



American Institute of Certified Public Accountants
Professional Ethics Division
Professional Ethics Executive Committee
Open meeting minutes
May 5, 2020

The Professional Ethics Executive Committee (committee) held a duly called meeting on May 5, 2020. The virtual meeting convened at 10:00 a.m. and adjourned at 2:05 p.m.

Attendance

<p>Members: Brian Lynch, Chair Coalter Baker Chris Cahill Tom Campbell Robert Denham Anna Dourdourekas Anika Heard Kelly Hunter Sharon Jensen Jennifer Kary</p>	<p>Jeff Lewis William McKeown James Newhard Stephanie Saunders Lewis Sharpstone Lisa Snyder Peggy Ullmann Douglas Warren Lawrence Wojcik</p>
<p>Staff: James Brackens, VP–Ethics & Practice Quality Toni Lee-Andrews, Director Ellen Gorla, Associate Director Jennifer Clayton, Senior Manager Michele Craig, Lead Manager Summer Young, Lead Manager Aradhana Aggarwal, Manager Sarah, Brack, Manager Liese Faircloth, Manager Jennifer Kappler, Manager Iryna Klepcha, Manager Michael Schertzinger, Manager April Sherman, Manager John Wiley, Manager Shannon Ziemba, Manager</p>	<p>Carl Peterson, VP–Small Firms–PA Henry Grzes, Lead Manager–Tax Practice & Ethics Kristy Illuzzi, Technical Issues Committee (TIC) Staff Liaison Megan Kueck, Lead Manager–State Regulation & Legislation Elena Redko, Manager–Content Development & Management – MA James Cox, Associate Director–State Regulation & Legislation Kelly Mullins, Manager–Support Services and Communications Elaine Bagley, Specialist–Support Services Hanna Mayle, Job Coordinator Karen Puntch, Case Investigator</p>

Guests:

Catherine Allen, Audit Conduct
Sonia Araujo, PwC
Kent Absec, Idaho State Board of Accountancy
Ellen Adkins, Enforcement Subcommittee
Rita Barnard, Kansas Society of CPAs
Ian Benjamin, Chair, Enforcement Subcommittee
Laura Billingsley, Thomson Reuters
Jeannine Birmingham, Alabama Society of CPAs
Timothy Twofoot Boulette, New York State Society of CPAs
Lisa Brown, Ohio Society of CPAs
D. Boyd Busby, Alabama State Board of Public Accountancy
Gilbert Codrington, Thomson Reuters
Allan Cohen, RSM US LLP
Karen Cookson, U. S. Dept of Housing and Urban Development
Debbie Cutler, Debra A. Cutler CPA PC
James Dalkin, Government Accountability Office
Megan Donnellon, Deloitte
Karen Drescher, Karen C. Drescher, CPA, PC
Anna Durst, Nevada Society of CPAs
Dan Dustin, NASBA
Jason Evans, BDO
Jeremy Farrah, Runyon Kersteen Ouellette, P.A.
Tracey Fielman, Deloitte
Jo Ann Golden, New York State Society of CPAs
Rodney Harano, CW Associates, CPAs
Ayokah Harrison-Roberts, Georgia State Board of Accountancy
Allison Henry, Pennsylvania Institute of CPAs
Pamela Ives Hill, Missouri Society of CPAs
Kelly Hnatt, External Counsel

Dave Holets, Chair, SSTS Revision Task Force
Claire Horneffer, Thomson Reuters
Becca Huber, New York State Society of CPAs
Diane Jules, International Ethics Standards Board for Accountants
Vassilios Karapano, Securities and Exchange Commission
Elizabeth Pittelkow Kittner, International Legal Technology Association
Kimberly Kuhl, KPMG
Elliot Lesser, Enforcement Subcommittee
Stacey Lockwood, Society of Louisiana CPAs
Alan Long, Baldwin CPAs, PLLC
Nancy Miller, KPMG
Angela Miratsky, BKD, LLP
Karen Moncrieff, EY
Sharon Romere-Nix, Thomson Reuters
Christine Piche', CLA
Steve Pukish, Thomson Reuters
Jacqueline M. Reardon, TPRC
Michael Reese, The Hanover Insurance Group
John Robinson
Joseph Sanford, Enforcement Subcommittee
Anna Seto, TPRC
Rachel Sinks, Enforcement Subcommittee
Ivona Szady, Deloitte
John Szczomak, New Jersey Society of CPAs
Joseph Tapajna, TPRC
Jessica Tomc, EY
Paula Tookey, Deloitte
Chantell Walters, Thomson Reuters
J. Warganz, KPMG
Dan Wise, CohnReznick
Paula Young, EisnerAmper, LLP
Darlene Zibart, Kentucky Society of CPAs
Paul Ziga, Georgia State Board of Accountancy

1. **Welcome**

Mr. Lynch welcomed the committee and discussed administrative matters.

2. **NOCLAR**

Mr. Denham provided an update on the NOCLAR task force activities since the February meeting. Mr. Denham reminded the committee of the background associated with task force activities including NASBA's comment letter and the joint task force formed with representatives from PEEC, UAA and NASBA to discuss certain issues.

Mr. Denham informed the committee that initially the ASB elected to defer exposure because the standards may not be implementable due to various laws and regulations in over 40 jurisdictions. However, after subsequent research by NASBA their analysis indicated that 52 of 55 jurisdictions provide for a form of exemption through law, rule, or reference to the code. The discrepancy in the results was a concern to the ASB. However, the discrepancy was satisfactorily explained and the ASB can move forward with their efforts. The ASB will likely consider a vote to expose the proposed standard with respect to a communication requirement between predecessor and successor auditors at its July meeting.

Mr. Denham explained the revisions to the proposed NOCLAR interpretations exposed in March 2017. The task force agreed to (1) change the language in the proposed interpretation to include the member's requirement to comply with standards, (2) revise the structure of the interpretation to include separate guidance for members performing attest services and members performing non attest services, (3) add language clarifying the use of the term "client" as it relates to the level of responsibility members would have to report a NOCLAR if a third party entity is not the entity that engaged the member (4) add language clarifying the use of the term "client" throughout the interpretation if the engaging entity and subject entity are not the same, and (5) edit the language under the members in business guidance to allow both senior and non-senior professionals to report a NOCLAR to a regulatory body.

Mr. Denham stated that the task force is scheduled to meet in May to discuss (1) whether the guidance for members providing attest services should apply to all attest services or to audit and review services only, (2) other guidance that should be provided for members performing a service that is not an audit or review, and (3) clarification of the terms subject entity and engaging entity throughout the interpretation.

Mr. Campbell raised concerns regarding the rationale for the proposed separate guidance for financial statement audit or reviews and other services. Mr. Campbell commented that convergence with IESBA would not prevent the AICPA from being more restrictive. Mr. Denham explained that it is in the audit context that we can use conformance with standards

as a basis for reporting out. However, outside of the audit context, for which there is no current guidance, the client confidentiality rule would prohibit communicating to others. Mr. Denham stated that the ASB is assisting by revising the technical standards and going beyond the auditing standards would be challenging. Mr. Baker added that it was most important to get the ASB involved with the discussions between the predecessor and successor auditor first and then later address nonattest services and how NOCLAR might be applied.

Ms. Dourdourekas asked if the task force discussed members included language in their engagement letters giving the member general consent to disclose NOCLAR. Mr. Brackens agreed that this was a good suggestion and explained that this could be discussed between PEEC and the ASB.

Mr. Cahill asked if the broader plan would be to update the interpretations and then re-expose. Ms. Snyder explained that because there are significant changes to the proposed interpretations in addition to the time since the initial exposure draft, the task force will need PEEC's agreement to re-expose the interpretations. The task force plans to make this recommendation after addressing any remaining pending issues.

3. Staff augmentation

Ms. Snyder indicated that at the February PEEC meeting, NASBA had concerns that the position proposed at that time was too permissive, so the task force met in March to consider feedback received at that meeting and to discuss further revisions to the proposed interpretation. The task force decided to take a more prohibitive approach to staff augmentation by changing the interpretation to state that providing staff augmentation arrangements would impair independence for attest clients unless specific conditions were met and safeguards in place. The task force also decided the proposed interpretation would provide an exception for affiliates other than downstream affiliates similar to the exceptions afforded for nonattest services and leases when the services provided by the augmented staff would not be subject to attest procedures.

Ms. Snyder explained that the task force then provided the revised interpretation to the NASBA ethics committee for their consideration and feedback. Representatives of the NASBA ethics committee advised Ms. Snyder and staff that the committee met to discuss the revised interpretation and decided that it still supported NASBA's January board resolution opposing any interpretation allowing staff augmentation arrangements for attest clients, and that they would support the proposed interpretation brought to the November 2019 PEEC meeting as long as the interpretation also prohibited staff augmentation arrangements for affiliates, and that the exposure draft asked the question "Should staff augmentation arrangements be allowed at all?"

The task force met again in April to discuss the feedback received from NASBA and the task force concluded that that the affiliates exception should remain in the proposed interpretation with a question to be included about whether such an exception was appropriate.

Ms. Snyder then discussed the revisions to the proposed interpretation, specifically that threats to independence would not be at an acceptable level for staff augmentation arrangements unless the following conditions and safeguards are met:

- The staff augmentation arrangement is being performed due to an unexpected situation that would create a significant hardship for the attest client.
- The arrangement is not expected to reoccur.
- The arrangement is performed only for a short period of time, and there would be a rebuttable presumption that a short period of time would not exceed 30 days.
- The augmented staff performs only activities that would not be prohibited by the “Nonattest Services” interpretation.
- The member must be satisfied that the client designates an individual to oversee the services, and
- The firm does not use the augmented staff on the attest engagement team.

Regarding the exception for affiliates, she said that a member would be required to use the conceptual framework approach in evaluating the threats to independence, emphasizing that the exception was not meant to be an outright permission to do staff augmentation services.

Ms. Dourdourekas commented that she wasn't clear what the position was regarding agreed upon procedure (AUP) engagements and other engagements performed under the SSAEs. Ms. Miller said that she questioned the application for AUPs. In particular, she noted that for nonaudit services for an AUP, a member is allowed to perform a management function and so conceptually, if you can perform a management function for an AUP client, it would seem that an exception for staff augmentation for an AUP client would be consistent. Ms. Snyder asked for feedback regarding the question of allowing staff augmentation arrangements for an AUP client and most committee members thought this would be appropriate. Ms. Snyder said that a specific question could be asked when the proposed interpretation is exposed.

As discussion ensued on the overall interpretation, many committee members believed the current proposal was a step in the right direction and protects the public interest while at the same time gives practitioners the ability to step in and serve their clients in extreme circumstances. Some members thought that the interpretation could be too restrictive, but overall struck a good balance and addressed many of the concerns expressed by committee members in February. There was some discussion regarding the short period of time that

was reduced from 60 to 30 days being too restrictive or what was called a “bright line” and thus possibly being inconsistent with IESBA, but the use of the term “rebuttable presumption” gave comfort to some committee members regarding flexibility. Ms. Snyder noted that a question regarding defining the short period of time could be asked upon exposure.

Mr. Baker reminded the committee of NASBA’s ongoing opposition to allowing staff augmentation for attest clients. He noted that NASBA agreed that the proposal brought to PEEC in November would be acceptable for exposure with the qualifiers that there would be no exceptions for affiliates and the short period of time being 30 days. He noted that in November many members of the committee thought that 30 days was too restrictive, and that in January the NASBA board reaffirmed that they believed staff augmentation should not be allowed for attest clients at all, and that the NASBA ethics committee confirmed their opposition again in March. He asked PEEC to consider the ramifications of the proposal with respect to getting all states on board with adoption of the AICPA code, and was concerned about possibly having some states carve out another section of their law due to the proposed interpretation. Mr. Baker stated that NASBA’s position was not to expose the current proposal, give direction to the task force to develop language to specifically indicate that staff augmentation for attest clients is not acceptable, and determine for those firms that are already doing it, what is the most efficient way for those relationships to be terminated. Ms. Snyder asked him if this meant NASBA would no longer accept the proposal brought to the committee in November, and he said that he believed the NASBA ethics committee would accept exposing that version (which did not have an exception for affiliates) as long as the broad question of whether these arrangements should be allowed at all was included in the exposure draft.

The committee discussed the ramifications of NASBA’s position and specifically their opposition to the exception for affiliates. Committee members asked about NASBA’s specific position regarding affiliates and Ms. Snyder responded that she believed NASBA’s concern was based on the appearance of the augmented staff being an employee of the affiliate. Discussion continued regarding the differences between the SEC and the IESBA rules, as well as the complexities of private equity firms and how the affiliate rules could have significant implications for attest clients within private equity firms, especially brother/sister affiliates.

When asked if the private equity firm environment came up in discussions with NASBA’s ethics committee, Ms. Allen, NASBA ethics committee chair, said that they had discussed brother/sister affiliates, but they did not specifically talk about them in the private equity context. Mr. Lynch said the rationale was appearance, and that appearance is significant at the audit client, but for a brother/sister affiliate, appearance may be a lesser threat, and that it seems NASBA didn’t consider that or just didn’t believe there was any lesser of an

appearance threat. Ms. Snyder reminded the committee that the affiliate exception is not a “free pass,” but rather members would still have to use the threats and safeguards approach to evaluate the circumstances.

The committee discussed that exposing the proposal without the exception for affiliates could have the support of the committee while leaving it in might not. Either way, all agreed that the question regarding affiliates would be asked in the exposure documents. The committee also had lengthy discussions about how many practitioners simply are not aware or do not deal with some of the complex affiliate relationships that other firms do on a daily basis, and that providing examples of these in the exposure documents would be beneficial for all stakeholders in understanding why the affiliates question is so important.

Ms. Snyder confirmed that the task force would do the following:

- Revise the proposed interpretation to remove the affiliates exception.
- Develop questions for the exposure draft including, “Should staff augmentation arrangements be permitted at all?” and “Should an exception be made for certain affiliates?”
- Develop examples of the application of different affiliates scenarios for the exposure materials to highlight and educate those who may not be familiar with the complexities of affiliates in daily practice.
- Develop potential exemptions for AUP engagements and exposure draft questions for other engagements under the SSAEs.

4. Strategy and work plan consultation paper

Mr. Lynch updated PEEC that staff received 14 comment letters with the last letter received on March 6, 2020. The task force met twice in April and developed recommendations based on the comment letters received.

Mr. Lynch reported that the planning task force will be recommending forming a task force for the following projects: 529 college savings plans, Business relationships, Client affiliates, Digital assets, Reporting of an independence breach to an affiliate that is also an attest client, and Simultaneous employment or association with an attest client.

The planning task force will be recommending initiating the following member enrichment projects: Conflicts of interest, Artificial intelligence, and Definition of Office. Artificial intelligence and Definition of Office were included in the consultation paper as proposed new standard-setting projects. However, after the comment letters were reviewed, the planning task force recommends initiating member-enrichment projects instead. The planning task force does not recommend initiating the Data Security and Breaches project due to rapid changes in related laws and regulations.

The planning task force did not finalize the recommendation for the following projects:
Operational enhancements to the code and de minimis fees.

Mr. Lynch reminded PEEC that the consultation paper sought input regarding other matters. Several letters provided recommendations related to IESBA and other standard setter's rules. Because convergence with IESBA is an ongoing project, the planning task force recommends that this information be shared with the PEEC's IFAC Convergence Task Force for their consideration.

Two comment letters noted that additional guidance related to implementation of new accounting standards would be beneficial. The planning task force agreed with the comment letters and will be recommending developing additional guidance related to threats and safeguards associated with new accounting standards.

The planning task force plans to present a three-year plan to PEEC at the next meeting in August.

5. Inducements

Ms. Dourdourekas provided the committee with an update on the task force's activities and the key changes the task force made to the practice aid based on the committee's feedback from the November 2019 PEEC meeting. These changes include removing definitive answers, changing the title, clarifying that independence matters are not addressed and integrating the conceptual framework worksheet from the conceptual framework toolkit into the practice aid.

The committee provided staff with the following feedback:

- The section on "reasonable in the circumstances" could use a lead in sentence to describe the reason for this guidance to be included in the interpretation.
- The analysis of the case studies, although mentioned elsewhere, should include what a reasonable third party may conclude and the appearance of the matter.
- Under the guidance for providing political or charitable contributions, the last two bullet points should be combined, as they are addressing the same issue.

Ms. Snyder recommended that there be a section at the beginning of the practice aid that briefly explains the concept of "intent," because this was IESBA's focus in their guidance. Specifically, whether you know the evaluation or consideration of whether the intent is to improperly influence behavior. The concept of "intent" is included in an example, but it should be given more prominence as a consideration when evaluating inducements. Ms. Snyder asked if this concept was considered or intentionally not included in the practice aid.

Mr. Campbell explained that the task force discussed this topic, but it might be impossible to know the intent. Ms. Dourdourekas added that you would not always know the intent upfront. Therefore, the task force decided on using the appearance of the action (inducement).

The committee addressed the task force's decision not to open the gifts and entertainment interpretation and instead use nonauthoritative guidance to converge with IESBA's guidance on inducements. Ms. Craig explained that based on the results of the comparison performed, the AICPA's independence guidance was more restrictive than IESBA's guidance, and the differences between IESBA and AICPA's integrity and objectivity guidance were not substantive enough to open the interpretation. Ms. Gorla explained that the task force asked this question to the committee to confirm that the practice aid is the right direction for convergence.

Ms. Dourdourekas asked committee members associated with smaller firms if the practice aid would be useful or if there would be a need for explicit guidance in the code as it relates to this topic. Several committee members provided feedback that they agreed with the direction of the practice aid and found it to be useful and easy to read. A small firm practitioner would more likely use the practice aid instead of going through the code.

6. IESBA updates

Ms. Gorla reported that the February IESBA meeting was virtual, and that the June meeting would also take place virtually over six days.

During the February meeting, the Role and Mindset Task Force reported that overall respondents were generally supportive of the objectives of the exposure draft. The most significant clarifications requested were around the meaning of the term "public interest" in relation to the professional accountant's responsibility to act in the public interest and the concept of an "inquiring mind." Ms. Gorla reported that the task force's plan is for the final standard to be adopted at the June meeting.

Also, during the February meeting, a project proposal was approved to address the ethics and independence implications of major trends and developments in technology on assurance, accounting and finance functions. The board also heard a report from the listed entity/public interest entity task force. This task force noted that their focus so far was ensuring the objective was clear as to why the more stringent independence requirements (and quality control measures in the IAASB's standards) were necessary for these entities. The objective brought to the board was that the additional requirements and application material that would be applied to these entities are only applicable to the audit of financial statements in which there is a significant public interest. The purpose of these additional

requirements and application material is to enhance confidence in such financial statements through enhancing confidence in the audit of those financial statements.

Ms. Gorla also reported that PEEC's IFAC Convergence and Monitoring task force met to discuss the fees exposure draft and identified some preliminary comments.

7. Effective date deferral

Following the declaration of a national emergency related to the COVID-19 pandemic, the AICPA has consistently heard from firms that regardless of when the COVID-19 pandemic is declared over or when social distancing restrictions are lifted, smaller and mid-size firms will be struggling to recover like so many other small businesses and will not have the time or other resources to effectively implement interpretations. The AICPA believes that in this environment it would be in the public interest and welcome relief to many firms if the committee extended the effective dates for an additional year as highlighted below. The committee voted to extend the following by one year:

- “[Information Systems Services](#)” [1.295.145] Now effective January 1, 2022 with early implementation permitted.
- “[State and Local Government Client Affiliates](#)” [1.224.020] Now effective for years beginning after December 15, 2021.
- “[Leases](#)” [1.260.040] Now effective for fiscal years beginning after December 15, 2020 with early implementation permitted.

8. Statements on Standards for Tax Services

Ms. Saunders gave an update on the status of the Statements on Standards for Tax Services (SSTS) revision project. As the committee year was ending and with new committee members joining officially in August being present as observers, she gave a brief history of the project and indicated that the SSTS revision task force has met regularly since its formation and provides updates to both PEEC and the Tax Executive Committee (TEC) on their progress. In their January 2020 meeting, the task force agreed to share an initial draft of the revised standards with the TEC at their February 2020 meeting. The TEC has elected to do a detailed review of this initial draft of the revised SSTSs at their upcoming meeting scheduled on June 3, 2020.

Ms. Saunders noted that PEEC will be meeting with members of the task force during the May closed meeting to provide their feedback and comments on the initial draft of the revised standards. The task force will consider the comments from PEEC when evaluating further revisions to the current draft. The task force plans to finalize the draft revised standards in 2020 so the expectation is that the TEC will vote to expose the standards to the AICPA membership for comments in 2021.

9. Minutes of the PEEC open meetings

With new members, Anika Heard and Lewis Sharpstone, abstaining it was moved, seconded and agreed to approve the minutes from the October 2019 open meeting with no dissent.

It was moved, seconded and agreed to approve the minutes from the February 2020 open meeting with no dissent.