

# Reinstatement Guideline: Division 1 and 2 Applications

---

May 7, 2026

## Table of Contents

<b>Introduction</b> .....	<b>3</b>
Divisions 1 and 2.....	3
<b>General</b> .....	<b>5</b>
Factors in Assessing Competence.....	5
Presumptions Relating to Competency .....	6
Conditions.....	6
<b>Division 1 Proceedings</b> .....	<b>7</b>
Executive Director Referrals to the Reinstatement Committee .....	7
Reinstatement Assessments.....	8
Private Hearings and Publication of Decisions .....	9
Guidance for Conditions Imposed by the Reinstatement Committee.....	10
Health Concerns .....	10
Concerns Arising from New Conduct Matters.....	11
Integrity Concerns.....	11
Governability Concerns.....	11
Agreement of the Parties on Conditions.....	12
Application to Extend Costs Deadline .....	12
<b>Division 2 Proceedings</b> .....	<b>12</b>
Public Hearings and Publication of Decisions .....	12
Principles and Factors.....	13
Application to Combine Reinstatement Committee Hearing and Bencher Consideration .....	14
Application to Extend Costs Deadline .....	14
<b>Schedule A: Division 1 Flow Chart</b> .....	<b>16</b>
<b>Schedule B: Division 2 Flow Chart</b> .....	<b>17</b>

# Reinstatement Guideline

## Introduction

1. Part 4 of the *Rules of the Law Society of Alberta* (Rules) sets out the process for members of the Law Society of Alberta (Law Society) to reinstate from inactive status, active non-practising status or a suspension, and for a former member to reinstate from a resignation or disbarment.
2. Part 4 of the Rules also applies to students-at-law, suspended students-at-law and students-at-law who have had their registration terminated by an order made under Part 3 of the *Legal Profession Act* (Act).
3. This *Guideline* provides guidance to the Benchers, Reinstatement Committee, and applicants regarding reinstatement proceedings under Part 4 of the Rules.
4. The Law Society's *Pre-Hearing and Hearing Guideline*, which addresses matters that commonly arise prior to and during Law Society conduct hearings, may be referenced to provide guidance on hearing processes for the Reinstatement Committee and the Benchers where it does not conflict with the Part 4 Rules or this Guideline.
5. Nothing in this Guideline supersedes or replaces any provision of the Act or the Rules.

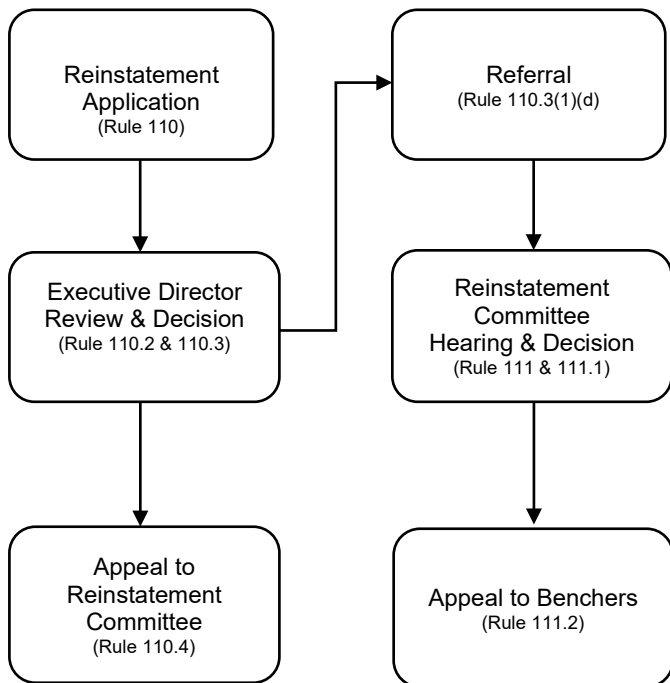
## Divisions 1 and 2

6. Reinstatement proceedings are divided into two divisions which distinguish between reinstatements that
  - a. may be decided by the Executive Director, or in the Executive Director's sole discretion, referred to the Reinstatement Committee for a hearing (Division 1); or
  - b. must be referred to the Reinstatement Committee for a hearing, and then decided by the Benchers after consideration (Division 2).
7. Division 1 reinstatement proceedings apply to
  - a. members who seek to reinstate from inactive status, active non-practising status, and suspensions;
  - b. former members other than those former members captured in Division 2;
  - c. students-at-law who seek to reinstate following a suspension; and

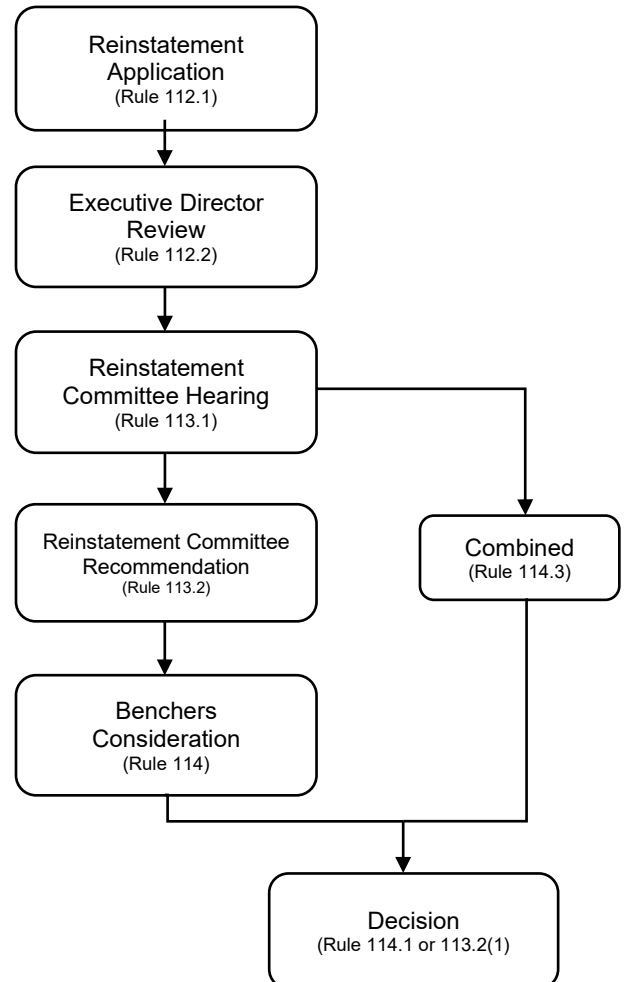


- d. students-at-law that have not worked as an articling student for the past twelve months and seek to be enrolled as a member or to resume articling.
- 8. The Part 4 Rules do not apply to students-at-law whose statuses are automatically terminated under Rule 58.1; these individuals must reapply for admission.
- 9. Division 2 reinstatement proceedings apply to
  - a. former members who have been disbarred or resigned in the face of discipline proceedings; or
  - b. former students-at-law whose registrations were terminated by an order made under Part 3 of the Act.
- 10. The processes for Divisions 1 and 2 are summarized as follows:

**Division 1**



**Division 2**



## General

11. In accordance with Rule 109.5(1), reinstatement proceedings will determine whether an applicant has established their competency to return to practice and whether their return to practice will pose any risk to the public.
12. In addition to the requirements under Rule 109.5(1), reinstatement proceedings under Division 2 must also determine good character and reputation, and whether the reinstatement would harm the standing of the legal profession, as set out in Rule 109.5(2). Principles and factors relating to those requirements are found at paragraphs 54 to 56 of this Guideline.

## Factors in Assessing Competence

13. In assessing competency pursuant to paragraph 11, the Executive Director, the Reinstatement Committee, or the Benchers will consider the following:
  - a. the length of the applicant's time away from active practice;
  - b. the applicant's practice experience prior to time away from active practice;
  - c. the applicant's proposed re-entry into active practice;
  - d. the applicant's professional or educational endeavours in a field relevant to the practice of law;
  - e. the applicant's recent and proposed professional development activities, if any;
  - f. the applicant's proposed treatment plan, if any, to address any physical or mental conditions, including substance abuse or addictions, which may adversely affect the practice of law; and
  - g. any other circumstances relevant to assessing the applicant's competency.
14. The assessment in paragraph 13:
  - a. may be completed by an assessment conducted by the Law Society, by an assessor external to the Law Society, or a combination of both; and
  - b. will be used to determine what, if any, requalification education may be required, with such educational requirements increasing in amount the longer an applicant's time away from active practice.

## Presumptions Relating to Competency

15. Where the applicant has not been actively practising law within the five years immediately preceding the application, there will be a rebuttable presumption that the applicant lacks competency with regards to legal knowledge and skills.
16. If the applicant is unable to rebut the presumption in paragraph 15, conditions may be imposed to address any competency concerns.
17. If the applicant has not been actively practising law for fifteen years or more, conditions that may be imposed include a requirement to complete one or more years of instruction at an institution that offers a program approved by the Canadian Common-Law Program Approval Committee established by the Federation of Law Societies of Canada, or an equivalent program.

## Conditions

18. The Executive Director, the Reinstatement Committee or the Benchers may all impose conditions as part of reinstatement decisions under Part 4 of the Rules.
19. Conditions should be clear, specific and achievable, and when appropriate, include timelines.
20. Conditions should include a mechanism to apply to vary or waive a condition where there has been a material change in the circumstances of the applicant.
21. Conditions may include any of the following:
  - a. a condition that the applicant's practice be restricted to any specified area or areas of law;
  - b. a condition that the applicant be prohibited from practising in any specified area or areas of law;
  - c. a condition that the applicant's practice be directly supervised by one or more active members approved by the Law Society;
  - d. a requirement that the applicant complete, to the Executive Director or Reinstatement Committee's satisfaction, any specified course, educational program, assessment or reporting requirements;
  - e. a condition that the applicant be prohibited from acting as a principal;
  - f. a condition that the applicant be prohibited from practising as a sole practitioner;

- g. a condition that the applicant work and cooperate with the Practice Management department of the Law Society; and
- h. any other condition, including those that relate to competence, practice setting, practice area, health, or conduct.

## Division 1 Proceedings

### Executive Director Referrals to the Reinstatement Committee

22. In deciding to refer a reinstatement application pursuant Rule 110.3(1)(d), the Executive Director may consider whether:
- a. the circumstances of the application warrant review of the applicant's current knowledge of Alberta law and practice;
  - b. proceedings have been commenced against the applicant under Part 3 of the Act;
  - c. the applicant has been found guilty of conduct deserving of sanction under Part 3 of the Act or the Old Act or guilty of conduct unbecoming a barrister and solicitor or a professional misdemeanour under Part 3 of the Old Act;
  - d. investigations, complaint reviews, disciplinary proceedings or similar have been commenced, or conditions, restrictions, undertakings or sanctions have been imposed against the applicant by any other regulator;
  - e. the applicant has pleaded guilty to or been found guilty of an offence committed inside or outside Canada other than
    - i. an offence under a municipal by-law, a Metis settlement council by-law or an Indian band council by-law, or
    - ii. an offence in respect of which the law permits the offender to voluntarily pay a fine without the need to appear before a court or justice to enter a plea and in respect of which the applicant voluntarily paid the fine;
  - f. the Executive Director has reason to believe that the applicant's conduct may have at any time been adversely affected by a physical or mental health condition, including substance abuse or addiction;
  - g. the Executive Director has reason to believe that, if the applicant were reinstated as a member, the applicant's competence to practise law may

be adversely affected by a physical or mental health condition including substance abuse or addiction; or

- h. there is any other reason that the application should be referred to the Reinstatement Committee.

## Reinstatement Assessments

- 23. In some cases, a reinstatement application that has been referred to a Reinstatement Committee may benefit from a comprehensive assessment conducted by the Law Society's Practice Management Counsel (Practice Management Counsel) to identify any risks associated with the applicant's reinstatement and any recommendations for conditions that may mitigate this risk (Reinstatement Assessment).
- 24. After a matter has been referred to the Reinstatement Committee, the Law Society's Hearing Counsel (Hearing Counsel) may request that a Reinstatement Assessment be conducted by Practice Management Counsel.
- 25. A Reinstatement Assessment includes a review of the application and supporting documentation, the applicant's prior practice and disciplinary history, and any other information contained in the Law Society's records.
- 26. As part of the Reinstatement Assessment, Practice Management Counsel may
  - a. contact the applicant to discuss any aspect of the application, the applicant's practice history or practice plan,
  - b. gather information regarding the applicant's physical or mental health conditions, including substance abuse or addiction, where there is reason to believe that such condition may adversely affect the applicant's competence to practise law; and
  - c. gather any other relevant information from any source.
- 27. Such reasonable belief or evidence in support of such reasonable belief, pursuant to paragraph 26(b) may include information obtained from the applicant during the Law Society's accommodation process.
- 28. When Practice Management Counsel or Hearing Counsel has reason to believe that the applicant's competence may be adversely affected by physical or mental health conditions, including substance abuse or addiction, Practice Management Counsel or Hearing Counsel may request that the applicant provide documentation from a health professional addressing

- a. whether the applicant has any health conditions that may impact their ability to competently practise law, and
  - b. if so, a recommended treatment plan to allow the applicant to return to practice in a manner that mitigates risk to the public.
29. When Hearing Counsel has reason to believe an Independent Medical Examination (IME) conducted by a physician with expertise in the relevant area is necessary, the applicant may consent to the IME or a preliminary hearing may be scheduled before the Reinstatement Committee to determine whether the applicant will be required to attend for an IME.
  30. In advance of the preliminary hearing, Hearing Counsel may request that Practice Management Counsel prepare a preliminary Reinstatement Assessment Report setting out a summary of the information collected and reviewed for the Reinstatement Assessment in support of the request for the IME.
  31. Any preliminary Reinstatement Assessment Report, prepared pursuant to paragraph 30, will be provided to the applicant in advance of the preliminary hearing.
  32. Should an IME be consented to, or should an IME be ordered, the Reinstatement Committee may select the health professional who will perform the IME and make an order regarding payment of the costs of the IME by the applicant, if the Reinstatement Committee deems appropriate.
  33. If an IME is ordered, the IME results will be provided to the applicant who will be given a reasonable opportunity to respond to the report.
  34. At the conclusion of a Reinstatement Assessment, the Hearing Counsel will provide the applicant with the Reinstatement Assessment Report completed by Practice Management Counsel and provide the applicant with an opportunity to respond to the Report.

### **Private Hearings and Publication of Decisions**

35. Division 1 hearings are private, unless the parties have agreed that they should be public.
36. Decisions of the Reinstatement Committee or Benchers under Division 1 will be published without naming the applicant, unless the parties have agreed that the applicant's name may be used in the published decision.

## Guidance for Conditions Imposed by the Reinstatement Committee

37. If the Reinstatement Committee concludes that conditions are warranted but it is unable to draft conditions that will allow for the applicant's return to practice in a manner that protects the public, the application should be denied.
38. When the Reinstatement Committee intends for Practice Management, Membership, Trust Safety, or any other Law Society department to assist in monitoring a condition, this should be set out explicitly in the condition.

### Health Concerns

39. The Reinstatement Committee may require the applicant to attend an IME with a health professional with expertise in the identified area of concern if there is evidence to suggest that the applicant's competence to practice may be adversely affected by a mental or physical health condition, including substance abuse or addiction.
40. In such instances, the reinstatement hearing should be adjourned pending receipt of the IME results and the subsequent completion of the Reinstatement Assessment Report.
41. When the Reinstatement Committee concludes that the applicant's competence to practice may be adversely affected by a mental or physical health condition, including substance abuse or addiction, the conditions that the Reinstatement Committee may impose include, without limitation, that the applicant:
  - a. provide reporting on any aspect of their wellness to the Practice Management department;
  - b. abide by such treatment plans as are recommended by a health professional;
  - c. abstain from the use of addictive substances or drugs, except when prescribed by a treating physician;
  - d. authorize treating health professionals to provide treatment records to the Practice Management department;
  - e. submit to and pay for drug and alcohol testing; and
  - f. immediately notify the Practice Management department in writing if there is any change in the applicant's mental or physical condition that may impact the applicant's ability to competently practise law.

### Concerns Arising from New Conduct Matters

42. When new proceedings have been commenced against the applicant under Part 3 of the Act, the Reinstatement Committee may consider the new proceedings for the limited purpose of determining whether
  - a. the new proceedings raise concerns of a risk to the public upon the member's return to practice, and
  - b. if so, what conditions, if any, may mitigate that risk.
43. The Reinstatement Committee should remain cognizant of the fact that, until proven, the complaints underlying the new proceedings are allegations only.

### Integrity Concerns

44. When the Reinstatement Committee concludes that there is evidence to suggest that the applicant may have acted with a lack of integrity, the Reinstatement Committee may impose conditions to mitigate the risk of the applicant's further integrity breaches, including, without limitation, that the applicant
  - a. take training or courses relating to legal ethics;
  - b. be prohibited from operating a trust account;
  - c. practice under the direct supervision of another active member;
  - d. be prohibited from acting as a principal; and
  - e. be prohibited from practising as a sole practitioner.

### Governability Concerns

45. When the Reinstatement Committee concludes that there is evidence to suggest that the applicant has exhibited a lack of governability in their past dealings with the Law Society, the Reinstatement Committee may inquire into the applicant's present understanding of and commitment to their obligations to the Law Society as their regulator.
46. While conditions are generally less effective in addressing the risk resulting from a lack of governability, the Reinstatement Committee may impose conditions including, but not limited to, conditions that the applicant
  - a. respond in a timely, comprehensive, and civil manner to communications from the Law Society; and

- b. cooperate with the Law Society with regard to any investigations or inquiries made pursuant to the Society's regulatory processes.

### **Agreement of the Parties on Conditions**

47. When the parties reach agreement on conditions, they may indicate such agreement to the Reinstatement Committee and the Committee will consider such agreement when determining any conditions.

### **Application to Extend Costs Deadline**

48. Costs may be awarded by the Reinstatement Committee under Rule 109.7(1) and must be paid by the specified deadline unless an extension is granted.
49. In considering applications to extend the time to pay costs, the Reinstatement Committee Chair or Vice-Chair will consider the following factors:
  - a. the amount of the costs ordered to be paid;
  - b. the timeline initially set for payment by the Reinstatement Committee;
  - c. efforts made by the applicant to pay the costs as of the date of the application for an extension of time, if any;
  - d. the personal and professional circumstances of the applicant relevant to the application for an extension of time, including current employment status and sudden illness; and
  - e. any other information relevant to the application for an extension of time.

## **Division 2 Proceedings**

### **Public Hearings and Publication of Decisions**

50. Reinstatement Committee hearings and Benchers Considerations under Division 2 will be heard in public unless
  - a. the Committee or Benchers directs otherwise; or
  - b. a party to the proceedings applies for and is granted a private hearing.
51. Division 2 private hearing applications should only be granted in exceptional circumstances.
52. In determining whether exceptional circumstances exist to grant a private hearing application, the Reinstatement Committee or the Benchers will consider

- a. the importance of transparency and public accountability as it relates to the protection of the public interest;
  - b. the specific circumstances of the applicant;
  - c. the publicity of the matter that led to the disbarment or resignation;
  - d. the best interests of the public and the members of the Law Society; and
  - e. any potential harm to the standing of the legal profession generally should the application be considered in a private hearing.
53. Decisions under Division 2 are published; where a private hearing application has been granted, the decision will be published without disclosing evidence given during the portion of the hearing held in private.

### **Principles and Factors**

54. In addition to the requirements set out in Rule 109.5(1), applicants under Division 2 must also comply with Rule 109.5(2) and establish that they are of good character and reputation and that their return to practice will not harm the standing of the legal profession.
55. The following guiding principles apply to the determination with respect to Rule 109.5(2):
- a. the Law Society upholds and protects the public interest in the administration of justice;
  - b. public confidence in the legal profession is more important than the fortunes of any lawyer;
  - c. practising law is a privilege not a right, and once that privilege is lost it is difficult to regain;
  - d. in order to regain the privilege, the applicant must establish genuine and enduring rehabilitation;
  - e. even where sufficient evidence of rehabilitation has been provided, the reinstatement may be denied where it would harm the standing of the legal profession.
56. Factors that may be considered in determining whether to approve an application for reinstatement under Division 2 include:
- a. has the applicant demonstrated by satisfactory evidence that their rehabilitation efforts are such that it is unlikely they will engage in misconduct if reinstated;



- b. has there been sufficient passage of time to establish that the applicant is now a person of honesty and integrity;
- c. has the applicant demonstrated by evidence from trustworthy persons that their conduct since their disbarment or resignation demonstrates honesty and integrity;
- d. has the applicant demonstrated sincerity, frankness and truthfulness in discussing the factors relating to their disbarment or resignation;
- e. has applicant made restitution for the losses suffered as a result of their misconduct, and if not, whether the reasons for failure to provide restitution are due to factors beyond their control;
- f. has the applicant paid the costs owing to the Law Society for the discipline proceedings that led to their disbarment or resignation, and if not, whether the reasons for failure to pay those costs are due to factors beyond their control;
- g. has the applicant established their current knowledge of Alberta law and practice, or at least that they have an acceptable plan that will enable them prior to readmission to become sufficiently current in Alberta law and practice to be able to fulfil their responsibilities as lawyers; and
- h. is the severity of the misconduct while a member of the profession such that the reinstatement would compromise the public's respect for the legal profession.

### **Application to Combine Reinstatement Committee Hearing and Benchers Consideration**

- 57. If the Law Society supports an application for reinstatement made by a former member who resigned in the face of discipline proceedings, the Law Society may make an application to the Reinstatement Committee to combine the Reinstatement Committee hearing and the Benchers consideration into a single hearing before the Reinstatement Committee.
- 58. If the Reinstatement Committee grants the application, the proceedings will end with the implementation of the Committee's recommendation and the Committee's report will be published.

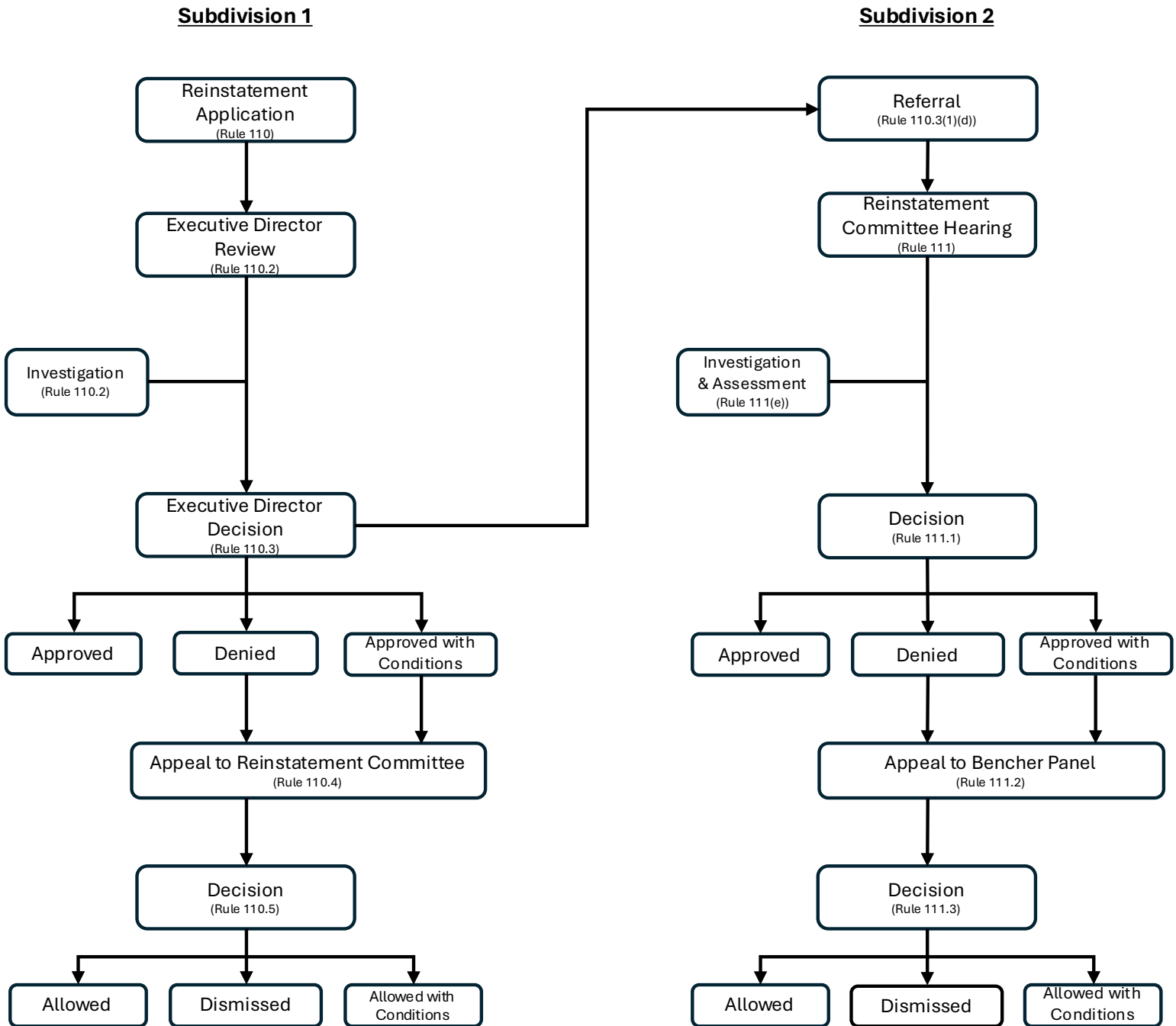
### **Application to Extend Costs Deadline**

- 59. Costs may be awarded by the Benchers as part of Division 2 proceedings under Rule 109.7(1) and must be paid by the specified deadline unless an extension is granted.
- 60. In considering applications to extend the time to pay costs, the President or President-Elect will consider the following factors:



- a. the amount of the costs ordered to be paid;
- b. the timeline initially set for payment by the Benchers;
- c. efforts made by the applicant to pay the costs as of the date of the application for an extension of time, if any;
- d. the personal and professional circumstances of the applicant relevant to the application for an extension of time, including current employment status and sudden illness; and
- e. any other information relevant to the application for an extension of time.

## Schedule A: Division 1 Flow Chart



## Schedule B: Division 2 Flow Chart

