

The Canadian Institute of Actuaries Disciplinary Process

Professional Conduct Board (PCB)

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THE CANADIAN INSTITUTE OF ACTUARIES

DISCIPLINARY PROCESS

This document, first published in July 2001 and then modified in October 2002, March 2003, September 2004, March 2005, August 2005, December 2006, July 2008, and April 2020 reflects the process currently in effect.

A. Purpose and functions of the disciplinary process

The Canadian Institute of Actuaries, which was created by an Act of Parliament, is an association which includes members who have earned the designation of Fellow of the Canadian Institute of Actuaries (FCIA). The Institute also includes many Associates and a few Affiliates, who have each completed a significant proportion, but not all, of the qualifying examinations or other professional requirements needed to earn the FCIA designation.

The Institute is committed to maintaining high standards of professional practice and ethics, and to holding the duty of the profession to the public above the needs of the profession and its members. These high standards have led to recognition of the Institute under various provincial and federal statutes, such as the *Insurance Companies Act* and federal and provincial pension benefits legislation, which require actuaries who sign certain actuarial reports to hold an FCIA designation.

As part of its commitment, the Institute has adopted a set of Bylaws, Rules of Professional Conduct, and Standards of Practice (“professional requirements”). All members of the Institute, whether they are Fellows, Associates, or Affiliates, must comply with these professional requirements.

The Institute has also developed a disciplinary process, in order to enforce its professional requirements. The functions of the disciplinary process include:

1. Investigating inquiries and complaints about the professional work of members.
2. Deciding whether the professional requirements of the Institute have been breached.
3. Applying an appropriate sanction when a member has breached the professional requirements of the Institute, which may include:
 - a private admonishment,
 - a public reprimand,
 - a requirement that the member undertake remedial education,
 - a suspension of membership in the Institute and of the right to use the FCIA designation,
 - an expulsion from membership in the Institute and a withdrawal of the right to use the FCIA designation, and

- fines and/or legal costs may also be imposed against the member in certain cases.
4. Counselling members who have breached the professional requirements.
 5. Educating members regarding the operation of the disciplinary process.

It should be noted that the Institute's discipline process is not designed to litigate claims in damages, or to order a member to pay damages to another party. Furthermore, please note that the Institute does not have a process for settling fee disputes regarding the payment of fees for services rendered by a member.

Finally, the Institute recognizes that the work performed by its members as the Appointed Actuary or Valuation Actuary of an insurance organization regulated in Canada may have a serious impact on this insurance organization's state of solvency. As a result, if the Professional Conduct Board is made aware of the insolvency of such an organization, the disciplinary process is automatically triggered: the PCB will treat the insolvency as "information" and will then follow its normal process, as discussed in detail below.

B. The Professional Conduct Board

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

The disciplinary process of the Institute is overseen by the Professional Conduct Board which is composed of at least 10 individuals. Although anyone could be appointed to the PCB, traditionally its members have been well-respected and experienced FCIA's from the various practice areas and from across Canada. Since 2005, two public members (non-actuaries) have been added to the composition. As full members of the PCB, the public members are also chosen for their experience and high standing and have been added to provide an additional perspective in the PCB's deliberations. All members of the PCB are volunteers.

The PCB discusses all disciplinary cases that are pending at each of its formal meetings, which are normally held twice each year. In addition, if issues arise that should not be postponed until the next formal meeting, conference calls are organized to deal with the issue raised. The PCB does its best to deal with disciplinary cases as quickly as possible, but despite its efforts, the time required to resolve a case could vary from a few weeks to a few months, especially in instances where the case is complex.

Furthermore, many parts of the disciplinary process are confidential in order to prevent unjustified damage to the reputation of the members involved. As a result, all deliberations of the PCB are strictly confidential.

C. Description of the disciplinary process (also see attached flowcharts)

Generally, the disciplinary process is divided into two parts:

- first, an internal and confidential “fact-finding” investigation; and
- second, disciplinary proceedings, which may or may not lead to sanctions against the member.

More specifically, the process is divided into the following steps:

1. An issue is raised

Any individual or organization (Fellows, Associates, Affiliates, regulators, outside organizations, or a member of the general public) may raise an issue regarding actuarial work or the actions of members. Such issues trigger the disciplinary process and are received by the PCB.

The PCB’s initial task is to determine the nature of the issue and the way it should be handled. Some issues may simply constitute general questions about actuarial standards or practice, while others may form the basis for laying complaints against particular members. The PCB divides information into one of three categories: a general inquiry, a complaint, or information.

General inquiry – If the issue is an inquiry regarding the appropriateness of the Institute’s Standards of Practice, Rules of Professional Conduct, or accepted actuarial practice and **does not** refer to the identity of any member or to the work performed by any member, then it will be considered as a general inquiry. Such an inquiry will be referred by the PCB to the appropriate practice committee of the Institute. The practice committee will examine the issue and respond directly in writing to the inquirer within a reasonable time period.

Should the issue refer to the identity of a member or to the work performed by a member, it cannot be dealt with as a general inquiry. Instead, the PCB must then classify the issue either as a complaint or as information.

Complaint – A complaint refers to the identity of a member or to the work performed by a member. It constitutes a specific allegation of wrongdoing by a member and often includes a specific request that charges be filed against that member.

Information – Information also refers to the identity of a member or to the work performed by a member. Unlike a complaint, however, information does not include a specific request that charges be filed. Rather, the informant simply wishes to bring an issue to the Institute’s attention.

This initial classification is important, especially for the individual or organization who initially raised the issue. The Bylaws of the Institute stipulate that complainants are entitled to receive

more information about the progress of the disciplinary process than informants. The information to be provided to complainants and informants will be described throughout this text. If the PCB is unsure whether an issue constitutes a complaint or information, it will contact the individual and ask whether he or she wishes to lay a complaint or simply provide information.

2. Complainants and informants are asked to sign a confidentiality agreement

Complainants and informants will be asked to sign a confidentiality agreement to ensure that the disciplinary process is kept confidential. Complainants/informants must sign such an agreement to receive **any** confidential information concerning the application of the disciplinary process to the member in question.

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

3. The Professional Conduct Board decides whether to proceed with the complaint

When an issue is determined to be a complaint against a member or information regarding a member, the PCB must initially determine whether or not to proceed.

In order to make this determination, the PCB examines the issue provided by the complainant/informant. The PCB may also communicate directly with the complainant/informant to obtain more details and may ask the member in question to respond to the complaint or information. This initial examination is conducted as quickly as possible but may be extended by the PCB to allow for responses to be received.

If it becomes obvious from this initial examination that **no** offence has been committed, the PCB will dismiss the complaint/information and inform the member of its decision. Additionally, it will send the member a copy of the complaint/information. Finally, it will inform the complainant/informant of the decision to dismiss the complaint/information, if a confidentiality agreement has previously been signed.

If the PCB concludes, based on this initial examination, that the member **may** have committed an offence, it must either proceed with an investigation (see section 4 below) or initiate private admonishment proceedings (see section 5(a) below). The member is advised of this decision. The complainant/informant is also informed of this decision, if a confidentiality agreement has previously been signed.

4. An investigation is undertaken

In order to proceed with an investigation of a matter, the PCB must appoint an investigation team (IT).

The IT will normally consist of two members chosen from a pool of trained investigators, who are usually FCIAAs. Such investigation is **not** a trial of the member involved. Rather, it is a good faith effort to obtain as much information as possible surrounding the matter. The IT will review any documents received and contact the member in question (referred to as the “Respondent” once the investigation has begun), and any other person that it deems appropriate. Depending on the complexity of the case and on the availability of all involved, an investigation may take several weeks to a few months to complete.

The IT will often contact the complainant/informant for further details concerning the events at issue. He or she will be asked to sign a confidentiality agreement before being interviewed, to ensure the confidentiality of the investigation process.

As a further note, the complainant/informant should be aware that the Respondent will normally be able to obtain information regarding the origin of the investigation, including the identity of the person who initiated the disciplinary process.

5. The Professional Conduct Board decides what action to take

Once its investigation is complete, the IT prepares a report containing its findings for the Professional Conduct Board. The Respondent is given the opportunity to comment on the report before the PCB decides how to proceed. Based on a review of the IT report and of any response from the Respondent, the PCB must determine the next steps.

If the PCB concludes that the Respondent has not committed an offence, it will **dismiss** the matter. A notice, stating the reasons for the dismissal, is then sent to the Respondent, and to the complainant/informant if a confidentiality agreement has previously been signed.

Otherwise, the PCB will file a **charge** against the Respondent. Depending on the relative gravity of the matter and the interests of the public and of the Institute, the PCB shall then decide to take one of the following courses, in increasing order of severity:

- (a) The PCB may file a charge and initiate **private admonishment** proceedings against the Respondent. In this case, an informal meeting is held between the Respondent and no more than three representatives of the PCB, who will provide the Respondent with an opportunity to state his or her case and present any additional information. The representatives then decide whether to dismiss the matter or to admonish the Respondent in person. Information concerning a private admonishment is not released to the general public. Only a complainant who has previously signed a confidentiality agreement, is informed of the decision to issue a private admonishment.

- (b) The PCB may file a charge and place it on a “**fast-track**”, and give the Respondent the opportunity to conclude the process against him or her by admitting guilt and accepting a reprimand and other possible sanctions, including the payment of a fine, the payment of costs incurred by the Institute, remedial education, and any other corrective or remedial action as the PCB considers appropriate, but excluding a suspension or expulsion.

If the Respondent admits guilt and accepts the reprimand and other sanctions, the matter is concluded and a notice is published to all members of the Institute, which provides a summary of the charge and a summary of the admission of guilt and the acceptance of recommended sanctions. Complainants are always automatically advised of this outcome, regardless of whether or not a confidentiality agreement was previously signed. An informant is not automatically advised of this outcome, regardless of whether or not a confidentiality agreement was previously signed but may obtain such information upon request.

- (c) In the most serious matters, as well as in less serious cases where the Respondent refuses to comply with private admonishment or “fast-track” proceedings, the PCB may file a charge and refer it for a full hearing before a **Disciplinary Tribunal (DT)**. The PCB first notifies the Respondent within a reasonable time period of this decision. Within the next 60 days, a notice is published advising the public of the filing of the charge, and of the name, business address, and specialty area of the Respondent. This notice also reminds the public that although the Respondent has been charged, he or she has not been found guilty of an offence since the disciplinary hearing has not yet been held. If you are a complainant who has signed a confidentiality agreement, you will automatically be provided with a copy of this notice.

A DT is composed of three persons: one Chair (who is a retired judge) and two FCIAAs. The PCB and the Respondent are the parties before the DT. The complainant/informant may appear as a witness on behalf of one of the parties, but otherwise is not involved at this stage of the process.

At any time before the hearing begins, the Respondent may plead guilty to the charge. A hearing is then only held regarding the appropriate penalty to be imposed. In addition, prior to the hearing, the parties may agree to retain the services of a mediator to assist them to agree on the facts, on a recommended penalty, etc., which are then presented to the DT for its consideration.

The hearing before the DT is a trial, at which the PCB prosecutes the Respondent on behalf of the Institute. Documents are filed and witnesses, both factual and expert, are heard. All parties are normally represented by legal counsel. The hearing is normally held in the community where the circumstances surrounding the complaint arose and can last anywhere from one day to several weeks spread over many months. The hearing before a DT is usually open to the public. Notice of a hearing is published 15 days in advance.

Within 90 days after the end of the hearing, the DT must render a written decision as to whether the Respondent is guilty of an offence. If the Respondent is found guilty, a hearing on penalty takes place within the next 30 days. In certain circumstances, these two parts could be done together at one hearing.

The DT may impose a reprimand, a suspension, or an expulsion from the Institute. Additionally, the DT may order the Respondent to pay costs and/or a fine.

After the decision on penalty has been rendered or the Respondent has been found not guilty, either party may appeal from either or both decisions. If so, the appeal is heard by an Appeal Tribunal, consisting of a Chair (a retired judge) and two FCIA's. The Appeal Tribunal hears arguments by both parties and may decide to dismiss the appeal or allow it. Should the Appeal Tribunal allow the appeal, it may change the DT's findings as to guilt or penalty.

Complainants are always automatically informed of all decisions of Disciplinary and Appeal Tribunals. Additionally, a formal notice of final decisions of Disciplinary and Appeal Tribunals is published in the Institute's *Discipline Bulletin*, which is sent to all members of the Institute. The notice provides a summary of the charge and a summary of the decisions rendered. If a suspension or expulsion is imposed, the notice is also sent to all appropriate regulators and a summary of the notice is published in a newspaper having general circulation where the Respondent principally practices in Canada, and in other appropriate publications.

D. How to obtain information about disciplinary cases in progress

Any person may write to the Executive Director of the Institute at 360 Albert Street, Suite 1740, Ottawa, Ontario, K1R 7X7, to obtain information regarding disciplinary cases in progress. However, the Executive Director may only respond to **specific written requests** regarding the status or existence of a disciplinary case involving an identified member or a clearly identified situation.

As the process is confidential through the investigation stage, no information will be provided by the Executive Director regarding a specific situation until after a charge is filed, unless the inquirer is a complainant/informant who has previously signed a confidentiality agreement. If the Respondent pleads guilty, details of the charge and of the sanctions imposed will be disclosed. If a charge is filed and the matter is referred to a DT, certain details may be provided to an inquirer at certain steps in the process.

As has been discussed above, complainants/informants, particularly those who have signed confidentiality agreements, are provided with information regarding the developments of the case in question. At certain stages of the process only complainants, or only complainants/informants who have signed confidentiality agreements, are provided with certain information. If you are a complainant or informant and have not been provided with information, you should contact the Executive Director of the Institute, who will verify your status and provide

you with any information to which you may be entitled, depending on whether you are a complainant or informant, and depending on whether or not you have signed a confidentiality agreement.

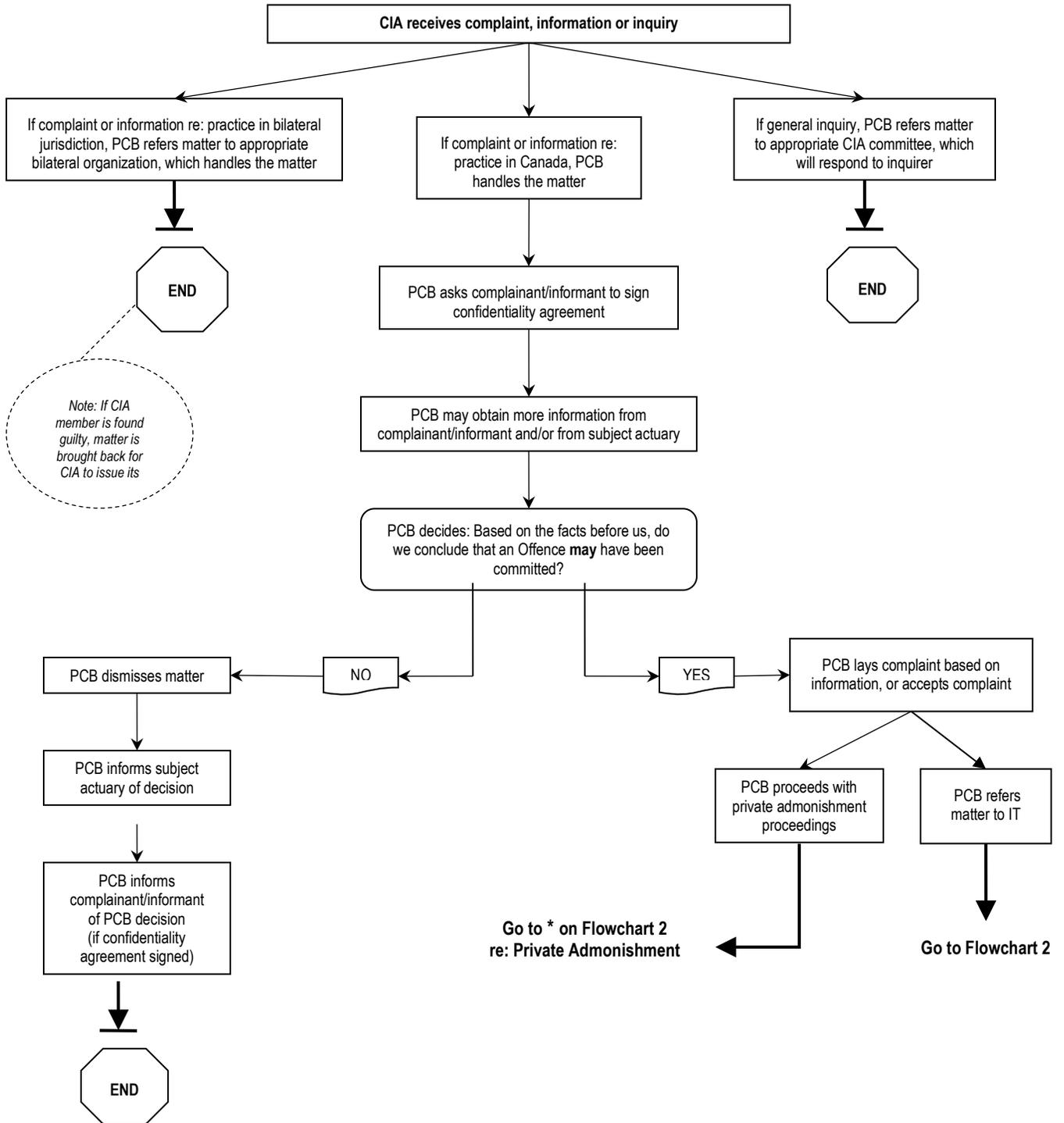
E. How to file a complaint, provide information or make a general inquiry

Any individual who wishes to file a complaint, provide information or make a general inquiry regarding a member of the Institute should send a letter by email, registered mail, or courier, to the Executive Director of the Canadian Institute of Actuaries at the following address: 360 Albert Street, Suite 1740, Ottawa, Ontario, K1R 7X7. This letter should clearly state, if possible, whether it is a complaint, information, or a general inquiry, as described above. The letter should also provide a summary of the issue and any relevant supporting documents, such as actuarial valuations and correspondence. Once received at the Head Office, the complainant or informant would normally hear back from the CIA, concerning the status of his/her complaint, information or inquiry, within four weeks.

For more information generally about the Institute and its disciplinary process, please contact the Executive Director of the Institute.

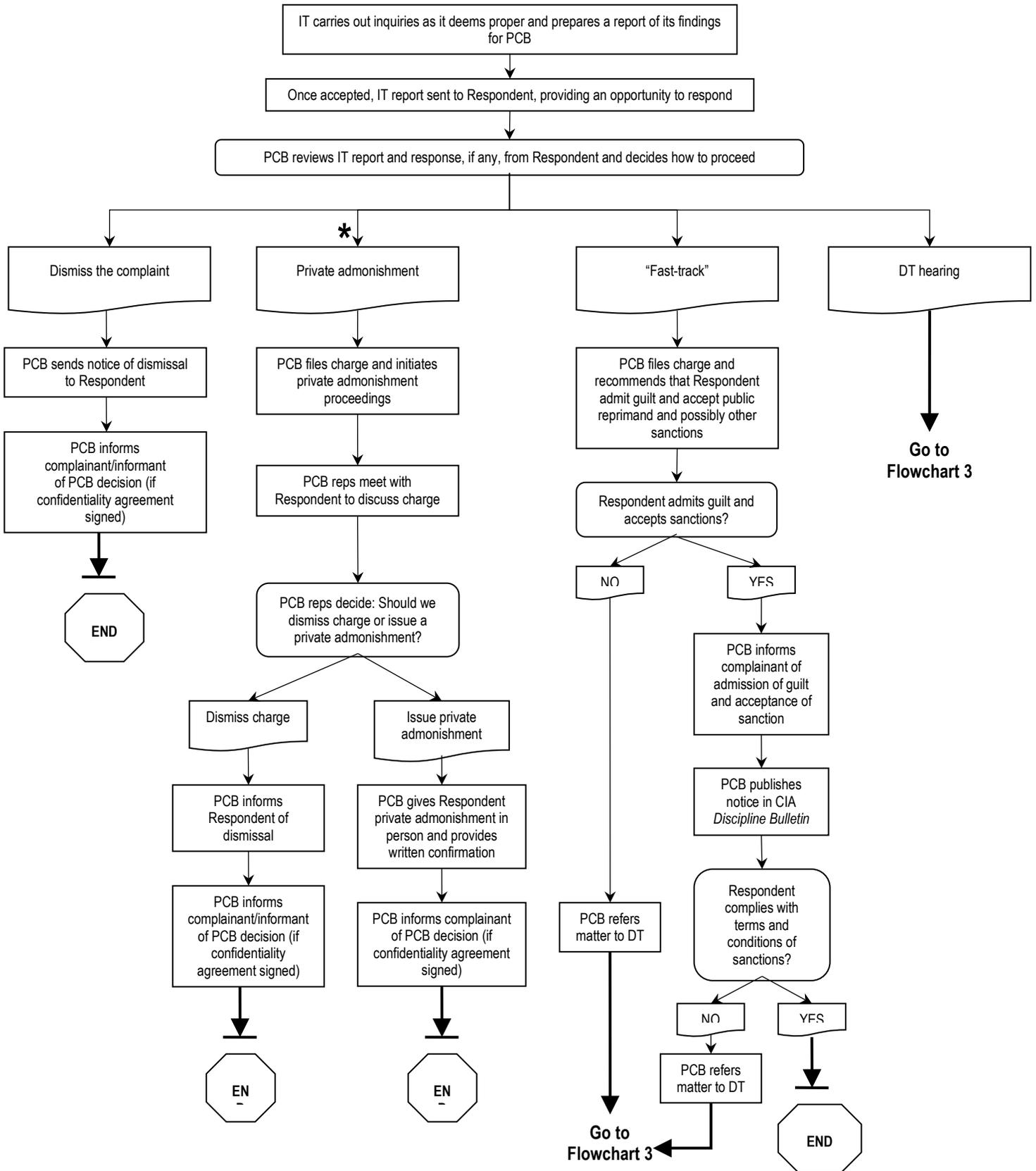
FLOWCHARTS TO ILLUSTRATE THE DISCIPLINARY PROCESS

Flowchart 1



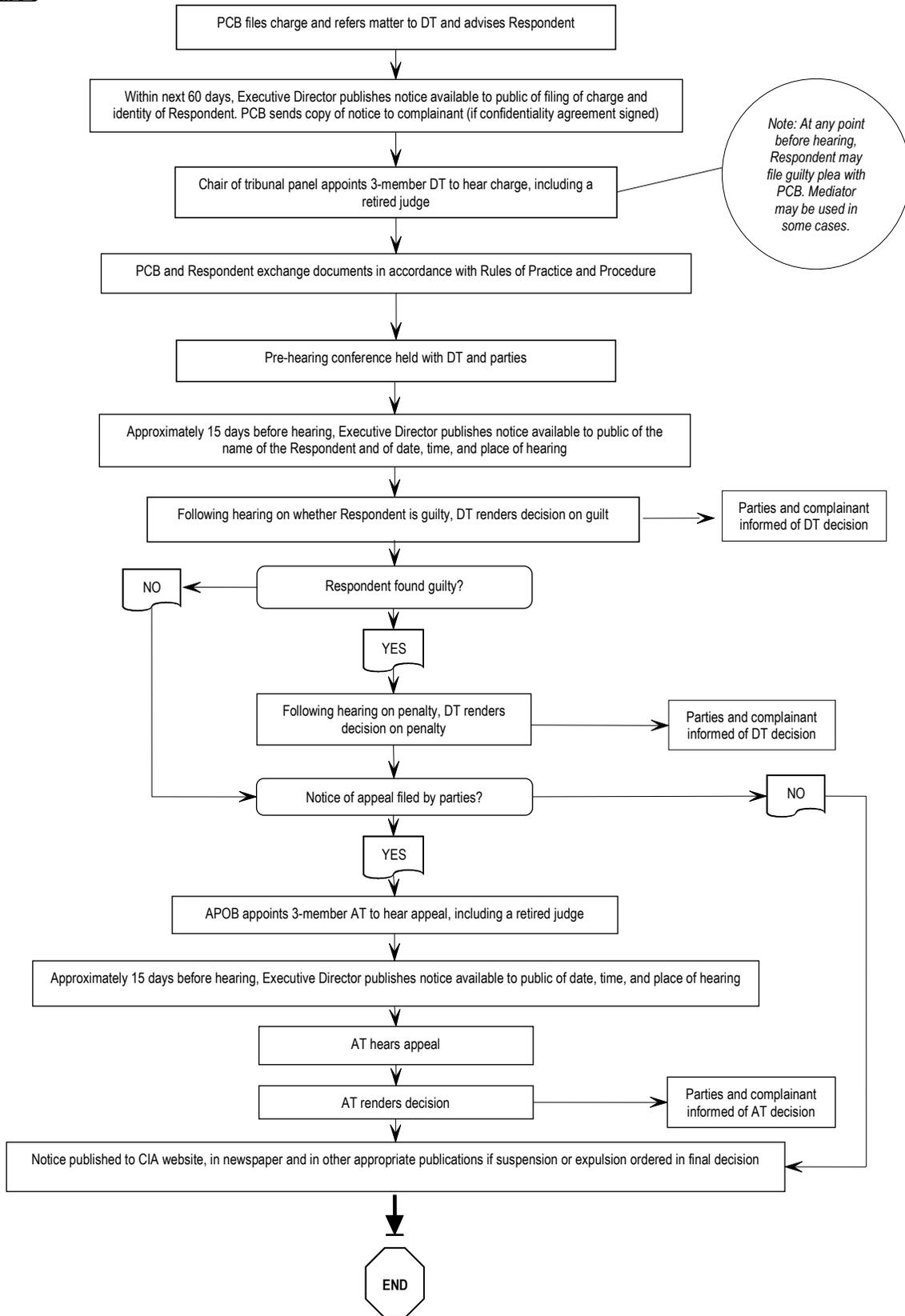
NOTE: This document constitutes a general overview of the disciplinary process. The Institute is only bound by the Bylaws, Rules of Professional Conduct and Rules of Practice and Procedure of a Disciplinary Tribunal.

Flowchart 2



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Flowchart 3



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