

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS AND THE
REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 6509, 7408 and 7410 of the Education
Law

1. Section 29.10 of the Rules of the Board of Regents are amended by adding a
new subdivision (j) to read as follows:

Section 29.10 Special Provisions for the profession of public accountancy

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) . . .

(f) . . .

(g) . . .

(h) . . .

(i) . . .

(j) Peer Review. Unprofessional conduct as it relates to a firm or licensee that is
subject to the Mandatory Peer Review Program, under section 7410 of the Education
Law and section 70.10 of this Title, shall include:

(1) failure of a firm to cooperate with the peer review process as determined by
either the administering entity, sponsoring organization, or the Peer Review Oversight
Committee (PROC) at any point in the process. For purposes of this paragraph,
“cooperate” means actively complying with the peer reviewer, administering entity, and

the Department in all matters related to peer review, that could impact the firm's enrollment in the program, including arranging, scheduling, and completing the review and taking remedial and corrective actions as needed;

(2) making a false, fraudulent, misleading or deceptive statement, as part of, or in support of, a firm's peer review reporting;

(3) a firm's termination or expulsion for any reason by the sponsoring organization, from the peer review program, in accordance with the American Institute of Certified Public Accountants Standards for Performing and Reporting on Peer Reviews;

(4) failure of a firm and its licensees to follow the peer review process and complete any remedial actions required by the administering entity; or

(5) failure of a firm to provide access to its peer review information, as required by subdivision (j) of section 70.10 (Mandatory Peer Review Program Access to Peer Review Information) of this Title.

2. Section 70.10 of the Regulations of the Commissioner of Education is amended to read as follows:

Section 70.10 Mandatory peer review program

(a) Establishment of peer review program. Except as otherwise provided in this section, pursuant to section 7410 of the Education Law, effective January 1, 2012, the department establishes a mandatory peer review program, requiring all applicants seeking a firm registration or a renewal of such registration to participate in a peer review of the firm's attest services.

(b) Definitions. For purposes of this section:

(1) . . .

(2) [Review] Peer review means a review conducted under the mandatory peer review program prescribed in this section.

(3) Review team means an individual or individuals assisting the team captain or review captain in conducting a review under this section.

(4) Reviewer means the team captain, review captain, or a member of a review team, if any, approved by the sponsoring organization to conduct a review.

(5) Sponsoring organization means an entity approved by the department in accordance with subdivision (e) of this section to oversee and facilitate peer reviews [performed by a receiver in accordance with the provisions of this section.] directly or through its administering entities, as defined in paragraph (7) of this subdivision, in accordance with the provisions of this section.

(6) . . .

(7) Administering entity means an entity approved by the department in accordance with subdivision (e) of this section to administer the mandatory peer review program.

(c) Participation in mandatory peer review program.

(1) . . .

(2) [Any] In addition, any firm that performs attest services for any of the following shall be required to undergo an external peer review:

(i) . . .

(ii) Federal governmental entities pursuant to Federal Law, in conformity with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States[.]; or

(iii) Engagements performed under the Public Company Accounting Oversight Board standards.

(3) . . .

(4) . . .

(i) . . .

(ii) . . .

(d) Peer [review oversight committee] Review Oversight Committee. The department establishes a peer review oversight committee (PROC) to oversee the mandatory peer review program and to perform the functions described in paragraph (2) of this subdivision.

(1) Composition of peer review oversight committee. The PROC shall be comprised of six members appointed by the Board of Regents. Members of the PROC shall be appointed by the Board of Regents for five-year terms. A vacancy occurring during a term shall be filled by an appointment by the Board of Regents for the unexpired term. At least five members of the PROC must be licensed certified public accountants in New York State and hold current registrations with the department, and may not be members of the State board for public accountancy or one of its committees. PROC members may not be members of the administering entity Peer Review Committee. PROC members shall be compensated in accordance with Education Law section 6506(4).

(2) . . .

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

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(a) . . .

(b) . . .

(viii) . . .

(e) Approval of sponsoring organizations and administering entities. To qualify as a sponsoring organization or administering entity, an entity shall submit a peer review administration plan to the department for review and approval by the PROC. The sponsoring organization's or administrative entities' plan of administration shall:

(1) establish committees, as needed, and provide assurances that there is sufficient professional staff for the operation of the peer review program [overseen by the sponsoring organization;]. The administering entities are required to participate in the oversight program conducted by the sponsoring organization;

(2) provide assurances that the sponsoring organization and administering entity will notify firms and reviewers participating in the peer review program of the latest developments in peer review standards and the most common deficiencies in peer reviews [conducted by the sponsoring organization];

(3) . . .

(4) acknowledge that the sponsoring organization and administering entity are [is] subject to evaluations by the department or the PROC to periodically assess the effectiveness of the peer review program under its charge;

(5) establish procedures to evaluate and document the performance of each reviewer, and to disqualify a reviewer who does not meet the standards for peer reviews [set forth in subdivision (i) of this section];

(6) establish procedures such that the sponsoring organization and administering entity will provide the PROC timely access to peer review reports;

(7) . . .

(8) provide for annual reports to the PROC on the results of the [sponsoring organization's] administering entities' peer review program, which shall include information on completed reviews, including the most common deficiencies noted by reviewers and, with respect to the peer review program:

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(f) Approval of team and review captains and review teams.

(1) Each approved sponsoring organization shall develop and provide a list of reviewers to the department[, and from such lists the department shall monitor the list of approved reviewers for the peer review program]. The list may be made publicly available on a website specified by the sponsoring organization. The department will monitor the list of approved reviewers for the peer review program.

(2) . . .

(i) . . .

(ii) . . .

(3) Each approved sponsoring organization shall develop and implement procedures to assure that each team or review captain:

(i) is licensed or otherwise authorized to practice public accountancy in any state;

and

(ii) meets the following competencies prior to commencing a peer review:

(a) . . .

(1) . . .

(2) . . .

(b) has [either:] completed an initial training acceptable to the department that is in accordance with the American Institute of Certified Public Accountants Standards for Performing and Reporting on Peer Reviews, or its equivalent as determined by the department. At a minimum, said training shall include:

(1) [completed at least 16 hours of introductory training acceptable to the department] training relating to the performance of peer reviews if the team captain will be issuing a report expressing an opinion on the firm's system of quality control; or

(2) [has completed at least eight hours of introductory training acceptable to the department] training relating to the performance of peer reviews if the [team] review captain will be issuing a report that only evaluates engagements submitted for review without expressing an opinion on the firm's system of quality control;

(c) subsequent to the team or review captain's completion of an introductory reviewer training course pursuant to clause (b) of this subparagraph and within each successive triennial period as a team or review captain, the team or review captain shall complete [a minimum of eight hours of reviewer] training acceptable to the department relating to the performance of peer reviews; and

(d) . . .

(g) . . .

(1) . . .

(2) . . .

(h) Effect of substandard reviews. Any firm that receives a peer review report indicating that the firm has failed to design a system of quality control over its attest services or comply with its system of quality control over its attest services, or that receives a peer review report indicating that the firm has failed to perform and report on engagements in conformity with applicable professional standards in all material respects, may be referred by the PROC for disciplinary action under Education Law section 6510.

(i) . . .

(1) . . .

(2) . . .

(j) Access to [results of] peer review[s] information.

(1) Any firm required to participate in the mandatory peer review program pursuant to section 7410 of the Education Law shall submit the following documents and revisions, as applicable, to the department:

(i) a peer review report issued by a reviewer approved by the department;

(ii) the firm's response letter;

(iii) an acceptance letter from a sponsoring organization;

(iv) letter(s) signed by the firm accepting the documents with the understanding that the firm agrees to take any actions required by the reviewer; [and]

(v) a letter from the sponsoring organization notifying the reviewed firm that required actions have been appropriately completed[.];

(vi) a letter indicating that the firm has enrolled or reenrolled into the peer review program. Such enrollment or reenrollment letter shall state the date by which the peer review shall be completed; and

(vii) a letter indicating that the firm has received an extension to complete the peer review or remedial actions.

(2) Peer review documents required in subparagraphs (1)(i) through (iii) of this subdivision shall be made available to the department via a website address provided by the sponsoring organization within 30 days of the date on the acceptance letter from the sponsoring organization. The peer review document required in subparagraph (1)(iv) of this subdivision shall be made available to the department within 30 days of the date that the firm signs such letter. The document required in subparagraph (1)(v) of this subdivision shall be made available to the department within 30 days of the date of the letter from the sponsoring organization notifying the reviewed firm that the required actions have been appropriately completed. The peer review document required in subparagraph (1)(vi) of this subdivision shall be made available to the department within 30 days of the date on the acceptance letter into the peer review program. The peer

review document required in subparagraph (1)(vii) of this subdivision shall be made available to the department within 30 days of the date of the extension letter from the sponsoring organization. If a sponsoring organization cannot provide access to the peer review documents required in subparagraphs (1)(i) to [(v)] (vii) of this subdivision via a website, the firm shall provide copies of the peer review documents by e-mail, mail or facsimile within 10 days of receipt of the applicable document, except for the peer review document required in subparagraph (1)(iv) of this subdivision which shall be submitted within 10 days of the date the firm signs such letter.

[(3) Equivalent peer review reports submitted in accordance with subdivision (m) of this section shall be made available to the department via a website provided by the entity administering the peer review, in accordance with the requirements of paragraph (2) of this subdivision. If the entity that administered the peer review cannot provide access to the equivalent peer review documents via a website, the firm shall provide copies of the equivalent peer review documents by mail or facsimile in accordance with the requirements of paragraph (2) of this subdivision.]

(k) . . .

(1) . . .

(2) . . .

(l) Public Company Accounting Oversight Board (PCAOB) inspections. In addition to the review required under subdivision (c) of this section, any firm that undergoes an inspection conducted by the [Public Company Accounting Oversight Board] [(PCAOB)] as required under the Sarbanes-Oxley Act of 2002 shall [submit to the department a copy of the public version of its most recent inspection report within 10

days of a receipt of the notice of completion from the PCAOB] be subject to a review of its most recent inspection report by the PROC.

[(m) Equivalent peer review reports. The department may, in its discretion, accept from a firm a review report which the department deems to be the substantial equivalent of a peer review report issued under this section. A review report will be deemed substantially equivalent provided such reviews are conducted and reported on in accordance with the peer review standards set forth in subdivision (i) of this section. Peer reviews administered by entities located outside the State of New York acceptable to the department and any affiliated administering entities may be accepted as substantially equivalent of a peer review report issued under this section.]