consensual resolution) publication requirement is now found in consensual resolution bylaw 36.20. 'Anonymous' publication of remedial recommendation conclusions serves dual function of providing guidance for members, firms associates in similar situations and enhances



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Rules	Proposed Bylaws	Comment
within each consensual resolution agreement.		transparency and accountability of the process.
<p>9.3</p> <p>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:</p> <p>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;</p> <p>b) public disclosure or publication has been made pursuant to sections 9.1 and 9.2; and/or</p> <p>c) it may otherwise be directed by the order of a court of competent jurisdiction, or as provided in Section 51.2 of the <i>Act</i> in respect of consensual resolutions.</p>	<p>37.35 – AMENDED (highlighted)</p> <p>Institute staff, every member of council and all disciplinary committee, investigations committee or and remedial review panel members must keep all information concerning a matter strictly confidential, except insofar as:</p> <p>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;</p> <p>b) public disclosure or publication has been made pursuant to sections 9.1 and 9.2 these bylaws; and/or</p> <p>c) it may otherwise be directed by the order of a court of competent jurisdiction, or as provided in Section 51.2 of the <i>Act</i> in respect of consensual resolutions.</p>	
<p>9.4</p> <p>Nothing in these <i>Rules</i> 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.</p>	<p>37.36 – AMENDED (highlighted)</p> <p>Nothing in these Rules bylaws 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 B bylaw 36.20.</p>	



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Rules	Proposed Bylaws	Comment
10.0 Compliance with Sanctions, Remedial Actions and Costs	Compliance with Sanctions, Remedial Directions and Costs	
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.	37.38 – No change 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.	37.39 – AMENDED (highlighted) Where a respondent is: a) ordered by the disciplinary committee to undertake remedial actions or satisfy conditions placed on a certificate of practice; or b) directed by the investigations committee to undertake remedial discipline; or b) undertakes or agrees to remedial action or other provisions within a consensual resolution agreement; the respondent shall comply with the order, direction or agreement within the time limit ordered, directed or agreed to. Failure by the respondent to comply is grounds for disciplinary action, including automatic suspension if such a suspension term is provided for by way of disciplinary committee order or consensual resolution.	Considerable modification from the current rule, primarily to include remedial discipline.



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Rules	Proposed Bylaws	Comment
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.	37.40 – AMENDED (highlighted) The Executive Director CEO is authorized to monitor and enforce sanctions, remedial actions, conditions on certificates of practice 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.	REMOVED	This issue is addressed within the consensual resolution agreements and disciplinary committee orders themselves.
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.	REMOVED	Seen as unnecessary; exists in Bylaw 34.5 (f) and (g) as an existing professional conduct standard.



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Rules	Proposed Bylaws	Comment
12.0 Oral Conduct Reviews	Oral Conduct Reviews	
12.1 In the event that an order of a disciplinary committee or a term of 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.	37.41 – AMENDED (highlighted) In the event that an order of a disciplinary committee, direction of the investigation 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	Supplemental Rules	
13.1 These <i>Rules</i> are passed by council pursuant to section 5 of the <i>Act</i> .	37.42 Council may pass procedural rules and guidelines to supplement Bylaws 37.1 through 37.41, which rules must be consistent with the language and intent of these bylaws.	Provides clarification that council can pass rules/guidelines on specific matters (e.g., hearing procedure: witness order, pre-hearing conferences, evidentiary issues, etc.). Alternative is to establish further detailed bylaws on these topics. BRC recommendation is to leave that tier of detail to rules/guidelines.