



# Peer Review Program

**AICPA Peer Review Board  
Rules of Procedures for Reviewers**

**Effective Date—January 1, 2016**

# Table of Contents

<b>1. GENERAL</b> .....	<b>1</b>
1.1 Authority to Conduct Proceedings .....	1
1.2 Applicability of Rules of Procedure .....	1
1.3 Hearings .....	1
1.4 Nature of Hearings .....	2
1.5 Hearing Panel.....	2
1.6 Ad Hoc Committee .....	2
1.7 Review Panel.....	3
1.8 Parties to the Proceeding .....	3
<b>2. THE RIGHTS OF PARTIES</b> .....	<b>4</b>
2.1 Right to Be Heard at a Hearing .....	4
2.2 Right to Present Evidence and Cross Examine.....	4
2.3 Right to a Copy of the Transcript.....	4
<b>3. BASIC PRINCIPLES REGARDING MATTERS BEFORE A HEARING PANEL OR REVIEW PANEL</b> .....	<b>4</b>
3.1 Purpose of Rules of Procedures.....	4
3.2 Rules of Evidence.....	5
3.3 Notice of Hearing Panel Proceeding .....	5
3.4 Answer to the Notice of Hearing.....	5
3.5 Notice of Review Panel Proceeding .....	6
3.6 Postponement Requests (Hearing Panel and Review Panel) .....	6
3.7 Witnesses .....	7
3.8 Confidentiality of Proceedings .....	7
3.9 Disqualification of Board Members from Participating in a Proceeding .....	7
<b>4. CONDUCTING A HEARING BY A HEARING PANEL</b> .....	<b>7</b>
4.1 Responsibilities of the Presiding Officer .....	7
4.2 Telephone Conferences When a Reviewer or an Administering Entity Does Not Attend	8
4.3 Agenda .....	8

<b>5. THE HEARING PANEL’S DECISION .....</b>	<b>8</b>
5.1 Decisions to Be Made.....	8
5.2 Burden of Proof .....	8
5.3 Decisions .....	8
5.4 Effective Date .....	9
5.5 Reconsideration of the Prior Decision by the Hearing Panel.....	9
<b>6. CONDUCTING A HEARING BY A REVIEW PANEL.....</b>	<b>10</b>
6.1 Responsibilities of the Presiding Officer .....	10
6.2 Telephone Conferences When a Reviewer or an Administering Entity Does Not Attend 10	
6.3 Agenda .....	10
<b>7. THE REVIEW PANEL’S DECISION.....</b>	<b>10</b>
7.1 Decisions to Be Made.....	10
7.2 Burden of Proof .....	11
7.3 Decisions .....	11
7.4 Effective Date .....	11
<b>Appendix A: Agenda for a Reviewer Hearing Before a Hearing Panel of the AICPA Peer Review Board .....</b>	<b>12</b>
<b>Appendix B: Agenda for a Reviewer Hearing Before a Review Panel of the AICPA Peer Review Board .....</b>	<b>14</b>

# **1. GENERAL**

## **1.1 Authority to Conduct Proceedings**

The Peer Review Board of the American Institute of Certified Public Accountants (board) establishes Standards for Performing and Reporting on Peer Reviews (standards). Pursuant to this grant of authority, the board hereby establishes the following procedures that will govern the adjudication of all matters that may lead to the removal of a reviewer from the national list of qualified reviewers or to the imposition of other sanctions by the board. Other committees, such as an administering entity's peer review committees or subcommittees that consider peer review reports, do not have the authority to remove a reviewer from the list of qualified reviewers but may impose other sanctions that relate to reviews performed and scheduled at the administering entity level. The following procedures do not govern the resolution of disagreements between the reviewer, reviewed firm or administering entity regarding the type of peer review report to be issued, application of professional standards or other such matters.

The standards provide that, if a reviewer disagrees with a corrective action required by the peer review committee (committee) or board, he or she may appeal the decision by writing the board and explaining why he or she believes that the action(s) are unwarranted. In such circumstances, a hearing panel will be formed by the board to review and consider the request. Other guidance provides that a hearing panel be appointed if a reviewer appeals decisions related to being deemed ineligible to perform reviews or other actions imposed upon him or her by the committee or board.

The standards also provide that when a committee recommends that a reviewer should be prohibited from performing peer reviews in the future, the board shall appoint a hearing panel to consider whether the reviewer should be removed from the list of qualified reviewers or whether some other action should be taken. The board may appoint such a hearing panel without a committee recommendation.

## **1.2 Applicability of Rules of Procedure**

The board has authorized the Director of the program or his or her designee to determine if it is appropriate, based on standards and guidance, to form a hearing panel. If it is decided that it is appropriate for a hearing panel to be formed, a meeting via telephone conference should be scheduled ordinarily within 60 days of the recommendation or request. These rules of procedure set forth herein become applicable when it is decided that it is appropriate for a hearing panel to consider whether to remove a reviewer from the list of qualified reviewers or if other sanctions should remain or be imposed. Once these rules of procedure become applicable to a proceeding, they are to be applied until a decision is made regarding an appeal of a prior decision by the committee or hearing panel, to remove the reviewer from the list of qualified reviewers, or if other sanctions should be or remain imposed on the reviewer.

## **1.3 Hearings**

Hearings are held to adjudicate matters that may lead to the removal of a reviewer from participation in the program or if other sanctions should remain or be imposed on the reviewer on

a national level. Decisions made as a result of a hearing panel are reviewable by an ad hoc committee, if requested by the reviewer or an administering entity.

## **1.4 Nature of Hearings**

Hearings are designed both (a) to provide procedural fairness, thus providing reviewers the ability to defend themselves, and (b) to assess the facts on which to base a decision regarding whether to remove a reviewer from the AICPA Peer Review Program or to determine if other sanctions should remain or be imposed. Hearing procedures are informal to afford all parties maximum flexibility in presenting every side of an issue.

## **1.5 Hearing Panel**

The hearing panel determines whether to remove a reviewer from the list of qualified reviewers or if other sanctions should remain or be imposed. The hearing panel will consist of five members drawn from either current board members or other members of the AICPA appointed at the sole discretion of the Chair of the board or the Chair's designee. One member of the hearing panel will be appointed as the presiding officer by the Chair or the Chair's designee. The Chair or the Chair's designee may appoint himself or herself as a member of a hearing panel or as its presiding officer.

Action may be taken by the hearing panel, as long as a *quorum* is present, which is a majority of the hearing panel.

The hearing panel has the authority to affirm, modify, or reverse all or any part of the decision regarding actions previously required by any administering entity. The hearing panel will determine whether and what other actions should be required of the reviewer, including, but not limited to, removal of the reviewer from the list of qualified reviewers. Decisions of the hearing panel are effective immediately.

Decisions of the hearing panel may be appealed by the reviewer or administering entity. This request should be received within 30 days of the date of the hearing panel's decision. If the ad hoc committee determines that the matter should be reviewed, it will be referred to a review panel. An appeal by the reviewer or administering entity will not delay the effective date of the hearing panel's decision. The decision of the hearing panel will remain in effect during the appeal process.

## **1.6 Ad Hoc Committee**

Ad hoc committees are formed when a reviewer or an administering entity requests a review of the hearing panel's decision. The ad hoc committee will review the facts and evidence of the matter and determine whether the matter should be referred to a review panel. The board Chair or the Chair's designee shall appoint three members to the ad hoc committee. Individuals who previously served on the hearing panel that initially decided on the matter cannot be appointed to the ad hoc committee. This committee will be drawn from either current board members or other members of the AICPA and are appointed at the sole discretion of the board Chair or the Chair's designee. Individuals serving on the hearing panel cannot attend or participate on the ad hoc committee.

The party requesting the appeal shall bear the burden of convincing the ad hoc committee that the matter should be referred to a review panel and must provide support for the request by submitting evidence.

The other party will be notified of the request, sent a copy of the evidence submitted, and informed of the ad hoc committee meeting date. The other party may submit additional evidence supporting the decision of the hearing panel to the ad hoc committee not later than 14 days prior to the meeting date.

The ad hoc committee will meet via conference call in an executive session. At the discretion of the committee, staff may participate in the meeting to provide guidance related to peer review standards. The administering entity(y/ies), the reviewer, and general counsel shall not be present during the meeting. No transcript will be prepared based on the meeting. The ad hoc committee will decide whether such request for review by a review panel shall be granted. A decision by the ad hoc committee denying a request for review is final and not subject to further review.

If the ad hoc committee decides that the matter should be referred to a review panel, the reviewer and administering entity will receive notification of the date and time that a review panel will meet to review the matter.

## **1.7 Review Panel**

Review panels will be formed when an ad hoc committee decides that the matter should be referred to a review panel. The board Chair or the Chair's designee shall appoint five members to the review panel. The review panel will be drawn from either current board members or other members of the AICPA appointed at the sole discretion of the board Chair or the Chair's designee. Individuals who previously served on the hearing panel or ad hoc committee that reviewed the matter cannot be appointed to the review panel.

Action may be taken by the review panel, as long as a *quorum* is present, which is a majority of the review panel.

During the review of the matter, a review panel shall consider the entire record of the hearing together with such additional relevant material or memoranda submitted by the reviewer and administering entity that was considered by the ad hoc committee. Parties can submit additional evidence that could not have been produced earlier, and it is at the discretion of the Chair to determine if it can be admitted. This additional evidence may be sent to the review panel to be received not later than 14 days prior to the review date.

After deliberating the matter, the review panel has the authority to affirm, modify, or reverse all or any part of the decision of the hearing panel or make such other disposition of the case as it deems appropriate.

Decisions by the review panel are final and not subject to any further review.

## **1.8 Parties to the Proceeding**

The reviewer, the committee chair of the administering entities, or other individuals representing the administering entity and AICPA peer review staff may be parties to the proceeding related to the hearing panel and review panel. Intervention by other parties in proceedings shall not be permitted, except other parties may be present as provided in paragraph 3.7. The designated staff of the AICPA or other individuals with responsibility for presenting the charges to the hearing panel or review panel and the representative(s) of or on behalf of the reviewer and administering entity may present evidence; call and question witnesses; and make arguments, including rebuttal arguments. The AICPA Office of General Counsel (Counsel) shall be authorized to attend and advise a panel regarding matters of policy and procedures during the review by hearing panels

and review panels and in any executive session. Counsel will not participate in hearings when the reviewer does not participate in the hearing. If the reviewer does not participate, a court reporter will not attend, and a transcript will not be prepared.

## **2. THE RIGHTS OF PARTIES**

### **2.1 Right to Be Heard at a Hearing**

A party to a proceeding related to the hearing panel or review panel has the right to appear and be heard at a hearing, which is conducted by conference call. Any administering entity that is interested in participating will do so at the discretion of the panel Chair. In order to secure their right by conference call, the reviewer and administering entity are required to notify AICPA staff not later than 14 days prior to the hearing date of their desire to attend.

A reviewer or administering entity may be represented by Counsel, other representatives, or both. Hearing panels and review panels are empowered to conduct a hearing in the absence of the reviewer or administering entity, provided that a Notice of Hearing pursuant to paragraph 3.3 has been properly served, and there is no compelling reason, in the view of the presiding officer of the hearing panel or review panel, not to proceed.

### **2.2 Right to Present Evidence and Cross Examine**

A party to a proceeding has the following rights in a hearing panel or review panel

- a. To present evidence.
- b. To present arguments on issues relevant to the subject of the proceeding.
- c. To cross-examine witnesses at the hearing.

### **2.3 Right to a Copy of the Transcript**

An individual that is a party to a proceeding who has appeared before the hearing or review panel may request a copy of the transcript prepared by a court reporter present during the hearing. The request for the transcript must be made at the time the hearing or review panel holds its hearing on the matter. Such a request does not delay the effective date of the decision. When neither the reviewer nor the administering entity participates, a court reporter will not be present and a transcript of the hearing will not be prepared.

## **3. BASIC PRINCIPLES REGARDING MATTERS BEFORE A HEARING PANEL OR REVIEW PANEL**

### **3.1 Purpose of Rules of Procedures**

Although hearings conducted by a hearing panel or review panel are informal, these rules of procedures have been adopted to ensure fairness and an orderly disposition of such proceedings.

## **3.2 Rules of Evidence**

In hearings governed by these rules of procedures, the formal rules of evidence applicable to proceedings at law or in equity do not apply, and evidence that would be inadmissible in a court of law may be received so long as it is relevant in the discretion of the presiding officer. The hearing panel or review panel shall determine the weight to be given to any evidence.

## **3.3 Notice of Hearing Panel Proceeding**

The board has authorized the Director of the program or his or her designee to determine if it is appropriate, based on standards and guidance, to form a hearing panel. When it is decided that it is appropriate for a hearing panel to consider whether to remove a reviewer from the list of qualified reviewers or if other sanctions should remain or be imposed, the reviewer and administering entity will be notified. Staff will mail to the reviewer, at least 30 days prior to the proposed hearing date, a Notice of Hearing containing a description of the noncooperation matter or reviewer performance deficiencies and indicating the date that the telephonic hearing will be held. A copy of the Notice of Hearing will be sent to administering entit(y/ies) that has (have) administered reviews of the reviewer during the last year.

The Notice of Hearing shall also advise the reviewer that he or she may answer the charges in writing, as set forth in paragraph 3.4.

The staff of the board shall present the hearing panel with the hearing memorandum containing a description of the noncooperation matter or reviewer performance deficiencies noted against the reviewer and the material upon which it intends to rely at the hearing. Copies of this hearing memorandum and related material shall be furnished to the reviewer and administering entit(y/ies) at the time of the mailing of the Notice of Hearing. Such notice, when mailed by common carrier (with proof of delivery), which provides proof of receipt, addressed to the reviewer at his or her last known address, as reflected in the reviewer's résumé records, shall be deemed to be properly served.

The reviewer has the right to plead guilty to the description of the noncooperation matter or reviewer performance deficiencies that are contained in the hearing memorandum. The reviewer may enter a plea of guilty by signing a statement included on the Notice of Hearing and returning it to the Director of the program or his or her designee prior to the date on the Notice of Hearing. By pleading guilty, the reviewer waives his or her rights to a hearing, accepts any sanctions proposed by the committee, and consents to the removal of his or her name from the list of reviewers or other actions imposed by the committee.

If the reviewer pleads guilty and is removed from the list of qualified reviewers, the reviewer may write to the board and request that the ad hoc committee review additional evidence submitted by the reviewer indicating why he or she should be allowed to perform reviews. There is no time limit for this request.

A copy of these rules of procedures shall accompany the Notice of Hearing to the reviewer.

## **3.4 Answer to the Notice of Hearing**

It is in the best interests of the reviewer to provide the hearing panel with an answer in writing to the description of the noncooperation matter or reviewer performance deficiencies outlined in the hearing memorandum enclosed with the Notice of Hearing. The reviewer may include additional

evidence that he or she would like the panel to consider during the hearing. In order for any such answer or evidence to be considered, it must be timely filed with the staff of the board, as follows.

To be timely filed, the answer or evidence must be received by the staff of the board by registered or certified mail, postage prepaid, or by electronic delivery with confirmation of delivery (the sender has proof that the e-mail was opened) not later than 14 days prior to the date of the hearing. The answer may contain a denial of some or all of the charges, an explanation of some or all of the facts described in the hearing memorandum, any defenses being asserted, and any other information deemed relevant by the reviewer. No written or electronic submissions will be considered by the hearing panel after this period, except in extraordinary circumstances and at the sole discretion of the presiding officer. Any memorandum or proof of additional evidence submitted by the reviewer will be provided to the administering entity prior to the hearing. If the administering entity would like to address the reviewer's response, it may request the submission of additional evidence to the Chair during the hearing.

In all cases, however, the reviewer and administering entity are required to notify the AICPA staff no later than 14 days from the date of the hearing whether they will attend the hearing and of the identity and affiliation of the individual(s) who will represent the reviewer and administering entity at the hearing, if any (see also paragraph 2.1).

### **3.5 Notice of Review Panel Proceeding**

If an ad hoc committee decides that a decision by the hearing panel should be considered by a review panel, a letter will be sent to the reviewer and administering entity(ies) notifying them of such decision. It will include the date of the hearing by the review panel. The reviewer and administering entity are required to notify the AICPA staff no later than 14 days from the date of the hearing whether they will attend the hearing and of the identity and affiliation of the individual(s) who will represent the reviewer and administering entity at the hearing, if any.

### **3.6 Postponement Requests (Hearing Panel and Review Panel)**

A reviewer or administering entity may request a postponement of a hearing for good cause. To be considered, the board must receive any request for postponement not later than 14 days from the date of the hearing. Prior to the hearing, the presiding officer of the hearing panel or review panel or the board Chair, if no presiding officer has been appointed, shall have sole discretion regarding the granting of a postponement. Only in extraordinary circumstances may a postponement be granted less than 14 days prior to the hearing date. A postponement is not a matter of right and will be granted only upon the showing of good cause. Requests for postponements by any party may only be made once by each party during these procedures. Within a reasonable period of time from the date the postponement is granted, the presiding officer shall reschedule the hearing. Although every effort will be made to keep the same individuals on the panel, as a result of rescheduling, the panel may include different board members or designees of the board.

A hearing panel or review panel, when in session for the purpose of hearing a case, may postpone or adjourn the hearing and designate a new date upon a showing of good cause. Such action shall be taken by a majority vote of the hearing panel in executive session.

Denial of a request for postponement does not prevent the reviewer or administering entity from reasserting the substance of its request as a basis for an appeal of a hearing panel's decision.

### **3.7 Witnesses**

The reviewer, staff, or other individuals with responsibility for presenting the charges to a hearing panel or review panel may produce such witnesses as they deem appropriate. Witnesses will normally be excluded from a hearing except during such time as they are actually giving testimony. Because it is assumed that they will testify truthfully, witnesses at a hearing will not be sworn.

### **3.8 Confidentiality of Proceedings**

No hearing shall be open to the public. However, relevant staff of the AICPA and board members may observe a hearing. Briefs, memoranda, documentary evidence introduced at hearings, and stenographic transcripts of hearings shall be available to the following on a confidential basis:

- a. The parties to the proceeding; observers to the proceeding as set out in the preceding preamble; and their consultants, advisers, or representatives
- b. An ad hoc committee and review panel if the reviewer or administering entity requests a review of the decision by the hearing panel, members of the review panel, staff, and parties to the proceeding
- c. Members of the AICPA Peer Review Board
- d. AICPA Counsel

### **3.9 Disqualification of Board Members from Participating in a Proceeding**

The following list, although not all inclusive, precludes a person from participating in any part of a proceeding on behalf of the board or serving on a hearing panel, an ad hoc committee, or a review panel:

- a. The individual's firm or the individual has performed a peer review in the last two peer review cycles of the affected reviewer's firm's accounting and auditing practice.
- b. The individual has served on a review team with the reviewer in the last three years.
- c. A reviewer from the individual's firm is the subject of the proceeding.
- d. The individual serves on the board of accountancy of the state in which any office of the reviewer's firm is located or where the firm has a license to practice public accounting.
- e. The individual serves on the peer review committee of the administering entity that administered the review.
- f. The individual serves on any AICPA or state CPA society professional ethics committee.
- g. The individual believes that he or she could not be impartial and objective with respect to the charges or has a conflict of interest.

## **4. CONDUCTING A HEARING BY A HEARING PANEL**

### **4.1 Responsibilities of the Presiding Officer**

The board Chair or the Chair's designee shall appoint a member of the board to serve as the presiding officer. The Chair can also appoint himself or herself as the presiding officer.

The presiding officer is to take action necessary to maintain order, rule on motions and procedural questions arising during the hearing, call recesses or adjourn the hearing, examine witnesses

(along with other members of the hearing panel), determine the admissibility of evidence, and take such reasonable actions as may be necessary to provide for a fair and orderly hearing.

#### **4.2 Hearings When a Reviewer or an Administering Entity Does Not Attend**

If either the reviewer or administering entity does not advise the AICPA staff that it will attend the hearing, as set forth in paragraph 2.1, the hearing will proceed on the date included in the Notice of Hearing if the presiding officer determines that it is appropriate to do so. If neither party attends, Counsel and the court reporter will not participate in the hearing.

#### **4.3 Agenda**

An agenda for the conduct of the hearing panel, which has been adopted by the board for use by its hearing panels, is attached as appendix A, "Agenda for a Reviewer Hearing before a Hearing Panel of the AICPA Peer Review Board." Although it is desirable that the agenda be adhered to for the good order of the proceedings, reasonable deviation may be permitted by the Chair of the hearing panel for good cause. Normally, once a hearing panel is convened and assembled to hear a case, every effort will be made to reach a decision while it is convened, and all parties shall be prepared to present their full case at that time.

### **5. THE HEARING PANEL'S DECISION**

#### **5.1 Decisions to Be Made**

All hearing panels must make the following determinations based on the evidence presented at the hearing:

- a. Whether the facts, as determined, support the charges brought against the reviewer
- b. Whether the charges brought are a violation of the Standards for Performing and Reporting on Peer Reviews and other related guidance established by the board
- c. Whether the reviewer shall be removed from the list of qualified reviewers
- d. Whether any and, if so, what actions should be required of the reviewer if he or she is not removed from the list of qualified reviewers and, if applicable, the consequences if the reviewer does not comply with such actions in a manner set forth by the panel

#### **5.2 Burden of Proof**

A determination that the facts support the charges brought against the reviewer must be based on the preponderance of the evidence, and the charging authority (AICPA staff) has the burden of proof regarding the charges it brings.

#### **5.3 Decisions**

Once a hearing panel is convened to hear a case, every effort will be made to reach a decision while it is convened. Thus, all parties shall be prepared to present their full case at that time.

## **5.4 Effective Date**

A decision by the hearing panel to remove a reviewer from the list of qualified reviewers or to impose other sanctions shall become effective immediately (date of the panel decision), unless the hearing panel indicates otherwise.

## **5.5 Reconsideration of the Prior Decision by the Hearing Panel**

A reviewer or an administering entity may request a review of the hearing panel's decision to an ad hoc committee, described in paragraph 1.6, any time after the hearing panel has met. The party requesting the appeal shall bear the burden of convincing the ad hoc committee that there should be a change in the decision of the hearing panel. This will be done by the submission of the reason for the change supported by evidence.

Upon receipt of a request for review by an ad hoc committee, the other party will be notified of the request and may submit a memorandum and evidence for consideration by the ad hoc committee. The ad hoc committee will review the stenographic transcript of the hearing before the hearing panel, copies of all exhibits filed with the hearing panel, and all documents submitted by the reviewer and administering entity with the request for review. At the discretion of the committee, the staff of the board may participate in the meeting to provide guidance related to peer review standards. Neither the reviewer nor the administering entity(ies) is entitled to appear before the ad hoc committee reviewing the request. Counsel or a court reporter will not be present during the committee meeting.

The ad hoc committee then decides whether such request for review by a review panel shall be granted. Such review is not a matter of right and will be granted only when the ad hoc committee, in the exercise of its considered judgment, finds, for example, that the discipline imposed by the hearing panel is not supported by the evidence; that the discipline imposed by the hearing panel is clearly disproportionate to the noncooperation matter or reviewer performance deficiency; that the facts as found by the hearing panel are inconsistent with the discipline imposed; that the reviewer has satisfied the burden of showing new evidence that existed but was unknown at the time of the original hearing, and that evidence is relevant and has the potential to have changed the result of the hearing; or the reviewer has presented new evidence to indicate the lifting of a restriction from a regulatory body.

If the committee grants a petition for review of a matter by the hearing panel, the matter will be referred to a review panel. The reviewer and administering entity will receive notification of the date that a review panel will meet to review the matter. If the matter is referred to a review panel, the decision of the hearing panel will remain in effect until the review panel affirms, modifies, or reverses all or any part of the decision of the hearing panel or makes such other disposition of the case as it deems appropriate.

If the committee does not grant a petition for review, the decision of the hearing panel is final and not subject to further review. The reviewer and administering entity will be notified of the decision in writing including the reason for denial of the request.

## **6. CONDUCTING A HEARING BY A REVIEW PANEL**

### **6.1 Responsibilities of the Presiding Officer**

The board Chair or the Chair's designee shall appoint a member of the board to serve as the presiding officer. The Chair can also appoint himself or herself as the presiding officer.

The presiding officer is to take action necessary to maintain order, rule on motions and procedural questions arising during the hearing, call recesses or adjourn the hearing, examine witnesses (along with other members of the review panel), determine the admissibility of evidence, and take such reasonable actions as may be necessary to provide for a fair and orderly hearing.

### **6.2 Hearings When a Reviewer or an Administering Entity Does Not Attend**

If either the reviewer or administering entity does not advise the AICPA staff that it will attend the hearing by the review panel, as set forth in paragraph 2.1, the hearing will proceed on the date included in the Notice of Review if the presiding officer determines that it is appropriate to do so. If neither party attends, Counsel and the court reporter will not participate in the hearing.

### **6.3 Agenda**

An agenda for the conduct of the review panel, which has been adopted by the board for use by its review panels, is attached as appendix B, "Agenda for a Reviewer Hearing before a Review Panel of the AICPA Peer Review Board." Although it is desirable that the agenda be adhered to for the good order of the proceedings, reasonable deviation may be permitted by the Chair of the review panel for good cause. Normally, once a review panel is convened and assembled to hear a case, every effort will be made to reach a decision while it is convened, and all parties shall be prepared to present their full case at that time.

## **7. THE REVIEW PANEL'S DECISION**

### **7.1 Decisions to Be Made**

A review panel shall consider the entire record of the hearing together with such additional relevant material or memoranda submitted by the reviewer and administering entity(ies). The record of the review may be supplemented by any additional matter that the review panel considers to be relevant and of sufficient importance to merit consideration. Copies of all materials will be supplied to the reviewer and administering entity(ies).

All review panels must make the following determinations based on the evidence presented at the hearing:

- a. Whether the facts, as determined, support the charges brought against the reviewer
- b. Whether the charges brought are a violation of the Standards for Performing and Reporting on Peer Reviews established by the board
- c. Whether to affirm, modify, or reverse all or any part of the decision of the hearing panel or to make such other disposition of the case as it deems appropriate

## **7.2 Burden of Proof**

The party that requested the review shall bear the burden of convincing the review panel that there should be a change in the decision of the hearing panel.

## **7.3 Decisions**

Once a review panel is convened to hear a case, every effort will be made to reach a decision while it is convened. Thus, all parties shall be prepared to present their full case at that time. Decisions by the review panel are final.

## **7.4 Effective Date**

A decision by the review panel to affirm, modify, or reverse all or any part of the decision of the hearing panel or to make such other disposition of the case as it deems appropriate shall become effective immediately, unless the review panel indicates otherwise.

## **Appendix A: Agenda for a Reviewer Hearing Before a Hearing Panel of the AICPA Peer Review Board**

The hearing shall be conducted by conference call in accordance with the following rules, including when the reviewer or administering entity does not attend:

- I. The presiding officer calls the session to order; identifies a representative of the AICPA Office of General Counsel (Counsel), if present, who will serve as legal counsel to the panel; identifies the case by reviewer name and member number; and determines if a court reporter is present and prepared to make a transcript of the hearing. If neither the reviewer nor the administering entity attends the hearing, Counsel and the court reporter will not be present.
- II. The presiding officer requests that the representatives of the reviewer, administering entity, and Counsel, if any, and relevant staff of the AICPA identify themselves for the record.
- III. If the reviewer or administering entity is not present, the presiding officer may proceed if he or she determines that it is appropriate to do so.
- IV. The presiding officer calls the roll of the members of the hearing panel. The presiding officer asks all those present to identify themselves for the record and announces for the record whether a quorum is present. A quorum is a majority of those members appointed to the hearing panel, including the presiding officer.
- V. The presiding officer states a brief summary of the subject of the hearing and the authority for holding it.
- VI. The presiding officer states that the hearing will be conducted under these rules of procedures, noting in particular the informal nature of the hearing, especially as it relates to rules of evidence, and the need to maintain confidentiality.
- VII. The presiding officer allows the parties to the proceeding to state for the record any objection they have to any prehearing proceeding, such as service of the Notice of Hearing, and to make any prehearing motions they have, such as a request for postponement.
- VIII. The presiding officer requests the parties to the proceeding to identify their witnesses for the record.
- IX. The presiding officer requests the staff or other individuals with the responsibility for presenting the charges to the hearing panel to present the evidence against the reviewer. In the course of this presentation, which may include taking testimony from witnesses, any exhibits to be introduced as evidence are identified to the reviewer and administering entity for confirmation of submission as evidence. The presiding officer indicates whether they are to be admitted as evidence to the case. The presiding officer should confirm that all documentary and physical evidence is marked for identification and that a list is kept that describes the exhibit and its identification.
- X. The presiding officer permits the following individuals to question those presenting the charges and witnesses upon completion of their testimony:
  - a. The reviewer, administering entity, or their counsel, if any
  - b. Members of the hearing panel
- XI. The presiding officer requests the reviewer or Counsel to present any evidence in the reviewer's defense, following the same procedures in the preceding (i).
- XII. The presiding officer permits the following individuals to question witnesses called on behalf of the reviewer upon completion of their testimony:

- a. The staff or other individuals with responsibility for presenting the charges to the hearing panel
  - b. Members of the hearing panel
- XIII. The presiding officer permits the individual(s) with the responsibility for presenting evidence against the reviewer to offer rebuttal evidence.
- XIV. The presiding officer permits the reviewer or Counsel to make a closing statement that is then followed by the closing statement of the individual(s) with responsibility for presenting evidence against the reviewer.
- XV. The presiding officer requests that all individuals other than the members of the hearing panel and its counsel, if any, be excluded to allow the panel to conduct an executive session. If for any reason the members of the hearing panel desire to speak with any other individual after this point, the panel will leave the executive session and reconvene with all parties present prior to the executive session.
- XVI. In the executive session, the hearing panel discusses and decides its disposition of the case by polling all participating members, including the presiding officer. AICPA Counsel will be present to act as an adviser to the panel. A decision of the hearing panel requires the affirmative vote of a majority of the participating members. In the event that the hearing panel is unable to reach a decision during the executive session, it may adjourn the executive session to such later date as it shall determine.
- XVII. If a decision is reached on the day of the hearing, all persons present prior to the executive session and the reporter are recalled (assuming they are still available) for the purpose of recording the decision. If a decision cannot be reached on the day of the hearing, the parties to the proceeding shall be informed of the decision by letter, which is to be mailed within 14 days after the decision.

## **Appendix B: Agenda for a Reviewer Hearing Before a Review Panel of the AICPA Peer Review Board**

The hearing shall be conducted by conference call in accordance with the following rules, including when the reviewer or administering entity does not attend:

- I. The presiding officer calls the session to order; identifies a representative of the AICPA Office of General Counsel (Counsel), if present, who will serve as legal counsel to the panel; identifies the case by reviewer name and member number; and determines if a court reporter is present and prepared to make a transcript of the hearing. If neither the reviewer nor the administering entity attends the hearing, Counsel and the court reporter will not be present.
- II. The presiding officer requests that the representatives of the reviewer, administering entity, and Counsel, if any, and relevant staff of the AICPA identify themselves for the record.
- III. If the reviewer or administering entity is not present, the presiding officer may proceed if he or she determines that it is appropriate to do so.
- IV. The presiding officer calls the roll of the members of the review panel. The presiding officer asks all those present to identify themselves for the record and announces for the record whether a quorum is present. A quorum is a majority of those members appointed to the hearing panel, including the presiding officer.
- V. The presiding officer states a brief summary of the subject of the hearing and the authority for holding it and identifies which party bears the burden of proof to have the charges of the hearing panel dropped or revised.
- VI. The presiding officer states that the hearing will be conducted under the rules of procedures, noting in particular the informal nature of the hearing, especially as it relates to rules of evidence, and the need to maintain confidentiality.
- VII. The presiding officer allows the parties to the proceeding to state for the record any objection they have to proceeding and to make any motions they have, such as a request for postponement.
- VIII. The presiding officer requests the parties to the proceeding to identify their witnesses for the record.
- IX. The presiding officer orders the party that requested the review to present evidence to support the argument for the request that the charges by the hearing panel should be reversed or revised. In the course of this presentation, which may include taking testimony from witnesses, any exhibits to be introduced as evidence are identified. The presiding officer indicates whether they are to be admitted as evidence. The presiding officer should confirm that all documentary and physical evidence is marked for identification and that a list is kept that describes the exhibit and its identification.
- X. The presiding officer permits the following individuals to question the reviewer and, if applicable, witnesses upon completion of their testimony:
  - a. Staff and the administering entity or their counsel, if any
  - b. Members of the review panel
- XI. The presiding officer permits the individual(s) with the responsibility for presenting evidence against the reviewer to offer rebuttal evidence.
- XII. The presiding officer permits the reviewer or Counsel to make a closing statement that is then followed by the closing statement of the individual(s) with responsibility for presenting evidence against the reviewer.

- XIII. The presiding officer requests that all individuals other than the members of the review panel and its counsel, if any, be excluded to allow the panel to conduct an executive session. If for any reason the members of the review panel desire to speak with one of the parties attending the hearing, the panel will leave the executive session and reconvene with all parties present prior to the executive session.
- XIV. In the executive session, the review panel discusses and decides its disposition of the matter by polling all participating members, including the presiding officer. A decision of the review panel requires the affirmative vote of a majority of the participating members. In the event that the review panel is unable to reach a decision during the executive session, it may adjourn the executive session to such later date as it shall determine.
- XV. If a decision is reached on the day of the hearing, all persons present prior to the executive session and the reporter are recalled (assuming they are still available) for the purpose of recording the decision. If a decision cannot be reached on the day of the hearing, the parties to the proceeding shall be informed of the decision by letter, which is to be mailed within 14 days after the decision.