



1666 K Street NW  
Washington, DC 20006

Office: 202-207-9100  
Fax: 202-862-8430

[www.pcaobus.org](http://www.pcaobus.org)

---

## CHARTER

### OFFICE OF HEARING OFFICERS OF THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

**Adopted by the Board – March 25, 2021**

---

The Governing Board (“Board”) charges the Office of Hearing Officers (“OHO”) with fairly and impartially conducting proceedings in which the Board directs a hearing officer to preside.<sup>1</sup> The OHO is staffed with one or more hearing officers, as well as support personnel. Hearing officers are appointed by the Board with the approval of the Securities and Exchange Commission (“Commission”)<sup>2</sup> and take an oath or affirmation to support the U.S. Constitution.

The hearing officers’ duties with respect to a proceeding are prescribed by PCAOB Rules and by direction of the Board under those rules.<sup>3</sup> The proceedings are adversarial in nature, with a right to counsel; conducted on the record; and subject to comprehensive appellate review.<sup>4</sup>

### **Impartiality, Fairness, and Independence**

Hearing officers and other OHO staff, in exercising their duties, have a responsibility to act with honor and integrity by observing the highest standards of ethical conduct so that all rulings, decisions, conclusions, and judgments in adjudicatory proceedings are fair and impartial. They shall at all times be mindful of the sensitivity of their positions and avoid situations that could lead to their impartiality being reasonably questioned. As required by the PCAOB’s Ethics Code, to which all Board members and staff are subject, hearing officers and other OHO staff shall:

- not act in a manner that might reasonably result in or reasonably create the appearance that they are losing independence or objectivity with respect to their work for the Board or are adversely affecting public confidence in, or the integrity, independence, or objectivity of, the Board;<sup>5</sup>
- comply with outside activity restrictions, including abstaining from any outside activity that affects or reasonably creates the appearance of affecting his or her independence or objectivity, interferes with his or her responsibilities to the Board, or otherwise hinders the Board’s independence or reputation;<sup>6</sup>

- not accept anything of monetary value that might reasonably be viewed as interfering with their independence, objectivity, or responsibilities;<sup>7</sup>
- take timely, appropriate action when an actual or perceived conflict of interest arises;<sup>8</sup> and
- annually certify their continuing compliance with the Ethics Code.<sup>9</sup>

In furtherance of these principles embodied in the Ethics Code, the OHO is structured and governed to help ensure that hearing officers exercise independent decisional authority, free from improper pressures of the parties to the proceedings or officials within the organization. Independence promotes impartiality and fairness in adjudication.

## Organizational Structure

Hearing officers report to the Board, which may use staff in carrying out its supervisory duties. Within this structure, the following protocols are in place:

- Hearing officers shall not be responsible to, or subject to the supervision or direction of, an employee or agent of the Board engaged in the performance of investigative or prosecuting functions for the PCAOB.<sup>10</sup>
- Neither staff of the Division of Enforcement and Investigations nor any other staff who engaged in investigative or prosecutorial functions in a proceeding set before a hearing officer may participate or advise in the initial decision in that proceeding, except as a witness or counsel in the proceeding.<sup>11</sup>
- Hearing officers may not consult a person or party on a fact in issue, unless on notice and with opportunity for all parties to participate. Likewise, no party, nor any Board staff that substantially assists the interested division on the particular matter, whether before or during the hearing, may communicate with the hearing officer on a fact in issue, unless on notice and opportunity for all parties to participate.<sup>12</sup>
- The OHO shall be physically separated from any PCAOB regulatory division and from the offices of Board members and their immediate staff.
- Hearing officers shall not be assigned tasks that are inconsistent with their duties and responsibilities as hearing officers.

## Governance

The Board's process and procedure for appointing and removing any hearing officer are as follows:

- The Board may appoint and remove hearing officers only with the approval of the Commission. Therefore, any such appointment or removal is subject to a vote of each multimember body.

- The Board may not seek to remove a hearing officer for invidious reasons otherwise prohibited by law<sup>13</sup> or to influence the outcome of a proceeding.
- In connection with any Board request for Commission approval of the appointment or removal of a hearing officer, any Board member, relevant staff,<sup>14</sup> and the affected hearing officer or hearing officer candidate may, and are authorized to, communicate directly with the Commission and its staff regarding that request.

The oversight and compensation of hearing officers and other OHO staff are governed by the following protocols:

- No Board member or staff shall attempt to improperly influence, or engage in conduct that could reasonably be perceived as attempting to improperly influence, a hearing officer's decision in any proceeding.
- Outcomes of proceedings shall not be considered when evaluating the performance or determining the compensation of hearing officers and other OHO staff.
- The Board shall allocate in the annual budget appropriate resources for the OHO to conduct its operations.
- No portion of any civil money penalty may be used to compensate hearing officers or other OHO staff.<sup>15</sup>

## Notes

- 1        *See, e.g.*, PCAOB Rules 5200, 5400, 5403; EC3 of PCAOB Ethics Code.
- 2        *See* 17 C.F.R. § 202.150; PCAOB Bylaw 6.3(d), PCAOB Rule 1001(h)(i).
- 3        *See, e.g.*, PCAOB Rules 5200(c), 5204(b).
- 4        *See* 15 U.S.C. §§ 7211(g)(2), 7215(c), 7217(c); 15 U.S.C. §§ 78s(d)(2) & (e)(1), 78y(a); 17 C.F.R. §§ 201.440-441; PCAOB Rules 5202, 5204, 5440-5445, 5460-5467.
- 5        *See* EC3(b)(2)-(4).
- 6        *See* EC6(b).
- 7        *See* EC7(a)(1)-(2).
- 8        *See* EC8; *see also* PCAOB Rule 5402.
- 9        *See* EC14.
- 10       *See* PCAOB Rule 5200(d).
- 11       *See* PCAOB Rule 5200(d).
- 12       *See* PCAOB Rule 5403(b).
- 13       This includes any removal on the basis of race, color, religion, sex, or national origin.
- 14       The Board has authorized the Office of the General Counsel and Board advisors to communicate with the Commission and its staff in connection with such requests.
- 15       *See* 15 U.S.C. § 7219(c)(2).