




Disciplinary Directorate

Established by the Council of ICAI



The Chartered Accountants Act, 1949(No. 38 of 1949) [as amended by the Chartered Accountants (Amendment) Act, 2006 (No. 9 of 2006)]

This is an Act to make provision for
the regulation of the profession of
Chartered Accountants.



Code of Ethics

- * Essential for commanding the respect and confidence of the regulators and public at large
- *The Conduct of the Members are regulated under the Chartered Accountants Act.1949 and the regulations framed thereunder.



Ethics - Meaning

- In general refers to all standards of behaviour
- Specially refers to a member's behaviour or conduct towards the other member's of his profession and towards the public at large



Meaning of Code

- A systematically arranged and comprehensive collection of laws
- In the context of the member of the Institute , the code refers to the Code of Ethics prescribed in this regard by the Institute of Chartered Accountants of India.



Relevance of Code of Ethics

- Back bone of any profession
- Ensures high Ethical Standard of Chartered Accountants
- Is a self Imposed discipline
- Basis for reliance on the profession generally and members specially



Misconduct

Any act or omission specified in any of the schedules to the Chartered Accountants Act (arising out of professional assignments)

Any misconduct not specified in any of the schedules to the Act (even if it does not arise out of any professional Assignment)



A. On receipt of any Information/Complaint alongwith the prescribed fee, Written Statement, Rejoinder and further documents from the parties or as the case may be, the Director (Discipline) shall form a Prima-facie opinion on the occurrence of the Alleged Misconduct which may fall under first schedule or second schedules.

B. The First Schedules covers minor offences in four parts and Second Schedule cover major offences in three parts in relation to members in practice, members in services, in relation to members of the Institute generally and other misconduct of members.



Mode of Complaint

↓

If allegations is made in Prescribed Form i.e. 'Form I', the matter is processed through Complaint route.

↓

In case where allegations is not made in prescribed Form, then the matter is processed through Information route.



As per Prima Facie Opinion

If Not Guilty
under any of the
Schedules,
The BOD will
Consider the
matter

If Guilty under
First Schedule
Only, the BOD
Will Consider the
Matter.

If Guilty under
Second Schedule
Or First & Second
Schedule, the matter
will be consider by the
the Disciplinary
Committee.




Function of DC

- ◆ If the DC concurs with the Prima facie opinion of the Director (Discipline) that the member is guilty, the matter is referred for enquiry to be conducted by the DC.
- ◆ If the DC does not concur with the Prima facie opinion of the Director (Discipline) that the member is guilty, the matter is either closed or referred back for investigation to be carried out by the Disciplinary Directorate.



Function of BOD

- ◆ If the BOD concurs with the Prima facie opinion of the Director (Discipline) that the member is guilty under the first schedule , the matter is referred for enquiry to be conducted by the BOD.
- ◆ If the BOD does not concur with the Prima facie opinion of the Director (Discipline) that the member is guilty, the matter is either closed or referred back for investigation.
- ◆ If the BOD concurs with the Prima facie opinion of the Director (Discipline) that the member is not guilty, the matter is closed.
- ◆ If the BOD does not concur with the Prima facie opinion of the Director (Discipline) that the member is not guilty under first schedule / second schedule, the matter is referred for enquiry to be conducted by the BOD / DC.




Procedure of hearing before the BOD

- ◆ An opportunity of personal hearing to the Complainant and the Respondent is afforded
- ◆ On considering the Written Representation and/or oral submissions of the Complainant/the Respondent/the Director (Discipline), the BOD arrives at a finding on whether the member is guilty or not of any professional or other misconduct.
- ◆ If the member is found guilty, the BOD awards punishment after giving an opportunity of being heard to him.
- ◆ If the BOD arrives at a finding that the member is not guilty, an order of closure is passed.



Procedure of hearing before the Disciplinary Committee

- ◆ An opportunity of personal hearing to the Complainant and the Respondent is afforded
- ◆ On considering the Written Representation and/or oral submissions of the Complainant/the Respondent/the Director (Discipline), the DC arrives at a finding on whether the member is guilty or not of any professional or other misconduct.
- ◆ If the member is found guilty, the DC awards punishment after giving an opportunity of being heard to him.
- ◆ If the DC arrives at a finding that the member is not guilty, an order of closure is passed.



Schedules to the Chartered Accountants Act

◆ First Schedule

- Part I : Professional misconduct in relation to Chartered Accountants in practice
- Part II : Professional misconduct in relation to members of the Institute in Service
- Part III : Professional misconduct in relation to members of the Institute generally
- Part IV : Other misconduct of Members in General


◆ Second Schedule

- Part I : Professional misconduct in relation to Chartered Accountants in practice
- Part II : Professional misconduct in relation to members of the Institute generally
- Part III : Other Misconduct generally



First Schedule – Part I

- ◆ Clause 1 : Practice by non-Chartered Accountant
- ◆ Clause 2 : Shares fees with non-members
- ◆ Clause 3 : Accepts fees from non-members
- ◆ Clause 4 : Enters into partnership with non-member
- ◆ Clause 5 :Secures professional business through non-employee/non-partner or unlawful means
- ◆ Clause 6 : Solicits professional work



First Schedule – Part I (continue)

- ◆ Clause 7 : Advertise professional attainment
- ◆ Clause 8 : Fails to communicate with outgoing auditor
- ◆ Clause 9 : Non compliance of section 225 of the Companies Act, 1956
- ◆ Clause 10 : Charging fees based on percentage/contingency
- ◆ Clause 11: Engages in any other occupation
- ◆ Clause 12 : Allows non-member/non-partner to sign documents on his behalf



First Schedule – Part II

- ◆ Clause 1 : Shares his emoluments with others
- ◆ Clause 2 : Accepts commission or gratification from a lawyer etc. engaged by the employee



First Schedule – Part III

- ◆ Clause 1 : Acts falsely as FCA
- ◆ Clause 2 : Does not supply information to the Institute and its other functionaries
- ◆ Clause 3 : Gives false information under Clause 6 and Clause 7 of the First Schedule



First Schedule – Part IV

- ◆ Clause 1 : Becomes guilty of any offence punishable with imprisonment for less than 6 months
- ◆ Clause 2 : Bring disrepute to the profession/Institute as a result of his action



Second Schedule – Part I

- ◆ Clause 1 : Discloses information acquired without client's consent
- ◆ Clause 2 : Certifies/submits report without examining the related records
- ◆ Clause 3 : Permits to use name for vouching the accuracy of future contingent earnings
- ◆ Clause 4 : Opines on Financial Statements where substantial interest involved
- ◆ Clause 5 : Fails to disclose any material fact in Financial Statements



Second Schedule – Part I (Continue)

- ◆ Clause 6 : Fails to report a known material misstatement appearing in Financial Statements
- ◆ Clause 7 : Performs professional duties without due diligence /grossly negligent
- ◆ Clause 8 : Fails to obtain sufficient information for expressing an opinion
- ◆ Clause 9 : Fails to invite attention to any material departure from the generally accepted procedure of audit
- ◆ Clause 10 : Keeps client's money without opening separate bank account



Second Schedule – Part II

- ◆ Clause 1 : Contravenes any of the provisions of the Act/Regulations and Guidelines issued by the Council
- ◆ Clause 2 : Discloses employer's information without permission
- ◆ Clause 3 : Provide false information to the Institute and its different authorities
- ◆ Clause 4 : Defalcates/embezzles money received in professional capacity



Second Schedule – Part III

Becomes guilty of any offence punishable with imprisonment for more than six months, either in civil or criminal case



Board of Discipline (BOD)

Constituted by the Council

▣ The BOD consists of :

- A. A person with experience in law and having knowledge of disciplinary matters and the profession, to be its presiding officer.
- B. One council member
- C. One Central Government Nominee.



Disciplinary Committee (DC)

Constituted by the Council

▣ The DC consists of :

- A. President / Vice President of the Council as its presiding officer.
- B. Two council member
- C. Two Central Government Nominee.



DC, BOD and Director(Discipline) to have Powers of Civil Court under code of Civil Procedure, 1908, in respect of

- (a) summoning and enforcing attendance of any person and examining him on oath;
- (b) discovery and production of any document; and
- (c) receiving evidence on affidavit.



Appellate Authority

(Constituted by the Central Govt.)

- ◆ Members of the Institute aggrieved by any of the order of the Board of Discipline or Disciplinary Committee, as the case may be.
- ◆
- ◆ Director (Discipline), if authorised by the Council, against the decision of the Board of Discipline or Disciplinary Committee, as the case may be.

Composition (Chairperson and four members)

Chairperson : a person who is or has been a judge of a High Court
(for a period of three years or attainment of age of 65 years, whichever is earlier)

- ◆ Two members : to be appointed from amongst persons who have been members of the Council for at least one full term (excluding sitting Council members) (for a period of three years or attainment of age of 62 years, whichever is earlier)
- ◆ Two members : to be nominated by the Central Government from amongst persons having knowledge and practical experience in the field of law, economics, business, finance or accountancy.



Power of Appellate Authority

After giving an opportunity of being heard to the parties concerned, the Authority may—

- (a) confirm, modify or set aside any order made by the Board of Discipline or the Disciplinary Committee;
- (b) impose any penalty or set aside, reduce or enhance the penalty imposed by the order concerned;
- (c) remit the case to the Board of Discipline or the Disciplinary Committee for such further enquiry as it considers proper in the circumstances of the case; or
- (d) pass such other order as it thinks fit.



Transitional Provision

- All complaints pending before the Council or any enquiry initiated by the Disciplinary Committee or any reference or appeal made to a High Court prior to the commencement of the Chartered Accountants (Amendment) Act, 2006 shall continue to be governed by the pre-amended provisions of the Act, as if the latter had not been amended by the former.



Thank you

CA. Vandana D. Nagpal
Director (Discipline)