

# Board of Accountancy

## Washington State



### REGULAR BOARD MEETING AGENDA

**Date, Time:** Thursday, January 26, 2012 – Regular Board Meeting – 9:00 a.m.  
**Location:** The Doubletree Hotel Seattle Airport  
Cascade 11 Room  
18740 International Boulevard  
SeaTac, Washington  
(206) 246-8600

Chair Introductions/Special Notices

### REGULAR MEETING AGENDA

1. Consent Agenda
  - a. Minutes – October 13, 2011, 2011, Regular Board Meeting.....A
  - b. Request Review Committee Report – Karen Saunders, Chair .....B
2. Delegation of Authority - Administrative Notices of Non-Compliance and Respondent Agreements .....C
3. Proposed Board Governance Structure .....D
4. NASBA
  - a. Update
  - b. Recommendation for Nomination of NASBA Vice-Chair
5. Legal Counsel’s Report
6. Chair’s Report
  - a. Office of the Attorney General Billing
  - b. Other
7. Proposed Transition of Quality Assurance Review - Update from WSCPA
8. Committee/Task Force Reports
  - a. Compliance Assurance Oversight – Fred Shanafelt, CPA, Chair – *No Report*
  - b. Education/Exam Task Force – Elizabeth Masnari, CPA, Board Liaison – *Update*
  - c. Ethics Committee – Thomas Neill, CPA, Chair – *Update* .....E
  - d. Legislative Liaison – Edwin Jolicoeur, CPA, Chair – *Update*
    - i. Proposed Rule Change – CPA Retired .....F
  - e. Quality Assurance Review (QAR) – Emily Rollins, CPA, Co-Chair
    - i. Appointment of 2012 QAR Committee – *Vote*
    - ii. 2011 CPE Audit – *Update* .....G
  - f. Request Review – Karen Saunders, CPA, Chair - *See Consent Agenda – Vote*

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Washington Telecom Relay Service)

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**Regular Board Meeting Agenda**  
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- 9. Executive Director’s Report
  - a. CPE Deficiencies – *Update*
  - b. Website search tools/avenues
  - c. Social networking as resource in investigations
  - d. Implementation of Performance Review Task Force Recommendations - *Update*
  - e. Investigation Statistics/Investigations & Administrative Sanctions - *Report*.....H
  - f. Meeting with Board Officers – *Report*
  - g. WBOA-News - *Update*
  - h. Other
- 10. Executive and/or Closed Sessions with Legal Counsel
- 11. Public Input - To ensure the public has an opportunity to address its concerns and the Board has an opportunity to ask questions of the public. Individual speakers will be provided 10 minutes each.
- 12. Presentation by Legal Counsel – Investigation and Disciplinary Process .....I

**WASHINGTON STATE  
BOARD OF ACCOUNTANCY  
EXECUTIVE DIRECTOR'S SUMMARY – January 26, 2012  
REGULAR BOARD MEETING**

**Day, time, location, special notices:**

Meeting: **Thursday, January 26, 2012 - 9:00 a.m.**  
Location: **The Doubletree Hotel Seattle Airport**  
Cascade 11  
18740 International Boulevard  
Seattle, Washington  
(206) 246-8600

**Notices:**

**Chair's Opening  
Announcements:**

The purpose of the Board meeting is for the Board to accomplish its business. After the Board completes its discussions on an agenda item, if appropriate, I will ask if anyone in the audience wishes to comment. As a reminder, individuals attending the meeting may participate only after recognition by the Chair. If you plan to address the Board during the public input section of the agenda, please sign the sign-up sheet.

**JANUARY 26, 2012 - REGULAR BOARD MEETING**

**1. Consent Agenda**

- a. **Minutes – October 13, 2011** - Board staff presents the draft minutes from the October 13, 2011, annual Board meeting at **Tab A** for the Board's consideration.
- b. **Request Review Committee** - The Request Review Committee presents its report at **Tab B** for the Board's consideration.

**Does the Board wish to approve the Consent Agenda as presented?**

**2. Delegation of Authority - Administrative Notices of Non-Compliance and Respondent Agreements – Tab C**

The Executive Director is proposing minor changes to the current delegation of authority that allows the Executive Director with the concurrence of one Board member to issue administrative notices of non-compliance and respondent agreements. The changes to the delegation remove the need for Consulting Board Member concurrence which seems unnecessary since there is no discretion.

**Tab C** contains:

- The proposed revised delegation and its accompanying appendix
- The current delegation and accompanying appendix

**Does the Board wish to revise the Delegation of Authority - Administrative Notices of Non-Compliance and Respondent Agreements and its accompanying appendix as proposed?**

### **3. Proposed Board Governance Structure**

The Governance structure has been reviewed by Karen Saunders and discussed at previous Board meetings. Subcommittee chairs for the new subcommittees need to be appointed by the Board.

**Does the Board wish to adopt the proposed Governance Structure and appoint subcommittee chairs for the new subcommittees?**

### **4. NASBA**

**a. Update** – The Executive Director will provide a verbal update on NASBA activities including:

- Dan Dustin, Executive Secretary of the New York State Board for Accountancy, became NASBA's Vice President of State Board Relations effective January 1, 2012.
- The AICPA/NASBA Uniform Accountancy Act Committee is studying the issue of non-US Auditors practicing in the US without obtaining the appropriate license.

**b.** The NASBA Nominating committee is calling for recommendation(s) for Vice Chair of NASBA for 2012-2013. Recommendation(s) are due to the Nominating Committee by early to mid-March.

The Executive Director previously provided Board members with copies of candidate requests for support and their individual resumes. The Executive Director also provided a recommendation for the Board to support the nomination of Walter Davenport, CPA, for NASBA Vice-Chair. If nominated and elected, Mr. Davenport would become the Chair of NASBA in October, 2014. Mr. Davenport made his request for support by telephone to the Executive Director. The other candidate requesting the Board's support is Carlos Johnson of Oklahoma. An additional candidate, Kathy Smith from Nebraska, has not requested the Board's support.

Ed Jolicoeur will not participate in this discussion since he is a member of NASBA's Nominating Committee.

**Does the Board wish to nominate Walter Davenport for NASBA Vice Chair for 2012-2013?**

**5. Legal Counsel's Report**

The Board's Legal Counsel requests the agenda for regular Board meetings contain a placeholder item allowing for Legal Counsel to report on any current issues related to the Board's activities and/or Washington state law such as: the Administrative Procedures Act, Open Public Meetings Act, Public Disclosure requirements, etc.

**6. CHAIR'S REPORT**

**a. Attorney General Office Billing**

The Board Chair met with the representatives of the Attorney General's Office in December. The Chair would like to discuss billings, the Board's response to better control costs and the Board's approach to recovering legal costs.

**b. Other**

**7. Proposed Transition of Quality Assurance Review - Update from WSCPA**

A representative from the Washington Society of CPA's will provide the Board with an update concerning the proposed transition of Quality Assurance Review for compilation and review. The Board may want to ask if the WSCPA will be ready to take on compilation and review by January 2013.

**8. Committee Reports**

**a. Compliance Assurance Oversight – Fred Shanafelt, CPA, Chair.**

Fred has nothing to report at this meeting. The year proceeds without anything significant.

The Executive Director recommends that the Board direct this committee to limit oversight to semiannual acceptance review but expand their task to include observation of WSCPA's internal review of their peer review procedures and observe annual review by AICPA of the administrator's process.

**b. Education/Exam Task Force – Elizabeth Masnari, CPA, Board Liaison; Robin Clark, CPA, Chair, Ronald Sabado, CPA, and Kay Carnes, CPA, Members.**

Elizabeth has a conflict on the 26th and won't be able to attend the Board

meeting. She and Robin have nothing to report for this meeting. There has been some exchange of ideas but nothing substantial.

- c. **Ethics Committee** – Thomas Neill, CPA Chair; Richard Sweeney, CPA, Ex-officio Liaison.

**Tab E** contains a draft Ethics Compliance Checklist. Tom Neill will give a verbal update.

- d. **Legislative Liaison Committee** – Edwin G. Jolicoeur, CPA, Chair; and Jerry Ryles, Member.

- i. **Proposed Rule Change – CPA Retired** - Ed, Tom Neill, and Jerry Ryles are the representatives for the Board serving on the task force.

Ed Jolicoeur will report for the Retired CPA Joint Task Force.

**Tab F** contains the draft of the proposed rule change to allow the use of CPA Retired. This language and placement in the rule structure was approved by the Retired CPA Joint Task Force on January 5, 2012. The Executive Director will lead the discussion.

- e. **Quality Assurance Review (QAR) Committee** – Emily Rollins, CPA and Robert Speicher, CPA, Co-Chairs; Members: Edwin Jolicoeur, CPA, and Elizabeth Masnari, CPA.

- i. **Appointment of 2012 QAR Committee**

The following individuals request reappointment to serve on the QAR Committee during 2012:

- Robert Speicher, CPA, QAR Committee Co-Chair
- David Stiefel, CPA, QAR Committee Vice Chair
- Christine Bogard, CPA, QAR Committee Member
- Jim Coates, CPA, QAR Committee Member
- Nina Gerbic, CPA, QAR Committee Member
- Jim Holder, CPA, QAR Committee Member
- Martin Oreschnigg, CPA, QAR Committee Member

The QAR Committee recommends that the Board reappoints these individuals to the 2012 QAR Committee.

**Does the Board wish to appoint these individuals to the 2012 QAR Committee?**

- ii. **2011 CPE Audit**

Staff completed the 2011 CPE Audit and prepared the report at **Tab G**. Emily will report.

- f. **Request Review** – Karen Saunders, CPA, Chair; and Gerald Ryles, Member.

See Consent Agenda, Item 1.b., (Tab B) above.

9. **Executive Director's Report**

- a. **CPE Deficiencies** – During 4<sup>th</sup> quarter 2011, the Board received 8 requests for extension of time to complete CPE of 16 hours and under. The Executive Director took the following action:

- 5 approved
- 3 pending (2 are waiting for CPE sponsors to provide additional documentation)

- b. **Website search tools/avenues** – The Executive Director will report.

- c. **Social networking as resource in investigation** – The Executive Director will report.

- d. **Implementation of Performance Review Task Force Recommendations** – At its October 13, 2011, the Board adopted the recommendations of the Board's Performance Review Task Force and directed staff to include a place on the agendas for future Board meetings under the Executive Director to report on the status of further implementation of recommendations. The Executive Director will report.

- e. **Investigation Statistics/Investigations & Administrative Sanctions** –

**Tab H** contains the following:

- Case Status Report for the period ended December 31, 2011
- Investigations Results/Statistics through December 31, 2011, as posted on the Board's web site
- Investigation Statistics January 1990 through December 31, 2011

The Executive Director will report.

- f. **Meeting with Board Officers** – The Executive Director plans to meet with the Board officers on Tuesday, January 24 by telephone. The Executive Director will report.

- g. WBOA-News** – As of January 18, 2012, 1748 individuals have subscribed. This is a net increase of 44 individuals since October 5, 2011 – 12.5%.
- h. Other**

**10. Executive and/or Closed Session with Legal Counsel**

The Board's Legal Counsel requests the agenda for regular Board meetings contain a placeholder item identifying the Board and Legal Counsel may enter into executive or closed session when determined appropriate.

**11. Public Input**

Board meeting time has been set aside to ensure the public has an opportunity to address its concerns and the Board has an opportunity to ask questions of the public. Individual speakers will be provided 10 minutes each with a maximum of three speakers at each board meeting. [Chair: Note the sign up sheet will be set out at the start of the Board meeting.]

**12. Presentation by Legal Counsel – Investigation and Disciplinary Process**

Bruce Turcott will lead a 45-50 minute disciplinary process workshop. **Tab I** contains Bruce's Power Point presentation.

# WASHINGTON STATE BOARD OF ACCOUNTANCY

## Unapproved Draft - Minutes of the Annual Meeting of the Board - Unapproved Draft

|                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Time and Place of Meeting</b>             | 9:05 a.m. – 2:01 p.m. Thursday, October 13, 2011<br>The Doubletree Hotel Seattle Airport<br>Cascade 11<br>18740 International Boulevard<br>SeaTac, Washington                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Attendance</b>                            | Donald F. Aubrey, CPA, Chair, Board Member<br>Robert G. Hutchins, Vice Chair, Public Board Member<br>Edwin G. Jolicoeur, CPA, Board Member<br>Elizabeth D. Masnari, CPA, Board Member<br>Thomas G. Neill, CPA, Board Member<br>Emily R. Rollins, CPA, Board Member<br>Gerald F. Ryles, Public Board Member<br>Karen R. Saunders, CPA, Board Member<br>Bruce L. Turcott, Assistant Attorney General<br>Richard C. Sweeney, CPA, Executive Director<br>Thomas J. Sadler, CPA, Deputy Director<br>Jennifer Sciba, Director of Operations and Administration<br>Cheryl M. Sexton, Board Clerk                                       |
| <b>Call to Order</b>                         | Donald Aubrey, Chair, called the annual meeting of the Board to order at 9:05 a.m.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Welcome Board Staff</b>                   | The Executive Director introduced and welcomed Jennifer Sciba, Director of Operations and Administration. Jennifer was promoted to Director of Operations and Administration effective August 1, 2011.                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Consent Agenda</b>                        | The Board approved the following items on the consent agenda: <ul style="list-style-type: none"><li>• Minutes of the July 14, 2011, Regular Board Meeting</li><li>• Request Review Committee Report</li></ul>                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Motions for Entry of Order on Default</b> | <u>John M. Caughell</u> - The Executive Director presented a Motion for Entry of Order on Default and related documents to the Board in the matter of John M. Caughell.<br><br>The Board voted to enter Findings of Fact, Conclusions of Law and Default Order including terms that require Mr. Caughell to pay a \$1,500 fine; reimburse the Board \$1,000 for investigative and legal costs; correct the entity name registered with the Washington State Department of Revenue, Department of Licensing, and Secretary of State by removing all references to "CPA;" take reasonable steps to remove any reference to CPA in |

connection with his name; and not hold himself or his firm out to the public, or use in connection with his name the designation “certified public accountant” or “CPA.” Ed Jolicoeur was the consulting Board member in this matter and abstained from the discussions and voting.

Shaun T. Han and Shaun T. Han, CPA, P.S. - The Executive Director presented a Motion for Entry of Order on Default and related documents to the Board in the matter of Shaun T. Han.

The Board voted to enter Findings of Fact, Conclusions of Law and Default Order including terms that prohibit Mr. Han from using the designation or holding out as a “CPA,” “CPA-Inactive,” “certified public accountant,” or “certified public accountant-inactive” until his individual CPA license has been reinstated. Prior to and as a condition of reinstatement, Mr. Han must submit a complete reinstatement application with appropriate fee(s), document the satisfactory completion of qualifying continuing professional education (CPE) required for reinstatement, pay a \$750 fine and reimburse the Board \$750 for investigative and legal costs. Mr. Han’s firm is prohibited from performing or offering to perform compilation or attestation services until such time as Mr. Han applies for and the Board issues a CPA firm license to him. After the Board issues a CPA firm license to Mr. Han, he must submit the first audit report on financial statements prepared for his clients to the Board for preissue evaluation at Mr. Han’s expense. Emily Rollins was the consulting Board member in this matter and abstained from the discussions and voting.

The Board directed staff to investigate:

- Tools/avenues to ensure the Board’s web site (specifically publication of discipline) gets more hits during searches
- Social networking such as LinkedIn as a resource to find errant licensees or certificate holders.

The Executive Director will follow up and address at the January Board meeting.

**Preliminary  
Discussions on  
the Blue Ribbon  
Panel’s Position**

The Executive Director presented the following to the Board for awareness:

- A statement from the National Association of State Boards of Accountancy (NASBA) Executive Committee including a brief summary of the Financial Accounting Foundation (FAF) proposed “Plan to Establish the Private Company Standards Improvement Council,”

- The FAF proposal, and
- Excerpts from the majority and minority positions of the Blue Ribbon Panel.

The FAF Board of Trustees is encouraging Boards to deliberate and comment on the FAF's recommendations. The comment period ends January 14, 2012. The Executive Director asked Board members to forward any comments they may have to him for consolidation in a letter under the Chair's signature to NASBA for presentation to the FAF Board of Trustees.

**NASBA Update** The Executive Director provided the Board with an update on National Association of State Boards of Accountancy (NASBA) activities including NASBA's reorientation to support boards of accountancy.

**Legal Counsel's Report** Bruce Turcott, the Board's legal counsel, provided the Board with an update on outstanding litigation.

**Chair's Report** Election of 2012 Officers - The Chair presented the following slate of officers to serve for a second term during 2012:

- Chair – Donald F. Aubrey, CPA
- Vice-Chair – Robert G. Hutchins
- Secretary – Lauren Jassny

No other nominations were made. The Board cast a unanimous vote for the slate of officers as presented.

Ratify Committee Chairs for 2012 – The Board ratified the following committee chairs for 2012:

- Compliance Assurance Oversight – Fred Shanafelt, CPA
- Examination Committee – Robin Clark, CPA
- Quality Assurance Review – Emily Rollins, CPA
- Request Review Committee – Karen Saunders, CPA

2012 Board Meeting Schedule - The Board established the following schedule for the 2012 Board meetings:

- January 26, 2012, Thursday - SeaTac area
- April 26, 2012, Thursday - SeaTac area
- July 26, 2012, Thursday – SeaTac area
- October 25, 2012, Thursday – SeaTac area

Meeting with Oregon State Board of Accountancy – Don Aubrey reported that he and the Executive Director represented the Washington State Board at an October 1, 2011, joint work

session with the Oregon Board of Accountancy and the Oregon Society of CPAs at the Society's office in Beaverton.

Other – Bruce Turcott has prepared a 45-60 minute presentation for Board members on the investigation and disciplinary process for the January 2012 Board meeting.

**Compliance Assurance Oversight Committee**

Committee Chair Fred Shanafelt had nothing to report for this meeting. He and his committee members continue to attend Report Acceptance Bodies (RAB) meetings.

**Examination Committee**

No report.

**Education Exam Task Force**

Elizabeth reported that the task force will report at the next meeting. In addition to the directives given at the July 2012 Board meeting, the Board also directed the task force to look at foreign education/accreditation and how it applies to the Washington State Public Accountancy Act and Board rules and make a recommendation to the Board. Bruce Turcott will advise the task force.

**Ethics Committee**

The Executive Director reported that the Legislature requires every agency to have an ethics policy and presented the agency's interim Administrative Policy #21 – Ethics. The Board appointed Thomas Neill as committee chair with authorization to recruit other members. The Executive Director will serve as nonvoting liaison to the committee.

Staff will revise the administrative policy for Tom's review and signature.

**Legislative Liaison Committee**

Ed Jolicoeur reported that he and Tom Neill represented the Board at the Washington Society of CPA (WSCPA) "CPA Retired" task force meeting held on September 9, 2011. Jerry Ryles is also serving as a Board representative on this task force. Judy Love, Director of Advocacy for the WSCPA, reported that the task force is exploring language used by other accountancy boards and hopes to recommend a rule to the Board to allow persons to retire their license and use the "retired" CPA designation. She plans to provide the Board with a more thorough report in January.

**Performance Review Task Force**

The Chair, Don Aubrey, thanked the task force members, Ed Jolicoeur, Jerry Ryles, and Karen Saunders, for their time and dedication to this task force. Task force leader Ed Jolicoeur

presented the Performance Review Task Force (PRTF) report and recommendations. The report provided a summary of the recommendations included in the Performance Review Project report of Zwillinger Greek Zwillinger & Knecht PC dated July 2010, and the subsequent evaluation and recommendations made by the Board's PRTF.

The Board adopted the recommendations of the Board's PRTF and directed staff to include a place on the agendas for future Board meetings under the Executive Director to report on the status of further implementation of recommendations.

The Board directed the Executive Director to draft the structure/charter for the recommended Executive Committee for the Board's review at its regular January 2012 meeting.

**Quality Assurance Review (QAR) Committee**

2011 QAR Desk Review - Committee co-chair Emily Rollins provided the Board with the statistics for the Board's 2011 QAR desk review as of August 21, 2011. She reported that the committee met on October 10, 2011, and Robert Speicher, CPA, agreed to serve as committee co-chair for 2012 and David Stiefel, CPA, agreed to serve as committee vice chair.

CPE Audit - The 2011 CPE audit is underway. There was nothing to report for this meeting.

**Request Review Committee**

The following report was approved under the consent agenda:

CPE Extensions – No activity during 3<sup>rd</sup> quarter 2011. All CPE extension requests were due on or before December 31, 2010.

Firm Names – The Executive Director and a Consulting Board member approved the following firm names during 3<sup>rd</sup> quarter 2011:

- Campbell Management Advisory Services, PS
- Budd Bay CPA, Inc PS
- CPA – Tax Services
- CPA – Career Center
- Rahn Business Valuation Services
- VSH, Inc. P.S.
- RLP Tax and Accounting PLLC
- Sattler Assoc Accounting PLLC
- Doty & Company CPA PC

Late Fee Waivers – No activity during 3<sup>rd</sup> quarter 2011

Professional/Educational Organization – Recognition Requests – During the 3rd quarter 2011, the Board did not receive any requests for recognition as an educational organization or professional association for purposes of obtaining a list of individual CPAs.

Domestic or Foreign Education Credential Evaluation Services – Applications – During the 3rd quarter 2011, the Board received two applications for approval. The committee is currently seeking recommendations from other state boards.

**Executive Director's Report**

Budget – The Executive Director provided the Board with an update on the status of the agency's budget. He recently completed an age analysis that showed 41.1% of Washington CPAs are over 55. He is not anticipating any need for fee increase.

Investigation Statistics/Investigations & Administrative Sanctions Thomas Sadler, Deputy Director, provided the following reports to the Board:

- Case Status Report for the period ended September 30, 2011
- Investigations Results/Statistics through September 30, 2011 as posted on the Board's web site
- Investigation Statistics January 1990 through September 30, 2010

He reported that the Executive Director has implemented a monitoring system for disciplinary sanctions.

Meeting with Board Officers – The Executive Director reported on his meeting with Board officers on Tuesday, October 11, 2011.

WBOA-News – As of October 5, 2011, 1704 individuals have subscribed. This is a net increase of 19 individuals since July 8, 2011 – 1%.

**Public Input**

Rich Jones representing the Washington Society of CPAs (WSCPAs) asked if the Board or NASBA was going to comment on the Public Company Accounting Oversight Board (PCAOB) concept of mandatory audit firm rotation. The Board took no action.

**Adjournment**

The Board adjourned at 2:01 p.m.

## Request Review Committee Report January 26, 2012

Karen Saunders, CPA, Chair

CPE Extensions exceeding 16 CPE credit hours – During 4th quarter 2011, the Board received 33 extension requests where the CPE deficiency was more than 16 CPE credit hours. The Executive Director and a Consulting Board Member took the following action:

Approved: 4  
Denied: 0  
Pending: 29  
Withdrawn: 0

Firm Names – The Executive Director and a Consulting Board member approved the following firm names during 4th quarter 2011:

- Bellingham CPA
- Vazquez and Company Inc
- Weber & Associates, LLC
- Document Research Associates
- Benbow & Associates CPA Firm
- Roberts & Company, CPAS, P.S.
- Cassabon & Associates, LLP
- Seattle CPA Professionals, LLC
- MKD, CPA's PLLC
- V K Litz, CPA, LLC
- Salmon Sims Thomas & Associates, PLLC
- Ideal Company
- US&CO. Certified Public Accountants, P.L.L.C
- H & H Accounting and Tax Services, LLC
- Insight Accounting Solutions LLC
- MyCFOLink

Late Fee Waivers – No activity during 4th quarter 2011

Professional/Educational Organization – Recognition Requests – During the 4th quarter 2011, the Board received one request for recognition as an educational organization or professional association for purposes of obtaining a list of individual CPAs. The Executive Director and a Consulting Board Member from the Request Review Committee took the following action:

*Recognized:* Bright Business Ideas LLC  
*Denied:* None

Domestic or Foreign Education Credential Evaluation Services – Applications – During the 4<sup>th</sup> quarter 2011, the Board received two application for approval. The committee just received recommendations from other state boards and is evaluating those recommendations.

**This recommendation is being made by the Executive Director based upon the following rationale:**

- 1. The specific acts are administrative compliance issues applicable to credentialed or non-credentialed persons which, absent a recurring pattern of inattentive behavior, demonstrate a lack of attention to a respondent's regulatory requirements and imposes minimal, if any, immediate harm to the public consumer;**
- 2. The sanctions have been approved by the Board;**
- 3. Involvement of a Consulting Board Member is, therefore, considered to be unnecessary; and**
- 4. Under the related proposed Board Oversight structure, appropriate and timely implementation of the Executive Director's delegated authority would be monitored by the proposed Investigation and Enforcement Board Subcommittee.**

**DELEGATION OF AUTHORITY  
BY THE  
WASHINGTON STATE BOARD OF ACCOUNTANCY**

I, \_\_\_\_\_, Chair of the State of Washington Board of Accountancy ("Board"), acting under authorization by a vote of the Board delegate to the Executive Director the specific authority to:

Issue Administrative Notices of Noncompliance and execute Respondent Agreements Consenting to Administrative Sanctions including monetary sanctions in accordance with the guidelines in Appendix A attached hereto.

This delegation is made pursuant to the authority of RCW 18.04.045, RCW 18.04.305, and RCW 18.04.295.

DATED this -----day of 2012.

\_\_\_\_\_  
Chair, Washington State Board of Accountancy

# WASHINGTON STATE BOARD OF ACCOUNTANCY

## Appendix A

These guidelines will be used when (a) it is the first time an individual or firm has been notified of an alleged specific type of violation of the Public Accountancy Act or Board rule, (b) the alleged violation occurred during any period the individual or firm is or was subject to Board jurisdiction, and (c) sufficient evidence is obtained by investigation to merit Board action.

| <b><u>Administrative Violation:</u></b>                                                                                                                                                                                                                                                                                                                                                         | <b><u>Board Approved Sanction:</u></b>                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. First Noncommercial use of a restricted title on <i>Business Cards, Resumes or other Applications for Employment</i> in Washington state after establishing residency in this state but prior to obtaining credentialed status in Washington state, <i>Provided</i> , the individual did not use the title while a resident in conjunction with offering or rendering professional services. | Administrative Notice to Cease and Desist                                                                                                                                                                                                                                                                  |
| 2. First-Time use of a restricted title by an individual within the 18-month period following successful completion of the Uniform CPA Examination but who has not yet been credentialed by the Board.                                                                                                                                                                                          | \$500 Fine + cost recovery + Submission of proof of completion of Board approved course in Ethics and Regulation in Washington State Regulation applicable to the practice of public to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction. |
| 3. First-Time use of a restricted title with a lapsed individual license or CPA-Inactive status. <i>Provided</i> : The individual did not use the CPA or CPA-Inactive title for more than 90 days after the date of transmittal by Board staff of a <i>Notice of Noncompliance</i> .                                                                                                            | \$750 Fine+ Late Fee + cost recovery to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.                                                                                                                                                 |
| 4. First-Time representation on a reinstatement application that the CPA title had not been used when in fact the title had been used.                                                                                                                                                                                                                                                          | \$750 Fine+ Late Fee + cost recovery to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.                                                                                                                                                 |
| 6. First-Time failure to obtain a firm license by a Washington resident firm owned by one individual for more than 90 days after the date of transmittal by Board staff of a <i>Notice of Noncompliance</i> .                                                                                                                                                                                   | \$750 Fine + cost recovery + submission of proof of completion of Board approved course in Ethics and Regulation in Washington State to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.                                                 |

WASHINGTON STATE BOARD OF ACCOUNTANCY  
Appendix A

|                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b><u>Administrative Violation:</u></b></p> <p>7. First-Time failure to timely change either or both individual and/or firm addresses.</p>             | <p><b><u>Board Approved Sanction:</u></b></p> <p>\$0-\$200 Fine + cost recovery (unless <i>the failure to timely change the address results in a more severe first time administrative violation and sanction</i>) <i>to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>8. First-Time failure by a firm to timely notify the Board of changes in the firm name, ownership, or managing licensee of the firm's main office.</p> | <p>\$500 Fine + cost recovery <i>to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>9. First-Time CPE deficiency by a licensee, CPA-Inactive Certificateholder, or NonCPA Firm Owner <i>not exceeding 16 hours.</i></p>                    | <p><b><u>Licensee:</u></b></p> <p><b>Exclusive of the required 4 hour Course addressing Ethics and Regulation in Washington State a <u>Sliding Scale:</u></b></p> <p>\$250 fine for a deficiency up to and including 8 hours;<br/>\$500 fine for a deficiency up to and including 16 hours;</p> <p><b>Additional (Separate) \$500 fine</b> if the deficiency includes or is limited to failure to complete the required 4 hour Course addressing Ethics and Regulation in Washington State.</p> <p><b><u>CPA-Inactive Certificateholder or NonCPA Firm Owner:</u></b></p> <p>\$500 fine for failure to complete the required 4 hour Course addressing Ethics and Regulation in Washington State<br/>A recovery of associated administrative cost(s) will also be imposed.</p> <p>All amounts assessed are <i>to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.</i></p> |

# WASHINGTON STATE BOARD OF ACCOUNTANCY

## Appendix A

|                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>10. First-Time misunderstanding of courses qualifying for the CPE in Regulatory Ethics specific to Washington State.</p>                                                                                                                                  | <p>\$100 Fine + cost recovery + Submission of proof of completion of Board approved course in Ethics &amp; Regulation in the State of Washington <i>to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.</i></p>                                                                                                                                                    |
| <p>11. First-Time failure to meet CPE documentation requirements <u>determined by CPE audit</u> provided the documentation deficiency results from a cause or circumstance beyond the control of the credentialed person.</p>                                | <p>\$250 Fine + cost recovery + Submission of proof of completion of Board approved course in Ethics &amp; Regulation in the State of Washington <i>to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.</i></p>                                                                                                                                                    |
| <p>12. First-Time use of a title or titles likely to be confused with <b>CPA, Certified Public Accountant, or CPA-Inactive</b> by persons <i>never credentialed</i> by this Board or not qualified for practice privileges pursuant to RCW 18.04.350(2).</p> | <p>\$1,500 Fine + cost recovery <i>to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.</i></p>                                                                                                                                                                                                                                                                     |
| <p>13. First-Time failure to timely deliver records requested by a client as required by WAC 4-30-051, UNLESS the lack of "timely delivery" results in financial harm to the client by a state or federal regulatory agency or governmental unit.</p>        | <p>\$1,500 Fine + cost recovery + restitution for proven client costs incurred to reconstruct essential records incurred as a result of the lack of availability of such records + Submission of proof of completion of Board approved course in Ethics &amp; Regulation in the State of Washington <i>to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.</i></p> |
| <p>14. First-Time failure to timely respond to a request for administrative information and/or documents directly related to information and/or documents specified in Board Rules (Chapter 4 WAC).</p>                                                      | <p>\$1,500 Fine + cost recovery+ Submission of proof completion of a Board approved course in Ethics &amp; Regulation in the State of Washington <i>to be received by the Board's office within 90 days of signing an agreement consenting to an Administrative Sanction.</i></p>                                                                                                                                                    |

If an individual or firm's conduct includes multiple First-Time administration violations, the Executive Director is to impose the more severe first-time administrative sanction.

In cases of Administrative Sanctions, the Board will not publish the individual's or firm's name; however, the Board will:

- Post statistics related to these sanctions on the Board's web site
- Comply with the Public Disclosure Act

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**DELEGATION OF AUTHORITY  
BY THE  
WASHINGTON STATE BOARD OF ACCOUNTANCY**

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I, EDWIN G. JOLICOEUR, Chair of the State of Washington Board of Accountancy ("Board"), acting under authorization by a vote of the Board, delegate to the Executive Director, with concurrence of one Board member selected on a per incident rotational basis, the specific authority to:

Issue Administrative Notices of Noncompliance and execute Respondent Contracts consenting to Administrative Sanctions including monetary sanctions in accordance with the guidelines in Appendix A attached hereto.

This delegation is made pursuant to the authority of RCW 18.04.045, RCW 18.04.305, and RCW 18.04.295.

DATED this 17th day of October 2008.



**Edwin G. Jolicœur**  
Chair, Washington State Board of Accountancy

# WASHINGTON STATE BOARD OF ACCOUNTANCY

## Appendix A

Page 1

|    | <b><u>Administrative Violations:</u></b>                                                                                                                                                                                                                                                                                                                                                                 | <b><u>Administrative Sanctions:</u></b>                                                                                                                                                                                                                                                      |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>Noncommercial use of the CPA title on <i>Business Cards, Resumes</i> or other <i>Applications for Employment</i> in Washington state after establishing residency in this state but prior to obtaining credentialed status in Washington State.</b></p> <p><i>Provided:</i> the individual did not use the title in conjunction with rendering public accounting services in Washington State.</p> | <p><i>Administrative Notice of Noncompliance</i></p>                                                                                                                                                                                                                                         |
| 2. | <p><b>First time</b> use of CPA or CPA-Inactive title by an unlicensed individual within the 12-month period following successful completion of the CPA exam</p>                                                                                                                                                                                                                                         | <p><b>\$500</b> Fine + Cost recovery + Submission of proof of completion of a Board approved course in ethics and regulation applicable to the practice of public accounting in Washington State within 90 days of <i>signing an agreement consenting to an administrative sanction.</i></p> |
| 3. | <p><b>First time</b> use of CPA or CPA-Inactive title with a lapsed individual license or CPA-Inactive status.</p>                                                                                                                                                                                                                                                                                       | <p><b>\$750</b> Fine+ Late Fee + Cost recovery + Other Applicable fees</p>                                                                                                                                                                                                                   |
| 4. | <p><b>First time</b> representation on a reinstatement application that the CPA title had not been used when in fact the title had been used.</p>                                                                                                                                                                                                                                                        | <p><b>\$750</b> Fine+ Late Fee + Cost recovery + Other Applicable fees</p>                                                                                                                                                                                                                   |
| 5. | <p><b>First time</b> failure to <i>renew a firm license</i> by a <i>Washington-Resident CPA firm.</i></p> <p><i>Provided:</i> The firm that failed to <i>renew</i> did not issue attest or compilation reports subsequent to the lapse of the firm license.</p>                                                                                                                                          | <p><b>\$750</b> Fine+ Late Fee + Cost recovery + Other Applicable fees</p>                                                                                                                                                                                                                   |
| 6. | <p><b>First time</b> failure to obtain a firm license by a Washington resident firm.</p> <p><i>Provided:</i> The firm did not issue attest or compilation reports without a firm license.</p>                                                                                                                                                                                                            | <p><b>\$750</b> Fine + Cost recovery + Submission of proof of completion of Board approved course in ethics and regulation applicable to the practice of public accounting in Washington State within 90 days of <i>signing an agreement consenting to an administrative sanction.</i></p>   |

# WASHINGTON STATE BOARD OF ACCOUNTANCY

## Appendix A

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7.  | <p><b>First time</b> failure to timely change either or both individual and/or firm addresses. WAC 4-30-032</p>                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>\$0-\$200 Fine + Cost recovery (unless <i>the failure to timely change the address results in a more severe first time administrative violation and sanction</i>)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 8.  | <p><b>First time</b> failure by a firm to timely notify the Board of changes <b>in the firm name, ownership, or managing licensee of the firm’s main office or branch office(s).</b> WAC 4-30-114</p>                                                                                                                                                                                                                                                                                                                                   | <p>\$500 Fine + Cost recovery</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 9.  | <p><b>First time</b> CPE deficiency <i>not exceeding 16 hours.</i> (Separate <b>\$500 fine</b> for failure to have timely taken Board approved course in <b>Ethics and Regulation in Washington State</b>), unless:</p> <ul style="list-style-type: none"> <li>a) The applicant applies for and receives an approved extension request on or before the end of the CPE reporting period preceding renewal;</li> <li>b) The applicant self reports and completes the CPE deficiency on or before June 30 of the renewal year.</li> </ul> | <p>1. <b>First time</b> CPE deficiency <u>by a licensee excluding Washington Ethics and Regulation</u></p> <p><b>Sliding Scale: \$250 Fine</b> for deficiency <b>up to and including 8 hours</b>; <b>\$500 Fine</b> for deficiency <b>over 8 hours up to and including 16 hours</b> + Cost recovery:</p> <p>2. <b>First time</b> failure by licensees and CPA-Inactive certificate holders to take required CPE in <i>Ethics and Regulation in the state of Washington either as part of the CPE deficiency or an omitted component of the 120 hour CPE requirement.</i></p> <p>3. Separate \$250 fine and carry back of deficient CPE completed on or before June 30 of the renewal year for those individuals meeting the requirement of # 9(b).</p> <p><b>Separate \$500 Fine</b> + Late Fee + cost recovery + Submission of proof of completion of Board approved course in Ethics and Regulation in the state of Washington within 90 days of <i>signing an agreement consenting to an administrative sanction.</i></p> |
| 10. | <p><b>First time</b> misunderstanding of courses qualifying for the CPE in ethics requirement.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>\$100 Fine + Cost recovery + Submission of proof of completion of Board approved course in ethics and regulation in the state of Washington within 90 days of <i>signing an agreement consenting to an administrative sanction.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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# WASHINGTON STATE BOARD OF ACCOUNTANCY

## Appendix A

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|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11. | <b>First time</b> failure to meet CPE documentation requirements determined by CPE audit. WAC 4-30-138.                                                                                     | \$250 Fine + Cost recovery + Submission of proof of completion of Board approved course in ethics and regulation in the state of Washington within 90 days of certified mailing of <i>signing an agreement consenting to an administrative sanction.</i>                                                                     |
| 12. | <b>First time</b> use of titles by non-CPAs likely to be confused with CPA or Certified Public Accountant. RCW 18.04.345                                                                    | \$1,000 Fine + Cost recovery + Submission of proof of completion of Board approved course in ethics and regulation in the state of Washington within 90 days of <i>signing an agreement consenting to an administrative sanction.</i>                                                                                        |
| 13. | <b>First time</b> failure to timely deliver original client records and other records necessary to constitute a complete set of books in accordance with Board rule WAC 4-30-051.           | <b>\$1,500</b> Fine + Cost recovery + Restitution for proven client costs incurred to reconstruct essential records + Submission of proof of completion of Board approved course in ethics and regulation in the state of Washington within 90 days of <i>signing an agreement consenting to an administrative sanction.</i> |
| 14. | <b>First time</b> failure to timely respond to a final notice requesting administrative information or documents directly related to efficient and effective administration of Board rules. | <b>\$1,500</b> Fine + Cost recovery + Submission of proof of completion of Board approved course in Ethics and Regulation in the state of Washington within 90 days of <i>signing an agreement consenting to an administrative sanction.</i>                                                                                 |

If an individual or firm's conduct includes multiple **first time** administration violations, the Executive Director may impose the more severe first time administrative sanction.

In cases of Administrative Sanction, the Board will not publish the individual's or firm's name; however, the Board will:

- Post statistics related to these sanctions on the Board's web site
- Comply with the Public Records Act

Appendix A Revised: July 14, 2011, by Board vote

**Perspective & Events May Change the  
Wisdom of Past Decisions**

# Washington State Board of Accountancy

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### Executive Director's Thoughts

- A. I encourage the Board to consider the long-term effects of any decisions related to agency governance;
- B. I do not believe, in light of existing disciplinary focus on agency personnel and the political popularity in consolidating agencies, that this is **not the time** to risk statutory change;
- C. Personally, the authority and responsibility issue is moot given my likely remaining tenure in this position;
- D. I do believe the following governance structure should be considered by the Board.

**"Yellow Highlighted"** items are additional changes suggested by the Executive Director *subsequent to edits provided by Board Member Saunders* for a reference correction and provide CPE opportunity for EEE Task Force Volunteers.

# Washington State Board of Accountancy

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## A Proposed Board Governance Structure

Governor

(Retain Structure “as is” with Specific Board Proactive Oversight of Agency Performance)

Executive Director

Board Members

Agency Authority

Rule Making Authority

Investigations

Disciplinary Authority

Executive Committee

Quality Assurance Subcommittee, including:

**An Education, Examination, Experience and Continuing Education Subcommittee to monitor emerging issues requiring Board discussion and modifications in the areas of Basic Education for required for Examination, Experience for Licensure, and Continuing Professional Education for credential renewal**

**An Education, Examination, Experience, and Continuing Professional Education Volunteer Task Force to assist the Quality Assurance Task Force Subcommittee on those subject matters.**

Initial Licensee Qualifications Subcommittee

Request Review Subcommittee

Investigations and Enforcement Subcommittee

State Ethics Compliance Committee

See *Proposed* Specific Committee and Subcommittee Charters Attachments #2-7.

**The existing QAR Committee would be replaced by the Quality Assurance Subcommittee and its current Members.**

**The current Request Review Subcommittee and its current members would be retained.**

DRAFT

# Washington State Board of Accountancy

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The following Board committees have been previously established by the Board:

**Quality Assurance Review Committee:**

**Chair:** Emily Rollins  
**Members:** Edwin Jolicoeur  
Elizabeth Masnari

**Subcommittees:**

- Non-Audit Financial Statement Assurance- Rollins Co-Chair of FAR Committee
- *CPE*
- *Education*
- *Experience*

The *CPE, Education, and Experience subcommittees may also be supported by the Education and Examination Task Force* comprised of the following former board members:

**Chair:** Robin Clark  
**Members:** Ron Sabado  
Kay Carnes

**CPA Exam Liaison Committee**

**Chair:** Elizabeth Masnari  
**Task Force Members:** Robin Clark-Chair  
Ron Sabado  
Kay Carnes

**Request Review Committee:**

**Chair:** Karen Saunders  
**Members:** Laurie Tish Vacant  
Gerald Ryles

The Executive Director recommends the following two (2) additional Board Committees:

1. State Ethics Compliance Review Committee; and
2. Investigations and Enforcement Review Committee.

The Executive Director also recommends adoption of the draft charter for the Education, Examination, and Experience Task Force.

**ATTACHMENTS**

DRAFT

# Washington State Board of Accountancy

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## Attachment #1

### Letter From AGO Agency & Board Authority & Responsibility

(Pagination Modified in Conversion to WORD Doc)

Rob McKenna  
ATTORNEY GENERAL OF WASHINGTON  
Licensing & Administrative Law Division  
PO Box 40110 • Olympia, WA 98504-0110 • (360) 753-2702

October 21, 2009

Senator Tracey Eide  
305 Legislative Building  
P.O. Box 40430  
Olympia, WA 98504-0430

Re: August 19, 2009, Letter From Kurt H. Olson Regarding Richard C. Sweeney, C.P.A.  
and the Washington State Board of Accountancy

Dear Senator Eide:

I am writing to you at the request of Attorney General Rob McKenna, who was copied on the subject letter, so that you can have the benefit of our perspective on the issues raised by Mr. Olson.

My division provides legal services and representation to the Accountancy Board and to its staff. For the last few years, Senior Assistant Attorney General Mary Tennyson, as Board advisor, and Assistant Attorney General Bruce Turcott, as Board prosecutor, have had direct responsibility for the bulk of the legal work done for the Board and agency staff.

Mr. Olson's firm is one of three law firms that represent D. Edson Clark, who at the time of his letter had filed seven different legal proceedings in the courts against the Board and its staff, and who had two different adjudicative proceedings regarding his license status pending with the Board. In addition, there was an open investigation regarding Mr. Clark vis-a-vis his CPA firm licensing status. The first lawsuit filed by Mr. Clark against the Board was a public records act action. I assigned Ms. Tennyson and Assistant Attorney General Jody Lee Campbell to the case. The other lawsuits quickly followed, with the result that additional attorneys in my division, plus an assistant attorney general in the Torts Division, were deployed to handle various aspects of these lawsuits and other matters involving Mr. Clark. The parties agreed to mediate all these matters, which resulted in settlement on October 14, 2009.

# Washington State Board of Accountancy

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## ATTORNEY GENERAL OF WASHINGTON

Senator Tracey Eide  
October 21, 2009

I will not undertake to rebut all the accusations made by Mr. Olson or Mr. Clark in the voluminous material submitted to you. But I would like to provide you a brief overview of the context in which the Board and this Office have operated with respect to administrative proceedings, including those involving Mr. Clark.

The Accountancy Board is created under RCW 18.04. Its general powers are set out in RCW 18.04.045. **In years prior to 1992, the Board hired and managed agency staff. The legislature amended the law in 1992 such that the governor now appoints the executive director of the board, who serves at the pleasure of the governor, and it is the executive director who employs such other personnel as is appropriate for carrying out the purposes of the public accountancy act. RCW 18.04.045(5).**

Notwithstanding the clear language of the public accountancy act, Mr. Olson appears to claim a remark made by King County Superior Court Judge Douglass North is a binding legal conclusion. In his August 17 letter to Ms. Tennyson, which Mr. Olson included in his letter to you, he references a statement made by Judge North during a hearing in one of the previously mentioned lawsuits. The lawsuit did not involve any question about the Board's authority over agency staff, and Judge North did not adjudicate any such issue. Instead, he commented "Well, I think [it's] probably the responsibility of the Board to supervise its executive director, and if it, in fact, finds that the executive director is engaged in misconduct, it needs to discipline the executive director in some way. I mean, but -- I mean, that -- at least, I've sat on boards and the prime function of the board is to supervise whoever your executive director is."

Likewise, although the executive director is required to hold a valid CPA license under RCW 18.04.045(5), nothing in the public accountancy act "prohibits any act of or the use of any words by a public official or a public employee in the performance of his or her duties." RCW 18.04.350(11). **This means, of course, that the Board has no power to investigate or discipline agency staff under the public accountancy act.** *Presumably, the intent of the legislature was to avoid potential conflicts that would be created if the Board were required to appoint and manage agency staff. This does not mean, however, that agency staff, including the Executive Director, lack independent oversight, since the legislature has placed that responsibility with the governor, not the Board.*

# Washington State Board of Accountancy

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## ATTORNEY GENERAL OF WASHINGTON

Senator Tracey Eide  
October 21, 2009

**Because the Board is both a policy-making board and a quasi-judicial board that governs the discipline of CPAs,** we have established screening measures between the assistant attorneys general and their respective support staff who participate in the same matter in different capacities requiring a separation of functions, as is the case during investigations and subsequent adjudicative proceedings. See RCW 34.05.458.

In those situations, the Board is the adjudicator, who is advised by an assistant attorney general advisor. Agency staff, the consulting board member, and a different assistant attorney general perform the prosecuting function. Imposing a level of separation between the activities of those attorneys in such circumstances both eliminates any question of noncompliance with the rules of professional conduct and contributes to assuring the public that office responsibilities are being conducted in a fair and equitable manner. In- addition, such separation and screening is used to meet other legal requirements such as avoiding impermissible ex parte communications under the Administrative Procedure Act. See RCW 34.05.455. For the same reasons, the Board and its staff have screening mechanisms to avoid prohibited ex parte contacts between agency staff and the Board members.

Mr. Olson apparently misunderstands these processes, the statutory exception in RCW 18.04.350(11) for agency staff who are licensed CPAs, and the actions and obligations of the assistant attorneys general involved in these matters. He accuses Mr. Sweeney and the assistant attorneys general of historically intercepting Mr. Olson's correspondence with Board members to keep the Board unaware of complaints against agency staff. This is inaccurate. To the extent there has been screening, it has been done in light of the dictates of the Administrative Procedure Act regarding separation of functions and ex parte communications. Since the Board has no authority to entertain disciplinary proceedings against agency staff who hold CPA licenses, and since the Board was adjudicating certain matters involving allegations against Mr. Clark, and there was a likelihood that other matters involving Clark would be adjudicated by the Board, his attempts to communicate with the Board were improper.

# Washington State Board of Accountancy

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## ATTORNEY GENERAL OF WASHINGTON

Senator Tracey Eide  
October 21, 2009

Mr. Clark's accusation of felony concealment is likewise inaccurate and improper. In any event, we are not aware of any concealment.

I hope the foregoing information is of assistance to you. I would be pleased to provide further information you may require.

Sincerely,

/s/  
Diane McDaniel,  
Senior Assistant Attorney General Chief, Licensing and Administrative Law Division  
(360) 753-2747  
[dianem@atg.wa.gov](mailto:dianem@atg.wa.gov)

DLM:bss  
cc: Kurt H. Olson

# Washington State Board of Accountancy

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## Attachment #2

### Executive Committee Draft Charter

#### **Prudent Agency Oversight is the Responsibility of the Board's Executive Committee**

Annually, the Board's Executive Committee shall consist of the sitting:

- Board Chair;
- Board Vice-Chair; and
- Board Secretary.

The Board is statutorily authorized to establish rules which the Board finds necessary or appropriate to implement the Public Accountancy Act ( the ACT) [RCW 18.04.055(16)].

The Executive Director may employ such personnel as is appropriate for carrying out the purposes of the Public Accountancy Act, i.e. to implement the Act. [RCW 18.04.045(2)]

The Executive Director is further responsible for ensuring that the limited resources available are used to provide the highest benefit to the Board's stakeholders in the most efficient and effective manner. Agency resources include financial resources, staff utilization, and effective use of Board member and volunteer time,

The Board is hereby establishing the Executive Committee to timely and regularly advise the Board in public meeting of interim but periodic changes in agency direction, internal agency policies, procedures, and practices, and the effectiveness and efficiencies of those changes to ensure that the Board is timely made aware of the following matters:

1. The effectiveness of the Executive Director in administration of agency functions within that person's authority; and
2. The effectiveness, efficiency, and implications of interim changes to agency staffing and agency policies, practices, and procedures.

#### **Executive Committee Charge:**

The Board Executive Committee has the responsibility to annually review and act, if necessary, in response to the quarterly reports of the other Board Committees or Subcommittees.

The Executive Committee has the responsibility to identify emerging trends that require immediate or future study or changes to ensure that the performance of the Executive Director and/or agency staff meet Board expectations and/or timely communication is made through the

## Washington State Board of Accountancy

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Executive Director of interim Board guidance or future Board policies to assist staff in efficiently and effectively conducting agency functions.

As an outcome, the Board's Executive Committee shall formerly evaluate the performance of the Executive Director on an annual basis.

Additionally and periodically the Executive Committee may:

- Recommend agency request legislation for changes in statute for drafting by the Executive Director;
- Recommend that the Executive Director draft new rules or policy guidance applicable to the regulated population or other constituents;
- Recommend that the Executive Director reassess staff assignments, performances and/or staffing needs;
- Recommend revisions be made by the Executive Director to agency administrative policies, practices, and/or procedures.

At the final Board meeting of the year, the Board Chair shall provide the full Board an overview of the committee's activities.

# Washington State Board of Accountancy

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## **Standards for Recommendations**

The Board offers the following guidelines to frame the deliberations and decision making:

- **Statutory Authority** – the recommended quality assurance review program must be supported by statutory authority delegated through the Public Accountancy Act.
- **Public Protection and Dependability of Information** – the recommended quality assurance review program rule must support the Board's purpose to protect the public interest and promote the dependability of information.
- **Fair and Equitable Treatment** – the recommended quality assurance review program rule must ensure all participants are treated fairly and equally.
  - **Public Participation** – solicit and ensure stakeholder and constituent group (customer) participation in the development and sustainability of the recommended quality assurance review program.
  - **Compatibility with the Uniform Accountancy Act, International Agreements, and other regulatory requirements** – the ideal quality assurance review program structure and processes will be compatible with the UAA, federal and international guidance and/or other anticipated changes to the Washington state statute
  - **Consistency with International Agreements** – the Committee must ensure the current structure and/or recommendations for change comply with international trade and regulatory agreements.
  - **Clear Rule Writing** – any formal recommendations for change must conform to the Governor's recommended clear rule writing style.
  - **Sound Use of Resources** - any recommended program changes must be cost-effective to all stakeholders.

## Quality Assurance Subcommittee Draft Charter

The Washington State Board of Accountancy is statutorily authorized to promote the dependability of information used for guidance in financial transactions. The Board is also authorized to implement a quality assurance review program as a means to monitor licensees' quality of attest and compilation services and licensees' compliance with professional standards. In fulfillment of this responsibility in 1982 the Board implemented a Quality Assurance Review (QAR) Program to monitor the quality of Washington's practitioners. While the Board believes the QAR Program has been successful, the Board has also noted a recent degradation in the quality of attest and compilation reports issued by licensees.

Acknowledging this issue and embracing the goals of regulatory reform and quality improvement, the Board establishes the Quality Assurance Subcommittee. The objectives of the Subcommittee are to monitor the need for structural program and/or process changes to promote the continued confidence of creditors, investors, and policy makers in the reliability of financial and nonfinancial information with which a licensee or certificate holder is associated, and to ensure that all professional services rendered by credentialed persons are performed competently.

### Subcommittee Charter

#### Scope

The Board charges the Subcommittee to monitor the effectiveness of the QAR rule and program with the ultimate goal of ensuring that program structure and guidance is:

- Effectively Designed;
- Operating effectively; and
- Sufficiently flexible to accommodate emerging issues.

## Washington State Board of Accountancy

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The Board does not wish to limit the subcommittee's considerations, research and creativity. However, the subcommittee's considerations are to include at a minimum:

- The Board's current Quality Assurance Review (QAR) Program rule (4-30 WAC), related Board interim policies, if any, the QAR Committee and policies, and agency procedures related thereto, including the activities of the Peer Review Oversight Committee.
- Adequacy of Board rule authority over other professional services and other state or federal regulations related thereto, including Treasury Circular 230, AICPA standards related to Non-Assurance Services including, Consulting and other Advisory Services, Litigations Support Services, and Expert Witness Testimony.
- The Uniform Accountancy Act
- Federal and International Developments
- New Types of attest, compilation, or other assurance reporting services
- Changes in Methods by which Professional Services are Provided by licensees
- Changes Methods of Communicating Attest, Compilation , and/or Other Reports
- AICPA Peer Review Standards
- Peer Review Programs [AICPA, NSA, Other]
- Methods or Alternatives to improve or maintain consumer confidence in the Level of Attest, Compilation, and Other Reporting and/or professional services prescribed by professional standards by persons rendering such services in Washington state.

# Washington State Board of Accountancy

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## **Standards for Recommendations**

The Board offers the following guidelines to frame the deliberations and decision making:

- **Statutory Authority** – the recommended quality assurance review program must be supported by statutory authority delegated through the Public Accountancy Act.
- **Public Protection and Dependability of Information** – the recommended quality assurance review program rule must support the Board’s purpose to protect the public interest and promote the dependability of information.
- **Fair and Equitable Treatment** – the recommended quality assurance review program rule must ensure all participants are treated fairly and equally.
  - **Public Participation** – solicit and ensure stakeholder and constituent group (customer) participation in the development and sustainability of the recommended quality assurance review program.
  - **Compatibility with the Uniform Accountancy Act, International Agreements, and other regulatory requirements** – the ideal quality assurance review program structure and processes will be compatible with the UAA, federal and international guidance and/or other anticipated changes to the Washington state statute
  - **Consistency with International Agreements** – the Committee must ensure the current structure and/or recommendations for change comply with international trade and regulatory agreements.
  - **Clear Rule Writing** – any formal recommendations for change must conform to the Governor’s recommended clear rule writing style.
  - **Sound Use of Resources** - any recommended program changes must be cost-effective to all stakeholders.

## **Subcommittee Chair Responsibilities\***

Any recommendations of the subcommittee will be discussed by the Chair of the subcommittee with the Executive Director and implemented by agency staff at the direction of the Executive Director. Thereafter, the Executive Director may make minor changes made in information being gathered for initial and continued firm licensure or changes in agency communications or processes to enhance the efficiency and/or effectiveness of the program requirements.

The Executive Director will provide a report of any modifications prior to each public board meetings for the subcommittee's Chair's report to the Board and the public.

The Chair's reports including any related recommendations will be timely and regularly forwarded to the Board's **Executive Committee**.

\*Dependent upon on the Committee's Research and Discoveries, additional Volunteer Committee Members or Task Force members may be solicited.

## **CPE and Travel Expense Reimbursement for Participation on the Quality Assurance Subcommittee**

The Chair, member volunteers, **and Task Force members** will receive CPE credit (50 minutes equals one CPE credit hour) for Committee work performed up to a maximum of 32 hours a calendar year. All committee members are eligible to be reimbursed for travel expenses based on the state regulations provided such expenses are pre-approved by the Executive Director.

# Washington State Board of Accountancy

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## Attachment #4

### Education, Examination, and Experience Task Force Draft Charter

The Washington State Board of Accountancy is statutorily charged with the responsibility to prescribe rules consistent with 18.04 RCW as necessary to implement that chapter, including rules specifying the educational requirements to take the certified public accountant examination [Rcw18.04.055(5)]. The Board is also statutorily authorized to establish "any other rule which the board finds necessary or appropriate to implement" the Public Accountancy Act [RCW 18.04.055(16)].

RCW 18.04.045(5) provides that the Board may arrange for such volunteer assistance as it requires to perform its duties and that individuals or committees assisting the Board constitute volunteers for purposes of Chapter 4.92 RCW.

Significant changes in the regulatory environment including CPA Mobility, offering the CPA examination at international locations, and initiatives to converge International and U.S. Professional Standards are occurring. Accordingly, the Board is required to devote significant time and agency resources to identify and evaluate emerging developments, assess the impact on Board rules and operations and propose changes to Board rules, if necessary.

By way of this charter the Board establishes the Education, Examination, and Experience Task Force to assist the Board in identifying, evaluating, and assessing the impact of these developments.

## A. Initial Committee Chair and Members

Co-Chair: Elizabeth Masnari, Board member

Co-Chair: Robin Clark, CPA, former Board member

Member: Ronald Sabado, CPA, Educator, former Board member

Member: Kay Carnes, CPA, Educator, former Board member

### **Scope of Work**

The Education, Examination, and Experience Task Force is directed to:

- Identify emerging issues related to educational qualifications to take the CPA examination;
- Identify emerging issues and changes in the structure, content, and delivery of the computerized CPA examination;
- Evaluate the impact of identified emerging issues on Board operations and effectiveness in meeting the Board's statutory responsibilities in the qualifications of individual and firm aspirants;
- Report the results of their activities at the Board's quarterly public meetings, including any recommendations requiring further Board action.

## B. Framework for Evaluations and Recommendations:

The following guidelines should frame the members' focus, assessments, deliberations, and formulation of matters for Board consideration:

- **Statutory Authority** – Any suggestions or recommendations of the Task Force must be within the statutory authority delegated to the Board by the Public Accountancy Act and comply with Federal and State laws.
- **Consumer Protection** – Suggestions or recommendations must support the Board's purpose to protect the interest of consumers by promoting the professional, technical, and behavioral qualifications of CPA aspirants.
- **International Impact** – Suggestions or recommendations must not be discriminatory or create barriers for International aspirants.
- **Domestic Impact** – Suggestions or recommendations must not affect domestic aspirants more or less favorably than international aspirants.
- **Compatibility** – Suggestions or recommendations should be as consistent as practicable with recognized professional standards while emphasizing the ultimate interest of the consumer of professional services.
- **Cost-Effectiveness** - Suggestions and recommendations should balance administrative efficiency with regulatory effectiveness to result in the most cost-effective processes for consumer protection, including consideration of:
  - Minimal use of agency resources;
  - Minimal use of candidate and verifying CPA resources;
  - Rapid turnaround of applications;
  - Equality and impartiality in the evaluation of applications and in communications with applicants;
  - Compliance with the Board's policies, in particular those policies dealing with privacy and diversity; andConsistency in the committee's decision making regarding the approval or denial of an application.

**C. Administrative Assistance:**

The Education and Examination Task Force shall request administrative assistance from the Clerk of the Board or the Executive Director in the Clerk's absence. The task force Chair may be request additional volunteer assistance through the forgoing agency personnel.

**D. Attendance at Scope Related Programs:**

Attendance at programs sponsored by the National Association of State Boards of Accountancy (or other sponsors of regulatory programs) necessary or beneficial to the mission and scope of the task force may be permitted if pre-approved by the Executive Director.

**E. CPE and Travel Expense Reimbursement for Participation on the Education and Examination Task Force**

Volunteers will receive CPE credit (50 minutes equals one CPE credit hour) for Committee work performed up to a maximum of 32 hours a calendar year. Volunteers will be reimbursed for travel expenses based on the state regulations provided such expenses

## Individual Licensee Qualifications Subcommittee Draft Charter

The purpose, in part, of Chapter 294, Laws of 2001 revised the public accountancy act to:

- Establish one set of qualifications to be a licensee in this state that is “substantially equivalent” to as many states and countries as possible;
- Propose revisions to the Public Accountancy Act and/or relevant Board Rules for licensure and other credentialing; and
- Clarify the board’s authority with respect to the activities of persons holding licenses and certificates under 18.04 RCW. [RCW 18.04.015(2)]

The Board is statutorily authorized to establish "any other rule which the board finds necessary or appropriate to implement" the Public Accountancy Act [RCW 18.04.055(16)].

By way of this charter the Board replaces the former Qualifications Committee established in January, 2001 with the Individual Licensee Qualifications Subcommittee.

### A. The Subcommittee’s Initial Charge

The subcommittee's initial charge is to assess the consistency of implementation of the current agency policies, practices, forms, and procedures with the newly adopted and revised rules 4-30 WAC. Any recommendations of the subcommittee will be discussed with and implemented by agency staff at the direction of the Executive Director.

Thereafter, the Executive Director may make minor changes made in information being gathered for initial and continued licensure or changes in agency communications or processes to enhance the efficiency and/or effectiveness of staff interpretation of the required competency requirements.

The Executive Director will provide the Committee Chair a report of any modifications prior to each public board meetings for the Chair’s report to the Board and the public.

The Chair’s reports will be timely and regularly forwarded to the Board’s Executive Committee.

### B. The Subcommittee’s Continuing Charge

The continuing charge of the Individual Licensee Qualifications Subcommittee is to regularly assess the effectiveness of the existing individual competency requirements and the verification processes of 4-30 WAC in sustaining the quality of professional services provided by all credentialed persons.

## Washington State Board of Accountancy

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The Individual Licensee Qualifications Subcommittee will periodically but at least every two years regularly assess:

1. The effectiveness of the Board's experience rules on the quality of professional services across all sectors of commerce and government by credentialed persons. That effectiveness may be assessed, in part, based upon the number and significance of complaints of incompetency, ethical violations, and/or deficiencies in technical skills or knowledge;
2. The assessment may include information from sources outside the structure or authority of this Board.
3. A report of the two year assessment and any related recommendations will be timely provided to the Board's Executive Committee for final approval and/or revision.

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# Washington State Board of Accountancy

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## C. Standards for Recommendations

The Board offers the following guidelines to frame deliberations and decision making:

- **Statutory Authority** – the recommended quality assurance review program must be supported by statutory authority delegated through the Public Accountancy Act.
- **Public Protection and Dependability of Information** – the recommended quality assurance review program rule must support the Board’s purpose to protect the public interest and promote the dependability of information.
- **Fair and Equitable Treatment** – the recommended quality assurance review program rule must ensure all participants are treated fairly and equally.
- **Public Participation** – solicit and ensure stakeholder and constituent group (customer) participation in the development and sustainability of the recommended quality assurance review program.
- **Compatibility with the Uniform Accountancy Act, International Agreements, and other regulatory requirements** – the ideal rules and policies will be compatible with the UAA, International Agreements and Federal statutes and/or other anticipated changes to the Washington state statute.
- **Consistency with International Agreements** – ensure the current structure and/or recommendations for change comply with international trade and regulatory agreements.
- **Clear Rule Writing** – any formal recommendations for change must conform to the Governor’s recommended clear rule writing style.
- **Sound Use of Resources** - any recommended program changes must be cost-effective to all stakeholders.

## **D. Review of Experience Applications**

A formal program for the review of candidate experience applications is to be established and carried out by the Individual Licensee Qualifications Subcommittee. In developing and implementing this program, the subcommittee is directed to ensure:

- Minimal use of agency resources;
- Clear and Efficient application tools for applicants’
- Clear and effective tools for use by verifying CPAs;
  
- Equality and impartiality in the evaluation of applications and in communications with applicants;
- Compliance with the agency’s policies, in particular those policies dealing with privacy, equality and impartiality;
- Consistency in the agency’s decision making regarding the approval or denial of an application; and
- Utilization of the agency’s web site to provide clear communication of the requirements.

## **E. Experience Applications: Competency Worksheets, Affidavits, Instructions and Forms (*paper or electronic*)**

The Individual Licensee Qualifications Subcommittee is responsible for providing recommendations to the Executive Director and, absence concurrence by the Executive Director, to the Board to regularly evaluate the effectiveness of the competency model in sustaining the quality of professional services by credentialed persons and to evaluate the efficiency and effectiveness of agency policies, practices, and procedures including electronic information gathering processes. The subcommittee is directed to frame any recommendations after consideration of:

- “Plain Talk” language to promote clarity and understanding;
- Utilization of OnLine service applications, if cost-effective;
- Ensure equitable application of the rules, requirements and procedures, and
- Ensure the relevance of the competencies and associated abilities.

## **F. Audit of Experience Applications**

The subcommittee is to work with the Executive Director to develop audit procedures including forms and other forms of requests for information as the basis to perform audits of experience assertions by applicants and the quality of the verification processes applied by verifying CPAs.

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The subcommittee is authorized to select experience applications for audit to the extent and at such times deemed appropriate. All audits of experience applications are to be performed under the direction of the Board Member Chair. The Board Chair may use volunteers to perform the actual audit function.

The subcommittee will forward implementation recommendations, and/or apparent applicant/verifying CPA non-compliance with Board rules to the Executive Director for appropriate interim remedies.

**G. CPE and Travel Expense Reimbursement for Participation on the Individual Licensee Qualifications Subcommittee**

The Chair and member volunteers will receive CPE credit (50 minutes equals one CPE credit hour) for subcommittee work performed up to a maximum of 32 hours a calendar year. All subcommittee members are eligible to be reimbursed for travel expenses based on the state regulations provided such expenses are pre-approved by the Executive Director.

## State Ethics Compliance Committee Draft Charter

In June of 2011, the Small Agency Support group of the Washington State Department of Human Resources (DOP) drafted an "Agency" policy for compliance with the state's ethics requirements.

That policy was adopted as drafted by DOP by the Executive Director (for the purpose of expediting the implementation of the policy within the agency). The policy as adopted stated that the Executive Director of the "Agency" would Chair the committee and serve as the coordinator with the state's Executive Ethics Board. It became obvious to several Board members and the Executive Director that this was equivalent to the "wolf guarding the hen house".

The Executive Director recommends that this "Agency" policy be adopted as a Board policy consistent with the concept of Board governance of agency activities AND that a Board member serve as Chair of the committee. This proposed change was discussed with the Executive Director of the state's Executive Ethics Board on September 30, 2011 and received approval for the change.

A draft charter for that committee follows.

# Washington State Board of Accountancy

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## State Ethics Compliance subcommittee Draft Charter

- A. The Board members have adopted the substance of the “Agency Policy” drafted by the Small Agency division of the state’s Department of personnel as the Board’s policy.
- B. The committee’s charge is to annually reassess the compliance of agency personnel, contractors or volunteers and/or Board volunteers with the state’s ethics law and interpretations thereof by the Executive Ethics Board as upheld in judicial decisions.
- C. The initial Chair of that Committee shall be appointed by the Board Chair from among the then current Board members at the time that the policy is adopted by the Board.

The Chair appointment shall be reassessed annually at the Board’s Annual public meeting and a new Chair be appointed by a majority vote of the Board members, if required.

The Chair of the committee may select such other committee members, including volunteers, as appropriate subject to an annual majority approval by the Board.

The committee’s assessment or other actions shall be reported to the Executive Committee of the Board at the Board’s annual public meeting or at such time as an investigation of agency personnel is deemed by the committee Chair to be appropriate.

In the event an issue of non-compliance with the state’s ethics requirements is alleged or otherwise likely to involve a Board member, the matter shall be immediately referred to the state’s Executive Ethics Board by the Chair of the Committee or the Agency’s Executive Director..

### **D. CPE and Travel Expense Reimbursement for Participation on the Individual Licensee Qualifications Subcommittee**

The Chair, committee members, including volunteers, will receive CPE credit (50 minutes equals one CPE credit hour) for committee work performed up to a maximum of 32 hours a calendar year. All committee members are eligible to be reimbursed for travel expenses based on the state regulations provided such expenses are pre-approved by the Executive Director.

# Washington State Board of Accountancy

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## Amended Proposed AGENCY ETHICS POLICY

**Effective Date:** June 15, 2011

**Application:** Applies to all employees, volunteers, and contractors of the **Washington State Board of Accountancy (ACB)**

**Approved by:** \_\_\_\_\_  
AGENCY DIRECTOR

**Proposed Changes are Highlighted in Yellow**

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**Purpose - To provide direction to Washington State Board of Accountancy employees in making ethical choices, acting in a manner that demonstrates high ethical standards and complying with the provisions of the Ethics in Public Service Act.**

Ensuring ethical conduct in the workplace requires that we all know what ethical conduct is and then fully embrace this conduct in every aspect of our work. Agency employees are expected to conduct themselves and their business affairs in a manner that is consistent with the Agency's values and ethical standards, as well as the Ethics Act.

**Policy Statement - All Agency employees are expected to maintain high professional and ethical standards at all times. Specific expectations, roles and responsibilities are as follows:**

1. The agency head is responsible for and shall exercise personal leadership in establishing, maintaining, and carrying out the agency's ethics program. He or she shall make available to the ethics program sufficient resources (including investigative, audit, legal, and administrative staff as necessary) to enable the agency to administer its program in a positive and effective manner.
2. The Executive Director manages the agency's ethics program. The Chair of the Board's State Ethics Compliance Committee shall serve as the agency's Ethics Advisor. The agency's Ethics Advisor is the agency's liaison to the Executive Ethics Board. The Ethics Advisor shall periodically, but at least annually, evaluate the Executive Director's timeliness and effectiveness in:
  - a. Assessing the application of conflict of interest laws and regulations to the information reported and counsel those officers or employees with regard to resolving actual or potential conflicts of interests, or appearances thereof;

# Washington State Board of Accountancy

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- b. Counseling agency personnel concerning ethics standards and programs;
  - c. Counseling departing and former agency officials on post-employment conflict of interest standards;
  - d. Assisting managers and supervisors in understanding and implementing agency ethics programs; and
  - e. Developing and administering a system for periodic evaluation of the ethics program.
3. The Board Chair shall appoint a Board member to serve as Chair of the Board's State Ethics Compliance Committee. The chair of this Board Committee will report regularly to the Board Chair. The purpose of this committee is to direct and oversee the agency's compliance with the laws and regulations governing ethics in public service. Its responsibility is to develop measures that monitor agency ethics and integrity and ensure that these measures are collected for reporting to the legislature on an annual basis. This committee meets periodically to review the effectiveness of the agency's ethics programs and compliance thereto. If possible, this committee shall include at least two individuals from non-supervisory positions.
  4. The Chair of the Board's State Ethics Compliance Committee shall timely report instances of actual or potential conflicts of interest to the Board Chair after coordinating with the Executive Ethics Board. Annually the subcommittee chair shall report committee activities, outcomes, and recommendations, if any, to the Board's Executive Committee.
  5. All agency employees are responsible for knowing and adhering to the Ethics Act (RCW 42.52) and rules (WAC 292-110), applicable agency policies and procedures and for making choices that exemplify an adherence to the highest ethical standards.
  6. Employees are to avoid actions that create even the appearance of using their position for personal gain or private advantage for themselves or another person.
  7. Employees should notify their supervisors of any actual or potential violations of this policy. When in doubt, employees should consult with the designated Ethics Advisor and/or the Human Resources Office.
  8. Violations of the State Ethics Act and/or this policy may lead to corrective or disciplinary action, up to and including termination.
  9. The Executive Ethics Board has the authority and responsibility for investigating alleged violation(s) of the Ethics Act and may take administrative action against an agency employee, including imposing a civil penalty for violations. Anyone may file an ethics complaint against a state employee or officer. Complaint forms are available on the Executive Ethics Board's website. Complaints may be filed anonymously or the complainant may choose to remain confidential. Ethics complaints may be filed directly with this Board at the following address:

Executive Ethics Board

PO Box 40149

Olympia, WA 98504

# Washington State Board of Accountancy

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10. The agency will take reasonable steps to achieve compliance with applicable laws and rules by monitoring and auditing systems designed to detect unethical conduct and by publicizing a reporting system for employees and other agents to use to report ethical violations.

**Response and Prevention** - After a violation has been reported, the agency will take all reasonable steps to respond to the violation and to prevent further similar offenses.

**General Expectations** - The Ethics in Public Service Act, RCW 42.52 applies to all state employees and officers. Each agency employee is expected to read and understand this Act. Each agency employee is also expected to know and understand the agency's policies regarding certain sections of the Act, as these policies may be stricter than the Act and the employee must also comply with the stricter limitations.

Detailed information on issues related to state ethics, including interpretations and clarifying examples of the Ethics Act and rules are available at the Executive Ethics Board's website [www.ethics.wa.gov](http://www.ethics.wa.gov).

Employees shall not:

1. Have a financial or other interest or engage in any business, including personal business, or professional activity that conflicts with their official duties.
2. Use their position to secure a special privilege for themselves, their family, friends or any other person. A "person" is also considered to be an outside business or organization.
3. Receive any compensation (including gift cards) from any source, except the state, for performing or not performing their official duties.
4. Accept any gifts, except as allowed under RCW 42.52.140 and 150. Gifts include food and beverages in most situations.
5. Disclose confidential information to an unauthorized person, use confidential information for personal benefit or to benefit another, or withhold disclosure of information that can be disclosed.
6. Use state resources for personal benefit or to benefit another except as allowed under agency policies and WAC 292-110-010.
7. Use state resources to campaign for the election of a person or a ballot initiative or to lobby an elected representative.
8. Assist another person in a transaction involving the state if they have participated in the transaction or the transaction was part of their job responsibilities.

There are post-state employment restrictions placed on former employees. Should you leave state service, refer to RCW 42.52.080 to determine if any of these restrictions apply to your situation *before* accepting a post-state employment job. The Executive Ethics Board has jurisdiction over former employees regarding this section of the Act.

# Washington State Board of Accountancy

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**Formal Advisory Opinions** - The Executive Ethics Board has the authority and responsibility to render formal advisory opinions. This service is available to any person who has a question about a matter over which the Board has jurisdiction.

Formal advisory opinions are usually not used for general advice concerning a specific individual's present or proposed activities or financial transactions. Such questions should be directed to this agency's designated ethics advisor or to the Director of the Executive Ethics Board.

**WAC's and references that apply to this policy**

|                       |                 |
|-----------------------|-----------------|
| RCW 42.52.140 and 150 | WAC 292-110-010 |
| RCW 42.52.080         |                 |

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## Investigations and Enforcement Subcommittee Draft Charter

Of all the functions the agency performs, *licensing, monitoring, consumer awareness, and investigations and enforcement, including the monitoring of sanctions*, the latter consumes more resource and public records disclosure risk than any other function.

Accordingly, the Executive Director recommends that an oversight of these activities be conducted regularly by a separate Investigations and Enforcement Subcommittee. That subcommittee shall report annually to the Board's Executive Committee.

The charge of that subcommittee is suggested on the following pages.

## **Investigations and Enforcement Subcommittee Draft Charter**

The Washington State Board of Accountancy has delegated the responsibility and authority for directing investigations and the monitoring of disciplinary sanctions to the agency's Executive Director.

The Board members recognize the responsibilities associated with this delegation and deem it prudent to regularly oversee the timeliness and effectiveness of investigations, resolution processes and the monitoring of compliance with sanctions associated with this agency activity. Accordingly the Board establishes the Investigative and Enforcement Subcommittee to monitor agency activities related to investigations, resolution proposals to the Board, administration of related agency processes and procedures, and the monitoring of administrative or Board accepted sanctioning agreements and Board imposed sanctions.

The subcommittee Chair shall be appointed by the Board Chair. The subcommittee Chair shall use other Board members and/or volunteers to assist in fulfilling the committee's charge.

Upon discussion with and concurrence by the Executive Director the subcommittee Chair may employ independent contractors to assist in the assessment processes.

The Board charges the Investigative and Enforcement Subcommittee with the following responsibilities:

# Washington State Board of Accountancy

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## A. **The Subcommittee's Charge**

The subcommittee's charge is to assess the consistency of the Executive Director's implementation of current agency policies, practices, processes, and procedures with Board Policy 2004-1, Sanction and Penalty Guidelines, and Board Rules, WACs 4-30-140 and 4-30-142. Any recommendations of the subcommittee will be discussed with and implemented by agency staff at the direction of the Executive Director.

Thereafter, the Executive Director, with the concurrence of the subcommittee Chair, may delegate certain other responsibilities to the Deputy Director/Director of Investigations or implement changes in agency communications or processes to enhance the efficiency and/or effectiveness of staff implementation of the investigation, resolution, and sanction monitoring processes.

The subcommittee Chair will report at least annually to the Board's Executive Committee on the efficiency and effectiveness of the agency's investigation, resolution, and sanction monitoring processes. The subcommittee Chair may offer recommendations for statutory, Board rule or policy changes after discussion with the Executive Director.

## B. **Standards for Recommendations**

The Board offers the following guidelines to frame deliberations and decision making:

- **Statutory Authority** – the recommended quality assurance review program must be supported by statutory authority delegated through the Public Accountancy Act.
- **Public Protection and Dependability of Information** – the recommended quality assurance review program rule must support the Board's purpose to protect the public interest and promote the dependability of information.
- **Fair and Equitable Treatment** – the recommended quality assurance review program rule must ensure all participants are treated fairly and equally.
- **Public Participation** – solicit and ensure stakeholder and constituent group (customer) participation in the development and sustainability of the recommended quality assurance review program.
- **Compatibility with the Uniform Accountancy Act, International Agreements, and other regulatory requirements** – the ideal rules and policies will be compatible with the UAA, International Agreements and Federal statutes and/or other anticipated changes to the Washington state statute.

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- **Consistency with International Agreements** –ensure the current structure and/or recommendations for change comply with international trade and regulatory agreements.
- **Clear Rule Writing** – any formal recommendations for change must conform to the Governor’s recommended clear rule writing style.

**Sound Use of Resources** - any recommended program changes must be cost-effective to all stakeholders.

## **C. Attendance at Scope Related Programs:**

Attendance at programs sponsored by the National Association of State Boards of Accountancy (or other sponsors of regulatory programs) necessary or beneficial to the mission and scope of the Subcommittee Chair and/or a member of the committee may be permitted if pre-approved by the Executive Director.

## **D. CPE and Travel Expense Reimbursement for Participation on the Individual Licensee Qualifications Subcommittee**

The Chair and member volunteers will receive CPE credit (50 minutes equals one CPE credit hour) for subcommittee work performed up to a maximum of 32 hours a calendar year. All subcommittee members are eligible to be reimbursed for travel expenses based on the state regulations provided such expenses are pre-approved by the Executive Director.

- E.** Board Policy 2004-1, Sanction and Penalty Guidelines, and related statutory authority and Board rules are attached to assist the subcommittee Chair in satisfying the subcommittee’s charge.

Investigations and Enforcement Subcommittee

**Related Statutory authority, Board Rules, Policy, and Board Delegations**

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# Washington State Board of Accountancy

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## Statutory Authorities

### 18.04.045

#### Board — Officers and staff — Powers and duties.

##### Excerpts Only

(7) In making investigations concerning alleged violations of the provisions of this chapter and in all proceedings under RCW [18.04.295](#) or chapter 34.05 RCW, the board chair, or a member of the board, or a board designee acting in the chair's place, may administer oaths or affirmations to witnesses appearing before the board, subpoena witnesses and compel their attendance, take testimony, and require that documentary evidence be submitted.

(8) The board may review the publicly available professional work of licensees on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety on the part of any particular licensee. If as a result of such review the board discovers reasonable grounds for a more specific investigation, the board may proceed under its investigative and disciplinary rules.

(9) The board may provide for consumer alerts and public protection information to be published regarding persons or firms who violate the provisions of this chapter or board rule and may provide general consumer protection information to the public.

(10) As provided in RCW [18.04.370](#), the board may enter into stipulated agreements and orders of assurance with persons who have violated the provisions of RCW [18.04.345](#) or certify the facts to the prosecuting attorney of the county in which such person resides for criminal prosecution.

# Washington State Board of Accountancy

18.04.295

## Actions against CPA license.

The board shall have the power to: Revoke, suspend, or refuse to issue, renew, or reinstate a license or certificate; impose a fine in an amount not to exceed thirty thousand dollars plus the board's investigative and legal costs in bringing charges against a certified public accountant, a certificate holder, a licensee, a licensed firm, an applicant, a non-CPA violating the provisions of RCW [18.04.345](#), or a nonlicensee holding an ownership interest in a licensed firm; may impose full restitution to injured parties; may impose conditions precedent to renewal of a certificate or a license; or may prohibit a nonlicensee from holding an ownership interest in a licensed firm, for any of the following causes:

- (1) Fraud or deceit in obtaining a license, or in any filings with the board;
- (2) Dishonesty, fraud, or negligence while representing oneself as a nonlicensee owner holding an ownership interest in a licensed firm, a licensee, or a certificate holder;
- (3) A violation of any provision of this chapter;
- (4) A violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter;
- (5) Conviction of a crime or an act constituting a crime under:
  - (a) The laws of this state;
  - (b) The laws of another state, and which, if committed within this state, would have constituted a crime under the laws of this state; or
  - (c) Federal law;
- (6) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant by any other state for any cause other than failure to pay a fee or to meet the requirements of CPE in the other state;
- (7) Suspension or revocation of the right to practice matters relating to public accounting before any state or federal agency;

For purposes of subsections (6) and (7) of this section, a certified copy of such revocation, suspension, or refusal to renew shall be prima facie evidence;
- (8) Failure to maintain compliance with the requirements for issuance, renewal, or reinstatement of a certificate or license, or to report changes to the board;
- (9) Failure to cooperate with the board by:
  - (a) Failure to furnish any papers or documents requested or ordered by the board;
  - (b) Failure to furnish in writing a full and complete explanation covering the matter contained in the complaint filed with the board or the inquiry of the board;
  - (c) Failure to respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding;
- (10) Failure by a nonlicensee owner of a licensed firm to comply with the requirements of this chapter or board rule; and
- (11) Failure to comply with an order of the board.

# Washington State Board of Accountancy

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[2004 c 159 § 4; 2003 c 290 § 3; 2001 c 294 § 14; 2000 c 171 § 1; 1992 c 103 § 11; 1986 c 295 § 11; 1983 c 234 § 12.]

**Notes:**

Effective date -- 2001 c 294: See note following RCW [18.04.015](#).

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# Washington State Board of Accountancy

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## 18.04.305

### Actions against firm license.

The board may revoke, suspend, or refuse to renew the license issued to a firm if at any time the firm does not meet the requirements of this chapter for licensing, or for any of the causes enumerated in RCW [18.04.295](#), or for any of the following additional causes:

(1) The revocation or suspension of the sole-practitioner's license or the revocation or suspension or refusal to renew the license of any partner, manager, member, or shareholder;

(2) The revocation, suspension, or refusal to renew the license of the firm, or any partner, manager, member, or shareholder thereof, to practice public accounting in any other state or foreign jurisdiction for any cause other than failure to pay a fee or to meet the CPE requirements of the other state or foreign jurisdiction;

(3) Failure by a nonlicensee owner of a licensed firm to comply with the requirements of this chapter or board rule; or

(4) Failure of the firm to comply with the requirements of this chapter or board rule.

[2001 c 294 § 15; 1992 c 103 § 12; 1986 c 295 § 12; 1983 c 234 § 13.]

**Notes:**

**Effective date -- 2001 c 294:** See note following RCW [18.04.015](#).

# Washington State Board of Accountancy

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## 18.04.320

### Actions against license — Procedures.

In the case of the refusal, revocation, or suspension of a certificate or a license by the board under the provisions of this chapter, such proceedings and any appeal therefrom shall be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

[1986 c 295 § 13; 1983 c 234 § 14; 1949 c 226 § 31; Rem. Supp. 1949 § 8269-38.]

## 18.04.345

### Prohibited practices.

(1) No individual may assume or use the designation "certified public accountant-inactive" or "CPA-inactive" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant-inactive or CPA-inactive unless the individual holds a certificate. Individuals holding only a certificate may not practice public accounting.

(2) No individual may hold himself or herself out to the public or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant or CPA unless the individual qualifies for the privileges authorized by RCW [18.04.350\(2\)](#) or holds a license under RCW [18.04.105](#) and [18.04.215](#).

(3) No firm with an office in this state may practice public accounting in this state or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants or CPAs, unless the firm is licensed under RCW [18.04.195](#) and all offices of the firm in this state are maintained and registered under RCW [18.04.205](#).

(4) No firm may perform the services defined in RCW [18.04.025\(1\)](#) (a), (c), or (d) for a client with its home office in this state unless the firm is licensed under RCW [18.04.195](#), renews the firm license as required under RCW [18.04.215](#), and all offices of the firm in this state are maintained and registered under RCW [18.04.205](#).

(5) No individual, partnership, limited liability company, or corporation offering public accounting services to the public may hold himself, herself, or itself out to the public, or assume or use along, or in connection with his, hers, or its name, or any other name the title or designation "certified accountant," "chartered accountant," "licensed accountant," "licensed public accountant," "public accountant," or any other title or designation likely to be confused with "certified public accountant" or any of the abbreviations "CA," "LA," "LPA," or "PA," or similar abbreviations likely to be confused with "CPA."

(6) No licensed firm may operate under an alias, a firm name, title, or "DBA" that differs from the firm name that is registered with the board.

(7) No individual with an office in this state may sign, affix, or associate his or her name or any trade or assumed name used by the individual in his or her business to any report prescribed by professional standards unless the individual holds a license to practice under RCW [18.04.105](#) and [18.04.215](#), a firm holds a license under RCW [18.04.195](#), and all of the individual's offices in this state are registered under RCW [18.04.205](#).

(8) No individual licensed in another state may sign, affix, or associate a firm name to any report prescribed by professional standards, or associate a firm name in conjunction with the title certified public accountant, unless the individual:

(a) Qualifies for the practice privileges authorized by RCW [18.04.350\(2\)](#); or

(b) Is licensed under RCW [18.04.105](#) and [18.04.215](#), and all of the individual's offices in this state are maintained and

# Washington State Board of Accountancy

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registered under RCW [18.04.205](#).

(9) No individual, partnership, limited liability company, or corporation not holding a license to practice under RCW [18.04.105](#) and [18.04.215](#), or firm not licensed under RCW [18.04.195](#) or firm not registering all of the firm's offices in this state under RCW [18.04.205](#), or not qualified for the practice privileges authorized by RCW [18.04.350](#)(2), may hold himself, herself, or itself out to the public as an "auditor" with or without any other description or designation by use of such word on any sign, card, letterhead, or in any advertisement or directory.

(10) For purposes of this section, because individuals practicing using practice privileges under RCW [18.04.350](#)(2) are deemed substantially equivalent to licensees under RCW [18.04.105](#) and [18.04.215](#), every word, term, or reference that includes the latter shall be deemed to include the former, provided the conditions of such practice privilege, as set forth in RCW [18.04.350](#) (4) and (5) are maintained.

(11) Notwithstanding anything to the contrary in this section, it is not a violation of this section for a firm that does not hold a valid license under RCW [18.04.195](#) and that does not have an office in this state to provide its professional services in this state so long as it complies with the requirements of RCW [18.04.195](#)(1)(b).

[2008 c 16 § 5; 2001 c 294 § 17; 1999 c 378 § 8; 1992 c 103 § 14; 1986 c 295 § 15; 1983 c 234 § 16.]

## Notes:

**Finding -- Intent -- 2008 c 16:** See note following RCW [18.04.025](#).

**Effective date -- 2001 c 294:** See note following RCW [18.04.015](#).

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## 18.04.360

### Practices may be enjoined.

If, in the judgment of the board any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of this chapter, the board may make application to the appropriate court for an order enjoining such acts or practices and upon a showing by the board that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate may be granted by such court.

[1983 c 234 § 18; 1949 c 226 § 35; Rem. Supp. 1949 § 8269-42.]

#### Notes:

Injunctions: Chapter 7.40 RCW.

## 18.04.370

### Penalty.

(1) Any person who violates any provision of this chapter shall be guilty of a crime, as follows:

(a) Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than six months, or to both such fine and imprisonment.

(b) Notwithstanding (a) of this subsection, any person who uses a professional title intended to deceive the public, in violation of RCW [18.04.345](#), having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a class C felony, and upon conviction thereof, is subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than two years, or to both such fine and imprisonment.

(c) Notwithstanding (a) of this subsection, any person whose license or certificate was suspended or revoked by the board and who uses the CPA professional title intending to deceive the public, in violation of RCW [18.04.345](#), having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a class C felony, and upon conviction thereof, is subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than two years, or to both fine and imprisonment.

(2) With the exception of first time violations of RCW [18.04.345](#), subject to subsection (3) of this section whenever the board has reason to believe that any person is violating the provisions of this chapter it shall certify the facts to the prosecuting attorney of the county in which such person resides or may be apprehended and the prosecuting attorney shall cause appropriate proceedings to be brought against such person.

(3) The board may elect to enter into a stipulated agreement and orders of assurance with persons in violation of RCW [18.04.345](#) who have not previously been found to have violated the provisions of this chapter. The board may order full restitution to injured parties as a condition of a stipulated agreement and order of assurance.

(4) Nothing herein contained shall be held to in any way affect the power of the courts to grant injunctive or other relief as above provided.

[2004 c 159 § 5. Prior: 2003 c 290 § 5; 2003 c 53 § 120; 2001 c 294 § 19; 1983 c 234 § 19; 1949 c 226 § 36; Rem. Supp. 1949 § 8269-43.]

#### Notes:

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Effective date -- 2004 c 159 § 5: "Section 5 of this act takes effect July 1, 2004." [2004 c 159 § 6.]

Intent -- Effective date -- 2003 c 53: See notes following RCW 2.48.180.

Effective date -- 2001 c 294: See note following RCW [18.04.015](#).

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## 18.04.380

### Advertising falsely — Effect.

(1) The display or presentation by a person of a card, sign, advertisement, or other printed, engraved, or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof shall be prima facie evidence in any action brought under this chapter that the person whose name is so displayed, caused or procured the display or presentation of the card, sign, advertisement, or other printed, engraved, or written instrument or device, and that the person is holding himself or herself out to be a licensee, a certified public accountant, or a person holding a certificate under this chapter.

(2) The display or presentation by a person of a card, sign, advertisement, or other printed, engraved, or written instrument or device, bearing a person's name in conjunction with the words certified public accountant-inactive or any abbreviation thereof is prima facie evidence in any action brought under this chapter that the person whose name is so displayed caused or procured the display or presentation of the card, sign, advertisement, or other printed, engraved, or written instrument or device, and that the person is holding himself or herself out to be a certified public accountant-inactive under this chapter.

(3) In any action under subsection (1) or (2) of this section, evidence of the commission of a single act prohibited by this chapter is sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

[2001 c 294 § 20; 1986 c 295 § 17; 1983 c 234 § 20; 1949 c 226 § 37; Rem. Supp. 1949 § 8269-44.]

#### Notes:

**Effective date -- 2001 c 294:** See note following RCW [18.04.015](#).

False advertising: Chapter 9.04 RCW.

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## Relevant Board Rule

4-30-140

What are the authority, structure, and processes for investigations and sanctions?

Investigations are responsive to formal complaints or indications of a potential violation of chapter [18.04](#) RCW and in all proceedings under RCW [18.04.295](#) or chapter [34.05](#) RCW.

Investigations must be directed and conducted by individuals sufficiently qualified and knowledgeable of the subject matter of an investigation.

The board chair **may delegate** investigative authority and responsibility for initiating and directing investigations to **a designee including the executive director** of the board (RCW [18.04.045\(7\)](#)).

The general responsibilities when directing an investigation are:

- (1) Determine whether the complaint or other source of information is within the authority of the board;
- (2) Determine the most likely sanction the board might impose if the alleged violation is proven;
- (3) Determine the scope and type of evidence needed to reach a conclusion whether a violation occurred;
- (4) Monitor communications to the person(s) affected by the investigative process;
- (5) Monitor the progress of the evidentiary gathering process to ensure that the scope of inquiry and request for records is limited to that necessary to reach a conclusion whether the violation occurred;
- (6) Upon completion of the investigation, evaluate the sufficiency of the evidence to support a conclusion as to whether a violation occurred;
- (7) Develop a recommendation for dismissal or sanction for consideration by a consulting board member based upon the accumulated evidence and the board's "fair and equitable" standard for sanctioning.

The gathering of appropriate evidence should be assigned to staff or contract investigators who have no current or former close relationship to (or with) the complainant or the respondent.

[Statutory Authority: RCW [18.04.045](#) (7) and (8), [18.04.055](#), [18.04.295](#) , [18.04.350](#)(6). 10-24-009, § 4-30-140, filed 11/18/10, effective 12/19/10.]

# Washington State Board of Accountancy

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## Board Policy 2004-1 Sanction and Penalty Guidelines

Policy Number: 2004-1  
Title: Sanction and Penalty Guidelines  
Revised: April 25, 2011  
Effective:  
Approved: Donald F. Aubrey, CPA, Chair

\*This policy rescinds and supersedes any previous Board policy.

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### Background Information:

The Executive Director directs the Board's complaint processes, investigative activities and, case resolution negotiations.

Upon receiving a complaint or otherwise becoming aware of a situation or condition that might constitute a violation of the Public Accountancy Act (Act) or Board rules, the Executive Director or designee will make a preliminary assessment.

If the Executive Director or designee determines:

- The situation or condition is not within the Board's authority, the Executive Director may dismiss the matter, but a record of the event will be documented and maintained in the Board office. A summary of dismissals will be reported regularly to the Board.
- The situation or condition requires further evaluation, the Executive Director or designee may assign the case to an investigator.

Details of the additional evidence gathered and the resulting conclusion by the Executive Director or designee will be documented. If the Executive Director or designee determines that:

- Sufficient evidence does not exist to merit Board action, the Executive Director may dismiss the case after obtaining concurrence from a Consulting Board Member
- Sufficient evidence exists to merit Board action and it is the first time an individual or firm is notified of a violation of the Public Accountancy Act or Board rule, the Executive Director may impose administrative sanctions approved by the Board for a First-Time offense after obtaining concurrence from a Consulting Board Member

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- Sufficient evidence exists to merit Board consideration but the situation or condition, if proven, is not eligible for administrative sanctions, the Executive Director or designee will discuss a resolution strategy and settlement parameters with a Consulting Board Member. Once the Executive Director or designee and Consulting Board Member agree on those matters, the Executive Director or designee will initiate a discussion for resolution with the respondent consistent with that agreed upon strategy and those settlement parameters.

The objective of this process is to administer the enforcement process in a fair and equitable manner and, when appropriate, seek settlement in lieu of a formal Board hearing. The Executive Director or designee may request guidance from a Consulting Board Member and/or the assistance of the prosecuting Assistant Attorney General at any time during the investigative and/or negotiation processes.

If the respondent is amenable to the suggested terms of a settlement proposal, the Executive Director will forward the proposal to the respondent for written acceptance. If accepted by the respondent, the proposal will be forwarded to the Board for approval.

Upon receiving and considering the formal settlement proposal, the respondent may offer a counterproposal. The Executive Director or designee will discuss the counterproposal with a Consulting Board Member. The Executive Director or designee and Consulting Board Member may agree to the counterproposal, offer a counter to the counterproposal, or reject the counterproposal.

If the Executive Director and Consulting Board Member reject the counterproposal or are unable to negotiate what they consider to be an acceptable alternative proposal with the respondent, the Executive Director will execute a Statement of Charges and refer the case to the prosecuting Assistant Attorney General with the request that an administrative hearing be scheduled and the case prosecuted.

At the same time that the prosecuting Assistant Attorney General is preparing the case for prosecution, the prosecuting Assistant Attorney General (working with the Executive Director and Consulting Board Member) will continue to seek to a negotiated settlement proposal in lieu of a Board hearing. If the case goes to hearing before the Board, the prosecuting Assistant Attorney General, with the concurrence of the Executive Director and Consulting Board Member, will present the team's recommended sanction to the Board.

Through this process, the Consulting Board Member, the Executive Director and, when appropriate, the prosecuting Assistant Attorney General must individually and jointly act objectively and cooperatively to:

- Draw conclusions as to the allegations based solely on the evidence,
- Develop and present to the respondent a suggested settlement proposal that they believe the Board will accept because the proposal is fair and equitable and provides public protection, and
- If the case goes to a hearing before the Board, recommend an appropriate sanction or sanctions to the Board

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No settlement proposal is forwarded to the Board unless the respondent, the Executive Director, Consulting Board Member and, when appropriate, the prosecuting Assistant Attorney General concur that the proposal is an acceptable resolution to the matter.

If the negotiation participants concur with the settlement proposal, the proposed settlement is signed by the respondent (and signed by the prosecuting Assistant Attorney General if the settlement was negotiated by the prosecuting Assistant Attorney General) and forwarded to the Board members (along with the Executive Director's, Consulting Board Member's and, when appropriate, prosecuting Assistant Attorney General's recommendation to accept the proposal) for consideration.

### **The Board is not bound by this recommendation.**

All proposed settlements must be approved by a majority vote of the Board. A vote of five "no's" means the proposed settlement has been rejected by the Board. In such circumstances the case will return to the Executive Director, Consulting Board Member and prosecuting Assistant Attorney General who will determine whether the situation merits additional attempts to negotiate a settlement or to immediately schedule the matter for an administrative hearing before the Board.

The Board has found negotiations utilizing this process to be quite successful. The key benefits to this process are:

- The respondent participates in the development of the corrective action plan and sanction which enhances compliance and more timely public protection
- Cases resolved through the negotiated settlement process reduce costs for the benefit of both the general public and the respondent

The Board recognizes that administrative hearings:

- Delay the corrective action and thereby delay public protection
  - Are not the most effective mechanism to generate a positive resolution to Board cases
  - Are costly in terms of staff and other resources
  - Require significant use of the Board's limited attorney general resources
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## **Policy:**

The Board embraces the respondent's involvement in determining the settlement proposal. This provides the respondent the opportunity to participate in development of the corrective action plan and ultimately encourages compliance, public protection, and integrity of financial data.

To support the negotiation and settlement process, the Board provides the following guidance to the Executive Director or designee and Consulting Board Member in crafting a suggested settlement proposal for presentation to the respondent and for negotiating a settlement. This guidance is solely for the use of the Consulting Board Member and the Executive Director or designee. It is not applicable to the prosecuting Assistant Attorney General.

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## **V. Legal and Investigative Costs**

[RCW 18.04](#) authorizes the Board to recover legal and investigative costs. The Board considers the following to be reasonable legal and investigative costs:

- A. Investigative staff salaries and benefits (based on actual salary and benefit rates) for state staff conducting the investigation, including reporting, review, and follow-up costs
- B. Investigator travel expenses and per diem based on the state travel regulations as established by the Office of Financial Management
- C. Contract investigator, specialist, and expert witness expenses including travel expenses and per diem based on the state travel regulations as established by the Office of Financial Management
- D. Salaries and benefits (based on actual salary and benefit rates) for state staff preparing and reviewing the Board's order and associated communications with the respondent
- E. Prosecuting Assistant Attorney General charges associated with the case including travel expenses and per diem based on the state travel regulations as established by the Office of Financial Management
- F. Expenses for an administrative law judge including travel expenses and per diem based on the state travel regulations as established by the Office of Financial Management
- G. Administrative hearing costs including, but not limited to:
  - Attorney General charges (both for the Board's legal counsel and the prosecuting Assistant Attorney General) associated with the case including travel expenses and per diem based on the state travel regulations as established by the Office of Financial Management
  - Salaries and benefits (based on actual salary and benefit rates) for state staff preparing and reviewing the Board's order and associated communications with the respondent
  - Salaries and benefits (based on actual salary and benefit rates) for state staff called as a witness by either party to the administrative hearing
  - Witness expenses including travel and per diem expenses based on the state travel regulations as established by the Office of Financial Management
  - Court reporter charges

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- Administrative hearing room costs and set-up charges
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## II. Publication of Board Orders

1. A general public notice will be posted on the Board's public web site that information on Board orders and other sanctioning agreements is available under the Public Disclosure Act by contacting the Board's office.
  2. The Board will post notice of Board orders for suspension, stayed suspension, revocation, and practice restriction on the Board's web site for approximately three years following the year of the Board order. In addition, for license and certificate suspension (including stayed suspension) and revocation:
    - Notice will be posted in the Daily Journal of Commerce
    - Notice will be provided to the AICPA and WSCPA
    - Notice will be posted to NASBA's Enforcement Information Exchange (EIX)
    - Representative(s)/Senator(s) for the respondent's location(s) will be notified
    - Other jurisdictions that have licensed the individual will be notified
    - The complainant(s) will be notified
    - Notice will be sent to the newspaper(s) in the respondent's location
  3. In cases of non-compliance not resulting in administrative sanction, suspension, stayed suspension, revocation, or a Board ordered practice restriction, the Executive Director, with a majority vote of the Board, may direct that a notation be made referencing each of the Board's sanctioning actions on the Board's web site licensee search database for up to three years following the year the sanction was imposed.
  4. In cases of administrative sanctions, the Board will not publish the individual's or firm's name; however, the Board will:
    - Post statistics related to these sanctions on the Board's web site
    - Comply with the Public Disclosure Act
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**III. The Board provides the following suggested considerations for the Executive Director or designee and Consulting Board Member when developing a suggested settlement; however, the Board does not intend that other factors, as deemed appropriate by the Executive Director or designee and Consulting Board Member, to be excluded:**

- A. What are the enforcement goals of the particular case
- B. What are the permissible sanctions that the Board could impose
- C. What are the aggravating or mitigating factors relevant to the allegations
- D. What is the individual's past disciplinary or criminal history (if any)
- E. Are there identifiable trends, if any, in the individual's behavior
- F. What is the likelihood of the individual repeating the behavior
- G. What is the potential for future public harm
- H. What is the individual's potential for rehabilitation
- I. What is the extent of damages or injury
- J. What is the extent of public harm
- K. What is the extent of harm to the profession and the public's trust in the profession
- L. How can the public best be served and protected while implementing corrective action
- M. What steps are necessary to ensure the integrity of financial information
- N. What were the Board's sanctions with similar misconduct (if any exist) and has there been a trend in the Board's actions and/or changes in state law impacting the history of the Board's sanctions
- O. Has the individual been sanctioned by other enforcement agencies or through civil findings:
  - Fine
  - Cost recovery
  - Disgorgement
  - Practice or license restriction
  - Publication
  - Jail
- P. What was the magnitude of the sanctions by other enforcement agencies/civil findings
- Q. What impact did these other sanctions have on:
  - The individual's behavior
  - The individual's taking responsibility for her/his actions
  - The individual's ability to earn a livelihood
  - The public's awareness of the individual's misconduct
- R. Would a suspended license seriously impact the individual's livelihood and, if so, does the misconduct merit such an impact
- S. Did the individual lose their job/employment/livelihood due to the misconduct
- T. What is the individual's personal financial position
- U. Did the individual recently go through bankruptcy
- V. What is the individual's ability to pay cost recovery
- W. What is the individual's ability to pay a fine
- X. Has the individual already taken self-imposed corrective action (such as CPE, field review)
- Y. What is the length of time that has elapsed since the misconduct, the sanction, or the civil action
- Z. What is the public's exposure to the individual
- AA. Is the misconduct singular or repeated

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- BB. Is the misconduct a clear violation or does it involve a statute, rule or standard which is subject to different interpretations
  - CC. Was the misconduct intentional or unintentional
  - DD. Did the misconduct involve dealing with unsophisticated or vulnerable parties
  - EE. Did the CPA/individual profit or benefit from the misconduct
  - FF. Did the CPA/individual make an effort to limit the harm or solve problems arising out of the misconduct
  - GG. Did the misconduct take place after warnings from the agency
  - HH. What was the Board's sanctioning authority at the time the misconduct occurred
- 

## **IV. The Board suggests the following considerations when considering a counterproposal negotiating a settlement:**

- A. All of the items in Section III above
  - B. What is the value to have the individual participate in the development of the corrective action
  - C. How many outstanding Board cases have been referred to the prosecuting Assistant Attorney General and remain to be resolved
  - D. What is the effect of a delay in resolution of this particular case and/or the effect of a delay in prosecution of other cases
  - E. What is the severity of the particular case under negotiation as compared to the number of, and severity of, the cases with the prosecuting Assistant Attorney General
  - F. What are the key objectives and goals of the enforcement action and what sanctions are absolutely necessary to ensure those goals are achieved
  - G. Is there value to the public, the agency, and Attorney General's Office that can be obtained by having the agreement settled without going to an administrative hearing
  - H. Consider the sanctioning guidelines in Section V
- 

**V. The Board acknowledges the following general sanctioning framework for the Executive Director or designee's and the Consulting Board Member's consideration as part of their process to develop a suggested settlement. The Board does not intend these guidelines to be a prescription or binding; nor does the Board wish to exclude or limit other sanctions or considerations that the Executive Director or designee and Consulting Board Member consider appropriate.**

# Washington State Board of Accountancy

| General Categories of Misconduct                                                                                                                                                                                                                                                     | Examples of Sanctionable Acts:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p data-bbox="87 380 756 420"><b>ADMINISTRATIVE Non-Compliance</b></p> <p data-bbox="87 520 756 598">Use of title or holding out in public practice with a lapsed license/certificate</p> <p data-bbox="87 642 756 720">Use of the CPA title by a CPA-Inactive certificateholder</p> | <ul data-bbox="789 380 1493 1150" style="list-style-type: none"><li data-bbox="789 380 1493 457">• License/certificate lapsed because the individual failed to file a license/certificate renewal</li><li data-bbox="789 457 1493 598">• License/certificate lapsed because the individual failed to notify the Board of a change of address, failed to receive their renewal application, and failed to file a license/certificate renewal</li><li data-bbox="789 598 1493 1150">• The individual disregarded the lapsed license and continued to knowingly hold out with a lapsed license<ul data-bbox="888 716 1493 968" style="list-style-type: none"><li data-bbox="888 716 1493 968">• The individual discovered that their license/certificate lapsed and signed the reinstatement application stating that they did not use the title when the evidence demonstrates that they used the title- CPA-Inactive who is a corporate CFO uses the CPA title in filing corporate documents with the SEC</li></ul></li><li data-bbox="789 968 1493 1045">• CPA-Inactive uses the CPA title to obtain a job in private industry</li><li data-bbox="789 1045 1493 1150">• CPA-Inactive who is also an attorney uses the CPA title when offering legal services to the public</li></ul> |

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## CONSUMER/EMPLOYER HARM

Embezzlement, fraud, dishonesty, or negligence

Fiduciary malfeasance or breach of fiduciary duties

Noncompliance with code of conduct including conflict of interest and confidentiality

Failure to comply with a Board order

Failure to respond to Board inquiry

IRS/SEC sanction/denial of practice privilege

- Theft from employer
- Felony obstruction of justice
- Theft of trust funds where the CPA was the trustee
- Manipulated a client's trust for the benefit of the CPA's child
- Manipulated a mentally impaired client for self enrichment
- Failed to file personal tax returns and pay personal FIT
- Failed to transmit FICA and FIT withheld from employee's salary
- Failed to pay employer's portion of FICA
- Provided services to both the seller and the buyer during a business transaction
- Provided services to both parties during a divorce
- Failure to make restitution to injured parties as required by Board order
- IRS/SEC sanction/denial of practice privilege
- Repeated non compliance with stipulated Board Orders
- Suspended from practice before the IRS due to substandard tax work
- SEC practice restriction and/or sanction due to fraudulent SEC filing
- SEC practice restriction and/or sanction due to substandard accounting practices

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>CONSUMER/EMPLOYER HARM</b></p> <p>Noncompliance with technical standards</p>                                                                                                                                                       | <ul style="list-style-type: none"> <li>• Attest work is graded as Unacceptable by the Board's QAR program</li> <li>• CPA is referred to the Board by the SEC due to an audit failure as a result of the CPA performing substandard audit procedures</li> <li>• CPA is referred to the Board by HUD due to failure to comply with Yellow Book standards</li> <li>• Substandard tax work resulted in penalty to a tax client</li> </ul>                                                                                                               |
| <p><b>CONSUMER/EMPLOYER HARM</b></p> <p>Failure to provide client records upon reasonable notice and request</p>                                                                                                                         | <ul style="list-style-type: none"> <li>• Refused to return client records until the client paid the CPA's fees</li> <li>• Did not return multiple clients' records due to procrastination</li> <li>• Did not return client records because the client terminated the relationship and obtained a new CPA</li> </ul>                                                                                                                                                                                                                                 |
| <p><b>ADMINISTRATIVE Non-Compliance</b></p> <p>Acts and omissions in filing an application for reinstatement or renewal of a license, certificate, or registration</p> <p>Failure to comply with a Board approved CPE waiver request</p> | <ul style="list-style-type: none"> <li>• Represented on the CPE audit form that CPE courses were obtained when evidence discloses that no or only a portion of the required CPE courses were taken</li> <li>• Signed the reinstatement or renewal form believing that the CPE requirements were not met and the individual obtained only a portion of the required hours</li> <li>• Signed the reinstatement or renewal form believing that the CPE ethics requirements were met and the individual did not take the required ethics CPE</li> </ul> |
| <p><b>CONSUMER/EMPLOYER HARM</b></p> <p>Failed good character determination for initial licensure</p>                                                                                                                                    | <ul style="list-style-type: none"> <li>• The good character review was at the request of the applicant who was found guilty of a felony 3 years ago</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                      |

# Washington State Board of Accountancy

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|-------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cheating on CPA Exam                                                                            | <ul style="list-style-type: none"><li>• The good character review as a result of the applicant's disclosure that 7 years prior they failed to file an income tax return and pay their tax obligation</li><li>• The good character review was the result of the prosecutor alerting the Board to the applicant's being charged with a felony</li></ul> <p>Cheating observed by the exam proctor</p> |
| <b>CONSUMER/EMPLOYER HARM</b><br><br>Use of title or holding out in public practice by a nonCPA | <ul style="list-style-type: none"><li>• Used title after passing the exam but without a license, or</li><li>• Used title to intentionally defraud</li></ul>                                                                                                                                                                                                                                        |

Board Delegations for Investigations and Administrative Sanctions

# Washington State Board of Accountancy

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## DELEGATION OF AUTHORITY BY THE WASHINGTON STATE BOARD OF ACCOUNTANCY

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I, DONALD F. AUBREY, Chair of the Washington State Board of Accountancy ("Board"), acting under authorization by a vote of the Board, delegate to Richard C. Sweeney, Executive Director for the Board, the specific authority to:

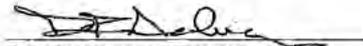
- (a) sign, issue, and withdraw Statements of Charges and/or Statements of Intent to Deny that seek to suspend, revoke, reprimand, refuse to issue, reinstate, or renew a certificate or license, or otherwise discipline or impose a fine upon a certified public accountant, a certificate holder, a licensee, a licensed firm, an applicant, or a nonlicensee holding an ownership interest in a licensed firm; and
- (b) in making investigations concerning alleged violations of RCW 18.04 and in all proceedings under RCW 18.04.295, 18.04.305, or chapter 34.05 RCW, to issue subpoenas to compel the attendance of witnesses and require the production of documents, administer oaths or affirmations to witnesses appearing before the Board, take testimony, and require that documentary evidence be submitted; and
- (c) negotiate settlement proposals during investigations of alleged violations of RCW 18.04 or Board rules Title 4 WAC and in all proceedings under RCW 18.04.295, 18.04.305, or Chapter 34.05 RCW. Such proposals are subject to concurrence by a consulting Board member prior to submission to the Board for consideration.

The Executive Director is authorized to delegate this authority, or any part of this authority, to the Deputy Director if the Executive Director is recused or otherwise unavailable to fulfill this responsibility.

This delegation shall remain in effect for so long as Richard C. Sweeney is the Executive Director for the Washington State Board of Accountancy.

This delegation is made pursuant to the authority of RCW 18.04.045, 18.04.295, and 18.04.305.

DATED this 25<sup>th</sup> day of April 2011.

  
DONALD F. AUBREY, CPA  
Chair, Washington State Board of Accountancy

# Washington State Board of Accountancy

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## DELEGATION OF AUTHORITY BY THE WASHINGTON STATE BOARD OF ACCOUNTANCY

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I, DONALD F. AUBREY, Chair of the State of Washington Board of Accountancy ("Board"), acting under authorization by a vote of the Board, delegate the following specific authority:

1. **Quality Assurance Review (QAR) Program Remedial Actions** - To the Executive Director, with concurrence of the Board member who is co-chair of the Quality Assurance Review Committee, the specific authority to take those actions deemed appropriate pursuant to the applicable section(s) of Title 4 WAC for any CPA firm receiving an "Unacceptable" grade for the first time.

To implement this delegation, the Executive Director may execute Respondent Agreements including one or any combination of the actions deemed appropriate after concurrence of the Board member who is co-chair of the Quality Assurance Review Committee. These actions include:

- A field review to provide a more in-depth review of the practitioner's work, previously taken continuing professional education, library and other practice support tools, knowledge, abilities, and system of quality control
- An independent practitioner review of the firm's reports and accompanying financial statements prior to issuance
- The firm/practitioner obtain continuing education courses in specific areas
- The firm participate in the annual QAR report review in the upcoming year
- The firm submit a specific report in the subsequent period for review

CPA firms receiving a second "unacceptable" grade will be subject to investigation and appropriate Board action.

*This delegation does not include matters that require Board action such as failure to respond to QAR participation or acceptance of voluntary practice restriction.*

2. **Review of Publicly Available Professional Work** - To the Executive Director the specific authority to review publicly available professional work of licensees pursuant to RCW 18.04.045(8) and the applicable section of Title 4 WAC.

# Washington State Board of Accountancy

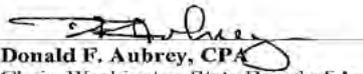
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This delegation shall remain in effect until rescinded or modified by a majority vote of the Washington State Board of Accountancy.

*The Executive Director will report all actions taken pursuant to this delegation of authority at each regular quarterly Board meeting to assist the Board in evaluating whether this delegation should be rescinded or modified.*

This delegation is made pursuant to the authority of RCW 18.04.045.

DATED this 25<sup>th</sup> day of December 2011.

  
Donald F. Aubrey, CPA  
Chair, Washington State Board of Accountancy

# Washington State Board of Accountancy

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## DELEGATION OF AUTHORITY BY THE WASHINGTON STATE BOARD OF ACCOUNTANCY

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I, DONALD F. AUBREY, Chair of the Washington State Board of Accountancy ("Board"), acting under authorization of a vote of the Board, delegate to the Deputy Director, the specific authority to:

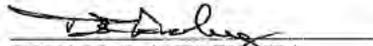
Conduct investigations and negotiate settlement proposals concerning alleged violations of the provisions of Chapter 18.04 RCW as directed by the Executive Director of the Washington State Board of Accountancy. This includes the specific authority to negotiate settlement proposals. Settlement proposals are subject to concurrence by a consulting Board member prior to submission to the Board for consideration. This also includes specific authority to administer oaths or affirmations to witnesses, subpoena witnesses and compel their attendance, take testimony, and to require that documentary evidence be submitted in the course of the investigation of alleged violations of chapter 18.04 RCW.

This delegation does not include the authority to extend confidentiality to any testimony or evidence. Settlement proposals negotiated under this authority are not binding on the Board or respondent until the settlement is accepted by a quorum vote of the Board.

This delegation shall remain in effect for so long as the Executive Director has designated a Deputy Director for the Washington State Board of Accountancy to exercise this authority, and through any necessary testimony at administrative hearings, should same be held.

This delegation is made pursuant to the authority of RCW 18.04.045, 18.04.295 and 18.04.305.

DATED this 25<sup>th</sup> day of April 2011.



DONALD F. AUBREY, CPA  
Chair, Washington State Board of Accountancy

# Washington State Board of Accountancy

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## DELEGATION OF AUTHORITY BY THE WASHINGTON STATE BOARD OF ACCOUNTANCY

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I, EDWIN G. JOLICOEUR, Chair of the State of Washington Board of Accountancy ("Board"), acting under authorization by a vote of the Board, delegate to the Executive Director, with concurrence of one Board member selected on a per incident rotational basis, the specific authority to:

Issue Administrative Notices of Noncompliance and execute Respondent Contracts consenting to Administrative Sanctions including monetary sanctions in accordance with the guidelines in Appendix A attached hereto.

This delegation is made pursuant to the authority of RCW 18.04.045, RCW 18.04.305, and RCW 18.04.295.

DATED this 17th day of October 2008.



Edwin G. Jolicoeur  
Chair, Washington State Board of Accountancy

# Washington State Board of Accountancy

## WASHINGTON STATE BOARD OF ACCOUNTANCY

### Appendix A

Page 1

|    | <b>Administrative Violations:</b>                                                                                                                                                                                                                                                                                                                                                                        | <b>Administrative Sanctions:</b>                                                                                                                                                                                                                                                             |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>Noncommercial use of the CPA title on <i>Business Cards, Resumes</i> or other <i>Applications for Employment</i> in Washington state after establishing residency in this state but prior to obtaining credentialed status in Washington State.</b></p> <p><i>Provided:</i> the individual did not use the title in conjunction with rendering public accounting services in Washington State.</p> | <p><i>Administrative Notice of Noncompliance</i></p>                                                                                                                                                                                                                                         |
| 2. | <p><b>First time</b> use of CPA or CPA-Inactive title by an unlicensed individual within the 12-month period following successful completion of the CPA exam</p>                                                                                                                                                                                                                                         | <p><b>\$500</b> Fine + Cost recovery + Submission of proof of completion of a Board approved course in ethics and regulation applicable to the practice of public accounting in Washington State within 90 days of <i>signing an agreement consenting to an administrative sanction.</i></p> |
| 3. | <p><b>First time</b> use of CPA or CPA-Inactive title with a lapsed individual license or CPA-Inactive status.</p>                                                                                                                                                                                                                                                                                       | <p><b>\$750</b> Fine+ Late Fee + Cost recovery + Other Applicable fees</p>                                                                                                                                                                                                                   |
| 4. | <p><b>First time</b> representation on a reinstatement application that the CPA title had not been used when in fact the title had been used.</p>                                                                                                                                                                                                                                                        | <p><b>\$750</b> Fine+ Late Fee + Cost recovery + Other Applicable fees</p>                                                                                                                                                                                                                   |
| 5. | <p><b>First time</b> failure to <i>renew a firm license</i> by a <i>Washington-Resident CPA firm.</i></p> <p><i>Provided:</i> The firm that failed to <i>renew</i> did not issue attest or compilation reports subsequent to the lapse of the firm license.</p>                                                                                                                                          | <p><b>\$750</b> Fine+ Late Fee + Cost recovery + Other Applicable fees</p>                                                                                                                                                                                                                   |
| 6. | <p><b>First time</b> failure to obtain a firm license by a Washington resident firm.</p> <p><i>Provided:</i> The firm did not issue attest or compilation reports without a firm license.</p>                                                                                                                                                                                                            | <p><b>\$750</b> Fine + Cost recovery + Submission of proof of completion of Board approved course in ethics and regulation applicable to the practice of public accounting in Washington State within 90 days of <i>signing an agreement consenting to an administrative sanction.</i></p>   |

# Washington State Board of Accountancy

## WASHINGTON STATE BOARD OF ACCOUNTANCY

### Appendix A

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|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7.  | <b>First time</b> failure to timely change either or both individual and/or firm addresses.<br>WAC 4-30-032                                                                                                                                                                                                                                                                                                                                                                                                                 | \$0-\$200 Fine + Cost recovery (unless <i>the failure to timely change the address results in a more severe first time administrative violation and sanction</i> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 8.  | <b>First time</b> failure by a firm to timely notify the Board of changes in the firm name, ownership, or managing licensee of the firm's main office or branch office(s). WAC 4-30-114                                                                                                                                                                                                                                                                                                                                     | \$500 Fine + Cost recovery                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 9.  | <b>First time</b> CPE deficiency <i>not exceeding 16 hours</i> . (Separate \$500 fine for failure to have timely taken Board approved course in <b>Ethics and Regulation in Washington State</b> ), unless: <ul style="list-style-type: none"> <li>a) The applicant applies for and receives an approved extension request on or before the end of the CPE reporting period preceding renewal;</li> <li>b) The applicant self reports and completes the CPE deficiency on or before June 30 of the renewal year.</li> </ul> | <ol style="list-style-type: none"> <li>1. <b>First time</b> CPE deficiency by a licensee <i>excluding Washington Ethics and Regulation</i><br/><br/><b>Sliding Scale: \$250 Fine</b> for deficiency up to and including 8 hours; <b>\$500 Fine</b> for deficiency over 8 hours up to and including 16 hours + Cost recovery;</li> <li>2. <b>First time</b> failure by licensees and CPA-Inactive certificate holders to take required CPE in <i>Ethics and Regulation in the state of Washington either as part of the CPE deficiency or an omitted component of the 120 hour CPE requirement</i>.</li> <li>3. Separate \$250 fine and carry back of deficient CPE completed on or before June 30 of the renewal year for those individuals meeting the requirement of # 9(b).<br/><br/><b>Separate \$500 Fine + Late Fee + cost recovery + Submission of proof of completion of Board approved course in Ethics and Regulation in the state of Washington within 90 days of signing an agreement consenting to an administrative sanction.</b></li> </ol> |
| 10. | <b>First time</b> misunderstanding of courses qualifying for the CPE in ethics requirement.                                                                                                                                                                                                                                                                                                                                                                                                                                 | \$100 Fine + Cost recovery + Submission of proof of completion of Board approved course in ethics and regulation in the state of Washington within 90 days of <i>signing an agreement consenting to an administrative sanction</i> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

# Washington State Board of Accountancy

## WASHINGTON STATE BOARD OF ACCOUNTANCY

### Appendix A

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|     |                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                              |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11. | <b>First time</b> failure to meet CPE documentation requirements determined by CPE audit. WAC 4-30-138.                                                                                     | \$250 Fine + Cost recovery + Submission of proof of completion of Board approved course in ethics and regulation in the state of Washington within 90 days of certified mailing of <i>signing an agreement consenting to an administrative sanction.</i>                                                                     |
| 12. | <b>First time</b> use of titles by non-CPAs likely to be confused with CPA or Certified Public Accountant. RCW 18.04.345                                                                    | \$1,000 Fine + Cost recovery + Submission of proof of completion of Board approved course in ethics and regulation in the state of Washington within 90 days of <i>signing an agreement consenting to an administrative sanction.</i>                                                                                        |
| 13. | <b>First time</b> failure to timely deliver original client records and other records necessary to constitute a complete set of books in accordance with Board rule WAC 4-30-051.           | <b>\$1,500</b> Fine + Cost recovery + Restitution for proven client costs incurred to reconstruct essential records + Submission of proof of completion of Board approved course in ethics and regulation in the state of Washington within 90 days of <i>signing an agreement consenting to an administrative sanction.</i> |
| 14. | <b>First time</b> failure to timely respond to a final notice requesting administrative information or documents directly related to efficient and effective administration of Board rules. | <b>\$1,500</b> Fine + Cost recovery + Submission of proof of completion of Board approved course in Ethics and Regulation in the state of Washington within 90 days of <i>signing an agreement consenting to an administrative sanction.</i>                                                                                 |

If an individual or firm's conduct includes multiple **first time** administration violations, the Executive Director may impose the more severe first time administrative sanction.

In cases of Administrative Sanction, the Board will not publish the individual's or firm's name; however, the Board will:

- Post statistics related to these sanctions on the Board's web site
- Comply with the Public Records Act

Appendix A Revised: July 14, 2011, by Board vote

# Draft State Ethics Compliance Checklist

## November 29, 2011

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Agency Policy provides that the Executive Director and Agency Employees shall not:

1. Have a financial or other interest or engage in any business, including personal business, or professional activity that conflicts with their official duties.
2. Use their position to secure a special privilege for themselves, their family, friends or any other person. A "person" is also considered to be an outside business or organization.
3. Receive any compensation (including gift cards) from any source, except the state, for performing or not performing their official duties.
4. Accept any gifts, except as allowed under RCW 42.52.140 and 150. Gifts include food and beverages in most situations.
5. Disclose confidential information to an unauthorized person, use confidential information for personal benefit or to benefit another, or withhold disclosure of information that can be disclosed.
6. Use state resources for personal benefit or to benefit another except as allowed under agency policies and WAC 292-110-010.
7. Use state resources to campaign for the election of a person or a ballot initiative or to lobby an elected representative.
8. Assist another person in a transaction involving the state if they have participated in the transaction or the transaction was part of their job responsibilities.

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Agency policy further provides that any staff shall obtain advance written approval prior to outside business activities, de-minimus personal use of state property, and use of state property by non-agency personnel.

Draft State Ethics Compliance Checklist  
November 29, 2011

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| <u>Staff Member</u> | <u>Question</u>                                                                                                                                                                                                                                                                                     | <u>Ye</u><br><u>s</u> | <u>No</u> | <u>Explanation/Discussion</u> |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------|-------------------------------|
|                     | <i>Are you familiar with the State's conflicts of interest statutes and Ethics Board rules particularly (a) outside commercial or professional activities for profit and (b) gifts received, or (c) personal use of state resources, and/or gifts to or allowing others to use state resources?</i> |                       |           |                               |
|                     | <i>Do you engage in outside activities for compensation?</i>                                                                                                                                                                                                                                        |                       |           |                               |
|                     | <i>Do you provide voluntary services to any commercial or non-profit enterprises?</i>                                                                                                                                                                                                               |                       |           |                               |
|                     | <i>During the most recent months in this calendar year have you received any gifts or bargains for personal use from any (a) vendor, (b) respondent to an alleged violation, (c) applicant for credentialing, (d) state agency providing services to WBOA, and/or (e) credentialed person?</i>      |                       |           |                               |
|                     | <i>Have you received or given any gifts or employee services to any agency providing services to WBOA except those allowed by RCW 42.52.150?</i>                                                                                                                                                    |                       |           |                               |
|                     | <i>If you answered yes to any of the above questions, did you discuss the issue with the Executive Director or Chair of the Board's State Ethics Compliance Subcommittee before taking action or receiving any benefit?</i>                                                                         |                       |           |                               |
|                     | <i>Did the agency's Executive Director give <b>advance written approval</b> for any of such enumerated activities or items in RCW 42.52 and agency policy?</i>                                                                                                                                      |                       |           |                               |

# Draft State Ethics Compliance Checklist

## November 29, 2011

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### **RCW 42.52.010 Definitions. (Effective January 1, 2012.)**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch of state government. "Agency" includes all elective offices, the state legislature, those institutions of higher education created and supported by the state government, and those courts that are parts of state government.

(2) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

(3) "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

(4) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person.

(5) "Confidential information" means (a) specific information, rather than generalized knowledge, that is not available to the general public on request or (b) information made confidential by law.

(6) "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement.

(7) "Ethics boards" means the commission on judicial conduct, the legislative ethics board, and the executive ethics board.

(8) "Family" has the same meaning as "immediate family" in RCW 42.17A.005.

RCW 42.17A.005(24): "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of the definition of "intermediary" in this section, "immediate family" means an individual's spouse or domestic partner, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse or the domestic partner of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse or domestic partner and the spouse or the domestic partner of any such person.

(9) "Gift" means anything of economic value for which no consideration is given. "Gift" does not include:

(a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;

(b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;

(d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

# Draft State Ethics Compliance Checklist

## November 29, 2011

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### **RCW 42.52.010 Definitions. (Effective January 1, 2012.)**

- (e) Items a state officer or state employee is authorized by law to accept;
- (f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
- (g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;
- (h) Campaign contributions reported under chapter 42.17A RCW;
- (i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and
- (j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.
- (10) "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee, or other body consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.
- (11) "Honorarium" means money or thing of value offered to a state officer or state employee for a speech, appearance, article, or similar item or activity in connection with the state officer's or state employee's official role.
- (12) "Official duty" means those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.
- (13) "Participate" means to participate in state action or a proceeding personally and substantially as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or enactment of legislation or the performance of legislative duties.
- (14) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.
- (15) "Regulatory agency" means any state board, commission, department, or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative proceedings, issue permits or licenses, or to control or affect interests of identified persons.
- (16) "Responsibility" in connection with a transaction involving the state, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove, or otherwise direct state action in respect of such transaction.
- (17) "State action" means any action on the part of an agency, including, but not limited to:
- (a) A decision, determination, finding, ruling, or order; and
- (b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.
- (18) "State employee" means an individual who is employed by an agency in any branch of state government. For purposes of this chapter, employees of the superior courts are not state officers or state employees.

# Draft State Ethics Compliance Checklist

## November 29, 2011

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### **RCW 42.52.010 Definitions. (Effective January 1, 2012.)**

(19) "State officer" means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state. "State officer" includes judges of the superior court, judges of the court of appeals, justices of the supreme court, members of the legislature together with the secretary of the senate and the chief clerk of the house of representatives, holders of elective offices in the executive branch of state government, chief executive officers of state agencies, members of boards, commissions, or committees with authority over one or more state agencies or institutions, and employees of the state who are engaged in supervisory, policy-making, or policy-enforcing work. For the purposes of this chapter, "state officer" also includes any person exercising or undertaking to exercise the powers or functions of a state officer.

(20) "Thing of economic value," in addition to its ordinary meaning, includes:

(a) A loan, property interest, interest in a contract or other chose in action, and employment or another arrangement involving a right to compensation;

(b) An option, irrespective of the conditions to the exercise of the option; and

(c) A promise or undertaking for the present or future delivery or procurement.

(21)(a) "Transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the claim, case, or lawsuit.

(22) "University" includes "state universities" and "regional universities" as defined in RCW 28B.10.016 and also includes any research or technology institute affiliated with a university, including without limitation, the Spokane Intercollegiate Research and Technology Institute and the Washington Technology Center.

(23) "University research employee" means a state officer or state employee employed by a university, but only to the extent the state officer or state employee is engaged in research, technology transfer, approved consulting activities related to research and technology transfer, or other incidental activities.

[2011 c 60 § 28; 2005 c 106 § 1; 1998 c 7 § 1; 1996 c 213 § 1; 1994 c 154 § 101.]

### **Notes:**

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Effective date -- 2011 c 60:** See RCW 42.17A.919.

# Staff Directive

## November 29, 2011

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From: Rick Sweeney, Executive Director  
To: All Staff

**It's approaching that time of year when folks may become more gratuitous.**

I set forth below guidelines for receipt of gifts or other tokens of appreciation from vendors or regulated persons:

- No employee may receive or accept any gift if it could be reasonably expected or perceived that the gift could impair the employee's judgment or result in favoritism;
- However, gifts of items such as candy, pastries, plants, flowers, pens, notepads, desk items or similar items from a single source in any calendar year are generally permitted to be accepted with no limit to the value of the item except:
  1. The value of food and beverage in excess of fifty dollars on a single occasion served infrequently in the form of meals when the employee is performing her/his official duties must be reported under chapter 42.17A RCW; and
  2. **Payments** for speeches, appearances, and/or seminars or **gifts** of flowers or plants by any governmental or nongovernmental entity regulated by this agency to or for the benefit of a state employee of this agency are prohibited.
- I remind all staff that **gifts (including personal use) of state resources** are subject to strict limitations. Furthermore:
  1. Any private use of state property removed from a duty station is prohibited even if there is no cost to the state; and
  2. Reimbursement for private or personal use of state resources will not avoid disciplinary consequences for misuse of state resources. See WAC 292-110-010.

# State Ethics Prohibitions for State Officials and Employees

## Per Agency Ethics Policy dated November 7, 2011

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A Board member is appointed by the Board Chair to serve as Chair of the Agency's State Ethics Compliance Committee. The Executive Director is the agency liaison to that committee.

The **Executive Director is responsible for managing the agency's ethics program**. The Agency's State Ethics Compliance Committee is to monitor compliance of the agency's ethics program with state law, state rules, rulings and opinions of the state's Executive Ethics Board and Attorney General Opinions related thereto.

Agency Policy provides that the Executive Director and Agency Employees shall not:

1. Have a financial or other interest or engage in any business, including personal business, or professional activity that conflicts with their official duties.
2. Use their position to secure a special privilege for themselves, their family, friends or any other person. A "person" is also considered to be an outside business or organization.
3. Receive any compensation (including gift cards) from any source, except the state, for performing or not performing their official duties.
4. Accept any gifts, except as allowed under RCW 42.52.140 and 150. Gifts include food and beverages in most situations.
5. Disclose confidential information to an unauthorized person, use confidential information for personal benefit or to benefit another, or withhold disclosure of information that can be disclosed.
6. Use state resources for personal benefit or to benefit another except as allowed under agency policies and WAC 292-110-010.
7. Use state resources to campaign for the election of a person or a ballot initiative or to lobby an elected representative.
8. Assist another person in a transaction involving the state if they have participated in the transaction or the transaction was part of their job responsibilities.

# State Ethics Prohibitions for State Officials and Employees Per Agency Ethics Policy dated November 7, 2011

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## The Agency's Ethics Program

- The Executive Director and all employees will annually confirm in writing that each individual, directly or indirectly, understands and has complied with the state ethics laws, rules, and applicable opinions of the Executive Ethics Board.
- Given the culture and responsibilities of the Board of Accountancy and its implementing agency, emphasis should be placed on understanding the effect of, and possible ethics violation:
  - Incompatible occupations or the rendering of professional services or professional advice to third parties that might create or appear to create a conflict of interest with the official duties of the engaged agency person or the official duties of that person;
  - Providing favorable treatment to any single person in conflict with state prohibitions;
  - Acceptance of gifts or compensation as tokens of appreciation unless permitted by RCW 42.52.140 and 150 (attached);
  - Disclosing confidential information to an unauthorized person and/or using confidential information for personal benefit or to benefit a friend or related party;
  - Withholding from disclosure information that can be disclosed; and
  - Using state resources for personal benefit or to benefit another except as allowed under agency policies and WAC 292-110-010 (attached).
- Ethical dilemmas may occur daily and may not seem significant at the time to each individual. However, all agency personnel must be sensitive to the fact that the public's perception of each individual's actions is more important to the image of the Board as an institution, the Board members, the agency, and its personnel than strict legal or regulatory compliance.
- An employee's employment or involvement in any commercial or not-for profit enterprise and/or any out-side activity that involves the offering or rendering of professional services subject to the authority of any state or federal regulatory agency must be approved in writing by the agency's Executive Director prior to such employment or engagement. The agency's Executive Director will consult with the Executive Director of the state's Executive Ethics Board and document that discussion prior to granting approvals.
- Agency personnel will discuss any potential perceived or actual conflicting situation with their supervisor. Supervisors will bring the matter to the attention of the Executive Director for resolution. If the Executive Director is seemingly, or alleged to be, in a non-compliant situation, the immediate supervisor or another member of the management team must refer the matter to the Chair of the Agency's State Ethics Compliance Committee for discussion with the Executive Ethics Board for resolution or further action.

## State Ethics Prohibitions for State Officials and Employees Per Agency Ethics Policy dated November 7, 2011

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- An employee's failure to adhere to the forgoing guidelines and/or report a perceived instance of non-compliance to their supervisor will have disciplinary consequences

The Board member Chair of the Agency's State Ethics Compliance Committee will regularly assess the compliance of agency personnel with the state's ethics requirements and the Executive Director's administration of the agency's ethics program. The Board member Chair of the Agency's State Ethics Compliance Committee will report any instances of non-compliance to the Board's Executive Committee.

State Ethics Prohibitions for State Officials and Employees  
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Statutory and Regulatory References

# State Ethics Prohibitions for State Officials and Employees Per Agency Ethics Policy dated November 7, 2011

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## **RCW 42.52.010**

### **Definitions. (Effective January 1, 2012.)**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch of state government. "Agency" includes all elective offices, the state legislature, those institutions of higher education created and supported by the state government, and those courts that are parts of state government.

(2) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

(3) "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

(4) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person.

(5) "Confidential information" means (a) specific information, rather than generalized knowledge, that is not available to the general public on request or (b) information made confidential by law.

(6) "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement.

(7) "Ethics boards" means the commission on judicial conduct, the legislative ethics board, and the executive ethics board.

(8) "Family" has the same meaning as "immediate family" in RCW 42.17A.005.

(9) "Gift" means anything of economic value for which no consideration is given. "Gift" does not include:

(a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;

(b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;

(d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(e) Items a state officer or state employee is authorized by law to accept;

(f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day

# State Ethics Prohibitions for State Officials and Employees

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after the event;

(g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under chapter 42.17A RCW;

(i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and

(j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

(10) "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee, or other body consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.

(11) "Honorarium" means money or thing of value offered to a state officer or state employee for a speech, appearance, article, or similar item or activity in connection with the state officer's or state employee's official role.

(12) "Official duty" means those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.

(13) "Participate" means to participate in state action or a proceeding personally and substantially as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or enactment of legislation or the performance of legislative duties.

(14) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

(15) "Regulatory agency" means any state board, commission, department, or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative proceedings, issue permits or licenses, or to control or affect interests of identified persons.

(16) "Responsibility" in connection with a transaction involving the state, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove, or otherwise direct state action in respect of such transaction.

(17) "State action" means any action on the part of an agency, including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

(18) "State employee" means an individual who is employed by an agency in any branch of state government. For purposes of this chapter, employees of the superior courts are not state officers or state employees.

(19) "State officer" means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state. "State officer" includes judges of the superior court, judges of the court of appeals, justices of the supreme court, members of the legislature together with the secretary of the senate and the chief clerk of the house of representatives, holders of elective offices in the executive branch of state government, chief executive officers of state agencies, members of boards, commissions, or committees with authority over one or more state agencies or institutions, and employees of the state who are engaged in supervisory, policy-making, or policy-enforcing work. For the purposes of this chapter, "state officer" also includes any person exercising or undertaking to exercise the powers or functions of a state officer.

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(20) "Thing of economic value," in addition to its ordinary meaning, includes:

(a) A loan, property interest, interest in a contract or other chose in action, and employment or another arrangement involving a right to compensation;

(b) An option, irrespective of the conditions to the exercise of the option; and

(c) A promise or undertaking for the present or future delivery or procurement.

(21)(a) "Transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the claim, case, or lawsuit.

(22) "University" includes "state universities" and "regional universities" as defined in RCW 28B.10.016 and also includes any research or technology institute affiliated with a university, including without limitation, the Spokane Intercollegiate Research and Technology Institute and the Washington Technology Center.

(23) "University research employee" means a state officer or state employee employed by a university, but only to the extent the state officer or state employee is engaged in research, technology transfer, approved consulting activities related to research and technology transfer, or other incidental activities.

[2011 c 60 § 28; 2005 c 106 § 1; 1998 c 7 § 1; 1996 c 213 § 1; 1994 c 154 § 101.]

## **Notes:**

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Effective date -- 2011 c 60:** See RCW 42.17A.919.

State Ethics Prohibitions for State Officials and Employees  
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**RCW 42.52.150**

**Limitations on gifts. (Effective January 1, 2012.)**

(1) **No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars.** For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. **The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.**

(2) Except as provided in subsection (4) of this section, **the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:**

(a) **Unsolicited flowers, plants, and floral arrangements;**

(b) **Unsolicited advertising or promotional items of nominal value, such as pens and note pads;**

(c) **Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;**

(d) **Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;**

(e) **Informational material, publications, or subscriptions related to the recipient's performance of official duties;**

(f) **Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;**

(g) **Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for deposit in the legislative international trade account created in RCW 43.15.050;**

(h) **Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for the purpose of promoting the expansion of tourism as provided for in "RCW 43.330.090;**

(i) **Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, solicited on behalf of a national legislative association, 2006 official conference of the national lieutenant governors' association, or host committee for the purpose of hosting an official conference under the circumstances specified in RCW 42.52.820 and section 2, chapter 5, Laws of 2006. Anything solicited or accepted may only be received by the national association or host committee and may not be commingled with any funds or accounts that are the property of any person;**

(j) **Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and**

(k) **Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature.**

# State Ethics Prohibitions for State Officials and Employees

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(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

**(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters *may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:***

(a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has **no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;**

(d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(g) Those items excluded from the definition of gift in RCW 42.52.010 except:

(i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

**(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17A RCW.**

[2011 c 60 § 29; 2006 c 5 § 3; 2003 1st sp.s. c 23 § 2. Prior: 2003 c 265 § 3; 2003 c 153 § 6; 1998 c 7 § 2; 1994 c 154 § 115.]

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**Notes:**

**\*Reviser's note:** RCW 43.330.090 was amended by 2007 c 228 § 201, deleting subsection (2) which directly related to "expansion of tourism."

**Effective date -- 2011 c 60:** See RCW 42.17A.919.

**Findings -- 2006 c 5:** "The legislature finds that due to the massive devastation inflicted on the city of New Orleans by hurricane Katrina on August 29, 2005, the city of New Orleans will not be able to meet its obligation to host the national lieutenant governors' association's annual conference scheduled for July 17 through July 19, 2006. As a result of this unfortunate situation, the members of the national lieutenant governors' association officially pressed to have Washington state host the next annual conference in Seattle, Washington, and lieutenant governor Brad Owen has agreed to do so. The legislature further finds, in recognition of the unprecedented situation created by this natural disaster, the high national visibility of this important event, and due to the limited amount of time remaining for planning and fund-raising, it is necessary to initiate fund-raising activities for this national conference as soon as possible." [2006 c 5 § 1.]

**Effective date -- 2006 c 5:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 7, 2006]." [2006 c 5 § 4.]

**Findings -- 2003 c 153:** See note following RCW 43.330.090.

# State Ethics Prohibitions for State Officials and Employees Per Agency Ethics Policy dated November 7, 2011

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## **WAC 292-110-010**

### **Use of state resources.**

(1) **Statement of principles - stewardship.** The proper stewardship of state resources, including funds, facilities, tools, property, and employees and their time, is a responsibility that all state officers and employees share. Accordingly, state employees may not use state resources for personal benefit or gain or for the benefit or gain of other individuals or outside organizations. Responsibility and accountability for the appropriate use of state resources ultimately rests with the individual state officer or state employee, or with the state officer or state employee who authorizes such use. State officers and employees should ensure that any personal use of state resources permitted by this section is the most efficient in terms of overall time and resources.

(2) **The following are permitted uses:**

(a) Use of state resources that is reasonably related to the conduct of official state duties, or which is otherwise allowed by statute.

(b) An agency head or designee may authorize a use of state resources that is related to an official state purpose, but not directly related to an individual employee's official duty.

(c) An agency may authorize a specific use that promotes organizational effectiveness or enhances the job-related skills of a state officer or state employee.

(d) A state officer or employee may make an occasional but limited personal use of state resources only if each of the following conditions are met:

(i) There is little or no cost to the state;

(ii) Any use is brief;

(iii) Any use occurs infrequently;

(iv) The use does not interfere with the performance of any officer's or employee's official duties; and

(v) The use does not compromise the security or integrity of state property, information, or software.

(3) **Permitted use of computers, electronic mail, the internet, and other technologies.** A state officer or employee may use equipment such as the telephone, the internet, and electronic mail provided such use conforms to ethical standards under subsection (2) of this section, and the use is not otherwise prohibited under subsection (5) of this section.

(4) **No expectation of privacy.** Technologies such as electronic mail, facsimile transmissions, the internet, and voice mail may create an electronic record. This is what separates these from other forms of communication such as a telephone conversation. The ethics rules do not distinguish between the various forms of communication. Electronic records are reproducible and therefore cannot be considered private. Such records may be subject to disclosure under the Public Records Act, or may be disclosed for audit or legitimate state operational or management purposes.

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# State Ethics Prohibitions for State Officials and Employees

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### (5) Prohibited uses.

(a) Any use for the purpose of conducting an outside business, private employment, or other activities conducted for private financial gain;

(b) Any use for the purpose of supporting, promoting the interests of, or soliciting for an outside organization or group, including, but not limited to, a private business, or a political party, or supporting, promoting the interests of, or soliciting for a nonprofit organization unless provided for by law or authorized by an agency head or designee;

(c) Any use for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Such a use of state resources is specifically prohibited by RCW 42.52.180, subject to the exceptions in RCW 42.52.180(2);

(d) Any use for the purpose of participating in or assisting in an effort to lobby the state legislature, or a state agency head. Such a use of state resources is specifically prohibited by RCW 42.17.190, subject to the exceptions in RCW 42.17.190(3);

(e) Any use related to conduct that is prohibited by a federal or state law or rule, or a state agency policy; and

(f) Any private use of any state property that has been removed from state facilities or other official duty stations, even if there is no cost to the state.

(6) **Reimbursement for personal use.** Establishing a system for reimbursement for private or personal use of state resources undermines the purpose of the Ethics in Public Service Act and imposes significant administrative burdens on state agencies. However, the board recognizes that in some limited situations, such as officers or employees working at remote locations, a system of reimbursement may be appropriate. Any system of reimbursement must be established by the agency in advance, and must result in little or no cost to the state, including administrative costs. To be permitted under this section, the board must approve any reimbursement system implemented by an agency.

(7) **Agency policies encouraged.** State agencies are encouraged to adopt policies applying these principles to their unique circumstances. Agency policies that are approved by the board qualify for "safe harbor" under WAC 292-120-035. Nothing in this section is intended to limit the ability of an agency to adopt policies that are more restrictive. However, violation of a more restrictive agency policy by itself will not constitute a violation of RCW 42.52.160, even if it would constitute a violation of agency policy.

(8) **Frequently asked questions and examples.** The board maintains a list of frequently asked questions and examples that provide additional guidance regarding this section. State officers and employees are encouraged to review this document at the board's web site [www.ethics.wa.gov](http://www.ethics.wa.gov) or to request a copy of the document through the board's office.

Washington State Executive Ethics Board  
P.O. Box 40149  
Olympia, WA 98504-0149  
Or by electronic mail at: [ethics@atg.wa.gov](mailto:ethics@atg.wa.gov)

[Statutory Authority: RCW 42.52.360 (2)(b). 09-16-046, § 292-110-010, filed 7/28/09, effective 8/28/09. Statutory Authority: RCW 42.52.360 (2)(b), 42.52.160(3). 02-07-074, § 292-110-010, filed 3/18/02, effective 4/18/02; 98-08-054, § 292-110-010, filed 3/27/98, effective 4/27/98. Statutory Authority: RCW 42.52.160(3). 96-01-036, § 292-110-010, filed 12/13/95, effective 1/13/96.]

## **Does the board authorize the use of any other titles or designations?**

Yes. RCW 18.04.350(13), Practices not prohibited, authorizes the Board to allow the use of other titles (designations) if the individual using the title or designation is authorized at the time of use by a nationally recognized entity sanctioning the use of Board authorized titles or designations. Accordingly, the board authorizes the use of the following titles and designations:

1. Designations or titles authorized by the American Institute of Certified Public Accountants;
2. Designations or titles authorized by the Accreditation Council for Accountancy and Taxation located in Alexandria, Virginia, or its successor:
  - "Accredited Business Accountant" or "ABA";
  - "Accredited Tax Preparer" or "ATP"; and
  - "Accredited Tax Advisor" or "ATA."
3. Designations or titles authorized by the Certified Financial Planner Board of Standards in Denver, Colorado, or its successor:
  - "Certified Financial Planner" or "CFP"

These authorized designations relate to title use only, are not limited to individuals who have held or are holding a license or certificate under the act, and do not authorize these other designated individuals to use the title "certified public accountant", "CPA", or "CPA-Inactive".

The Board further authorizes the use of the designation "CPA Retired" in this state by those individuals who, upon notice to the Board to retire a license, meet the following criteria:

- Has reached 60 years of age and holds an active license in good standing; or
- At any age, has held an active license in good standing, not suspended or revoked, to practice public accountancy in any state for a combined period of not less than 20 years.

## **If I retire my license or CPA-Inactive certificate, how do I apply to renew my license or a CPA-Inactive certificate out of retirement?**

If you notify the board that you wish to retire your license or CPA-Inactive certificate prior to the end of your renewal cycle, pursuant to RCW [18.04.215](#), you may renew your license or CPA-Inactive certificate out of retirement at a later date and are not subject to the requirements of reinstatement; however, you may not use the title CPA or CPA-Inactive or exercise the privileges related to those titles until you renew out of retirement.

If you previously held a license and requested that the license be retired, you are not eligible to apply for CPA-Inactive certificate holder status.

To apply to renew a license or a CPA-Inactive certificate out of retirement, you must provide certain information to the board either by making application through the board's on-line application system or on a form provided by the board upon request. An application is not complete and cannot be processed until all required information, documents, and fees are submitted to the board.

To apply to renew out of retirement, you must submit to the board:

(1) Complete application information including your certification that you have:

(a) Not used the title CPA or CPA-Inactive during the time in which your license or CPA-Inactive certificate was retired; and

(b) Met the CPE requirements to renew out of retirement in WAC [4-30-134\(4\)](#); and

(2) All applicable fees.

Upon assessment of your continued qualifications and approval of your application, your status will be posted in the board's licensee data base and, therefore, made publicly available for confirmation. A hard copy of your credential can be provided upon request.

Your license or CPA-Inactive certificate will expire on June 30th of the third calendar year following the calendar year of the renewal out of retirement. The CPE reporting period for your next renewal begins on January 1 of the calendar year in which the renewal of your retired license or CPA-Inactive certificate was approved by the board and ends on December 31 of the second calendar year following approval of the renewal out of retirement. CPE credit hours utilized to qualify for renewal of a retired license or CPA-Inactive certificate cannot be utilized for subsequent renewal of your credential renewed out of retirement.

You may not use the title CPA or CPA-Inactive until your renewal out of retirement application has been approved.

**RCW 18.04.350, Practices not prohibited, subsections (9) and (13):**

9) Nothing in this chapter prohibits any officer, employee, partner, or principal of any organization:

(a) From affixing his or her signature to any statement or report in reference to the affairs of the organization with any wording designating the position, title, or office which he or she holds in the organization; or

(b) From describing himself or herself by the position, title, or office he or she holds in such organization.

(13) Nothing in this chapter prohibits the use of the title "accountant" by any person regardless of whether the person has been granted a certificate or holds a license under this chapter. Nothing in this chapter prohibits the use of the title "enrolled agent" or the designation "EA" by any person regardless of whether the person has been granted a certificate or holds a license under this chapter if the person is properly authorized at the time of use to use the title or designation by the United States department of the treasury. **The board shall by rule allow the use of other titles** by any person regardless of whether the person has been granted a certificate or holds a license under this chapter if **the person using the titles or designations is authorized at the time of use by a nationally recognized entity sanctioning the use of board authorized titles.**

DRAFT

**WSCPA Task Force Recommended Definition:**

**Retired** means a license status conferred by the Board upon a licensee who:

(a) At any age, has held an active license in good standing, not suspended or revoked, to practice public accountancy in any state for a combined period of not less than 20 years, or

(b) Has reached 60 years of age,

(c) A licensee in retired status may not be engaged in the practice of public accountancy

(d) The status of retired does not preclude a person from performing public accounting services for which the retired licensee receives no direct or indirect compensation.

(e) A retired licensee may sign any documents related to such non-compensated services as a "CPA Retired".

DRAFT

## CPE Audit Comparison

### • POPULATION

- 2007 - 4015
  - Certificateholders 765
  - Licensees 3248
  - NL Firm Owner 2
- 2008 - 952
  - Certificateholders 16
  - Licensees 931
  - NL Firm Owner 5
- 2009 - 5536
  - Certificateholders 855
  - Licensees 4679
  - NL Firm Owner 2
- 2010 - 5332
  - Certificateholders 698
  - Licensees 4629
  - NL Firm Owner 5
- 2011 - 1466
  - Certificateholders 21
  - Licensees 1380
  - NL Firm Owner 4

### • PULLED FOR AUDIT

- 2007 – 147 - 3.6%
  - Certificateholders 34-4%
  - Licensees 113-3%
  - NL Firm Owner 0-0%
- 2008 – 167 -17.5%
  - Certificateholders 6-38%
  - Licensees 161-17%
  - NL Firm Owner 0-0%
- 2009 – 153 - 2.7%
  - Certificateholders 14-2%
  - Licensees 139-3%
  - NL Firm Owner 0-0%
- 2010 – 190 - 3.5%
  - Certificateholders 43-6%
  - Licensees 147-3%
  - NL Firm Owner 0-0%
- 2011 – 127 - 8.6%
  - Certificateholders 3-1.4%
  - Licensees 124-9%
  - NL Firm Owner N/A

### • RESULTS

- 2007
  - Passed 107-73%
  - Failed-Enforcement 17-11%
  - Failed-Admin notice 23-16%
- 2008
  - Passed 131-79%
  - Failed-Enforcement 12-7%
  - Failed-Admin notice 24-14%
- 2009
  - Passed 136-89%
  - Failed-Enforcement 8-5%
  - Failed-Admin notice 9-6%
- 2010
  - Passed 180-95%
  - Failed-Enforcement 10-5%
  - Failed-Admin notice 0-0%
- 2011
  - Passed 119-94%
  - Failed-Enforcement 8-6%

**Washington State Board of Accountancy  
Case Status Report**

|                                                      | <u>3/31/10</u>    | <u>6/30/10</u>    | <u>9/30/10</u>    | <u>12/31/10</u>   | <u>2010</u>       | <u>3/31/11</u>   | <u>6/30/11</u>   | <u>9/30/11</u>   | <u>12/31/11</u>  | <u>2011</u>       |
|------------------------------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|------------------|------------------|------------------|------------------|-------------------|
| Beginning Cases                                      | 176               | 157               | 150               | 131               | 176               | 93               | 66               | 51               | 48               | 93                |
| Cases Opened                                         | 13                | 39                | 34                | 13                | 99                | 18               | 19               | 30               | 15               | 82                |
| Cases Closed                                         | <u>-32</u>        | <u>-46</u>        | <u>-53</u>        | <u>-51</u>        | <u>-182</u>       | <u>-45</u>       | <u>-34</u>       | <u>-33</u>       | <u>-21</u>       | <u>-133</u>       |
| <b>Remaining Cases</b>                               | <b><u>157</u></b> | <b><u>150</u></b> | <b><u>131</u></b> | <b><u>93</u></b>  | <b><u>93</u></b>  | <b><u>66</u></b> | <b><u>51</u></b> | <b><u>48</u></b> | <b><u>42</u></b> | <b><u>42</u></b>  |
| Cases 07 and Older                                   |                   |                   |                   |                   | 14                | 10               | 6                | 5                | 3                | 3                 |
| Cases 08 and Newer                                   |                   |                   |                   |                   | <u>79</u>         | <u>56</u>        | <u>45</u>        | <u>43</u>        | <u>39</u>        | <u>39</u>         |
| <b>Totals</b>                                        |                   |                   |                   |                   | <b><u>93</u></b>  | <b><u>66</u></b> | <b><u>51</u></b> | <b><u>48</u></b> | <b><u>42</u></b> | <b><u>42</u></b>  |
| <b>Investigation Completed:</b>                      |                   |                   |                   |                   |                   |                  |                  |                  |                  |                   |
| Attorney General                                     |                   | 12                | 7                 | 9                 |                   | 11               | 7                | 5                | 1                |                   |
| CBM                                                  |                   | 38                | 27                | 7                 |                   | 9                | 4                | 0                | 10               |                   |
| S&AO                                                 |                   | 45                | 55                | 53                |                   | 23               | 11               | 7                | 7                |                   |
| CBM Dismissals                                       |                   | <u>10</u>         | <u>9</u>          | <u>4</u>          |                   | <u>0</u>         | <u>1</u>         | <u>1</u>         | <u>2</u>         |                   |
|                                                      |                   | <u>105</u>        | <u>98</u>         | <u>73</u>         |                   | 43               | 23               | 13               | 20               |                   |
| <b>Investigation In Progress:</b>                    |                   |                   |                   |                   |                   |                  |                  |                  |                  |                   |
| <u>Complaint Files</u>                               |                   |                   |                   |                   |                   |                  |                  |                  |                  |                   |
| Active Investigation                                 |                   | 18                | 14                | 20                |                   | 19               | 17               | 17               | 11               |                   |
| <u>Agency Files</u>                                  |                   |                   |                   |                   |                   |                  |                  |                  |                  |                   |
| QAR                                                  |                   | 7                 | 2                 | 0                 |                   | 0                | 2                | 8                | 0                |                   |
| CPE                                                  |                   | 20                | 9                 | 0                 |                   | 0                | 4                | 6                | 7                |                   |
| Admin                                                |                   | <u>0</u>          | <u>8</u>          | <u>0</u>          |                   | <u>0</u>         | <u>0</u>         | <u>0</u>         | <u>0</u>         |                   |
|                                                      |                   | <u>45</u>         | <u>33</u>         | <u>0</u>          |                   | <u>0</u>         | <u>6</u>         | <u>14</u>        | <u>7</u>         |                   |
| <b>Total</b>                                         |                   | <b><u>150</u></b> | <b><u>131</u></b> | <b><u>93</u></b>  |                   | <b><u>62</u></b> | <b><u>46</u></b> | <b><u>44</u></b> | <b><u>38</u></b> |                   |
| Active                                               |                   | 149               | 129               | 90                |                   | 62               | 46               | 44               | 38               |                   |
| Pending                                              |                   | <u>1</u>          | <u>2</u>          | <u>3</u>          |                   | <u>4</u>         | <u>5</u>         | <u>4</u>         | <u>4</u>         |                   |
| <b>Total</b>                                         | <b><u>176</u></b> | <b><u>157</u></b> | <b><u>150</u></b> | <b><u>131</u></b> |                   | <b><u>66</u></b> | <b><u>51</u></b> | <b><u>48</u></b> | <b><u>42</u></b> |                   |
| <b>Classification:</b>                               |                   |                   |                   |                   |                   |                  |                  |                  |                  |                   |
| Code of Conduct                                      |                   |                   | 23                | 20                |                   | 22               | 17               | 11               | 12               |                   |
| Competency                                           |                   |                   | 18                | 16                |                   | 11               | 10               | 11               | 13               |                   |
| Title                                                |                   |                   | 26                | 18                |                   | 6                | 6                | 2                | 1                |                   |
| Fraud                                                |                   |                   | <u>6</u>          | <u>5</u>          |                   | <u>7</u>         | <u>6</u>         | <u>9</u>         | <u>6</u>         |                   |
|                                                      |                   |                   | 73                | 59                |                   | 46               | 39               | 33               | 32               |                   |
| Administrative                                       |                   |                   |                   |                   |                   |                  |                  |                  |                  |                   |
| QAR                                                  |                   |                   | 21                | 13                |                   | 8                | 5                | 8                | 1                |                   |
| CPE                                                  |                   |                   | <u>37</u>         | <u>21</u>         |                   | <u>12</u>        | <u>7</u>         | <u>7</u>         | <u>9</u>         |                   |
|                                                      |                   |                   | <u>58</u>         | <u>34</u>         |                   | <u>20</u>        | <u>12</u>        | <u>15</u>        | <u>10</u>        |                   |
| <b>Total</b>                                         |                   |                   | <b><u>131</u></b> | <b><u>93</u></b>  |                   | <b><u>66</u></b> | <b><u>51</u></b> | <b><u>48</u></b> | <b><u>42</u></b> |                   |
| <b>Closed cases:</b>                                 |                   |                   |                   |                   |                   |                  |                  |                  |                  |                   |
| Reinstatements                                       |                   |                   | 0                 | 0                 | 0                 | 1                | 1                | 0                | 1                | 3                 |
| Revocation                                           |                   |                   | 3                 | 0                 | 5                 | 0                | 1                | 2                | 1                | 4                 |
| Suspension                                           |                   |                   | 1                 | 6                 | 8                 | 4                | 6                | 3                | 3                | 16                |
| Practice restriction                                 |                   |                   | 1                 | 1                 | 3                 | 2                | 2                | 0                | 0                | 4                 |
| SAO-Fine/costs/other sanctions                       |                   |                   | 8                 | 18                | 68                | 24               | 13               | 7                | 9                | 53                |
| Dismissals                                           |                   |                   | 11                | 17                | 57                | 12               | 8                | 12               | 1                | 33                |
| Admin Sanctions                                      |                   |                   | <u>29</u>         | <u>9</u>          | <u>41</u>         | <u>2</u>         | <u>3</u>         | <u>9</u>         | <u>6</u>         | <u>20</u>         |
| <b>Total</b>                                         |                   |                   | <b><u>53</u></b>  | <b><u>51</u></b>  | <b><u>182</u></b> | <b><u>45</u></b> | <b><u>34</u></b> | <b><u>33</u></b> | <b><u>21</u></b> | <b><u>133</u></b> |
| <b>Other:</b>                                        |                   |                   |                   |                   |                   |                  |                  |                  |                  |                   |
| Complaints received not opened                       | <u>14</u>         | <u>13</u>         | <u>12</u>         | <u>17</u>         | <u>56</u>         | <u>10</u>        | <u>8</u>         | <u>5</u>         | 21               | <u>44</u>         |
| PCAOB/Peer Review Monitoring                         |                   |                   | <u>28</u>         | <u>34</u>         |                   | <u>29</u>        | <u>25</u>        | <u>20</u>        | <u>25</u>        |                   |
| Administrative Sanctions-CPE Failures under 16 hours |                   |                   |                   |                   | <u>255</u>        |                  |                  |                  |                  |                   |



## Investigation Results/Statistics

### 2011

In carrying out its mission "to promote dependable, accessible financial information" the Board is responsible for investigating complaints against CPAs, CPA-Inactive certificateholders, and CPA firms. Complaints can originate from clients, other CPAs, federal or state regulators, or identified through agency oversight and review programs. Complaints result from allegations of technical errors, or ethical or legal violations. The Board has closed 133 cases during 2011. Complaints or inquiries originated from the following sources:

| Source of Complaint                                             |            |     |
|-----------------------------------------------------------------|------------|-----|
| Agency oversight programs/Board initiated                       | 65         | 46% |
| Clients                                                         | 38         | 31% |
| Employer/Employee                                               | 3          | 3%  |
| Other CPAs                                                      | 7          | 4%  |
| Media                                                           |            |     |
| Miscellaneous                                                   | 4          | 4%  |
| Anonymous                                                       | 2          | 2%  |
| Federal, state, local or foreign jurisdiction                   | 2          | 1%  |
| Self-reported                                                   | 11         | 9%  |
| Non-governmental professionally related standard-setting entity |            |     |
| <b>Total</b>                                                    | <b>133</b> |     |

The 133 cases closed during 2011 resulted from the following allegations:

| Administrative                                                                           |    |     |
|------------------------------------------------------------------------------------------|----|-----|
| Failure to change address                                                                |    |     |
| Failure to respond to Board oversight/inquiries                                          | 9  | 6%  |
| Request for reinstatement of suspended license/certificate                               | 4  | 3%  |
| Code of Conduct                                                                          |    |     |
| Conflicts                                                                                | 4  | 3%  |
| Confidentiality                                                                          | 5  | 4%  |
| Failure to complete engagement                                                           | 3  | 2%  |
| Failure to pay individual federal income taxes                                           |    |     |
| Independence                                                                             |    |     |
| Misrepresentations/fees                                                                  |    |     |
| Professional misconduct                                                                  | 7  | 5%  |
| Records retention                                                                        | 8  | 6%  |
| Competency                                                                               |    |     |
| Noncompliance with technical standards including Quality Assurance Review                | 21 | 16% |
| Sanction/denial of practice privilege by a federal, state, local or foreign jurisdiction | 1  | 1%  |
| Sanction by non-governmental professionally related standard-setting entity              |    |     |

|                                                                                                         |            |     |
|---------------------------------------------------------------------------------------------------------|------------|-----|
| Tax return errors                                                                                       | 8          | 6%  |
| <b>CPE</b>                                                                                              |            |     |
| Failure to substantiate CPE on audit                                                                    | 24         | 18% |
| Failure to substantiate CPE on renewal                                                                  | 8          | 6%  |
| <b>Fraud</b>                                                                                            |            |     |
| Embezzlement                                                                                            | 2          | 2%  |
| Theft                                                                                                   | 2          | 2%  |
| Conspiracy                                                                                              | 1          | 1%  |
| <b>Title Use:</b>                                                                                       |            |     |
| Use of title or holding out in public practice by a nonCPA or non WA CPA                                | 7          | 5%  |
| Issuance or offering to issue audit, review, or compilation report by unauthorized individual           |            |     |
| Use of title or holding out in public practice with a lapsed license/certificate or no CPA firm license | 19         | 14% |
| <b>Total:</b>                                                                                           | <b>133</b> |     |

The Board resolved the 133 cases during 2011 as follows:

|                                                |            |     |
|------------------------------------------------|------------|-----|
| <b>Closed via Board Order</b>                  |            |     |
| Fine/costs/other sanctions                     | 53         | 40% |
| Reinstatement of suspended license/certificate | 3          | 2%  |
| Practice restriction                           | 4          | 3%  |
| Suspension                                     | 16         | 12% |
| Revocation                                     | 4          | 3%  |
| <b>Administrative Sanctions Imposed</b>        | 20         | 15% |
| <b>Lack of evidence of violation</b>           | 33         | 25% |
| <b>Total</b>                                   | <b>133</b> |     |

See Also:

[2011 License and certificate suspensions \(including stayed suspension\) and revocations](#)

[2011 Other Board Orders](#)

[Back to Investigation Statistics Main Page](#)

# Investigation Statistics

Historical data: January 1990 through December 31, 2011

| Year Opened | Number of Cases Opened | Number of Cases Closed |
|-------------|------------------------|------------------------|
| 1990        | 79                     | 68                     |
| 1991        | 79                     | 81                     |
| 1992        | 83                     | 83                     |
| 1993        | 76                     | 80                     |
| 1994        | 83                     | 67                     |
| 1995        | 79                     | 62                     |
| 1996        | 78                     | 91                     |
| 1997        | 83                     | 85                     |
| 1998        | 93                     | 109                    |
| 1999        | 58                     | 71                     |
| 2000        | 33                     | 40                     |
| 2001        | 50                     | 33                     |
| 2002        | 45                     | 58                     |
| 2003        | 83                     | 62                     |
| 2004        | 144                    | 92                     |
| 2005        | 83                     | 85                     |
| 2006        | 131                    | 64                     |
| 2007        | 143                    | 176                    |
| 2008        | 90                     | 99                     |
| 2009        | 130                    | 76                     |
| 2010        | 99                     | 182                    |
| 2011        | 82                     | 133                    |

As of December 31, 2011:

Active Cases: **38**  
Pending Cases: **4**  
**Total Open Cases** **42**

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## Washington State Board of Accountancy

Bruce L. Turcott  
Assistant Attorney General  
January 2012

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## COMPLAINTS, INVESTIGATIONS, and the ADJUDICATIVE PROCESS

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## Legislative Intent

- It is the policy of this state . . . to protect the public interest by requiring that:
  - Persons who hold themselves out as licensees or certificate holders conduct themselves in a competent, ethical, and professional manner . . .
  - The use of accounting titles likely to confuse the public be prohibited.
- RCW 18.04.015(1)

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### Board Authority for Investigation and Discipline

- Chapter 18.04 RCW  
Public Accountancy Act
- Chapter 4-30 WAC  
Board Rules
- Board has sole jurisdiction
  - Exhaustion of administrative remedies
- No time limit on bringing prosecutions

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### Scope of Authority

- Licensed CPAs
- Licensed CPA firms
- Individual and firm license applicants
- Unlicensed individuals and firms practicing or offering to practice public accountancy or using CPA title in Washington

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### Types of Disciplinary Actions

- Unprofessional conduct by licensees
- Unlicensed practice by non-licensees
- QAR deficiencies
- CPE deficiencies

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## COMPLAINTS and INVESTIGATIONS

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### Basis for Disciplinary Action

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RCW 18.04.295; WAC 4-30-142

- Violation of Public Accountancy Act
- Violation of rules of professional conduct adopted by the Board
- Fraud or deceit in obtaining license or in filings with the Board
- Dishonesty, fraud, or negligence of licensee, certificate holder, or non-licensee owner of licensed firm

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### Basis for Disciplinary Action, cont'd

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- Conviction of a crime or act constituting a crime under state or federal law
- Disciplinary actions by other jurisdictions
- Suspension or revocation of right to practice public accounting before a state or federal agency
- Not maintaining qualifications for licensure

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**Basis for Disciplinary Action,**  
cont'd

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- Failure to respond to Board subpoenas, failure to cooperate with Board investigation
- Failure by non-licensee owner of licensed firm to comply with accountancy act and rules
- Failure to comply with Board order
- False advertising—RCW 18.04.380

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**Unlicensed Practice**  
RCW 18.04.345

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- Use of CPA title
- Failure to obtain CPA firm license
- Late renewal or nonrenewal

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**Complaint Processing**  
Board Policy 2004-1

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- Executive Director makes preliminary assessment when
  - Receives complaint, or
  - Becomes aware of possible violation
- ED may
  - Dismiss
  - Assign to investigator

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### Complaint Processing, cont'd

- Dismissal if
  - No jurisdiction (not within Board authority)
  - No basis for investigation
  - Exempt from investigation by Board policy (e.g., fee disputes)
- Close file, notify complainant Board will not investigate

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### Investigations

WAC 4-30-140

- Complainant notified in writing complaint will be investigated
- Chief Investigator handles investigation
- Copy of complaint to respondent in most cases, response requested
- Determine investigative plan

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### Investigations, cont'd

- Chief Investigator reports findings to ED
- ED, with concurrence of Consulting Board Member (CBM), determines next action
  - If allegations unfounded, close with no further action
  - If sufficient evidence exists, proceed with adjudicative process

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## the ADJUDICATIVE PROCESS

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## Prosecution Team Members

- Executive Director
  - Investigation staff
- Consulting Board Member
- Prosecuting Assistant Attorney General

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## Screening

- Prosecution team members (Board staff, CBM, prosecuting AAG) may not discuss cases with other Board members or AAG Advisor, and vice versa
  - May discuss procedural status

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### Post-Investigation Actions

Board Policy 2004-1

- For first-time violations, ED (with CBM concurrence) may negotiate Respondent Contract
- For other violations, ED (with CBM concurrence) may negotiate Stipulation and Agreed Order for Board approval
- If no settlement reached, ED serves Statement of Charges (SOC)

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### Unlicensed Practice Cases

- ED may
  - Negotiate Stipulated Agreement and Order of Assurance—RCW 18.04.370
  - If no settlement, serve Statement of Charges
- Prosecuting AAG may seek injunctive relief in superior court—RCW 18.04.360
- ED may refer to county prosecutor—RCW 18.04.370 (must refer if second violation)

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### Emergency Action

- If immediate danger to public health, safety, or welfare requiring immediate agency action—RCW 34.05.479
- Board issues Order effective immediately
- Order contains findings of fact, conclusions of law, and reasons for emergency

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Emergency Action, cont'd

- Orders with immediate effect may be used only in emergency situations because respondent not given prior hearing
- Expedited hearing must be offered on justification for emergency

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Stipulation and Agreed Orders (SAO)

- Alternative to formal hearing
- Board policy encourages negotiated settlement
  - Faster results
  - Saves resources
  - Enhances compliance

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SAO, cont'd

- Initial terms of settlement identified by ED in consultation with CBM
- Customized terms of resolution
- Use terms that are self-enforcing, such as "stayed suspension" conditioned on compliance with conditions

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SAO, cont'd

- Proposed Stipulation and Agreed Order offered to respondent when Statement of Charges served or before SOC served
- Negotiations may involve settlement conference with respondent
- ED (and Prosecuting AAG, if SOC served) negotiate terms that protect the public interest—CBM authorizes

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SAOs

Board Action

- Stipulation and Agreed Order presented to Board (except CBM) for approval by meeting or email (if presented by email, no discussion between Board members can occur; no meeting notice provided)
- Board approves, disapproves, or sends back with suggested changes to continue negotiations
- If Board does not approve or revised agreement cannot be reached, hearing held

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Brief Adjudicative Proceedings (BAPs)

- In appropriate circumstances hearing is in form of BAP
- BAP may only be used for review of types of decisions authorized in WAC 4-30-028, for example:
  1. Denial of individual or firm license, renewal, or application for reinstatement
  2. Denial of exam application

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### BAPs, cont'd

- BAP conducted by Board member
- BAP reviews documents only—no witnesses
- BAP Presiding Officer issues Initial Order
- If appealed, Vice-chair or designee conducts administrative review and issues Final Order

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### Hearing Process Prehearing Conference

- Administrative Procedure Act applies
  - Ch. 34.05 RCW
  - Ch. 10-08 WAC (rules of procedure)
- Presiding Officer appointed (Board Chair)
- Prehearing conference by phone
  - Scheduling, deadlines, procedural matters, simplification of issues—WAC 10-08-130
  - Prehearing order issued

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### Hearing Participants

- |                                                                             |                                                                |
|-----------------------------------------------------------------------------|----------------------------------------------------------------|
| • Quorum of the Board (5), who have not been involved in the investigation. | • Respondent and legal counsel, if any                         |
| • AAG Advisor                                                               | • Witnesses for both parties                                   |
| • AAG Prosecutor                                                            | • Court reporter                                               |
| • ED and staff                                                              | • General public (only deliberations can be in closed session) |

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### Default

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- Licensee must timely respond to SOC and request hearing within 20 days
- No response, or untimely response, is default
- Motion for default presented to Board
- Board issues default order imposing sanctions
- Motion to vacate default may be filed within 7 days—need to show good cause

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### Hearing Process

Hearing—RCW 34.05.449

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- Quorum (except CBM) and Advisor AAG
- Presiding Officer regulates proceedings
  - To extent necessary for full disclosure of all relevant facts and issues . . . afford to all parties opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence

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### Hearing Process

Order of Proceedings

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- Opening statements
- Prosecutor AAG has burden of proving facts to support charges
  - Direct, cross, redirect, recross examinations
- Respondent (or attorney) refutes charges
  - Repeat order of testimony above
- Board may ask questions of witnesses
- Closing statements

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## Hearing Process

Evidence—RCW 34.05.452

- Presiding officer rules on objections to admissibility (assisted by AAG advisor)
- Evidence that is admissible:
  - “[E]vidence on which reasonably prudent people are accustomed to rely in the conduct of their affairs”
  - Hearsay
- Evidence that is not admissible:
  - Irrelevant, immaterial, or unduly repetitious
  - Privileged

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## Hearing Process

Deliberation

- In closed session, Board deliberates based on appropriate standard of evidence
  - Preponderance of evidence (or clear, cogent and convincing evidence)
- Decision of Board must be based only on evidence presented in hearing, no other evidence
- Board issues Findings of Fact, Conclusions of Law and Final Order

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## Sanctions

RCW 18.04.295

- Revocation
- Suspension
- Refusal to issue, renew, or reinstate license
- Reprimand
- Fines up to \$30,000 per violation
- Investigative and legal costs
- Restitution
- Conditions precedent to renewal

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### Sanctions, cont'd

RCW 18.04.295

- Limitation on practice
- Remedial Education
- CPE, Ethics courses
- Corrective Action
- Monitoring of practice
- Probation (e.g., stayed suspension)
- "Other corrective action"

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### Board Order

- Final order is signed by Presiding Officer
- Board Clerk serves Final Order (and all hearing notices and orders)
- Respondent may ask for reconsideration within 10 days, based on errors in order

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### Judicial Review

- Board order is final agency action
- Respondent may appeal to superior court within 30 days
- Judicial review is based on record compiled during hearing—no new evidence
- Standard of judicial review—RCW 34.05.570
  - Was Board's order supported by substantial evidence? (sufficient to persuade a fair-minded person of the truth of the proposition)
  - Were there errors of law?

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### Compliance Monitoring

- Terms of orders (including agreed orders) that identify performance expectations of respondent are noted
- Executive Director and staff review compliance with orders
- Superior court has jurisdiction to enforce a Board order converted to judgment

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### GENERAL PRECAUTIONS FOR ALL ADJUDICATIONS

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### Precautions

- Ex parte communication (any substantive communication between respondent or Board prosecution staff and Board regarding an action pending before the Board) – if occurs even inadvertently must be promptly disclosed to all parties
- Confidentiality (do not discuss with anyone other than Board members hearing the case)

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Questions and Answers

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