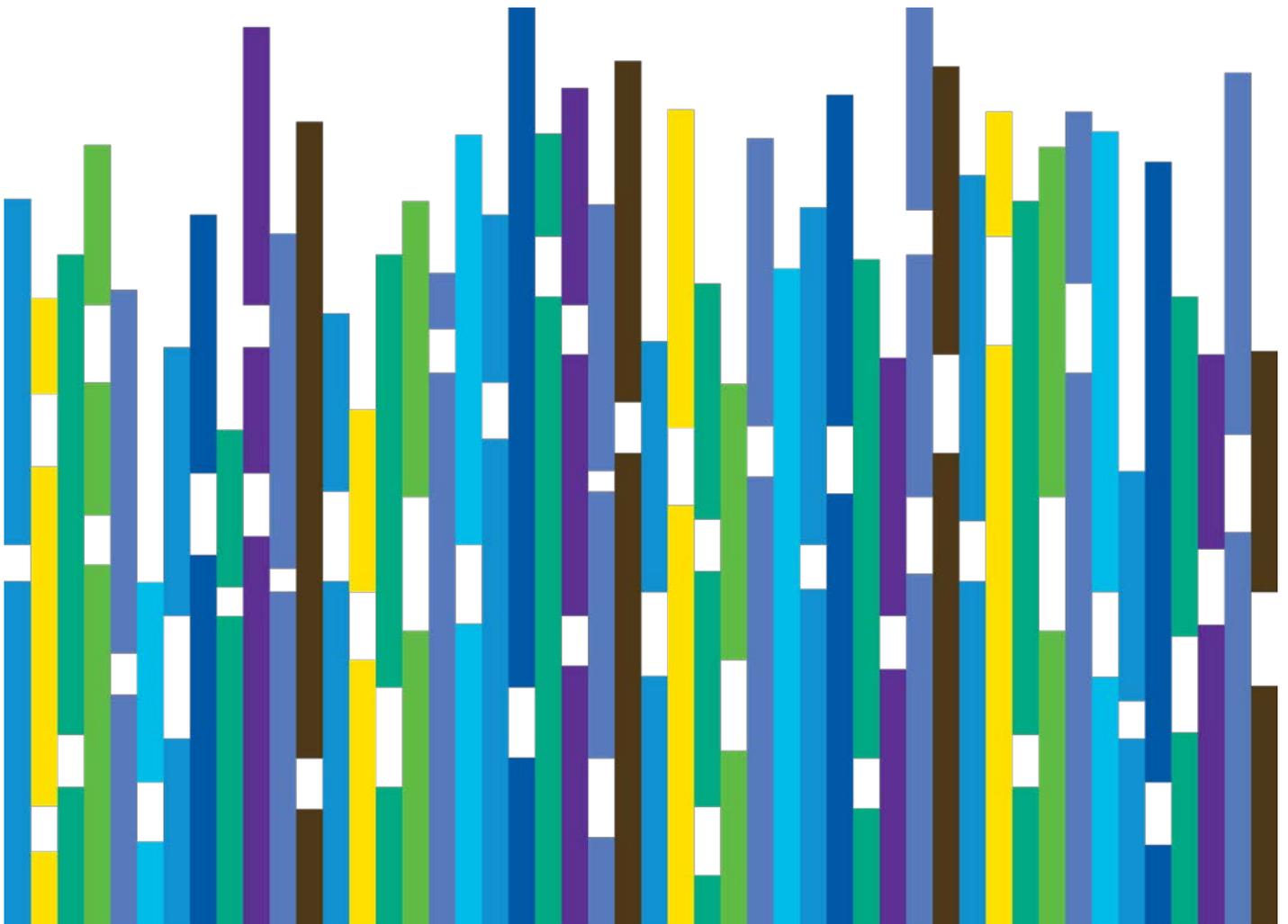


# RULES OF PROCEDURE: EXAM-RELATED CONDUCT

As Amended and Restated

Effective 1 December 2017



# RULES OF PROCEDURE: EXAM-RELATED CONDUCT

## TERMS OF REFERENCE

**Bylaws:** The CFA Institute Articles of Incorporation and Bylaws.

**Candidate:** An individual recognized by CFA Institute as a Candidate in the CFA and/or CIPM Program.

**CFA Institute Board:** The CFA Institute Board of Governors.

**CFA Institute Exam Program:** The CFA and/or CIPM exam programs.

**CFA Institute Exam Rules and Policies:** The rules, criteria, policies, and agreements that govern CFA Institute Exam Programs.

**Code and Standards:** The CFA Institute Code of Ethics and Standards of Professional Conduct.

**Conflict of Interest:** Any business, financial, and/or personal interest, relationship, or other circumstance that could be reasonably expected to impair the ability to be objective or that creates the appearance of impropriety.

**Covered Person:** Any CFA Institute Charterholder, Regular, or Affiliate Member; Candidate or Postponed Candidate (as those terms are defined in the CFA Institute Bylaws); individual that has passed the Level III CFA exam but not been awarded the CFA charter (and appears to be misusing the CFA designation); individual that has allowed membership to lapse or has had his or her membership suspended through the disciplinary process (and appears to be misusing the CFA designation); or individual that seeks to reactivate a membership that has been lapsed.

**Disciplinary Proceeding:** A Hearing Panel, Summary Suspension Panel, or Reinstatement Panel proceeding.

**Disciplinary Review Committee (DRC):** The volunteer committee of CFA Institute members established by the CFA Institute Board to enforce the Governing Documents and the CFA Institute Exam Rules and Policies as they pertain to Covered Persons.

**DRC Chair:** A member of the Disciplinary Review Committee approved by the CFA Institute Board to lead the DRC.

**Early Resolution Agreement:** A proposed agreement that may be provided by Professional Conduct in exam-related matters that notifies the Covered Person that Professional Conduct has made a preliminary determination that sufficient evidence exists that a violation of the CFA Institute Exam Rules and Policies occurred and provides the Covered Person with an opportunity to accept the Early Resolution Agreement to expedite conclusion of the matter.

**Exam-Related Conduct:** Any activity or conduct by a Covered Person related to CFA Institute Exam Programs, including conduct occurring during enrollment/registration for a CFA Institute Exam Program; conduct before, during, and after the administration of a CFA Institute Exam Program; and any conduct that compromises or attempts to compromise the reputation, integrity, validity, or security of a CFA Institute exam.

**Governing Documents:** Documents that govern the conduct of Covered Persons, including the Bylaws, Code and Standards, and Rules of Procedure.

**Hearing Panel:** A panel composed of DRC members convened when the Statement of Charges has been rejected by a Covered Person.

**Hearing Panel Administrator:** The administrative and scheduling intermediary among Professional Conduct, the Covered Person, any Panel, and/or the DRC Chair.

**Hearing Panel Chair:** The Hearing Panelist selected by the DRC Chair to conduct and lead a Hearing Panel proceeding.

**Professional Conduct:** The CFA Institute Professional Conduct Program staff, including their representatives and designees, whose duties include, but are not limited to, investigating professional conduct matters, recommending disciplinary sanctions, and participating in Disciplinary Proceedings.

**Reinstatement Panel:** A panel of current and/or former DRC members who conduct a hearing to evaluate and make a decision regarding a petition for reinstatement.

**Statement of Charges:** The document that notifies the Covered Person of Professional Conduct's findings of fact, conclusion as to violation(s), and recommended sanction(s) that may be accepted or rejected by the Covered Person.

**Summary Suspension Hearing Panel:** A panel of DRC members who conduct a hearing to determine whether summary suspension is appropriate when a Covered Person has submitted a request for review of a notice of summary suspension issued by Professional Conduct.

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## **RULE 1: INTRODUCTION**

The Bylaws of CFA Institute and these Rules of Procedure form the basic structure for enforcing compliance with the Governing Documents and CFA Institute Exam Rules and Policies. CFA Institute believes that Covered Persons are presumed to be in compliance with the Governing Documents and CFA Institute Exam Rules and Policies unless and until proved otherwise, and is committed to providing a fair, efficient, and effective disciplinary process. Throughout the disciplinary process, CFA Institute staff, Covered Persons and their representatives, and the members of the Disciplinary Review Committee must follow these Rules of Procedure.

### **Rule 1.1 Roles and Authority of the Disciplinary Review Committee**

The DRC is a volunteer committee of CFA Institute members established by the CFA Institute Board through the Bylaws. The DRC enforces the Governing Documents as well as the CFA Institute Exam Rules and Policies through participation as panelists in Disciplinary Proceedings. Panelists will not participate in any proceeding in which they have a Conflict of Interest. If a conflict exists, the panelist will withdraw from any proceeding immediately. In the unlikely event that all members of the DRC are conflicted and unable to serve as panelists in a Disciplinary Proceeding, substitute panelists will be drawn from current or former members of the CFA Institute Board.

### **Rule 1.2 Roles and Authority of Professional Conduct**

Professional Conduct is authorized to investigate any matter involving, or appearing to involve, a violation of the Governing Documents and/or the CFA Institute Exam Rules and Policies by a Covered Person and is authorized to contact any person or entity that it believes may be able to provide relevant information, documents, or assistance in an investigation.

Professional Conduct investigates to determine whether it is more likely than not that the Covered Person has violated the Governing Documents and/or the CFA Institute Exam Rules and Policies and, if so, issues an Early Resolution Agreement and/or Statement of Charges. In addition, Professional Conduct presents, in writing, its findings of fact, conclusion as to violation(s), and recommended sanction(s) in Disciplinary Proceedings.

Professional Conduct may appoint individuals to act on its behalf and to assist in performing the functions related to investigations and any resulting Disciplinary Proceedings.

Staff members of Professional Conduct, and those individuals acting on its behalf, will withdraw from any investigation or proceeding in which they have a Conflict of Interest. If the entire Professional Conduct staff has a Conflict of Interest, the Chair of the Audit and Risk Committee of the CFA Institute Board will appoint individuals to act on behalf of Professional Conduct and to assist in or perform the functions related to investigations and any resulting Disciplinary Proceedings.

### **Rule 1.3 Rights and Responsibilities of a Covered Person**

A Covered Person who is the subject of a professional conduct investigation or Disciplinary Proceeding has the responsibility to

- a) adhere to the Rules of Procedure;
- b) produce accurate and complete copies of all requested documents in the Covered Person's possession or control;
- c) provide information in writing, as requested by Professional Conduct;
- d) cooperate fully in the investigation or Disciplinary Proceeding; and
- e) keep Professional Conduct advised of current mailing and email addresses;

and the right to

- a) retain and be represented by legal counsel; and
- b) present documentary evidence and written testimony in Disciplinary Proceedings.

The Covered Person assumes his or her own costs for legal representation, translations, and other costs associated with an investigation and/or Disciplinary Proceedings.

#### **Rule 1.4 Delivery and Receipt of Documents**

Professional Conduct may provide notices and documents relating to an investigation or Disciplinary Proceeding to the Covered Person's mailing address and/or email address as shown in CFA Institute records. Correspondence and/or documents are considered received by the Covered Person when sent to

- a) the mailing and/or email address for the Covered Person shown in CFA Institute records or
- b) the business mailing and/or email address of a Covered Person's attorney or other representative who has been previously identified to Professional Conduct, in writing, by the Covered Person.

All references to the timing of delivery and receipt of documents within these Rules are calculated based on calendar days.

#### **Rule 1.5 Grounds for Sanctions**

Disciplinary sanctions may be imposed on a Covered Person for

- a) any violation of the Governing Documents;
- b) a violation of the CFA Institute Exam Rules and Policies;
- c) falsification of information on enrollment, registration, scholarship, and/or Research Challenge application forms; and/or
- d) failure to cooperate in a professional conduct investigation.

#### **Rule 1.6 Sanctions**

Possible sanctions include the following:

- a) **Private Reprimand.** An admonishment in writing for which publication and disclosure excludes the Covered Person's name and other identifying information, and will not be disclosed to other persons or entities.
- b) **Suspension of Membership.** Termination of a Covered Person's memberships, or opportunity for memberships, in CFA Institute and any member societies for a specified period.
- c) **Suspension of the Right to Use the CFA Designation.** Termination of a Covered Person's right to use the CFA designation for a specified period.
- d) **Revocation of Membership.** Permanent or indefinite termination of a Covered Person's memberships, or opportunity for memberships, in CFA Institute and any member societies.
- e) **Revocation of the Right to Use the CFA Designation.** Permanent or indefinite termination of a Covered Person's right to use the CFA designation.
- f) **Summary Suspension.** Automatic termination of a Covered Person's memberships, or opportunity for memberships, in CFA Institute and member societies, as well as the right to use the CFA designation or participate in a CFA Institute Exam Program.
- g) **Suspension from Participation in CFA Institute Exam Programs.** Termination of a Covered Person's participation in the CFA and/or CIPM exam programs for a specified period.
- h) **Prohibition from Participation in CFA Institute Exam Programs.** Permanent or indefinite termination of a Covered Person's participation in the CFA and/or CIPM exam programs.

### **Rule 1.7 Publication, Disclosure, and Confidentiality**

CFA Institute understands that all investigations and Disciplinary Proceedings are sensitive in nature and, therefore, will exercise reasonable care to ensure that the pendency, subject matter, status, and records of investigations and Disciplinary Proceedings conducted according to these Rules remain confidential. Exceptions may be made

- a) as required by law;
- b) as necessary to conduct an investigation or Disciplinary Proceeding;
- c) to disclose the conduct/violation and sanction(s) on the CFA Institute website (excluding the Covered Person's name and identifying information);
- d) if the Covered Person has agreed to a waiver of confidentiality; or
- e) to a regulatory organization, governmental entity, or court with jurisdiction over the Covered Person's conduct. In such case, the regulator, agency, or court may make whatever use of that information it deems appropriate.

## **RULE 2: INVESTIGATIONS**

### **Rule 2.1 Beginning an Investigation**

Possible violations of the Governing Documents and/or CFA Institute Exam Rules and Policies come to the attention of Professional Conduct through many sources including witness/proctor reports, grading of exams, third-party complaints, publicly available information, and/or review of the candidate's testing experience and materials. Professional Conduct may open an investigation of any matter involving, or appearing to involve, the Exam-Related Conduct of a Covered Person regardless of the source of that information.

### **Rule 2.2 Notice of Investigation**

A notice of investigation will be sent to a Covered Person who becomes the subject of an investigation by Professional Conduct. If the allegations are known to Professional Conduct before exam results have been released, the notice of investigation will include a statement that the Covered Person's exam results will not be released pending resolution of the investigation, and the Covered Person is not eligible to participate in CFA Institute Exam Programs while the matter is unresolved. The notice of investigation will also include a copy of the Rules of Procedure or information as to where the Rules of Procedure can be found on the CFA Institute website.

### **Rule 2.3 Investigation**

As part of an investigation into the Covered Person's conduct, Professional Conduct is authorized to contact any person or entity that it believes may be able to provide relevant information, documents, and/or assistance in an investigation. Professional Conduct may request and obtain information and documents from a number of sources, including the Covered Person. In making a request to any person or entity, it may be necessary to identify the Covered Person, provide the person or entity with a copy of related reports and/or documents, and/or identify the conduct under investigation.

### **Rule 2.4 Closing an Investigation**

If, following an investigation, Professional Conduct determines there is insufficient evidence of a violation, the Covered Person will be notified in writing that the investigation has been concluded, the Covered Person's exam results will be released, and the Covered Person will be eligible to participate in CFA Institute Exam Programs. Professional Conduct may re-open a closed investigation if it receives new information or allegations concerning the Covered Person's conduct.

## **Rule 2.5 Early Resolution Agreement**

Professional Conduct may provide the Covered Person with an Early Resolution Agreement. The purpose of the Early Resolution Agreement is to inform the Covered Person that Professional Conduct has made a preliminary determination that sufficient evidence exists that a violation of the CFA Institute Governing Documents and/or CFA Institute Exam Rules and Policies occurred and provides the Covered Person an opportunity to expedite conclusion of the matter by accepting Professional Conduct's findings, conclusion, and recommended sanction prior to the preparation of a Statement of Charges.

If the Covered Person accepts the Early Resolution Agreement within the time specified, the Covered Person will have waived all rights to receive a Statement of Charges and/or request a hearing under the Rules of Procedure, and Professional Conduct's findings, conclusion, and sanction will be imposed.

If the Covered Person rejects the Early Resolution Agreement or does not respond in the time specified, Professional Conduct may continue the investigation or issue a Statement of Charges.

## **RULE 3: STATEMENT OF CHARGES**

### **Rule 3.1 Statement of Charges**

If the Covered Person does not respond to or rejects the Early Resolution Agreement, and Professional Conduct finds there is sufficient evidence the Covered Person committed a violation of the Governing Documents and/or CFA Institute Exam Rules and Policies and a disciplinary sanction is warranted, Professional Conduct will provide the Covered Person with a Statement of Charges. The Statement of Charges will include

- a) an explanation of Professional Conduct's findings of fact, conclusion as to violation(s), and recommended sanction(s);
- b) copies of all documents relevant to the Statement of Charges, after removing any confidential information; and
- c) notice to void the Covered Person's exam results, if any, for the exam in which the conduct occurred.

### **Rule 3.2 Covered Person's Response to the Statement of Charges**

The Covered Person may accept or reject the Statement of Charges, in writing, within 21 days of the date of the Statement of Charges.

If the Covered Person accepts, or fails to reject, the Statement of Charges, the findings of fact and conclusion as to violation(s) will be deemed accepted, the recommended sanction(s) will be imposed, and the Covered Person's exam results will be voided for the exam in which the conduct occurred. In addition, the Covered Person will have waived all rights to further review by a Hearing Panel.

If the Covered Person rejects the Statement of Charges, the Covered Person is encouraged to provide any additional facts, evidence, or positions to Professional Conduct for further consideration. On receipt of the Covered Person's rejection and any additional information, Professional Conduct may continue the investigation and/or refer the matter to a Hearing Panel.

## **RULE 4: HEARING PANEL PROCESS**

### **Rule 4.1 Scheduling a Hearing Panel**

A Hearing Panel will be scheduled upon completion of an investigation by Professional Conduct and rejection of a Statement of Charges by a Covered Person. All hearings will be conducted by telephone conference call outside the presence of the Covered Person and Professional Conduct. Hearings will be held within 60 days of the referral to a Hearing Panel.

### **Rule 4.2 Selection of Hearing Panelists**

The DRC Chair, or his or her designee, will appoint three to five voting members and one alternate from the DRC, one of whom will be designated as the Hearing Panel Chair. The alternate will attend the Hearing Panel but will not participate in the Hearing Panel deliberations or vote unless a voting member is unable to participate or is disqualified.

### **Rule 4.3 Notice of Hearing and Challenge Procedures**

The Covered Person and Professional Conduct will be provided at least 28 days' notice of the hearing date. The notice of hearing will include the identities of the Hearing Panelists and explain the process for challenging Hearing Panelists' participation on the Hearing Panel.

The Covered Person and Professional Conduct will each have 7 days from the date of the notice of hearing to challenge one panelist's participation on the Hearing Panel without stating a reason.

The Covered Person and Professional Conduct may also challenge an unlimited number of Hearing Panelists but must state a reason for the challenge. Hearing Panelists who are challenged for a stated reason will be disqualified from the panel

- a) by agreement between the Covered Person and Professional Conduct;
- b) absent an agreement, by decision of the Hearing Panel Chair; or
- c) by decision of the DRC Chair, or his or her designee, if necessary, because of a challenge to the Hearing Panel Chair.

A disqualified panelist may be replaced in the same manner as panelists were appointed.

### **Rule 4.4 Written Submissions to the Hearing Panel**

Because the hearing will be conducted without verbal testimony by either the Covered Person or Professional Conduct, it is important for both Professional Conduct and the Covered Person to provide a written explanation of their positions as well as documents and evidence to the Hearing Panel. Professional Conduct's written submission will be provided to the Covered Person at least 21 days prior to the hearing. The Covered Person must provide his or her written submission to the Hearing Panel Administrator at least 14 days prior to the hearing. Written submissions must be in English to be considered by the Hearing Panelists.

All written submissions will be provided to the Hearing Panelists in advance of the hearing. Any written documentation not provided by Professional Conduct and/or Covered Person in accordance with this rule may be excluded from consideration by the Hearing Panel at its discretion.

### **Rule 4.5 Hearing Procedures**

The Hearing Panel is not bound by any rules of evidence, such as those applicable in courts of law, and the Hearing Panel may exclude any document that it deems irrelevant. The Hearing Panel deliberations will not be transcribed or recorded.

#### **Rule 4.6 Burden of Proof**

The Hearing Panel must determine whether, by a preponderance of the evidence, the alleged violation(s) occurred. A preponderance of the evidence means that it is “more likely than not” that the Covered Person committed the alleged violation(s).

#### **Rule 4.7 Hearing Panel Decision**

The decision of the Hearing Panel will be determined by a majority vote. The decision must be made by at least three Hearing Panelists. The Hearing Panel Chair will issue a written decision setting forth the Hearing Panel’s findings of fact, conclusion as to violation(s), and sanction(s), if any. The Hearing Panel decision will be provided to the Covered Person and Professional Conduct within 35 days after the hearing. The decision of the Hearing Panel will be final.

#### **Rule 4.8 Voiding of Exam Results**

If there is a conclusion that a violation occurred, the Covered Person’s exam results, if any, for the exam in which the conduct occurred will be voided.

### **RULE 5: REINSTATEMENT**

#### **Rule 5.1 Petition, Investigation, and Review for Reinstatement**

A Covered Person who received a prohibition from participation in CFA Institute exam programs or revocation of membership and/or the right to use the CFA designation for exam-related conduct may seek reinstatement by submitting a petition for reinstatement to Professional Conduct. To be eligible to seek reinstatement, the petitioner must wait at least five years after the effective date of the revocation or prohibition.

On receipt of a petition for reinstatement, Professional Conduct may conduct any necessary investigation. Professional Conduct will require the petitioner to complete a professional conduct questionnaire and may request that the petitioner complete a Standards of Practice exam or specific ethics course in advance of the matter being referred to a Reinstatement Panel.

On completion of any investigation, Professional Conduct will provide a written recommendation to the Reinstatement Panel and the petitioner. The petitioner may also submit written information to the Reinstatement Panel on his or her behalf. The Reinstatement Panel will also be provided with a copy of the decision(s) from any prior Disciplinary Proceeding(s).

The Reinstatement Panel will be formed and conducted as provided in Rule 4, except the DRC Chair, or his or her designee, may appoint former and/or current DRC members to serve in voting and/or alternate roles.

The petitioner must demonstrate to the Reinstatement Panel’s satisfaction his or her commitment to CFA Institute and CFA Institute Exam Programs and the ethical and professional standards of CFA Institute, which will include sufficient evidence demonstrating rehabilitation and that the underlying conduct that caused the prohibition or revocation should no longer prevent participation in CFA Institute exam programs and/or revocation of membership. The petition for reinstatement will be denied unless the Reinstatement Panel, by majority vote, determines that the past conduct should not prevent future participation in CFA Institute Exam Programs and/or membership. If the petition for reinstatement is denied, the petitioner may not submit another petition for reinstatement for two calendar years, calculated from the date of the Reinstatement Panel decision.

### **Rule 5.2 Announcement and Publication of Reinstatement**

If a petition for reinstatement is granted, a notice of the reinstatement may be published; however, the petitioner's name or other identifying information will not be included in the publication.

## **RULE 6: SUMMARY SUSPENSION**

### **Rule 6.1 Grounds for Summary Suspension**

Professional Conduct may impose a summary suspension if a Covered Person fails to cooperate with Professional Conduct in its investigation of the Covered Person's conduct.

### **Rule 6.2 Notice of Summary Suspension**

If a summary suspension is imposed, Professional Conduct will provide the Covered Person with a written notice of summary suspension, which will also advise the Covered Person of the right to request a review of the summary suspension by a Summary Suspension Hearing Panel.

### **Rule 6.3 Request for Review of Summary Suspension**

If the Covered Person requests a review of the summary suspension, the Covered Person must provide a written request within 28 days of the date of the notice of summary suspension. Professional Conduct will refer the matter to a Summary Suspension Hearing Panel.

### **Rule 6.4 Failure to Request Review of Summary Suspension**

If the Covered Person does not request a review of the summary suspension within 28 days of the date of the notice of summary suspension, the summary suspension automatically becomes a revocation and/or prohibition.

### **Rule 6.5 Summary Suspension Hearing Panel**

A Summary Suspension Hearing Panel will be formed and conducted as provided in Rule 4. If a Summary Suspension Hearing Panel affirms the summary suspension, the sanction automatically becomes a revocation and/or prohibition. If the Summary Suspension Hearing Panel rejects the summary suspension, Professional Conduct may close the matter or continue its investigation into the Covered Person's conduct.

### **Rule 6.6 Reversal of a Revocation and/or Prohibition Imposed Pursuant to Rule 6.1**

A revocation and/or prohibition imposed as a result of Rule 6.1 may be rescinded by Professional Conduct if the Covered Person agrees to cooperate with Professional Conduct's investigation.