



Strategy and Work Plan

Consultation paper

AICPA Professional Ethics Division
November 15, 2019

Please send comments by February 28, 2020

Prepared by the AICPA Professional Ethics Executive Committee for comments from those interested in independence, behavioral, and technical standards matters. Please address comments to the Professional Ethics Division, ethics-exposedraft@aicpa.org

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November 15, 2019

We are actively seeking your input to the AICPA Professional Ethics Division's strategy for the next three years. Please take this opportunity to engage with us in developing AICPA Professional Ethics Division's upcoming Strategy and Work Plan.

The Professional Ethics Executive Committee (PEEC) developed this consultation paper, Strategy and Work Plan, so that AICPA members and other interested parties could review and comment.

After the comment period has concluded and PEEC has evaluated your comments, we will prioritize the most significant items of public interest and publish future projects in the AICPA Professional Ethics Division's project agenda at www.aicpa.org/PEEC.

We must receive your responses by February 28, 2020. We'll be sure all written replies to this consultation paper become part of the AICPA's public record. Each response will be available on the PEEC Project Activity page at www.aicpa.org/peecprojects. PEEC will consider comments at meetings subsequent to February 2020.

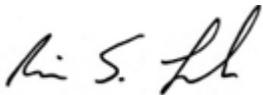
Please send comments to ethics-exposedraft@aicpa.org.

NOTE: Please submit comments

- in the body of your email,
- as a Microsoft Word document, or
- as an unlocked PDF.

This will enable division staff to more efficiently analyze and understand the comments we receive.

Sincerely,



Brian S. Lynch, Chair
AICPA Professional Ethics Executive Committee



Toni Lee-Andrews, Director
AICPA Professional Ethics Division

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About the American Institute of CPAs

The American Institute of Certified Public Accountants (AICPA) is the world's largest member association representing the CPA profession, with more than 429,000 members in the United States and worldwide, and a history of serving the public interest since 1887. The AICPA members represent many areas of practice, including business and industry, public practice, government, education and consulting.

The AICPA sets ethical standards for its members and U.S. auditing standards for private companies, nonprofit organizations and federal, state, and local governments; provides educational materials to its members; develops and grades the Uniform CPA Examination; monitors and enforces compliance with the profession's technical and ethical standards; offers specialized credentials; builds the pipeline of future talent; and drives professional competency development to advance the vitality, relevance and quality of the profession.

Additionally, as part of the Association of International Certified Professional Accountants' membership in the International Federation of Accountants (IFAC), the AICPA fulfills Statements of Membership Obligations (SMOs) in the United States. The SMOs form the basis of the IFAC Member Compliance Program and serve as a framework for credible and high-quality professional accountancy organizations focused on serving the public interest by adopting or otherwise incorporating and supporting implementation of international standards, and maintaining adequate enforcement mechanisms to ensure the professional behavior of their individual members.

Professional Ethics Executive Committee

PEEC and its objectives

PEEC is a senior committee of the AICPA charged with interpreting and enforcing the AICPA Code of Professional Conduct (the code). The AICPA bylaws provide that PEEC shall (1) investigate potential disciplinary matters involving members, (2) arrange for presentation of a case before the joint trial board where PEEC finds prima facie evidence of infraction of the bylaws or the code, and (3) interpret the code and propose amendments to it.

Accordingly, PEEC helps the AICPA carry out key parts of its mission, namely to

- promote public awareness and confidence in the integrity, objectivity, competence and professionalism of its members;
- establish and enforce professional ethics standards for the profession; and
- assist members in continually improving their professional conduct and performance.

PEEC's standard-setting activities

The AICPA membership adopted the AICPA Code of Professional Conduct to provide rules to all members — those in public practice, in industry, government, and education — to be applied in the performance of their professional responsibilities. As practice has evolved, so has the code. PEEC promulgates new ethics interpretations and monitors changes in practice and the needs of the public, making revisions to the standards as needed.

The Joint Ethics Enforcement Program

The AICPA promotes public awareness of and confidence in the integrity, objectivity, competence, and professionalism of CPAs by investigating potential disciplinary matters involving members of the AICPA and state CPA societies participating in the Joint Ethics Enforcement Program (JEEP). The program's objectives are to provide (1) a single investigation and action with respect to a person who is a member of both the AICPA and the society; (2) uniformity in the codes of conduct of the AICPA and CPA societies; and (3) uniformity in the enforcement and implementation of the codes of conduct of the AICPA and state CPA societies.

PEEC oversees the Enforcement Subcommittee. This subcommittee is responsible for investigating allegations of violations of the code and other professional standards, including accounting, auditing, tax and other related standards. Investigations range from independence and behavioral issues to technical performance of professional services.

The Professional Ethics Division

The staff of the AICPA Professional Ethics Division coordinates PEEC's standard-setting, enforcement, and member enrichment activities. The staff assists members in continually improving their professional conduct, performance, and expertise and monitors performance to ensure adherence to current standards and requirements. The staff also educates members and promotes the understanding of ethical standards in the code by responding to member inquiries on the application of the code to specific areas of practice.

The Strategy and Work Plan development process

The PEEC Planning Task Force identified potential standard-setting, enforcement, and member enrichment projects for the Strategy and Work Plan via member enrichment activities (e.g., ethics hotline) and outreach to PEEC members and other stakeholders. PEEC submitted feedback to the task force regarding potential issues to include in this consultation paper. After discussing the feedback, the task force developed recommendations and classified the identified matters into three categories: proposed new projects, current projects, and proposed projects not to pursue.

In this consultation paper, we are seeking input from the AICPA's membership and other interested parties on the topics listed under proposed new projects. Current projects of the AICPA Professional Ethics Division and PEEC are included in exhibit A and exhibit B, respectively. Proposed projects not to pursue are those potential projects that PEEC decided not to pursue and these matters are included in exhibit C.

PEEC considered the following when determining which projects should be added to the Strategy and Work Plan:

- Prevalent issues in the profession
- Benefit to the public interest
- Technological change
- Changes in auditing and accounting standards
- Education and tools to assist members
- Degree of urgency in addressing matters

Proposed new standard-setting projects

Business relationships

Recommendation of actions

Business relationships have changed since the “Cooperative Arrangements With Attest Clients” interpretation (1.265.010) under the “Independence Rule” (1.200.001) was first adopted in 1993 (e.g., subcontracting or teaming arrangements, alliances). In addition, firms are engaging in business relationships with nonattest clients (e.g., finance and accounting outsourcing) that may create threats to compliance with the “Integrity and Objectivity Rule” (1.100.001). Accordingly, PEEC is considering whether the code should be updated to better reflect the types of business relationships in which members are currently involved and how such relationships impact independence.

Request for input

Please answer the following questions to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- What business relationships do firms have with either nonattest or attest clients?
- What additional guidance related to business relationships, if any, would be helpful to address in the code?
- Is this matter increasingly affecting professional practice and how valuable would you find additional guidance?

Definition of “office”

Recommendation of actions

The definition of “office” is used to determine which partner or partner equivalent is a covered member and, therefore, needs to remain independent of attest clients. This definition was revised during PEEC’s independence modernization project in 2001. Since then, there have been many changes to how accounting firms practice which may require changes in how offices are viewed. Accordingly, PEEC is considering whether the code should be updated to better reflect these changes in practice.

Request for input

Please answer the following questions to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- What challenges do firms encounter with the current definition of office?
- What additional guidance related to the definition of office, if any, would be helpful to address in the code?
- Is this matter increasingly affecting professional practice and how valuable would you find additional guidance?

Client affiliates

Recommendation of actions

The definition of “affiliate” currently extends to common ownership by entities and not common ownership by individuals. Due to frequent inquiries regarding whether entities that are owned by the same individual should be considered affiliates, PEEC is considering whether the code should be updated to include guidance that addresses common ownership by individuals.

Request for input

Please answer the following questions to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- How do firms currently apply guidance related to the affiliate definition in a situation when entities are owned by the same individual?
- What additional guidance related to client affiliates, if any, would be helpful to address in the code?
- Is this matter increasingly affecting professional practice and how valuable would you find additional guidance?

Artificial intelligence

Recommendation of actions

Artificial intelligence (AI) is technology that enables computers to perform decision-based tasks previously performed by humans. AI presents a huge opportunity for CPAs, but reliance on new technology could create threats to compliance with the code. PEEC is considering forming a task force to include subject matter experts to understand ethics issues unique to the use of artificial intelligence while providing professional services.

Request for input

Please answer the following questions to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- What unique ethical challenges does the use of artificial intelligence present to members beyond what is already covered by the “Integrity and Objectivity Rule”, “General Standards Rule” (1.100.001), and related interpretations?
- If there are unique challenges, how do they differ for members in business and members in public practice?
- Is this matter increasingly affecting professional practice and how valuable would you find additional guidance?

Simultaneous employment or association with an attest client

Recommendation of actions

The “Simultaneous Employment or Association with an Attest Client” interpretation (1.275.005) currently scopes in any professional employee of the firm, except an adjunct faculty member of an educational institution and a member in a government audit organization. PEEC is considering a project to determine whether there are any other exceptions to this interpretation

and to update the code to address any exceptions determined to be appropriate. For example, if a CPA firm audits the U.S. Army, then a partner or any professional employee of the CPA firm cannot be simultaneously employed or associated with the U.S. Army; otherwise, independence would be impaired under the interpretation.

Request for input

Please answer the following questions to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- What challenges are members encountering when complying with the “Simultaneous Employment or Association With an Attest Client” interpretation (1.275.005)?
- What relief or exceptions should PEEC explore and why?

Digital assets

Recommendation of actions

The code does not provide any guidance specific to independence threats or other ethics issues when members own or mine digital assets such as cryptocurrencies. PEEC is considering forming a task force to include subject matter experts to understand independence and ethics issues unique to the digital asset ecosystem.

Request for input

Please answer the following questions to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- What threats are encountered with digital assets and how are they addressed?
- What issues related to digital assets would be helpful to address in the code?
- Is this matter increasingly affecting professional practice and how valuable would you find additional guidance?

529 college savings plans

Recommendation of actions

In 2005, PEEC developed guidance for 529 savings plans. This guidance concludes that a covered member who is an account owner has a direct financial interest in the plan as well as in the underlying investments held by the plan because the account owner elects which sponsor’s 529 savings plan to invest in, and prior to making the investment decision, the covered member has access to information about the plan’s investment options or funds. PEEC was informed that currently the underlying securities are not always known by account owners when they invest. Accordingly, PEEC is considering whether the code needs to be updated.

Request for input

Please answer the following questions to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- What challenges do those who invest in 529 savings plans encounter in monitoring the underlying investments held by these plans?
- What guidance related to 529 savings plans would be helpful to include in the code?

- Is this matter increasingly affecting professional practice and how valuable would you find additional guidance?

Reporting of an independence breach to an affiliate that is also an attest client

Recommendation of actions

There are situations when a breach occurs at the client level and the member communicates with those charged with governance and obtains agreement to continue. PEEC has discussed whether members can use judgement about when or if they need to communicate this breach to sister and downstream affiliates that are also attest clients. PEEC is considering whether the “Breach of an Independence Interpretation” subsection of the code should be updated to specifically address what procedures members should follow when multiple audit clients are affected by the same breach.

Request for input

Please answer the following question to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- Is this matter increasingly affecting professional practice and how valuable would you find additional guidance?
- How are you currently applying the “Breach of an Independence Interpretation” subsection in relation to affiliates that are also attest clients?

De minimis fees

Recommendation of actions

The materiality concept is used in subtopic 1.240 Financial Interests but the “Unpaid Fees” interpretation (1.230.010) does not refer to materiality. PEEC has discussed whether the existence of any de minimis amount of unpaid fees from an attest client for any previously rendered professional service provided more than one year prior to the date of the current-year report automatically impairs independence. PEEC is considering whether the Code should be updated to better reflect how de minimis amounts of unpaid fees affect independence.

Request for input

Please answer the following question to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- Is this matter increasingly affecting professional practice and how valuable would you find additional guidance regarding this matter?

Proposed new member enrichment projects

Data security and breaches

Recommendation of actions

The primary focus of information security is the balanced protection of the confidentiality, integrity, and availability of data while maintaining efficient policy implementation and without disrupting organizational productivity. PEEC believes that member enrichment materials might be helpful to assist members with understanding their ethical responsibilities in this area.

Request for input

Please answer the following question to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- What additional guidance, if any, would be helpful to assist members with data security or responding to data breaches?

Conflicts of interest

Recommendation of actions

Due to an increased number of inquiries regarding conflicts of interest, PEEC believes that providing member enrichment materials related to the “Conflicts of interest” subtopic (1.110) might be helpful to members.

Request for input

Please answer the following question to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- What additional guidance, if any, would be helpful to assist members with better understanding and applying the conflicts of interest interpretations?

Operational enhancements to the code

Recommendation of actions

PEEC plans to address matters related to the general maintenance of the code. The need for these matters may be identified via member enrichment initiatives (e.g., ethics hotline) or by other means. For example, staff is working on adding the frequently asked questions (FAQs) to the Online Professional Library (OPL) subscription service. Members who have subscriptions to OPL will be able to access the FAQs as part of the publication, Technical Questions and Answers (that is, they would not have to leave the subscription platform to access the FAQs). The FAQs will also be available in the cost-free online interface where the code is housed.

Request for input

Please answer the following question to assist PEEC in understanding whether this project should be pursued and, if so, how to appropriately scope the project:

- What operational enhancements should be made to the code to make it more user friendly?

Additional matters

Please provide input on any additional matters you believe we should include in the Strategy and Work Plan.

Exhibit A — Current projects of the AICPA Professional Ethics Division

Member enrichment projects

IESBA comparison. Given the restructure of the International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants (IESBA code), staff will compare the AICPA code to the IESBA code and identify where the AICPA code is less restrictive than the IESBA code. Staff will consider including a convergence matrix within this document to assist members in understanding where the AICPA addresses IESBA topics more robustly in non-authoritative guidance.

GAO independence comparison. Staff will update the GAO independence comparison for the latest yellow book changes.

Data analytics to identify member enrichment opportunities. Staff will explore what tools the Association may have that can assist with analyzing data sets obtained from cases and hotline inquiries to generate useful insights, with the goal of developing member enrichment materials.

Assisting clients with implementing accounting standards. Staff is working with the Enhancing Audit Quality (EAQ), Center for Plain English Accounting (CPEA), and Accounting Standards teams to develop a webcast discussing potential independence issues that exist when assisting clients with implementing new accounting standards such as the revenue and leasing standards.

Enhanced visibility of non-authoritative guidance. Staff will identify ways to enhance visibility of the division's non-authoritative guidance. To date, staff has identified two opportunities. First, staff is working with the content management team to add the division's FAQs and as many as practicable of the division's practice aids, implementation guides, toolkits, and other guidance to the online interface where the code currently resides (depending on technology constraints, this interface may not be the best place to house interactive materials). Additionally, staff is working on adding the FAQs to the Online Professional Library (OPL) subscription service. Members who have subscriptions to OPL will be able to access the FAQs as part of the publication *Technical Questions and Answers* (that is, not leave the subscription platform to access the FAQs).

Enforcement projects

Collaboration with peer review division for effective and efficient member/firm remediation. An enforcement project is underway wherein the peer review staff and ethics division staff are collaborating on potential ways to expedite certain referrals. In several of these scenarios the ethics division may need to decide on whether to rely on the results of actions taken by peer review and forgo further investigation. Any proposals will be vetted by the Peer Review Board and the PEEC.

Effect on automatic sanctioning with changes in Office of Professional Responsibility (OPR) Enforcement. Staff will consult with internal legal counsel to determine if changes to OPR's internal operations have any effect on OPR being an approved body for automatic sanctioning.

Reviewing the automatic sanctioning guidelines for consistency. The Automatic Sanctioning Subgroup will undertake a project to evaluate the challenges faced with mapping an appropriate sanction using the established guidelines and develop recommendations for addressing these challenges.

Exhibit B — Current projects of the Professional Ethics Executive Committee

Task force name and charge

Restricted use reports and independence provisions with a financial audit centric perspective.

This project has two components. The first is for a task force to determine if revisions are necessary to paragraphs .03 and .04 of the “Agreed-Upon Procedure Engagements Performed in Accordance With SSAEs” interpretation (1.297.020) now that AT-C section 215, Agreed Upon Procedures Engagements¹, will allow for the issuance of general use reports. This is because the requirement to issue a restricted use report was a factor PEEC considered when developing the modifications to independence as outlined in the above referenced ethics interpretation. The task force will consider IESBA’s standard.

The second component of this project is for the task force to identify any financial statement centric provisions in the code and recommend revisions for how these provisions should be handled if the attest engagement is not financial statement related.

Records request. Recommend to PEEC any updates necessary to the “Records Requests” interpretation (1.400.200) to clarify whether the intention of the interpretation was to allow a member to withhold a client’s records for costs pertaining to copying, storage, and shipping.

Information technology and cloud services. Recommend to PEEC any updates necessary to the “Nonattest Services” subtopic (1.295), including the “Information Systems Design, Implementation, or Integration” interpretation (1.295.145), in light of current information technology (including cloud) service offerings by members.

Independence in state and local government environment. Recommend to PEEC the final versions of the implementation guide and tools for the “State and Local Government Client Affiliates” interpretation (1.224.020) that PEEC adopted in May 2019. Recommend to PEEC frequently asked questions for this interpretation or other member enrichment information and tools as needed. Consider whether and how affiliate relationships and independence guidance should be extended to organizations in a single audit environment.

Responding to non-compliance with laws and regulations. Review IESBA’s standard *Responding to Non-Compliance with Laws and Regulations* and recommend to PEEC revisions to the code for purposes of convergence.

Inducements. Review the revisions IESBA made to the inducements topics and determine what, if any, revisions should be made to the AICPA code and CGMA code for convergence purposes.

Compilation of pro-forma and prospective financial information and selected procedures engagements task force. Determine if the independence modifications currently allowed for engagements performed under the SSAEs can be extended to compilation engagements for either pro-form financial information or prospective financial information since these engagements are performed under the SSARS and not the SSAEs. Also, provide preliminary

¹ You can find all AT-C sections in AICPA *Professional Standards*.

feedback to the Audit and Attest Standards staff on whether the new service under development referred to currently as “Selected Procedures Engagements” would likely qualify for modified independence.

Staff augmentation. Determine whether the code should address loaned staff arrangements.

Standing Groups or Task Forces and Charge

IFAC convergence and monitoring. Standing task force charged with identifying the projects that need to be undertaken as a result of convergence inconsistencies between the AICPA and IFAC codes and responding to IFAC’s ethical exposure drafts. Current projects being monitored:

- Structure of the code
- Safeguards
- Strategy and Work Plan
- Professional skepticism
- Non-assurance services

Nonattest services. Standing task force to assist staff with implementation issues on the revised standard.

Enhanced discipline; Automatic sanctioning subgroup and enhanced enforcement. Standing subgroup to determine automatic sanctions for purposes of ethics bylaws using PEEC/board-approved sanctioning guidelines; monitor sanctions of subcommittees to ensure consistency. Also, the subgroup will be involved with enhancing the efficiencies and effectiveness of enforcement process.

Planning Subgroup. Annually solicit feedback from key stakeholders concerning emerging ethical issues and recommend which issues should be studied by PEEC along with the priority of the projects. In addition, the subgroup will recommend revisions to the project agenda as needed.

Exhibit C — Projects not to pursue

Comparisons to other standard setter's rules. PEEC has decided not to pursue projects at this time to compare the AICPA code to standard setter's rules (e.g., SEC, PCAOB, treasury, HHS, and state boards) aside from the IESBA and GAO and DOL.

Ethical guidance related to client approval for sending work outside the U.S. It was suggested that PEEC consider a project to determine if there is adequate guidance requiring members receive clients' approval before sending client records outside the U.S. especially when the governments of those foreign countries are empowered to obtain those records more freely than U.S. jurisdictions. PEEC has decided not to pursue a project at this time to explore what additional ethical requirements aside from the "Use of a Third-Party Service Provider" interpretations (1.300.040, 1.150.040), the "Disclosing Information to a Third-Party Service Provider" interpretation (1.700.040), and the "Disclosure of Client Information to Third Party" interpretation (1.700.060) may be necessary.

Removal of the government auditor without approval. PEEC has decided not to pursue a project at this time to revisit "Simultaneous Employment or Association with an Attest Client" interpretation (1.275.005) where the government auditor can be "appointed by someone other than the legislative body, as long as the appointment is confirmed by the legislative body and removal is subject to oversight or approval by the legislative body." PEEC noted that they approved the phrase "oversight or" in 2014 in the government exception so that many government entities can be audited.

Contingent fees. PEEC has decided not to pursue a project at this time to revisit "Contingent Fee Rule" (1.510.001).

Gifts and entertainment. PEEC has decided not to pursue a project at this time to revisit the "Gift and Entertainment" subsection (1.120). The Inducements Task Force is working on member enrichment materials that may assist with providing additional guidance in relation to this topic.

Using a third-party provider for internal purposes or administrative support. PEEC has decided not to pursue a project at this time to provide additional guidance regarding the use of a third-party provider for internal purposes or administrative support that may involve client data. PEEC noted that the examples provided in the "Use of a Third-Party Service Provider" interpretation (1.150.040) are clear that a third-party provider is not expected to look at the client data while providing a firm with administrative support.

Peer review for tax practice. PEEC has decided not to pursue a project at this time to undertake a study to consider whether there should be a quality/peer review for tax practice.

Scared straight litigation. PEEC has decided not to pursue a project at this time to monitor and report on court cases and litigious actions involving CPAs.

Client access to information in cloud. It was suggested that PEEC consider the balance between the client's convenience and the member's risk of independence as it relates to keeping the records in the cloud for the client. PEEC has decided not to pursue this project because as noted in the "Hosting Services" interpretation (1.295.143), it has been concluded that independence would be impaired if a member is taking custody of or storing an attest

client's data or records whereby, that data or records are available only to the attest client from the member, such that the attest client's data or records are otherwise incomplete.

Confidentiality from the government. It was suggested that PEEC consider a project to update the "Disclosure of Client Information to Third Party" interpretation (1.700.060) to address contrasting ethical duties between the legal and the accounting profession. One such contrasting duty involves situations in which an accountant will provide information to a government agency without informing the client. PEEC has decided not to pursue a project at this time to explore what additional ethical requirements aside from "Disclosure of Client Information to Third Party" interpretation (1.700.060) and "Disclosing Confidential Client Information as a Result of a Subpoena or Summons" interpretation (1.700.100) may be necessary.