

Content

Title :	Regulations Governing the Organization and Deliberation Procedures of the CPA Discipline Committee and the CPA Disciplinary Rehearing Committee 
Date :	2020.04.29
Legislative :	8. Articles 2 and 4 amended and issued per 7 December 2012 Order No. Financial-Supervisory-Securities-Auditing-1010056541 of the Financial Supervisory Commission 9. Articles 9 and 13 and Attachments of Article 7 amended and issued per 17 November 2016 Order No. Financial-Supervisory-Securities-Auditing-1050044889 of the Financial Supervisory Commission 10. Articles 2, 4, and 11 amended and issued per 29 April 2020 Order No. Financial-Supervisory-Securities-Auditing-1090361761 of the Financial Supervisory Commission
Content :	<p>Article 1 These Regulations are adopted pursuant to Article 67, paragraph 1 of the Certified Public Accountant Act.</p> <p>Article 2 The CPA Discipline Committee ("Discipline Committee") shall have 15 members. At the time of formation, neither gender may occupy less than one-third of the seats of the committee. The members shall comprise the personnel set out in the following subparagraphs, to be assigned or hired by the Financial Supervisory Commission ("FSC") to serve in a concurrent capacity, and one of the members shall be appointed as the chairperson: 1. Representatives of CPA associations, 5 persons. 2. Scholars or fair and impartial persons with expertise in law or accounting, 5 persons. 3. Representatives of administrative agencies, 5 persons: A. Three representatives of the FSC, including the director-general of the Banking Bureau, the head of the Department of Legal Affairs, and the director-general of the Securities and Futures Bureau. The FSC may appoint other personnel in special circumstances. B. The director-general of the Taxation Agency, Ministry of Finance. C. The director-general of the Department of Commerce, Ministry of Economic Affairs.</p> <p>The term of office for committee members in subparagraph 1 of the preceding paragraph (with the exception of a concurrently serving CPA association chairperson, who will be replaced as his or her position changes), shall be two years, the same as the term of office for the members in subparagraph 2, and such members may be reappointed upon the expiration of the term, but in principle may be reappointed only once. A member in subparagraph 3 shall be replaced immediately when his or her position changes.</p> <p>For the representatives of CPA associations specified in paragraph 1, subparagraph 1, the National Federation of Certified Public Accountants Association of the ROC (NFCPAA) shall, 2 months prior to the expiry of the term of office of the members, prepare a slate of recommended candidates of twice the number of required representatives, attaching their academic and work experience, current jobs, and relevant documentary evidence, and submit it to the FSC for selection and hiring of the representatives.</p> <p>Any vacancy in the positions of the members in paragraph 1, subparagraphs 1 and 2 shall be filled by a replacement, and the term of office of the replacement shall last until the expiration of the term of the original member. For the replacement of members in subparagraph 1, the NFCPAA shall prepare a slate of recommended candidates of twice the number of the vacancies required to be filled, attaching the documentation specified in the preceding paragraph, and submit it to the FSC for selection and hiring of the replacement members.</p>

Article 3

The Discipline Committee shall appoint clerks, to be charged with keeping meeting minutes and handling other affairs of the Committee, and the chairperson shall submit a signed request to the FSC to appoint staff members to concurrently serve in such positions.

Article 4

The CPA Disciplinary Rehearing Committee ("Rehearing Committee") shall have 15 members. At the time of formation, neither gender may occupy less than one-third of the seats of the committee. The members shall comprise the personnel set out in the following subparagraphs, to be assigned or hired by the FSC to serve in a concurrent capacity, and one of the members shall be appointed as the chairperson:

1. Representatives of CPA associations, 5 persons.
2. Scholars or fair and impartial persons with expertise in law or accounting, 5 persons.
3. Representatives of administrative agencies, 5 persons:
 - A. Two representatives of the FSC.
 - B. One prosecutor appointed by the Supreme Prosecutors Office.
 - C. One deputy director-general of the Directorate-General of Budget, Accounting, and Statistics, Executive Yuan.
 - D. One deputy auditor-general of the Ministry of Audit

The term of office for committee members in subparagraph 1 of the preceding paragraph (with the exception of a concurrently serving CPA association chairperson, who will be replaced as his or her position changes), shall be two years, the same as the term of office for the members in subparagraph 2, and such members may be reappointed upon the expiration of the term, but in principle may be reappointed only once. A member in subparagraph 3 shall be replaced immediately when his or her position changes.

For the representatives of CPA associations specified in paragraph 1, subparagraph 1, the NFCPAA shall, 2 months prior to the expiry of the term of office of the members, prepare a slate of recommended candidates of twice the number of required representatives, attaching their academic and work experience, current jobs, and relevant documentary evidence, and submit it to the FSC for selection and hiring of the representatives.

Any vacancy in the positions of the members in paragraph 1, subparagraphs 1 and 2 shall be filled by a replacement, and the term of office of the replacement shall last until the expiration of the term of the original member. For the replacement of members in subparagraph 1, the NFCPAA shall prepare a slate of recommended candidates of twice the number of the vacancies required to be filled, attaching the documentation specified in the preceding paragraph, and submit it to the FSC for selection and hiring of the replacement members.

A member of the Discipline Committee may not serve concurrently as a member of the Rehearing Committee.

Article 5

The Rehearing Committee shall appoint clerks, to be charged with keeping meeting minutes and handling other affairs of the Committee, and the chairperson shall submit a signed request to the FSC to appoint staff members to concurrently serve in such positions.

Article 6

In any of the following circumstances, a member of the Discipline Committee or the Rehearing Committee shall recuse himself or herself, and may not participate in the review, discussion, and resolution of the relevant case:

1. The member is or was the spouse of the respondent CPA, or is a relative by blood within the fourth degree of, or a relative by marriage within the third degree of, or previously had such a relationship with, the respondent CPA.
2. The member or the member's spouse or former spouse, with respect to the matter at issue, has a relationship of joint obligee or joint obligor with the respondent CPA.
3. The member has a wedding engagement with the respondent CPA.

4. The member is or was an agent or assistant of the respondent CPA.
5. The member is or was a private complainant, complainant, informer, witness, defender, or expert witness in any litigation case involving the respondent CPA.
6. The member belongs to the same CPA firm as the respondent CPA, or is a former or subsequent CPA with respect to the matter under the disciplinary proceeding.

In any of the following circumstances, the Discipline Committee or Rehearing Committee may require a member to recuse himself or herself:

1. The member fails to recuse himself or herself despite the existence of a circumstance specified in the preceding paragraph.
2. There exists any circumstance other than those in the preceding paragraph that is sufficient to determine that the member is likely to be biased in the execution of his or her functions.

Article 7

The agency referring the matter for disciplinary proceedings shall properly prepare a Disciplinary Proceedings Referral Report, the content of which shall include the basic information of the respondent CPA, a summary description of the case, and the reason for referring the matter, and attach relevant evidence and materials, and submit it to the FSC in a written request referring the matter for disciplinary proceedings. The format of the report shall be as given in the attachment.

The FSC shall, within two days after receiving a written request referring a matter for disciplinary proceedings, transfer the case for handling by the Discipline Committee.

Article 8

After disciplinary matters are transferred to the Committee, the chairperson shall distribute the matters evenly and rotationally among the members for preliminary review.

In any of the following circumstances, the Discipline Committee may decline to entertain a disciplinary matter under the preceding paragraph. However, if the circumstance can be rectified, the Committee shall first order rectification to be made within a prescribed time period:

1. The matter referred is not within the authority of the Discipline Committee.
2. The matter is not referred pursuant to the Certified Public Accountant Act.
3. The Disciplinary Proceedings Referral Report fails to list the facts of the infractions of the respondent CPA and provide evidence.
4. The Disciplinary Proceedings Referral Report fails to accurately cite the laws or regulations that the respondent CPA violated, or the laws or regulations are erroneously cited.
5. The disciplinary matter is not initiated in accordance with formal requirements, or fails to meet other requirements.

Article 9

The Discipline Committee shall send a notice of the disciplinary matter to the respondent CPA, who shall, within 20 days from the day following the date of receipt of the notice, submit a written response, and shall notify the respondent CPA to appear before the Committee to make statements. If the CPA fails to submit a response or appear before the Committee to make statements within the time period, the Committee may adopt a resolution *ex parte*.

When a respondent CPA appears before the Committee to make statements under the preceding paragraph, the reviewing member shall make inquiries, and a written transcript shall be prepared.

Article 10

After the review, the reviewing member shall prepare a review opinion based on the review results, and submit it for discussion at a Discipline Committee meeting.

Article 11

A resolution of the Discipline Committee shall require the consent of a

majority of the members present at a meeting attended by at least two-thirds of the members; or the consent of at least two-thirds of the members present at a meeting attended by a majority of the members.

When calculating a quorum of members required to be in attendance under the preceding paragraph, members that have causes for recusal as prescribed under Article 6 need not be deducted; when calculating whether the consent of the members present reaches the required majority or at least two-thirds, as the case may be, members that have causes for recusal as prescribed under Article 6 shall be deducted.

The meetings referred to in paragraph 1 shall be chaired by the chairperson. When the chairperson is unable for any reason to attend, the chairperson shall appoint one other member to serve as the chairperson. If the chairperson does not appoint another member, the members shall select a chairperson from among themselves.

When a Discipline Committee meeting is held, a representative from the agency that originally referred the matter for disciplinary proceedings may be invited to provide explanations to the committee.

Article 12

The discussions at a Discipline Committee meeting may not be disclosed to any outside party before the written resolution is released. The participants of the meeting shall keep strictly confidential the agenda, matters discussed at the meeting, and resolutions.

Article 13

A resolution by the Discipline Committee shall be made into a written resolution, which shall specify the following matters:

1. Name, national ID number, and domicile or residence of the respondent CPA, and the name of the accounting firm where the CPA practiced at the time of the act and the CPA association that the CPA belongs to.
2. If the CPA has an agent, the agent's name, national ID number, and domicile or residence.
3. Cause of the proceedings in the case.
4. Main text of the resolution, and the facts and reasons.
5. Names of the members in attendance.
6. Date of the resolution.
7. In the event the respondent disagrees with the resolution, the method of remedy, the time period within which remedy may be sought, and the agency responsible for handling remedy procedures.

The written resolution under the preceding paragraph shall be prepared within 3 months from the date when the disciplinary matter is transferred to the Discipline Committee. When necessary, the time limit may be extended, one time only, for not more than 3 months.

If any request is made to the agency that originally referred the matter for disciplinary proceedings asking it to further investigate the disciplinary matter, the period of time under the preceding paragraph shall commence on the day following the date when the agency that originally referred the matter for disciplinary proceedings has completed the investigation and delivered the findings to the Discipline Committee.

Article 14

The written resolution shall be served separately upon the respondent CPA, the CPA association to which the CPA belongs, and the agency that originally referred the matter for disciplinary proceedings, and the service report shall be obtained and kept in the case file. In the case of a mail delivery, the return receipt shall be deemed the service report.

Article 15

If the respondent CPA disagrees with the resolution of the Discipline Committee, he may, within 20 days from the day following the date when the written resolution is served, apply to the Rehearing Committee for rehearing, attaching a written statement of the reasons.

Article 16

If the respondent CPA does not apply for rehearing within the time limit in the preceding Article, the resolution shall become final and conclusive.

The Discipline Committee shall publish the resolution in the government gazette and post it on the website, and shall notify separately the CPA association that the respondent CPA belongs to, the agency that originally referred the matter for disciplinary proceedings, or any interested parties.

Article 17

If the Rehearing Committee receives the rehearing application after the statutory time period, it shall decline to entertain the application.

Article 18

The provisions regarding the review of disciplinary matters in these Regulations shall apply mutatis mutandis to the method for adoption of resolutions at Rehearing Committee meetings, the preparation, recording, and service of written resolutions, and statements by the respondent CPA.

Article 19

After the rehearing resolution has been served, the Rehearing Committee shall give the Discipline Committee notice of its resolution. If the respondent CPA does not initiate administrative litigation with respect to the resolution of the Rehearing Committee within the time limit prescribed by the Code of Administrative Procedure, the resolution shall become final and conclusive.

When the rehearing resolution has become final and conclusive, or administrative litigation initiated by the respondent CPA has been dismissed by a decision, the Discipline Committee shall publish the rehearing resolution in the government gazette and publish it on the website, and shall notify separately the CPA association that the respondent CPA belongs to, the agency that originally referred the matter for disciplinary proceedings, or any interested parties.

Article 20

If the Discipline Committee or the Rehearing Committee finds any suspicion of a crime in connection with a disciplinary matter, it shall file an information with the court.

Article 21

The committee member and clerk positions specified in these Regulations shall be unremunerated.

Article 22

These Regulations shall enter into force the date of issuance.