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1 An Introduction to Professional Regulation

Almost 30 years ago, the Human Resources Professionals Association (HRPA) committed itself to a strategy of making human resources a fully-recognized profession. A big step along that path was the promulgation of the Human Resources Professionals Association of Ontario Act in June 1990. By virtue of this Act, HRPA became a professional regulatory authority. The next major milestone was the passing of the Registered Human Resources Professionals Act, 2013, which modernized the regulation of the profession.

The purpose of professional regulation is to protect the public interest by ensuring that regulated professionals are competent and act in an ethical manner. In exchange for taking on the duties and obligations of self-regulation, regulated professions enjoy a status that unregulated professions and occupations simply cannot attain.

This document describes HRPA’s regulatory framework as it currently stands. HRPA’s regulatory framework is comprised of many elements:

- An enabling statute that creates HRPA as a professional regulatory body and that defines HRPA’s statutory powers
- Other statutes that shape HRPA’s obligations as a professional regulatory body
- The governance and organizational structure by means of which HRPA carries on its regulatory functions, and
- The policies, processes, and procedures that govern and define regulatory activities at HRPA

All of the above are described in this document.

What professional regulatory bodies do to protect the public

Professional regulation is all about protection of the public. Professional regulators are in the business of protecting the public from incompetent, unethical, or incapacitated professionals. Everything that professional regulatory bodies do should contribute directly or indirectly to the reduction or mitigation of risk to the public. This includes:

- Granting membership or designations such that the public can make informed decisions about the practitioners they chose to deal with
- Setting standards of education, knowledge, and experience for entry into the profession in order to ensure competent practice of the profession
- Establishing continuing professional development programs to ensure continued competence on the part of designated professionals
- Setting standards as to what constitutes acceptable professional practice or conduct
- Educating members and the public as to what constitutes acceptable professional practice or conduct
• Handling complaints regarding members whose practice may have fallen short of the standards expected of the profession or whose conduct is otherwise unprofessional, and
• Disciplining members when such disciplinary actions are warranted

The changing paradigm for professional regulation

The traditional model of professional regulation was a fairly passive one. This traditional model could be called the ‘gatekeeper and enforcer’ paradigm. Once individuals were allowed into the profession, the regulator would only intervene when things went wrong. Increasingly, progressive professional regulators have shifted the balance to more proactive regulation. The idea of proactive regulation is to prevent problems from happening in the first place. Quality assurance, requirements for continuing professional development, providing guidance to members, educational initiatives and public outreach initiatives are all part of these proactive activities. More recently, professional regulators have begun to develop risk-based approaches to professional regulation to identify and measure the specific risks to the public related to the practice of the profession. Regulatory initiatives are then implemented to address these specific risks.

The value proposition for professional regulation at HRPA

Self-regulation is based on the concept of an occupational group entering into an agreement with government to formally regulate the activities of its members. Professional self-regulation is a regulatory model which enables government to have some control over the practice of a profession and the services provided by its members without having to maintain the special in-depth expertise required if the government were to regulate the profession directly. Furthermore, in the self-regulation model the cost of regulation is borne by the members of the profession. This appears to be a good deal for government, but what’s in it for the members of the profession?

Professional regulation has a complex value proposition. While the purpose of professional regulation is to protect the public interest by ensuring that regulated professionals are competent and act in an ethical manner, professional regulation also creates value for regulated professionals by:

• Increasing the status of regulated professionals
• Creating a preference for regulated professionals in the marketplace
• Increasing the price that regulated professionals can command in the marketplace
• Regulated professions also maintain greater control over their own governance

In Canada, most professional regulation is based on a self-regulation model—that is, the professions regulate themselves (i.e., they are governed by a body made up primarily of their professional members).

The idea here is that by serving the public interest, regulatory bodies create value for their members which exceeds the various costs and burdens of self-regulation. The bottom line is that regulated professionals are better off in the end for taking on the responsibilities of self-regulation. In fact, the
benefits that derive from taking on the responsibilities of self-regulation are often the most important benefits that justify continued membership in a professional association.

Professional self-regulation is based on a win-win-win model:

- The public wins for having better qualified professionals
- The government wins for having some control over the practice of a profession and the services provided by its members without having to maintain the special in-depth expertise that would be required under direct regulation
- The regulated professionals win through higher status, better professional opportunities, and greater remuneration

To make the win-win-win value proposition work, the professional regulatory body must:

- Regulate the profession in the public interest, not in a self-serving manner
- Regulate the profession in such a way that creates and maintains confidence on the part of all stakeholders

To accomplish the above, the professional regulatory body must:

- Have good governance
- Have a well thought out framework of regulatory policies and procedures
- Be as transparent as possible
- Have the courage and fortitude to make and stand by difficult decisions
- Ensure that everyone involved in the regulation of the profession is competent and well trained to take on the duties and responsibilities assigned to them
- Have respect for process

The value model differs significantly for compulsory and voluntary self-regulation. Compulsory self-regulation means that a person must be registered or licensed by the regulator in order to practise the profession. Compulsory self-regulation is based on some form of prohibition; that is, no person or firm, other than those who are authorized to do so by the regulatory body, are allowed to carry on certain professional activities. In this case, the value proposition for regulated professionals is straightforward. For voluntary self-regulation the value model is more complex.

With voluntary regulation, professionals are not required to submit themselves to regulation to be able to practise their profession. Since there are various costs borne by regulated professionals, it follows that for a voluntary regulation model to work, the value created by regulation must be perceived as greater than the costs by the members of the profession.

In voluntary regulation, brand dynamics are key. Titles and initials are brands that are controlled by the regulatory body and can only be used under authorization of the regulatory body. The value of the brand is the value that is given to it by the marketplace. An important audience here is those individuals who hire professionals either as employees or consultants.
What creates value for individuals who hire professionals either as employees or consultants are:

- The assurance of some minimum quality standard
- The existence of recourse mechanisms

It is worth noting that what creates value for the brand tends to be a cost for the professional. The higher the bar is set, the more difficult it will be for professionals to meet the standard. Assurances that professionals have kept their knowledge and skills up to date come with the cost of continuing professional development activities. The existence of recourse mechanisms creates obligations for regulated professionals.

In voluntary regulation, the regulatory body acts as a brand steward. Professional regulatory bodies must be trusted to maintain standards. Important here as well is the perception on the part of the public that the regulatory body will hold up the standard and not put the interests of the members first. Indeed, maintaining the trust of the public is paramount for a professional regulatory body.
2 Overview of HRPA’s Regulatory Framework

HRPA is a statutory professional regulatory body. Its enabling legislation is the Registered Human Resources Professionals Act, 2013 (the “Act”). The HRPA derives its powers from the Act and the By-Laws made under the Act. As a statutory professional regulatory body, HRPA has the mandate to promote and protect the public interest by governing and regulating the practice of registrants of the Association.

HRPA is governed by a Board of Directors (the “Board”). In addition, much of HRPA’s work is carried out by various committees. The Chief Executive Officer (“CEO”) is responsible for the operational management of HRPA. The Registrar is responsible for carrying out various regulatory duties under the Act and By-Laws.

HRPA’s Regulatory Framework

HRPA’s regulatory framework refers to the structure, roles, policies and procedures that pertain to professional regulation. The components of HRPA’s regulatory framework all serve a common objective: to protect the public by ensuring that human resources professionals in Ontario are competent and behave in an ethical manner.

The following diagram gives the different components of HRPA’s regulatory framework:
The ultimate objective of HRPA’s regulatory framework is to minimize and mitigate the risks to the public and users of the professional services stemming from the practice of Human Resources.

As illustrated in the diagram above, HRPA’s regulatory framework is made up of five functions. Each of the five functions, singly and in combination, aims to reduce or mitigate the risk to the public posed by the practice of the profession.

**Policy development**

Regulatory policy never stands still. Changes in the human resources profession and changes in the regulatory landscape require that HRPA develop new policies or modify existing policies. It is important that all new policies and all modifications to existing policies be grounded in solid research into the policy alternatives and their various implications.

**Operational functions**

At the centre there is a coordinative and planning function. This function is all about risk identification, regulatory response formulation, planning response implementation, and monitoring the impact of regulatory activities. Also in this function is the assessment and monitoring of effectiveness as a professional regulator.

Around this central coordinative function are four operational functions:

1. Registration and certification
2. Quality assurance and verification
3. Complaints and discipline
4. Stakeholder relations

**Registration and certification**

An important aspect of regulation is to ensure that only competent and ethical individuals are allowed into the profession. In the language of the *Registered Human Resources Professionals Act, 2013*, this refers to ‘establishing, maintaining, developing and enforcing standards of qualification.’ HRPA is somewhat unique in that it will register individuals who are not certified. These ‘practitioner members’ and ‘allied members’, as well as registered students, are not required to meet any standard of competence but must agree to abide by the Act, HRPA’s By-laws, HRPA’s Code of Ethics and Rules of Professional Conduct and any other professional guidance issued by the Association. Practitioner members, allied members and students are also subject to discipline by the Association.

From the perspective of a professional regulatory body, certification is not primarily about giving registrants a means of accelerating their career or a way of demonstrating their commitment to professionalism, it’s about protecting the public by giving the public a way of identifying those HR professionals who are regulated.
HRPA does have a ‘good character’ requirement which does apply to all applicants for membership and students. At HRPA, ‘good character’ is defined as: integrity, candour, honesty, trustworthiness, moral and ethical standards, and such other qualities or combination of qualities as will promote the practice of Human Resources management in the public interest, in accordance with the Registered Human Resources Professionals Act, 2013, and the objects of the Association. Individuals are presumed to be of good character, unless there is some reason to believe that this may not be the case. Making a determination as to whether applicants for membership or for registration as students are of good character is a task which is delegated to the Registration Committee.

For more information about certification and the designations offered by HRPA, please review Chapter 8.

Quality assurance and verification

In terms of its impact on the risks to the public and users of the professional services, quality assurance is the most important aspect of HRPA’s regulatory framework. Indeed, quality assurance is so important that for all the health professions, the Regulated Health Professions Act, 1991, (RHPA) mandates the establishment of Quality Assurance Committees and the putting in place of quality assurance programs. Of course, HRPA does not fall under the RHPA, but it does speak to the importance of quality assurance as a regulatory function.

Quality assurance is all about avoiding problems before they happen (stopping risks from becoming harms). Quality assurance requires having a keen understanding of how risk come about. It is about either anticipating issues or nipping issues in the bud. In the language of the Registered Human Resources Professionals Act, 2013, this refers to ‘establishing, maintaining, developing and enforcing standards of practice, standards of professional ethics, and standards of knowledge, skill and proficiency’ and ‘regulating the practice, competence and professional conduct of members of the Association and firms.’

There are a number of activities that fall under the rubric of quality assurance.

- Issuing guidance to registrants (at whatever level of prescriptiveness is appropriate)
- Practice assessments and continuing professional development (CPD)
- Compliance verification and practice inspections
- Supporting the professionalism of HRPA registrants

Issuing guidance to registrants

The core documents here are the Code of Ethics and the Rules of Professional Conduct. Of course, what is important is not so much to have a Code of Ethics and Rules of Professional Conduct but to make these tools shape and guide day-to-day professional practice. Code of Ethics and the Rules of Professional Conduct are meant to be relatively unchanging principles or guides for professional practice and behaviour; nonetheless regardless of how well these are crafted they don’t deal with emerging issues or issues that arise for specific sub-groups of practitioners. For specific practice issues, more focused professional guidance is issued in the form of practice standards or practice
guidelines. Professional guidance exists at different levels of prescriptiveness—from discussions of issues to prescriptive standards. What is important, however, is that any professional guidance be linked to risks posed to the public or users of the professional service and that the advice be timely.

**Practice assessments and continuing professional development (CPD)**

The nature of professional practice is that it is constantly evolving. Professionals are required to keep their knowledge and skills up to date. Continuing professional development is one area where few professional regulators are entirely satisfied with their process. The challenge of continuing professional development is to ensure the continued competence of practitioners. In this respect, different practitioners are likely to have different needs. Unfortunately, when given a choice practitioners will often focus their continuing professional development efforts on areas that they are interested in, areas that they are likely more than competent at already. Getting practitioners to accurately self-assess their professional practice is a challenge. A number of professional regulators have introduced mandatory self-assessments and peer assessments as part of their quality assurance programs. These practice assessments are focused on helping professionals work out what they need to do to maintain or enhance their level of knowledge and skill in their professional practice.

For information about HRPA’s current CPD requirement, please review Chapter 9.

**Compliance verification and practice inspections**

Professional regulatory bodies cannot simply presume that registrants are in compliance with all requirements, there needs to be some element of verification. The idea behind practice inspections is not to ‘catch’ members doing something wrong but to identify areas of possible risk before these become real problems. Professional inspections can be targeted at ‘high-risk’ areas of practice or to ensure compliance with various requirements. Practice inspections are also a great source of information about potential risks.

**Supporting the professionalism of HRPA registrants**

This aspect is not always identified as such in quality assurance programs, but it is especially important for an emerging profession such as Human Resources. Developing and sustaining the professionalism of registrants is likely the most important and impactful aspects in relation to the protection of the public.

“Neither economic incentives, nor technology, nor administrative control has proved an effective surrogate for the commitment to integrity evoked in the ideal of professionalism”

Sullivan, 1995

“But ultimately, public protection depends on the culture of self-responsibility and accountability that goes with professionalism. And if the regulatory process loses some of its ability to support the professionalism on which public protection depends, that’s a problem.”

William Lahey, 2011
As noted above, professionalism has been described as a matter of ‘culture’ or as an ‘ideal,’ both of which are abstract concepts. Many professions have professionalism as a key aspect of socialization into the profession.

Another aspect of the support for professionalism is the maintenance of ‘ethics hotlines’ for registrants.

Complaints and discipline (including capacity and review)

From a quality assurance perspective, complaints and discipline processes deal with ‘failures’ of the registration, certification and quality assurance processes (although a certain amount of such ‘failures’ is inevitable). The capacity process and the review processes are also ‘dealing with matters when things go wrong’. Complaints and discipline processes can also be a source of information for the risk identification process.

Although the registration and certification and quality assurance processes likely contribute more to the protection of the public interest than complaints and discipline, in the eye of the public it is the handling of complaints that seems most tied to public confidence in the work of the regulator. News stories in the media often reveal a deep skepticism about the willingness of professional regulatory bodies to put the public first. The concern is that professional regulatory bodies will take the side of their members rather than protect the public.

For information about HRPA’s complaints process, please review Chapter 12. The discipline and capacity processes are set out in Chapter 13.

Stakeholder relations

Stakeholder relations is an increasingly important aspect of professional regulation—after all the whole raison d’être of professional regulation is to protect the public. Professional regulation is one of those activities where public confidence is both the result and an enabler of effectiveness as a regulator. Without the confidence of all stakeholders, a professional regulator cannot be effective. In a worst case scenario, the loss of public confidence can lead to a loss of self-regulation as happened with the now defunct British Columbia College of Teachers. Unfortunately for all professional regulators, there appears to be growing skepticism on the part of the public as to the ability of professions to regulate themselves. Despite the fact that it is difficult to get the attention of the public (unless there is a scandal, which is not a recommended approach to garnering public attention), this is something that cannot be ignored.

The public register is part of the relation with the public. Recently, there has been increased pressure on professional regulators to place on their public register even more information about the professionals they regulate.

By law, HRPA maintains a public register that contains the names of all of the members, firms and students, as well as additional information specified by the by-laws. Since January 2009, HRPA’s public
register has been accessible online. HRPA’s public register is updated as soon as possible with any changes.

Another important aspect of stakeholder relations is communication and education. Regulatory communication and education initiatives are mainly targeted at two audiences: the public (which includes employers) and members and students.

At the end of the day, professional self-regulation is all about protecting the public. To this end, it is important that members of the public understand that:

- Human resources is a regulated profession in Ontario;
- HRPA is the regulatory body for human resources professionals in Ontario;
- Registered human resources professionals in Ontario are governed by the HRPA’s By-laws and Rules of Professional Conduct; and
- There exists a complaint mechanism should anyone feel that a human resources professional registered with the HRPA has failed to live up to HRPA’s By-laws or Rules of Professional Conduct.

HRPA is committed to ensuring that members of the public have access to accurate information about all of the above.

Similarly, HRPA supports a number of communication and education initiatives aimed at current and prospective members or student registrants of HRPA. It is important that the individuals in these two audiences understand that:

- They are (or would become) members or registered students of a regulated profession in Ontario
- HRPA is the regulatory body that is statutorily mandated to regulate the human resources profession in Ontario
- They have made (or are about to make) a commitment to abide by HRPA’s By-laws and Rules of Professional Conduct, and
- All human resources professionals registered in Ontario are subject to discipline by the HRPA

**Other Regulatory Functions**

**Policing the designations**

An important aspect of protecting the public is policing the designations. For the public to have confidence in the human resources profession, it is important that individuals who are not members of HRPA and those who have not achieved certification do not mislead the public into thinking that this is the case. HRPA will follow up on all reported false claims of registration with or certification by HRPA.
Ensuring compliance with legislation

In addition to the Act, HRPA must ensure that it complies with a number of other statutes, including for example:

- The Human Rights Code
- The Ontario Labour Mobility Act, 2009
- The Fair Access to Regulated Professions and Compulsory Trades Act, 2006
- The Statutory Powers Procedure Act

These are discussed in more detail in Chapter 3.

Participation in the certification and regulation communities

HRPA is a member of the Council on Licensure, Enforcement and Regulation (CLEAR). CLEAR is the premier international resource for professional regulation stakeholders and promotes regulatory excellence through conferences, educational programs, networking opportunities, publications, and research services for those involved with, or affected by, professional and occupational regulation. A neutral forum to encourage and provide for the sharing of best practices, CLEAR serves and supports the international regulatory community and its vital contribution to public protection.

HRPA also participates as a member of the Ontario Professional Regulators Policy Network, a voluntary association that promotes regulatory policy excellence among self-regulating professions, and the Ontario Regulators for Access Consortium which encourages the collective collaboration of regulators of self-regulated professions in Ontario on matters related to the access of internationally trained individuals to practice in Ontario.

Delegation of Regulatory Authority

The Act assigns to the Board the authority and obligation to manage and administer the affairs of HRPA in accordance with the Act and By-Laws. The Board may delegate any of its powers or duties under the Act, except the power to make by-laws, to one or more committees, or the Registrar, or any other officer of the Association, subject to any restrictions or conditions that the Board may specify. In turn, the Registrar may delegate any of his or her powers or duties under the Act to one or more individuals or entities identified by the Board for the purpose, subject to any restrictions or conditions that are specified by the Registrar or the Board.

Regulatory Committees

To carry out HRPA’s regulatory mandate, the Board has delegated powers and duties to various committees and to the Registrar. Regulatory committees are discussed in detail in Chapter 5. The Office of the Registrar is tasked with the training of members of regulatory committees. Recognizing that training is required in order for members of regulatory committees to effectively carry out their duties, the Office of the Registrar has developed and maintains a series of training modules for those members.
The Registrar

The Registrar is assigned duties and powers under the Act and By-laws, as well as by the Board. The Registrar’s powers and duties include:

- Grant certificates of membership to members
- Establish and maintain the register
- Grant registration to any applicant who meets the requirements of registration as set out in the By-laws
- Register firms in accordance with the By-laws
- Require information from members or firms with respect to bankruptcy and insolvency and refer matters to the review committee, as well as conduct investigations regarding bankruptcy at the direction of the review committee
- Appoint investigators for the purposes of bankruptcy investigations
- Impose terms, conditions or limitations on an applicant’s registration with the approval of a panel of the Registration Committee providing the applicant consents to the imposition of such terms, conditions or limitations or as directed by the Registration Committee
- Make referrals to the Registration Committee under the conditions set out in the By-laws and provide notice to the applicant
- Give leave for a new application to remove or modify any restriction or condition to be made within six months of an unsuccessful application if the Registrar is satisfied that there has been a material change in circumstances that justifies the giving of the leave
- Suspend or revoke the registration of any member or student for non-payment of fees, and to restore registration upon payment of fees under the conditions set out in the By-laws
- Remove the authorization to use a designation as a result of the failure to meet the continuing professional development requirement, and to restore the right to use the designation under the conditions set out in the By-laws
- Refuse to disclose to an individual or to post on HRPA’s website certain information in accordance with the By-laws
- Set chapter boundaries defined by geographical areas
- File complaints on behalf of HRPA with the Complaints Committee regarding the alleged professional misconduct of any member or student
- Review and make determinations regarding self-disclosure by members and students and make referrals to the Complaints Committee in accordance with the By-laws
- Refer matters relating to inspection reports to the Complaints Committee in accordance with the By-laws
- File complaints on behalf of the HRPA with the Governance and Nominating Committee regarding the alleged breach of the Directors’ Code of Conduct
- Provide notification to the parties regarding appeals and reviews in accordance with the By-laws
- Conduct examinations in the context of the Certified Human Resources Professionals (CHRP) designation and the Certified Human Resources Leader (CHRL) designations
3 Statutory Framework for the Regulation of the Human Resources Profession in Ontario

HRPA is a statutory professional regulatory body. Many professional organizations offer membership and designations, many have codes of ethics, some even have complaints mechanisms but they are not statutory. What is the difference? There is actually a big difference between statutory professional regulators and non-statutory professional associations.

The key feature of statutory professional regulatory bodies is, somewhat obviously, the existence of a statute which creates the regulatory body and delegates regulatory powers to it. These statutes are referred to as ‘enabling statutes.’ Enabling statutes create the corporate entity which is the regulator, establishes the basic governance framework, sets out objects for the regulatory body, defines the powers delegated to the regulator, and sets some parameters for the use of such powers.

Statutory professional regulatory bodies exercise delegated authorities. This has a few important implications. An important condition of the delegation of regulatory powers is that such powers must be used in the public interest. In exchange, the government supports the authority of the professional regulatory body in various ways. For instance, some of the decisions made by the professional regulator in regards to title protection and the power to compel testimony in discipline proceedings are enforceable by the courts.

In short, in exchange for doing some of the government’s work, the government backs up the actions of the regulator by giving them force of law. This is not the case for non-statutory professional associations. Although statutory professional regulatory bodies and non-statutory professional associations may sometimes appear similar at the surface, they are very different under this surface.

Having established the importance of enabling legislation, this chapter takes a closer look at the statutory underpinnings of HRPA’s regulatory framework.

Provincial Jurisdiction

Section 92 of the Canadian Constitution Act, 1867, assigns to the provinces the authority to make laws in relation to property and civil rights in the province. The Supreme Court of Canada and other courts have interpreted property and civil rights under s. 92 of the Canadian Constitution Act, 1867 to include regulation of professions.

The Supreme Court of Canada and other courts have also on many occasions upheld the authority of the provinces to regulate professions, including:

- Establishing restrictions on the entry to practice
- Prescribing rules of professional conduct
- Self-administration by a governing body
The Registered Human Resources Professionals Act, 2013

The defining characteristic of regulated professions is the existence of legislation that transfers some of the provincial authority to regulate a profession to a professional association or regulatory body. For the human resources profession in Ontario, this piece of legislation is the Registered Human Resources Professionals Act, 2013 (the “Act”). By means of this Act, the Province of Ontario has delegated some of its authority to regulate in the area of human resources management to the Human Resources Professionals Association of Ontario.

The Act replaced the former Human Resources Professionals Association of Ontario Act, 1990, which was a private statute. The Act is a public statute designed to protect the public interest. While there is some overlap between the Act and the former private act, the Act modernized the regulation of HRPA and provided HRPA with a number of new powers.

The existence of this Act means that, in Ontario, human resources is a regulated profession and the HRPA is the regulatory body for that profession in Ontario. The existence of such an act differentiates regulatory bodies from other professional associations that are not regulatory bodies.

Approaches to professional self-regulation range from minimal to extensive control over a profession. Governments can choose from among many different regulatory approaches. The approach chosen will depend on the nature of the activities performed by a profession’s members, and the extent to which the public might be harmed if an incompetent member of a profession provided services. Professional self-regulation may take the form of licensure, certification, or registration.

Registration is the least complicated form of regulation. Here the requirement is for professionals to be listed on a sanctioned register.

Certification is essentially the stamp of approval given to an individual for meeting pre-determined requirements. Certification is often associated with monopoly use of a specific title or professional designation (“protection of title”). This model protects the public by providing information about the qualifications of designation holders so that the public can make an informed decision about who they wish to receive services from.

Licensure is one of the most restrictive forms of professional regulation. Specifically, licensure provides an occupational group with monopoly control over who can practice a profession. Only those individuals who have met specific requirements to enter a profession are issued a “license” to practise the profession or to perform certain “controlled acts.” Entry requirements are generally quite detailed and often include attaining specified educational requirements and completion of some form of licensing examination.

In Ontario, the human resources profession is regulated at the registration and certification levels. At the registration level, general membership or student registration in HRPA requires that individuals be of good character and agree to abide by the HRPA By-laws, Rules of Professional Conduct, the Standards and Guidelines of Practice, the Code of Conduct and other criteria established by the Board.
At the certification level, in addition to the requirements of general membership or student registration, individuals must meet and maintain a standard of competence based on an assessment of knowledge and skill. Having met this standard, individuals are granted the authority to use one or more of the designations and initials set out in the “Designations and Initials” Regulation under the Act (O. Reg. 55/16).

It is important to note that both certified and non-certified members and students are registered human resources professionals, appear in the HRPA register (there is only one register), have agreed to be governed by HRPA’s By-laws and Rules of Professional Conduct, and are subject to discipline by the HRPA.

The fact that human resources is not a licensed profession does not mean that it is not a regulated profession. In Ontario, a number of professions are presently regulated at the certification level. To put it another way, the fact that one doesn’t need a license to practice human resource management in Ontario does not mean that we are not regulated. The fact that non-certified individuals can also practise human resources management does not mean that the profession of human resource management is not regulated.

Of most importance to individual human resources professionals is that the Act sets the prescribed designations (e.g., CHRP, CHRL, CHRE) as a ‘protected title’ or ‘restricted title.’ That is, in Ontario, only those individuals who have met the requirements set out by the Board in the By-laws can use the title ‘Certified Human Resources Professional’ (or the initials ‘CHRP’), ‘Certified Human Resources Leader (or the initials ‘CHRL’) or ‘Certified Human Resources Executive’ (or the initials ‘CHRE’).

‘Registered Human Resources Profession’ is also a protected title, but ‘Human Resources Professional,’ is not. Anyone can call themselves a human resources professional if they wish to do so. As well, the Act makes it clear that there is no restriction of practice. That is, there are no ‘controlled acts’ in human resources management. There is nothing that only HRPA members or registered students or only designation-holders can do as a matter of law.

**The Statutory Objects of the HRPA**

In a fundamental way, the mission of the Association is set out in HRPA’s enabling legislation. HRPA’s objects are set out in the Act as follows:

(a) to promote and protect the public interest by governing and regulating the practice of members of the Association and firms in accordance with this Act and the by-laws, including,

   (i) establishing, maintaining, developing and enforcing standards of qualification,

   (ii) establishing, maintaining, developing and enforcing standards of practice,

   (iii) establishing, maintaining, developing and enforcing standards of professional ethics,
(iv) establishing, maintaining, developing and enforcing standards of knowledge, skill and proficiency, and

(v) regulating the practice, competence and professional conduct of members of the Association and firms;

(b) to promote and increase the knowledge, skill and proficiency of members of the Association, firms and students;

(c) to promote and protect the welfare and interests of the Association and of the human resources profession;

(d) to promote inter-professional collaboration with other professional bodies;

(e) to address any other matter that relates to the regulation of its members that the Board considers appropriate.

Statutory duty to promote and protect the public interest

With the introduction of the Act in 2013, HRPA was given the explicit statutory duty to promote and protect the public interest. This had not been expressly stated in the former Human Resources Professionals Association of Ontario Act, 1990, but a public interest mandate had always been implied by the Association.

HRPA’s statutory duties and powers

The table below lists the statutory duties and powers of HRPA as stated in the Act.

<table>
<thead>
<tr>
<th>Section in Act</th>
<th>Duties and Powers</th>
</tr>
</thead>
<tbody>
<tr>
<td>5(1)</td>
<td>Association must hold an annual meeting of the members in accordance with the by-laws</td>
</tr>
<tr>
<td>5(2)</td>
<td>Members or Board may call a general meeting in accordance with the by-laws</td>
</tr>
<tr>
<td>6</td>
<td>Any surplus obtained from carrying on the business of the Association shall be solely devoted to and applied towards promoting and carrying out its objects in accordance with this Act and the by-laws and shall not be divided among its members</td>
</tr>
<tr>
<td>7</td>
<td>The Association may establish and administer a benevolent or charitable fund and, for that purpose, may make or receive contributions.</td>
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</table>
| 8(2)           | Board must be composed of:  
|                | (a) no fewer than nine and no more than 15 individuals, as fixed by the by-laws, who are members of the Association and who are elected by members of the Association in accordance with the by-laws;  
|                | (b) three individuals who are not members of the Association or of a self-regulating human resources body and who are appointed by the Lieutenant Governor in Council;  
<p>|                | (c) no more than five individuals, as fixed by the by-laws, who are not members of the |</p>
<table>
<thead>
<tr>
<th>Section in Act</th>
<th>Duties and Powers</th>
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</thead>
<tbody>
<tr>
<td><strong>9(1)</strong></td>
<td>Board must fill any vacancies in seats of elected members of the Board in accordance with the by-laws.</td>
</tr>
<tr>
<td><strong>11</strong></td>
<td>The Board must fill any vacancies in the seats of elected members of the Board in accordance with the by-laws.</td>
</tr>
<tr>
<td><strong>12</strong></td>
<td>The Board shall by by-law establish the following committees:</td>
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<tr>
<td></td>
<td>- Complaints Committee</td>
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<td></td>
<td>- Discipline Committee</td>
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<td></td>
<td>- Review Committee</td>
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<td></td>
<td>- Capacity Committee</td>
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<td></td>
<td>- Appeal Committee</td>
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<tr>
<td></td>
<td>The Board may establish additional committees as it considers appropriate.</td>
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<tr>
<td><strong>13</strong></td>
<td>The Board may delegate any of its powers or duties under this Act, except the power to make by-laws, to one or more committees of the Association or of a self-regulating human resources body and who are appointed by the Board; and</td>
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<td></td>
<td>(d) the Chief Executive Officer of the Association appointed under subsection 11(2).</td>
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<tr>
<td><strong>14</strong></td>
<td>The Board shall admit as members individuals who meet the requirements and qualifications and the Registrar shall issue a certificate of membership.</td>
</tr>
<tr>
<td><strong>17(2)</strong></td>
<td>The Board may authorize use of designations and initials.</td>
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<td></td>
<td>If the Board authorizes use of a designation, the designation shall be stated on a member’s certificate of membership.</td>
</tr>
<tr>
<td><strong>21</strong></td>
<td>The Registrar shall accept registration of firms in accordance with by-laws.</td>
</tr>
<tr>
<td><strong>31</strong></td>
<td>The Complaints Committee shall review every complaint and investigate all complaints of professional misconduct.</td>
</tr>
<tr>
<td><strong>32(2)</strong></td>
<td>The Discipline Committee shall review any settlement agreement referred to it by the Complaints Committee.</td>
</tr>
<tr>
<td><strong>34</strong></td>
<td>The Discipline Committee shall hear every matter referred to it by the Complaints Committee.</td>
</tr>
<tr>
<td><strong>38</strong></td>
<td>The Board may, by special resolution, rescind or alter an order of the Discipline Committee or appeal committee to suspend or revoke a member or firm.</td>
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<td></td>
<td>The Board shall give notice with reasons to the members of the Association of such a special resolution.</td>
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<tr>
<td><strong>40(5)</strong></td>
<td>The Registrar shall refer every bankruptcy notice (and related documents) to the Review Committee.</td>
</tr>
<tr>
<td>Section in Act</td>
<td>Duties and Powers</td>
</tr>
<tr>
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<tr>
<td>41</td>
<td>Review Committee shall review every bankruptcy matter referred to it by Registrar. If directed by Review Committee to conduct an investigation, Registrar shall report results of investigation to Review Committee</td>
</tr>
<tr>
<td>43</td>
<td>Association may conduct practice inspections</td>
</tr>
<tr>
<td>46</td>
<td>Association may investigate incapacity matters</td>
</tr>
<tr>
<td>47</td>
<td>Association may apply to capacity committee for a determination of whether a member is incapacitated</td>
</tr>
<tr>
<td>49</td>
<td>Complaints committee, Registrar and Association may appoint investigators</td>
</tr>
<tr>
<td>50</td>
<td>Association may appoint inspectors</td>
</tr>
<tr>
<td>55</td>
<td>Association may apply to court for a custodianship order</td>
</tr>
<tr>
<td>57</td>
<td>Association may apply to court for directions in connection with a custodianship order</td>
</tr>
<tr>
<td>60</td>
<td>Registrar shall establish and maintain the register, which shall contain information required by by-laws. Register shall be open to public</td>
</tr>
<tr>
<td>62</td>
<td>Every person engaged in the administration of the Act and the by-laws shall preserve secrecy with respect to information that comes to his or her attention in the course of his or her duties</td>
</tr>
<tr>
<td>63</td>
<td>Association may apply to court for authorization to disclose information to a public authority</td>
</tr>
<tr>
<td>67</td>
<td>Board may make by-laws</td>
</tr>
<tr>
<td></td>
<td>Board shall ensure that all current by-laws are available to the public</td>
</tr>
<tr>
<td>68</td>
<td>Board must post by-laws on the Association’s website; the by-law becomes effective 30 days after being posted, but must be approved by the members at an annual meeting or general meeting</td>
</tr>
</tbody>
</table>

**Other Important Statutes**

**The Statutory Powers Procedure Act**

HRPA’s Discipline Committee, Capacity Committee, Review Committee and the Appeal Committee, if hearing an appeal of a decision made by one of those three committees, must comply with the *Statutory Powers Procedure Act* ("SPPA"). The SPPA sets out certain minimum procedural rules for statutory tribunals in Ontario that conduct hearings. The SPPA also provides for the tribunal itself to develop rules of procedure (which all of the committees have done). The SPPA sets out requirements with respect to notice, disclosure, electronic hearings and representation, among many other things.

**The Ontario Labour Mobility Act, 2009**

HRPA is subject to the *Ontario Labour Mobility Act, 2009*, which codifies Ontario’s obligations under the Agreement on Internal Trade (AIT). The purpose is to facilitate the free movement of regulated
professionals across Canada. HRPA has developed a policy regarding the recognition of HR designations granted in other jurisdictions within Canada to meet the requirements of the *Ontario Labour Mobility Act, 2009*. The policy is described in more detail in Chapter 10.

**The Fair Access to Regulated Professions and Compulsory Trades Act, 2006**

HRPA must also comply with the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006*. The purpose of this act is to “help ensure that regulated professions and individuals applying for registration by regulated professions are governed by registration practices that are transparent, objective, impartial and fair.”

**The Personal Information Protection and Electronic Documents Act (PIPEDA)**

The *Personal Information Protection and Electronic Documents Act* (PIPEDA) applies to every organization in respect of personal information that it collects, uses or discloses in the course of commercial activities (s. 4(1)(a)). Commercial activity is defined as “any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, including the selling, bartering or leasing of donor, membership or other fundraising lists” (s. 2(1)).

The vast majority of HRPA’s work is not covered by PIPEDA as it is not commercial in nature. In particular, it is highly unlikely that HRPA’s regulatory activities would be considered commercial, such that PIPEDA would apply. However, to the extent that HRPA engages in non-regulatory commercial activities, PIPEDA would apply.

Even in situations where PIPEDA does not apply, HRPA has chosen to adopt the principles from PIPEDA in its Privacy Policy, which can be found on HRPA’s website.

**Canada’s Anti-Spam Legislation**

HRPA must also comply with Canada’s anti-spam legislation (“CASL”), which requires consent to send electronic messages of a commercial nature. Many of HRPA’s electronic communications would be exempt from CASL, given that they would not be commercial; however, to the extent that HRPA sends commercial electronic messages, HRPA must comply with the consent requirements.
4 HRPA’s Obligations and Commitments as a Regulatory Body

As the regulatory body responsible for the regulation of the human resources profession in Ontario, HRPA is committed to:

1. Protecting the public interest
2. Applying the principles of natural justice in all its regulatory processes
3. Implementing transparent, objective, impartial and fair registration practices
4. Protecting personal information
5. Providing accommodation for persons with disabilities

Some of these commitments flow from legal obligations whereas others derive from HRPA’s commitment to excellence. Each commitment is addressed below.

Protecting the Public Interest

Protection of the public is the essential raison d’être of a self-regulated professional body like HRPA. When HRPA sought and was granted statutory status in 1990, it agreed to use these powers in the public interest and this has been codified in the Registered Human Resources Professionals Act, 2013 (the “Act”).

To be self-regulating means to be trusted with the authority of the state, i.e. with the authority to administer binding law. To be given this trust is to be treated exceptionally, since self-regulation is the exception rather than the rule in regulation generally. Self-regulating professions are trusted with exceptional self-regulatory authority precisely because their professional commitment to the public good is thought to counterbalance the inherent vulnerability of self-regulation as a way to promote self-interest. In other words, HRPA has been entrusted by the provincial government to regulate the Human Resources profession in the public interest.

The Human Resources profession—like other regulated professions—is regulated because governments have determined that: (a) incompetent or unethical conduct by Human Resources professionals causes unacceptable harm, not only to their employers and clients but also to society more broadly; (b) regulation of Human Resources can prevent or mitigate this harm; and (c) those who are vulnerable to being harmed are not able to protect themselves by exercising their freedom of choice as consumers of Human Resources services. The rationale for any regulation of Human Resources is that such regulation is needed in order to protect those who require the specialized knowledge and skill of Human Resources professionals.

One implication of this is that in exchange for having been given statutory authority and responsibility to carry out regulatory functions, HRPA must be and must be thought of as a public body that is accountable to the public.
Self-regulating professions are regarded as having the capability for self-regulation precisely because they are professions defined not only by specialized knowledge and skill but also by their commitment and adherence to a code of ethics and a broader professional ethos that places the interest of their employers and clients and the broader public interests above and ahead of their own interests. Being self-regulated means living up to these fundamental aspects of professionalism, not only in the diligent enforcement of and compliance with formal regulatory standards but even more fundamentally in the practice of Human Resources management in accordance with sound ethics and a fundamental commitment to the interests of employers, clients, and of society more broadly.

Failure (or perceived failure) to deliver on the public interest mandate can be extremely damaging to the reputation of a professional regulator. A failure on the part of the professional regulator to deal with behaviour that causes harm to the consumers of the professional services may result in a loss of public trust in the ability of the regulator to govern its members effectively.

Applying the Principle of Natural Justice

At common law, there is a general requirement for procedural fairness in legal decision-making. However, there is always a trade-off between efficiency and the level of procedural protection that is provided to those involved in proceedings. The concept of ‘proportionality’ refers to the concept that the level of procedural safeguards should be commensurate with the potential consequences of the proceedings. HRPA is committed to ensuring procedural fairness in all its regulatory processes.

The Statutory Powers Procedure Act

The Statutory Powers Procedure Act (SPPA) applies to many regulatory proceedings in Ontario, including to HRPA’s disciplinary proceedings, capacity proceedings, review hearings and appeal hearings. The SPPA sets out certain minimum procedural rules for statutory tribunals in Ontario that conduct hearings. The SPPA sets out requirements with respect to notice, disclosure, electronic hearings and representation, among many other things. The SPPA states that, subject to certain exceptions, it applies when a tribunal is exercising a “statutory power of decision” and a hearing is required prior to making a decision. Tribunals governed by the SPPA have considerable leeway in establishing their own procedural and practice rules as long as these rules are within the boundaries set by the SPPA and other enabling legislation.

Implementing Transparent, Objective, Impartial and Fair Registration Practices

Registration is such a key process that, in Ontario, the registration practices of regulated professions are subject to oversight by the government. The Government of Ontario was concerned that the registration practices of regulated professions were creating unnecessary barriers for internationally educated professionals (IEPs). In 2005, the Thomson Report, which reviewed the registration appeal processes in 36 of Ontario’s regulated professions, was submitted to the Ontario Minister of Citizenship and Immigration. In 2006, the Government of Ontario enacted the Fair Access to Regulated Professions
Act, 2006 (since amended and renamed the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006*) (FARPACTA). The purpose of FARPACTA is to help ensure that registration in the regulated professions is governed by practices that are transparent, objective, impartial and fair. Parts II and III of the Act make up the *Fair Registration Practices Code*. This Code defines the duties of regulated professions in making registration decisions.

HRPA is required to comply with FARPACTA and the *Fair Registration Practices Code*. The Office of the Registrar is responsible and accountable for ensuring that HRPA’s registration processes meet all requirements of the *Fair Registration Practices Code*. The *Fair Registration Practices Code* requires the following:

1. A regulated profession shall provide information about its registration practices;
2. A regulated profession shall provide information about the amount of time that the registration process usually takes;
3. A regulated profession shall provide objective requirements for registration by the regulated profession together with a statement of which requirements may be satisfied through alternatives that are acceptable to the regulated profession;
4. A regulated profession shall provide a fee scale related to registrations;
5. A regulated profession shall ensure that it makes registration decisions within a reasonable time;
6. A regulated profession shall provide written responses to applicants within a reasonable time;
7. A regulated profession shall provide written reasons to applicants within a reasonable time in respect of all registration decisions and internal review or appeal decisions;
8. A regulated profession shall provide an internal review of or appeal from its registration decisions within a reasonable time;
9. A regulated profession shall provide an applicant for registration an opportunity to make submissions with respect to any internal review or appeal;
10. A regulated profession shall inform an applicant of any rights the applicant may have to request a further review of, or appeal from, the decision;
11. No one who acted as a decision-maker in respect of a registration decision shall act as a decision-maker in an internal review or appeal in respect of that registration decision;
12. A regulated profession shall make information publicly available on what documentation of qualifications must accompany an application and what alternatives to the documentation may be acceptable to the regulated profession if an applicant cannot obtain the required documentation for reasons beyond his or her control;
13. If a regulated profession makes its own assessment of qualifications, it shall do so in a way that is transparent, objective, impartial and fair, and if it relies on a third party to assess qualifications, it shall take reasonable measures to ensure that the third party makes the assessment in a way that is transparent, objective, impartial and fair;
14. A regulated profession shall ensure that individuals assessing qualifications and making registration decisions or internal review or appeal decisions have received training that includes, where appropriate, (a) training on how to hold hearings; and (b) training in any special
committing

considerations that may apply in the assessment of applications and the process for applying those considerations;

15. Upon the written request of an applicant for registration by a regulated profession, the regulated profession shall provide the applicant with access to records held by it that are related to the application;

16. A regulated profession shall establish a process under which requests for access to records will be considered.

HRPA continues to monitor its compliance with the *Fair Registration Practices Code*.

**Protecting Personal Information**

As a professional regulatory body, protection of personal information is not a straightforward matter because there are competing principles at work. On the one hand, HRPA is committed to the protection of the privacy and personal information that it collects regarding individuals. On the other hand, HRPA’s public protection mandate requires that some information be made available to the public.

The rights to privacy are not absolute, and the courts have recognized that professionals, in becoming members or registered students of a regulated profession, do give up some rights to privacy.

HRPA will protect the private information of all individuals that it collects with some important exceptions; HRPA will only make information public when there is a legal requirement or where it is in the public interest to do so.

**The HRPA Privacy Policy**

HRPA has drafted, implemented, and published the HRPA Privacy Policy. The duty of HRPA to protect the privacy of individuals that it collects goes beyond just the personal information of its registrants but also includes any personal information of non-members and others who interact with HRPA.

There are two principles that are especially relevant to HRPA’s privacy practices: (1) HRPA has committed itself to limiting the collection of personal information to that which is necessary for the purposes identified by HRPA, and (2) HRPA has committed itself to the protection of personal information disclosed by it to certain third parties by requiring contractual agreements stipulating the confidentiality of the information and the purposes for which it is to be used. Both of these principles apply to processes delegated by HRPA to third-parties.

For exams that are scored by a third party, HRPA has adopted the following policy:

1. HRPA has chosen voluntarily to comply with the *Personal Information Protection and Electronic Documents Act* (PIPEDA) standards in order to maintain the reputation of, and public confidence in, the Association.

2. We will ensure that exam candidates’ personal information is treated according to the principles of PIPEDA, which include, but are not limited to:
a. Restricting the disclosure of our registrants personal information to those situations where such disclosure is necessary
b. Where it is necessary to disclose personal information, HRPA will establish the policies and procedures it deems necessary to protect this information that third parties must follow, such as establishing who may have access to the data, the safeguards for ensuring that the information does not get into the wrong hands, and by setting the policies for the retention and destruction of such information
c. HRPA will require third parties to sign privacy assurance agreements by means of which such third parties indicate their commitment to protect the personal information

Hearings are public

The administration of justice requires transparency and openness. Specifically, the SPPA requires that oral hearings be public unless there are compelling reasons for the hearing to be closed:

9.(1) An oral hearing shall be open to the public except where the tribunal is of the opinion that,

(a) matters involving public security may be disclosed; or

(b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing in the absence of the public.

The openness of regulatory proceedings is extremely important for professional regulators in order to maintain public confidence. Whenever proceedings are closed to the public, it may arouse suspicion on the part of the public that the professional regulatory body is trying to hide something—whether there is any substance to this concern or not. The publication of information about discipline hearings and their outcomes serves a number of purposes. Publication of a discipline panel’s decision serves to educate registrants (general deterrence) and allows the public to judge whether the Association, through the Discipline Committee, is properly performing its role as regulator.

In accordance with the By-laws, HRPA abides by the following guidelines in the publication of information related to discipline and review proceedings:

- HRPA will publish on its website a copy of the Notice of Hearing including the name of the registrant or firm who or which is the subject of the discipline or review proceeding, the place and time of the hearing, instructions for individuals wishing to attend the hearing and any interim orders of the Discipline or Review Committee related to the proceeding.
- HRPA will publish on the public on the public register a note to the effect that the registrant or firm is subject to a hearing before the Discipline or Review Committee, a summary of the
allegations, including a brief description of the particulars, the place of any scheduled hearing and any interim orders of the Discipline or Review Committee related to the proceeding.

- HRPA will publish in the Regulatory Affairs newsletter, the name of the registrant or firm who or which is subject to a discipline or review proceeding, a summary of the allegations, including a brief description of the particulars, the place and time of the hearing and instructions for individuals wishing to attend.
- If a discipline or review hearing is continued beyond the initial time scheduled for the hearing, the Registrar shall update the website and the register with the place and time of the continuance of the hearing.
- Once the Discipline or Review Committee has rendered its decision and the prescribed time limits for an appeal have lapsed without a request for an appeal having been filed, the Registrar will publish the decision and reasons, including any orders issued by the committee related to the proceeding.
- Upon a finding of misconduct, the register will be updated to indicate this finding of misconduct as well as the particulars of any penalty imposed by the Discipline or Review Committee and its reasons for both.
- Upon dismissal of all the allegations, any note to the effect that a registrant was subject to a proceeding before the Discipline or Review Committee, the summary of the allegations, including a brief description of the particulars, the place and time of any hearings and any interim orders of the Discipline or Review Committee will be removed from the register.
- Whatever the outcome of a discipline or review proceeding, the outcome will be published in the Regulatory Affairs newsletter.

In accordance with the By-laws, HRPA abides by the following guidelines in the publication of information related to appeal proceedings:

- If a decision of the Discipline or Review Committee is appealed, the date and time of the hearing conducted by the Appeal Committee will be published, but if the decision was made pursuant to a closed hearing, the appeal hearing will also be closed.
- If the Appeal Committee upholds the decision of the Discipline or Review Committee, the original decision and reasons of the Discipline or Appeal Committee as well as the decision and reasons of the Appeal Committee, including any orders, will be published.
- If a decision of the Discipline or Review Committee is overturned by the Appeal Committee, any note to the effect that a registrant was subject to a proceeding before the Discipline or Review Committee, the summary of the allegations, including a brief description of the particulars, the place and time of any hearings and any interim orders of the Discipline or Review Committee will be removed from the register.

In summary, at HRPA, the clear default is for discipline, review and appeal hearings to be public.

Notwithstanding the above, pursuant to conditions set out in Section 9 of the Statutory Powers Procedure Act, the Discipline Committee or the Review Committee may decide that a hearing, or
portions of a hearing, should not be open to the public. Should this be the case, the above requirements
shall be modified accordingly. The reasons for closing the hearing shall be posted on the web site and
subsequently in the Regulatory Affairs newsletter.

**Capacity proceedings are closed**

In contrast to other proceedings, hearings that address a member’s or student’s capacity are closed to
the public. This is set out in the Rules of Procedure of the Capacity Committee. HRPA will not publish
referrals to the Capacity Committee involving matters of incapacity. Where the member or student has
been found by the Capacity Committee to be incapacitated, HRPA will publish only such details as shall
be necessary to protect the public.

**Privacy and the public register**

The public register is more than a registration list; the public register contains the information about
members and students that the Association has deemed necessary for the public to know. The contents
of HRPA’s public register have been fixed by by-law. The public register contains information that some
members or students might prefer not to be made public. In such cases, however, the public’s right to
know was deemed paramount to the member’s or student’s right to privacy.

Information on former members and student registrants is kept on the public register for a period of ten
years.

There are some circumstances where the Registrar may refuse to disclose to an individual or to post on
the Association’s website some information that is normally posted on the public register:

(a) where the Registrar has reasonable grounds to believe that disclosure may jeopardize the safety
of any individual;
(b) where a finding of professional misconduct was made against the member or student and the
order made was only a reprimand or only a fine, or
(c) where a finding of Incapacity was made against the member or student; or
(d) where more than six years have passed since the information was prepared or last updated; and
if the following conditions are met:
   i. the member or student has made an application to the relevant committee for the
      removal of the information from public access because the information is no longer
      relevant to the member’s or student’s suitability to practise,
   ii. the relevant committee believes that a refusal to disclose the information outweighs the
       desirability of public access to the information in the interest of any person affected or the
       public interest, and
   iii. the relevant committee has directed the Registrar to remove the information from public
       access.
Commitment to Human Rights and Providing Accommodation

HRPA is committed to providing a regulatory environment that is inclusive and free of barriers based on age, race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (including pregnancy and gender identity), sexual orientation, record of offences, marital status, family status, and disability and any other ground that is protected under the Ontario Human Rights Code. HRPA will provide accommodation where required, up to the point of undue hardship.

Any accommodation will be provided in accordance with the principles of dignity, individualization, and inclusion. HRPA will work cooperatively, and in a spirit of respect, in the accommodation process.

The Registrar is responsible for responding to accommodation and accessibility needs of persons with disabilities. In regards to general dealings with the public and HRPA members or students with disabilities, the Office of the Registrar is guided by the Human Rights Code, Accessibility for Ontarians with Disabilities Act, 2005 (AODA) and HRPA’s AODA Policy and Procedures which is posted on the HRPA website.

The legal framework

The Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code are important pieces of legislation guaranteeing equal opportunity and freedom from discrimination. In accordance with the law, HRPA recognizes the legal obligation to institute policies and procedures that provide equal opportunity and safeguard against discrimination on the basis of disability and other protected grounds.

The Canadian Charter of Rights and Freedoms, section 15(1), guarantees that:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

The Ontario Human Rights Code guarantees every person:

Equal treatment with respect to services, goods and facilities without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, or disability.

The Human Rights Code also guarantees every person:

equal treatment with respect to membership in any trade union, trade or occupational association or self-governing profession without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

AODA is legislation that focuses on the core principles of independence, dignity, integration, and equality of opportunity for Ontarians with disabilities. Under this Act, the Government of Ontario has developed accessibility standards that aim to identify, remove, and prevent barriers for Ontarians with
disabilities in key areas of daily living, and applies to both public and private sector organizations across Ontario.

From the Human Rights Code and AODA, we get the following definition for “disability”:
(a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
(b) a condition of mental impairment or a developmental disability,
(c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
(d) a mental disorder, or
(e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

Accommodation for disabilities

As a professional regulatory body, there are three contexts specific to regulatory activities where disabilities and accommodation are particularly important concerns:

1. Individuals with disabilities who require some form of accommodation in order to be able to fully participate in a regulatory proceeding;
2. Situations where an individual’s disability is central to the subject of the proceeding (incapacity); and
3. Individuals who require accommodation in regards to examinations.

Individuals with disabilities who require some form of accommodation in order to be able to fully participate in a regulatory proceeding

In regulatory proceedings, accommodation issues can become a matter of natural justice. Any barrier to full participation in a regulatory proceeding weakens the fairness of the proceeding.

Just like everyone else, persons with disabilities may be involved in administrative proceedings as parties, lawyers, adjudicators, witnesses, or members of the public. However, because of their disabilities they may not be able to access what they need to participate fully in those proceedings. The right to equality for persons with disabilities includes a right to have disability-related needs reasonably accommodated, up to the point of undue hardship, to ensure that persons with disabilities can fully participate in any administrative proceeding whatever role they may be playing in such proceedings. Accommodations are available at all stages of a regulatory proceeding, not only just the hearings.
Tribunals (such as HRPA’s Discipline Committee) are required to provide accommodation for persons with disabilities.

In any disability-related accommodations, such accommodations will give primary consideration to the method of accommodation identified by the person with a disability.

Specific accommodations may include providing telephone or video conference facilities and frequent breaks. Individuals with cognitive disabilities also need to be accommodated. For instance,

- A party may be permitted to use alternative formats such as whiteboards and flipcharts,
- Breaks in the hearing should be scheduled;
- Parties and panel members should repeat questions or instructions as required;
- The panel might need to accommodate a slower pace for the hearing; or
- The lights may need to be dimmed.

Although requests for accommodation should be made ahead of the hearing, sometimes the need for accommodation will become clear only after the hearing has begun. A request for accommodation should be considered at any time it is made.

**Situations where an individual’s disability is central to the subject of the proceeding**

It is important to clarify the relation between the concepts of ‘disability’ and ‘incapacity,’ as these are different concepts. The *Registered Human Resources Professionals Act, 2013* gives the following definition:

“A member of the Association is incapacitated... if, by reason of physical or mental illness, condition or disorder, other infirmity or addiction to or excessive use of alcohol or drugs, he or she is incapable of meeting his or her obligations under this Act.”

A ‘disability’ may become ‘incapacity’ when the disability causes the individual to be incapable of meeting his or her obligations as a professional. HRPA has a ‘capacity’ stream. Matters where the capacity of the member may be at issue are handled in a different manner than cases where misconduct or incompetence is at issue.

When the Association receives information suggesting that a member or student is incapacitated, the Association may investigate the matter. Following an investigation under section 46 of the *Registered Human Resources Professionals Act, 2013*, the Association may apply to the capacity committee for a determination of whether the member or student is incapacitated. If the capacity committee determines that it is necessary to obtain the opinion of a physician or psychologist in order to determine whether a member or student is incapacitated, the committee may, on its own or on motion, order the member or student to undergo a medical or psychological examination.

Following the examination of the member or student, the physician or psychologist shall provide the capacity committee:
a. an assessment of whether the member or student is incapacitated;
b. an assessment of the extent of any incapacity; and
c. any further information respecting the medical or psychological issues in the case.

If the capacity committee determines that the member or student is incapacitated, the committee may by order do one or more of the following:

a. suspend the member’s or student’s registration;
b. impose restrictions or conditions on the member’s or student’s right to practise in the field human resources; or
c. make any other order, other than revoking the member’s or student’s registration, that the committee considers necessary to protect the public interest.

In cases where the member or student has been found by the capacity committee to be incapacitated, the public register may include only such details as shall be necessary to protect the public.

**HRPA Examination Accommodation Policy**

In regards to examinations, on the one hand there is the need to provide accommodation for various disabilities, but there is still the fundamental duty to protect the public interest. There is also the issue of fairness to all other individuals pursuing certification by HRPA. It is also the case that departures from standardized administrations of the exams may impact the validity of the exam. For this reason, HRPA has developed a rigorous approach to accommodation in the context of exams. Accommodations are made as narrow and specific as they can be in the circumstances. The details of HRPA’s accommodation policy in regards to exams, as well as how to request an extension, is outlined in HRPA’s Accommodation policy available on our website.

**Appeals and Human Rights applications**

Individuals may bring an application against HRPA to the Human Rights Tribunal of Ontario if they believe the HRPA has discriminated against them on the basis of a protected ground or failed to provide adequate accommodation. An individual who has been denied registration or the use of a designation may also raise human rights and accommodation issues in the course of an appeal to HRPA’s Appeal Committee.

**Confidentiality**

It is understood that information about disabilities is personal and highly sensitive. It is also the case that effective accommodation often involves the coordination of different organizations and individuals (diagnosing professionals, test centers, proctors, etc.).

In matters relating to accommodations and requests for accommodations, HRPA is guided by the following guidelines:
1. HRPA will obtain explicit written consent of the individual requesting accommodation to share any personal information with any external organization, agency, or individual.
2. In working with any external organization, agency, or individual, HRPA will only share the information that is necessary to provide effective accommodation.
3. Documentation regarding accommodations or requests for accommodation will be kept separate from the member file and will only be available to HRPA’s Office of the Registrar staff.
4. There will be no indication in the record of examination results that accommodations were provided to the individual.
5 Governance and Management of the Regulatory Function at HRPA

This chapter concerns the manner in which regulatory powers are exercised at HRPA.

The Hierarchy of Rules

There are three layers of rules at HRPA. At the top are the various statutes that apply to HRPA, such as HRPA’s enabling legislation, the Registered Human Resources Professionals Act, 2013 (the “Act”), and the Statutory Powers Procedure Act. At the next level are the HRPA By-laws adopted by the Board and approved by the membership. Finally, there are the administrative policies and procedures that give operational details.

By-laws

Section 67 of our Act, gives the Board the authority to make by-laws:

67. (1) The Board may make by-laws necessary or desirable to conduct the business and carry out the objects of the Association. 2013, c. 6, s. 67 (1).

Same

(2) Without limiting the generality of subsection (1), the Board may make by-laws with respect to the following matters:
   1. Governing the admission of individuals to membership in the Association, including specifying the requirements and qualifications for membership and governing applications for membership.
2. Governing members of the Association, including,
   i. establishing standards of practice,
   ii. governing the imposition of restrictions and conditions on a member’s right to practise in the field of human resources,
   iii. establishing classes of members,
   iv. governing the renewal, suspension and revocation of memberships,
   v. respecting the ways in which members may advertise their services to the public,
   vi. prescribing operating requirements for members such as record-keeping requirements,
   vii. respecting mandatory reporting of acts prohibited under this Act to the Registrar, and
   viii. specifying information that members are required to provide to the Registrar for the purposes of this Act.
3. Governing the use of terms, titles, initials, designations and descriptions by members of the Association and firms, and by individuals for the purposes of paragraph 2 of subsection 26 (2), including specifying the requirements and qualifications for authorization by the Board to use the designations.
4. Governing the appointment, nomination and election of members of the Association to the Board, including fixing the number of appointed and elected members, setting out the qualifications that a member must meet in order to be appointed or elected to and serve on the Board and setting out terms of office.
5. Governing the election and appointment of officers of the Association and setting out their powers and duties.
6. Establishing the committees required by this Act and any additional committees, governing the names, composition, powers, duties and quorums of the committees, governing the appointment of individuals to the committees, and authorizing and governing the formation of panels of committees.
7. Delegating any of the Board’s powers or duties under this Act to one or more committees or to the Registrar or any other officer of the Association, and specifying restrictions or conditions on the delegation.
8. Governing the registration of members of the Association as sole proprietorships, including requiring the registration of sole proprietorships, specifying the requirements and qualifications for registration, governing applications for registration and governing the renewal, suspension and revocation of registrations.
9. Governing the registration of entities as firms, including requiring the registration of firms, specifying additional entities that may register as a firm, specifying the requirements and qualifications for registration, governing applications for registration and governing the renewal, suspension and revocation of registrations.
10. Governing firms, including establishing standards of practice, governing the imposition of restrictions and conditions on a firm’s practice, governing the names of firms, governing firms that are limited liability partnerships and, in the case of a firm that is a corporation, requiring
notification of a change in the shareholders of the corporation and specifying the time and manner of the notification.
11. Respecting any person, partnership or other entity that, in addition to practising in the field of human resources, also practises another profession or provides other services, including requiring that the persons, partnerships and other entities be registered to engage in such activities, governing the registrations and their renewal, suspension and revocation and governing the restrictions and conditions that may be imposed on the registered persons, partnerships and other entities.
12. Governing the resignation of members of the Association.
13. Governing the reinstatement or readmission of individuals who have resigned or whose membership is suspended or revoked and firms whose registration is suspended or revoked.
14. Governing the conduct of members of the Association and firms, including,
   i. establishing a code of ethics,
   ii. providing for rules of professional conduct, and
   iii. governing complaints and discipline, including defining professional misconduct for the purposes of this Act and the by-laws, specifying requirements for the making of complaints and specifying orders that may be made under subsection 34 (4).
15. Respecting bankruptcy and insolvency events for the purposes of sections 40 to 42.
16. Governing investigations and practice inspections under this Act, including respecting the payment of the costs of an inspection.
17. Governing continuing education and professional development, including providing for the development or approval of continuing education and professional development programs for members of the Association and requiring members to successfully complete or participate in such programs, and governing the provision of professional development and related services to members and to non-members.
18. Governing individuals as students, including,
   i. requiring the registration of individuals as students, specifying the requirements and qualifications for registration and governing applications for registration,
   ii. respecting the rights and duties of students,
   iii. providing for the development or approval of preparatory and qualifying programs, including courses of study, classes, lectures, professional programs, practical experience and mentored practice programs and examinations or evaluations, and requiring students to successfully complete them, and
   iv. providing that any provision of this Act or the by-laws apply to students with necessary modifications or subject to such modifications as may be specified by the by-laws.
19. Respecting the minimum requirements for professional liability insurance that must be carried by members of the Association and by firms, including requiring proof of the insurance.
20. Establishing and governing the payment of fees, fines and other amounts that must be paid to the Association and exempting any class of individual or entity from all or part of any fee, fine or amount.
21. Respecting matters of procedure for any meeting, process or proceeding under this Act, including,
   i. providing for procedural rules for proceedings before committees under this Act,
   ii. governing the process for making, amending and revoking by-laws,
   iii. prescribing the ways in which and the time within which notice must be given of meetings held under this Act, and
   iv. prescribing and governing how information and documents are to be given or served under this Act, such as prescribing rules governing deemed receipt of documents.
22. Governing the organization of members into local groups for purposes including holding local meetings and organizing activities for members.
23. Providing for the training and recognition of members as specialists, including,
   i. specifying the requirements and qualifications for recognition of specialist status,
   ii. respecting the applications for recognition of specialist status, and
   iii. respecting the renewal, expiration, suspension and revocation of the recognition of specialist status.
24. Providing for the affiliation of the Association with a university, college, school, corporation or other entity that supports the Association’s objects.
25. Governing the participation of the Association in the establishment and maintenance of foundations or other entities whose work supports the Association’s objects, including providing for the payment of funds by the Association to such a foundation or other entity.
26. Providing for the making of grants or donations by the Association to any individual or entity for any purpose that may tend to advance knowledge and education in human resources, improve standards of practice in the field of human resources, or support or encourage public information about and interest in the past and present roles of human resources professionals and the human resources profession in society.
27. Governing the retention and destruction of information and documents in the possession of the Association or any officer of the Association, the Board or any committee.
28. Governing the register that the Association is required to establish and maintain, including prescribing information that the register must contain.
29. Authorizing the Registrar to conduct quality assurance programs in relation to the administration of this Act or the by-laws and to use the information collected under this Act for the purpose of those programs.
30. Respecting the Association’s newsletters or other publications.
31. Prescribing a code of conduct for Board members and committee members.
32. Respecting the remuneration and expenses of the Board members and committee members.
33. Governing the acquisition and disposition of the Association’s real and personal property.
34. Respecting other administrative matters of the Association, including use of the corporate seal, execution of documents, banking arrangements and the selection of auditors.
35. Respecting any matter that this Act refers to as a matter that the by-laws may specify, set out, determine or otherwise deal with.
Rule making under the Statutory Powers Procedure Act

Pursuant to section 25.1 of the Statutory Powers Procedure Act (SPPA), a tribunal\(^1\) may make rules governing the practice and procedure before it. HRPA’s Discipline, Review and Capacity committees, as well as the Appeal Committee if it is hearing an appeal of a decision made by one of those three committees, are tribunals for purposes of the SPPA. These committees have made rules of procedure in accordance with the SPPA.

The SPPA requires tribunals (such as the Discipline and Capacity Committees) to make their rules available to public in both English and French.

Board and Committees

The Board of HRPA is ultimately responsible for seeing that HRPA carries out its objects under the Act. Pursuant to section 13 of the Act, the Board may delegate any of its powers or duties under the Act, except the power to make by-laws, to one or more committees or the Registrar or any other officer of the Association, subject to any restrictions or conditions that the Board may specify.

Board committees

The following Board committees are established under the By-laws:

- governance and nominating;
- audit and finance; and
- human resources and compensation.

Statutory and Standing committees

All statutory and standing committees operate independently of the Board. This means that the committees shall make all decisions required of them under the Act or the By-laws independently of the Board and the committees shall not report to the Board on individual cases.

Statutory committees

The following committees are established under the Act:

- Complaints: discussed in Chapter 12
- Capacity: discussed in Chapter 13
- Discipline: discussed in Chapter 13
- Review: discussed in Chapter 14
- Appeal: discussed in Chapter 15

\(^1\) A “tribunal” is defined in the SPPA as “one or more persons, whether or not incorporated and however described, upon which a statutory power of decision is conferred by or under a statute”.

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Standing committees

The following standing committees are established under the By-laws:

- professional standards;
- registration: discussed in Chapter 7;
- experience assessment;
- academic standards;
- continuing professional development: discussed in Chapter 9;
- CHRE review;
- Awards; and
- Board nominating, which reports to the governance and nominating committee

How Committees and Panels Function

Panels are subsets of committees that have been assigned by the Chair of a Committee to review a particular case. The specific rules governing the size and composition of panels, quorum, and other matters are set out in the terms of reference for the committee. Panels have all of the powers of decision of the Committee.

Roles within HRPA’s regulatory committees

Committee members may serve the following roles:

- Committee chair
- Panel chair
- Panel member

In addition, committees are assisted by the following staff roles:

- Committee administrative support
- Policy support
- Registrar

Role of Committee Chair

The role of Committee Chair entails the following responsibilities:

- Effectively managing the work of the committee and committee members
- Assigning committee members to act as a panel member for specific cases and appointing a panel chair
- Promoting improvements to the operation of the committee to improve efficiency, accessibility and timeliness, as appropriate
- Promoting a positive, team-oriented atmosphere among staff and members
• Ensuring effective assessments of the committee and its members are conducted and promoting appropriate development opportunities to improve committee effectiveness
• Ensuring members abide by the Terms of Reference for the committee
• Maintaining the independence of the committee in carrying-out its adjudicative responsibilities
• Providing oversight, as necessary, of the recruitment of new members for the committee
• Making decisions as to whether committee members are in a conflict of interest when the possibility of such conflict of interest is brought to the attention of the Chair by any person

Role of Panel Chair

All panel members have an equal voice in making decisions. The panel chair participates fully in the panel’s decision making. Nonetheless, the panel chair does take on some additional responsibilities. The role of panel chair entails the following responsibilities:

• Ensuring that the panel carries out its work without undue delay
• Ensuring that the proceedings unfold according to established procedures
• Seeking legal advice as required
• Making a decision when a real or potential conflict of interest is brought to his or her attention
• Taking responsibility for writing the decision of the panel (a task which may be delegated to another member of the panel) and seeking input from panel members prior to finalizing the decision
• Taking responsibility for bringing to the attention of the committee Chair any matters that would be of significance to the committee as a whole
• When there is a hearing, clearly describing the hearing procedure and the issues to be decided
• Ensuring that the panel remains within the jurisdiction of the committee
• Understanding the role of staff and refraining from and ensuring that panel members refrain from asking or directing staff to carry out activities that would be inappropriate for staff to do

Role of Panel Member

Panel members are decision-makers. The role of panel member entails the responsibilities set out in the Code of Conduct for Members of Adjudicative Committees.

Role of Administrative Support Staff

The role of administrative support entails the following responsibilities:

• Understanding the rules of procedure that apply to the specific committee
• Maintaining records for the committee
• Making arrangements for rooms and other requirements
• Managing correspondence from and to the committee and panel
• Working with panel chairs, scheduling committee meetings, hearings, and pre-hearing conferences (where applicable)
• Recording minutes for committee meetings
• Assisting with the decision editing process
• Ensuring that the committee roster and email distribution list is up to date

**Role of Policy Support Staff**

The role of policy support entails the following responsibilities:

• Conducting research into specific issues of policy and procedure
• Keeping track of new developments in regulatory practice and working out implications for specific regulatory committees
• Developing training curriculum for committee members

**Role of the Registrar**

Where the Association is party to a proceeding, the Registrar or a delegate represents the Association.

**The Office of the Registrar**

The Office of the Registrar is responsible for four main areas:

1. Regulatory process management
2. Support for regulatory committees and panels
3. Regulatory operations
4. Policy support

The Office of the Registrar is the hub of the regulatory activity. Having such a ‘hub’ is a practical necessity. Given a relatively complex environment with multiple committees, having information channelled through one hub ensures that nothing falls through the cracks. It also provides a single point of contact for all parties. The essence of the role of the Registrar is that of ‘process manager.’ The Registrar is a gate-keeper or traffic cop for the regulatory committees. The Registrar is called upon to make decisions as to what matters need to be referred to a committee. The Registrar will often decide how best to handle unusual or exceptional cases.

The Registrar is empowered to make certain decisions. For instance, the Registrar is empowered to register an applicant who meets all of the registration requirements. The Registrar is also empowered to suspend certificates of membership or the use of designations for non-payment of fees.

The Registrar issues certificates of membership. At the direction of various committees, the Registrar may revoke members or students, suspend members or students for a stated period of time, or impose restrictions or conditions on the member’s or student’s right to practise.

The Registrar is the ‘keeper of the register’ and is the legal custodian of registration records for HRPA. The Registrar is responsible for ensuring that HRPA’s Privacy Policy is implemented and respected in all regulatory processes (registration, certification, discipline, and appeals). This latter responsibility includes ensuring that third-party suppliers are operating in line with HRPA’s Privacy Policy. The
Registrar is responsible for all data collection (including online forms) related to registration and is also responsible for making the register available to the public.

The Registrar may make complaints on behalf of the Association.

The Registrar provides notification to members and students of changes in the Act and/or By-laws that affect professional practice.

The Registrar is responsible for monitoring the functioning of HRPA’s regulatory processes against statutory requirements and against the norms and accepted practices of regulatory bodies. The Registrar is responsible for identifying legal and reputational risks as they pertain to HRPA’s regulatory framework. It is the duty of the Registrar to assess the functioning of HRPA’s regulatory processes and to bring to the Board’s attention any deficiencies or gaps or any other areas where HRPA’s regulatory policies and processes might fall short of accepted practices of regulatory bodies.

Although the Registrar does not set the policies and requirements pertaining to registration, certification, discipline, and appeals, the Registrar is responsible for ensuring that the proper policies are in place by bringing attention to the Board and the appropriate committees those areas where policies may be needed or require amendment. As appropriate, the Registrar may make specific proposals for consideration by the Board or appropriate committee. The Registrar will keep abreast of developments in the regulation community and proactively suggest where policies may be needed.

**HRPA Codes of Conduct**

HRPA has adopted the following codes-of-conduct which apply to different roles within HRPA:

**Code of Conduct for Board Directors, Committee Members, and Officers**

This Code applies to all individuals who are fiduciaries of HRPA.

**Code of Conduct for Members of Adjudicative Committees**

This Code applies to all individuals who are members of one of HRPA’s adjudicative committees.

**Code of Conduct for Volunteers**

This Code of Conduct applies to all individuals who act in a volunteer capacity including Chapter volunteers. Although Board Directors and Committee Members are volunteers, because they are fiduciaries of HRPA they are, in addition, subject to the Code of Conduct for Board Directors, Committee Members, and Officers.

These Codes are separate from the Rules of Professional Conduct which apply to all members and students of HRPA in the practice of the profession. These Codes of Conduct are parts of the By-laws of the Association. Every Board Director, Committee Member, Officer, Adjudicative Committee Member and Volunteer of HRPA must become familiar and agree to abide by the applicable code of conduct and attest to having done so in writing before taking on any duties at HRPA and annually after that.
6 Policy Development

In professional regulation circles, the term ‘policy’ refers to many things. Policy refers to frameworks, processes, definitions, principles, standards, codes, rules, and so on. The Act, regulations, and by-laws would all be policies. Procedures could also be considered policies. There are different policy areas, the following classification could be proposed.

A good example of what policies look like is found at the College of Physicians and Surgeons of Ontario (CPSO). A Policy Status Report is included in the Council meeting package. This Report gives an update on all the policies currently being worked on at the College as well as those policies that are scheduled for review in the future.

Policy Development Process

The policy development process is simply the process by which policies are developed. Professional regulatory bodies are most often concerned about the legitimacy of the policies they develop.

One model was presented by Richard Steinecke and Cathi Mietkiewicz as part of a presentation to the Board:
The College of Physicians and Surgeons of Ontario (CPSO) is another classic example of a policy development process:

1. **Policy Need Identification**
2. **Research & Preliminary Consultation**
3. **Analysis & Drafting**
4. **Consultation**
5. **Re-Draft, Edit**
6. **Final Policy**

CPSO has created an infographic for their policy development process which is available at [http://www.cpso.on.ca/Infographics/Policy-Development](http://www.cpso.on.ca/Infographics/Policy-Development).
The policy development process at HRPA

The policy development process at HRPA is entering a new phase. Phase 1 was all about catching up with our new Act and putting in place the basic regulatory infrastructure. This phase is nearly complete. In the next step, policy will be focused externally on the risks posed to the public stemming from the practice of the profession.

<table>
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<tr>
<th>Phase 1</th>
<th>Phase 2</th>
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<tr>
<td>• Focused internally on HRPA’s own policies and procedures</td>
<td>• Focused externally on the risks posed to the public stemming from the profession</td>
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<td>• Focused on putting the essential policies in place</td>
<td>• Focused on impact (enforcement, compliance, and impact)</td>
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<tr>
<td>• Reactive (waiting for complaints to happen)</td>
<td>• Proactive (identifying risks before harm occurs)</td>
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<tr>
<td>• Informal policy development process</td>
<td>• Formal policy development process</td>
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7 Registration

Registration refers to the process by which individuals become members or students of the Association. In order to maintain public confidence in the profession, only individuals who meet the registration requirements should be granted membership or students in the Association. Professional regulatory bodies like HRPA serve an important gatekeeping role in determining who is qualified to enter the profession. As a result, registration decisions may be closely scrutinized.

Pursuant to the Registered Human Resources Professionals Act, 2013 and the HRPA By-laws the Board is required to admit individuals as members or students of the Association if they meet the requirements and qualifications that are set out in the By-laws.

In most cases, applications for registration with the Association will be uncomplicated; in such cases, as defined in the By-laws, the decision to register an individual may be made by the Registrar. However, when there is a question as to the good character of an applicant or as to the appropriateness of the registration category or status applied for or if, in the opinion of the Registrar, limitations or conditions should be placed upon the registration of an individual, the case will be referred by the Registrar to the Registration Committee for decision.

The By-laws specify the following minimum registration requirements:

9.04 Requirements and Qualifications for Membership.

The Registrar shall grant Membership to every individual who applies in accordance with s. 9.08 of the By-laws and who:

(a) is of apparent good character;
(b) has met the criteria for the class of Membership to which the individual has applied;
(c) has agreed to abide by the Rules of Professional Conduct, the Standards and Guidelines of Practice, the Code of Conduct and any other criteria as established by the Board, as applicable;
(d) if living or working in Ontario, is affiliated with a Chapter; and
(e) has paid all applicable Membership dues.

15.01 Application.

An individual that wishes to register as a Student must apply to the Registrar to be registered as a Student subject to such terms and conditions as may be specified herein and by the Board. Only individuals who meet all the criteria for general Membership in the Association and who, in addition, are enrolled in HRPA-approved courses on a full-time basis may apply for registration as a Student.
Mandate of the Registration Committee

The Registration Committee of HRPA is a Standing Committee of the Board of Directors of HRPA. The Registration Committee has been delegated the authority to make decisions as to the registration of an applicant when there is a referral from the Registrar. The Terms of Reference for the Registration Committee, setting out the mandate, committee membership and panel constitution, are attached as Appendix A.

Registration Process

All applicants for membership or student registration in the Association shall:

(a) complete and sign the registration application form indicating that the applicant has read and understood all terms and conditions of registration in the Association;

(b) as part of the registration application form, applicants are required to complete and sign the good character attestation and provide a confirmation of good standing from other professional regulatory bodies that the applicant is currently a member of or has been a member of in the past; and

(c) pay the fees relevant to their registration category.

Applicants for registration by HRPA are required to supply information that would enable the Registrar and/or the Registration Committee to make a decision as to the good character of the applicant, and the appropriateness of the registration category and status applied for.

Applicants for registration by HRPA are required to attest to the truthfulness of the information provided on that form.

Applicants will need to pay the appropriate fee in order for the Registrar to consider the application. Payment does not mean that an applicant’s application has been accepted. The applicant’s name cannot be added to the Register until:

1. The Registrar has determined that the applicant meets all of the registration requirements, or

2. The Registration Committee has instructed the Registrar to register the applicant

Applicants whose application for registration is denied receive a refund of any fees paid to the Association, unless the applicant fails to cooperate with the process or fails to submit required documentation (i.e. confirmation of good standing from another regulator), in which case the applicant will receive a refund less an administrative fee.

If an applicant answers yes to one or more of the good character questions, they are contacted by HRPA and asked to submit further information surrounding the incident. The applicant is given 30 days to provide that information. Once received, the information is forwarded to the Registrar.

Based on the information provided, the Registrar will register the applicant or make a referral to the Registration Committee. There are four conditions under which the Registrar will refer an application for registration to the Registration Committee for decision, as set out in the By-laws (9.09 and 15.05):
1. Any of the information provided on the good character attestation form is unsatisfactory to the Registrar (e.g., any of the questions on the good character attestation form are answered in the affirmative)

2. The Registrar is of the opinion that conditions or restrictions should be imposed in regards to membership in the Association

3. The Registrar is of the opinion that the applicant does not meet the criteria for registration for the category applied for, or

4. The Registrar is of the opinion that the applicant may for some reason be unsuitable for membership in the Association.

In the case where the Registrar intends to make a referral to the Registration Committee, the Registrar must give the applicant notice of the grounds for the referral and of the applicant’s right to make written submissions. The applicant may make written submissions to the panel within thirty days after receiving notice or within any longer period the Registrar may specify in the notice. After the deadline for any submission has passed, the Registrar will forward the application and any submission from the applicant to the Registration Committee. After considering the application and the submissions, the Registration Committee may make an order doing any one or more of the following:

1. Directing the Registrar to admit the applicant to registration in the Association

2. Directing the Registrar to impose specified conditions or restrictions on the applicant’s registration and specifying a limitation on the applicant’s right to apply for removal or modification, or

3. Directing the Registrar to refuse to admit the applicant to registration in the Association

The Registrar must notify the applicant of the decision of the Registration Committee. The applicant may appeal the decision of the Registration Committee to the Appeal Committee within thirty days of notification of the decision of the Registration Committee.

Membership Classes and Membership Categories

Membership classes

There are two membership classes: voting and non-voting. The voting class of membership comprises members authorized to use the CHRP, CHRL and CHRE designations. The non-voting class of membership comprises members who are not authorized to use the designations.

Voting membership category

The Voting membership category is comprised of members with the following designations (By-laws, 9.02):

- Certified Human Resources Professional (CHRP)
- Certified Human Resources Leader (CHRL)
- Certified Human Resources Executive (CHRE)
Members in this category who have active status have the right to vote at all meetings of members of the Association and shall have such other privileges of membership as the Board may determine or as set out in the By-Laws.

The designations and certification process are described in Chapter 8.

**Non-voting membership categories**

The Non-voting membership category is comprised of the following members:

(a) Members whose status is retired or suspended in accordance with s. 9.29 or 9.30 of the By-laws
(b) Practitioner members
(c) Allied Professional members

Members in these categories do not have the right to vote at meetings of the members of the Association. They have such other privileges as the Board may determine or as set out in the By-Laws.

**Practitioner**

An individual who meets the minimum registration requirements set out in s. 9.04 of the By-laws may be registered as a Practitioner member in the non-voting class.

**Allied Professional**

An individual who meets the minimum registration requirements set out in s. 9.04 of the By-laws and who is also a current member of another profession (either one that is listed in Schedule 1 of the *Fair Access to Regulated Professions and Compulsory Trades Act, 2009* or any other professional regulatory bodies approved by the Board) may be registered as an “Allied Professional”. Applicants to the Allied Professional category must provide proof of their professional status and good standing with their professional body.

**Membership/Registration Status**

Members in the Association will have one of the following statuses:

(a) active,
(b) retired, or
(c) suspended.

Students registered with the Association will have a status of either active or suspended.

Former members or students (i.e., members or students whose registration has been terminated) may have the following status:

(a) resigned, or
(b) revoked.

**Active status**

The status of active denotes that the member or student is active and enjoys all the rights and privileges relating to their registration category.

**Retired status**

The status of retired denotes that the member is no longer active in professional practice. Members with a designation that have retired status are no longer required to meet the continuing professional development (CPD) requirement; however, these members must indicate that they are retired when they use any designation or initials granted by HRPA by using (Retired) or (Ret.) after the designation or initials. Retired Members are not entitled to vote at meetings of the membership. There is no retired status for students.

**Suspended status**

The status of suspended denotes that the member or student has had their rights and privileges relating to their registration category temporarily suspended. These members and students are not entitled to exercise any rights or privileges of registration. Suspended members are also not authorized to use any designation granted by HRPA or to vote at meetings of the membership.

**Resigned status**

The status of resigned denotes that the individual has had, at their own request, their rights and privileges relating to their registration category terminated. These individuals are not members or registered students. Resigned members are also not authorized to use any designation granted by HRPA nor are they entitled to vote at meetings of the membership regardless of their former membership category.

**Revoked status**

The status of revoked denotes that the individual has had their rights and privileges relating to their registration category terminated by the Association. These individuals are not members or registered students. Revoked members are also not authorized to use any designation granted by HRPA nor are they entitled to vote at meetings of the membership regardless of their former membership category.

**Good Character**

Good character is a requirement for registration with the Human Resources Professionals Association. Good character includes, but is not limited to, integrity, candour, honesty, trustworthiness, moral and ethical standards, and such other qualities or combination of qualities as will promote the practice of Human Resources management in the public interest, in accordance with the Registered Human Resources Professionals Act, 2013.

Requiring applicants to be of good character:
(a) Protects the public interest
(b) Promotes and maintain the high ethical standards of the profession, and
(c) Maintains public confidence in and safeguard the reputation of the profession.

HRPA screens for character at registration by requiring applicants to complete and sign the HRPA Good Character Attestation Form. The Form includes the following questions:

- Have you ever been found guilty of any offence under any statute for which a pardon has not been granted? Exclude speeding and parking tickets. (If you have been found guilty of an offence under the Young Offenders Act or the Youth Criminal Justice Act, please refer to the Good Character section of the HRPA’s website for further details.)
- Are you currently the subject of a proceeding for an offense?
- Have there been any civil judgments against you? If yes, attach a copy of the judgment to this application.
- Have you ever disobeyed any order of any court requiring you to do any act or to abstain from doing any act?
- Have you ever been the subject of disciplinary action by an employer?
- Have you ever been the subject of disciplinary, incompetence, incapacity or similar proceedings by any professional organization? If yes, applicant must provide a letter or certificate of good standing from that organization.
- Have you ever been denied registration, membership or a similar status by any professional body? Or has your registration, membership or a similar status in a professional body ever been terminated? Exclude any voluntary resignation unless, at the time, there was a complaint, investigation or proceeding against you or any outstanding obligations to the professional body.
- While attending a post-secondary educational institution were you ever found to have engaged in academic misconduct?
- Have you ever been a respondent in a complaint or proceedings in relation to a Human Rights Code violation (e.g. sexual harassment, racial discrimination)?
- Have you ever been sanctioned or had a penalty imposed upon you by a court, an administrative tribunal or a regulatory body?
- Have you been involved in any other event that would provide reasonable grounds for the belief that you may lack the knowledge, skill or judgment to practise ethically and with integrity?
- Have you or your firm experienced a bankruptcy or filed a consumer proposal that you have not yet been discharged from?
- Is there anything else that, although not mentioned specifically in the list above, could be deemed relevant to the determination of good character if such were to come to light (i.e. misuse of designation)? (If in doubt, it is best to include these at this time)

Should an applicant for registration answer ‘yes’ to any of the above (such that it is unsatisfactory to the Registrar), their application for registration will be referred by the Registrar to the Registration
Committee for decision. The determination of good character is made by a panel of the Registration Committee. Applicants are afforded procedural fairness, including by receiving an opportunity to make written submissions to the panel.

The factors that may be considered by the panel include:

- The current status of the applicant’s character
- The seriousness of the previous conduct
- Whether the previous conduct was an isolated event or a pattern of conduct
- Evidence of remorse
- Insight into the problematic behaviour
- Any rehabilitative efforts that have been undertaken, and the success of such efforts
- Whether the person has reformed since the misconduct
- The passage of time since the misconduct
- The relevance of the previous conduct to the practice of the HR profession

This is a non-exhaustive list and other factors may be relevant.

Even candidates with serious misconduct in their past can be judged to be ‘of good character’ at the time of their application for registration. The premise is that rehabilitation is always possible. Accordingly, it is also open to any unsuccessful applicant to reapply for admission at a future date and to try to persuade the panel at that time that he or she is now ‘of good character.’

**Good Standing**

Applicants for registration who are members of another professional HR association or another regulated profession must have the Confirmation of Good Standing Form filled out by the professional association or associations with which they hold membership.

HRPA registrants in all categories shall be considered to be ‘in good standing’ unless their registration has been suspended or revoked.

**Registration Fees**

The Board determines the annual registration fees applicable to each category and status of registration.

**Career bridging/reduced dues**

Members who require help with their membership dues may qualify for reduced dues. Members may apply for reduced dues status if they are a current HRPA member and are unemployed, or on maternity, educational or disability leave. The member may also apply if they are on contract/temporary employment as long as the work does not exceed six months total within the membership year and their annual income does not exceed $25,000. Members who qualify will be eligible for reduced dues for a maximum of two consecutive years within a five year time period.
The Register

The register is an important component of HRPA’s regulatory framework; in fact, it is a key feature of any professional regulatory framework. All regulated professions have a register (some have more than one). The register comprises the list of all members, firms and students of HRPA, regardless of whether there are certified to use a designation.

HRPA’s register is created and governed by statute and is the only official register for human resources professionals in Ontario. The Registered Human Resources Professionals Act, 2013 and By-laws made under the Act specify what information is contained in the register, who has access to this information, how professionals get on the register, what can cause a professional to be taken off the register, and what recourse is available to individuals who feel that have been unfairly denied registration. The Act also specifies that the Registrar is legally responsible for the register. The fact that the register is created and governed by legislation means that the register is more than just a list.

The By-laws state that the Registrar shall keep a register which includes the following information about members and, for a period of ten years, about former members:

(1) the names of all Members and former Members;
(2) the Member’s class of Membership;
(3) whether the Member is a General Member or Practitioner Member
(4) the Member’s Membership status;
(5) any designation or specialist status granted by HRPA;
(6) any specialist status recognized by HRPA;
(7) the Member’s date of initial Membership and the date of obtaining any certification granted by HRPA;
(8) any dates after initial Membership or initial certification when the person was not a Member or did not hold the certification;
(9) any dates after initial Membership when the Member’s Membership or was suspended or revoked;
(10) the Member’s business contact information;
(11) the name of any Firm through which the Member practises;
(12) the business address and telephone number of each location at which the Member practises in Ontario;
(13) whether the Member carries professional liability insurance;
(14) details of any referral of the Member to the discipline committee, including the date and location of the hearing if known, until a final decision has been made;
(15) details of any final decision made by the discipline committee finding the Member to have engaged in Professional Misconduct;
(16) such details as shall be necessary to protect the public where the Member has been found by the capacity committee to be Incapacitated;
(17) any restrictions or conditions on the right of the Member to practise in the field of human
resources; and
(18) any other information that the Member has agreed may be placed on the register.

The Registrar shall keep a register in which shall be entered the following information in respect of Firms and, for a period of 10 years, of former Firms:

(1) the name or names under which the Firm, carries on a practice in the field of human resources;
(2) the address and telephone number of each location at which the Firm carries on business;
(3) the date of initial registration of the Firm;
(4) the name of the designated representative of the Firm required under Section 12.16;
(5) The name, as set out in the register, of each of the Members and Students who practice through the Firm and the title or office, if any, held by each;
(6) any restrictions or conditions on the right of the Firm to practise in the field of human resources; and
(7) any other information that the Firm has agreed may be placed on the register.

The Registrar is required to keep the following information about students and, for 10 years, the following information about former students:

(1) the names of all Students and former Students;
(2) the Student’s registration status;
(3) the date of initial registration of the Student;
(4) any dates after initial registration when the Student’s registration was suspended or revoked;
(5) the Student’s business contact information, if applicable;
(6) the name of any Firm through which the Student practises;
(7) the business address and telephone number of each location at which the Student practises in Ontario;
(8) whether the Student carries professional liability insurance;
(9) such details as shall be necessary to protect the public where the Student has been found by the capacity committee to be Incapacitated,
(10) any restrictions or conditions on the right of the Student to practise in the field of human resources; and
(11) any other information that the Student has agreed may be placed on the register.

The register serves the objective of protecting the public. The Act requires that HRPA make the information contained in the register accessible to the public. Members of the public are entitled to know if someone practising human resources management is a registered professional in good standing with the professional regulator. Members of the public are entitled to know if someone has a human resources designation in Ontario. Inclusion of a registrant’s name (as well as the other information required by the by-laws) in the register is mandatory.
Information contained in HRPA’s register may be obtained by:

1. Consulting HRPA’s online register. A link to the Register is on the HRPA home page at www.hrpa.ca
2. Contacting HRPA’s Registrar by mail at:
   Registrar
   Human Resources Professionals Association
   150 Bloor Street West, Suite 200
   Toronto, ON  M5S 2X9
3. Contacting the Registrar by email at: registrar@hrpa.ca
4. Contacting the Office of the Registrar by phone at: (416) 923-2324 or toll free: 1(800) 387-1311
5. Speaking with Office of the Registrar staff at the HRPA offices during normal business hours.

Information may be withheld from the public in limited circumstances set out in the By-laws.

**Issuance of Certificates**

Once all the requirements for registration are met, the Registrar of HRPA will update HRPA’s register to reflect that fact and send an email to the applicant confirming that they have met all requirements for membership or student registration. The Registrar must give every member a certificate of membership.

**Suspension and Revocation of Membership or Student Registration**

Registration in the Association may be suspended or revoked as the result of non-payment of dues or as the result of a discipline proceeding. Registration may also be suspended (but not revoked) following a capacity hearing. Discipline and capacity proceedings are discussed in Chapter 13.

**Suspension as a result of non-payment of fees**

Individuals who no longer wish to be registrants of HRPA should resign and notify the Registrar of their decision. If a registrant simply stops paying fees, the By-laws establish a process to suspend and potentially revoke their registration in HRPA.

If registrants do not pay a required fee, they will be subject to a three-step process:

1. Notice of impending suspension of registration and use of designations (if applicable)
2. Suspension of registration and notice of impending revocation of registration
3. Revocation of registration

Before each step, the Registrar will notify the registrant of the action being taken by HRPA, what they are required to do and the possible consequences if they do not take action. Any suspension or revocation is recorded on the register.
Resignation

Individuals who no longer wish to be registrants of the Association should resign from the Association—as opposed to not paying dues and waiting until the Association first suspends and then revokes their registration.

Reinstatement

Individuals whose registration has been suspended as a result of non-payment of fees may be reinstated by the Registrar in accordance with the By-laws. The individual must pay all outstanding fees and any penalties. If an individual has been revoked for non-payment of fees, the individual must re-apply as a new applicant and meet all requirements in place at the time.

Individuals whose registration has been suspended or revoked as a result of disciplinary action must apply to the Discipline Committee for reinstatement.

Reinstatement of registration does not automatically grant the right to use a designation granted by HRPA - continuing professional development (CPD) activities must also be in order and up to date.

Registrants whose registration has been revoked must meet all of the designation requirements in place at the time they rejoin HRPA to re-achieve any designation the individual previously held.

Detailed information about the reinstatement and re-achievement process can be found in the HRPA Designation Reinstatement and Re-Achievement Policy.
Application + Registration Process

START

User starts online application

Registration Type, Fee Category & Chapter is assigned

User completes application pagw

Invoice is presented based on assigned category

Invoice is printed, sent and paid offline

Validation

Payment is processed internally

Payment

Application status is updated

Registration record is created

Supporting documentation complete?

Yes

Registration request sent

No

Register does not have concerns in regards to application

Register refers application to registration committee

Decision of registration committee

Register grants registration with conditions or restrictions

Notify applicant and issue certificate of registration

Register grants registration without conditions or restrictions

Notify applicant and issue certificate of registration

(1) Direct the Registrar to admit the applicant to registration in the Association or

(2) Direct the Registrar to impose specified conditions or restrictions on the applicant’s registration and specify a time limit on the applicant’s right to apply for removal or modification thereof under Section 14(5), or

(3) Require the Registrar to make an order directing the Registrar to register the applicant with the Association to which the application was made and to impose any conditions or restrictions the panel considers appropriate

Communicate decision and notify applicant of right of appeal

Decision of Appeal Committee

(1) Reaffirm registration

(2) Reaffirm registration

(3) Reaffirm registration

Process

Request for information is specified and is clear about timeframe for response. Applicant does not respond to requests for supporting documentation after 30 days, the application is deemed to have been abandoned. Registration fee is refunded but not the non-refundable application fee.
8 Certification

Human resources is not a licensed profession in Ontario. This means that individuals are not required to be a member of HRPA or certified by HRPA to practice human resources in Ontario. It also means that the public has a choice to hire or engage non-regulated or regulated practitioners; or to hire or engage certified or non-certified human resources professionals. It is in the public interest to have clear choices as consumers of professional services. Title protection is an important aspect of this consumer protection. HRPA has defined a standard of professional competence based on requisite education, knowledge, and experience. Only members who meet this standard are authorized to use the prescribed titles granted by HRPA and the corresponding initials after their name. In this way, members of the public who make choices in regards to the hiring or engaging of human resources professionals have a clear choice.

Protected Titles

HRPA has the authority to grant members the right to use certain designations and initials. These are set out in a regulation under the Registered Human Resources Professionals Act, 2013 (O. Reg. 55/16). In order to be certified to use one of the listed designations, members must meet the requirements set out in the By-Laws. It should be noted that certification begins with registration with HRPA. An individual must be a registrant of HRPA to pursue certification. This means that individuals who are pursuing certification are already registered by virtue of being registrants in the HRPA; they are already governed by HRPA’s Rules of Professional Conduct, and they are already subject to discipline by the HRPA.

Overview of the Certification Process

Registrants of HRPA can pursue certification by HRPA.

Certification by the Association requires that individuals meet additional requirements as established by the Board of HRPA.

Certification is a ‘warrant of competence’ or ‘warrant of expertise.’ Through its certification process, HRPA is attesting that certified HR professionals possess knowledge and skills in sufficient degree to perform essential HR duties at a level of competence that is required to protect the public interest.

There are a number of interests to balance in setting the certification standard. On the one hand, it is important to exclude individuals who are deemed to be not qualified to do the work, on the other hand the standards must not be so strict as to unduly restrain the right of qualified individuals to offer their services to employers or clients.

HRPA offers three core designations to meet the needs of HR professionals at each level of their career:
Entry Level  | Professional Level  | Executive Level  
Certified Human Resources Professional (CHRP)  | Certified Human Resources Leader (CHRL) (Formerly the CHRP Designation)  | Certified Human Resources Executive (CHRE) (Formerly the SHRP Designation)  

HRPA is committed to provide registration practices that are transparent, objective, impartial and fair. HRPA’s certification process is designed such that individuals who immigrate to Ontario from other countries do not encounter unnecessary barriers to certification.

**The Certified Human Resources Professional (CHRP) Designation**

There are five requirements to obtain the CHRP designation:

- Active HRPA registration in good standing
- Successful completion of the coursework requirement
- Successful completion of either Comprehensive Knowledge Exam 1 or Comprehensive Knowledge Exam 2
- Successful completion of either the CHRP Employment Law exam (Jurisprudence 1) or the CHRL Employment Law exam (Jurisprudence 2)
- Successful completion of the Job Ready Program

The first two requirements are interchangeable in sequence – meaning you can complete your courses first and then become an active registrant of HRPA or vice versa. All other requirements have to be completed in sequence once the registration and the coursework requirements have been met.

Detailed information about the CHRP and the different requirements can be found in the Guide to the CHRP.

**The Certified Human Resources Leader (CHRL) Designation**

There are currently six requirements to obtain the CHRL designation:

- Active HRPA registration in good standing
- Successful completion of the coursework requirement
- Successful completion of the Comprehensive Knowledge Exam 2 (CKE 2)
- Successful completion of the CHRL Employment Law exam (Jurisprudence 2)
- Successful completion of the experience requirement
- Proof of having met the degree requirement

Most of these requirements are currently interchangeable in sequence, with the exception of the coursework requirement and the exams. You must meet the coursework requirement before you are eligible to write CKE 2. Completing CKE 2 is required before you are eligible to write the CHRL Employment Law exam.
You should also be aware that you do need to be an active registrant before you can officially start the process to obtain the CHRL. While you can take courses, earn a degree or obtain relevant work experience before becoming an active registrant, active registration in good standing is required before you can submit your first transcript, application or sign up for CKE 2.

**Please Note:** Updates related to the new certification framework means that additional requirements for the CHRL designation will be added to over the next four years:

1. Professional program – expected implementation in 2018
2. Final Performance exam – expected implementation in 2018
3. Supervised experience – expected implementation in 2019
4. Program accreditation/updated coursework requirement – expected implementation in 2020

Depending on when you meet the current requirements for the CHRL, additional requirements may apply. Please consult the CHRL section of our website for the most up-to-date information regarding the timing and implementation of the upgraded CHRL requirements or contact the Office of the Registrar.

Detailed information about the CHRL and the different requirements can be found in the Guide to the CHRL.

**The Certified Human Resources Executive (CHRE) Designation**

The CHRE is a designation reserved for the profession’s proven, high-impact leaders. CHREs have demonstrated specific competencies at the executive level. These have been adapted from HRPA’s Competency Framework. It is the only designation granted by HRPA purely based on experience – applicants need to have a minimum of 10 years HR experience as well as significant and substantial experience at a senior (executive) level.

The CHRE application process is a two-step process:

1. Phase I: Online Self-Assessment
2. Phase II: Written application

Detailed information about the CHRE and the application process can be found in the Guide to the CHRE.

**Maintaining a designation**

Once a member has been granted the CHRP, CHRL or CHRL, the following requirements have to be met in order to maintain the designation:

- Maintain your active registration in good standing with HRPA annually
• Meet the ongoing continuing professional development (CPD) requirement

For detailed information about the CPD requirement please review Chapter 9.

Key Policies Relating to Certification

HRPA’s key policies relating to certification are:

• Accommodation Policy (discussed in Chapter 4)
• Withdrawal Policy – Comprehensive Knowledge and Employment Law exams
• Medical or Personal Emergency Policy – Comprehensive Knowledge and Employment Law exams
• CPD Extension Policy (discussed in Chapter 9)
• Request for Deadline Extension Policy
• HRPA Policy on Recognition of HR Designations Granted in other Jurisdictions (discussed in Chapter 10)

HRPA policy on access to exams by exam-writers

It is HRPA policy not to allow exam-writers to view their marked exams under any circumstance. The purpose of the exam is to establish whether a candidate possesses the requisite level of knowledge for certification. There is no limit on the number of times a candidate may write the exam provided, of course, that other eligibility requirement continue to be met. It is also the case, that for purposes of equating test forms, a certain proportion of items will be repeated from previous forms of the test. In order to ensure the fairness of the test, it is important that item content remain secret. Allowing exam-writers to view their marked exams would give these candidates an unfair advantage in subsequent administrations of the test; it would also expose the test to additional risk of disclosure.

Withdrawal Policy – Comprehensive Knowledge and Employment Law exams

Cancellations and withdrawals of the CHRP/CHRL Employment Law exams and the CKE 1 or CKE 2 exams are permitted up until 29 calendar days from the exam appointment date, for a fee of $50.00 + HST. Any exam withdrawal requests that are received after the deadline date will not be processed.

Individuals who have not withdrawn or cancelled an exam within the prescribed timelines and who do not write the exam are considered to be “no-shows” and forfeit the full exam fees.

Medical or Personal Emergency Policy

HRPA considers a medical emergency to be an unplanned medical event that arises within 48 hours of the scheduled exam and prevents candidates from taking the exam. Should a candidate choose to write the exam, even if he or she does not complete the exam, the candidate will be deemed to have written
the exam. To be more precise, if a candidate is present in the examination room when the exam begins, that candidate will be deemed to have written the exam.

A medical or personal emergency may apply to candidates themselves or to one of the candidate’s immediate family members (spouse, child or parent). Medical events and personal emergencies that can be anticipated as occurring on or near the exam date in which candidates can schedule, reschedule or cancel the exam are not considered medical emergencies. Inability to take the exam due to workload or work conflicts or inability to properly prepare for the exam are not considered emergencies.

Medical or personal emergency refund requests must be made in writing and mailed or e-mailed to the Office of the Registrar within five business days of the missed exam and must include a description of the situation and documentation of the emergency or extenuating circumstance. Requests for refunds because of medical or personal emergencies are reviewed on a case-by-case basis. Candidates will be notified by e-mail of the outcome of the request.

Request for Deadline Extension Policy

It is HRPA’s policy to provide reasonable extensions to deadlines related to the requirements for earning a designation on human rights grounds (e.g., for candidates with documented disabilities, medical conditions, or who are on parental leave during the timeframe in which the requirement must be met). The purpose of accommodation is to provide equity, not advantage. As a general principle, it is desirable for a deadline extension to remain as close to the original deadline as possible while accommodating the specific disability or condition. It is the expectation of the HRPA that members will seek an extension in a timely fashion in advance of any deadline.

Procedure for requesting an extension:

1. Members must identify themselves in writing to the Office of the Registrar and provide appropriate documentation in support of their request for a deadline extension.
2. The request for an extension must be made only when it is clear that the member cannot meet the prescribed timeline. For example, an extension request from a member who must submit their Validation of Experience application showing they have acquired three years’ HR experience at a professional level by January 1, 2019, will not be considered prior to January 1, 2016.
3. The Office of the Registrar endeavors to respond to requests for an extension within two weeks of receipt of all relevant documentation. The complexity of the request may affect this timeline.

For more information about requesting a deadline extension please review the Deadline Extension Policy.
9 Continuing Professional Development

CPD is an essential component of HRPA’s certification framework. It is in the public interest for certified members to maintain a high standard of competence in their professional practice. The purpose of HRPA’s CPD requirement is to ensure that certified members participate in ongoing professional development activities that:

- enhance their abilities as an HR practitioner and strategic business partner;
- contribute to the acquisition of new knowledge;
- build familiarity with contemporary HR issues;
- reinforce essential skills related to HR practice; and
- contribute to the development of new skills that enhance their performance as an HR professional.

The Continuing Professional Development Requirement

To maintain any designation granted by HRPA, members are required to participate in 66.67 hours of professional development activities and document such participation by filing a completed CPD log by the deadline of May 31 every three years.

The CPD log describes the categories and activities that are eligible for CPD hours, such as continuing education, leadership activities, instructional activities, completion of significant work projects and/or initiatives, and research or publication. It is not necessary to accrue hours in every category.

Certified members are expected to choose professional development activities that will best compliment their own professional development needs. Advanced planning is very strongly encouraged and will ensure that CPD is manageable and a professionally enriching experience.

There is no mandatory annual component to the CPD requirement; the hours may be obtained at any point in the prescribed three-year period. This provides flexibility for members who may find that they are out of the workforce for a period of time within the three-years. However, it is expected that professional development activities will be undertaken on a regular basis (rather than at the end of each three-year cycle) and members are encouraged to plan their activities accordingly. Three percent of all CPD logs are randomly chosen and audited for accuracy every year.

CPD extensions

Designated members who are unable to obtain the required 66.67 CPD hours during their three year CPD period can request an extension by submitting a CPD Extension Request Form. Extensions can be granted by HRPA staff for the following reasons:

- parental leave
- experiencing a prolonged illness
c. unemployment

Extensions may be granted for other reasons on a case-by-case basis. Requests for an extension for a reason not noted above will be forwarded to the CPD Committee for review. Requests for an extension beyond one year also have to be reviewed by the CPD Committee.

Extension requests should be submitted prior the May 31st deadline but no earlier than six months in advance.

An extension does not change the member’s next CPD submission deadline but essentially borrows time from the next CPD period.

**Non-compliance with the CPD requirement**

The By-laws establish a procedure for ensuring compliance with the CPD requirement. If a member fails to submit their CPD log or fails to complete the required CPD, they will be given 60 days’ notice and then will have their designation suspended if they remain non-compliant within that time. If the CPD requirements remain outstanding after being suspended for 60 days, the member’s designation will be revoked.

HRPA also has the power to randomly audit members’ CPD submissions. Members who are selected for CPD audits must provide requested information to the CPD committee for review. If a member fails to comply with the CPD audit requirement or a request by the CPD Committee for additional information and/or submission and proof of additional CPD activities, the member may be suspended and then revoked with notice.

**Appeal**

A decision to suspend or revoke a member’s designation due to a failure to submit a CPD log may be appealed to the HRPA Appeal Committee. In addition, a decision to suspend or revoke a member’s designation for failure to comply with the audit requirement or failure to comply with a request for additional supporting information and/or additional CPD activities may also be appealed. A Notice of Appeal must be filed with the Association in writing within thirty (30) days of receiving notification that their designation was suspended or revoked.

For more information about the CPD requirement please review the Guide to Continuing Professional Development.
10 Recognition of HR Designations Granted in other Jurisdictions

The requirements and standards for any of the designations granted by HRPA are the same regardless of the candidate’s jurisdiction of origin and HRPA will recognise equivalent designations where mutual recognition is mandated by applicable inter-provincial labour mobility agreements. In all other cases, candidates must meet all the requirements and standards for the designation for which they are applying.

HRPA is subject to the *Ontario Labour Mobility Act, 2009*, which codifies Ontario’s obligations under the Agreement on Internal Trade (AIT). The purpose of the AIT is to facilitate the free movement of regulated professionals across Canada.

In Canada, there are currently only two professional regulators for HR: HRPA and the Ordre des conseillers en ressources humaines agréés in Quebec. While most of the other provinces have HR associations, none have been granted regulatory status as of yet.

Quebec

Applicants who obtained their designation in Quebec can apply to have their designation recognized by HRPA as equivalent to the Certified Human Resources Professional (CHRP) designation.

Other Provinces

As of June 1, 2017, HRPA will no longer recognize the CPHR as equivalent to the CHRP or accept any requirements that have been met in another province as equivalent to the requirements in place for the CHRP or the Certified Human Resources Leader (CHRL) designation. Candidates must meet all the requirements and standards for the designation for which they are applying.

The only exception to the above applies to successful completion of the National Knowledge Exam (NKE) prior to 2017:

- Candidates who successfully completed the NKE prior to November 2015 and whose exam is not older than 10 years may use their NKE results to meet the exam requirement for the CHRP and for the CHRL.
- Candidates who successfully completed the NKE between November 2015 and December 31, 2016 and whose exam is not older than 10 years may use their NKE results to meet the exam requirement for the CHRP.

Recognition of their exam does not exempt these candidates from completing the coursework requirement or any other requirement in place for the CHRP and the CHRL.

With respect to the experience requirement for the CHRL, HRPA may accept a validation of experience application successfully passed in another province as equivalent to HRPA’s validation of experience but may require a submission for recency showing that the applicant has three months of professional level HR experience in the past two years. Please note that HRPA does not deem the NPPA to be equivalent to the validation of experience and that the NPPA cannot be used to meet the experience requirement for the CHRL.
**Former Members of HRPA**

Notwithstanding the above, if a member resigns his or her Membership with HRPA but has their designation recognized by another provincial HR Association and maintains his or her designation with that provincial HR Association, upon rejoining HRPA any designation previously granted by HRPA may be reinstated without requiring the former member to complete any additional requirements for the designation in place at that time. This provision does not apply to former members whose membership was revoked.

**Maintaining a Designation Granted or Recognized by HRPA**

Once an individual previously certified in another jurisdiction is certified by HRPA, they are subject to the same requirements (including CPD) as individuals who were originally certified by HRPA.
11 Professional Obligations and Professional Guidance

Professionhood brings with it both benefits and obligations. In exchange for the privilege of self-regulation, the members of a profession must agree to collectively regulate the profession in the public interest. This doesn’t just happen, it requires resources and staff to make it happen.

There are levels of professional regulation—however, in choosing to pursue self-regulation by public act the HR profession has agreed to a high standard in regards to regulatory policies, practices and procedures. In exchange for the privilege of self-regulation, HRPA members have agreed to develop, implement and maintain a sophisticated regulatory framework which exists to protect and promote the public interest.

Being Answerable to a Professional Regulatory Body

One aspect which distinguishes professionals from other occupations is that they are answerable to their professional regulatory body. Members, registered students and firms are required to inform the professional regulatory body of any civil judgments, criminal convictions or misconduct proceedings brought forward by another regulatory body. Members, students and firms are required to fully cooperate with any investigation into allegations of misconduct on their part or any other investigation by the professional regulatory body for that matter. It is also the case that HRPA has continuing jurisdiction over former members, registered students and firms, which means that individuals cannot avoid investigations and discipline by resigning from the Association. Additional requirements apply to subsets of members, students and firms, such as the requirement to carry professional liability insurance for independent practitioners.

Professional liability insurance

In accordance with the By-laws (s. 17) and the Rules of Professional Conduct (Chapter VIII, Division II), any Member, Student or Firm, providing Human Resources services to the public either on a full-time, part-time, or occasional basis and whether for remuneration or pro bono, must maintain professional liability insurance and provide proof of such insurance (i.e. a copy of the insurance certificate) to the Office of the Registrar. Only members, students or firms that have submitted the required information to the Office of the Registrar can be authorized for independent practice on the register.

Contact information

The majority of HRPA communications is conducted via email, which includes important notifications such as renewal notices, CPD reminders and audit notifications, as well as policy updates. For suspension and revocation notices, HRPA will mail out letters in addition to notification via email.

Members, students and firms registered with HRPA are required to inform HRPA within 30 days of any change in their contact information to ensure they are able to receive important notifications.
Professional Guidance

The regulation of professional conduct is accomplished in many ways: by ensuring that members and students of the profession are of good character; by providing guidance and educating members and students as to what constitutes appropriate professional behaviour; and by having a robust complaints and discipline process that deals with situations where a member or student may have conducted himself or herself in an inappropriate manner. Codes of ethics, rules of professional conduct, and standards of practice set out the expectations for members and students of the HR profession.

One can think of codes of ethics, rules of professional conduct, and standards of practice as falling along a continuum of specificity—with codes of ethics being at the broad end and standards of practice being at the narrow end. All three levels of specificity are useful. A code of ethics, rules of professional conduct, and standards of practice are similar in that they all pertain to regulation and governance of member and student conduct, yet each is somewhat different from the other. A code of ethics sets out the principles that guide member conduct. As such, codes of ethics tend to be more directional than specific. Rules of professional conduct define member behaviour that are specifically prescribed or proscribed. Rules of conduct define the ‘dos and don’ts’ of professional practice. Standards of practice refer to detailed guidelines for specific professional activities.

The Registered Human Resources Professionals Act, 2013 (the “Act”) gives the Board the power to make by-laws:

14. Governing the conduct of members of the Association and firms, including,

   i. establishing a code of ethics,
   ii. providing for rules of professional conduct, and
   iii. governing complaints and discipline, including defining professional misconduct for the purposes of this Act and the by-laws, specifying requirements for the making of complaints and specifying orders that may be made under subsection 34 (4).

HRPA’s Rules of Professional Conduct are set out in By-law 2.

Professional misconduct is defined in the By-laws as “conduct inconsistent with the Act, this By-law, the Rules of Professional Conduct or the Standards and Guidelines of Practice that poses or may pose a risk of harm or loss to any person.”

HRPA’s Code of Ethics and Rules of Professional Conduct

The HRPA Rules of Professional Conduct support the objective of protecting the public interest by setting out the duties that any registrant of HRPA must discharge. The Rules apply to all Human Resources professionals registered by the HRPA.

The Rules of Professional Conduct incorporate the Code of Ethics, providing greater behavioural specificity to the principles enunciated in the Code of ethics.
HRPA’s Rules of Professional Conduct are intended for a number of audiences: members, employers, clients, students in HR, employees, and members of the public at large. These Rules are a commitment that human resources professionals registered with HRPA make to these audiences and to other human resources professionals. Indeed, these Rules of Professional Conduct should be understood as contributing to the value proposition of the profession. Being governed by well-articulated rules of professional conduct differentiates regulated human resources professionals from the unregulated human resources practitioners.

When members or students cross the line of appropriate professional conduct, it is the responsibility of the regulatory body to deal responsibly with the inappropriate conduct. One function of the Rules of Professional Conduct is to provide a better defined boundary between appropriate and inappropriate professional conduct. They provide clear criteria for complaints. However, no code, or set of rules, or standard will completely remove the grey areas.

All members and registered student of HRPA are required by attestation to agree to be governed by HRPA’s Code of Ethics and Rules of Professional Conduct. A breach of HRPA’s Rules of Professional Conduct by a member or student may lead to allegations of professional misconduct.

**Professional guidelines and standards**

Guidance as to professional practice can be defined at different levels of prescriptiveness:

- **Practice standards**  
  This is the most prescriptive level. Practice standards define the minimum expectations for members in a particular context or situation. Failure to meet the standard may amount to professional misconduct.

- **Practice guidelines**  
  This level of professional guidance defines practices that are preferred practices that members should consider. However, practice guidelines stop short of defining what a member must do in a particular context or situation. Guidelines can also be explanatory documents for members.

When drafting practice standards, the profession is entirely self-regulating. The decision to produce a standards document is made by the Association's elected and appointed Board based on trends in the profession and on the needs of HR Practitioners. It is written by HR Practitioners working at the Association who consult extensively with HR Practitioners in a variety of practice settings. The final document is reviewed and adopted by Board. Currently, HRPA only has one practice Guideline – “Requesting Physician’s Notes”.
12 Complaints

The purpose of HRPA’s complaints and investigations process is to decide the best course of action to be taken in regards to a specific complaint. It is not to establish the guilt or innocence of a registrant in relation to allegations of professional misconduct; that is the sole responsibility of the Discipline Committee. In other words, the Complaints Committee is a screening committee: it screens complaints to determine whether further action is warranted. In some situations, a referral to discipline may be the appropriate course of action, but there are other decisions that the Complaints Committee may make. Under the Registered Human Resources Professionals Act, 2013 (the “Act”), the Complaints Committee may:

1. Direct that the matter be referred, in whole or in part, to the discipline committee.
2. Direct that the matter not be referred to the discipline committee.
3. Negotiate a settlement agreement between the Association and the member or firm and refer the agreement to the discipline committee for approval.
4. Take any action that it considers appropriate in the circumstances and that is not inconsistent with this Act or the by-laws, including cautioning or admonishing the member or firm, but not including any action described in subsection 34 (4) [that section sets out the powers of the Discipline Committee]

In addition, under the By-laws, the Complaints Committee may refuse to assess or investigate a complaint if the committee determines that the complaint is frivolous or vexatious or otherwise inappropriate.

The conditions under which a referral to discipline should be made is when:

a. The allegations, if true, would be serious enough to warrant a referral to discipline, and
b. There is sufficient evidence to prosecute the case.

Note that a referral to discipline does not depend on whether the Complaints Committee believes the allegations to be true. Rather, the Complaints Committee decides whether the allegations are serious enough to warrant a referral to discipline, and whether there is sufficient evidence to hold a hearing. One of the main tasks of the Complaints Committee is to ensure that a proper investigation is conducted into the allegations. The work of the Complaints Committee is very important. How complaints are handled is an important factor in the degree of confidence the public has in the work of the regulator.

Complaints generally involve two parties: the complainant and the registrant. The role of the Association is to ensure that the complaints process is transparent, objective, impartial and fair in order to (1) protect the public interest, (2) promote and maintain the high ethical standards of the profession; and (3) maintain public confidence in and safeguard the reputation of the profession.
Mandate of Complaints Committee

The mandate of the Complaints Committee is to review and investigate complaints regarding the alleged professional misconduct of registrants and firms. In order to understand the mandate of the Complaints Committee, one must refer to the definition of “professional misconduct,” which is set out in the By-laws as follows:

“Professional Misconduct” means conduct inconsistent with the Act, this By-law, the Rules of Professional Conduct or the Standards and Guidelines of Practice that poses or may pose a risk of harm or loss to any person.

The Terms of Reference for the Complaints Committee, setting out the mandate, committee membership and panel constitution, are attached as Appendix B.

The Complaints Process

Scope of authority

HRPA only has jurisdiction over its registrants. Anyone can refer to himself/herself as a human resources professional, but if the person is not registered with HRPA the HRPA has no jurisdiction over that person. Any complaint against a non-registrant must be directed to authorities other than HRPA. It is possible to verify whether an individual is a registrant of HRPA by consulting HRPA’s public register. Information contained in HRPA’s public register may be obtained by:

1. Consulting HRPA’s online register. A link to the Register is on the HRPA home page at www.hrpa.ca
2. Contacting HRPA’s Registrar by mail at:
   Registrar
   Human Resources Professionals Association
   150 Bloor Street West, Suite 200
   Toronto, ON M5S 2X9
3. Contacting the Registrar by email at: registrar@hrpa.ca
4. Contacting the Office of the Registrar by phone at: (416) 923-2324 or toll free: 1 (800) 387-1311
5. Speaking with Office of the Registrar staff at the HRPA offices during normal business hours.

HRPA will consider complaints against registrants even when the alleged misconduct occurred in a jurisdiction other than Ontario.

Available remedies

HRPA derives its powers from the Act and By-laws. As noted above, section 32 of the Act gives the Complaints Committee the following powers:

1. Direct that the matter be referred, in whole or in part, to the discipline committee.
2. Direct that the matter not be referred to the discipline committee.
3. Negotiate a settlement agreement between the Association and the member or firm and refer the agreement to the discipline committee for approval.
4. Take any action that it considers appropriate in the circumstances and that is not inconsistent with this Act or the by-laws, including cautioning or admonishing the member or firm, but not including any action described in subsection 34 (4) [that section sets out the powers of the Discipline Committee]

The Complaints Committee does not have the authority to change decisions that were made by registrants or to order payment of damages to aggrieved parties.

Who may initiate a complaint against an HRPA registrant?

Any person who has reason to believe that a registrant of HRPA is guilty of professional misconduct may initiate a complaint against a registrant of HRPA. Complaints may be initiated by:

1. Members of the public
2. Clients of the registrant
3. Employees of organizations impacted by the actions of the registrant
4. Individuals supervised or managed by the registrant
5. Individuals who manage or supervise the registrant
6. Other professionals registered with HRPA
7. The Registrar of HRPA

Referrals pursuant to self-reporting obligation

Section 16 of the By-laws creates the following self-reporting obligations for members and students of HRPA:

- Members, whether practicing through a Firm or as employees of an organization, and Students shall notify the Registrar immediately of any of the following events:
  1. Any finding of guilt for a criminal offence or an offence;
  2. Any finding of professional misconduct, incompetence or incapacity, whether in Ontario or in another jurisdiction, and whether it is in relation to the Human Resources profession or another regulated profession; or
  3. A Member’s or Firm’s Bankruptcy and Insolvency Event;
  4. Any proceeding for professional misconduct, incompetence or incapacity, whether in Ontario or in another jurisdiction, and whether it is in relation to the Human Resources profession or commenced by another regulatory organization.

The Registrar may refer a self-reporting matter to the Complaints Committee in accordance with the By-laws.
How to initiate a complaint against a member of HRPA

An individual who wishes to lodge a formal complaint against a registrant of HRPA is asked to complete and submit the HRPA Complaint Form. All complaints must be received in writing and should clearly and precisely state:

1. The complainant’s full name and contact information. Anonymous complaints cannot be investigated
2. The name(s) of the registrant(s) being complained about
3. A description of the problem. (Where possible, state which section(s) of the Code of Ethics, Rules of Professional Conduct, Standards of Practice, Act or by-laws that are alleged to have been breached)
4. A chronological history of the events including the date(s) on which specific events occurred;
5. The name(s) and contact information of anyone who may be able to provide further information;
6. A summary of any documentation (letters etc.) that support the complaint - if it is alleged that more than one provision has been breached then the supporting documentation should be clearly labelled as to which allegation(s) it supports; and
7. Where the complaint is or has been filed with another body (e.g. the Ontario Human Rights Tribunal), details of the body and status of resolution.

The complaint must be sent in writing to:

HRPA
Office of the Registrar
150 Bloor Street West, Suite 200
Toronto, Ontario
M5S 2X9

Cost

There are no fees associated with filing a complaint.

Initial review of a complaint

As noted above, the By-laws provide that the Complaints Committee may refuse to assess or investigate a complaint if the committee determines that the complaint is frivolous or vexatious or otherwise inappropriate.

In such cases, the panel gives notice to the complainant and to the registrant of its intention to dismiss the complaint without investigation and provides the complainant and the registrant with the opportunity (usually 30 days) to make submissions. After this period, the panel will reconvene to consider the complaint and whatever submissions were received in relation to the intent to dismiss. The panel will then make a decision whether to dismiss the complaint and inform the complainant and the
registrant of their decision. The complainant may appeal a decision of the panel to dismiss the complaint to the Appeal Committee within 30 days of having received the decision.

Notwithstanding the above, the panel may also dismiss a complaint at any time after an investigation has begun if it is of the opinion that a complaint was frivolous, vexatious or otherwise inappropriate.

Sometimes there is a parallel adjudicative process in respect of the events covered by the complaint. For example, there could be a civil action, a human rights proceeding or criminal charges. In each case, the Complaints Committee will look at all of the circumstances to determine whether it is more appropriate to proceed with the complaint or to defer doing so until the parallel process has been completed. For example, if there is significant risk to the public in not dealing with the complaint, the Committee may proceed immediately. However, if there is no significant risk to the public and proceeding would interfere with the fairness of the parallel process, the Complaints Committee may defer dealing with the complaint.

**Opportunity to respond to the complaint**

Upon receipt of the formal complaint made pursuant to the by-laws, the Office of the Registrar advises the complainant in writing of its receipt. Once all information relevant to the complaint has been received, the registrant named in the complaint is provided with a copy of the allegation(s) against them, any supporting documentation and the identity (but not the contact information) of the complainant. They are provided an opportunity to respond within 30 days. The complainant is then given a further opportunity to respond to the registrant’s response (if any).

**Conducting the investigation**

Under the Act, the Complaints Committee is required to “review” every complaint. The Complaints Committee is only required to “investigate” a complaint if “if the complaint contains information suggesting that the registrant or firm may be guilty of professional misconduct as defined in the by-laws.” (The exception, as noted above, is that the Complaints Committee may decline to assess or investigation frivolous or vexatious complaints.) The purpose of an investigation is to uncover the essential information relevant to the allegations. In other words, investigations should be thorough and complete. The most immediate use of the information uncovered in an investigation is to help the Complaints Committee make a decision as to what to do about a complaint. However, should the complaint result in a referral to discipline, the information uncovered in an investigation will become the basis for the prosecution. A poor investigation will jeopardize an otherwise solid case. Investigations must be carried out keeping in mind that that the information uncovered in the investigation and the investigation process itself may become part of a discipline proceeding. If the matter results in a referral to discipline, the report of the investigation and all other documents relating to the investigation will be disclosed to the registrant and will be available to the public.

The Complaints Committee panel oversees the investigation of the complaint. The investigation can take various forms, including:
- Conducting inquiries through staff (e.g. obtaining documents, conducting voluntary interviews, making written inquiries)
- Appointing an investigator under section 49 of the Act

**Appointing an investigator**

The Complaints Committee has the power under section 49 of the Act to appoint an investigator to investigate a complaint.

**Powers of investigation**

Pursuant to section 52 of the Act, an investigator may do the following:

(a) at any reasonable time, enter and inspect the business premises of the individual or firm under investigation, other than any part of the premises used as a dwelling, without the consent of the owner or occupier and without a warrant;
(b) question and require the individual or anyone who works with the individual, or anyone who works in the firm, as the case may be, to provide information that the investigator believes is relevant to the investigation;
(c) require the production of and examine any document or thing that the investigator believes is relevant to the investigation, including a client file;
(d) on giving a receipt for it, remove any document or thing that the investigator believes is relevant to the investigation for the purposes of making copies or extracts of any document or information, but the making of the copies or extracts shall be carried out with reasonable dispatch, taking into account the scope and complexity of the work involved in making the copies or extracts, and the document or thing shall afterwards be returned promptly to the person from whom it was taken; and
(e) use any data storage, processing or retrieval device or system used in carrying on business on the premises in order to produce a document in readable form.

Section 53 of the Act creates an offence for anyone who obstructs an HRPA-appointed investigator, which is punishable by a fine of up to $25,000.

**Duties of members who are the subject of a complaint**

The By-laws provide that:

A Member, Student or Firm shall assist in any investigation into the possible Professional Misconduct or incapacity of a Member, Student or Firm. A Member, Student or Firm shall respond promptly and forthrightly to any request by the complaints committee or the Registrar in connection to any investigation into possible Professional Misconduct.

Under the Rules of Professional Conduct, registrants are required to assist with the HRPA complaints and investigation process, including by:
responding promptly and forthrightly to any request by the Registrar, the Board of the Association or other duly authorized person in connection to any disciplinary process or any investigation into possible misconduct;

forwarding to the Association any documents that are requested by the Association in the context of a registration matter, complaint, review, disciplinary process or investigation into possible misconduct.

Registrants must not interfere with or obstruct any HRPA complaints or investigation process. A registrant shall not:

communicate with a person who has filed a complaint against the registrant on any matter regarding the complaint or any matter arising from that complaint, without prior written permission of the Board of the Association or the Registrar, after having been notified that such a complaint had been filed;

attempt to intimidate or harass a person who has filed a complaint against the registrant or against another registrant of the Association;

threaten with retaliation any person who has filed a complaint against the registrant or against another registrant of the Association.

Making a decision

Once the panel has carried out its investigation, it will deliberate and make a decision.

The panel will refer a matter to discipline only where it concludes that the allegation is serious enough to warrant disciplinary action and there is a reasonable prospect of proving the allegations at discipline.

The panel may take action short of a referral to discipline (such as cautioning a member) where the public interest would be served through such action.

The complainant and the registrant are advised of the decision. Unless the matter has been referred to discipline for a hearing, the panel gives written reasons and notifies the complainant of his or her right to ask for a review of the decision by the Appeal Committee.

Confidentiality

The complaints and investigation process is not public because it deals with allegations which have not been screened or proven.

In accordance with the duty of confidentiality set out in the Act, the registrant of the Complaints Committee and any person acting on its behalf shall maintain the confidentiality of all information regarding the subject matter of the complaint, including:

- All minutes, decisions and reasons of the Committee
- All investigation reports and investigation results
• All submissions
• The complaint form

unless permitted under the Act or By-laws. No deliberations of the Committee or matters arising out of the work of the Committee shall be disclosed or brought to the attention of the Board, Officers of the Association, other Association members, Association staff or members of the public, except as explicitly provided for in the Act or By-laws.

Appeals

If the complainant or the registrant is dissatisfied with the decision of the Complaints Committee (other than a decision to refer the matter to discipline), he or she may request, within thirty days, a review before the Appeal Committee. The Appeal Committee can do one of the following:

• Refer the matter back to the Complaints Committee if it concludes that the investigation was inadequate or the decision was unreasonable
• Direct that no further action be taken

The decision of the Appeal Committee is final.
Complaints Process

Complaint filed in writing with Registrar

Registrar acknowledges receipt of complaint with complainant

Registrar gathers initial information about alleged misconduct, incompetence, or incapacity

Registrar forwards copy of complaint to registrant who is provided with 30 days to respond to issues raised in complaint

The complainant is provided with a copy of the registrant’s response and has an opportunity to respond

Registrar forwards complaint to Chair of the Complaints Committee for investigation and disposition

The Chair of the Complaints Committee appoints a panel to investigate complaint

Panel conducts investigation (which may include appointing an investigator or requiring an assessment)

Panel deliberates and makes decision

- Direct that the matter be referred, in whole or in part, to the Discipline Committee for a hearing
- Direct that the matter not be referred to the Discipline Committee
- Negotiate a settlement agreement between the Association and the registrant or firm and refer the agreement to the Discipline Committee for approval
- Take any action that it considers appropriate in the circumstances and that is not inconsistent with this Act or the by-laws, including requiring the member to attend before one or more of its members to receive a caution or admonishment
13 Discipline and Capacity

The purpose of the discipline process is to determine whether a member is guilty of professional misconduct when there has been a referral to discipline by the Complaints Committee.

Mandate of Discipline Committee

The mandate of the Discipline Committee is to hold hearings into allegations of professional misconduct; to make determinations of guilt; and to make appropriate orders when registrants or firms are found guilty of professional misconduct.

Professional misconduct is defined in the By-laws as follows:

“Professional Misconduct” means conduct inconsistent with the Act, this By-law, the Rules of Professional Conduct or the Standards and Guidelines of Practice that poses or may pose a risk of harm or loss to any person

The Terms of Reference for the Discipline Committee, setting out the mandate, committee membership and panel constitution, are attached as Appendix C.

The Statutory Powers Procedure Act and the Discipline Committee

Rules of Procedure

HRPA’s Discipline Committee must comply with the Statutory Powers Procedure Act (“SPPA”). The SPPA sets out certain minimum procedural rules for statutory tribunals in Ontario that conduct hearings. The SPPA also provides for the tribunal itself to develop rules of procedure (which the Discipline Committee has done). The SPPA sets out requirements with respect to notice, disclosure, electronic hearings and representation, among many other things.

A copy of the SPPA is included as Appendix G of this document. The Discipline Committee Rules of Procedure are available on HRPA’s website. HRPA has also produced a Summary of the HRPA Discipline Process which is intended to be of assistance to individuals who may become involved in disciplinary proceedings at HRPA. This last document may be especially useful to unrepresented members.

The Discipline Process

Parties to discipline proceedings

The parties to the discipline hearing are the registrant and the Association. The Registrar, or a delegate, represents HRPA throughout the discipline process. Legal counsel (prosecuting counsel) is retained for HRPA and takes direction from the Registrar or delegate. Independent Legal Counsel is retained to assist the discipline panel. Independent Legal Counsel is not a member of the panel and is independent of
both HRPA and the registrant. The Office of the Registrar staff person who provides support to the Discipline Committee fulfills the role of Hearings Coordinator.

Notice of Hearing

After a matter is referred to the Discipline Committee, the proceedings before that committee are formally initiated by a Notice of Hearing. Typically, the Registrar or the Registrar’s delegate signs the Notice of Hearing. The Notice of Hearing sets out the specific allegations of professional misconduct made against the registrant. Typically, the Notice of Hearing is prepared by prosecuting counsel under the direction of the Registrar or the Registrar’s delegate.

A brief description of the particulars of all allegations against the member must be given in the Notice of Hearing so that a defence can be prepared by the registrant. Contents of the Notice of Hearing are stipulated in s. 8.3 of the Discipline Committee Rules of Procedure as follows:

8.3 The Notice of Hearing shall be in writing and shall include:
(a) A statement of the purpose of the hearing
(b) A statement of the time and place of the hearing, if known
(c) A reference to the statutory authority under which the hearing will be held
(d) A statement that the Member may have a Representative at the hearing, and
(e) A statement of the allegations against the Member, including a brief description of the particulars
(f) A statement that if the Member does not attend at the hearing, the Panel may proceed in the Member’s absence and the Member will not be entitled to any further notice in the proceeding
(g) A statement that the hearing will be open to the public unless the Panel directs otherwise

If a hearing date is set in the Notice of Hearing, it is typically 30-90 days after the date on the Notice of Hearing. If a Notice of Hearing is sent out without an identified hearing date, a hearing date is set at a later date in coordination with the discipline panel Chair, the registrant’s representative, the prosecuting counsel and the panel’s Independent Legal Counsel.

When the Discipline Committee hears a matter, the panel is confined to the matters raised in the Notice of Hearing. The Discipline Committee cannot find that a registrant engaged in professional misconduct on a basis that has not been alleged.

Referrals to discipline are made public. Section 13.01 (14) of the HRPA By-laws stipulates that the following information shall be included in the HRPA public register:

details of any referral of the Member to the discipline committee, including the date and location of the hearing if known, until a final decision has been made.
Disclosure

As the prosecutor, HRPA has an obligation to disclose all relevant information in its possession, unless it is privileged. This is a broad obligation and includes all information that is relevant to the allegations in the Notice of Hearing, regardless of whether it is helpful or harmful to HRPA’s case. The obligation is not limited to admissible evidence; all relevant information must be disclosed (unless it is privileged). Under the Discipline Committee’s Rules of Procedure, there is no reciprocal requirement for the registrant to disclose information about its defence to HRPA.

The prosecutor must deliver to the registrant or the registrant’s representative all materials he/she will be entering as evidence as soon as possible after the Notice of Hearing is served and at least 20 days prior to the hearing date. The prosecutor must deliver a list of witnesses to the registrant or the registrant’s representative at least 10 days before the hearing date.

If the prosecutor intends to call an expert witness to testify at the hearing, the prosecutor must serve the registrant and/or the registrant’s representative with a written report signed by the expert containing the name, address and qualifications of the expert and the substance of the expert’s proposed evidence including a list of all documents to which the expert will refer.

HRPA’s obligation to disclose is continuing, meaning that if HRPA comes into possession of relevant information after it makes its initial disclosure, HRPA must disclose that new information.

Pre-Hearing conference

The parties may choose to participate in one or more pre-hearing conferences prior to the hearing. The pre-hearing conference is informal, confidential and without prejudice, and may consider any matter that may assist in the just, most expeditious and least expensive disposition of the proceedings, including one or more of the following:

a. Settlement of any or all of the issues in dispute
b. Simplification of the issues
c. Facts or evidence that may be agreed upon
d. Dates by which any steps in the proceeding are to be taken or begun
e. Estimated duration of the hearing
f. Any other matter that may assist in the just and most expeditious disposition of the proceeding

The Chair of the Discipline Committee appoints a Presider for the pre-hearing conference. A date for the pre-hearing conference is set in coordination with the presider, the registrant or the registrant’s legal counsel or representative, and the prosecutor. The presider may choose to have Independent Legal Counsel in attendance at the pre-hearing conference in which case arrangements for Independent Legal Counsel will be made through the Office of the Registrar. The prosecutor must deliver a Pre-Hearing Conference Memorandum to the registrant or the registrant’s representative no later than 5 days in advance of the pre-hearing conference date. The registrant or the registrant’s representative
shall deliver a Pre-Hearing Conference Memorandum at least two days in advance of the pre-hearing conference date.

**Role of the Pre-Hearing Conference Presider**

The role of the Pre-Hearing Conference Presider (“Presider”) can best be described as ‘mediator’. The Presider functions as a neutral third party who is there to assist the parties with trying to negotiate an agreement. In that role, the Presider can propose compromises, offer solutions and try to persuade the parties to come to an agreement. It is up to the Presider to take on a more or less active role during the negotiations. The Presider can choose to let the parties negotiate mostly on their own and only interject when necessary, or the Presider can try to actively drive the negotiations. The Presider has to be careful at all times not to provide, or to appear to provide, advice to either of the parties.

If the Presider has any questions or concerns about the process, he or she should consult with Independent Legal Counsel. Independent Legal Counsel may attend the pre-hearing conference in person or may be available by phone if needed.

The Presider does not have the authority to dictate the terms of the agreement or to reject an agreement or specific terms of an agreement that the parties have reached. It is solely within the power of the parties to come to an agreement and to determine the exact terms of that agreement.

If the parties reach an agreement, the Presider has done his or her part and is no longer involved in the proceedings. The parties will draft the terms of the agreement. The agreement may address all or some of the issues in dispute. For example, the parties may agree to all or some of the facts and whether the facts constitute professional misconduct. The parties may also agree about the order that should be made by the Discipline Committee. In all cases, the agreement must be presented to the Discipline Committee at a hearing (discussed further below). The Presider cannot be part of that Panel that reviews the agreement.

If the parties do not reach an agreement at the pre-hearing conference, the Presider should assist the parties in planning for the hearing. The Presider should canvass with the parties whether any steps are required before the hearing (such as further disclosure, any motions, preparation of document briefs, and preparation of written argument and books of authorities). The Presider should also assist the parties in scheduling the hearing (including discussing the number of witnesses, whether experts will be called, and other logistical matters).

**Use of a Pre-Hearing conference report**

The usual intent of a pre-hearing conference is to encourage each party to openly and frankly discuss the case so that a resolution can ideally be achieved. Pre-hearing conferences are usually conducted in the absence of the public and on a “without prejudice” basis. This means that all offers to settle and any admissions are kept confidential and are not able to be disclosed by either party or the Presider, unless the parties consent otherwise.
Parties usually consent to disclosure of certain portions of the pre-hearing conference (mainly procedural). These include the names and numbers of any witnesses identified by the party, the suggested length of the hearing, whether any motions are anticipated, disclosure, etc.

It is not unusual for the presider to draft a report following the pre-hearing conference. The report is usually compiled if the matter did not resolve and usually will list the following information (with the consent of the parties):

1. Date of the pre-hearing
2. Those in attendance
3. Agreed Facts
4. Agreed documents to be tendered
5. Outstanding pre-hearing motions and dates to be heard
6. Motions to be made at hearing
7. Whether disclosure is complete
8. Whether a document brief and/or brief of authorities will be compiled and who will prepare it and when it will be delivered
9. Scheduled start date of hearing
10. Anticipated length of hearing
11. Names of witnesses and length of hearing

The Report needs to be completed within two weeks of the pre-hearing conference and should be submitted to the Hearings Coordinator. The Hearings Coordinator will then provide a copy of the completed Report to both parties and their respective counsel. The report is held by each party to use at the hearing if the other side departs from an area of agreement or a direction of the presiding officer. It is not given to the panel in advance of the hearing for fear of tainting them.

Once the Presider has submitted the Report, the Presider has fulfilled all of his or her obligations and is no longer involved in the proceedings. That includes talking to other Committee members about the proceedings or sharing his or her point of view with either of the parties.

**Pre-hearing motions**

Procedural or interlocutory matters and issues that cannot be resolved between the parties may be brought to a panel of the Discipline Committee by way of motion. Motions are heard on a day and at a time fixed by staff that is convenient to the Panel and the parties.

The party bringing a pre-hearing motion must do so at least 14 days prior to the date the motion is to be heard (unless the nature of the motion requires that it be heard during the hearing). The party bringing the motion must deliver the Notice of Motion and any supporting material at least 7 days prior to the date the motion is to be heard. The party responding to the motion must deliver responding material at least 3 days prior to the date the motion is to be heard.
Agreed Statements of Fact and joint submissions

The pre-hearing conference may result an Agreed Statement of Facts (ASF) and/or a joint submission. The parties may also negotiate ASFs and joint submissions outside of the pre-hearing conference process.

An ASF is a document that sets out the facts that have been agreed to by both parties. The ASF may address all or some of the facts. The ASF may also include admissions of professional misconduct. A joint submission is a document in which HRPA and the registrant agree on the appropriate penalty that should be ordered by the Discipline Committee. The Discipline Committee generally must accept a joint submission put forward by both parties, unless to do so would bring the administration of the discipline process into disrepute or would otherwise be contrary to the public interest.

Summary of the hearing procedure

The hearing procedure will depend on whether or not the hearing is contested. A contested hearing is when the registrant denies the allegations. An uncontested hearing is when the member admits to the allegations.

The panel members must have no knowledge of the case before the hearing commences. All materials and documents pertaining to the hearing are provided to the panel after the hearing is called to order. The only exception is that the Discipline panel is provided with the name of the registrant in advance of the hearing. It is important to do so in order to allow panel members to determine whether they have a conflict of interest in hearing the case.

In an uncontested hearing, the hearing procedure will typically follow the following steps:

a. The prosecutor tenders the Notice of Hearing as the first exhibit.
b. A plea inquiry is conducted to ensure that the registrant’s admission of guilt is voluntary, informed, and unequivocal.
c. The prosecutor files an Agreed Statement of Facts (“ASF”). The panel may accept the ASF as evidence without further proof.
d. The panel must (1) accept the facts as stated in the ASF, and (2) determine, whether the facts support a finding of professional misconduct as admitted by the registrant.
e. The registrant (or the registrant’s representative) is given an opportunity to make any comment on the facts.
f. The panel may ask questions of both parties to clarify any evidence provided.
g. The panel deliberates and determines whether to accept the registrant’s admission.
h. The Panel returns and states its decision with respect to the ASF and whether the registrant is guilty of professional misconduct on the record.
i. If the panel finds the registrant guilty of professional misconduct, the parties may file a Joint Submission as to Penalty or Order.
j. Parties make submissions in support of the joint submission.
k. The panel makes a decision with respect to the penalty or order.
The discipline panel is entitled to accept or reject a joint submission. However, the Supreme Court of Canada has established that a joint submission should only be rejected if the panel finds that to accept it would bring the administration of justice into disrepute or otherwise be contrary to the public interest. This is a very high test and will only be met in exceptional circumstances.

In a contested hearing, the hearing procedure will typically proceed as follows:

a. An introductory statement is made by the Discipline Panel Chair.
b. The prosecutor tenders the Notice of Hearing as the first exhibit.
c. The registrant denies the allegations (‘the plea’).
d. The prosecutor and the registrant (or the registrant’s representative) make opening statements summarizing their positions (the registrant may postpone his or her opening statement until after completion of HRPA’s case).
e. The prosecutor calls their first witness who is sworn or affirmed by the Chair or someone delegated to do so. Prosecuting counsel then asks questions or ‘examines’ the witness (this first examination is called the ‘examination in chief’).
f. The registrant (or the registrant’s representative) cross-examines the witness.
g. The prosecutor may re-examine the witness.
h. Members of the panel may ask questions of the witness.
i. The parties may ask questions arising from the questions from the panel.
j. The procedure outlined above is followed for each of the HRPA’s witnesses.
k. If the registrant decides to call evidence, then the same procedure is followed, except that the registrant (or registrant’s representative) examines the defense witnesses in chief and the prosecutor cross-examines.
l. After all the defence evidence has been heard, the prosecutor may call reply evidence.
m. Once all the evidence is finished, the prosecutor will make closing submissions (‘final argument’).
n. The registrant (or registrant’s representative) then has an opportunity to make closing submissions.
o. The prosecutor will have an opportunity to reply to the points raised by the registrant.
p. Independent Legal Counsel will give advice to the panel.
q. Panel members may ask questions of counsel with respect to their submissions and will then retire to consider the evidence and render a decision.

The panel may announce its decision to the parties if it is reached that day or the panel may reserve its decision and release it a later date.

If the panel finds the registrant not guilty, the matter comes to an end. If the panel finds the registrant guilty, the penalty portion of the hearing proceeds. The parties may call evidence and make submissions as to an appropriate penalty.
In all cases, the panel shall issue a final written decision, which is the official decision. The panel must also provide written reasons for the decision. The Decision and Reasons are sent to all parties and/or their representatives. Pursuant to the Act, unless the discipline committee orders otherwise, a final decision or order of the committee takes effect on the day on which the time to appeal expires (i.e., 30 days after the date of the decision or order), if no notice of appeal is filed with the appeal committee in accordance with that subsection.

**Rules of evidence**

Discipline hearings at HRPA are not subject to the strict rules of evidence that apply in court proceedings. Rather, the SPPA rules of evidence apply to HRPA discipline hearings. Under the SPPA, the Discipline Committee may admit as evidence any oral testimony and any document or thing, whether or not it is given under oath, as long as it is relevant and not privileged. For example, this means that the Discipline Committee may admit hearsay evidence, which would normally be inadmissible in court.

**Expert evidence**

Experts are individuals who have comprehensive knowledge of a particular area or matter due to education, training, skill or experience. Expert witnesses can give opinion evidence, which is generally not permitted for other witnesses.

As noted above, the prosecutor must comply with the disclosure requirements in the Rules in order to rely on expert evidence at a hearing.

In order for an expert opinion to be admissible:

1. The evidence must be relevant to a fact in issue (for example, the standards of the HR profession).
2. The evidence must be necessary to assist the Panel.
3. There must not be an exclusionary rule that would preclude the admission of the evidence.
4. The proposed expert must be a properly qualified expert (e.g., have special skills, knowledge, training or experience with respect to a particular issue in the hearing).

The panel must also be satisfied that the evidence is sufficiently beneficial to the hearing process to warrant its admission despite the potential harm to the hearing process that may flow from the admission of the expert evidence (in other words, the prejudicial effect of the expert opinion must not outweigh its probative value).

**Registrants required to cooperate with and participate in any disciplinary proceeding**

HRPA’s Rules of Professional Conduct require registrants to cooperate with and participate in any disciplinary proceeding carried out by the Association. This is set out in Chapter IV, Division III of the HRPA Rules of Professional Conduct. In particular, registrants are required to assist with any HRPA
disciplinary process and to accede to any request to appear in person to any disciplinary hearing conducted by HRPA. Registrants are also required to forward to HRPA any documents that are requested by HRPA in the context of a disciplinary process.

HRPA registrants are prohibited from interfering with any HRPA disciplinary process. HRPA registrants are prohibited from communicating with a person who has filed a complaint against them, from intimidating or harassing a person who has filed a complaint against another registrant of the Association, or from threatening with retaliation any person who has filed a complaint against another registrant of the Association.

Registrants are required to promptly and faithfully abide by whatever sanctions may be imposed as a result of a disciplinary process (subject to any appeal) and to adhere to any undertaking or agreement that the registrant has made with HRPA.

**Issuance of summonses**

The Discipline Committee has the power to require individuals (by way of summons) to attend at hearings to give evidence. Section 12(1) of the SPPA states:

12(1) A tribunal may require any person, including a party, by summons,

   
   (a) to give evidence on oath or affirmation at an oral or electronic hearing; and  
   (b) to produce in evidence at an oral or electronic hearing documents and things specified by the tribunal, relevant to the subject-matter of the proceeding and admissible at a hearing.

A summons is a serious matter. If a person fails to attend or to remain in attendance at the hearing, their attendance may be required through a court-issued warrant or they may face contempt proceedings.

**Public hearings**

Discipline hearings are open to the public unless there are special circumstances that outweigh the usual principle of open hearings. The SPPA states:

9.(1) An oral hearing shall be open to the public except where the tribunal is of the opinion that,

   a. matters involving public security may be disclosed; or  
   b. intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public in which case the tribunal may hold the hearing in the absence of the public.

**Burden and standard of proof**

The onus of proof (burden of proof) is on HRPA to prove the allegations.
The standard of proof in a discipline hearing is ‘balance of probabilities’, meaning that that the evidence must show that it is more likely than not that an event happened. ‘Balance of probabilities’ is the same standard of proof that applies to civil procedures. The criminal standard of ‘beyond reasonable doubt’ does not apply to HRPA’s discipline proceedings.

Possible orders of the Discipline panel

If the panel finds a registrant or firm guilty of professional misconduct, the Act states that the panel can order one or more of the following:

1. If at least two-thirds of the committee panel hearing the matter agree, revoke the member’s membership or the firm’s registration.
2. Suspend the member’s membership or the firm’s registration for a period determined in accordance with the by-laws.
3. Despite section 17 [of the Act regarding the use of designations], direct that a member whose membership is suspended refrain from using any designation, term, title, initials or description implying that the member is a member of the Association or is authorized to use the designation, term, title, initials or description during the period of suspension.
4. Determine the timing and manner of the return of a certificate of membership to the Association by an individual whose membership is suspended or revoked.
5. Impose restrictions or conditions on the right of the member or firm to practise in the field of human resources.
6. Issue a reprimand and, if the committee considers it appropriate, direct that the reprimand be recorded in the register.
7. Direct the member or firm to take any specified rehabilitative measure, including requiring the member or any member practising in the field of human resources through the firm to successfully complete specified professional development courses or to seek specified counselling or treatment.
8. Direct the member or firm to pay a fine and specify the timing and manner of payment.
9. Direct that the imposition of a measure under this subsection be postponed for a specified period or on specified terms, including the successful completion of specified courses of study.
10. Direct that a failure to comply with the committee’s order shall result in the revocation of the member’s membership or the firm’s registration.
11. Make any other order that the committee considers appropriate in the circumstances.

The Discipline Committee also has the power to order costs against the registrant or firm who is the subject of the hearing. The costs may include the costs incurred by the Association arising from the investigation, prosecution, and hearing of the matter.

Decision and reasons

As noted above, the panel provides each party with a written decision and reasons for the decision. The parties are also notified of their right to appeal to the Appeal Committee.
Written reasons are required for a number of reasons, including:

1. To be fair to the parties: HRPA and the registrant. The parties must understand the basis for the decision and be able to assess that the panel considered the matter in light of all the relevant evidence.
2. If the matter is appealed, the reasons provide the Appeal Committee or the Divisional Court (if the matter is reviewed on a judicial review application) with a basis to review the panel's decision.
3. To promote public confidence in the discipline process.

The reasons should contain a review of the evidence and the significance attached by the panel to the various matters considered by the panel. In its decision, it is not necessary for the panel to refer to all the evidence produced before it; nonetheless, the significant evidence should be discussed. Where there are disputes over the facts, the panel should make specific findings of fact indicating which evidence has been accepted and which has been rejected and why. Reasons for findings of credibility should be explained. Reasons should deal with the key points raised by the parties. The reasons should give an account of the panel's reasoning process in arriving at their decision.

Publication of decisions

Once the Discipline or Review Committee has rendered its decision and the prescribed time limits for an appeal have lapsed without a request for an appeal having been filed, the Registrar will publish the decision and reasons, including any orders issued by the committee related to the proceeding.

Upon a finding of misconduct, the register will be updated to indicate this finding of misconduct as well as the particulars of any penalty imposed by the Discipline or Review Committee and its reasons for both.

Upon dismissal of all the allegations, any note to the effect that a registrant was subject to a proceeding before the Discipline or Review Committee, the summary of the allegations, including a brief description of the particulars, the place and time of any hearings and any interim orders of the Discipline or Review Committee will be removed from the register.

Whatever the outcome of a discipline or review proceeding, the outcome will be published in the Regulatory Affairs newsletter.

Notwithstanding the above, pursuant to conditions set out in Section 9 of the Statutory Powers Procedure Act, the Discipline Committee or the Review Committee may decide that a hearing, or portions of a hearing, should not be open to the public. Should this be the case, the above requirements shall be modified accordingly. The reasons for closing the hearing shall be posted on the web site and subsequently in the Regulatory Affairs newsletter.
**Appeals**

Either party may appeal a final decision or order of the Discipline Committee to the Appeal Committee. A Notice of Appeal must be filed within 30 days of the decision. The Appeal Committee may determine any question of law or mixed fact and law. Following an appeal, the Appeal Committee has the power to do the following:

- Make any decision or order that could have been made by the Discipline Committee
- Order a new hearing before the Discipline Committee
- Dismiss the appeal

If a decision of the Discipline or Review Committee is appealed, the date and time of the hearing conducted by the Appeal Committee will be published, but if the decision was made pursuant to a closed hearing, the appeal hearing will also be closed.

If the Appeal Committee upholds the decision of the Discipline or Review Committee, the original decision and reasons of the Discipline or Appeal Committee as well as the decision and reasons of the Appeal Committee, including any orders, will be published.

If a decision of the Discipline or Review Committee is overturned by the Appeal Committee, any note to the effect that a registrant was subject to a proceeding before the Discipline or Review Committee, the summary of the allegations, including a brief description of the particulars, the place and time of any hearings and any interim orders of the Discipline or Review Committee will be removed from the register.

Decisions of the Appeal Committee are final. There is no right of appeal to the Divisional Court, although a party may seek judicial review at the Divisional Court.
Discipline Process

The Complaints and Investigations Committee refers a matter to the Discipline Committee.

The Chair of the Discipline Committee appoints a panel to hear the matter.

A Notice of Hearing is sent to the registrant identifying the allegations and providing the date and location of the hearing.

HRPA discloses its case (evidence) to the registrant.

A pre-hearing conference is proposed to plan the hearing and investigate potential areas of agreement between the parties and/or settlement.

If a tentative settlement is reached at the pre-hearing conference, it is presented to the Panel at the start of the discipline hearing for their consideration.

If there was no pre-hearing conference, or if there is no tentative settlement reached at the pre-hearing conference, or if a tentative settlement is put forward but is not approved by the Panel, the hearing proceeds.

Disciplinary hearing proceeds

Joint submission is accepted

The Panel deliberates and reaches a decision in the matter.

The Panel’s decision and reasons are provided to the parties (the registrant and HRPA) and published in the Register.
Capacity

Concerns about a registrant’s capacity to practise the profession may be investigated and referred to the Capacity Committee for a determination. Capacity is distinct from conduct. Capacity deals with registrants’ health conditions that interfere with their ability to practise the profession.

The purpose of the capacity provisions in the Act is to protect the public from registrants whose illness or conditions are interfering with their ability to practise the profession. The capacity provisions are not designed to punish a registrant who is unwell.

Definition of “Incapacitated”

Section 45 of the Act provides the following definition:

Interpretation – “incapacitated”

45. A member of the Association is incapacitated for the purposes of sections 46 to 48 if, by reason of physical or mental illness, condition or disorder, other infirmity or addiction to or excessive use of alcohol or drugs, he or she is incapable of meeting his or her obligations under this Act.

Process for Addressing Capacity Concerns

If HRPA receives information that a registrant may be incapacitated, the Association may investigate the matter. HRPA may appoint an investigator to carry out the investigation and the investigator would have the powers set out in section 52 of the Act (discussed in Chapter 12).

Following an investigation, the Association may apply directly to the Capacity Committee for a determination of whether the registrant is incapacitated. The Terms of Reference for the Capacity Committee, setting out the mandate, committee membership and panel constitution, are attached as Appendix D.

Questions of incapacity generally require expert opinions. The Act provides the Capacity Committee with the power to require a registrant to undergo a medical or psychological examination. Given the intrusive nature of such an order, the Committee should provide the registrant with reasons for its decision as to why it requires the medical or psychological examination. If the registrant fails to attend the examination, the Capacity Committee may suspend the registrant until he or she complies.

The Capacity Committee holds hearings, which are generally similar to the hearings held by the Discipline Committee. However, there are a number of important differences. In particular, capacity hearings are closed to the public. In addition, the orders that the Capacity Committee can make are different from the Discipline Committee. If the Capacity Committee determines that a registrant is incapacitated, the committee may:
• suspend the registrant’s registration;
• impose restrictions or conditions on the registrant’s right to practise in the field of human resources; or
• make any other order, other than revoking the registrant’s registration, that the committee considers necessary to protect the public interest.

The Capacity Committee has made Rules of Procedure under the SPPA, which govern its proceedings.

Either party may appeal a decision of the Capacity Committee to the Appeal Committee.

Pursuant to the By-laws, only information that is necessary to protect the public will be posted on the register when a registrant has been found to be incapacitated.
14 Bankruptcy and Insolvency

Members are required to notify the Registrar if they are experiencing a bankruptcy or insolvency event.

Subsection 40 (2) of the Act states ‘A member who or firm that experiences a bankruptcy or insolvency event shall notify the Registrar in accordance with the by-laws.’ The requirement that HRPA registrants or firms registered with HRPA notify the Registrar of a bankruptcy or insolvency event is a matter of law. This requirement applies to almost all HRPA Registrants, with the only exception being Registered Students.

The rationale for this requirement is that a member or firm’s bankruptcy or insolvency event may pose a risk of harm to the public interest. Accordingly, this requirement is in line with the HRPA’s public protection mandate.

What to do about a bankruptcy or insolvency event is not a decision of the Registrar but of the Review Committee. The Review Committee is a statutory committee which means that its mandate and powers are set out in legislation. The Review Committee is responsible for determining if a member’s or registered firm’s bankruptcy or insolvency poses a risk to the public interest. The Terms of Reference for the Review Committee, setting out the mandate, committee membership and panel constitution, are attached as Appendix E.

In accordance with the Act, the Registrar refers every notice and related documents and information to the Review Committee. The Review Committee may require a Member or Firm to provide to the committee additional documents or information. In addition, the Review Committee may direct the Registrar to investigate any matter related to the bankruptcy or insolvency event. Following a review of a matter, the Review Committee may do one of three things:

1. Take no further action;
2. Require the member or firm to provide to the committee, on an on-going basis, any document or information for the time and in the manner specified by the committee; or
3. Hold a hearing on the matter.

Reports of a bankruptcy or insolvency event can be made to the Office of the Registrar in writing, to registrar@hrpa.ca. A report should include any of the following information:

- Documents relating to the bankruptcy or insolvency event;
- Pleadings;
- Contact information of Trustee;
- Undertaking to provide the required information if not yet ready;
- Financial situation of HRPA Registered Firm (if applicable).
15 Appeals

In order to ensure fairness in its regulatory practices, HRPA established an Appeal Committee in accordance with the Registered Human Resources Professionals Act, 2013 (“the Act”) and section 21 of the By-laws. The purpose of HRPA’s internal appeal process is to provide for the opportunity of a reexamination of decisions made by HRPA’s regulatory committees or by the Registrar.

Grounds for an appeal are limited to a denial of natural justice or an error on the record of the decision, unless otherwise stated in the Act or the By-laws.

The internal appeals process is an important aspect of HRPA’s regulatory framework. HRPA is committed to fair, transparent, and effective regulatory processes which includes access to an internal appeals process.

Please note: The purpose of an appeal is not to retry or re-decide the case. Individuals wishing to get a ‘second opinion’ should submit a new application or request for consideration (if applicable).

Difference Between Hearings and Reviews

HRPA has two types of appeals: hearings and reviews. Hearings shall only be held when the decision or order being appealed was made pursuant to a hearing, which applies only to decisions of the Discipline Committee, the Capacity Committee and the Review Committee. Appeals of decisions made by any other committee or the Registrar shall be conducted via a written review.

Reviews still afford procedural fairness in that both sides have an opportunity to make their case and to comment on the arguments made by the other side.

The standard of review for both hearings and reviews is reasonableness.

The Appeals Process

Who may appeal?

Unless otherwise stated in the Act or By-laws, any party in the original proceeding may appeal to the Appeal Committee. Individuals who were not a party to the original proceeding cannot appeal decisions of a regulatory committee or of the Registrar.

What decisions may be appealed?

Most orders or decisions of the Registrar as well as committees may be appealed to the Appeal Committee, including but not limited to decisions by the Experience Assessment Committee, the CHRE Review Committee, the Discipline Committee and the Complaints Committee. For a comprehensive list of appealable decisions please review s. 21.02 of the By-laws.
Parties

The parties to the appeal are the person requesting the appeal and HRPA. The Registrar or a delegate represents the Association at the review or the hearing.

Grounds for an appeal

An individual may wish to challenge a regulatory decision for a variety of reasons, which are referred to as the "grounds" for appeal. The By-laws establish that, unless otherwise stated in the Act or By-laws, the grounds of appeal are limited to a denial of natural justice or an error on the record of the decision of the committee or the Registrar.

The first ground for appeal is when the original committee or the Registrar denied the appellant natural justice. There are two basic requirements of natural justice: (1) that the individual had a fair opportunity to present their case, and (2) that the panel or individual making the decision was impartial.

Examples of denial of natural justice would include:

- Steps in the process were skipped or omitted without the consent of both parties
- Panel members who might have a conflict of interest failed to bring the potential conflict to the attention of the parties, or failed to take appropriate action based on the potential conflict of interest
- Proper notice of a proceeding was not given
- Evidence that should have been disclosed was not disclosed
- There was a denial of the right of representation
- There was a failure to inform participants of their rights where it was important to do so
- There was failure to follow established process or procedure
- Someone involved in the decision acted in bad faith

Other grounds for appeal include the committee or Registrar failing to consider the correct facts, or failing to apply the correct rule or policy in making their decision.

- The committee or Registrar failed to consider relevant facts (e.g., information submitted for a Validation of Experience application was not considered by the panel making the original decision)
- The committee applied a policy or rule incorrectly (e.g., the reasons included in the original decision make it clear that a rule was being applied that is not relevant to the decision being made)

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2 For example, section 36 of the Act provides that appeals of decisions of the Discipline Committee, Review Committee and Capacity Committee may relate to any question of law or mixed law fact and law.
The Appeal Committee

The Appeal Committee is a statutory committee of HRPA and is independent of the Board of Directors. The HRPA Board has no authority to review or reverse decisions of the Appeal Committee except in extraordinary circumstances under section 38 of the Act.

The Terms of Reference for the Appeal Committee, setting out the mandate, committee membership and panel constitution, are attached as Appendix F.

Panels

The Appeal Committee sits in panels of three. A decision of a panel of the Appeal Committee constitutes the decision of the Appeal Committee. Panel members are appointed by the Chair of the Appeal Committee from among the members of the Appeal Committee.

Requesting an Appeal

To request an appeal, an individual must complete a ‘Request for Appeal’ form which sets forth the grounds for the appeal. The Request for Appeal must be signed and filed with the Office of the Registrar within 30 calendar days from the date of notification of the decision being appealed.

There are no fees associated with the filing of a Request for Appeal.

Upon receipt of the Request for Appeal, the Office of the Registrar sends the appellant a confirmation of receipt and refers the matter to the Chair of the Appeal Committee. The Chair appoints a panel to consider the matter.

Insufficient grounds and jurisdiction

If, upon receipt of the Request for Appeal, the Chair of the Appeal Committee believes there may be no merit to the request or that it is frivolous or vexatious, he or she may strike a panel to determine if there are sufficient grounds to proceed with the appeal.

If it is determined that there are insufficient grounds for the appeal to proceed or the appeal is outside of the jurisdiction of the Appeal Committee, notice of the intent to dismiss the appeal will be sent to the appellant. The appellant is given 30 days to respond to the notice of the intent to dismiss, and provide additional information and/or evidence as to why the appeal should proceed. Once this 30-day period has passed, the panel will reconvene to consider any submission from the appellant and make a final decision as to whether the appeal shall be dismissed or if it is to proceed.

It’s fairly unusual that a Request for Appeal will be deemed to be without merit or to be outside of the jurisdiction of the committee. Most of the time, the chair of the Appeals Committee will strike a panel to conduct a full appeal or review.
Reviews

Reviews are based on written documentation only. Once a Request for Appeal has been filed for a review, the Registrar has 30 calendar days to submit a written response. The Registrar’s response is provided to the appellant, and the appellant has 30 calendar days to make any additional submissions in relation to the Registrar’s response but is not permitted to raise new grounds of appeal.

As part of their written submissions, both parties must provide any supporting documentation they want the Appeal Panel to consider during the review.

The submissions are provided to a panel of the Appeal Committee for review. If the panel requires further documentation or information from the appellant or the Registrar, the appellant or the Registrar shall provide the required documentation or information within the time and manner specified by the panel. Any and all submissions made by one party are shared with the other party.

Hearings

Where a hearing is required, the Appeal Committee shall conduct such a hearing in accordance with the Statutory Powers Procedure Act (“SPPA”) and the Appeal Committee Rules of Procedure.

In accordance with the SPPA, hearings can be held in person, in writing or electronically. The difference between a ‘written hearing’ as defined by the SPPA and a review is that the review is not conducted in public, there is no notice of hearing, and the outcome of a review is not published. Most hearings will be held in person or electronically, with written hearings being the exception. If the Appeal Committee decides to hold a written hearing, detailed instructions regarding the process for written hearings will be provided to the appellant at that time.

For in person and electronic hearings, the order of proceedings at the hearing will generally be as follows:

1. Opening remarks by the panel Chair (welcomes the parties to the appeal and introduces those present; may provide a brief overview of the order of proceedings)
2. Appellant’s submissions
3. Respondent’s submissions
4. Appellant’s reply
5. Closing remarks by the panel Chair

Documents brought forward at the hearing

Any party wishing to rely on documents at the hearing must serve the document or documents to the other party as well as the panel at least 10 days before the hearing. Neither party may bring documents to the hearing for consideration by the Appeal panel without previously having provided them to the other party. The essential issue is one of fairness—the other party would not have had the opportunity to review the document beforehand. It would also be unreasonable to expect the other party to review, consider, and reply to a document presented unexpectedly at the hearing.
However, parties are not required to serve and file their submissions in advance of the hearing, unless the Appeal Committee orders otherwise.

**Timing**

HRPA strives to ensure that any appeal is considered in a timely manner. Keeping in mind that the Appeal Committee is comprised of volunteers, the Office of the Registrar endeavours to schedule the hearing or the review as quickly as it is feasible to do so. For hearings, the Office of the Registrar gives notice to the parties and to HRPA’s witnesses, if any, as to the date, time, and place appointed for the hearing.

**Representation**

The appellant may be assisted by a representative during the review or at the hearing if he or she wishes.

**Evidence**

Because an appeal is not a retrial of the original proceeding, the parties are typically not allowed to present new evidence that was not before the original decision-maker. The By-laws provide for exceptions, however, including if the evidence is about the decision-making process and is being presented to advance an argument that there was a denial of natural justice. The Appeal Committee may also accept new evidence if:

- it is credible;
- if admitted, it would probably have an important influence on the result; and
- it could not have been obtained by reasonable diligence at the time of the original decision.

Not all information is admissible as evidence, and not all evidence is fact. In deciding whether to admit evidence, the Appeal Committee will consider the following factors:

- Is the evidence **relevant**? (Does it relate to the process by which the original decision was made?)
- Is the evidence reliable? (Can it be trusted?)
- Is the evidence necessary? (Is the evidence needed or does it simply repeat other evidence already given that is not in dispute?)
- Would it be fair to admit it? (Is the value of the evidence greater than any harm that may be caused by admitting it?)

Evidence is relevant if it tends to prove or disprove a matter the panel must decide. Evidence is reliable if it comes from a credible, preferably first-hand, source. The more relevant and reliable the evidence, the greater the weight it can be given. Evidence that is unnecessary should not be admitted. Evidence that may cause more harm than the value it will provide should also not be admitted.
It is for this reason that ‘new’ evidence related to the original decision that was not available to the panel that made that decision is usually not admissible; a committee or the Registrar cannot be faulted for not considering information that was not presented for consideration in making the original decision. For example, a member who is appealing a decision of the Experience Assessment Committee regarding their Validation of Experience application will usually not be permitted to present information explaining their experience (e.g., a letter from their employer) that was not presented to the panel that made the original decision.

**Expert evidence**

Expert evidence that was not available to the original decision-makers must meet the same admissibility standards as all other fresh evidence.

Experts are individuals who have comprehensive knowledge of a particular area or matter due to education, training, skill or experience.

If one of the parties wants to present expert evidence, the other party must be given sufficient time to review the expert evidence and seek out their own expert advice if they wish to do so. The introduction of expert evidence by either or both parties will lengthen the proceedings. Any party wishing to introduce expert evidence must notify the Chair of the panel at least 10 days before the scheduled appeal or review to allow for sufficient time to reschedule the appeal or review. As part of the notification, the party must also inform the Chair of the date on which the expert report is to be received. This date must be within 30 days of the notice that expert evidence is to be submitted. The party obtaining an expert opinion must forward the report to the Chair of the panel and to the other party. The other party has 30 days from receipt of the expert report to obtain their own expert opinion.

**Access to records**

Staff support for the Appeal Committee shall prepare, at the expense of the appellant, sufficient quantities of the record of the decision under appeal. Information about an examination that would undermine the security of the examination may be withheld.

HRPA may refuse access to a record if:

- a. The record or any information in the record is subject to a legal privilege that restricts disclosure of the record or the information, as the case may be.
- b. Another Act, an Act of Canada or a court order prohibits disclosure of the record or any information in the record in the circumstances.
- c. Granting the access could reasonably be expected to lead to the identification of a person who provided information in the record to the regulated profession explicitly or implicitly in confidence, and the regulated profession considers it appropriate in the circumstances that the identity of the person be kept confidential.
- d. Granting access could negatively affect public safety or could undermine the integrity of the regulatory process.
Despite the above, an appellant has a right of access to that part of a record that can reasonably be severed from the part to which the appellant does not have a right of access for one of the reasons given above.

**Potential Outcomes Following a Review or a Hearing**

Following a review or a hearing, the Appeal Committee may, unless otherwise stated in the Act or the By-laws:

- Make any decision or order that could have been made by the original committee or Registrar;
- Order a new proceeding before a new panel of the original committee or Registrar; or
- Dismiss the appeal.

On the other hand, the panel may not:

- Make any decision or order that would contravene the Act, any By-law of the Association or any approved policy of the Board;
- Make a decision that is beyond the scope of authority of the original committee or the Registrar;
- Order that an individual be deemed to have passed the exam when the individual has not;
- Waive non-exemptible requirements such as the degree requirement; or
- Grant any designation to an individual who does not meet the non-exemptible requirements.

In most cases, the Appeal Panel will release its written decision within thirty to forty-five days after the review or hearing.

**Finality of decisions of the panel**

Unless the panel directs otherwise, a decision or order of the appeal panel takes effect immediately.

In almost every case, a decision or order of the panel is final. However, if a decision of the panel to suspend or revoke a member’s membership or a firm’s registration has become effective, the Board may by special resolution rescind or alter the order. Also, all Appeal Committee panel decisions may be subject to judicial review by the Divisional Court.
A Request for Appeal is filed with the Office of the Registrar by a party to a decision.

The Chair of the Appeal Committee appoints a panel to hear the matter.

The panel is of the opinion that there are sufficient grounds and jurisdiction to conduct an appeal or review.

- For a hearing, a date is scheduled taking into account the availability of all parties.
  - A pre-hearing conference may be conducted to address issues that may arise at the hearing.
  - The hearing proceeds according to the rules of procedure.

- The panel makes a decision or order that could have been made by the Committee or person appealed from.

The panel informs the parties of its intent to dismiss the appeal or review and provides the parties with an opportunity to make submissions in regards to the intent to dismiss the appeal or review.

- The panel reviews the submissions (if any) and makes a final decision as to whether to dismiss the appeal or review or to proceed to an appeal or review.

- The panel decides to proceed to an appeal or review.

- The panel orders a new proceeding before the Committee or person appealed from.

- The panel decides to uphold the original decision.

- The panel dismisses the appeal or review.
### HRPA Registration Committee

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<th>TERMS OF REFERENCE</th>
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#### MANDATE OF COMMITTEE:

The Registration Committee is a standing committee established pursuant to Section 8.04 of the By-laws.

The Registration Committee shall review every application referred to it by the Registrar to determine the suitability of an applicant for registration or the appropriateness of the category of registration being applied for. The Registration Committee also considers applications for removal or modification of any term, condition or limitation previously imposed on a registrant’s registration with HRPA.

The Registration Committee does not have the authority to deem that an applicant has met the requirements for registration where the registration requirement is prescribed as non-exemptible.

#### REPORTING RELATIONSHIPS AND REQUIREMENTS:

The Registration Committee operates independently of the Board. This means that the Registration Committee shall make all decisions required of it in accordance with the criteria established by the Board independently of the Board and the Registration Committee shall not report to the Board on individual cases. However, the Registration Committee shall report to the Board on its general business (e.g. numbers of applications referred, number of registrations granted, and trends).

The Registrar shall provide administrative support to the Registration Committee.

Staff support to the Registration Committee is responsible for managing all correspondence with the applicants in regards to any application for registration referred to the Registration Committee, for scheduling panel reviews, and for maintaining records of all applications and panel reviews.

#### COMMITTEE RESPONSIBILITIES:

The Registration Committee shall abide by the Act and the By-laws.

The members of the Academic Standards Committee are subject to the HRPA Code of Conduct for Members of Adjudicative Committees and the Code of Conduct for Volunteers and shall attest in writing to the fact that they have familiarized themselves with the Codes and agree to abide by their rules.

As per Section 62 of the Act, every member of the Registration Committee shall preserve secrecy respecting information or material that comes to his or her knowledge or possession in the course of his or her duties under the By-laws, and shall not disclose any such information or material to any person except in the situations provided for in the Act.

In addition to carrying out its mandate under the By-laws, the Registration Committee may conduct business meetings for the purpose of managing the work of the Committee and for training and development purposes. Such business meetings shall be convened by the Chair of the Registration Committee.

#### COMMITTEE MEMBERSHIP:

The Registration Committee Chair is appointed by the Registrar.

The Vice-Chair is selected as per the Board-approved process and appointed by the Committee Chair.
There shall be a minimum of three people who have their Certified Human Resources Leader (CHRL) and/or Certified Human Resources Executive (CHRE) designation in good standing on the Committee.

There shall be a minimum of two Public Representatives on the Committee.

Members are appointed by the Chair of the Registration Committee and the committee roster is reviewed by the Board annually.

3 members of the Registration Committee shall constitute quorum for a business meeting of the Registration Committee.

No member of the Registration Committee shall be permitted to serve on the Appeals Committee during their tenure on the Registration Committee. Also, no former member of the Registration Committee shall sit on an Appeals Committee review of a decision they were a part of.

Members serve a three-year term renewable to a maximum of two terms (six years total).

In exceptional circumstances, the Chair of the Registration Committee can submit formal requests to the Registrar to extend the term of a member of the Registration Committee as required.

| PANEL CONSTITUTION: | In accordance with Section 8.06 of the By-laws, the Registration Committee may sit in panels for the purposes of exercising its powers and performing its duties under the Act, the By-laws, and for any other purpose. A decision of a panel of a committee constitutes a decision of the committee. A panel of the Registration Committee shall be selected by the Committee Chair from amongst the members of the Registration Committee. Each panel must include one CHRL or CHRE member as well as one Public Representative.
A panel shall consist of three members of the Registration Committee. 2 members of a panel may constitute quorum if a member of a panel is no longer able to continue their duties as a member of the panel. In such cases, the two panel members must agree on any decision. If the panel members do not agree on a decision, the matter will be referred to a new panel.
Where the Registrar is of the opinion that membership should be granted to an applicant with restrictions or conditions imposed and the applicant consents, the Registrar may impose the restrictions or conditions with the approval of a panel of the Registration Committee selected by the Chair. For this purpose, a proceeding may be heard by a panel of one. |
| BUDGETARY AUTHORITY: | The budget for the Registration Committee is approved by the Board with input from the Committee. The Registration Committee will have a budget to cover meeting and event expenses where appropriate. |
| LIMITATIONS: | In discharging its duties under the By-laws, each member of the Registration Committee shall be obliged to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. |

Approved by CEO, August 26, 2016
Appendix B
# HRPA Complaints Committee

## TERMS OF REFERENCE

<p>| MANDATE OF COMMITTEE: | The Complaints Committee is a statutory committee established pursuant to Section 12 of the Registered Human Resources Professionals Act, 2013 (the “Act”) and the By-laws. The Complaints Committee shall review every complaint referred to it under Section 31 of the Act regarding the conduct of a member of the Association or a firm and, if the complaint contains information suggesting that the member or firm may be guilty of professional misconduct as defined in the by-laws, the committee shall investigate the matter. Following the investigation pf a complaint, the complaints committee may direct that the matter be referred, in whole or in part, to the discipline committee; direct that the matter not be referred to the discipline committee; negotiate a settlement agreement between the Association and the member or firm and refer the agreement to the discipline committee for approval; or take any action that it considers appropriate in the circumstances and that is not inconsistent with the Act or the by-laws, including cautioning or admonishing the member or firm. |
| REPORTING RELATIONSHIPS AND REQUIREMENTS: | The Complaints Committee operates independently of the Board. This means that the Complaints Committee shall make all decisions required of it under the Act independently of the Board and the Complaints Committee shall not report to the Board on individual cases. However, the Complaints Committee shall report to the Board on its general business (e.g. numbers of complaints, numbers of referrals to discipline, and trends). The Registrar shall provide administrative support to the Complaints Committee. Staff support to the Complaints Committee is responsible for managing all correspondence with the parties in regards to any matter referred to the Complaints Committee, for scheduling panels, and for maintaining a record of all proceedings. In conducting its duties under the Act, the Complaints Committee shall have access to Independent Legal Counsel (ILC) when such legal advice is considered to be necessary or prudent by the panel. Decisions of the Complaints Committee are appealable to HRPA’s Appeal Committee. A referral to the Discipline or Capacity Committee does not constitute a decision and as such cannot be appealed. |
| COMMITTEE RESPONSIBILITIES: | The Complaints Committee shall abide by the Act and By-laws. The members of the Complaints Committee are subject to the HRPA Code of Conduct for Members of Adjudicative Committees and the Code of Conduct for Volunteers and shall attest in writing to the fact that they have familiarized themselves with the Codes and agree to abide by their rules. As per Section 62 of the Act, every member of the Complaints Committee shall preserve secrecy respecting information or material that comes to his or her knowledge or possession in the course of his or her duties under the Act, and shall not disclose any such information or material to any person except in the situations provided for in the Act. In addition to carrying out its mandate under Section 31 of the Act, the Complaints Committee may conduct business meetings for the purpose of managing the work of the Committee and for training and development purposes. Such business meetings shall be... |</p>
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<tr>
<th>COMMITTEE MEMBERSHIP:</th>
<th>convened by the Chair of the Complaints Committee.</th>
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<tbody>
<tr>
<td></td>
<td>The Complaints Committee Chair is appointed by the Registrar.</td>
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<td></td>
<td>The Vice-Chair is selected as per the Board-approved process and appointed by the Committee Chair.</td>
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<tr>
<td></td>
<td>There shall be a minimum of three people who have their CHRL and/or CHRE designation in good standing on the Committee.</td>
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<td></td>
<td>There shall be a minimum of one Public Representative on the Committee.</td>
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<td></td>
<td>Members are appointed by the Chair of the Complaints Committee and the committee roster is reviewed by the Board annually.</td>
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<td></td>
<td>3 members of the Complaints Committee shall constitute quorum for a business meeting of the Complaints Committee.</td>
</tr>
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<td></td>
<td>No member of the Complaints Committee shall be permitted to serve on the Appeals Committee or Discipline Committee during their tenure on the Complaints Committee. Also, no former member of the Complaints Committee shall sit on an Appeals Committee review of a decision which they were part of.</td>
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<td></td>
<td>Members serve a three-year term renewable to a maximum of two terms (six years total). In circumstances where a member’s participation in a panel review of complaints case has yet to be resolved, the member’s term may be extended to case completion.</td>
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<td></td>
<td>In exceptional circumstances, the Chair of the Complaints Committee can submit formal requests to the Board to extend the term of a member of the Complaints Committee as required.</td>
</tr>
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<td>PANEL CONSTITUTION:</td>
<td>In accordance with the Section 8.06 of the By-laws, the Committee may sit in panels for the purposes of exercising its powers and performing its duties under the Act, the By-laws, and for any other purpose. A decision of a panel of a committee constitutes a decision of the committee. A panel of the Complaints Committee shall be selected by the Committee Chair from amongst the members of the Complaints Committee.</td>
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<td></td>
<td>A panel shall consist of three members of the Complaints Committee; one must be a CHRL or CHRE in good standing and one must be a Public Representative.</td>
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<td>2 members of a panel may constitute quorum if a member of a panel is no longer able to continue their duties as a member of the panel. In such cases, the two panel members must agree on any decision. If the panel members do not agree on a decision, the matter will be referred to a new panel.</td>
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BUDGETARY AUTHORITY: The budget for the Complaints Committee is approved by the Board with input from the Committee. The Complaints Committee will have a budget to cover meeting and event expenses where appropriate.

LIMITATIONS: In discharging its duties under the By-laws, each member of the CHRE Review Committee shall be obliged to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Approved by CEO, August 26, 2016
Appendix C
# HRPA Discipline Committee

## TERMS OF REFERENCE

<p>| MANDATE OF COMMITTEE: | The Discipline Committee is a statutory committee established pursuant to Section 12 of the <em>Registered Human Resources Professionals Act, 2013</em> (the “Act”) and the By-laws. The Discipline Committee shall hear every matter referred to it by the Complaints Committee under Section 34 of the Act to determine whether the member or firm is guilty of professional misconduct as defined in the by-laws and if the Committee finds a member or firm guilty of professional misconduct, to exercise any of the powers granted to it under Subsection 34(4) of the Act. |
| REPORTING RELATIONSHIPS AND REQUIREMENTS: | The Discipline Committee operates independently of the Board. This means that the Discipline Committee shall make all decisions required of it under the Act independently of the Board and the Discipline Committee shall not report to the Board on individual cases. However, the Discipline Committee shall report to the Board on its general business (e.g. numbers of referrals, numbers of hearings, and trends). The Registrar shall provide administrative support to the Discipline Committee. Staff support to the Discipline Committee is responsible for managing all correspondence with the parties in regards to any matter referred to the Discipline Committee, for scheduling hearings, and for maintaining a record of all proceedings. In conducting its duties under the Act, the Discipline Committee shall have access to Independent Legal Counsel (ILC) when such legal advice is considered to be necessary or prudent by the panel. The decisions of the Discipline Committee are appealable to HRPA’s Appeal Committee. |
| COMMITTEE RESPONSIBILITIES: | The Discipline Committee shall abide by the <em>Act</em> and By-laws. In the conduct of hearings, the Committee shall abide by the <em>Statutory Powers Procedure Act, 1990</em>. As provided for by the <em>Statutory Powers Procedure Act, 1990</em>, the Discipline Committee may make rules governing the practice and procedure before it. As required by the <em>Statutory Powers Procedure Act, 1990</em>, the Discipline Committee shall make any rules or guidelines that it establishes available for examination by the public. The members of the Discipline Committee are subject to the HRPA Code of Conduct for Members of Adjudicative Committees and the Code of Conduct for Volunteers and shall attest in writing to the fact that they have familiarized themselves with the Codes and agree to abide by their rules. As per Section 62 of the Act, every member of the Discipline Committee shall preserve secrecy respecting information or material that comes to his or her knowledge or possession in the course of his or her duties under the Act, and shall not disclose any such information or material to any person except in the situations provided for in the <em>Act</em>. In addition to carrying out its mandate under Section 34 of the Act, the Discipline Committee may conduct business meetings for the purpose of managing the work of the Committee and for training and development purposes. Such business meetings shall be |</p>
<table>
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<tr>
<th><strong>GENERAL MEMBERSHIP:</strong></th>
<th>convened by the Chair of the Discipline Committee.</th>
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<tbody>
<tr>
<td><strong>The Discipline Committee Chair is appointed by the Registrar:</strong></td>
<td>The Vice-Chair is selected as per the Board-approved process and appointed by the Committee Chair.</td>
</tr>
<tr>
<td></td>
<td>There shall be a minimum of three people who have their CHRL and/or CHRE designation in good standing on the Committee.</td>
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<td>There shall be a minimum of two Public Representatives on the Committee.</td>
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<td>There shall be a minimum of two lawyers on the Committee.</td>
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<td></td>
<td>Members are appointed by the Chair of the Discipline Committee and the committee roster is reviewed by the Board annually.</td>
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<td></td>
<td>3 members of the Discipline Committee shall constitute quorum for a business meeting of the Discipline Committee.</td>
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<tr>
<td></td>
<td>No member of the Discipline Committee shall be permitted to serve on the Complaints Committee or the Appeals Committee during their tenure on the Discipline Committee. Also, no former member of the Discipline Committee shall sit on an Appeals Committee review of a decision which they were part of.</td>
</tr>
<tr>
<td></td>
<td>Members serve a three-year term renewable to a maximum of two terms (six years total). In accordance with Section 4.3 of the <em>Statutory Powers Procedure Act, 1990</em>, if the term of a Committee member who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose.</td>
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<tr>
<td></td>
<td>In exceptional circumstances, the Chair of the Discipline Committee can submit formal requests to the Board to extend the term of a member of the Discipline Committee as required.</td>
</tr>
<tr>
<td><strong>PANEL CONSTITUTION:</strong></td>
<td>In accordance with the Section 8.06 of the By-laws, the Committee may sit in panels for the purposes of exercising its powers and performing its duties under the Act, the By-laws, and for any other purpose. A decision of a panel of a committee constitutes a decision of the committee.</td>
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<td>A Presider for the pre-hearing conference(s) shall be selected by the Committee Chair from amongst the members of the Discipline Committee. Any Committee Member who has participated in a pre-hearing conference cannot be assigned to sit on the Hearing Panel should the matter proceed to a hearing.</td>
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<td></td>
<td>A panel of the Discipline Committee shall be selected by the Committee Chair from amongst the members of the Discipline Committee.</td>
</tr>
<tr>
<td></td>
<td>A panel shall generally consist of three members of the Discipline Committee; one must be a CHRL or CHRE in good standing and one must be a Public Representative. In limited circumstances and where both parties to a proceeding agree, a proceeding may be heard by a panel of one member of the Discipline Committee.</td>
</tr>
<tr>
<td></td>
<td>2 members of a panel may constitute quorum if a member of a panel is no longer able to continue their duties as a member of the panel. In such cases, the two panel members must agree on any decision. If the panel members do not agree on a decision, the matter will be referred to a new panel.</td>
</tr>
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</table>
| **BUDGETARY AUTHORITY:** | The budget for the Discipline Committee is approved by the Board with input from the Committee.  
The Discipline Committee will have a budget to cover meeting expenses where appropriate.  
The budget shall permit the Discipline Committee to have access to Independent Legal Counsel (ILC). |
| **LIMITATIONS:** | In discharging its duties under the Act, each member of the Discipline Committee shall be obliged to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. |

*Approved by CEO, August 26, 2016*
Appendix D
# HRPA Capacity Committee

## TERMS OF REFERENCE

### MANDATE OF COMMITTEE:

The Capacity Committee is a statutory committee established pursuant to Section 12 of the *Registered Human Resources Professionals Act, 2013* (the “Act”) and the By-laws. The Capacity Committee shall hear every matter referred to it by the Association under Section 47 of the Act to determine whether the member is incapacitated, and if the Committee finds a member is incapacitated, to exercise any of the powers granted to it under Subsection 47(8) of the Act.

### REPORTING RELATIONSHIPS AND REQUIREMENTS:

The Capacity Committee operates independently of the Board. This means that the Capacity Committee shall make all decisions required of it under the Act independently of the Board and the Capacity Committee shall not report to the Board on individual cases. However, the Capacity Committee shall report to the Board on its general business (e.g. numbers of referrals, numbers of hearings, and trends).

The Registrar shall provide administrative support to the Capacity Committee.

Staff support to the Capacity Committee is responsible for managing all correspondence with the parties in regards to any matter referred to the Capacity Committee, for scheduling hearings, and for maintaining a record of all proceedings.

In conducting its duties under the Act, the Capacity Committee shall have access to Independent Legal Counsel (ILC) when such legal advice is considered to be necessary or prudent by the panel.

Decisions of the Capacity Committee are appealable to HRPA’s Appeal Committee.

### COMMITTEE RESPONSIBILITIES:

The Capacity Committee shall abide by the Act and By-laws.

In the conduct of hearings, the Committee shall abide by the *Statutory Powers Procedure Act, 1990*.

As provided for by the *Statutory Powers Procedure Act, 1990*, the Capacity Committee may make rules governing the practice and procedure before it. As required by the *Statutory Powers Procedure Act, 1990*, the Capacity Committee shall make any rules or guidelines that it establishes available for examination by the public.

The members of the Capacity Committee are subject to the HRPA Code of Conduct for Members of Adjudicative Committees and the Code of Conduct for Volunteers and shall attest in writing to the fact that they have familiarized themselves with the Codes and agree to abide by their rules.

As per Section 62 of the Act, every member of the Capacity Committee shall preserve secrecy respecting information or material that comes to his or her knowledge or possession in the course of his or her duties under the Act, and shall not disclose any such information or material to any person except in the situations provided for in the Act.

In addition to carrying out its mandate under Section 47 of the Act, the Capacity Committee may conduct business meetings for the purpose of managing the work of the Committee and for training and development purposes. Such business meetings shall be convened by the Chair of the Capacity Committee.
| COMMITTEE MEMBERSHIP: | The Capacity Committee Chair is appointed by the Registrar.  
The Vice-Chair is selected as per the Board-approved process and appointed by the Committee Chair.  
There shall be a minimum of three people who have their CHRL and/or CHRE designation in good standing on the Committee.  
There shall be a minimum of two Public Representatives on the Committee.  
There shall be a minimum of one lawyer on the Committee.  
3 members of the Capacity Committee shall constitute quorum for a business meeting of the Capacity Committee.  
No member of the Capacity Committee shall be permitted to serve on the Complaints Committee or the Appeals Committee during their tenure on the Capacity Committee.  
Also, no former member of the Capacity Committee shall sit on an Appeals Committee review of a decision which they were part of.  
Members serve a three-year term renewable to a maximum of two terms (six years total). In accordance with Section 4.3 of the Statutory Powers Procedure Act, 1990, if the term of a Committee member who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose.  
In exceptional circumstances, the Chair of the Capacity Committee can submit formal requests to the Board to extend the term of a member of the Capacity Committee as required. |
| --- | --- |
| PANEL CONSTITUTION: | In accordance with the Section 8.06 of the By-laws, the Committee may sit in panels for the purposes of exercising its powers and performing its duties under the Act, the By-laws, and for any other purpose. A decision of a panel of a committee constitutes a decision of the committee.  
A Presider for the pre-hearing conference(s) shall be selected by the Committee Chair from amongst the members of the Capacity Committee. Any Committee Member who has participated in a pre-hearing conference cannot be assigned to sit on the Hearing Panel should the matter proceed to a hearing.  
A panel of the Capacity Committee shall be selected by the Committee Chair from amongst the members of the Capacity Committee.  
A panel shall generally consist of three members of the Capacity Committee; one must be a CHRL or CHRE in good standing and one must be a Public Representative. In limited circumstances and where both parties to a proceeding agree, a proceeding may be heard by a panel of one member of the Capacity Committee.  
2 members of a panel may constitute quorum if a member of a panel is no longer able to continue their duties as a member of the panel. In such cases, the two panel members must agree on any decision. If the panel members do not agree on a decision, the matter will be referred to a new panel. |
| BUDGETARY AUTHORITY: | The budget for the Capacity Committee is approved by the Board with input from the Committee.  
The Capacity Committee will have a budget to cover meeting expenses where
appropriate.
The budget shall permit the Capacity Committee to have access to Independent Legal Counsel (ILC).

| LIMITATIONS: | In discharging its duties under the Act, each member of the Capacity Committee shall be obliged to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. |

Approved by CEO, August 26, 2016
Appendix E
## HRPA Review Committee

### TERMS OF REFERENCE

| MANDATE OF COMMITTEE: | The Review Committee is a statutory committee established pursuant to Section 12 of the Registered Human Resources Professionals Act, 2013 (the “Act”) and the By-laws. The Review Committee shall review every matter referred to it by the Registrar under Section 40 of the Act to determine whether the member or firm’s bankruptcy or insolvency event may pose a risk of harm to any person; to direct the Registrar to investigate the matter; to determine whether a hearing is warranted; to conduct hearings when warranted to determine whether the member or firm’s bankruptcy or insolvency event poses a risk of harm to any person; and upon a determination that there are reasonable grounds for believing that the member or firm’s bankruptcy or insolvency event poses or may pose a risk of harm to any person following a hearing, to exercise any of the powers granted to it under Subsection 41(8) of the Act. |
| REPORTING RELATIONSHIPS AND REQUIREMENTS: | The Review Committee operates independently of the Board. This means that the Review Committee shall make all decisions required of it under the Act independently of the Board and the Review Committee shall not report to the Board on individual cases. However, the Review Committee shall report to the Board on its general business (e.g. numbers of referrals, numbers of hearings, and trends). The Registrar shall provide administrative support to the Review Committee. Staff support to the Review Committee is responsible for managing all correspondence with the parties in regards to any matter referred to the Review Committee, for scheduling hearings, and for maintaining a record of all proceedings. In conducting its duties under the Act, the Review Committee shall have access to Independent Legal Counsel (ILC) when such legal advice is considered to be necessary or prudent by the panel. |
| COMMITTEE RESPONSIBILITES: | The Review Committee shall abide by the Act and By-laws. In the conduct of hearings, the Committee shall abide by the Statutory Powers Procedure Act, 1990. As provided for by the Statutory Powers Procedure Act, 1990, the Review Committee may make rules governing the practice and procedure before it. As required by the Statutory Powers Procedure Act, 1990, the Review Committee shall make any rules or guidelines that it establishes available for examination by the public. The members of the Review Committee are subject to the HRPA Code of Conduct for Members of Adjudicative Committees and the Code of Conduct for Volunteers and shall attest in writing to the fact that they have familiarized themselves with the Codes and agree to abide by their rules. As per Section 62 of the Act, every member of the Review Committee shall preserve secrecy respecting information or material that comes to his or her knowledge or possession in the course of his or her duties under the Act, and shall not disclose any such information or material to any person except in the situations provided for in the Act. In addition to carrying out its mandate under Section 41 of the Act, the Review Committee may conduct business meetings for the purpose of managing the work of the |

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| **GENERAL MEMBERSHIP:** | Committee and for training and development purposes. Such business meetings shall be convened by the Chair of the Review Committee. The Review Committee Chair is appointed by the Registrar. The Vice-Chair is selected as per the Board-approved process and appointed by the Committee Chair. There shall be a minimum of three people who have their CHRL and/or CHRE designation in good standing on the Committee. There shall be a minimum of one Public Representative on the Committee. Members are appointed by the Chair of the Review Committee and the committee roster is reviewed by the Board annually. 3 members of the Review Committee shall constitute quorum for a business meeting of the Review Committee. No member of the Review Committee shall be permitted to serve on the Appeals Committee or Discipline Committee during their tenure on the Review Committee. Also, no former member of the Review Committee shall sit on an Appeals Committee review of a decision which they were part of. Members serve a three-year term renewable to a maximum of two terms (six years total). In accordance with Section 4.3 of the *Statutory Powers Procedure Act, 1990*, if the term of a Committee member who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose. In exceptional circumstances, the Chair of the Review Committee can submit formal requests to the Board to extend the term of a member of the Review Committee as required. |
| **PANEL CONSTITUTION:** | In accordance with the Section 8.06 of the By-laws, the Committee may sit in panels for the purposes of exercising its powers and performing its duties under the Act, the By-laws, and for any other purpose. A decision of a panel of a committee constitutes a decision of the committee. A panel of the Review Committee shall be selected by the Committee Chair from amongst the members of the Review Committee. A panel shall consist of three members of the Review Committee; one must be a CHRL or CHRE in good standing and one must be a Public Representative. 2 members of a panel may constitute quorum if a member of a panel is no longer able to continue their duties as a member of the panel. In such cases, the two panel members must agree on any decision. If the panel members do not agree on a decision, the matter will be referred to a new panel. |
| **BUDGETARY AUTHORITY:** | The budget for the Review Committee is approved by the Board with input from the Committee. The Review Committee will have a budget to cover meeting expenses where appropriate. The budget shall permit the Review Committee to have access to Independent Legal Counsel (ILC). |
| **LIMITATIONS:** | In discharging its duties under the Act, each member of the Review Committee shall be... |
| obliged to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. |

*Approved by CEO, August 26, 2016*
Appendix F
# HRPA Appeal Committee

## TERMS OF REFERENCE

<table>
<thead>
<tr>
<th>MANDATE OF COMMITTEE:</th>
<th>The Appeal Committee is a statutory committee established pursuant to Section 12 of the <em>Registered Human Resources Professionals Act, 2013</em> (the “Act”) and the By-laws. The Appeal Committee shall review every appeal filed under the Act and the By-laws by registrants of HRPA or members of the public to determine whether there was a denial of natural justice or an error on the record of the decision of the committee or the Registrar and to exercise any of the powers granted to it under the Act and Section 21.10 of the By-laws.</th>
</tr>
</thead>
<tbody>
<tr>
<td>REPORTING RELATIONSHIPS AND REQUIREMENTS:</td>
<td>The Appeal Committee operates independently of the Board. This means that the Appeal Committee shall make all decisions required of it under the Act independently of the Board and the Appeal Committee shall not report to the Board on individual cases. However, the Appeal Committee shall report to the Board on its general business (e.g. numbers of appeals, numbers of hearings or reviews, and trends). The Registrar shall provide administrative support to the Appeal Committee. Staff support to the Appeal Committee is responsible for managing all correspondence with the parties in regards to any matter referred to the Appeal Committee, for scheduling hearings or reviews, and for maintaining a record of all proceedings. In conducting its duties under the Act, the Appeal Committee shall have access to Independent Legal Counsel (ILC) when such legal advice is considered to be necessary or prudent by the panel. Decisions of the Appeal Committee are final unless otherwise provided for in the Act.</td>
</tr>
<tr>
<td>COMMITTEE RESPONSIBILITIES:</td>
<td>The Appeal Committee shall abide by the Act and By-laws. The Appeal Committee shall conduct hearings for any appeal of a decision of the Discipline Committee, the Capacity Committee or the Review Committee. The Appeal Committee shall conduct reviews for any other appeal. In the conduct of hearings, the Committee shall abide by the <em>Statutory Powers Procedure Act, 1990</em>. As provided for by the <em>Statutory Powers Procedure Act, 1990</em>, the Appeal Committee may make rules governing the practice and procedure before it with respect to hearings. As required by the <em>Statutory Powers Procedure Act, 1990</em>, the Appeal Committee shall make any rules or guidelines that it establishes for hearings available for examination by the public. The members of the Appeal Committee are subject to the HRPA Code of Conduct for Members of Adjudicative Committees and the Code of Conduct for Volunteers and shall attest in writing to the fact that they have familiarized themselves with the Codes and agree to abide by their rules. As per Section 62 of the Act, every member of the Appeal Committee shall preserve secrecy respecting information or material that comes to his or her knowledge or possession in the course of his or her duties under the Act, and shall not disclose any such information or material except as permitted under the Act.</td>
</tr>
</tbody>
</table>
In addition to carrying out its mandate under the Act and the By-laws, the Appeal Committee may conduct business meetings for the purpose of managing the work of the Committee and for training and development purposes. Such business meetings shall be convened by the Chair of the Appeal Committee.

<table>
<thead>
<tr>
<th>COMMITTEE MEMBERSHIP:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Appeal Committee Chair is appointed by the Registrar.</td>
</tr>
<tr>
<td>The Vice-Chair is selected as per the Board-approved process and appointed by the Committee Chair.</td>
</tr>
<tr>
<td>There shall be a minimum of three people who have their CHRL and/or CHRE designation in good standing on the Committee.</td>
</tr>
<tr>
<td>There shall be a minimum of two Public Representatives on the Committee.</td>
</tr>
<tr>
<td>There shall be a minimum of two lawyers on the Committee.</td>
</tr>
<tr>
<td>Members are appointed by the Chair of the Appeal Committee and the committee roster is reviewed by the Board annually.</td>
</tr>
<tr>
<td>3 members of the Appeal Committee shall constitute quorum for a business meeting of the Appeal Committee.</td>
</tr>
<tr>
<td>No member of the Appeal Committee shall be permitted to serve on any other committee of the Association during their tenure on the Appeal Committee. Also, no former member of another committee shall sit on an Appeals Committee review of a decision which they were part of.</td>
</tr>
<tr>
<td>Members serve a three-year term renewable to a maximum of two terms (six years total). In accordance with Section 4.3 of the Statutory Powers Procedure Act, 1990, if the term of a Committee member who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose.</td>
</tr>
<tr>
<td>In exceptional circumstances, the Chair of the Appeal Committee can submit formal requests to the Board to extend the term of a member of the Appeal Committee as required.</td>
</tr>
</tbody>
</table>
| PANEL CONSTITUTION: | In accordance with the Section 8.06 of the By-laws, the Committee may sit in panels for the purposes of exercising its powers and performing its duties under the Act, the By-laws, and for any other purpose. A decision of a panel of a committee constitutes a decision of the committee. A panel of the Appeal Committee shall be selected by the Committee Chair from amongst the members of the Appeal Committee.

A panel shall consist of three members of the Appeal Committee; one must be a CHRL or CHRE in good standing and one must be a Public Representative.

2 members of a panel may constitute quorum if a member of a panel is no longer able to continue their duties as a member of the panel. In such cases, the two panel members must agree on any decision. If the panel members do not agree on a decision, the matter will be referred to a new panel.

If the matter of the appeal was as a result of proceedings which were open to the public, the appeal shall also be open to the public.

Only panel members who have participated in the appeal may participate in panel deliberations and decision-making in regard to the matter at hand. |
| BUDGETARY AUTHORITY: | The budget for the Appeal Committee is approved by the Board with input from the Committee.

The Appeal Committee will have a budget to cover meeting expenses where appropriate.

The budget shall permit the Appeal Committee to have access to Independent Legal Counsel (ILC). |
| LIMITATIONS: | In discharging its duties under the Act, each member of the Appeal Committee shall be obliged to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. |

*Approved by CEO, August 26, 2016*
Appendix G
Statutory Powers Procedure Act

R.S.O. 1990, CHAPTER S.22

Consolidation Period: From November 3, 2015 to the e-Laws currency date.

Last amendment: 2015, c. 23, s. 5.

Legislative History: 1993, c. 27, Sched.; 1994, c. 27, s. 56; 1997, c. 23, s. 13; 1999, c. 12, Sched. B, s. 16; 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. B, s. 21; 2006, c. 19, Sched. C, s. 1 (1, 2, 4); 2006, c. 21, Sched. C, s. 134; 2006, c. 21, Sched. F, s. 136 (1); 2009, c. 33, Sched. 6, s. 87; 2015, c. 23, s. 5.

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Interpretation

1. (1) In this Act,

“electronic hearing” means a hearing held by conference telephone or some other form of electronic technology allowing persons to hear one another; (“audience électronique”)

“hearing” means a hearing in any proceeding; (“audience”)

“licence” includes any permit, certificate, approval, registration or similar form of permission required by law; (“autorisation”)

“municipality” has the same meaning as in the Municipal Affairs Act; (“municipalité”)

“oral hearing” means a hearing at which the parties or their representatives attend before the tribunal in person; (“audience orale”)

“proceeding” means a proceeding to which this Act applies; (“instance”)

“representative” means, in respect of a proceeding to which this Act applies, a person authorized under the Law Society Act to represent a person in that proceeding; (“représentant”)

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“statutory power of decision” means a power or right, conferred by or under a statute, to make a
decision deciding or prescribing,

(a) the legal rights, powers, privileges, immunities, duties or liabilities of any person or
party, or

(b) the eligibility of any person or party to receive, or to the continuation of, a benefit or
licence, whether the person is legally entitled thereto or not; (“compétence légale de décision”)

“tribunal” means one or more persons, whether or not incorporated and however described, upon
which a statutory power of decision is conferred by or under a statute; (“tribunal”)

“written hearing” means a hearing held by means of the exchange of documents, whether in written
form or by electronic means. (“audience écrite”) R.S.O. 1990, c. S.22, s. 1 (1); 1994, c. 27, s. 56 (1-3);
2002, c. 17, Sched. F, Table; 2006, c. 21, Sched. C, s. 134 (1, 2).

Meaning of “person” extended

(2) A municipality, an unincorporated association of employers, a trade union or council of
trade unions who may be a party to a proceeding in the exercise of a statutory power of decision under
the statute conferring the power shall be deemed to be a person for the purpose of any provision of this
Act or of any rule made under this Act that applies to parties. R.S.O. 1990, c. S.22, s. 1 (2).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (1-3) - 1/04/1995
2002, c. 17, Sched. F, Table - 1/01/2003
2006, c. 21, Sched. C, s. 134 (1, 2) - 1/05/2007

Liberal construction of Act and rules

2. This Act, and any rule made by a tribunal under subsection 17.1 (4) or section 25.1, shall be
liberally construed to secure the just, most expeditious and cost-effective determination of every
proceeding on its merits. 1999, c. 12, Sched. B, s. 16 (1); 2006, c. 19, Sched. B, s. 21 (1).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. B, s. 16 (1) - 14/02/2000
2006, c. 19, Sched. B, s. 21 (1) - 22/06/2006

Application of Act

3. (1) Subject to subsection (2), this Act applies to a proceeding by a tribunal in the exercise of a
statutory power of decision conferred by or under an Act of the Legislature, where the tribunal is
required by or under such Act or otherwise by law to hold or to afford to the parties to the proceeding an opportunity for a hearing before making a decision. R.S.O. 1990, c. S.22, s. 3 (1); 1994, c. 27, s. 56 (5).

Where Act does not apply

(2) This Act does not apply to a proceeding,
(a) before the Assembly or any committee of the Assembly;
(b) in or before,
(i) the Court of Appeal,
(ii) the Superior Court of Justice,
(iii) the Ontario Court of Justice,
(iv) the Family Court of the Superior Court of Justice,
(v) the Small Claims Court, or
(vi) a justice of the peace;
(c) to which the Rules of Civil Procedure apply;
(d) before an arbitrator to which the Arbitrations Act or the Labour Relations Act applies;
(e) at a coroner’s inquest;
(f) of a commission appointed under the Public Inquiries Act, 2009;
(g) of one or more persons required to make an investigation and to make a report, with or without recommendations, where the report is for the information or advice of the person to whom it is made and does not in any way legally bind or limit that person in any decision he or she may have power to make; or
(h) of a tribunal empowered to make regulations, rules or by-laws in so far as its power to make regulations, rules or by-laws is concerned. R.S.O. 1990, c. S.22, s. 3 (2); 1994, c. 27, s. 56 (6); 2006, c. 19, Sched. C, s. 1 (1, 2, 4); 2009, c. 33, Sched. 6, s. 87.

Section Amendments with date in force (d/m/y)
1994, c. 27, s. 56 (5, 6) - 1/04/1995
2006, c. 19, Sched. C, s. 1 (1, 2, 4) - 22/06/2006
2009, c. 33, Sched. 6, s. 87 - 1/06/2011

Waiver
Waiver of procedural requirement

4. (1) Any procedural requirement of this Act, or of another Act or a regulation that applies to a proceeding, may be waived with the consent of the parties and the tribunal. 1997, c. 23, s. 13 (1).

Same, rules

(2) Any provision of a tribunal’s rules made under section 25.1 may be waived in accordance with the rules. 1994, c. 27, s. 56 (7).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (7) - 1/04/1995; 1997, c. 23, s. 13 (1) - 28/11/1997

Disposition without hearing

4.1 If the parties consent, a proceeding may be disposed of by a decision of the tribunal given without a hearing, unless another Act or a regulation that applies to the proceeding provides otherwise. 1997, c. 23, s. 13 (2).

Section Amendments with date in force (d/m/y)

1997, c. 23, s. 13 (2) - 28/11/1997

Panels, certain matters

4.2 (1) A procedural or interlocutory matter in a proceeding may be heard and determined by a panel consisting of one or more members of the tribunal, as assigned by the chair of the tribunal. 1994, c. 27, s. 56 (8).

Assignments

(2) In assigning members of the tribunal to a panel, the chair shall take into consideration any requirement imposed by another Act or a regulation that applies to the proceeding that the tribunal be representative of specific interests. 1997, c. 23, s. 13 (3).

Decision of panel

(3) The decision of a majority of the members of a panel, or their unanimous decision in the case of a two-member panel, is the tribunal’s decision. 1994, c. 27, s. 56 (8).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (8) - 1/04/1995; 1997, c. 23, s. 13 (3) - 28/11/1997

Panel of one, reduced panel

Panel of one
4.2.1 (1) The chair of a tribunal may decide that a proceeding be heard by a panel of one person and assign the person to hear the proceeding unless there is a statutory requirement in another Act that the proceeding be heard by a panel of more than one person.

Reduction in number of panel members

(2) Where there is a statutory requirement in another Act that a proceeding be heard by a panel of a specified number of persons, the chair of the tribunal may assign to the panel one person or any lesser number of persons than the number specified in the other Act if all parties to the proceeding consent. 1999, c. 12, Sched. B, s. 16 (2).

Section Amendments with date in force (d/m/y)
1999, c. 12, Sched. B, s. 16 (2) - 14/02/2000

Expiry of term

4.3 If the term of office of a member of a tribunal who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose. 1997, c. 23, s. 13 (4).

Section Amendments with date in force (d/m/y)
1997, c. 23, s. 13 (4) - 28/11/1997

Incapacity of member

4.4 (1) If a member of a tribunal who has participated in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision, the remaining member or members may complete the hearing and give a decision. 1994, c. 27, s. 56 (9).

Other Acts and regulations

(2) Subsection (1) does not apply if another Act or a regulation specifically deals with the issue of what takes place in the circumstances described in subsection (1). 1997, c. 23, s. 13 (5).

Section Amendments with date in force (d/m/y)
1994, c. 27, s. 56 (9) - 1/04/1995; 1997, c. 23, s. 13 (5) - 28/11/1997

Decision not to process commencement of proceeding

4.5 (1) Subject to subsection (3), upon receiving documents relating to the commencement of a proceeding, a tribunal or its administrative staff may decide not to process the documents relating to the commencement of the proceeding if,

(a) the documents are incomplete;
(b) the documents are received after the time required for commencing the proceeding has elapsed;

(c) the fee required for commencing the proceeding is not paid; or

(d) there is some other technical defect in the commencement of the proceeding.

Notice

(2) A tribunal or its administrative staff shall give the party who commences a proceeding notice of its decision under subsection (1) and shall set out in the notice the reasons for the decision and the requirements for resuming the processing of the documents.

Rules under s. 25.1

(3) A tribunal or its administrative staff shall not make a decision under subsection (1) unless the tribunal has made rules under section 25.1 respecting the making of such decisions and those rules shall set out,

(a) any of the grounds referred to in subsection (1) upon which the tribunal or its administrative staff may decide not to process the documents relating to the commencement of a proceeding; and

(b) the requirements for the processing of the documents to be resumed.

Continuance of provisions in other statutes

(4) Despite section 32, nothing in this section shall prevent a tribunal or its administrative staff from deciding not to process documents relating to the commencement of a proceeding on grounds that differ from those referred to in subsection (1) or without complying with subsection (2) or (3) if the tribunal or its staff does so in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. B, s. 16 (3) - 14/02/2000

Dismissal of proceeding without hearing

4.6 (1) Subject to subsections (5) and (6), a tribunal may dismiss a proceeding without a hearing if,

(a) the proceeding is frivolous, vexatious or is commenced in bad faith;

(b) the proceeding relates to matters that are outside the jurisdiction of the tribunal; or

(c) some aspect of the statutory requirements for bringing the proceeding has not been met.
Notice

(2) Before dismissing a proceeding under this section, a tribunal shall give notice of its intention to dismiss the proceeding to,

(a) all parties to the proceeding if the proceeding is being dismissed for reasons referred to in clause (1) (b); or

(b) the party who commences the proceeding if the proceeding is being dismissed for any other reason.

Same

(3) The notice of intention to dismiss a proceeding shall set out the reasons for the dismissal and inform the parties of their right to make written submissions to the tribunal with respect to the dismissal within the time specified in the notice.

Right to make submissions

(4) A party who receives a notice under subsection (2) may make written submissions to the tribunal with respect to the dismissal within the time specified in the notice.

Dismissal

(5) A tribunal shall not dismiss a proceeding under this section until it has given notice under subsection (2) and considered any submissions made under subsection (4).

Rules

(6) A tribunal shall not dismiss a proceeding under this section unless it has made rules under section 25.1 respecting the early dismissal of proceedings and those rules shall include,

(a) any of the grounds referred to in subsection (1) upon which a proceeding may be dismissed;

(b) the right of the parties who are entitled to receive notice under subsection (2) to make submissions with respect to the dismissal; and

(c) the time within which the submissions must be made.

Continuance of provisions in other statutes

(7) Despite section 32, nothing in this section shall prevent a tribunal from dismissing a proceeding on grounds other than those referred to in subsection (1) or without complying with subsections (2) to (6) if the tribunal dismisses the proceeding in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).
Classifying proceedings

4.7 A tribunal may make rules under section 25.1 classifying the types of proceedings that come before it and setting guidelines as to the procedural steps or processes (such as preliminary motions, pre-hearing conferences, alternative dispute resolution mechanisms, expedited hearings) that apply to each type of proceeding and the circumstances in which other procedures may apply. 1999, c. 12, Sched. B, s. 16 (3).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. B, s. 16 (3) - 14/02/2000

Alternative dispute resolution

4.8 (1) A tribunal may direct the parties to a proceeding to participate in an alternative dispute resolution mechanism for the purposes of resolving the proceeding or an issue arising in the proceeding if,

(a) it has made rules under section 25.1 respecting the use of alternative dispute resolution mechanisms; and

(b) all parties consent to participating in the alternative dispute resolution mechanism.

Definition

(2) In this section,

“alternative dispute resolution mechanism” includes mediation, conciliation, negotiation or any other means of facilitating the resolution of issues in dispute.

Rules

(3) A rule under section 25.1 respecting the use of alternative dispute resolution mechanisms shall include procedural guidelines to deal with the following:

1. The circumstances in which a settlement achieved by means of an alternative dispute resolution mechanism must be reviewed and approved by the tribunal.

2. Any requirement, statutory or otherwise, that there be an order by the tribunal.

Mandatory alternative dispute resolution

(4) A rule under subsection (3) may provide that participation in an alternative dispute resolution mechanism is mandatory or that it is mandatory in certain specified circumstances.

Person appointed to mediate, etc.
(5) A rule under subsection (3) may provide that a person appointed to mediate, conciliate, negotiate or help resolve a matter by means of an alternative dispute resolution mechanism be a member of the tribunal or a person independent of the tribunal. However, a member of the tribunal who is so appointed with respect to a matter in a proceeding shall not subsequently hear the matter if it comes before the tribunal unless the parties consent.

Continuance of provisions in other statutes

(6) Despite section 32, nothing in this section shall prevent a tribunal from directing parties to a proceeding to participate in an alternative dispute resolution mechanism even though the requirements of subsections (1) to (5) have not been met if the tribunal does so in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. B, s. 16 (3) - 14/02/2000

Mediators, etc.: not compellable, notes not evidence

Mediators, etc., not compellable

4.9 (1) No person employed as a mediator, conciliator or negotiator or otherwise appointed to facilitate the resolution of a matter before a tribunal by means of an alternative dispute resolution mechanism shall be compelled to give testimony or produce documents in a proceeding before the tribunal or in a civil proceeding with respect to matters that come to his or her knowledge in the course of exercising his or her duties under this or any other Act.

Evidence in civil proceedings

(2) No notes or records kept by a mediator, conciliator or negotiator or by any other person appointed to facilitate the resolution of a matter before a tribunal by means of an alternative dispute resolution mechanism under this or any other Act are admissible in a civil proceeding. 1999, c. 12, Sched. B, s. 16 (3).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. B, s. 16 (3) - 14/02/2000

Parties

5. The parties to a proceeding shall be the persons specified as parties by or under the statute under which the proceeding arises or, if not so specified, persons entitled by law to be parties to the proceeding. R.S.O. 1990, c. S.22, s. 5.

Written hearings
5.1 (1) A tribunal whose rules made under section 25.1 deal with written hearings may hold a written hearing in a proceeding. 1997, c. 23, s. 13 (6).

Exception

(2) The tribunal shall not hold a written hearing if a party satisfies the tribunal that there is good reason for not doing so.

Same

(2.1) Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters. 1999, c. 12, Sched. B, s. 16 (4).

Documents

(3) In a written hearing, all the parties are entitled to receive every document that the tribunal receives in the proceeding. 1994, c. 27, s. 56 (10).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (10) - 1/04/1995; 1997, c. 23, s. 13 (6) - 28/11/1997; 1999, c. 12, Sched. B, s. 16 (4) - 14/02/2000

Electronic hearings

5.2 (1) A tribunal whose rules made under section 25.1 deal with electronic hearings may hold an electronic hearing in a proceeding. 1997, c. 23, s. 13 (7).

Exception

(2) The tribunal shall not hold an electronic hearing if a party satisfies the tribunal that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

Same

(3) Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters.

Participants to be able to hear one another

(4) In an electronic hearing, all the parties and the members of the tribunal participating in the hearing must be able to hear one another and any witnesses throughout the hearing. 1994, c. 27, s. 56 (10).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (10) - 1/04/1995; 1997, c. 23, s. 13 (7) - 28/11/1997
Different kinds of hearings in one proceeding

5.2.1 A tribunal may, in a proceeding, hold any combination of written, electronic and oral hearings. 1997, c. 23, s. 13 (8).

Section Amendments with date in force (d/m/y)

1997, c. 23, s. 13 (8) - 28/11/1997

Pre-hearing conferences

5.3 (1) If the tribunal’s rules made under section 25.1 deal with pre-hearing conferences, the tribunal may direct the parties to participate in a pre-hearing conference to consider,

(a) the settlement of any or all of the issues;
(b) the simplification of the issues;
(c) facts or evidence that may be agreed upon;
(d) the dates by which any steps in the proceeding are to be taken or begun;
(e) the estimated duration of the hearing; and
(f) any other matter that may assist in the just and most expeditious disposition of the proceeding. 1994, c. 27, s. 56 (11); 1997, c. 23, s. 13 (9).

Other Acts and regulations

(1.1) The tribunal’s power to direct the parties to participate in a pre-hearing conference is subject to any other Act or regulation that applies to the proceeding. 1997, c. 23, s. 13 (10).

Who presides

(2) The chair of the tribunal may designate a member of the tribunal or any other person to preside at the pre-hearing conference.

Orders

(3) A member who presides at a pre-hearing conference may make such orders as he or she considers necessary or advisable with respect to the conduct of the proceeding, including adding parties.

Disqualification

(4) A member who presides at a pre-hearing conference at which the parties attempt to settle issues shall not preside at the hearing of the proceeding unless the parties consent. 1994, c. 27, s. 56 (11).
Application of s. 5.2

(5) Section 5.2 applies to a pre-hearing conference, with necessary modifications. 1997, c. 23, s. 13 (10).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (11) - 1/04/1995; 1997, c. 23, s. 13 (9, 10) - 28/11/1997

Disclosure

5.4 (1) If the tribunal’s rules made under section 25.1 deal with disclosure, the tribunal may, at any stage of the proceeding before all hearings are complete, make orders for,

(a) the exchange of documents;
(b) the oral or written examination of a party;
(c) the exchange of witness statements and reports of expert witnesses;
(d) the provision of particulars;
(e) any other form of disclosure. 1994, c. 27, s. 56 (12); 1997, c. 23, s. 13 (11).

Other Acts and regulations

(1.1) The tribunal’s power to make orders for disclosure is subject to any other Act or regulation that applies to the proceeding. 1997, c. 23, s. 13 (12).

Exception, privileged information

(2) Subsection (1) does not authorize the making of an order requiring disclosure of privileged information. 1994, c. 27, s. 56 (12).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (12) - 1/04/1995; 1997, c. 23, s. 13 (11, 12) - 28/11/1997

Notice of hearing

6. (1) The parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. R.S.O. 1990, c. S.22, s. 6 (1).

Statutory authority

(2) A notice of a hearing shall include a reference to the statutory authority under which the hearing will be held.

Oral hearing
(3) A notice of an oral hearing shall include,

(a) a statement of the time, place and purpose of the hearing; and

(b) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in the party’s absence and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

Written hearing

(4) A notice of a written hearing shall include,

(a) a statement of the date and purpose of the hearing, and details about the manner in which the hearing will be held;

(b) a statement that the hearing shall not be held as a written hearing if the party satisfies the tribunal that there is good reason for not holding a written hearing (in which case the tribunal is required to hold it as an electronic or oral hearing) and an indication of the procedure to be followed for that purpose;

(c) a statement that if the party notified neither acts under clause (b) nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party’s participation and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13); 1997, c. 23, s. 13 (13); 1999, c. 12, Sched. B, s. 16 (5).

Electronic hearing

(5) A notice of an electronic hearing shall include,

(a) a statement of the time and purpose of the hearing, and details about the manner in which the hearing will be held;

(b) a statement that the only purpose of the hearing is to deal with procedural matters, if that is the case;

(c) if clause (b) does not apply, a statement that the party notified may, by satisfying the tribunal that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, require the tribunal to hold the hearing as an oral hearing, and an indication of the procedure to be followed for that purpose; and

(d) a statement that if the party notified neither acts under clause (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party’s participation and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

Section Amendments with date in force (d/m/y)
Effect of non-attendance at hearing after due notice

7. (1) Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding. R.S.O. 1990, c. S.22, s. 7; 1994, c. 27, s. 56 (14).

Same, written hearings

(2) Where notice of a written hearing has been given to a party to a proceeding in accordance with this Act and the party neither acts under clause 6 (4) (b) nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party’s participation and the party is not entitled to any further notice in the proceeding.

Same, electronic hearings

(3) Where notice of an electronic hearing has been given to a party to a proceeding in accordance with this Act and the party neither acts under clause 6 (5) (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party’s participation and the party is not entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (15).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (14, 15) - 1/04/1995

Where character, etc., of a party is in issue

8. Where the good character, propriety of conduct or competence of a party is an issue in a proceeding, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto. R.S.O. 1990, c. S.22, s. 8.

Hearings to be public; maintenance of order

Hearings to be public, exceptions

9. (1) An oral hearing shall be open to the public except where the tribunal is of the opinion that,

(a) matters involving public security may be disclosed; or

(b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,
in which case the tribunal may hold the hearing in the absence of the public. R.S.O. 1990, c. S.22, s. 9 (1); 1994, c. 27, s. 56 (16).

Written hearings

(1.1) In a written hearing, members of the public are entitled to reasonable access to the documents submitted, unless the tribunal is of the opinion that clause (1) (a) or (b) applies. 1994, c. 27, s. 56 (17).

Electronic hearings

(1.2) An electronic hearing shall be open to the public unless the tribunal is of the opinion that,

(a) it is not practical to hold the hearing in a manner that is open to the public; or

(b) clause (1) (a) or (b) applies. 1997, c. 23, s. 13 (14).

Maintenance of order at hearings

(2) A tribunal may make such orders or give such directions at an oral or electronic hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose. R.S.O. 1990, c. S.22, s. 9 (2); 1994, c. 27, s. 56 (18).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (16-18) - 01/04/1995; 1997, c. 23, s. 13 (14) - 28/11/1997

Proceedings involving similar questions

9.1 (1) If two or more proceedings before a tribunal involve the same or similar questions of fact, law or policy, the tribunal may,

(a) combine the proceedings or any part of them, with the consent of the parties;

(b) hear the proceedings at the same time, with the consent of the parties;

(c) hear the proceedings one immediately after the other; or

(d) stay one or more of the proceedings until after the determination of another one of them.

Exception

(2) Subsection (1) does not apply to proceedings to which the Consolidated Hearings Act applies. 1994, c. 27, s. 56 (19).
Same

(3) Clauses (1) (a) and (b) do not apply to a proceeding if,

(a) any other Act or regulation that applies to the proceeding requires that it be heard in private;

(b) the tribunal is of the opinion that clause 9 (1) (a) or (b) applies to the proceeding. 1994, c. 27, s. 56 (19); 1997, c. 23, s. 13 (15).

Conflict, consent requirements

(4) The consent requirements of clauses (1) (a) and (b) do not apply if another Act or a regulation that applies to the proceedings allows the tribunal to combine them or hear them at the same time without the consent of the parties. 1997, c. 23, s. 13 (16).

Use of same evidence

(5) If the parties to the second-named proceeding consent, the tribunal may treat evidence that is admitted in a proceeding as if it were also admitted in another proceeding that is heard at the same time under clause (1) (b). 1994, c. 27, s. 56 (19).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (19) - 1/04/1995; 1997, c. 23, s. 13 (15, 16) - 28/11/1997

Right to representation

10. A party to a proceeding may be represented by a representative. 2006, c. 21, Sched. C, s. 134 (3).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (20) - 1/04/1995

2006, c. 21, Sched. C, s. 134 (3) - 1/05/2007

Examination of witnesses

10.1 A party to a proceeding may, at an oral or electronic hearing,

(a) call and examine witnesses and present evidence and submissions; and

(b) conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding. 1994, c. 27, s. 56 (20).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (20) - 1/04/1995
Rights of witnesses to representation

11. (1) A witness at an oral or electronic hearing is entitled to be advised by a representative as to his or her rights, but such representative may take no other part in the hearing without leave of the tribunal. 2006, c. 21, Sched. C, s. 134 (4).

Idem

(2) Where an oral hearing is closed to the public, the witness’s representative is not entitled to be present except when that witness is giving evidence. R.S.O. 1990, c. S.22, s. 11 (2); 1994, c. 27, s. 56 (22); 2006, c. 21, Sched. C, s. 134 (5).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (21, 22) - 1/04/1995

2006, c. 21, Sched. C, s. 134 (4, 5) - 1/05/2007

Summonses

12. (1) A tribunal may require any person, including a party, by summons,

(a) to give evidence on oath or affirmation at an oral or electronic hearing; and

(b) to produce in evidence at an oral or electronic hearing documents and things specified by the tribunal,

relevant to the subject-matter of the proceeding and admissible at a hearing. R.S.O. 1990, c. S.22, s. 12 (1); 1994, c. 27, s. 56 (23).

Form and service of summons

(2) A summons issued under subsection (1) shall be in the prescribed form (in English or French) and,

(a) where the tribunal consists of one person, shall be signed by him or her;

(b) where the tribunal consists of more than one person, shall be signed by the chair of the tribunal or in such other manner as documents on behalf of the tribunal may be signed under the statute constituting the tribunal. 1994, c. 27, s. 56 (24).

Same

(3) The summons shall be served personally on the person summoned. 1994, c. 27, s. 56 (24).

Fees and allowances
(3.1) The person summoned is entitled to receive the same fees or allowances for attending at or otherwise participating in the hearing as are paid to a person summoned to attend before the Superior Court of Justice. 1994, c. 27, s. 56 (24); 2006, c. 19, Sched. C, s. 1 (1).

Bench warrant

(4) A judge of the Superior Court of Justice may issue a warrant against a person if the judge is satisfied that,

(a) a summons was served on the person under this section;

(b) the person has failed to attend or to remain in attendance at the hearing (in the case of an oral hearing) or has failed otherwise to participate in the hearing (in the case of an electronic hearing) in accordance with the summons; and

(c) the person’s attendance or participation is material to the ends of justice. 1994, c. 27, s. 56 (25); 2006, c. 19, Sched. C, s. 1 (1).

Same

(4.1) The warrant shall be in the prescribed form (in English or French), directed to any police officer, and shall require the person to be apprehended anywhere within Ontario, brought before the tribunal forthwith and,

(a) detained in custody as the judge may order until the person’s presence as a witness is no longer required; or

(b) in the judge’s discretion, released on a recognizance, with or without sureties, conditioned for attendance or participation to give evidence. 1994, c. 27, s. 56 (25).

Proof of service

(5) Service of a summons may be proved by affidavit in an application to have a warrant issued under subsection (4). 1994, c. 27, s. 56 (26).

Certificate of facts

(6) Where an application to have a warrant issued is made on behalf of a tribunal, the person constituting the tribunal or, if the tribunal consists of more than one person, the chair of the tribunal may certify to the judge the facts relied on to establish that the attendance or other participation of the person summoned is material to the ends of justice, and the judge may accept the certificate as proof of the facts. 1994, c. 27, s. 56 (26).

Same
(7) Where the application is made by a party to the proceeding, the facts relied on to establish that the attendance or other participation of the person is material to the ends of justice may be proved by the party’s affidavit. 1994, c. 27, s. 56 (26).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (23-26) - 1/04/1995

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Contempt proceedings

13. (1) Where any person without lawful excuse,

(a) on being duly summoned under section 12 as a witness at a hearing makes default in attending at the hearing; or

(b) being in attendance as a witness at an oral hearing or otherwise participating as a witness at an electronic hearing, refuses to take an oath or to make an affirmation legally required by the tribunal to be taken or made, or to produce any document or thing in his or her power or control legally required by the tribunal to be produced by him or her or to answer any question to which the tribunal may legally require an answer; or

(c) does any other thing that would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

the tribunal may, of its own motion or on the motion of a party to the proceeding, state a case to the Divisional Court setting out the facts and that court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he or she had been guilty of contempt of the court. R.S.O. 1990, c. S.22, s. 13; 1994, c. 27, s. 56 (27).

Same

(2) Subsection (1) also applies to a person who,

(a) having objected under clause 6 (4) (b) to a hearing being held as a written hearing, fails without lawful excuse to participate in the oral or electronic hearing of the matter; or

(b) being a party, fails without lawful excuse to attend a pre-hearing conference when so directed by the tribunal. 1997, c. 23, s. 13 (17).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (27) - 1/04/1995; 1997, c. 23, s. 13 (17) - 28/11/1997

Protection for witnesses
14. (1) A witness at an oral or electronic hearing shall be deemed to have objected to answer any question asked him or her upon the ground that the answer may tend to criminate him or her or may tend to establish his or her liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against the witness in any trial or other proceeding against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence. R.S.O. 1990, c. S.22, s. 14 (1); 1994, c. 27, s. 56 (28).

(2) Repealed: 1994, c. 27, s. 56 (29).

Section Amendments with date in force (d/m/y)
1994, c. 27, s. 56 (28, 29) - 1/04/1995

Evidence

What is admissible in evidence at a hearing

15. (1) Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

(a) any oral testimony; and

(b) any document or other thing,

relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

What is inadmissible in evidence at a hearing

(2) Nothing is admissible in evidence at a hearing,

(a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or

(b) that is inadmissible by the statute under which the proceeding arises or any other statute.

Conflicts

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding.

Copies

(4) Where a tribunal is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.
Photocopies

(5) Where a document has been filed in evidence at a hearing, the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal.

Certified copy admissible in evidence

(6) A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document. R.S.O. 1990, c. S.22, s. 15.

Use of previously admitted evidence

15.1 (1) The tribunal may treat previously admitted evidence as if it had been admitted in a proceeding before the tribunal, if the parties to the proceeding consent. 1994, c. 27, s. 56 (30).

Definition

(2) In subsection (1),

“previously admitted evidence” means evidence that was admitted, before the hearing of the proceeding referred to in that subsection, in any other proceeding before a court or tribunal, whether in or outside Ontario.

Additional power

(3) This power conferred by this section is in addition to the tribunal’s power to admit evidence under section 15. 1997, c. 23, s. 13 (18).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (30) - 01/04/1995; 1997, c. 23, s. 13 (18) - 28/11/1997

Witness panels

15.2 A tribunal may receive evidence from panels of witnesses composed of two or more persons, if the parties have first had an opportunity to make submissions in that regard. 1994, c. 27, s. 56 (31).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (31) - 01/04/1995

Notice of facts and opinions
16. A tribunal may, in making its decision in any proceeding,

(a) take notice of facts that may be judicially noticed; and

(b) take notice of any generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge. R.S.O. 1990, c. S.22, s. 16.

Interim decisions and orders

16.1 (1) A tribunal may make interim decisions and orders.

Conditions

(2) A tribunal may impose conditions on an interim decision or order.

Reasons

(3) An interim decision or order need not be accompanied by reasons. 1994, c. 27, s. 56 (32).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (32) - 1/04/1995

Time frames

16.2 A tribunal shall establish guidelines setting out the usual time frame for completing proceedings that come before the tribunal and for completing the procedural steps within those proceedings. 1999, c. 12, Sched. B, s. 16 (6).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. B, s. 16 (6) - 14/02/2000

Decision; interest

Decision

17. (1) A tribunal shall give its final decision and order, if any, in any proceeding in writing and shall give reasons in writing therefor if requested by a party. R.S.O. 1990, c. S.22, s. 17; 1993, c. 27, Sched.

Interest

(2) A tribunal that makes an order for the payment of money shall set out in the order the principal sum, and if interest is payable, the rate of interest and the date from which it is to be calculated. 1994, c. 27, s. 56 (33).

Section Amendments with date in force (d/m/y)
Costs

17.1 (1) Subject to subsection (2), a tribunal may, in the circumstances set out in rules made under subsection (4), order a party to pay all or part of another party’s costs in a proceeding. 2006, c. 19, Sched. B, s. 21 (2).

Exception

(2) A tribunal shall not make an order to pay costs under this section unless,

(a) the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious or a party has acted in bad faith; and

(b) the tribunal has made rules under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Amount of costs

(3) The amount of the costs ordered under this section shall be determined in accordance with the rules made under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Rules

(4) A tribunal may make rules with respect to,

(a) the ordering of costs;

(b) the circumstances in which costs may be ordered; and

(c) the amount of costs or the manner in which the amount of costs is to be determined. 2006, c. 19, Sched. B, s. 21 (2).

Same

(5) Subsections 25.1 (3), (4), (5) and (6) apply with respect to rules made under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Continuance of provisions in other statutes

(6) Despite section 32, nothing in this section shall prevent a tribunal from ordering a party to pay all or part of another party’s costs in a proceeding in circumstances other than those set out in, and without complying with, subsections (1) to (3) if the tribunal makes the order in accordance with the provisions of an Act that are in force on February 14, 2000. 2006, c. 19, Sched. B, s. 21 (2).

Submissions must be in writing
(7) Despite sections 5.1, 5.2 and 5.2.1, submissions for a costs order, whether under subsection (1) or under an authority referred to in subsection (6), shall be made by way of written or electronic documents, unless a party satisfies the tribunal that to do so is likely to cause the party significant prejudice. 2015, c. 23, s. 5.

(8), (9) Repealed: 2015, c. 23, s. 5.

Notice of decision

18. (1) The tribunal shall send each party who participated in the proceeding, or the party’s representative, a copy of its final decision or order, including the reasons if any have been given,

(a) by regular lettermail;

(b) by electronic transmission;

(c) by telephone transmission of a facsimile; or

(d) by some other method that allows proof of receipt, if the tribunal’s rules made under section 25.1 deal with the matter. 1994, c. 27, s. 56 (34); 1997, c. 23, s. 13 (19); 2006, c. 21, Sched. C, s. 134 (6).

Use of mail

(2) If the copy is sent by regular lettermail, it shall be sent to the most recent addresses known to the tribunal and shall be deemed to be received by the party on the fifth day after the day it is mailed. 1994, c. 27, s. 56 (34).

Use of electronic or telephone transmission

(3) If the copy is sent by electronic transmission or by telephone transmission of a facsimile, it shall be deemed to be received on the day after it was sent, unless that day is a holiday, in which case the copy shall be deemed to be received on the next day that is not a holiday. 1994, c. 27, s. 56 (34).

Use of other method

(4) If the copy is sent by a method referred to in clause (1) (d), the tribunal’s rules made under section 25.1 govern its deemed day of receipt. 1994, c. 27, s. 56 (34).

Failure to receive copy
(5) If a party that acts in good faith does not, through absence, accident, illness or other cause beyond the party’s control, receive the copy until a later date than the deemed day of receipt, subsection (2), (3) or (4), as the case may be, does not apply. 1994, c. 27, s. 56 (34).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (34) - 1/04/1995; 1997, c. 23, s. 13 (19) - 28/11/1997

2006, c. 21, Sched. C, s. 134 (6) - 1/05/2007

Enforcement of orders

19. (1) A certified copy of a tribunal’s decision or order in a proceeding may be filed in the Superior Court of Justice by the tribunal or by a party and on filing shall be deemed to be an order of that court and is enforceable as such. 1994, c. 27, s. 56 (35); 2006, c. 19, Sched. C, s. 1 (1).

Notice of filing

(2) A party who files an order under subsection (1) shall notify the tribunal within 10 days after the filing. 1994, c. 27, s. 56 (35).

Order for payment of money

(3) On receiving a certified copy of a tribunal’s order for the payment of money, the sheriff shall enforce the order as if it were an execution issued by the Superior Court of Justice. 1994, c. 27, s. 56 (35); 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (35) - 1/04/1995

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Record of proceeding

20. A tribunal shall compile a record of any proceeding in which a hearing has been held which shall include,

(a) any application, complaint, reference or other document, if any, by which the proceeding was commenced;

(b) the notice of any hearing;

(c) any interlocutory orders made by the tribunal;

(d) all documentary evidence filed with the tribunal, subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any proceeding;
(e) the transcript, if any, of the oral evidence given at the hearing; and

(f) the decision of the tribunal and the reasons therefor, where reasons have been given.

R.S.O. 1990, c. S.22, s. 20.

Adjournments

21. A hearing may be adjourned from time to time by a tribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held. R.S.O. 1990, c. S.22, s. 21.

Correction of errors

21.1 A tribunal may at any time correct a typographical error, error of calculation or similar error made in its decision or order. 1994, c. 27, s. 56 (36).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (36) - 1/04/1995

Power to review

21.2 (1) A tribunal may, if it considers it advisable and if its rules made under section 25.1 deal with the matter, review all or part of its own decision or order, and may confirm, vary, suspend or cancel the decision or order. 1997, c. 23, s. 13 (20).

Time for review

(2) The review shall take place within a reasonable time after the decision or order is made.

Conflict

(3) In the event of a conflict between this section and any other Act, the other Act prevails. 1994, c. 27, s. 56 (36).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (36) - 1/04/1995; 1997, c. 23, s. 13 (20) - 28/11/1997

Administration of oaths

22. A member of a tribunal has power to administer oaths and affirmations for the purpose of any of its proceedings and the tribunal may require evidence before it to be given under oath or affirmation. R.S.O. 1990, c. S.22, s. 22.

Powers re control of proceedings

Abuse of processes
23. (1) A tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes. R.S.O. 1990, c. S.22, s. 23 (1).

Limitation on examination

(2) A tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding. 1994, c. 27, s. 56 (37).

Exclusion of representatives

(3) A tribunal may exclude from a hearing anyone, other than a person licensed under the Law Society Act, appearing on behalf of a party or as an adviser to a witness if it finds that such person is not competent properly to represent or to advise the party or witness, or does not understand and comply at the hearing with the duties and responsibilities of an advocate or adviser. 2006, c. 21, Sched. C, s. 134 (7).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (37) - 1/04/1995

2006, c. 21, Sched. C, s. 134 (7) - 1/05/2007

Notice, etc.

24. (1) Where a tribunal is of the opinion that because the parties to any proceeding before it are so numerous or for any other reason, it is impracticable,

(a) to give notice of the hearing; or

(b) to send its decision and the material mentioned in section 18,

to all or any of the parties individually, the tribunal may, instead of doing so, cause reasonable notice of the hearing or of its decision to be given to such parties by public advertisement or otherwise as the tribunal may direct.

Contents of notice

(2) A notice of a decision given by a tribunal under clause (1) (b) shall inform the parties of the place where copies of the decision and the reasons therefor, if reasons were given, may be obtained. R.S.O. 1990, c. S.22, s. 24.

Appeal operates as stay, exception

25. (1) An appeal from a decision of a tribunal to a court or other appellate body operates as a stay in the matter unless,
(a) another Act or a regulation that applies to the proceeding expressly provides to the contrary; or

(b) the tribunal or the court or other appellate body orders otherwise. 1997, c. 23, s. 13 (21).

Idem

(2) An application for judicial review under the Judicial Review Procedure Act, or the bringing of proceedings specified in subsection 2 (1) of that Act is not an appeal within the meaning of subsection (1). R.S.O. 1990, c. S.22, s. 25 (2).

Section Amendments with date in force (d/m/y)
1997, c. 23, s. 13 (21) - 28/11/1997

Control of process

25.0.1 A tribunal has the power to determine its own procedures and practices and may for that purpose,

(a) make orders with respect to the procedures and practices that apply in any particular proceeding; and

(b) establish rules under section 25.1. 1999, c. 12, Sched. B, s. 16 (8).

Section Amendments with date in force (d/m/y)
1999, c. 12, Sched. B, s. 16 (8) - 14/02/2000

Rules

25.1 (1) A tribunal may make rules governing the practice and procedure before it. 1994, c. 27, s. 56 (38).

Application

(2) The rules may be of general or particular application. 1994, c. 27, s. 56 (38).

Consistency with Acts

(3) The rules shall be consistent with this Act and with the other Acts to which they relate. 1994, c. 27, s. 56 (38).

Public access

(4) The tribunal shall make the rules available to the public in English and in French. 1994, c. 27, s. 56 (38).
Legislation Act, 2006, Part III

(5) Rules adopted under this section are not regulations as defined in Part III (Regulations) of the Legislation Act, 2006. 1994, c. 27, s. 56 (38); 2006, c. 21, Sched. F, s. 136 (1).

Additional power

(6) The power conferred by this section is in addition to any power to adopt rules that the tribunal may have under another Act. 1994, c. 27, s. 56 (38).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (38) - 1/04/1995

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

Regulations

26. The Lieutenant Governor in Council may make regulations prescribing forms for the purpose of section 12. 1994, c. 27, s. 56 (41).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (39, 41) - 1/04/1995

Rules, etc., available to public

27. A tribunal shall make any rules or guidelines established under this or any other Act available for examination by the public. 1999, c. 12, Sched. B, s. 16 (9).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. B, s. 16 (9) - 14/02/2000

Substantial compliance

28. Substantial compliance with requirements respecting the content of forms, notices or documents under this Act or any rule made under this or any other Act is sufficient. 1999, c. 12, Sched. B, s. 16 (9).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. B, s. 16 (9) - 14/02/2000

29.-31. Repealed: 1994, c. 27, s. 56 (40).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 56 (40) - 1/04/1995
32. Unless it is expressly provided in any other Act that its provisions and regulations, rules or by-laws made under it apply despite anything in this Act, the provisions of this Act prevail over the provisions of such other Act and over regulations, rules or by-laws made under such other Act which conflict therewith. R.S.O. 1990, c. S.22, s. 32; 1994, c. 27, s. 56 (42).

Section Amendments with date in force (d/m/y)
1994, c. 27, s. 56 (42) - 1/04/1995

33., 34. Repealed: 1994, c. 27, s. 56 (43).

Section Amendments with date in force (d/m/y)
1994, c. 27, s. 56 (43) - 1/04/1995

FormS 1, 2 Repealed: 1994, c. 27, s. 56 (44).

Section Amendments with date in force (d/m/y)
1994, c. 27, s. 56 (44) - 1/04/1995

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