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[next rule is Rule 240]

### **Bencher Review**

240. (1) An application for a review under section 23(4) or 24(3) of the *Act* shall be delivered to the Executive Director within 30 days after the action being reviewed was taken.

(2) Rule 230 applies to a review, with the necessary changes and so far as it is applicable.

(3) The Benchers may, after:

(a) considering the transcript from and exhibits filed at a hearing conducted under Rule 230;

(b) hearing the applicant; and

(c) considering any evidence that they may in their discretion permit the applicant to adduce,

confirm the decision, or approve the application, subject to any terms and conditions they consider appropriate.

(4) The Benchers may vary or remove any terms and conditions imposed under subrule (3).

## **H. Education**

### **Education Policy**

250. The Committee may make mandatory minimum education policy requirements (hereinafter called the "policy" in this part).

### **Non-Compliance with Policy**

251. The Executive Director may, with respect to any member who fails to comply with the policy,

(a) refer the member to Complaints Counsel;

(b) refuse to issue a practising certificate to the member;

(c) give notice that the member's practicing certificate will cease to be valid and the member will be suspended within 30 days unless the member complies with the policy.

252. A member who has been suspended due to non-compliance with the policy may apply to the Executive Director for reinstatement

(a) by certifying completion of the minimum education requirements;

(b) by submitting the fee required in Rule 871.

253. The Executive Director may approve the application for re-admission or refer the application to the committee.

[Rules 250 to 253 added May 1, 2009]

[next rule is Rule 299]

## PART 8

### Professional Standards and Discipline

[heading amended February 4 & 5, 1993]

#### A. Definitions

299. In this Part,

“**competence**” means bringing adequate skill and knowledge to the practice of law including the management of a practice, as more particularly set out in Chapter II of *The Code of Professional Conduct* of the Law Society of Saskatchewan.

“**complainant**” means a person who has delivered a complaint about a member to the Society;

“**complaint**” includes:

- (a) a complaint made by a complainant under subsection 40(1)(a) or (c) of the *Act*; and
- (b) an allegation of conduct by a member as described in subsection 40(1)(b) or (d) of the *Act*;

“**complaints counsel**” means the person or persons designated by the Benchers under section 40(1) of the *Act* to review the conduct of members;

“**formal complaint**” means the document served on a member under 46(2) of the *Act* and Rule 430;

“**member**” means a member of the Society as set out in 2(1)(h) of the *Act* and includes a member of the governing body of the legal profession in another Canadian Province or Territory who is eligible to practice interjurisdictionally pursuant to the National Mobility Agreement and interjurisdictional practice protocol under Rule 192 or holds an interjurisdictional practice certificate issued under Rule 196 except where this is inconsistent with the protocol or with *The Legal Profession Act* as amended;

“**practice advisor**” means the person or persons designated by the Benchers for the purposes of subsection 41(1.1)(b);

“**Rule or Subrule**” means:

- (a) rule or subrule contained in these rules; and
- (b) the *Code of Professional Conduct* published by the Society and as amended from time

to time.

[Rule 299 amended February 4 & 5, 1993 and September 13, 1996]

[Rule 299 “competence” amended February 7, 2008]

[Rule 299 “competence,” “complaint,” “complaints counsel,” “formal complaint” and “member” amended; “practice advisor” and “Rule or Subrule” added June 17, 2010]

#### B. Complaints

##### Examination of Complaints

300. (1) Any person may deliver to the Society a complaint against a member.

(2) The complaints counsel may require that a complaint be reduced to writing.

(3) The complaints counsel may, and at the instruction of the Chairperson of the Conduct Investigation Committee shall, make or authorize a preliminary inquiry into the conduct of a member in order to determine the validity of a complaint.

(4) Subject to subrule (5), the complaints counsel shall deliver to a member in respect of whom a complaint is made, a copy of the complaint or, where in the opinion of the complaints counsel that is not practicable or appropriate, a summary of it.

(5) The Chairperson of the Conduct Investigation Committee may, if he or she considers it necessary for the effective investigation of the complaint, instruct the complaints counsel not to notify the member under subrule (4) until so directed by the Chairperson.

(6) The complaints counsel may require, from a member to whom a copy or summary of the complaint has been delivered under subrule (4), a response to the complaint.

(7) A member’s response shall:

- (a) unless the complaints counsel instructs otherwise, be in writing;

- (b) respond substantively to the complaint; and
  - (c) be delivered to the complaints counsel as soon as practicable, and in any event by the date set by the complaints counsel.
- (8) The complaints counsel may deliver to the complainant a copy of the member's response or, where in the opinion of the complaints counsel that is not practicable or appropriate, a summary of it.
- (9) After the investigation or other action taken under subrules (3) to (8), the complaints counsel:
- (a) shall take no further action on the complaint if he or she is satisfied that:
    - (i) the complaint does not fall within the Society's jurisdiction;
    - (ii) the complaint is not valid;
    - (iii) the complaint is trivial, frivolous or of a vexatious nature; or
    - (iv) the complaint does not raise an issue of ethics, competence or discipline; or
  - (b) shall refer the complaint to the Chairperson of the Professional Standards Committee, the Conduct Investigation Committee or to the Ethics Committee in accordance with section 40(2) of the *Act*.
  - (c) may attempt to mediate a resolution to a complaint which raises an issue of ethics, competence or discipline with the approval of the Chair of the Ethics, Professional Standards or Conduct Investigation Committee.
- (10) The complaints counsel may act under subrule (9)(b) or (c), notwithstanding that the matter giving rise to the complaint has been resolved.
- (11) A member whose conduct is complained of shall be given an opportunity to respond to the complaint before the complaints counsel makes a determination pursuant to subrule (9) except, where in the opinion of the complaints counsel, there is a danger that the best interests of the public or the profession would be compromised by so doing;
- (12) Where another complaint or complaints are already referred to a Committee and it would be appropriate to have all matters reviewed concurrently by the same chairperson the complaints counsel may refer a matter prior to receiving the member's response.

[Rule 300(4) amended March 27, 1992; Rule 300(9)(b) amended February 4 & 5, 1993]

[Rule 300(11) added December 6, 1996]

[Rule 300(3), (5), (9)(a)(iv), (9)(b), (10) and (11) amended; (9)(c) and (12) added June 17, 2010]

### **Notification to the Parties**

301. (1) The complaints counsel shall advise the member and the complainant, in writing, of his or her disposition under Rule 300(9).
- (2) If the complaints counsel decides to take no further action on the complaint, then complaints counsel shall, unless it was previously done under Rule 300(8):
- (a) deliver to the complainant a copy of the member's response if any or, where in the opinion of the complaints counsel that is not practicable or appropriate, a summary of it; and
  - (b) advise the complainant in writing of his or her right to apply for a review under section 43 of the *Act* and Rule 302.

[Rule 301(2) and (2)(a) amended June 17, 2010]

### **Complainants' Review Procedure**

302. (1) A Complainants' Review Committee is established, consisting of one or more persons appointed by the President and may consist of any Bencher and/or outside designated complaints counsel.
- (2) A complainant who is dissatisfied with a decision of:
- (a) the complaints counsel that no further action will be taken on the complaint because it does not raise an issue of ethics, competence or discipline;
  - (b) the Chairperson of the Professional Standards Committee under section 41(1.1)(a) of the *Act* that no further action will be taken on the complaint because he or she is of the opinion that the matter does not raise an issue of competence; or

- (c) the Conduct Investigation Committee under section 42(2)(a) of the *Act* that no further action will be taken on the complaint because the member's conduct does not constitute conduct unbecoming
- may apply in writing for a review of that decision.
- (3) (a) an application under subrule (2) shall be delivered to the complaints counsel within 30 days after the complainant was notified of the decision under review;
- (b) in exceptional circumstances the 30 day time may be extended by the Complainants' Review Committee.
- (4) The complaints counsel shall direct the application to one or more members of the Complainants' Review Committee and that member or members:
- (a) shall review the documents obtained, collected or produced by the complaints counsel under Rule 300;
- (b) may make such inquiries of the complainant, the member or any other person as it considers desirable; and
- (c) may, in its discretion, hear oral submissions from the complainant and/or the member whose conduct is the subject of the complaint.
- (5) The member or members of the Complainants' Review Committee referred to in (4) above shall:
- (a) confirm the decision of the complaints counsel or the Chairperson of the Conduct Investigation Committee or the Chairperson of the Professional Standards Committee to take no further action; or
- (b) refer the complaint to:
- (i) the Chairperson of the Professional Standards Committee; or
- (ii) the Conduct Investigation Committee, to proceed with the complaint in accordance with section 42(2)(b) or (3) of the *Act*, or
- (iii) the Chairperson of the Ethics Committee.
- (6) The Society shall promptly advise the complainant and the member, in writing, of the decision made under subrule (5).

[Rule 302(4), (5) & (6) amended October 23, 1992]

[Rule 302(5)(b)(i) amended February 4 & 5, 1993]

[Rule 302(2)(a) & 302(6) amended June 6 & 7, 1996; Rule 302(b) added June 6 & 7, 1996]

[Rule 302(5)(a) amended April 23, 1998]

[Rule 302(3), (4) and (5) amended June 11, 1998]

[Rule 302(3) amended September, 2006]

[Rule 302(1), (2)(a) and (c), (3)(a), (4), (5)(a) and (5)(b)(ii) amended; (3)(b) added June 17, 2010]

### **Ethics Committee**

303. (1) The Ethics Committee shall review any referral or request made by:
- (a) complaints counsel;
- (b) other Committees;
- (c) request for ruling made pursuant to (2).
- (2) Any person may request a ruling from the Ethics Committee for a ruling on an ethical issue.
- (3) Upon receipt by the Ethics Committee of a referral or request, the Committee may:
- (a) make whatever recommendations it sees fit to resolve the conflict of interest or potential conflict of interest;
- (b) decline to make a ruling;
- (c) give opinions and make professional conduct rulings on questions of professional ethics, for the guidance of the profession;
- (d) make recommendations to the Benchers and to the Discipline Committee respecting professional ethics and the development of and revisions to *The Code of Professional Conduct*; and
- (e) refer matters to the Conduct Investigation Committee or Professional Standards Committee.
- (4) The Ethics Committee shall administer the Society's Rules respecting the marketing of legal services.



(5) The Ethics Committee may make whatever enquiries it thinks necessary and may follow whatever procedure it finds to be most efficient.

[Rule 303 added April 27, 1995]  
[Rule 303 amended in its entirety, including heading, June 17, 2010]

[next rule is Rule 321]

## C. Professional Standards

[Subheading C amended February 4 & 5, 1993]

### Review of Referral by Chairperson

321. The Chairperson of the Professional Standards Committee shall review any referral made by:

- (1) Complaints Counsel;
- (2) the Ethics Committee;
- (3) the Conduct Investigation Committee.

[Rule 321 amended February 4 & 5 1993; June 6 & 7, 1996; June 10, 1999; September 9, 1999]  
[Rule 321 heading amended; Rule 321 amended and (2)(a) through (f) deleted; (3) added December 3, 2009]  
[Rule 321(3) amended June 17, 2010]

322. The Chairperson of the Professional Standards Committee may make or authorize further inquiries.

[Rule 322 amended February 4 & 5 and September 17, 1993 and June 10, 1999]  
[Rule 322 Professional Standards Investigation Committee heading deleted; Rule 322 amended; (a) through (e) deleted December 3, 2009]

323. (1) Upon completion of the review in Rule 321 and 322, the Chairperson shall:
- (a) refer the matter to the Conduct Investigation Committee in accordance with section 41(4) of the *Act*;
  - (b) refer the matter to the Ethics Committee in accordance with section 41(4) of the *Act*;
  - (c) in accordance with section 41(1.1)(b) of the *Act*, conduct an investigation and/or direct that a law office management review of the member's or the member's law firm's practice be conducted by a practice advisor including, where appropriate, a review of some or all of the member's client files and an examination of the procedures in place to reduce the risk of complaints and liability for insurance claims; or
  - (d) direct that no further action be taken if the matter does not raise an issue of competence, or
  - (e) request that the member:
    - (i) complete satisfactorily a remedial program which may include one or more of the following:
      - (A) one or more continuing legal education courses approved by the Chairperson;
      - (B) a remedial course approved by the Chairperson;
      - (C) one or more courses approved by the Chairperson, which is or are offered by an approved education provider;
      - (D) a mentor program approved by the Chairperson; or
      - (E) any other remedial program specified by the Chairperson which is intended, if carried out, to improve the knowledge or skill of the member in carrying on his or her practice of law.
    - (ii) restrict voluntarily his or her practice to specified areas of law until the member's remedial program has been completed satisfactorily;
    - (iii) complete satisfactorily an examination approved by the Chairperson;

- (iv) appear before a panel of examiners appointed by the Chairperson;
  - (v) implement measures to reduce the risk of liability insurance claims;
  - (vi) obtain a psychiatric or psychological assessment or counselling, or both, and if the Chairperson requests, provide a report on that assessment or counselling to the Chairperson;
  - (vii) obtain a medical assessment or assistance, or both, and if the Chairperson requests, provide a report of that assessment or assistance to the Chairperson;
  - (viii) practise in a setting approved by the Chairperson;
  - (ix) take such other steps as the Chairperson directs which are intended to improve the knowledge or skill of the member in carrying on his or her practice of law.
- (2) When making requests under subrule (1)(e), the Chairperson may:
- (a) receive, on behalf of the Society, undertakings given by the member; and
  - (b) set one or more dates by which the member shall complete the requests; and
  - (c) request that the member pay part or all of the cost of the matters described in subrule (1)(e).
- (3) The Chairperson may, on application by the member or by the Society, extend the date by which a request shall be completed.
- (4) The Chairperson shall advise the member of his or her decision under subrule (1) and may request that the member meet with the Committee where it has made a request under subrule (1)(e), deliver a copy of that request to the member.
- (5) Complaints counsel shall advise the complainant in writing of the Chairperson's decision under subrule (1), but shall not deliver to the complainant a copy of the Chairperson's request under subrule (1)(e).

[Rule 323(2) amended February 4 & 5, 1993 and June 10, 1999]

[Rule 323 Law Office Management and File Reviews header deleted; amended Rule in its entirety December 3, 2009]

[Rule 323 number (1) inserted, 323(1)(a) through (d) amended; 323(e)(i) through (ix), (2), (3), (4) and (5) added June 17, 2010]

[Rule 324 amended February 4 & 5, 1993]

[Rule 324 (1) amended; 324 (2) (a) through (f) added December 3, 2009]

[Rule 324 Report to the Professional Standards Committee deleted June 17, 2010]

[Rule 325 amended February 4 & 5, 1993; March 27, 1992 and June 10, 1999]

[Rule 325 heading amended; Rule 325 (1)(i)(A) to (E), (iii), (iv), (vi) to (ix) amended; (2) and (2)(c) amended;

(3), (4) and (5) amended December 3, 2009]

[Rule 325 Action by the Chairperson of the Professional Standards Committee deleted and a portion moved to become part of Rule 323 June 17, 2010]

## **Confidentiality of Competence Matters**

326. (1) Any:

- (a) information and documents which form part of a Professional Standards complaint, review or investigation.
- (b) any action taken or decision made respecting a Professional Standards complaint, review or investigation; and

any report prepared for a Professional Standards Committee Chairperson or

- (c) by a practice advisor shall be treated confidentially and, unless otherwise ordered by the Professional Standards Committee, shall not be disclosed except for the purpose of complying with the objects of the Act or in responding to an enquiry made for the purpose of a potential judicial appointment.

[Rule 326(1) amended February 4 & 5, 1993]

[Rule 326 (1)(a) and (b) amended December 3, 2009]

[Rule 326(1)(a), (b) and (c) amended June 17, 2010]

[next rule is Rule 400]

## D. Discipline

### Review by Conduct Investigation Committee

400. (1) The Conduct Investigation Committee:
- (a) shall promptly review any complaint submitted to it by complaints counsel, by the Chairperson of the Professional Standards Committee, by the Complainants' Review Committee or by the Ethics Committee; and
  - (b) may investigate any conduct of a member that may constitute conduct unbecoming, and may make or authorize whatever inquiries and investigations it considers desirable.
  - (c) may investigate any other matter that comes to its attention during the course of an investigation, that could potentially constitute conduct unbecoming.
  - (d) shall complete an inquiry or investigation under this rule as soon as practicable.
- (2) Upon completion of the review or investigation, the Conduct Investigation Committee shall provide a report:
- (a) directing that no further action be taken, if it is of the opinion that the complaint does not constitute conduct unbecoming;
  - (b) inviting the member to meet with an Informal Conduct Review Committee under Rule 401;
  - (c) referring the complaint to the Ethics Committee or the Professional Standards Committee;
  - (d) directing the Chair of Discipline to appoint a Hearing Committee under 47(1) of the *Act*, to hear and determine a formal complaint.
- (3) The Conduct Investigation Committee shall advise the member and the complainant, in writing, of the action taken under subrule (2).
- (a) if, during the course of an investigation by a Conduct Investigation Committee, a member requests permission to resign, the Conduct Investigation Committee may, prior to completing its investigation, recommend that the Benchers accept the member's resignation as a resignation in the face of discipline or as a simple resignation;
  - (b) prior to making a recommendation pursuant to (a) above, the Conduct Investigation Committee may require the member to enter into an Agreed Statement of Facts to be provided to the Benchers and further, may recommend that the Benchers impose conditions;
  - (c) conditions imposed by the Benchers may include a time period of up to 5 years during which the member will not re-apply and further, upon any application for re-admission, the Agreed Statement of Facts will be considered;
  - (d) if the Benchers accept a resignation pursuant to this sub clause, notice shall be published in the same manner and to the same persons as required by Rule 495;
  - (e) the Benchers may accept an application for resignation as a simple resignation or as a resignation in the face of discipline or reject the application pending the completion of the discipline process;
  - (f) nothing in this Rule affects the ability of the Hearing Committee to permit a member to resign as a penalty pursuant to section 53(3)(a)(vii) of *The Legal Profession Act, 1990*.

[Rule 400(1)(a) amended September 17, 1993; Rule 400(2) amended December 4, 1992; Rule 400(2)(d) amended February 4 & 5, 1993]

[Rule 400 heading amended, 400(1)(a) and (b), (2)(a) through (d), and (3) amended; 400(1)(c) and (d) and (3)(a) through (f) added; (2)(e) deleted June 17, 2010]

### Informal Conduct Review Committee

401. (1) The Conduct Investigation Committee may appoint one or more persons as an Informal Conduct Review Committee, to make an informal investigation of a matter referred to it under Rule 400(2)(b), and to counsel the member.
- (2) At an Informal Conduct Review:
- (a) the member shall appear personally;

- (b) the meeting shall be private; and
  - (c) the proceedings shall be informal.
- (3) Following the meeting under subrule (2) the Informal Conduct Review Committee shall advise the Conduct Investigation Committee in writing that the review has been completed.
- (4) When a hearing is held under Rule 450 in respect of a matter investigated under this Rule:
- (a) any report prepared by the Informal Conduct Review Committee may not be admitted at the hearing; and
  - (b) a member of the Informal Conduct Review Committee shall not, except in response to a question by the member, testify as to any statement made by the member during the informal conduct review.

[Rule 401(1) amended December 12, 1997 and April, 2002]  
 [Rule 401(1), (3) and (4)(a) amended June 17, 2010]

[Rule 402(3) added October, 2003]  
 [Rule 402 Investigation Committee deleted June 17, 2010]

### **Action by the Chairperson of the Discipline Committee**

403. The Chairperson of the Discipline Committee shall, after receiving a report from the Conduct Investigation Committee, under Section 46(1) of the *Act* and Rule 400(2)(d), appoint a Hearing Committee to hear and determine a formal complaint.

[Rule 403 amended; 403 (a) and (b) deleted June 17, 2010]

### **Notification of Parties**

404. The Chairperson of the Discipline Committee shall promptly notify the member and the complainant, in writing, of the appointment of a Hearing Committee under Rule 403.

[Rule 404 amended June 17, 2010]

### **Confidentiality**

405. Any:
- (a) information and documents considered;
  - (b) decisions made or action taken; and
  - (c) reports prepared

under Rules 400 to 404 shall be kept confidential and, unless otherwise ordered by the Chairperson of the Discipline Committee, shall not be disclosed except for the purpose of complying with the objects of the *Act* or in responding to an enquiry made for the purpose of a potential judicial appointment.

[next rule is Rule 420]

### **Interim Suspension**

420. (1) Subject to subrule (2), a Conduct Investigation Committee shall, before suspending a member under section 45 of the *Act*:

- (a) notify the member that consideration is being given to his or her suspension, for the reasons specified in the notice; and
- (b) give the member a reasonable opportunity to make representations to the Conduct Investigation Committee respecting the suspension.

(2) A Conduct Investigation Committee may act under section 45(1) of the *Act* without complying with subrule (1) if it is satisfied that such action is necessary to protect the public or the member's clients, or both.

- (3) If a Conduct Investigation Committee orders an oral hearing:

- (a) the hearing shall be in private, unless the Committee orders otherwise; and
  - (b) the proceedings shall be recorded by a court reporter and any person may obtain, at his or her expense, a transcript of any part of the hearing which he or she was entitled to attend.
- (4) If a Conduct Investigation Committee concludes that a member should be suspended under section 45(1) of the *Act*, the Committee shall promptly advise:
- (a) the member in writing that he or she is suspended and the reasons for it, and that the member has the right to request a review of the suspension under section 45(3) of the *Act*; and
  - (b) the Deputy Minister of Justice under section 54(1) of the *Act*.

[Rule 420(1), 420(1)(b), (2), (3) and (3)(b) and (4) amended; (4)(a) and (b) added; (5) and (6) deleted June 17, 2010]

### **Review of Interim Suspension**

421.(1) A notice under section 45(3) of the *Act* requesting a review of a suspension shall be in writing, addressed to the Chairperson of the Discipline Committee.

- (2) A review hearing shall be conducted:
  - (a) by one or more Benchers appointed as Review Committee by the Chairperson of the Discipline Committee, none of whom are under subrule (3), disqualified from hearing the review; and
  - (b) as soon as practicable and in any event not later than 7 days after the date on which the request was received by the Chairperson of the Discipline Committee, unless the member consents to a longer time.
- (3) The Chairperson of the Discipline Committee, and any other Bencher who was:
  - (a) a member of the Conduct Investigation Committee which suspended the member under section 45(1) of the *Act*;
  - (b) a member of an Informal Conduct Review Committee which reviewed the matter; or
  - (c) a member of a Complainants' Review Committee which reviewed the matter
 shall not participate as a panelist in a review under this Rule.

(4) A review of the suspension under this Rule shall be conducted in private, unless the Review Committee orders otherwise.

(5) All proceedings at a review under this Rule shall be recorded by a court reporter and any person may obtain, at his or her expense, a transcript of any part of the hearing which he or she was entitled to attend.

(6) The Review Committee appointed under subsection 2(a) shall determine the practice and procedure to be followed at the hearing.

[Rule 421(2)(a), (3)(a), (4) (5) and (6) amended June 17, 2010]

[next rule is Rule 430]

### **Formal Complaint**

430. Where a Hearing Committee is appointed under Rule 403, a formal complaint shall be served on the member:

- (a) in accordance with section 46 of the *Act*;
- (b) not more than 90 days after the Chairperson of the Discipline Committee appointed the Hearing Committee; and
- (c) not less than 30 days before the date set for commencement of the hearing, unless the member consents in writing to a shorter period.

[Rule 430 amended September 15, 1995]  
[Rule 430(a) amended June 17, 2010]

### Fixing a Date for Hearing

431.(1) The date, time and place of the hearing shall be fixed by the Chairperson of the Hearing Committee.

(2) Counsel to the Conduct Investigation Committee shall notify the member and the complainant, in writing, of the date, time and place of the hearing.

[Rule 431(2) amended June 17, 2010]

### Disclosure of Evidence to the Member

432. (1) Counsel to the Conduct Investigation Committee shall fully disclose to the member the evidence which Counsel to the Conduct Investigation Committee intends to introduce at the hearing, and:

- (a) a copy of all relevant documents in the possession of the Society or under its control or power, except to the extent that the documents are privileged;
- (b) the names of all persons Counsel to the Investigation Committee intends to call as witnesses as well as copies of any written statements, or where no written statements exist, a summary of the witnesses' anticipated evidence.

(2) The Hearing Committee appointed to hear the formal complaint may, if it determines that Counsel to the Conduct Investigation Committee has not complied with subrule (1), extend the time for making full disclosure and make any other order it considers necessary for the effective conduct of the hearing.

(3) A member may, at any time before the hearing commences, apply for disclosure of the circumstances of the alleged misconduct.

(4) An application under subrule (3) shall be made:

- (a) to the Chairperson of the Hearing Committee which has been appointed to hear the formal complaint; and
- (b) in writing or, with the approval of the Chairperson of the Hearing Committee, in person or by telephone.

(5) The Chairperson of the Hearing Committee shall, if satisfied that an allegation in the formal complaint does not contain sufficient detail of the circumstances of the alleged unbecoming conduct to give the member reasonable information with respect to the act or omission to be proved, and to identify the transaction referred to, order Counsel to the Conduct Investigation Committee to disclose further details of the circumstances.

(6) Details of the circumstances disclosed under subrule (5) shall:

- (a) be in writing; and
- (b) be delivered to the member or his or her counsel.

[Rule 432(1), (a) & (b), (2), (4)(a) & (b) and (5) amended June 17, 2010]

[next rule is Rule 450]

### Hearing of the Formal Complaint

#### Disqualification

450. (1) A Bencher who was a member of:

- (a) a Complainants' Review Committee which reviewed the matter;
- (b) a Professional Standards Committee or Practice Advisor which reviewed the matter or a Practice Advisor who conducted an investigation or review;
- (c) an Informal Conduct Review Committee which reviewed the matter;
- (d) the Conduct Investigation Committee which inquired into the matter under section 44 of the *Act*, or suspended the member under section 46(1) of the *Act*; or
- (e) a Committee appointed under section 45(4) of the *Act* to review the member's interim suspension

shall not participate as a panelist in the hearing of a formal complaint against the member under this Rule.

**Adjournment**

- (2) The Chairperson of the Hearing Committee may from time to time adjourn the hearing.

**Transcript**

(3) All proceedings at a hearing shall be recorded by a court reporter and any person may obtain, at his or her expense, a transcript of any part of the hearing which he or she was entitled to attend.

**Multiple Allegations**

(4) A Hearing Committee may consider at one hearing one or more formal complaints, each of which may contain one or more allegations.

(5) The Hearing Committee shall, where it is satisfied that the interests of justice so require, order that one or more allegations in a formal complaint be heard at a separate hearing before a differently constituted Hearing Committee.

**Amendment of the Formal Complaint**

(6) A formal complaint may, subject to section 48 of the *Act*, be amended by the Hearing Committee appointed under Rule 403 to hear the complaint.

**Procedure**

(7) The Hearing Committee shall determine the practice and procedure to be followed at the hearing.

(8) Counsel to the Conduct Investigation Committee and the member may deliver to the Chairperson of the Hearing Committee, at least 7 days before the date set for the hearing, written submissions and supporting documentation respecting the issues to be considered by the Hearing Committee.

(9) Counsel to the Conduct Investigation Committee shall ensure delivery to the member and to every member of the Hearing Committee, a copy of the formal complaint against the member, as amended.

**Hearing Committee Decision**

(10) The Hearing Committee shall, following completion of the evidence and submissions from counsel for the Society and the member, by majority decision:

- (a) make its findings as to the facts in issue;
- (b) make its decision as to whether each allegation in the formal complaint is well-founded;
- (c) determine whether the member may be guilty of a criminal offence related to his or her practice, in which case section 54(2) of the *Act* applies.

**Imposition of Penalty by Hearing Committee**

(11) Following the decision of the Hearing Committee, if the Hearing Committee finds that the formal complaint is well founded it:

- (a) may consider any relevant information respecting the member's professional conduct history;
- (b) shall invite Counsel to the Conduct Investigation Committee and the member to make submissions as to penalty; and
- (c) shall, by majority decision, make one or more orders under section 53 of the *Act*;
- (d) shall, if it imposes a fine, fix the date by which payment to the Society shall be completed;
- (e) shall, if it imposes costs, fix the date by which payment to the Society shall be completed; and
- (f) shall, if it imposes a requirement, fix the date by which the requirement shall be fulfilled.

**Extension of Time to Comply**

(12) A member who has not:

- (a) paid the full amount owing for a fine imposed under section 53 of the *Act* by the date fixed; or
- (b) paid the full amount owing for costs imposed under section 53 of the *Act* by the date fixed; or
- (c) fulfilled all requirements imposed under section 53 of the *Act* by the date fixed;

may apply to the Chairperson of the Discipline Committee for an extension of the time within which to comply.

[Rule 450(1)(b) amended September 17, 1993]

[Rule 450(1)(b), (d), and (e), (3), (6), (8) changed to (10) - (c) amended and (d) deleted, Assessment of Penalty by Hearing Committee and Report to Chairperson of Discipline Committee deleted; Procedure - (8) and (9) added, (11) and (12) added June 17, 2010]

[Rule 470(5)(b) amended September 17, 1993]

[Rule 470 Assessment of Penalty by Discipline Committee deleted in its entirety June 17, 2010]

[next rule is Rule 490]

**Costs**

490. (1) In calculating the costs payable under section 53(3)(a)(v) of the *Act*, a Hearing Committee may include part or all of one or more of the following costs actually incurred by the Society:

- (a) the cost of any enquiries or investigations ordered under this Part;
- (b) the daily witness fee fixed by the tariff enacted pursuant to *The Queen's Bench Rules*, multiplied by the number of days the witness was required to remain in attendance at a hearing or meeting under this Part;
- (c) reasonable travel and living costs of a witness;
- (d) the court reporter's fee for attendance at a hearing or meeting under this Part;
- (e) the cost of a transcript of a hearing or meeting held under this Part, if the Society would otherwise be liable for its cost;
- (f) the cost incurred by the Society in publishing the decision of a Committee under this Part;
- (g) a Hearing Committee attendance fee of:
  - (i) \$150 per half day of hearing for the first three days of hearings; plus
  - (ii) \$500 per half day of hearing for each subsequent day of hearing
 multiplied by the number of Hearing Committee members in attendance;
- (h) reasonable fees or costs of Counsel to the Conduct Investigation Committee;
- (i) reasonable disbursements of Counsel to the Conduct Investigation Committee; and
- (j) any other amount, arising out of the proceedings, for which the Society would otherwise be liable.

[Rule 490(1), (b), (d), (h) and (i) amended June 17, 2010]

491. (1) Members of the public may attend and observe a hearing before a Hearing Committee pursuant to Rule 470 except to the extent that the hearing is directed to be held in private under subrule (2).

(2) The Hearing Committee on its own motion or on the application of the member concerned, the complainant, any person expected to be a witness at the hearing, or any other interested party at the time before or during the proceeding may direct that all or part of the hearing is to be held in private in accordance with subsection 49(6) and 84.1 of the *Act*.



(3) Other than hearings referred to in subrule (1) and hearings before the Court of Appeal and required attendances of the complainant pursuant to section 49 of the *Act*, all discipline proceedings shall be held in private.

(4) These rules will apply to all discipline matters concerning which a formal complaint is signed by the Law Society on or following the day on which sections 13-33 of *The Legal Profession Amendment Act, 2010* comes into force.

[Rule 491 added September 16, 1994]  
[Rule 491(1) through (4) amended June 17, 2010]

[next rule is Rule 495]

### **Notice of Disciplinary Action**

495. (1) Where an order is made under Rules 400(4), 420 or 450 against a member, or pursuant to Rule 207 against a visiting lawyer, the Executive Director shall:

- (a) publish and circulate to the membership a summary of the circumstances and the order made, in a form which identifies the member; and
- (b) notify in writing each governing body of the legal profession in which the member is a member.

(2) Where a member is suspended or disbarred under Rules 420 or 450, or permitted to resign under Rule 400(4), the Society:

- (a) shall notify in writing:
  - (i) the Chief Justice of Saskatchewan;
  - (i) the Chief Justice of the Saskatchewan Court of Queen's Bench;
  - (ii) the Chief Judge of the Provincial Court of Saskatchewan;
- (b) may notify in writing:
  - (i) the Minister of Justice for Saskatchewan; and
  - (ii) the Registrar of Titles; and
  - (iii) any other person the Executive Director considers appropriate;
- (c) may cause to be published a notice of the suspension or disbarment in:
  - (i) the *Saskatchewan Gazette*; and
  - (ii) a newspaper of general circulation in each community in which the member maintained an office;
  - (iii) the Law Society of Saskatchewan website;

(3) Where a Hearing Committee finds a formal complaint is not well founded, a summary of the circumstances may be published and circulated to the membership, but the summary shall not, unless the member requests in writing, identify the member.

[Rule 495(4) added September 9, 1999; Rule 495(1) and (2) amended October, 2003]  
[Rule 495 (1), (2) & (2)(a) amended, (2)(b) (i) through (iii) added, (2)(c) amended and (2)(c)(iii) added, (3) amended;  
(4) deleted June 17, 2010]

### **Retention of Documents**

496. The Society shall not dispose of or destroy any document within its possession or power relating to a proceeding under this Part until the later of:

- (a) the time for commencing a judicial review or an appeal from a decision under this Part has expired, and no such review or appeal has been commenced; or
- (b) all proceedings by way of judicial review or appeal from a decision under this Part have been completed.

**Appeal to Court of Appeal**

497. The Conduct Investigation Committee may direct Counsel for the Conduct Investigation Committee to proceed with an appeal under section 56 of the *Act* within 30 days of the day of the decision of the Hearing Committee by filing notice with the Court of Appeal, as set out in section 56 of the *Act*.

[Rule 497 added June 17, 2010]

[next rule is Rule 570]

[next rule is Rule 890]

**Waiver of Rules**

890. A member shall pay, at the time of application for a variation, waiver or suspension of a Rule under Rule 1903, a rules waiver application fee as set out in Schedule 1 following this Part.

[next rule is Rule 900]

**Schedule 1**  
**LAW SOCIETY FEES AND ASSESSMENTS**

<b>A. Active Member Annual Fee</b> .....	<b>\$</b>
1. Practice fee .....	1,615
2. Special Fund assessment .....	145
3. Late payment fee .....	75/wk or part thereof
4. Electronic payment fee .....	100
<b>B. Inactive Member Fees</b>	
1. Inactive member annual fee .....	150
<b>C. Liability Insurance Assessment</b>	
1. Annual Assessment .....	670
2. Late payment fee .....	75/wk or part thereof
3. Insurance deductible reimbursement late payment fee .....	100
4. Loss prevention surcharge .....	500
<b>D. Student-at-Law Fees</b>	
1. Student-at-law application fee .....	100
2. Articling fee .....	100
3. Articling assignment fee .....	100
4. Bar Admission Program fee .....	2,450
5. Bar Examination re-read fee, per examination .....	50
6. Transfer examination fee .....	350
7. Transfer examination re-read fee .....	175
8. Transfer supplemental examination .....	175
<b>E. Admission as a Lawyer Fees</b>	
1. Lawyer admission application fee .....	100
2. Lawyer admission fee .....	100
3. Admission on transfer application fee .....	100
4. Admission on transfer fee (with articles) .....	100
5. Admission on transfer fee (no articles) .....	500
6. Law professor (transfer) admission application fee .....	100
7. Law professor (transfer) admission fee .....	100
8. Law professor admission application fee .....	100
9. Law professor admission fee .....	100
<b>F. Interjurisdictional Practice Permit</b>	
1. Interjurisdictional Practice Permit .....	100
<b>G. Reinstatement Fees</b>	
1. By former member, following disbarment or resignation .....	1,000
2. By former member, in all other cases .....	200
3. By inactive member becoming active member .....	100
4. By disqualified member becoming an active or inactive member .....	100 plus fee for year of default
<b>H. Certificate of Standing Fee</b> .....	100
<b>I. License and Permit Fees</b>	
1. Foreign legal consultant permit fee .....	500
2. Foreign legal consultant renewal fee .....	100
<b>J. Waiver of Rules</b>	
1. First application .....	50
2. Each subsequent application respecting the same Rule .....	100
<b>K. Professional Corporation</b>	
1. Application for registration of Professional Corporation .....	125
2. Application for registration of Limited Liability Partnership .....	125
3. Annual renewal for Professional Corporation .....	125

**L. Minimum Mandatory Legal Education**

1.	Approval of remedial education plan .....	200
2.	Appeal of decisions .....	100
3.	Reinstatement fee payable by member suspended for failing to comply with minimum mandatory education requirements .....	100

**Note:** The federal goods and services tax applies to Law Society fees and assessments

[Part K added September, 2001]  
 [Part D(4) amended February 5, 2004]  
 [Part C 4. added Oct., 2007]; [Amended Dec. 7, 2007]  
 [Part F amended December 5, 2008]  
 [Part D(4) amended May 1, 2009]  
 [Part A(3), C(1) and (2) amended; Part L added September 17, 2009]  
 [Part K (1), (2) and (3) amended February 11, 2010]  
 [Part D (4) amended April 15, 2010]  
 [Part A (1) and C (1) amended June 17, 2010]

## PART 13

### Accounting

#### A. Definitions

##### Definitions

900. In this Part,

“**cash**” means coins referred to in section 7 of the *Currency Act*, and notes issued by the Bank of Canada pursuant to the *Bank of Canada Act*, that are intended for circulation in Canada and coins or bank notes of countries other than Canada;

“**client**” includes a person or unincorporated body on whose behalf a member receives funds in connection with the member’s practice of law;

“**currency**” includes current coins, government or bank notes of Canada or any other country;

“**firm**” means a partnership of members carrying on the practice of law where one set of the books, records and accounts described in this Part is maintained;

“**funds**” means cash, currency, securities and negotiable instruments or other financial instruments or other financial instruments that indicate the person’s title or interest in them;

“**general account**” means an account in a savings institution maintained by a member into which is deposited funds received by the member in connection with the member’s practice of law, which are not trust funds;

“**member**” includes a member of the Law Society as defined in *The Legal Profession Act*;

“**mixed trust account**” means an account referred to in section 78(1) of the *Act*, into which is deposited money received or held in trust for or on account of clients generally;

“**money**” includes cash, cheques, drafts, credit card sales slips, post office orders and express and bank money orders;

“**public body**” means:

- (a) a department or agent of Her Majesty in right of Canada or of a province;
- (b) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them, or
- (c) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act* or an agent of the organization,

“**savings institution**” means:

- (a) the Bank of Canada;
- (b) a bank included in Schedule I or II to the *Bank Act (Canada)* which is insured by the Canada Deposit Insurance Corporation;
- (c) a credit union incorporated, continued or registered under the *Credit Union Act, 1985*; or
- (d) a trust company which:
  - (i) is incorporated under the *Trust Companies Act (Canada)*; or
  - (ii) has net assets in excess of \$10,000,000;

“**separate trust account**” means an interest-bearing trust account or a savings, deposit, investment or similar form of account in a savings institution in Saskatchewan;

“**trust funds**” means any monies received by a lawyer, in his/her capacity as a lawyer, which are not intended to immediately become property of the lawyer and include:

- (a) funds from a client for services to be performed or for disbursements to be made on behalf of the client; or
- (b) funds which belong in part to a client and in part to the member, and it is not practicable to split the funds;
- (c) funds received from or held on behalf of a third party which relate to a transaction in which a client is involved, but does not include funds which are to be remitted to any government by way of taxes or employee payroll deductions.

**Prohibited from the Practice of Law**

1208. (1) The Executive Director shall not issue to a member who is in breach of Rules 1203 or 1205(2)(b) or (3) a practising certificate.

(2) The practising certificate of a member who is in breach of Rules 1203, 1205(2)(b) or (3) or 1220 ceases to be valid 7 days after the Executive Director delivers to the member a written notification to that effect.

(3) A member prohibited from the practice of law under subrule (1) or (2) who:

- (a) complies with Rules 1203 or 1205 within 5 months after the fiscal period or termination of practice referred to in Rule 1203(1); and
- (b) pays to the Society any fees, assessments, fines, costs or other amounts owing to the Society

is deemed to be insured, during the period of prohibition, for errors or omissions arising before or during the prohibition.

[Rule 1208(2) amended June 11, 2009]

**Monthly Reports**

1220. (1) A member shall deliver to The Law Society of Saskatchewan, on a monthly basis, any of the books, records and accounts described in Part 13 if required by:

- (a) Rule 1201, Trust Account Commencement Report;
- (b) any penalty or requirement assessed under sections 53(3) or 55(2) of the *Act*; or
- (c) The Law Society of Saskatchewan, at its discretion.

(2) The books, records and accounts to be delivered under subrule (1) shall be delivered not more than 30 days after the end of the period to which they pertain, unless otherwise permitted in writing by the Law Society of Saskatchewan.

[Rule 1220(2) amended June 11, 2009]

**Late Filing of Monthly Reports**

1225. A member who does not comply with Rule 1220 is in breach of these Rules and is liable to an assessment of \$100 per month multiplied by the number of partners.

**Appeal of Late Filing Assessment**

1230. A member assessed a penalty pursuant to Rule 1205(1), 1205(2)(a), or 1225 may appeal the penalty in writing to the Executive Director within 15 days of the member's receipt of the assessment.

[Rules 1220, 1225 and 1230 added February 7, 2008]

[next rule is Rule 1300]

## Part 16

### Unclaimed Trust Funds

[Rule 1300 "committee" definition deleted December 7, 2007]

#### Payment of Unclaimed Trust Funds to the Society

1301. (1) When funds held in trust meet the following criteria:
- (a) the funds have been held in trust for at least two years;
  - (b) the amount of the funds in trust does not exceed fifty dollars;
  - (c) reasonable efforts have been made to locate, identify and pay the person or entity entitled to receive the funds;

the name of each client, the date of payment, and the amount held shall be entered on a list.

(2) The member shall file the list along with a cheque for the sum of all such funds annually with the Law Society as part of the annual trust reporting process.

- (3) When a member holds funds exceeding \$50 in trust for two years and has:

- (a) made reasonable efforts to locate and pay the person or entity entitled to receive the funds;
- (b) ascertain the identity of the person or entity entitled to receive the funds;

the member may apply for permission to pay the funds to the Law Society by submitting a properly completed Unclaimed Trust Funds Form (TA9) to the Executive Director.

(4) When a practice has been terminated, an application may be made to pay trust funds to the Law Society before the time periods specified in subparagraphs (1) and (3). The Executive Director may accept such funds if it is in the public interest.

[Rule 1301(1) amended, 1301(4) added October 27, 1994]

[Rule 1301(1) and (4) amended December 7, 2007]

[Rule 1301(1) amended June 11, 2009]

[Rule 1301 amended in its entirety June 17, 2010]

#### Procedure for Investigation of Claims

1302. (1) A person or his or her legal representative who claims entitlement to funds held by the Society under section 14 of the *Act* may make a claim in writing to the Society.

(2) A claimant shall provide the Society with information and documents relating to the claim which the Society reasonably requires.

(3) In order to determine the validity of a claim, the Society may make or authorize such inquiries or further investigations as it considers desirable.

[Rule 1302(1), (2) and (3) amended December 7, 2007]