

**Disciplinary Policy
of
ICAI Registered Valuers Organisation (ICAI RVO)**

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1. INTRODUCTION

The Companies (Registered Valuers and Valuation) Rules, 2017 require every Registered Valuers Organisation to constitute one or more Disciplinary Committee(s) consisting of at least one member nominated by the authority and under the Chairmanship of an Independent Director of the organisation.

As per Clause V of the Model Bye Laws of Companies (Registered Valuers and Valuation) Rules, 2017, the Organisation may initiate disciplinary proceedings by issuing a show-cause notice against members-

- (a) based on a reference made by the Grievance Redressal Committee;
- (b) based on monitoring of members;
- (c) following the directions given by the authority or any court of law; or
- (d) suo moto, based on any information received by it.

The Organisation shall have a Disciplinary Policy, which shall provide for the following -

- (a) the manner in which the Disciplinary Committee may ascertain facts;
- (b) the issue of show-cause notice based on the facts;
- (c) disposal of show-cause notice by a reasoned order, following principles of natural justice;
- (d) timelines for different stages of disposal of show cause notice; and
- (e) rights and obligations of the parties to the proceedings.

The orders that may be passed by the Disciplinary Committee shall include-

- (a) expulsion of the member;
- (b) suspension of the member for a certain period of time;
- (c) admonishment of the member;
- (d) imposition of monetary penalty;

- (e) reference of the matter to the authority, which may include, in appropriate cases, recommendation of the amount of restitution or compensation that may be enforced by the authority; and
- (f) directions relating to costs.

The Disciplinary Committee may pass an order for expulsion of a member if it has found that the member has committed-

- (a) an offence under any law for the time being in force, punishable with imprisonment for a term exceeding six months, or an offence involving moral turpitude;
- (b) a gross violation of the Act, rules, regulations and guidelines issued thereunder, bye-laws or directions given by the Governing Board which renders him not a fit and proper person to continue acting as a registered valuer.

Any order passed by the Disciplinary Committee shall be placed on the website of the Organisation within seven days from passing of the said order, with one copy each being provided to each of the parties to the proceeding.

Monetary penalty received by the Organisation under the orders of the Disciplinary Committee shall be used for the professional development.

The Governing Board shall constitute an Appellate Panel consisting of one independent director of the Organisation, one member each from amongst the persons of eminence having experience in the field of law and field of valuation, and one member nominated by the authority.

Any person aggrieved of an order of the Disciplinary Committee may prefer an appeal before the Appellate Panel within thirty days from the receipt of a copy of the final order.

The Appellate Panel shall dispose of the appeal in the manner it deems expedient, within thirty days of the receipt of the appeal.

2. Preamble and Objective

The Governing Board of ICAI Registered Valuers Organization has adopted the Bye Laws on the basis of the Model Bye Laws of Companies (Registered Valuers and Valuation) Rules, 2017 and in compliance with the requirements of the Bye Laws of the Organisation, ICAI RVO has formed Disciplinary Committee.

ICAI RVO has also formulated this Disciplinary Policy.

The Objective of this Policy is to provide the procedure in terms of which it may initiate disciplinary proceedings by issuing a show-cause notice against members -

- a. based on a reference made by the Grievance Redressal Committee;
- b. based on monitoring of members;
- c. following the directions given by the IBBI or another competent Body or any Court of Law or any other agency authorized by law to file a cognizable report;
or
- d. suomoto, based on any information received by it.

The Disciplinary Policy of ICAI RVO provides for the following:

- (a) the establishment of a Disciplinary Committee (DC) and an Appellate Panel (AP);
- (b) the manner in which the Disciplinary Committee may ascertain facts of a complaint, information, reference, or directions;
- (c) the issue of show cause notice based on the facts;
- (d) disposal of show- cause notice by a reasoned order, following principles of natural justice;

- (e) timelines for different stages of disposal of show-cause notice;
- (f) rights and obligations of parties to the proceedings.

To ensure impartiality and proper application of applicable rules and norms, the DC is headed by an Independent Director of the Governing Board of ICAI RVO, and includes a Nominee Member of the Insolvency and Bankruptcy Board of India (IBBI).

3. Definitions

1. In this Policy, unless the context otherwise requires:

- (a) "Act" means the Companies Act 2013;
- (b) "Appellate Panel" means the authority constituted by the Governing Board of ICAI under clause 25 of the Bye-Laws of ICAI RVO;
- (c) "Authority" means the Insolvency and Bankruptcy Board of India (IBBI);
- (d) "Committee" means the Disciplinary Committee constituted by the Governing Board of the Agency in terms of clause 8(1)(d) of the Bye-Law of ICAI RVO;
- (e) "Disciplinary Proceeding" means the proceedings under this Policy;
- (f) "Partnership entity" means a partnership firm registered under the Indian Partnership Act, 1932 (9 of 1932) or a limited liability partnership registered under the Limited Liability Partnership Act, 2008 (6 of 2009);
- (g) "Governing Board" means the Board of Directors of ICAI RVO constituted under clause 4 of the Bye-Laws of ICAI RVO;
- (h) "Organisation" means the ICAI Registered Valuers Organisation (ICAI RVO), a section 8 Company, registered with Insolvency and Bankruptcy Board of India;
- (i) "Bye-Laws" means Bye-Laws of the ICAI Registered Valuers Organisation (ICAI RVO) based on the Companies (Registered Valuers and Valuation) Rules, 2017 (Model Bye-Laws of Registered Valuers Organisation);
- (j) "IBBI" means the Insolvency and Bankruptcy Board of India established under section 188 of the Insolvency and Bankruptcy Code, 2016;

- (k) "Misconduct" means misdemeanor or other wrong doing or behavior deemed to be inappropriate or unbecoming of a Registered Valuer or such other action or omission as barred under the Code of Conduct and dealt with in Section 12 of this Policy. This is further categorized as "Minor" and "Major" misconduct.
 - (l) "Policy" means the Disciplinary Policy of ICAI RVO;
 - (m) "Member" means an individual who is enrolled with ICAI RVO and registered with IBBI and includes an individual who was a member of ICAI RVO as on the date of the alleged misconduct;
2. All words and expressions used and not defined in this Policy, but defined in the Act, Companies (Registered Valuers and Valuation) Rules, 2017, shall have the same meaning as assigned to them in the Act.

4. Initiation of Disciplinary Proceedings

1. Disciplinary proceedings can be initiated against a member:
 - (a) suo moto by ICAI RVO on the basis of any information received by it, or
 - (b) can be referred by Grievance Redressal Committee or Monitoring Committee, or
 - (c) be based on a grievance/complaint or reference made or directions given by IBBI or other Statutory Bodies or a Court of Law or any other agency authorized by law to file a cognizable report.
2. Any complaint about the conduct of a member should be made in writing and submitted in terms of the Grievance Redressal Policy of ICAI RVO.

The discretion to change the procedure will vest in the Disciplinary Committee, based on a consensus arrived at by a majority of members. The reason for the same will be duly minuted along with the details of any dissenting opinion.
3. Any complaint received for initiating disciplinary proceedings against a member, if filed by or on behalf of:

- (a) a body corporate or entity formed under an act of Parliament or any other entity or organization,
- (b) the Central Government or any State Government or any other department or entity of the Central or State Government
- (c) any statutory authority, such as Insolvency and Bankruptcy Board of India (IBBI), Reserve Bank of India (RBI), or Securities and Exchange Board of India (SEBI),

shall be supported by a document issued by the body corporate or entity or government or department or authority, as the case may be, to be filed in original by the person duly authorized in this regard.

4. If the Committee is in receipt of more than one complaint, reference, direction or information, in respect of same subject against the same member, it may at its discretion, club the cases together for disposal and the parties/new complainant and the member shall be informed of the same.

5. Initial Assessment

1. When a complaint is received from a complainant apart from (a), (b) or (c), as described in Section 5(1), it will be initially assessed in terms of the Grievance Policy.
2. Once the Grievance Redressal Committee is satisfied that the complaint filed by a complainant needs to be taken up for Disciplinary action, a copy of the complaint and any supporting documentation will be sent to the Disciplinary Committee along with a Complaint Number and an advice sent to the complainant by email or Speed Post, if no email Id is provided.

6. Show Cause Notice

1. After Initial review of the complaint based on circulation of related papers received from GRC or as per Section 5(1), Disciplinary Committee may consider any of the following decisions:
 - That based on the information presented there is no case to be answered and the file can be closed;
 - That there appears to be a case to answer but additional information or evidence is required before a decision can be made;
 - That based on the information presented there is a case to answer and a formal hearing should be held.
2. The reason for Rejection will be informed to the parties by email, quoting the Complaint Number.
3. Where the Committee is of the opinion that detailed investigation into the facts of the case is required, it may issue a Show Cause Notice to the party(s) against whom the complaint has been filed. A copy of the complaint and the supporting documentation, if any, will be sent to the concerned member(s) asking for comments in writing.
4. Disciplinary proceeding will be considered as pending against a Registered Valuer from the time he has been issued a show cause notice by ICAI RVO till its disposal by the disciplinary committee.

7. Initiation Of Proceedings

1. If at the end of the process described in Section 5, the Disciplinary Committee concludes that there is a disciplinary case to proceed with, it will set a date and venue for the hearing and instruct the Designated Person (DP) to inform the parties.

Meetings of DC may be held by Video/Tele-Conference or physically, as approved by the DC Chairman.

2. Upon receipt of the member's response or the Investigation Report, as the case may be, the Disciplinary Committee will deliberate and may call the party(s) to appear before it for presenting their case and related evidence. Witnesses, if any, will be permitted to depose from either side only with the approval of the DC, which will not be unreasonably denied. However, if the member, against whom the complaint has been lodged, does not respond, the Disciplinary Committee may proceed with the case and reach an ex-parte decision based on the evidence at hand.
3. In case any of the parties are asked to appear or present witnesses, the costs and expenses incurred will be borne by the related party.

8. Withdrawal Of Complaint

Any Complaint can be withdrawn by the Complainant in writing, however, in any case, the same cannot be later than the proceeding initiated by the Disciplinary Committee.

1. Any request to withdraw a complaint, after passing of the order mandating issuance of show-cause notice under Disciplinary Proceedings process to the member, shall be subject to the Committee accepting such request in writing.
2. The Committee may also, if it deems fit, impose costs, of not less than Rupees Ten Thousand and upto a maximum amount of Rs. 50,000/-, against the complainant for filing a frivolous complaint or seeking to withdraw a complaint after the show-cause notice has been served, as above. Where the complainant fails to deposit the cost so imposed, the complainant shall be barred, from filing any subsequent complaint in future till the cost as determined above has been deposited.

3. All costs to be deposited shall be paid in an account which shall be opened specifically for such purpose by ICAI RVO for disposal as per extant rules.
4. The Committee may, in its discretion, share the details of such order imposing costs against such complainant with other Registered Valuers Organisation for their information and record.
5. Notwithstanding anything contained hereinabove, the Committee may reject any request for withdrawal and suo moto proceed against the member.

9. Quorum of the Disciplinary Committee

1. The quorum for a meeting of the Committee shall be one third of its total strength or two members, whichever is higher.
2. The meeting of the Committee shall be presided by the Chairperson and in his absence, the members may elect, from amongst themselves, another member to preside over the meeting.
3. For the purpose of quorum the presence of the Chairman or the presence of IBBI nominee is mandatory.

10. Mode of Sending Notice

1. Every notice or letter issued by the Committee or ICAI RVO under the policy shall be sent to the member or the entity or any other person, by registered/speed post or by electronic mail service at the email address provided by member to ICAI RVO except where specified otherwise in the policy.

2. If any notice or letter is returned unserved with an endorsement to the effect that the addressee had refused to accept the notice or letter, the notice or letter shall be deemed to have been served.
3. If the notice or letter sent to the recorded address is returned with an endorsement to the effect that the addressee cannot be found at the address given, the Committee shall ask the complainant or any other person who may be in a position to provide another address of the member or entity or person whose address is found to be not correct, and on production of the correct address, a fresh notice or letter shall be issued at such address.
4. Where the notice or letter is returned under sub clause 3, it may be served by affixing a copy thereof in some conspicuous place at the professional address or residence of the respondent which was last registered with ICAI RVO or in such other manner as the Committee may think fit and such service shall be deemed to be sufficient service for the purposes of the policy.

11. Rights and Obligations of the Parties

1. The member will be given at least 21 days' notice by email before initiating a process or action.
2. The DC will also inform the complainant who may attend the hearing to present their case in person. However, she/he may be heard by the Disciplinary Committee in a manner decided by the Committee.
3. The Disciplinary Committee may ask the complainant, the member, or any other interested party for further information or clarification of any of the points of evidence prior to the hearing.
4. Copies of all the documents which the DC proposes to consider will be provided to the members prior to the hearing by DC.

5. Each party is given right to request for one time adjournment of hearing.

12. Misconduct

The DC may examine the Charge of misconduct in the following categories:

- A. Major Misconduct, and
- B. Minor Misconduct

A. Major Misconduct:

A member shall be deemed to be guilty of Major misconduct, if he:

- (1) Contravenes any of the provisions of the Act, Rules, regulations, guidelines, directions issued in this regard by the Ministry of Corporate Affairs and the Insolvency and Bankruptcy Board of India, from time to time, including, but not limited to the Model Code of Conduct under the First Annexure of Chapter VI to the Companies (Registered Valuers and Valuation) Rules, 2017 and the supplementary Code of Conduct, as adopted by ICAI RVO from time to time;
- (2) Discloses information acquired in the course of his professional engagement to any person other than as permitted by the Act, rules made there under or any other law for the time being in force or as permitted by any order of any court of law;
- (3) Does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;
- (4) Defalcates or embezzles moneys received by him.

- (5) Is held guilty by any criminal court for an offence which is punishable with imprisonment for a term exceeding six months;
- (6) Does not respond to or disregard queries/correspondence from RVO or IBBI
- (7) In the opinion of the Governing Board, he brings disrepute to the profession or ICAI RVO as a result of his action whether or not related to his professional work.

B. Minor Misconduct:

Minor misconduct in relation to members of ICAI RVO would generally relate to:

- (1) Misbehavior with co-professionals and/or others
- (2) Irresponsible, but not criminal behavior
- (3) Frequent delays in responding to queries/correspondence with RVO or IBBI

13. Hearing

1. The members may attend the hearing in person or E- Hearing through Video or Tele Conferencing, as approved by the DC Chairman.
2. The parties may submit evidence in writing or be represented by his/their representative, who should preferably be a member of ICAI RVO.
3. If the member chooses neither to attend nor to send a representative, then the Disciplinary Committee will consider the evidence in hand and reach a decision on that basis. If the member or his/her representative attends, he or she will be invited to present the member's response to the allegations. The Disciplinary Committee may ask questions and will then consider its decision in private.

4. The complainant, Registered Valuer or any other person who appears before the Committee shall not be eligible for reimbursement of expenses incurred for attending or not being able to attend the hearing, even if the date of hearing has been suddenly called off.
5. The Chairman may adjourn the meeting if the Committee decides that additional information or clarification of a particular point is required, and reconvene it at a later date. Once a decision has been taken, the Chairman will finalize and sign the formal minutes of the meeting, recording the decision and the rationale.
6. A copy of the formal minute will be sent to the members for confirmation within 7 days of the meeting and to the complainant as soon as possible but within 30 days at the latest from the hearing date.
7. For the purposes of this policy, the Committee shall exercise quasi-judicial authority regarding:
 - a) the summoning and enforcing the attendance of any member or witness and examining the witness on oath;
 - b) the discovery and production of any document or other material object producible as evidence;
 - c) the reception of evidence on affidavits;
 - d) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
 - e) issuing of any commission for the examination of any witness, and
 - f) any other matter which may be prescribed.

14. Orders by Disciplinary Committee

1. On consideration of documents available on record and after affording an opportunity of hearing to the complainant and the member, where, the Committee holds that the member is not guilty of misconduct, the Committee shall dispose of the show-cause notice by recording reasons in writing within thirty days of passing such order in writing and may also impose cost on the complainant, if the Committee is of the opinion that the complaint was frivolous.
2. However, if the member is found guilty of major or minor misconduct as detailed in Section 12, after considering the case in issue, the Disciplinary Committee may pass any of the following order, as it deems reasonable in view of the seriousness of the breach of the Code of Conduct:

A. Penalties for Major Misconduct may extend to:

- a. Monetary penalty of not less than Rs. 10,000/- upto a maximum amount of Rs.50,000.
- b. Suspension from practice for a specific term which may not be less than 15 days up to a maximum period of 10 Years as decided by the Committee, or
- c. Removal from membership, or
- d. Reference of the matter to the Authority, which may include, in appropriate cases, recommendation of the amount or compensation that may be enforced by the Board, or
- e. Directions relating to costs, or

- f. A combination of the above or other appropriate penalty, as determined by the Committee.

B. Penalties for Minor Misconduct may include:

- a. Admonishment,
- b. Written Reprimand,
- c. Warning,
- d. Monetary Penalty not exceeding Rs. 5,000/-, etc,
- e. Directions relating to costs.

3. Order of Expulsion/ Removal from Membership may be passed in case of:

- a. An offence under any law for the time being in force, punishable with imprisonment for a term exceeding six months, or an offence involving moral turpitude;
- b. Gross violation of the Act, rules, regulations and guidelines issued thereunder, bye-laws or directions given by the Governing Board which renders him not a fit and proper person to continue acting as a Registered Valuer.

The violations referred to in sub-clause (b) include-

- a. making a false Statement;
- b. contravening provisions of Section 247 of the Companies Act 2013 and Companies (Registered Valuers and Valuation) Rules, 2017;
- c. knowingly or wilfully committing or authorizing or permitting contravention of section 247 with the intention to defraud the company or its members;
- d. violation of the Code of Conduct {Reg 7(2)(g)} including providing unequal or differential treatment to the disadvantage of a party which cannot be justified; or

- e. in any other case it deems fit.
4. Any order passed by the Disciplinary Committee shall be placed on the website of the ICAI RVO within seven days from passing of the order, and a copy of the order shall be provided to each of the parties to the proceeding.
5. All penalties awarded as a consequence of Disciplinary Proceedings, will be reported to the Governing Board of ICAI RVO and to IBBI.
6. Monetary penalty received by ICAI RVO under the orders of the Disciplinary Committee shall be credited to the Insolvency and Bankruptcy Fund in terms of Clause 24 (5) of the Model Bye-Laws.
7. Decision taken by IBBI or any other statutory body relating to the member of ICAI RVO will be placed before the Disciplinary Committee or the Governing Board as the case may be, for necessary action as per the applicable rules.
8. The Disciplinary Order passed by the Committee will be effective from the date recorded in the Order or from 30 days after the date of the Order, if not specified.

15. Appeal

1. An appeal should be in writing, setting out the basis for the challenge. While the appeal is pending, the Committee's decision will remain in effect unless and otherwise ordered by the Appellate Panel to keep the same in abeyance.
2. Any person aggrieved of an order of the Disciplinary Committee may prefer an appeal before the Appellate Panel within thirty days from the receipt of a copy of the final order.

3. The Appellate Panel shall dispose of the appeal in the manner it deems expedient, within 30 days of the receipt of the appeal and receipt of any additional evidence or information required by it for facilitating a decision.

 4. The Appellate Panel may call for the records of any case and may –
 - a. confirm, modify or set aside the order passed by the Disciplinary Committee;
 - b. impose any penalty or set aside, reduce or enhance the penalty imposed by the Disciplinary Committee;
 - c. remit the case to the Disciplinary Committee for such further enquiry as the Appellate Panel considers proper in the circumstances of the case; or
 - d. pass such other order(s) as the Appellate Panel deems fit.

 5. The Governing Board of ICAI RVO has constituted an Appellate Panel consisting of one independent director of the Organisation, one member each from amongst the persons of eminence having experience in the field of law and valuation one member nominated by the Board.
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