

RULE ADOPTIONS
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LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
New Jersey State Board Of Accountancy

Adopted Repeals and New Rules: N.J.A.C. 13:29-5.1 through 5.5, 5.7 and 5.8

Adopted New Rule: N.J.A.C. 13:29-5.6

Adopted Amendment: N.J.A.C. 13:29-5.6

Peer Review Program Rules

Proposed: August 17, 2009 at 41 N.J.R. 3018(a).

Adopted: February 18, 2010 by the New Jersey State Board of Accountancy, Donald E. Jump, CPA, President.

Filed: August 2, 2010 as R.2010 d.181, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:2B-48 and 45:2B-67.

Effective Date: September 7, 2010.

Expiration Date: October 27, 2010.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules and recodified rule N.J.A.C. 13:29-5.9 are governed by N.J.S.A. 45:2B-42 et seq., and are not subject to any Federal requirements or standards.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus*** ; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 5. PEER REVIEW PROGRAM

13:29-5.1 Purpose and scope

(a) Pursuant to N.J.S.A. 45:2B-67, the Board establishes a Peer Review Program (Program) to monitor licensee compliance with applicable accounting and auditing standards adopted by generally recognized standard-setting bodies. The purpose of the Program is to improve the quality of financial reporting and to promote the fairness of presentation and the dependability of information on which the public relies for guidance in financial transactions, accounting and business performance. The Program shall emphasize education and rehabilitation rather than disciplinary action. Appropriate educational programs or remedial procedures shall be recommended or required where reporting does not comply with appropriate professional standards. However, when a licensee is unwilling or unable to comply with those standards, or a licensee's professional work is so inadequate as to warrant disciplinary action, the Board shall take appropriate action to protect the public interest.

(b) The rules in this subchapter shall not require any licensee or firm to become a member of any sponsoring organization.

13:29-5.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Firm" means a sole proprietorship, a professional corporation, a partnership, a limited liability company, a limited liability partnership or any other lawful form of business organization.

"Professional Standards" mean the accounting and auditing engagements covered by the Statements on Auditing Standards (SASs); Statements on Standards for Accounting and Review Services (SSARS); Statements on Standards for Attestation Engagements (SSAES); Government Auditing Standards (the Yellow Book) issued by the U.S. Government Accountability Office; audits of non-SEC issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB) and any additional engagements defined in the Standards for Performing and Reporting on Peer Reviews promulgated by the AICPA. Professional standards also include those applicable to the audits of issuers performed pursuant to the standards of the PCAOB.*

[page=2134]"Review or review program" means the review conducted under the Peer Review Program.

"Review year" means the one-year (12-month) period covered by the review. Engagements selected for review normally would have periods ending during the year under review.

"Special reports" means reports issued under professional standards in connection with the following: specified elements, accounts, or items of a financial statement; compliance with aspects of contractual agreements or regulatory requirements related to audited financial statements; financial presentations to comply with contractual agreements or regulatory provisions; financial information presented in prescribed forms or schedules that require a prescribed form of auditor's reports; or internal audits by a firm for a client or a governmental entity.

"Sponsoring organization" means an entity approved by the Board, pursuant to N.J.A.C. 13:29-5.3 or 5.8, to administer the review.

13:29-5.3 Standards for peer reviews and sponsoring organizations

(a) The Board adopts the 2009 "Standards for Performing and Reporting on Peer Reviews" promulgated by the American Institute of Certified Public Accountants (AICPA), as its minimum standards for review of firms *** non-SEC issuer practices***. The Standards are incorporated in this subchapter by reference, as amended and supplemented, and may be found at the AICPA website, www.aicpa.org, specifically, http://www.aicpa.org/download/practmon/2009_stdts.pdf. For public company audit firms, the Board adopts the firm inspection standards of the Public Company Accounting Oversight Board ***s* (PCAOB)***, as its minimum standards for review of firms *** inspection process for reviewing SEC issuer practices, which are not included in the scope of peer review programs***. The inspection standards are incorporated in this subchapter by reference, as amended and supplemented, and may be found at the PCAOB website, www.pcaob.org specifically, <http://www.pcaobus.org/Standards/index.aspx>. ***A firm subject to the PCAOB's inspection process is also subject to a peer review of its non-SEC issuer practice, should the firm have such a practice.***

(b) Qualified sponsoring organizations shall be: the Center for Public Company Audit Firms (CPCAF) (previously known as SEC Practice Section (SECPS)); the American Institute of Certified Public Accountants (AICPA) Peer Review ***[Program]* *Board***; the New Jersey Society of Certified Public Accountants (NJSCPA) or other ***[state CPA societies fully involved in the administration of the AICPA Peer Review Program]* *AICPA Peer Review Board approved organizations***; the National Conference of CPA Practitioners (NCCPAP); the Public Company Accounting Oversight Board (PCAOB); and such other entities that utilize substantially similar standards and that are approved by the Board pursuant to N.J.A.C. 13:29-5.8.

13:29-5.4 Enrollment and participation; exemptions

(a) Participation in the Peer Review Program is required of each firm licensed with the Board that performs any attest

service or any accounting and/or auditing engagements, including audits, reviews, compilations, forecasts, projections or special reports ***performed under professional standards***. A firm that issues only compilations where no report is required under the Statements on Standards for Accounting and Review Services is not required to participate in the program.

(b) A firm that does not perform services as set out in (a) above shall annually submit a request for an exemption from the Program in writing to the Board with an explanation of the services offered by the firm. A firm with an exemption that begins providing services set out in (a) above shall notify the Board of the change in status within 30 days and provide the Board with enrollment information within 12 months of the date the services were first provided. The firm shall have a review within 18 months of the date the services were first provided.

(c) Each firm required to participate under (a) above shall enroll in the Peer Review Program of an approved sponsoring organization within one year from its initial licensing date or the performance of services that require a review, whichever is earlier. The firm shall adopt the review due date assigned by the sponsoring organization, and shall notify the Board of the date within 30 days of its assignment. The firm shall schedule and begin an additional review within three years of the previous review's due date, or earlier as may be required by the sponsoring organization. It is the responsibility of the firm to anticipate its needs for review services in sufficient time to enable the reviewer to complete the review by the assigned review due date.

(d) In the event that a firm is merged, otherwise combined, dissolved, or separated, the sponsoring organization shall determine which firm is considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

(e) The Board shall accept extensions granted by the sponsoring organization to complete a review, provided the Board is notified by the firm within 20 days of the date that an extension is granted.

(f) A firm that has been ***[rejected]*** ***terminated*** by a sponsoring organization for whatever reason shall enroll in a program of another sponsoring organization ***within 30 days of being terminated***. The firm shall notify the Board of the firm's enrollment in the new program within 30 days of the date of enrollment.

(g) A firm choosing to change to another sponsoring organization may do so provided that the firm authorizes the previous sponsoring organization to communicate to the succeeding sponsoring organization any outstanding corrective actions related to the firm's most recent review. Any outstanding actions shall be cleared and outstanding fees paid prior to transfer between sponsoring organizations. The firm shall notify the Board of the firm's enrollment in the new program within 30 days of the date of enrollment.

(h) An out-of-State firm practicing in this State pursuant to N.J.S.A. 45:2B-54 and 50.1 shall comply with the peer review program of the state in which the firm is licensed. If the out-of-State firm is licensed in a state that does not require peer review, the out-of-State firm shall comply with the peer review program requirements set forth in this subchapter. All out-of-State firms registered to practice in this State pursuant to N.J.S.A. 45:2B-50.1 and 54 shall submit peer review documentation ***as provided in N.J.A.C. 13:29-5.6*** upon request of the Board.

13:29-5.5 Effect of successive ***[substandard reviews]*** ***review ratings of pass with deficiencies or fail***

(a) A firm, including a succeeding firm, that receives two consecutive review ratings of pass with deficiencies or fail in a system or engagement review or any combination thereof shall have an accelerated review within 18 months of the firm's last review.

(b) If an accelerated review results in a review rating of pass with deficiencies or fail, the Board shall conduct a review to determine whether the firm:

1. May complete attest engagements for which field work has already begun. The firm may complete attest engagements for which field work has already begun only if:

i. Prior to issuance of any report, the engagement is reviewed and approved before it is issued by a third-party reviewer

acceptable to the *[sponsoring organization]* ***Board*** ; and

ii. The engagement is completed within 30 days of the acceptance of the peer review report and the letter of response by the firm; or

2. Shall not perform any other attest service, including any accounting and/or auditing engagements, audits, reviews, compilations (as well as compilations where no report is required), forecasts, projections or other special reports for a period of three years or until given permission by the Board, whichever is sooner.

13:29-5.6 Reporting to the Board

(a) A firm shall submit to the Board the following peer review documents:

1. A copy of the ***accepted*** report if the firm received a peer review rating of pass;
2. A copy of the ***accepted*** report and letter of response if the firm received a peer review rating of pass with deficiencies or fail; and
3. A copy of any final report resulting from any inspection by the PCAOB firm inspection program together with documentation of any significant issues and findings and the firm's response.

(b) Any report or document required to be submitted pursuant to (a) above shall be filed with the Board within 30 days of receipt of the final report or document.

(c) The reviewed firm shall complete the Board's Peer Review Compliance Reporting Form. The firm shall file the form with the Board within 30 days of receipt of final acceptance of the review by the sponsoring organization.

[page=2135] 13:29-5.7 Peer Review Oversight Committee

(a) The Board shall annually appoint a standing committee to be known as the Peer Review Oversight Committee (the Committee) to assist the Board in the administration of the Peer Review Program. The Committee shall be responsible for the following:

1. Monitoring sponsoring organizations to provide reasonable assurance that peer reviews are being conducted and reported on in accordance with peer review minimum standards;
2. Reviewing the policies and procedures of sponsoring organization applicants as to their conformity with the peer review minimum standards; and
3. Reporting to the Board on the conclusions and recommendations reached as a result of performing the functions set forth in (a)1 and 2 above.

(b) Information concerning a specific firm or reviewer obtained by the Committee during oversight activities shall be confidential, except as provided under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

(c) The Committee shall consist of no fewer than five members, all of whom shall be holders of active licenses issued under N.J.S.A. 45:2B-42 et seq. All Committee members shall be licensed certified public accountants, licensed public accountants or registered municipal accountants. At least two Committee members shall also be current members of the Board.

(d) The Committee shall make an annual recommendation to the Board as to the continuing qualifications of a sponsoring organization as an approved sponsoring organization.

13:29-5.8 Procedures for a sponsoring organization

(a) To qualify as a sponsoring organization, an entity shall submit a peer review administration plan to the Board for

review and approval. The plan of administration shall:

1. Establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common finding in the peer reviews conducted by the sponsoring organization;
2. Establish procedures for resolving any disagreement that may arise out of the performance of a peer review;
3. Establish procedures, including conducting hearings, to resolve matters that may lead to the dismissal of a firm from the peer review program;
4. Establish procedures, including the conducting of hearings, to evaluate and document the performance of each reviewer for compliance with AICPA standards that may lead to the disqualification of a reviewer who does not meet the standards;
5. Require the maintenance of records of peer reviews conducted under the program in accordance with the records retention rules of the AICPA; and
6. Provide for periodic reports to the Board on the results of the peer review program.

13:29-5.9 Confidentiality

(a) Any documents submitted in accordance with the rules in this subchapter shall have deleted the name of the client, the client's address and other identifying factors, provided that the deletion does not render the type or nature of the entity or organization undeterminable.

For example, the client name, address, or Federal identification number shall be deleted, but reference to the type of entity or organization, such as financial institution, school district or hospital shall be indicated.

(b) (No change.)