

Melanie S. Griffin, Secretary

Ron DeSantis, Governor

July 21, 2023
Board of Accountancy
Department of Business and Professional Regulations
Division of Real Estate Board Room,
400 W. Robinson Street, Suite N901, Orlando, Florida 32801

[Notice](#)

Friday July 21, 2023

9:00 a.m. Call to Order William Blend
Roll Call and Quorum Roger Scarborough

1. Deceased
 - a. Abbott-Marzucco, Brenna M.
 - b. Davis, Guy F.
 - c. Dickler, Marc S.
 - d. Dokson, Matthew N.
 - e. Ewen, Henry L.
 - f. Freesman, Joshua L.
 - g. Wilson, Michael L.
2. Approve Minutes
 - a. May 19, 2023
3. OGC Final Action

Entry of Final Order

- a. Robert N. Newman, CPA, PA

Petitioner's Motion for Informal Hearing

- b. Frohman, Gary J.
- c. Lopez, Maria M.
- d. Mesia, Allan E.
- e. Royce, Donald

Waiver

- f. Husen, Pam

Settlement Stipulation

- g. Bonenfant, Jennifer L.
- h. Liguori, Michael
- i. Offenhauer, Susan E.
- j. Shahinian, Diana J.
- k. Zgura, Scot

Voluntary Relinquishment

- l. Lenz, Randall A.

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4. Petitions for Variance or Waiver from Rule
 - a. Doherty, Robert J.
5. Request for Hearing
 - a. Kaplan, Kenneth
6. Exams – Considerations
 - a. Reisinger, Paul A.
7. Endorsement – Considerations
 - a. Wahdan, Rami
8. Endorsement – Military
 - a. Kobbe, Kaitlin
9. Maintenance & Reactivation – Null and Void
 - a. Peshev, Violeta
 - b. Pollitt, Christine A.
 - c. Relvini, Patricia A.
 - d. Richards, Jennie K.
10. Maintenance & Reactivation – Voluntary Relinquishment
 - a. See Exhibit
11. Chief Attorney's Report
12. Board Counsel's Report
 - a. Annual Regulatory Plan
 - b. July 2023 Rules Report
 - i) Rules
 - i) 61H1-20.001, F.A.C.
 - ii) 61H1-27.002, F.A.C.
 - iii) 61H1-27.005, F.A.C.
 - iv) 61H1-28.0052, F.A.C.
 - v) 61H1-33.003, F.A.C.
 - c. DOAH Case 22-2870
 - i) Judge's Recommended Order
 - ii) Petitioner's Exceptions to Recommended Order
13. Committees
 - a. Educational Advisory – May 16, 2023
 - b. CPE Committee – May 30, 2023
14. Administrative Items
 - a. Remarks from Chair
 - b. Remarks from Executive Director
 - c. Auditor General Rules Update
 - i. 10.550

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- ii. 10.650
- iii. 10.700
- iv. 10.800
- v. 10.850

d. Update from Board Members Serving on NASBA Committees

15. Florida Institute of Certified Public Accountants

16. Public Comments

17. Future Meetings

September 7 th PC	Orlando, FL
September 8 th BD	Orlando, FL
October 25 th PC	GoToMeeting
October 27 th BD	Orlando, FL
December 14 th PC	Orlando, FL
December 15 th BD	Orlando, FL

18. Adjourn

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY
MEETING OF THE BOARD**

July 21, 2023

Deceased Practitioners

<u>Name</u>	<u>Certificate Number</u>	<u>Date Deceased</u>
Abbott-Marzucco, Brenna Marie	AC42254	March 24, 2022
Davis, Guy Foster III	AC23753	December 30, 2022
Dickler, Marc Stanton	AC12125	May 8, 2023
Dokson, Matthew Neil	AC28235	July 1, 2022
Ewen, Henry Luis	AC9555	May 28, 2022
Freesman, Joshua Lawrence	AC52934	October 5, 2022
Wilson, Michael Lee	AC20582	January 16, 2023

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May 19, 2023
Board of Accountancy
Department of Business and Professional Regulations
Division of Real Estate Board Room,
400 W. Robinson Street, Suite N901, Orlando, Florida 32801

Notice

Friday May 19, 2023

The meeting was called to order at 9:00 a.m. Roll call of Attendees was called by Roger Scarborough, and reflected the following persons present:

Board Members

William Blend (Chair)	Not Present
Brent Sparkman	Present
Jason Lafser	Present
Tracy Keegan	Present
Shireen Sackreiter	Not Present
Michelle Maingot	Present
William Benson	Present
Steve Platau	Present
Caridad Vasallo	Present

Staff

Roger Scarborough	Present
Kevin Brown	Present

Rachelle Munson, Senior Assistant Attorney General and Board Counsel. Katie Pareja, Chief Attorney, Office of the General Counsel. Shelly Weir, Julian Dozier, Key O'Keefe and Paul Brown of the Florida Institute of Certified Public Accounting. Jennifer Green of Liberty Partners of Tallahassee. The court reporter was Donna Wolk. Mr. Platau left the meeting at 11:30am. Ms. Keegan left the meeting at 11:35 am.

1. Deceased

A moment of silence was held for deceased licensees.

2. Approve Minutes

a. March 30, 2023

Motion was made by Mr. Platau, seconded by Mr. Lafser, to approve minutes. Upon vote, the motion passed unanimously. Ms. Maingot was not present for this vote.

3. OGC Final Action

a. Adler, Brandon E.

Mr. Adler was not present.

Ms. Keegan was recused.

Ms. Pareja presented the case.

Motion was made by Ms. Maingot, seconded by Mr. Benson to acknowledge that Respondent was properly served, and qualifies to have a hearing before the Board involving no disputed issues of material fact and accept the allegations of fact and violations of law set forth in the Administrative Complaint as the Board's

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findings of fact and conclusions of law. Upon vote, the motion passed unanimously. **Mr. Platau was not present for this vote.**

Motion was made by **Mr. Benson**, seconded by **Mr. Lafser** to accept the recommended penalties **as presented**. Upon vote, the motion passed unanimously. **Mr. Platau was not present for this vote.**

b. Mace, Justin Z.

Mr. Mace was **not present**.

Ms. Keegan was recused.

Ms. Pareja presented the case.

Motion was made by **Mr. Benson**, seconded by **Ms. Vasallo** to acknowledge that Respondent was properly served, and returned an Election of Rights form requesting to waive their right to any form of hearing and have a Final Order entered and accept the allegations of fact and violations of law set forth in the Administrative Complaint as the Board's findings of fact and conclusions of law. Upon vote, the motion passed unanimously.

Mr. Platau was not present for this vote.

Motion was made by **Mr. Benson**, seconded by **Ms. Vasallo** to accept the recommended penalties. Upon vote, the motion passed unanimously. **Mr. Platau was not present for this vote.**

c. Macaulay, Harry

Mr. Macaulay was **not present**.

Ms. Keegan was recused.

Ms. Pareja presented the case.

Motion was made by **Mr. Lafser**, seconded by **Mr. Benson** to acknowledge that Respondent was properly served, and failed to file an Election of Rights form or otherwise establish a disputed issue of material fact in response to the Administrative Complaint, pursuant to Rule 28-106.111, Florida Administrative Code and accept the allegations of fact and violations of law set forth in the Administrative Complaint as the Board's findings of fact and conclusions of law. Upon vote, the motion passed unanimously. **Mr. Platau was not present for this vote.**

Motion was made by **Ms. Maingot**, seconded by **Mr. Lafser** to accept the recommended penalties. Upon vote, the motion passed unanimously. **Mr. Platau was not present for this vote.**

d. Mayerhoff, Gerald

Mr. Mayerhoff was **not present**.

Ms. Keegan was recused.

Ms. Pareja presented the case.

Motion was made by **Mr. Benson**, seconded by **Ms. Maingot** to acknowledge that Respondent was properly served, and qualifies to have a hearing before the Board involving no disputed issues of material fact and accept the allegations of fact and violations of law set forth in the Administrative Complaint as the Board's findings of fact and conclusions of law. Upon vote, the motion passed unanimously. **Mr. Platau was not present for this vote.**

Motion was made by **Mr. Benson**, seconded by **Ms. Vasallo** to accept the recommended penalties **as presented**. Upon vote, the motion passed unanimously. **Mr. Platau was not present for this vote.**

e. Davis, Patricia R.

Ms. Davis was **not present**.

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Ms. Keegan was recused.

Ms. Pareja presented the case.

Motion was made by Ms. Maingot, seconded by Mr. Lafser to adopt the terms of the proposed Settlement Stipulation. Upon vote, the motion passed unanimously. Mr. Platau was not present for this vote.

f. Diamond, William M.

Mr. Diamond was not present.

Ms. Keegan was recused.

Ms. Pareja presented the case.

Motion was made by Mr. Benson, seconded by Ms. Maingot to accept the terms of the voluntary relinquishment. Upon vote, the motion passed unanimously. Mr. Platau was not present for this vote.

4. Petitions for Variance or Waiver From Rule

a. Moultrie, Tai

Ms. Moultrie was present.

Motion was made by Mr. Platau, seconded by Mr. Lafser, to approve the petition for permanent variance for Rule 61H1-28.0052(1) (b), F.A.C. Upon vote, the motion passed unanimously.

b. Richards, Carleen

Ms. Richards was present.

Motion was made by Mr. Platau, seconded by Mr. Benson, to approve the petition for permanent variance for Rule 61H1-28.0052(1) (b), F.A.C. Upon vote, the motion passed unanimously.

5. Exams – Considerations

a. Diego, Sergio

Mr. Diego was not present.

Motion was made by Ms. Keegan, seconded by Mr. Lafser, to approve for convictions only. Upon vote, the motion passed unanimously.

b. Perez, Joseph

Mr. Perez was present with Mr. Tom Buchan present as counsel.

Motion was made by Mr. Platau, seconded by Mr. Lafser, to approve for convictions only. Upon vote, the motion passed unanimously. Ms. Maingot was not present for this vote.

c. Rindle, Breanna

Ms. Rindle was not present.

Motion was made by Ms. Keegan, seconded by Mr. Lafser, to approve for convictions only. Upon vote, the motion passed unanimously.

d. Wright, Robsha

Mr. Wright was not present.

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Motion was made by **Mr. Platau**, seconded by **Mr. Benson**, to deny the application. Upon vote, the motion passed unanimously.

6. Endorsement – Considerations

a. Heinz, Alexander

Mr. Heinz was not present.

Motion was made by **Ms. Keegan**, seconded by **Ms. Maingot**, to approve for convictions only. Upon vote, the motion passed unanimously.

b. Kaplan, Kenneth

Mr. Kaplan was not present.

Motion was made by **Mr. Benson**, seconded by **Ms. Vasallo**, to **deny the application**. Upon vote, the motion passed unanimously.

c. Wahdan, Rami

Mr. Wahdan was not present.

Motion was made by **Mr. Benson**, seconded by **Mr. Lafser**, to **continue the application**. Upon vote, the motion passed unanimously.

7. Initial Licensure

a. Rosato, Michael JW

Mr. Rosato was present.

Motion was made by **Ms. Keegan**, seconded by **Mr. Benson**, to approve for convictions only. Upon vote, the motion passed unanimously.

8. Maintenance & Reactivation – Null and Void

a. Bartley Jr., John M.

Mr. Bartley was present.

Motion was made by **Ms. Keegan**, seconded by **Mr. Platau**, to **approve** the request to reinstate the applicant's null and void license. Upon vote, the motion passed unanimously.

b. Chugani, Neelam K.

Ms. Chugani was present.

Motion was made by **Ms. Keegan**, seconded by **Ms. Vasallo**, to **approve** the request to reinstate the applicant's null and void license. Upon vote, the motion passed unanimously.

c. Glavach, Victor L.

Mr. Glavach was present.

Motion was made by **Ms. Keegan**, seconded by **Ms. Vasallo**, to **approve** the request to reinstate the applicant's null and void license. Upon vote, the motion passed unanimously.

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d. Hamrick, Esther L.

Ms. Hamrick was present.

Motion was made by **Mr. Platau**, seconded by **Ms. Vasallo**, to **approve** the request to reinstate the applicant's null and void license. Upon vote, the motion passed unanimously.

e. Mager, Melissa C.

Ms. Mager was not present.

Motion was made by **Ms. Maingot**, seconded by **Mr. Lafser**, to **deny** the request to reinstate the applicant's null and void license. Upon vote, the motion passed **with Ms. Keegan voting no**.

f. Ogilvy, Trina J.

Ms. Ogilvy was present.

Motion was made by **Ms. Keegan**, seconded by **Ms. Vasallo**, to **approve** the request to reinstate the applicant's null and void license. Upon vote, the motion passed unanimously.

g. Parrish, Norma B.

Ms. Parrish was not present.

Motion was made by **Mr. Benson**, seconded by **Ms. Keegan**, to **approve** the request to reinstate the applicant's null and void license. Upon vote, the motion passed unanimously.

h. Pesanelli, Mark D.

Mr. Pesanelli was present.

Motion was made by **Ms. Keegan**, seconded by **Mr. Lafser**, to **approve** the request to reinstate the applicant's null and void license. Upon vote, the motion passed unanimously.

i. Pis-Dudot, Alejandro

Mr. Pis-Dudot was present.

Motion was made by **Ms. Keegan**, seconded by **Mr. Lafser**, to **approve** the request to reinstate the applicant's null and void license. Upon vote, the motion passed unanimously.

9. Maintenance & Reactivation – Voluntary Relinquishment

Motion made by **Ms. Maingot**, seconded by **Mr. Platau** to ratify the list as presented. Upon vote, the motion passed unanimously

10. Reports

a. Prosecuting Attorney Report- Chief Attorney; Ms. Pareja

Ms. Pareja presented the Chief Attorney Report.

Motion made by **Ms. Maingot**, seconded by **Ms. Keegan** to allow Chief Attorney to continue to prosecute year-old cases. Upon vote, the motion passed unanimously.

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11. Rules

a. May 2023 Rules Report

Ms. Munson presented the May 2023 Rules Report.

b. DOAH Case Update

Ms. Munson presented an update concerning DOAH Case # Ms. Munson will present an additional update regarding the matter at the next Board meeting, or earlier.

12. Committees

a. CPE Committee – March 21, 2023

Mr. Scarborough presents the minutes and decisions made by the committee to be discussed, approved and ratified by the board.

Motion made by **Mr. Platau**, seconded by **Ms. Vasallo** to approve the minutes and ratify the decisions of the committee. Upon vote, the motion passes unanimously.

13. Administrative Items

a. Remarks from Chair

Mr. Sparkman expressed his gratitude to fulfil the role as Chair for meeting.

b. Remarks from Executive Director

Mr. Scarborough informed the Board that Mr. Mark Margulies was selected to sit on the Educational Advisory Committee. He also presented an update concerning the Division's course guide, and it's pending publication. He provided an update for the pending publication of the quarterly newsletter.

c. Update from Board Members Serving on NASBA Committees

None at this time.

14. National Association of State Boards of Accountancy

a. Proposed Changes to the UAA Model Rules

This was an informational item.

b. Vice Chair Endorsement – Maria Caldwell

Ms. Caldwell was endorsed by the Board.

15. Florida Institute of Certified Public Accountants

Ms. Weir provided an update concerning the CPA exam window revision from varying states and the UAA model rule revision. She additionally provided an update concerning the Universal Licensure Act, and its performance in the most recent legislative session. She also provided an update concerning the FICPA's perspective on educational requirements, and emphasized the importance of maintaining mobility. Ms. Weir also acknowledged Board members who were recently reappointed.

16. Public Comments

17. Adjourn

The meeting was adjourned at 11:45 a.m.

William Blend, Chair

Date

DRAFT

Summary Sheet for Petition for Variance or Waiver

Petitioner: Robert Doherty

Rule: 61H1-28.0052(1)(b)

Application Number: N/A

On June 7, 2023, Robert Doherty submitted a petition for variance from Rule 61H1-28.0052(1) (b), Florida Administrative Code (F.A.C.), which states:

61H1-28.0052 Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.

(1) With respect to the CPA Examination:

(b) Candidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed. In the event all four test sections of the CPA Examination are not passed within the rolling eighteen-month period, credit for any test section(s) passed outside the eighteen-month period will expire and that test section(s) must be retaken.

Mr. Doherty's passing dates as noticed by NASBA are:

Exam Section:	Date Passed:	Date Expired:
REG	August 23, 2021	February 23, 2023
BEC	December 15, 2021	June 15, 2023
AUD	March 16, 2023	September 16, 2024
FAR	May 23, 2023	November 23, 2024

As a result of being noticed for passing REG on August 23, 2021, the eighteen (18) month clock was activated creating an expiration date of February 23, 2023. Mr. Doherty is three (3) months outside the eighteen (18) month window for passage of FAR.

Mr. Doherty states he passed REG on August 23, 2021 and his intent was to pass all four examinations within the eighteen-month period as stated in the rules. However, his mother was diagnosed with a broken back on September 13, 2021 and required his help with food, transportation, appointments, hygiene, etc. She was in a shell brace and had to be taken to therapy from December 2021 to April 2022. During this time, she was also diagnosed with blood pons of the brain on February 27, 2022 and is still receiving ongoing treatment. On March 18, 2023, Mr. Doherty's mother fractured her left clavicle and needed transportation help from him for eight weeks. Mr. Doherty shared along with his mother's health issues, Hurricane IAN extended the busy tax season which interfered with him studying for the exam.

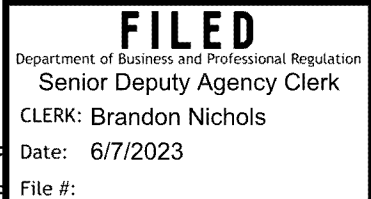
Mr. Doherty also shared he suffers from epilepsy and there are some side effects of his medication like brain fog, anxiety, irritability and unusual tiredness or weakness.

Mr. Doherty is requesting a permanent variance from Rule 61H1-28.0052 (1) (b), F.A.C.

Processed by: NB on June 8, 2023

Reviewed by: KL on June 9, 2023

Reviewed by Director on _____



REC

JUN 07 2023

Florida Division of
Certified Public Accounting

PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)

June 7, 2023

Petitioner Information:

Robert J Doherty
518 N Federal Hwy Unit 14
Lake Worth, FL 33460
Phone: 561-309-5477
Email: rdoherty561@gmail.com
Jurisdiction ID: Florida 01196141
National Candidate ID: 0000000000715213

VW 2023-060

Attorney Information:

Not Applicable

Applicable Portions of the Rules:

61H1-28.0052(1)(b), F.A.C.

Number of Sittings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.

“(b) Candidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed. In the event all four test sections of the CPA Examination are not passed within the rolling eighteen-month period, credit for any test section(s) passed outside the eighteen-month period will expire and that test section(s) must be retaken.”

The citation to the statute the rule is implementing:

Section 473.306, F.S. Examinations

Type of action requested:

The Petitioner respectfully requests that the Board of Accountancy please permanently waive Rule 61H1-28.0052(1)(b).

Specific facts that demonstrate a violation of the principles of fairness that would justify a variance for the petitioner:

The petitioner has been working in public accounting for over 9 years, with the goal of obtaining his CPA license. The petitioner began studying/preparing for the CPA exams in the fall of 2021, and he passed the Regulation exam on August 24th of 2021. The intent was to pass/complete all four examinations within the eighteen-month period as state in the rules above.

However, petitioner's mother, after being taken to Baptist Health in Jacksonville, was diagnosed with a broken back on 09/13/2021 here in Palm Beach County and treated by Board Certified spinal specialist, Dr. David Campbell. Living on her own, the petitioner was tasked with her required assistance with all activities related to daily living (food, transportation, appointments, hygiene, etc.). She was in a shell brace from September of 2021 through January of 2022 and had to be taken to physical therapy from December of 2021 through April of 2022. During the caretaking process, the petitioner's mom required an overnight stay at Palm Beach Gardens Medical Center on 02/27/2022 where she was diagnosed with blood pons of the brain and is still receiving ongoing treatment with neurosurgeon Dr. Brett Schilfka. Most recently, on 03/18/2023, the petitioner's mom fractured her left clavicle, was immobilized and once again in need of transportation for 8 weeks. Please note that the petitioner is more than happy to provide all supporting documentation for the events listed above.

On top of the numerous injuries to the petitioner's mother, the petitioner's firm was impacted by Hurricane Ian which led to busy season extending beyond the September/October deadline and through February 15th of 2023. This extension helped meet filing deadlines but closed the window on some of petitioner's testing periods. It is not unusual for candidates to work and study, however it is uncommon to do so during a deadline window.

The petitioner himself suffers from epilepsy and unfortunately some of the side-effects of the medication (Keppra 2000Mg) are brain-fog, anxiety, irritability, and unusual tiredness or weakness.

Despite the events/items above, the petitioner has continued to study and remained focused on the goal at hand, which was to pass all (4) parts of the CPA Examinations.

Regulation – CREDIT DATE 08/24/2021 (*expired on 02/23/2023*)

Business Environment Concepts – CREDIT DATE 12/16/2021

Auditing & Attestation – CREDIT DATE 03/18/2023

Financial Accounting & Reporting – CREDIT DATE 05/24/2023

The reason why the variance requested would serve the purpose of the underlying statute:

The petitioner has passed all four exams, completed the one-year work requirement all educational requirements and he is of good moral character.

Petitioner Statement:

The petitioner respectfully seeks a permanent variance from rule 61H1-28.0052(1)(b), F.A.C., and requests the eighteen-month window be extended.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001 Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice:

On June 12, 2023, the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from North Boca Raton Self Storage LLC, filed May 16, 2023, and advertised on May 22, 2023, in Vol. 49, No. 99, of the Florida Administrative Register. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rules 2.8.1 and 2.8.2.2, ASME A17.1, 2016 edition, as adopted by Rule 61C-5.001 Florida Administrative Code that requires an antenna not be placed in the elevator shaft because the Petitioner has demonstrated that the purpose of the underlying statute has been met and that the Petitioner would suffer a substantial hardship if required to comply with this rule (VW2023-051).

A copy of the Order or additional information may be obtained by contacting: Division of Hotels and Restaurants, Bureau of Elevator Safety, 2601 Blair Stone Road, Tallahassee, Florida 32399-1013. dh.elevators@myfloridalicense.com

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: RULE TITLE:

61H1-28.0052 Number of Sittings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules

NOTICE IS HEREBY GIVEN that on June 07, 2023, the Board of Accountancy, received a petition for variance or waiver filed by Robert Doherty. Petitioner seeks a permanent variance or waiver of paragraph 61H1-28.0052(1)(b), F.A.C., regarding the timeframes with respect to the CPA Examination, which requires that candidates must pass all four sections of the CPA Examination within a rolling eighteen-month period. Petitioner is seeking a permanent waiver to extend the eighteen-month period. Comments on this petition should be filed with the Board of Accountancy within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Roger Scarborough, Division Director, Board of Accountancy, 240 NW 76th Dr., Suite A, Gainesville, Florida 32607, (850)487-1395 or by email, Roger.Scarborough@myfloridalicense.com.

DEPARTMENT OF FINANCIAL SERVICES

The Department of Financial Services, Division of State Fire Marshal (Department) hereby gives notice:

On June 8, 2023, Jeff L. Kleiss, Senior Project Engineer for Lochinvar, LLC, filed on June 8, 2023, a request to formally WITHDRAW the request for an emergency Variance/Waiver which was filed on May 4, 2023, and was published in Issue 49/91.

A copy of the Order or additional information may be obtained by contacting: Sarah Marcos, Sarah.Marcos@myfloridacfo.com

FLORIDA HOUSING FINANCE CORPORATION

RULE NO.: RULE TITLE:

67-21.026 HC Credit Underwriting Procedures

The Florida Housing Finance Corporation hereby gives notice: On June 12, 2023, the Florida Housing Finance Corporation issued an order granting the waiver from paragraph 67-21.026(13)(e), Florida Administrative Code (07/06/2022) from Malibu Bay Preservation, Ltd., allowing the Development's general contractor to self-perform work exceeding the de minimis amount. Florida Housing determined that the Petitioner had demonstrated that it would suffer a substantial hardship if the waiver was not granted. The petition was filed on May 8, 2023, and notice of the receipt of petition was published on May 10, 2023, in Vol. 49, Number 91 F.A.R.

A copy of the Order or additional information may be obtained by contacting: Ana McGlamory, Corporation Clerk, Florida Housing Finance Corporation, 227 N. Bronough St., Ste. 5000, Tallahassee, FL 32301-1329.

FLORIDA HOUSING FINANCE CORPORATION

RULE NO.: RULE TITLE:

67-48.002 Definitions

The Florida Housing Finance Corporation hereby gives notice: On June 12, 2023, the Florida Housing Finance Corporation issued an order granting the waiver from subsection 67-48.002(96), F.A.C. (5/18/21) and the 2021 QAP from Heritage Oaks, LLLP, allowing Petitioner to exchange its 2022 housing credits for an allocation of 2023 housing credits now rather than waiting until the end of the second quarter 2024. Florida Housing determined that the Petitioner had demonstrated that it would suffer a substantial hardship if the waiver was not granted. The petition was filed on May 11, 2023, and notice of the receipt of petition was published on May 16, 2023, in Vol. 49, Number 91 F.A.R.

A copy of the Order or additional information may be obtained by contacting: Ana McGlamory, Corporation Clerk, Florida Housing Finance Corporation, 227 N. Bronough St., Ste. 5000, Tallahassee, FL 32301-1329.

STATE OF FLORIDA
BOARD OF ACCOUNTANCY
MEETING OF THE BOARD

July 21, 2023

ENDORSEMENT CONSIDERATIONS AGENDA

Endorsement- Military Staff Approvals

Kobbe, Kaitlin

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY
MEETING**

July 21, 2023

CONSENT AGENDA

MAINTENANCE and REACTIVATION

The following licensees have requested to voluntarily relinquish their license. No disciplinary action pending.

<u>Licensee's or Firm Name</u>	<u>License Number</u>	<u>Disciplinary Action</u>
Bennett, Catherine Helen	AC12645	None
Broden, Barry Charles	R001863	None
Demilia, Joseph A Jr	AC17474	None
First Choice Accounting Solutions LLC	AD71296	None
Garcia-Rodriguez, Maria T	AC26060	None
Gregos, Ruth A	AC22824	None
Haley, Judy Heflin	AC15587	None
Harold, Paul Louis	AC7740	None
Hernandez, Ronald	AC27032	None
Joan P. Gray	AD17554	None
Kidd-Robinson, Julie Ann	AC39860	None
Linda George	AD19624	None
Mahe, Justin Ross	AC54207	None
Majfud, Elizabeth	AC25387	None
Marano, Frank S	AC57381	None
Marshall, Craig Andrew	AC38658	None
Mayer, Bradley E	AC50424	None
Murray, Denise Moninger	AC32229	None
Ogden, Gwendolyn M	AC5208	None
Rodriguez, Manuel Jr	AC5882	None
Tapp, William Gregory	AC11317	None
Thomas P. Abrassart, P.A.	AD12990	None
Waite, Barry E	AC3293	None

**BOARD OF ACCOUNTANCY
RULES REPORT
JULY 2023**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
61H1-20.001	Definitions	05/20/22	06/07/22	06/15/2022	06/30/2022 07/05/22 – JAPC Letter 07/11/22 – JAPC Response 07/11/22 – JAPC Tolling Letter 09/14/22 – JAPC Tolling Response 07/07/23 – JAPC Response		
61H1-27.002	Concentrations in Accounting and Business	02/09/23	02/20/23	02/28/2023	03/08/2023	04/26/2023	05/16/2023
61H1-28.0052	Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules	02/09/23	02/20/23	02/28/2023	03/08/2023 03/10/23 – JAPC Letter 03/17/23 – JAPC Response	04/24/2023	05/14/2023
61H1-33.003	Continuing Professional Education	05/20/22	06/09/22	06/16/2022	07/01/2022 07/05/22 – JAPC Letter 07/11/22 – JAPC Response 07/11/22 – JAPC Tolling Letter 09/14/22 – JAPC Tolling Response 07/07/23 – JAPC Response		

61H1-20.001 Definitions.

(1) “Certified public accountant,” or “CPA,” shall be deemed and construed to mean a person, who holds an active, inactive, delinquent, or temporary license issued under Chapter 473, F.S., or who is practicing public accounting in this state pursuant to the practice privilege granted in Section 473.3141, F.S.

(2) “Florida certified public accountant” shall be deemed and construed to mean a person who holds an active, inactive, delinquent, or temporary license issued under Chapter 473, F.S.

(3) “Non-Florida certified public accountant” shall be deemed and construed to mean a person who is practicing public accounting in this state pursuant to the practice privilege granted in Section 473.3141, F.S.

(4) “Firm,” “CPA Firm” or “Firms of certified public accountants” shall be deemed and construed to mean a sole proprietor, partnership, professional corporation, limited liability company, or any other legal entity engaged in the practice of public accounting, including individual partners, stockholders or members thereof, that holds an active, delinquent, or temporary license issued under Section 473.3101, F.S., or its state of domicile.

(5) “Florida firm” shall be deemed and construed to mean any sole proprietor, partnership, professional corporation, limited liability company, or any legal entity that holds an active, delinquent, or temporary license issued under Section 473.3101, F.S.

(6) “Non-Florida firm” shall be deemed and construed to mean any legal entity that is practicing public accounting pursuant to a license issued in its state of domicile.

(7) A “suspended certified public accountant” is prohibited from practicing public accounting as a sole proprietor, partner or shareholder and using the “CPA” designation. A suspended certified public accountant may be an employee under the supervision of a certified public accountant who holds an active license.

(8) ~~An Except as to a certified public accountant employed by a Florida firm,~~ “office” shall be deemed and construed to mean a place in which public accounting is conducted or any place for which the physical address is identified in advertising. ~~For As to a certified public accountant employed by a Florida firm,~~ “office” shall also mean the licensee’s his/her designated address of record.

(9) “Proof of CPE completion” from a continuing professional education CPE provider shall be defined as the document identifying the licensee has completed a course. To be accepted by the Board, the document must contain the following elements: name of course taken, licensee name, the date the course was completed, number of hours, credit type or category, sponsor name, and signature of the CPE sponsor. Proof of CPE completion for a Florida ethics course, in addition to the aforementioned elements, must include the DBPR course approval number. For courses completed at accredited institutions of higher learning and credited for CPE, a transcript will be considered proof of CPE completion. Proof of CPE completion for instructor credit will include an Instructor CPE Credit Reporting Form (DBPR CPA 13, effective _____), which is incorporated by reference in Rule 61-35.003, F.A.C.

Rulemaking Authority 473.304 FS. Law Implemented 455.271, 473.3101, 473.3141 FS. History—New 12-4-79, Formerly 21A-20.01, Amended 10-20-86, Formerly 21A-20.001, Amended 8-13-06, 11-3-09, 3-18-10, 11-21-13, 12-24-15, XX-XX-23.

61H1-27.002 Concentrations in Accounting and Business.

(2) For purposes of Section 473.308, F.S., if application for licensure is made after August 1, 1983, an applicant must have at least 150 semester hours or 225 quarter hours of college education, including a baccalaureate degree or higher conferred by an accredited college or university with a major in accounting, or its equivalent. The applicant's total education program shall include a concentration in accounting and business as follows:

(a) 30 semester or 45 quarter hours in accounting education at the upper division level which shall include coverage of auditing, cost and managerial accounting or accounting data analytics, financial accounting, and taxation. Of these courses, the applicant must complete 3 semester hours or 4 quarter hours of financial accounting based upon United States Generally Accepted Accounting Principles (GAAP) and 3 semester hours or 4 quarter hours of taxation for accounting standards based upon United States federal and state laws. Not more than 3 semester or 4 quarter hours may be internship programs which may be applied to the 30 semester or 45 quarter hours in accounting (internship courses must be taken in conjunction with other traditional coursework at an institution and must appear on the transcript). Further, any remaining internship credit if otherwise acceptable would be applied to the general business requirement;

(b) No change

(3) To be eligible to take the licensure examination, an applicant shall have completed 120 semester or 180 quarter hours as follows:

(a) 24 semester or 36 quarter hours in accounting education at the upper division level which shall include coverage of auditing, cost and managerial accounting or accounting data analytics, financial accounting, and taxation. Of these courses, the applicant must complete 3 semester hours or 4 quarter hours of financial accounting based upon United States Generally Accepted Accounting Principles (GAAP) and 3 semester hours or 4 quarter hours of taxation for accounting standards based upon United States federal and state laws. Not more than 3 semester or 4 quarter hours may be internship programs which may be applied to the 24 semester or 36 quarter hours in accounting (internship courses must be taken in conjunction with other traditional coursework at an institution and must appear on the transcript). Further, any remaining internship credit if otherwise acceptable would be applied to the general business requirement;

Rulemaking Authority 473.304, 473.306(3), 473.308(3) FS. Law Implemented 473.306(2), (3), 473.308(3), (8) FS. History—New 12-4-79, Amended 2-3-81, 8-1-83, 3-21-84, 6-10-84, 6-5-85, 10-28-85, Formerly 21A-27.02, Amended 5-22-88, 3-21-89, 5-20-91, 12-2-92, Formerly 21A-27.002, Amended 11-2-95, 11-3-97, 1-31-05, 5-24-07, 11-30-08, 12-21-09, 12-2-14, 7-11-16, 2-13-18, 7-29-18, 2-3-20, 1-12-21, XX-XX-23.

61H1-27.005 Educational Advisory Committee.

The Board shall appoint an Educational Advisory Committee which shall be composed of one (1) member of the Board, two (2) Florida certified public accountants in public practice, and four (4) academicians on faculties of universities within the State of Florida. The Board member shall be appointed by the Chairman and serve at his or her pleasure. The other members of the Committee will be selected by the Chairman of the Committee for terms of two (2) years, ~~with the potential for reappointment for one (1) additional two (2) year term. Any member appointed to fill a vacated, partial term, can serve two (2) full terms.~~ In addition, the Committee shall consist of expert staff retained by the Department of Business and Professional Regulation. Said staff shall be individuals who have knowledge and experience with educational curricula and national accreditation standards for accounting and business programs. The Educational Advisory Committee shall assist the Board and Board staff with any educational matters or issues brought to the Committee, including but not limited to questions regarding academic qualification for applications for examination and licensure by endorsement. The Committee may also bring educational issues it deems of importance to the Board.

Rulemaking Authority 473.304 FS. Law Implemented 473.306 FS. History—New 7-7-85, Formerly 21A-27.05, Amended 12-2-92, Formerly 21A-27.005, Amended 10-26-09.

61H1-28.0052 Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.

(1) With respect to the CPA Examination:

(a) A candidate may take the required test sections individually and in any order. Credit for any test section(s) passed shall be valid for ~~eighteen~~ thirty months from the National Association of State Boards of Accountancy (NASBA) grade release date for that test section, without having to attain a minimum score on any failed test section(s) and without regard to whether the candidate has taken other test sections.

(b) Candidates must pass all four test sections of the CPA Examination within a rolling ~~eighteen~~ thirty-month period, which begins on the NASBA grade release date for the first test section(s) passed. In the event all four test sections of the CPA Examination are not passed within the rolling ~~eighteen~~ thirty-month period, credit for any test section(s) passed outside the ~~eighteen~~ thirty-month period will expire and that test section(s) must be retaken.

(2) A candidate shall be deemed to have passed the CPA Examination when the candidate has been granted credit for all sections of the CPA Examination. Upon certification of examination scores by the Board to the Department that the applicant has met all licensure requirements as imposed by Chapters 455 and 473, F.S., and the rules promulgated pursuant thereto, the Department shall issue a license to practice public accounting to such individual. However, in no event shall an initial license be issued if the initial licensure fees and all required documents are not received within 36 months of the date of certification of examination scores by the Board; in such case, the certification expires and the applicant may reapply for licensure by endorsement, pursuant to Section 473.308(7)(a), F.S.

(3) The eighteen-month requirement as stated in this rule does not apply to examination credits expiring between April 1, 2020 and June 29, 2021. Those credits shall be granted an extension through June 30, 2021.

~~(4) The eighteen month requirement as stated in this rule does not apply to examination credits expiring between January 1, 2024 and June 29, 2025. Those credits shall be granted an extension through June 30, 2025.~~

(4) The thirty-month requirement as stated in this rule does not apply to examination credits for any test section(s) passed with a grade release date between July 1, 2022 and December 31, 2022. Those sections have an expiration date of June 30, 2025.

(5) The thirty-month period replaces the prior eighteen-month period and is effective for candidates with their first passing score released by NASBA on or after October 21, 2020.

(§ 6) This rule shall be reviewed and, if necessary, repealed, modified, or renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 455.217(1), 473.304, 473.306 FS. Law Implemented 455.217(1), 473.306 FS. History—New 1-1-04, Amended 2-24-08, 8-20-09, 12-10-09, 5-6-21, 5-14-23.

61H1-33.001 Certified Public Accountants Required to Comply with this Chapter.

(1) Each Florida certified public accountant shall be required to reestablish his/her professional knowledge and competency in conformity with this rule by the completion of continuing professional education programs.

(2) Pursuant to Section 473.311(1)(b), F.S., a Florida licensed certified public accountant, who is not a resident of Florida and is licensed in another state, may satisfy Florida's CPE requirements by completing the CPE requirements of the state where the licensee's office is located and by completing a Florida Board-approved ethics course. If the state where the licensee's office is located does not have continuing professional education requirements, the licensee must comply with the requirements set forth in paragraph 61H1-33.003(1)(b), F.A.C.

(3) See Rule 61H1-33.006, F.A.C., for reinstatement of inactive Florida certified public accountants who desire to become active Florida certified public accountants, and the requirements related to continuing professional education.

Rulemaking Authority 473.304, 473.311, 473.312, 473.313 FS. Law Implemented 473.311, 473.312, 473.313 FS. History—New 12-4-79, Amended 2-3-81, 12-19-82, Formerly 21A-33.01, Amended 4-8-86, Formerly 21A-33.001, Amended 5-24-07, 11-18-07, 12-10-09, 9-7-22.

61H1-33.003 Continuing Professional Education.

(1)(a) Each Florida certified public accountant's reestablishment period shall commence on the date indicated on the licensee's Florida certificate. The initial designated reestablishment period for each Florida certified public accountant shall end on the third June 30th following the date indicated on the licensee's Florida certificate. Each succeeding reestablishment period shall begin on July 1, and end on June 30, two years thereafter and ending in the year the license expires.

(b)(4)(a) In any given reestablishment period, except as stated below in subparagraph (1)(c) of this rule, each current/active Florida certified public accountant must have completed at any time or times during the two-year period, at least 80 hours of educational instruction or training in public accounting subjects or courses of study, as defined hereinafter, of which at least 8 hours must have been in accounting-related and/or auditing-related subjects and of which no more than 20 hours may be in behavioral subjects and at least four hours shall be in Florida Board-approved ethics. All CPE proof of completion must be reported in the DBPR On-Line Services portal on or before July 31 prior to their biennial license renewal.

(c) Effective with the reestablishment period ending June 30, 2024, the licensee must report courses completed and provide proof of CPE completion in the DBPR On-Line Services portal on or before July 31 immediately following the reestablishment period and prior to their biennial license renewal.

(d) A nonresident Florida licensed certified public accountant seeking renewal of a Florida license may provide proof of CPE completion in the State where the licensee's office is located by submission of the Out of State Licensee CPE Acknowledgement Form (DBPR CPA 14, effective _____), which is incorporated by reference in Rule 61-35.003, F.A.C., and proof of completion of a Florida Board-approved ethics course in the DBPR On-Line Services portal prior to renewal.

~~(e)(b)~~ Florida certified public accountants who do not meet the requirements by June 30th will be granted an automatic extension until September 15th provided the licensee submits proof of CPE completion in the DBPR On-Line Services portal. Florida certified public accountant completes for an additional eight hours in Accounting and Auditing subjects, totaling 88 hours of completed CPE on or before the extension date. An automatic extension will be granted until December 31st provided the licensee submits proof of CPE completion in the DBPR On-Line Services portal. Florida certified public accountant completes for an additional 16 hours in Accounting and Auditing subjects, totaling 96 hours of completed CPE on or before the extension date. For the reestablishment period ending June 30, 2020, current active licensees who complete continuing professional education (CPE) hours by December 31, 2020 are not required to complete the additional CPE hours referenced in this subsection. CPE hours approved for this extension shall apply solely to the reestablishment period ending June 30, 2020.

(2) Educational instruction or training in public accounting subjects or courses of study is hereby defined as formal programs of learning as defined below, which contribute directly to professional competency following licensure to practice public accountancy. Subjects or courses of study qualifying an individual for the purposes of this shall be limited to:

(a) Accounting and auditing subjects to consist of: Accounting and financial reporting subjects, the body of knowledge dealing with recent pronouncements of authoritative accounting principles issued by the standard-setting bodies, and any other related subject generally classified within the accounting discipline. Subjects include auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and the reporting on the results of audit findings, compilation and review. It also includes assurance services that relate to Standards for Attest Engagements.

(b) Technical business subjects to consist of:

1. Taxation including tax compliance and tax planning.
2. Consulting services including management advisory services; personal financial planning services; planning and control systems dealing with planning, organizing and controlling any phase of individual financial activity or business activity; designing, implementing, and evaluating operating systems as well as business advisory services and personal financial planning.
3. Management including practice management for the public practitioner; financial management of an organization including information systems, budgeting and asset management, planning, buying and selling businesses, contracting for goods and services and foreign operation; budgeting; cost analysis; human resource management; and financial management.
4. Specialized knowledge and applications including subjects related to specialized industries such as not for profit organizations, health care, oil and gas.

(c) The ethics courses shall be obtained from a provider approved pursuant to Rule 61H1-33.0032, F.A.C., and consist of:

1. A review of Chapters 455 and 473, F.S., and the related administrative rules.
2. The ethics course may include other subjects including but not limited to: ethical conduct, core values and competencies, professional responsibility, responsibility to clients and the public, case studies that require the application of ethics principles, national professional standards and interpretations, and appropriate national issues related to the practice of accounting.

(d) Behavioral subjects including oral and written communications and the social environment of business. All courses not covered above are considered behavior except for business meetings, social functions, committee service and courses in elementary accounting or basic mathematics which do not qualify for credit.

(3) Credit may be prorated by the sponsor for courses that cover more than one area of study by (1) prorating the amount of time spent in each area or (2) awarding credit based on the lowest topic covered with accounting and auditing being the highest and behavioral the lowest. Therefore an eight-hour course that was 75% accounting and auditing and 25% management would receive six (6) hours of accounting and auditing credit and two (2) hours of technical business or eight (8) hours of all technical business. Hours cannot be prorated in less than half-hour increments.

(4) In order for a Florida certified public accountant to receive credit for programs of learning, as defined above, the following formalities and further requirements must be met:

(a) Courses taken at institutions of higher education:

1. Higher education credit courses taken from an accredited institution as defined in subsection 61H1-27.001(1), F.A.C., shall be credited for continuing professional education purposes at the rate of 15 hours for each semester hour of higher education credit and 10 hours for each quarter hour of higher education credit, provided the number of contact hours (hours in the classroom) totals at least 90% of the continuing professional education credit so determined. Otherwise, continuing professional education credit shall be limited to the actual number of contact hours.

2. Higher education non-credit courses shall be credited for continuing professional education purposes equivalent to the actual number of contact hours.

3. Continuing professional education credit for instructing a higher education course shall be twice the credit which would have been granted participants for the first presentation of a specific course of program, the same as the credit granted a participant for the second presentation and none thereafter, except as permitted by subparagraph 61H1-33.003(4)(b)4., F.A.C.

4. No continuing professional education credit shall be permitted for attending or instructing accounting courses considered to be elementary.

5. To receive instructor credit for courses taught, licensees must submit a completed DBPR CPA 13, Instructor CPE Credit Reporting Form, which is incorporated by reference in Rule 61-35.003, F.A.C.

(b) Other professional education or training:

1. Professional development courses shall be credited for continuing professional education purposes in increments of not less than one half hour, equivalent to the actual number of contact hours (hours in the classroom which must include at least fifty minutes of continuous participation per contact hour or twenty-five minutes per contact half hour) provided an outline (defined as a schedule of activity listing major topics of discussion) is prepared in advance and retained; a course is at least one contact hour or half hour in length; the course conducted by a qualified instructor, lecturer or discussion leader; and a record of registration and attendance is maintained. For this purpose, a one-day program will be granted eight hours credit if the total lapsed time is at least eight hours and the contact time is approximately 400 minutes. An instructor, lecturer or discussion leader will be considered qualified if, through formal training or experience, he has obtained sufficient knowledge of the subject matter to competently instruct the course. A course participant will be granted credit for only that portion of a course actually attended. If a record of registration and attendance

is not maintained by the sponsoring organization, the course participant must be able to prove registration and attendance.

2. Formal organization in-firm educational programs shall be credited for continuing professional education purposes to the same extent and by the same requirements as other professional development courses.

3. Instructors, lecturers, panelists and discussion leaders for professional development courses and formal organized in-firm educational programs shall be credited for continuing professional education purposes at twice the credit granted participants for the first presentation of a specific course or program, the same as the credit granted a participant for the second presentation and none thereafter, except as permitted in subparagraph 61H1-33.003(4)(b)4., F.A.C. Co-panelists and co-discussion leaders shall be credited for the portion of specific course or program they must prepare to discuss and lead as a co-panelist or co-discussion leader.

4. To the extent course content has been substantially revised, the revised portion shall be considered a first presentation for the purposes of subparagraph 61H1-33.003(4)(b)3., F.A.C.

~~(5) As a part of each licensee's biennial license renewal, each Florida certified public accountant shall, as a part of the biennial licensure renewal, on or before December 31 prior to his/her biennial license renewal, comply with the continuing professional education requirements during the applicable reestablishment period, and upload proof of CPE completion to the DBPR On-Line Services Portal. Each Florida certified public accountant's proof of CPE completion documentation supporting such compliance shall be retained for at least through the two years following a two-year reestablishment period and be made available if requested for a random. Documentation is to be retained to support evidence of completion of the required hours to enable an audit by the Department of Business and Professional Regulation (DBPR) to determine compliance with the requirements. Proof of CPE completion documentation for each course shall be in a format as prescribed by the Board in Rule 61H1-20.001(9), F.A.C. to include course title and date, number of hours earned, attendee name, certified public accountant course provider name, number, and signature of the provider furnishing said certificate, and when requested shall be recorded using the Department's form, entitled Continuing Professional Education Reporting Form (DBPR CPA 41, Effective June 2021), which is hereby incorporated by reference in Rule 61-35.003, F.A.C. The form is also available on the Department's website and at the Board office located at 240 N.W. 76th Drive, Suite A, Gainesville, FL 32307-6655.~~

~~(6) If staff review or review by the Committee on Continuing Professional Education determines that courses are either improperly classified by the provider or do not otherwise meet the requirements of the chapter, then the Florida certified public accountant shall be notified and given 60 days from the date of notification to comply with the continuing professional education requirements. Florida certified public accountants who complete the continuing professional education requirements timely but who are found to be deficient after December 31 of their renewal year must correct the error and pay a \$50 fine within 60 days of the aforementioned notice. Failure to timely correct the error and pay the fine shall constitute grounds for disciplinary action pursuant to Section 455.227 or 473.323, F.S.~~

~~(6) (7) Sponsors of formal correspondence or other individual study technical business and accounting and auditing programs must be approved by the National Association of State Board of Accountancy Quality Assurance Service.~~

Rulemaking Authority 455.213(7), 455.2179, 473.304, 473.312 FS. Law Implemented 455.213(7), 455.2179, 473.312(1)(a), (b), (c) FS. History—New 12-4-79, Amended 2-3-81, 4-5-83, 10-19-83, 8-20-85, Formerly 21A-33.03, Amended 9-18-88, 7-7-92, 12-2-92, Formerly 21A-33.003, Amended 12-14-93, 1-26-98, 12-17-00, 8-21-01, 3-21-05, 5-18-05, 7-10-05, 7-23-06, 12-10-09, 7-7-10, 11-7-12, 8-7-13, 4-21-16, 11-3-19, 10-20-20, 12-23-21, XX-XX-23

61H1-33.0033 Obligations of CPA Ethics Course Continuing Education Providers.

To maintain an approved status as an ethics course continuing education provider, the provider must:

(1) Retain documentation that the course instructor is a certified public accountant who has practiced in a public accounting firm for five of the last ten years, whose background, training, education or experience makes it appropriate for the person to teach the course.

(2) Require each Florida certified public accountant to complete the entire four-hour certified public ~~accounting~~ ~~accountant~~ ethics course requirement in order to receive proof of CPE completion ~~a certificate of attendance~~. Offer the four-hour certified public ~~accounting~~ ~~accountant~~ ethics course in one module of four credit hours or two modules of two credit hours.

(3) Furnish each attendee with an individual proof of CPE completion ~~certificate of attendance~~ in a format to include approved course title and completion date, number of hours earned, attendee name, DBPR course approval number, DBPR ethics provider number ~~certified public accountant ethics course provider name, number~~, and signature by the provider furnishing said certificate after successful completion of the course. An attendance record shall be maintained by the provider for four years and shall be available for inspection by the Board. Providers shall maintain security of attendance records and attendance records.

(4) Ensure that all promotional material for courses or seminars offered to Florida certified public accountants for credit contain the certified public accountant DBPR course approval number, DBPR ethics provider number, ethics course provider number and course title.

(5) Allow only one hour credit for each hour of classroom, audio or video instruction, an “hour of classroom, audio or video instruction” being a minimum of 50 minutes instruction or presentation.

(6) Allow only one hour of credit for each “hour of correspondence study.” The “hour of correspondence study” must be based on the average completion time of each course as established by the provider.

(7) Provide a written examination to each participating Florida certified public accountant in correspondence study courses. In order to complete the course, the Florida certified public accountant must sign and date the examination and receive a minimum grade of eighty percent (80%). If a Florida certified public accountant fails the examination, the Florida certified public accountant will be permitted to take the examination again in order to achieve a passing grade.

(8) Ensure that all correspondence or other individual study courses are approved by the National Association of State Boards of Accountancy Quality Assurance Service.

(9) Notify the Board within thirty (30) days of any change in the address or telephone number of the provider.

(10) Allow the Board to have access to information concerning courses or seminars conducted by the provider for continuing education credit.

Rulemaking Authority 455.213(7), 455.2178, 455.2179, 473.304, 473.312 FS. Law Implemented 455.213(7), 455.2178, 455.2179, 473.312(1)(a), (c) FS. History—New 5-18-05, Amended 10-26-09, 11-7-12, 9-7-22, XX-XX-23.

61H1-33.006 Inactive or Delinquent Florida Certified Public Accountants Who Desire to Become Active Licensees.

(1) Each Florida certified public accountant who has requested inactive status or became delinquent, as distinguished from a Florida certified public accountant whose certificate or license has been suspended, who desires to become an active Florida certified public accountant, i.e., engage or reengage in the practice of public accounting in Florida, shall apply for such reactivation by completing and submitting to the Department, the CPA Change of Status Form (DBPR CPA 7), ~~CPA Change of Status Application Effective June 2021).~~ The form, which is ~~hereby~~ incorporated by reference in Rule 61-35.003, F.A.C., ~~is provided by the Department~~ and available on the Department’s website and the Board office located at 240 N.W. 76th Drive, Suite A, Gainesville, FL 326307-6655.

(2) However, if a licensee ~~completed, reported, and provided proof of CPE completion in the DBPR On-line Services Portal pursuant to rule 61H1-33.003, F.A.C., but their~~ license is delinquent on January 1 for failure ~~to comply with Rule 61H1-33.003, F.A.C., through failure~~ to report compliance with continuing professional education requirements and pay renewal fees by the ~~preceding immediately prior~~ December 31st, a ~~Florida certified public accountant licensee~~ may reactivate, pursuant to Section 473.311, F.S., by certifying the required hours have been completed, and by paying the renewal and reactivation fees required by Rules 61H1-31.003, 31.004 and 31.006, F.A.C., by March 15 of the same year of the delinquency.

(3)(2) For a licensee to reactivate a delinquent license after March 15 of the same year of the delinquency or to reactivate an inactive license at any time, ~~their~~ Each such application shall include proof of CPE ~~demonstrate successful~~ completion of the required number of continuing professional education hours as follows:

Accounting/Audi ting	Ethics	Behavioral	Total Hours
At least 30 hours	At least 8 hours <u>of Florida Board-approved ethics,</u> unless the CPA has submitted proof of completion of their CPE for the previous biennium ending December 31 to the board by March 15, no additional hours are required to reactivate pursuant to subsection 61H1-33.006(1), F.A.C.	No more than 30 hours	120 Hours

(4)(3) All continuing ~~professional~~ education courses must be completed no more than ~~twenty four (24)~~ months immediately ~~prior to~~ preceding the date of the application for reactivation.

(4) (5) All continuing professional education courses must be completed no more than 24 months immediately prior to the date of the application for reactivation.

(5) (6) The first establishment period after reactivation shall commence on the following June 1st and the initial designated reestablishment date shall be the third June 30th following reactivation.

Rulemaking Authority 455.271, 473.304, 473.312, 473.313 FS. Law Implemented 455.271, 473.312, 473.313, 559.79 FS. History—New 12-4-79, Amended 2-3-81, 11-6-83, 3-29-84, 8-20-85, Formerly 21A-33.06, Amended 4-8-86, 12-28-89, 10-16-90, Formerly 21A-33.006, Amended 12-14-93, 5-26-96, 7-23-06, 12-10-09, 7-7-10, 12-3-13, 7-29-18, 10-15-19, 12-23-21, 9-7-22, XX-XX-23.

61H1-33.003 Continuing Professional Education.

(4) In order for a Florida certified public accountant to receive credit for programs of learning, as defined above, the following formalities and further requirements must be met:

(a) Courses taken at institutions of higher education:

1. Higher education credit courses taken from an accredited institution as defined in subsection 61H1-27.001(1), F.A.C., shall be credited for continuing professional education purposes at the rate of 15 hours for each semester hour of higher education credit and 10 hours for each quarter hour of higher education credit, provided the number of contact hours (hours in the classroom) totals at least 90% of the continuing professional education credit so determined. Otherwise, continuing professional education credit shall be limited to the actual number of contact hours.

2. Higher education non-credit courses shall be credited for continuing professional education purposes equivalent to the actual number of contact hours.

3. Continuing professional education credit for instructing a higher education course shall be twice the credit which would have been granted participants for the first presentation of a specific course or program, the same as the credit granted a participant for the second presentation and none thereafter, except as permitted by subparagraph 61H1-33.003(4)(b)4., F.A.C.

4. No continuing professional education credit shall be permitted for attending or instructing accounting courses considered to be elementary.

(b) Other professional education or training:

1. Professional development courses shall be credited for continuing professional education purposes in increments of not less than one half hour, equivalent to the actual number of contact hours (hours in the classroom which must include at least fifty minutes of continuous participation per contact hour or twenty-five minutes per contact half hour) provided an outline (defined as a schedule of activity listing major topics of discussion) is prepared in advance and retained; a course is at least one contact hour or half hour in length; the course conducted by a qualified instructor, lecturer or discussion leader; and a record of registration and attendance is maintained. For this purpose, a one-day program will be granted eight hours credit if the total lapsed time is at least eight hours and the contact time is approximately 400 minutes. An instructor, lecturer or discussion leader will be considered qualified if, through formal training or experience, he has obtained sufficient knowledge of the subject matter to competently instruct the course. A course participant will be granted credit for only that portion of a course actually attended. If a record of registration and attendance is not maintained by the sponsoring organization, the course participant must be able to prove registration and attendance.

2. Formal organization in-firm educational programs shall be credited for continuing professional education purposes to the same extent and by the same requirements as other professional development courses.

3. Instructors, lecturers, panelists and discussion leaders for professional development courses and formal organized in-firm educational programs shall be credited for continuing professional education purposes at twice the credit granted participants for the first presentation of a specific course or program, the same as the credit granted a participant for the second presentation and none thereafter, except as permitted in subparagraph 61H1-33.003(4)(b)4., F.A.C. Co-panelists and co-discussion leaders shall be credited for the portion of specific course or program they must prepare to discuss and lead as a co-panelist or co-discussion leader.

4. To the extent course content has been substantially revised, the revised portion shall be considered a first presentation for the purposes of subparagraph 61H1-33.003(4)(b)3., F.A.C.

5. Credit may be granted to an author for published materials related to an Accounting, Assurance, Tax or Technical Business topic in a journal listed in or published by the (1) Australian Business Deans Council Journal Quality List, (2) Cabells, (3) American Accounting Association, (4) any state or national society of CPA's and (5) any textbook addressing accounting, assurance, tax or technical business topic that would otherwise qualify as continuing professional education. No authorship hours may apply to the ethics requirement. Credit will not be granted for repeated publishing of the same material. The maximum number of continuing professional education hours in any re-establishment period for authorship is 20 hours. The Continuing Education Committee of the Board shall determine the hours granted for each publication submitted and the day of their approval shall serve as date of awarded credit for reporting purposes.

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

KEVIN PILLION,

Petitioner,

vs.

Case No. 22-2870

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION, BOARD OF
ACCOUNTANCY,

Respondent.

_____ /

RECOMMENDED ORDER

Andrew D. Manko, Administrative Law Judge of the Division of Administrative Hearings (“DOAH”), presided over the final hearing in this matter under sections 120.569 and 120.57(1), Florida Statutes (2022), on November 30, 2022, in Tallahassee, Florida.

APPEARANCES

For Petitioner: Dwight O. Slater, Esquire
 Guilday Law, P.A.
 1983 Centre Pointe Blvd, Suite 200
 Tallahassee, Florida 32308

For Respondent: Rachelle R. Munson, Esquire
 Kara Aikens, Esquire
 Office of the Attorney General
 Plaza Level-01, The Capitol
 Tallahassee, Florida 32399

STATEMENT OF THE ISSUE

Whether Petitioner, Kevin Pillion, meets the eligibility requirements for reinstatement of his certified public accountant (“CPA”) license under section

473.313, Florida Statutes, as alleged in the Petition for Formal Administrative Hearing.

PRELIMINARY STATEMENT

On July 28, 2021, Respondent, Florida Department of Business and Professional Regulation (“Department”), Board of Accountancy (“Board”), issued an Amended Notice of Intent to Deny Petitioner’s application for reinstatement of his CPA license under section 473.313(5). Petitioner filed a Petition for Formal Administrative Hearing in which he maintained that the Department should have reinstated his license based on his good faith effort to comply with section 473.313 and requested a formal administrative hearing. On September 14, 2022, the Department transmitted the case to DOAH to conduct an evidentiary hearing under chapter 120.¹

The final hearing occurred on November 30, 2022. Petitioner testified on his own behalf and presented the testimony of three witnesses via deposition: (1) Catherine Csaky, a former employee; (2) Katherine Best, Ph.D., a psychologist that diagnosed and treated Petitioner over five visits between February 2019 and September 2021; and (3) Shannon Feinroth, a current employee. The Department presented the testimony of Roger Scarborough, its director of the Division of Certified Public Accounting.

Petitioner’s Exhibits 1 through 10 were admitted in evidence without objection. Petitioner’s Exhibit 11—*i.e.*, certificates of continuing education

¹ The Department initially transmitted the Amended Notice of Intent to Deny and Petition for Formal Administrative Hearing to DOAH in 2021, which was docketed as Case No. 21-2573 and assigned to Judge Quimby-Pennock. On October 25, 2021, Judge Quimby-Pennock issued an Order closing her file and relinquishing jurisdiction for the Board to consider a tentative settlement reached by the parties. After the Board disapproved the settlement, the Department filed an Amended Referral for Hearing and Motion to Reopen on September 14, 2022, which was docketed as DOAH Case No. 22-2870 and assigned to the undersigned.

courses—was admitted in evidence over the Department’s objection to any certificates that did not include Petitioner’s name. Respondent’s Exhibits 1 through 7 were admitted in evidence without objection. The parties agree that Respondent’s Exhibit 6—*i.e.*, Petitioner’s tax return documents—contains confidential information and, thus, should remain confidential in this and all subsequent proceedings.

A one-volume Transcript of the proceedings was filed on February 7, 2023. After receiving one 15-day extension of time and a one-day extension of time to file proposed recommended orders (“PROs”), the Department timely filed its PRO on March 7, 2023. Petitioner did not electronically file his PRO until after 5:00 p.m., on March 7, 2023, so it was not docketed until March 8, 2023. On March 9, 2023, over the Department’s objection, the undersigned granted Petitioner’s request to accept his PRO as timely. Although Petitioner’s counsel confirmed that he did not review the Department’s PRO prior to filing his own, the undersigned gave the Department 11 days to file a response to Petitioner’s PRO, which it did on March 20, 2023. The undersigned duly considered both PROs and the Department’s Response to Petitioner’s PRO in preparing this Recommended Order.

In making the findings below, the undersigned only considered hearsay evidence that supplemented or explained other evidence or would be admissible over objection in civil actions. § 120.57(1)(c), Fla. Stat.

FINDINGS OF FACT

1. The Department is the state agency responsible for regulating CPAs under chapter 473.

2. Petitioner is both a CPA and an attorney. He earned his bachelor’s degree in accounting in 1983 and became a practicing CPA in Pennsylvania in 1986. He earned his law degree in 1990 and became a practicing attorney

in Pennsylvania that same year. Petitioner thereafter actively practiced for almost 15 years as both a CPA and an estate planning and securities attorney in Pennsylvania and Washington, D.C.

3. From 2004 through 2007, Petitioner was not actively practicing as a CPA or an attorney because he was in Florida caring for his aging parents who were suffering from dementia. In 2008, Petitioner moved to Florida permanently after his parents passed away.

4. In 2009, Petitioner became licensed as a CPA in Florida. That same year, Petitioner also passed the Florida Bar examination and became licensed as an attorney in this state.

5. Since 2010, Petitioner has managed his own law firm specializing in six subspecialties of elder law, including estate, life care, trust, and public benefits planning. His firm employs four paralegals and another lawyer, all of whom help him manage a successful law practice. Petitioner is a self-proclaimed perfectionist who works seven days per week. As a result of his work ethic and the assistance of his team, Petitioner earns three to four times more than average elder law attorneys. Indeed, his law firm reported annual gross revenues averaging about \$800,000 between 2015 and 2020.

6. Since 2010, Petitioner has maintained an active license to practice law in Florida. This means that he timely filed all annual paperwork, paid his annual dues, and completed his required continuing legal education (“CLE”) courses as required by the Florida Bar.

7. Petitioner uses his experience as a CPA in his law practice, but he has not actively practiced as a CPA since 2010. But, he has attempted to maintain his CPA license because he believes it helps him with his law practice; it also is required to be an active member of certain professional organizations, such as the Florida Institute of CPAs of which he was an active member and served in leadership positions between 2010 and 2013.

8. Although Petitioner timely renewed his CPA license in 2014, he failed to do so prior to his license expiring at the end of 2015. As a result, his license reverted to delinquent status as of January 1, 2016. However, he quickly filed the necessary paperwork, and his CPA license was reactivated and renewed for two more years on January 17, 2016.

9. Petitioner again failed to timely file his renewal application before his CPA license expired at the end of 2017, so it reverted to delinquent status on January 1, 2018. Unlike with the previous delinquency, Petitioner did not file the necessary paperwork to reactivate and renew his CPA license. Instead, his license remained delinquent for two years, at which point it became null and void on January 1, 2020. Notwithstanding the current null and void status, Petitioner's CPA license has never been subject to discipline.

10. On April 12, 2021, over three years after his CPA license was due to be renewed and over 15 months after it became null and void, Petitioner submitted a letter ("hardship letter") requesting the Board to reinstate his license under section 473.313(5). The statute gives the Board discretion to reinstate a null and void license if the CPA made a good faith effort to comply with the renewal requirements but failed to do so because of illness or unusual hardship.

11. In his hardship letter, Petitioner divulged that he suffers from generalized anxiety disorder ("GAD") that has been exacerbated since 2015 by the following factors: his nephew's suicide; financial worries of operating a solo practitioner law firm; anxiety of studying for and taking the examination to become a certified elder law attorney ("CELA"); stress of turnover at his law firm; and depression relating to the COVID-19 pandemic. Petitioner noted that his GAD combined with these experiences resulted in anxiety-related procrastination, which hindered him from following through and managing personal and business tasks.

12. That said, Petitioner's hardship letter did not explain what good faith efforts he made to comply with the licensure requirements. For instance, he

failed to include information as to the number of continuing professional education (“CPE”) hours he completed; he also failed to articulate whether and to what extent he paid any required fees or attempted to timely complete the required renewal and/or reactivation applications.

13. The Board considered Petitioner’s request at public meetings held on May 14 and June 18, 2021. Petitioner attended the second meeting at which he was asked if he wished to explain what good faith efforts he took to comply with the licensure requirements. In response, Petitioner referred the Board members back to his hardship letter and never offered any explanation as to what good faith effort he made to comply. The Board members reviewed the statutory criteria and acknowledged that a two-prong test applied: (1) a good faith effort to comply; and (2) a hardship that prevented full compliance. The Board members discussed the information provided by Petitioner and ultimately rejected the request for reinstatement by a vote of five to three.

14. On July 22, 2021, the Board issued an Amended Notice of Intent to Deny Petitioner’s request for reinstatement. The Board acknowledged that Petitioner presented information regarding the illness and hardship prong of the test. However, it confirmed that the denial was based on Petitioner’s failure to establish a good faith effort to comply with the licensure requirements as required by section 473.313(5).

15. Petitioner disputed the Board’s decision by timely filing a Petition for Formal Administrative Hearing. Therein, he argued that he sufficiently demonstrated a good faith effort to comply with section 473.313, but he was unable to do so based on illness or unusual hardship.

16. At the final hearing, both parties presented evidence as to the efforts that Petitioner made to comply with the statutory licensing requirements. It is undisputed that Petitioner never took steps to timely prepare his renewal application in 2017 or his reactivation application in 2019; he also never paid the required fees associated with the renewal or reactivation applications.

Rather, Petitioner's efforts to comply with the licensing statutes consisted solely of completing some of the required CPE hours.

17. Both parties presented evidence concerning the CPE requirements and how many hours Petitioner completed since 2016. CPAs are required to complete 80 CPE hours during each two-year reestablishment period, which follows the State's fiscal year beginning on July 1st. Thus, if a license is due to be renewed on January 1, 2018, the reestablishment period for purposes of CPE hours runs from July 1, 2015, through June 30, 2017. If a license becomes delinquent, CPAs are required to complete 120 CPE hours during the 24 months before the filing date of their reactivation application. And, if a license becomes null and void, CPAs are required to complete an additional 120 CPE hours to have the license reinstated.

18. Because Petitioner's license was up for renewal on January 1, 2018, he had to have completed 80 CPE hours during the preceding two-year reestablishment period, which ran from July 1, 2015, through June 30, 2017. Based on the weight of the credible evidence, Petitioner completed four CPE hours during that reestablishment period.

19. After Petitioner's license became delinquent for failing to timely apply for renewal on January 1, 2018, Petitioner had to apply to reactivate his license on or before December 31, 2019, and complete 120 CPE hours during the preceding 24-month period. Based on the weight of the credible evidence, Petitioner completed only ten CPE hours during the 24 months preceding the date the application to reactivate his delinquent license was due.

20. When Petitioner's license became null and void on January 1, 2020, he had to complete an additional 120 CPE hours to reinstate his license. Based on the weight of the credible evidence, Petitioner completed five CPE hours in 2020 and, upon learning that his license had become null and void in early

2021, he completed an additional 198 CPE hours between January 20, 2021, and February 25, 2021.²

21. Petitioner also presented credible testimony about his long-term history of anxiety and how it affects his personal and professional life. He described experiencing the following symptoms on a daily basis: frequent urination; negative thought processes and fear; profuse sweating; nausea; decreased ability to concentrate; and significant procrastination.

22. In early 2019, Petitioner scheduled an assessment with Katherine Best, Ph.D., a psychologist. He did so because he had decided to take an examination to become nationally certified in elder law, began to have anxiety about it, and wanted to obtain testing accommodations.

23. Dr. Best conducted an assessment and met with Petitioner on three more occasions in early 2019. She diagnosed Petitioner with heightened auditory sensitivity and GAD, which are chronic conditions from which she believed he has likely suffered his entire life. She described GAD as an illness causing chronic stress, hypervigilance, and physiological symptoms, which can lead to forgetfulness and procrastination due to the obsessive need for perfection.

24. Based on her assessment, Dr. Best submitted a letter requesting testing accommodations for the examination, which Petitioner received. After the four appointments in early 2019, Petitioner did not see Dr. Best again until September 2021 when he requested that she provide a letter to support the request for reinstatement at issue in this case.

25. Petitioner testified that he is riddled with anxiety every day, which is exacerbated when other stressful things happen in his life. Consistent with his hardship letter, Petitioner explained how his anxiety worsened between

² Petitioner introduced a CPE reporting form for the period of September 10, 2019, through February 4, 2021, reflecting two CPE hours in 2019, five CPE hours in 2020, and 123 CPE hours between January 20, 2021, and February 4, 2021. Petitioner also introduced certificates for courses he completed between February 4 and February 25, 2021, including an additional 75 CPE hours.

2015 and 2020 as a result of several stress-inducing issues: (1) his nephew, with whom he had a close relationship, committed suicide in 2016; (2) financial worries arising from managing his law firm, particularly after he decided to open a second law office in 2019; (3) cash flow concerns arising from debt on multiple properties that he owns, including a horse ranch that he purchased in 2016 or 2017, which he manages with assistance from his paralegal; (4) anxiety arising from his decision to sit for the examination to obtain his national certification as an elder law attorney in early 2019; (5) turnover of paralegals and support staff at his law firm between 2015 and 2017, on whom he relied tremendously to assist in managing his law practice; and (5) depression relating to the COVID-19 pandemic.

26. However, Petitioner offered little explanation for how these issues contributed to his failure to maintain his CPA license, except that his anxiety caused him to procrastinate and precluded him from getting things done. Yet, during the same period of time, Petitioner was able to maintain his law license, including completing his 33 hours of CLEs every three years, paying his annual renewal fees, and completing the annual paperwork. He also was able to complete 198 CPE hours in just a month by paying a flat rate to one provider of CPE credits, which allowed him to take as many credits as he wanted within that period of time.

27. Based on the weight of the credible evidence, Petitioner failed to establish that he made a good faith effort to comply with the statutory requirements. It is undisputed that Petitioner took no steps between 2017 and 2020 to complete the requisite applications or pay the required fees to have his license renewed in 2017 or reactivated in 2019. Indeed, Petitioner did not even learn about the status of his license until March 2021—over three years after his renewal was due and over 14 months since his license became null and void after sitting in delinquent status for two years. Petitioner also completed only four of the required 80 CPE hours (five percent) to renew his license by the end of 2017, and he completed only ten of

the required 120 CPE hours (eight percent) to reactive his license by the end of 2019. Petitioner's actions do not constitute a good faith effort to comply with the requirements to reactivate his delinquent license prior to it becoming null and void.

28. Regardless, even if Petitioner established a good faith effort to comply with the license requirements, the weight of the credible evidence failed to establish that his failure to timely renew and reactivate his license resulted from his GAD or hardships. There is no dispute that Petitioner suffers from GAD and that he had several anxiety-inducing experiences that resulted in additional anxiety and depression since 2015. But, despite his GAD and the hardships he faced, Petitioner was able to manage a successful, busy law firm and complete all of the requirements to annually renew his law license.

29. It also cannot be ignored that a substantial portion of the increased anxiety that Petitioner experienced between 2015 and 2020 resulted from his choices to engage in anxiety-inducing activities. He purchased a horse farm and also opened a second office for his law firm, both of which increased his anxiety and stress about cash flow and finances. He also chose to take the elder law certification examination, which he knew from prior experience would exacerbate his already-high anxiety and stress levels.

30. At the end of the day, the weight of the credible evidence shows that Petitioner was capable of meeting the requirements to reactivate his CPA license despite his GAD and the hardships he suffered. He understandably chose to prioritize his practice as a lawyer as that was his primary source of income. But, by doing so, he allowed his CPA license to fall so far to the backburner that he simply forgot about maintaining it. Indeed, it remained delinquent for two years and null and void for another 14 months before he thought to check on the status. The weight of the credible evidence simply does not support a finding that Petitioner's failure to maintain his CPA license was caused by an illness or unusual hardship.

CONCLUSIONS OF LAW

31. DOAH has jurisdiction over the subject matter and parties hereto under sections 120.569 and 120.57(1).

32. Petitioner seeks to have his license as a CPA reinstated under section 473.313(5).

33. As the applicant, Petitioner must establish by a preponderance of the evidence that he is entitled to have his license reinstated. “[A] ‘preponderance’ of the evidence is defined as ‘the greater weight of the evidence,’ *Black’s Law Dictionary* 1201 (7th ed. 1999), or evidence that ‘more likely than not’ tends to prove a certain proposition.” *S. Fla. Water Mgmt. Dist. v. RLI Live Oak, LLC*, 139 So. 3d 869, 872 (Fla. 2014) (quoting *Gross v. Lyons*, 763 So. 2d 276, 289 n.1 (Fla. 2000)).

34. CPAs must renew their licenses every two years. *See* § 473.305, Fla. Stat. (providing for biennial renewal fees); § 473.311(2), Fla. Stat. (authorizing the Department to adopt rules establishing the procedure for the biennial renewal of licenses); § 473.312, Fla. Stat. (requiring applicants for renewal to complete certain continuing education requirements during the two-year period preceding renewal).

35. Section 455.271(5), Florida Statutes, requires licensees, including accountants, to timely apply for renewal before the license expires. “Failure of a licensee to renew before the license expires shall cause the license to become delinquent in the license cycle following expiration.” *Id.* Florida Administrative Code Rule 61H1-30.020(1) is in accord and provides as follows:

(1) Failure of a licensee to renew the license before the license expires, pursuant to Section 455.271(5), F.S., shall cause the license to become delinquent immediately following expiration of the most current licensure cycle. Pursuant to Rule 61H1-33.006, F.A.C.:

- (a) A license becomes delinquent when the licensee fails to renew and pay the applicable renewal fee by the deadline of December 31 of any renewal cycle.
- (b) Licensees who pay renewal fees after March 15, in addition to incurring a penalty fee, are required to submit a request to the Department to reactivate the license.

36. If a delinquent licensee fails to either become active or take inactive status under section 473.313 before the expiration of the next two-year renewal cycle, his or her delinquent license automatically becomes null and void. *See* § 455.271(6), Fla. Stat. (“Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle shall render the license void without any further action by the board or the department.”); Fla. Admin. Code R. 61H1-30.030(1) (“A license that remains in a delinquent status for two years, pursuant to Section 455.271(6), F.S., automatically becomes null and void.”).

37. Once a license becomes null and void, it can only be reinstated under the requirements in section 473.313(5), which provides as follows:

Notwithstanding the provisions of s. 455.271, the board may, at its discretion, reinstate the license of an individual whose license has become null and void if the individual has made a good faith effort to comply with this section but has failed to comply because of illness or unusual hardship. The individual shall apply to the board for reinstatement in a manner prescribed by rules of the board and shall pay an application fee in an amount determined by rule of the board. The board shall require that the individual meet all continuing education requirements as provided in subsection (2), pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter.

Thus, the Board has discretion to reinstate a null and void license if the CPA:

- (1) establishes that he or she has made a good faith effort to comply with

statutory requirements for renewal but failed to do so because of illness or unusual hardship; (2) pays all applicable fees; and (3) completes all required CPE hours. § 473.313(5), Fla. Stat.; *Accord* Fla. Admin. Code R. 61H1-30.030(2) (“A null and void license is only eligible for a change of status, pursuant to the reinstatement terms set forth in Section 473.313(5), F.S.”).

38. As authorized in section 473.313(5), the Board adopted rule 61H1-30.030 to set forth the requirements for reinstating a null and void license. First, the CPA must file an application on an approved form that includes “a personal statement regarding the cause and circumstances resulting in the null and void license.” Fla. Admin. Code R. 61H1-30.030(3)(a).

39. Second, the CPA must pay all applicable fees. Fla. Admin. Code R. 61H1-30.030(3)(b). This includes the following: (1) a renewal fee of \$105.00, Fla. Admin. Code R. 61H1-31.003; (2) a delinquency fee of \$25.00, Fla. Admin. Code R. 61H1-31.004; and (3) a reinstatement fee of \$250.00. Fla. Admin. Code R. 61H1-31.015. Therefore, a CPA seeking to reinstate a license that became null and void after being delinquent for the prior two-year renewal period must pay \$380.00 in fees.

40. Third, the CPA must complete all CPE requirements prior to the reinstatement of the license. Fla. Admin. Code R. 61H1-30.030(3)(c). As outlined in rule 61H1-30.030(4), the CPA must provide proof of completion of the following CPE hours:

- (a) 120 CPE hours for the reinstatement of the null and void license to delinquent status, consisting of 30 hours in accounting and auditing, 8 hours in board approved ethics, and no more than 30 hours in behavioral subjects; and

- (b) 120 CPE hours for the reactivation from the delinquent status to current active status, consisting of 30 hours in accounting and auditing, 8 hours in board approved ethics, and no more than 30 hours in behavioral subjects.

Thus, in addition to completing 120 CPE hours to reinstate the null and void license to delinquent status, CPAs also must complete 120 hours to reactivate the delinquent license. *See* Fla. Admin. Code. R. 61H1-31.015 (“The completion of the requirements of Rule 61H1-33.006, F.A.C. shall be required for reinstatement.”); Fla. Admin. Code. R. 61H1-33.006(3) and (4) (requiring CPAs seeking to reactivate a delinquent license to complete 120 CPE hours, including at least 30 hours in accounting and auditing, eight hours in board approved ethics, and no more than 30 hours in behavioral subjects, “no more than 24 months immediately prior to the date of the application for reactivation”).

41. Based on the Findings of Fact above, Petitioner failed to establish by a preponderance of the evidence that he made a good faith effort to comply with statutory requirements for renewal but failed to do so because of illness or unusual hardship. Petitioner’s completion of ten of the requisite 120 CPE hours during the 24-month period before his license became null and void does not constitute a good faith effort to comply, particularly where he took no steps to submit the requisite paperwork or associated fees.

42. Petitioner argues that section 473.313(5) fails to specify what constitutes good faith efforts and that the Board’s witness also could not articulate a clear standard as to what a sufficient amount of CPE hours would be. However, section 473.313(5) gives the Board broad discretion to determine in a given case what constitutes a good faith effort. Indeed, Petitioner is seeking grace from the Board to reinstate his license that he allowed to sit as delinquent for two years and as null and void for another 15 months. Regardless, the undersigned has no hesitation in finding that Petitioner’s completion of just ten of the required 120 CPE hours to reactivate his license—without taking any other steps to submit the required applications or filing fees—does not constitute a good faith effort to comply with the licensure requirements.

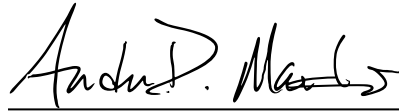
43. Petitioner also offered credible testimony as to how his GAD adversely impacts his daily life and how his difficult life experiences over the last number of years exacerbated his anxiety. That said, Petitioner was able to—despite his illness and hardships—maintain his license to practice law in Florida, including timely filing his annual renewal forms, paying his dues, and completing all required CLE hours, while also managing and expanding a successful, solo practitioner law firm. The weight of the credible evidence does not support a finding that Petitioner failed to comply with the requirements to renew his CPA license as a result of his illness or hardship.

44. Lastly, Petitioner's reliance on *John Charles Count, Jr. v. Board of Professional Surveyors & Mappers*, Case No. 07-5789 (DOAH Aug. 14, 2008; DBPR Nov. 12, 2008), is misguided because the facts at issue there were distinguishable. Unlike Petitioner, the applicant in *Count* did not maintain other professional licenses or successfully run a business during the same period of time despite his illness. Indeed, the credible evidence there confirmed that the surveyor's illness directly undermined his ability to not only work as a surveyor but also to travel to and attend the CPE courses required to maintain his license.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Board of Accountancy enter a final order denying Petitioner's application for reinstatement.

DONE AND ENTERED this 10th day of May, 2023, in Tallahassee, Leon
County, Florida.



ANDREW D. MANKO
Administrative Law Judge
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
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Filed with the Clerk of the
Division of Administrative Hearings
this 10th day of May, 2023.

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Melanie S. Griffin, Secretary
(eServed)

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF PUBLIC ACCOUNTANCY

KEVIN PILLION,

PETITIONER,

v.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, BOARD OF ACCOUNTANCY,

RESPONDENT.

CASE No.: 22-2870

PETITIONER'S EXCEPTIONS TO RECOMMENDED ORDER

COMES NOW Petitioner, Kevin Pillion, by and through the undersigned, and files the following exceptions to the Recommended Order rendered on May 10, 2023, and states:

Introduction

This matter presented a relatively new issue for the Board, specifically, a situation in which the claimed hardship was a mental disability, not a physical disability. The result of the relatively novel nature of this case resulted in an injustice perpetrated by the Board and validated by the Administrative Law Judge ("ALJ").

That is not to suggest in any way that either the Board or the ALJ acted with malice or any intentional animus. Rather, this injustice stems from an unconscious bias held by the vast majority of society. As a people, we do not regard mental illness with the same level of respect, or ascribe to it the same level of

severity, as we do with physical ailments. I have no doubt that neither this Board, nor the ALJ, would have hesitated to reinstate Mr. Pillion's license had he been in a coma for two years. No one would have argued with the severity of such an illness or its impact on one's ability to negotiate life. However, here, where Mr. Pillion's illness is more akin to a mental "coma," being able to conclude that it was sufficiently serious to prevent him from complying with the licensure requirements was, understandably, more difficult.

The result is that Mr. Pillion has lost his CPA license—a license he has continuously held since 1986.¹ Everyone agrees that Mr. Pillion suffered from a mental disability and that he experienced unusual hardship; but, apparently only a few considered these facts to be serious enough to have prevented him from completing the licensure requirements. For these reasons, as explained in greater detail below, the Board should correct this injustice and reinstate Mr. Pillion's CPA license.

Exception # 1

1. Petitioner takes exception to the Findings of Fact in Paragraph 12 on pages 5 and 6 of the Recommended Order, which state:

That said, Petitioner's hardship letter did not explain what good faith efforts he made to comply with the licensure requirements. For instance, he failed to include information as to the number of continuing professional education ("CPE") hours he completed; he also failed to articulate whether and to what extent he paid any required fees or attempted to timely complete the required renewal and/or reactivation applications.

¹ Mr. Pillion became a practicing CPA in Pennsylvania in 1986; he became licensed by endorsement in Florida in 2009.

This finding is not supported by competent substantial evidence or the law. Florida Administrative Code Rule 61H1-30.030(3)(a)–(c) outlines what an applicant must do to request reinstatement of a null and void license. It provides that an applicant for reinstatement must complete the Application for Reinstatement of Null and Void License and include with the application “a personal statement regarding the cause and circumstances resulting in the null and void license,” pay the applicable fees, and “[c]omplete the continuing professional education (CPE) as referenced in subsection (3) of this rule”—though the applicant need not provide proof of CPE completion prior to board review of the application.

The undisputed evidence shows that Petitioner did, in fact, complete and file the Application for Reinstatement of Null and Void License, include a personal statement regarding the cause and circumstances resulting in the null and void license, pay the applicable fees, and complete the required CPE credits. *See* (Petitioner’s Exhibits 5, 10, and 11).

Nowhere in the rule does it state the applicant is required to “explain what good faith efforts he made to comply with the licensure requirements” or “articulate whether and to what extent he paid any required fees or attempted to timely complete the required renewal and/or reactivation applications” as found by the ALJ. So, contrary to the ALJ’s findings, Petitioner did not “fail” to explain his good faith efforts or “fail” to articulate whether he paid the fees or completed the applications. Thus, competent substantial evidence does not support the Findings of Fact in Paragraph 12 of the Recommended Order. Accordingly, the Board should reject these Findings of Fact and replace them with the following:

The evidence presented shows that Petitioner complied with Florida Administrative Code Rule 61H1-30.030(3)(a)–(c): he completed and filed the required Application for Reinstatement of Null and Void License, provided a personal statement explaining the circumstances resulting in the null and void license, paid the applicable fees, and completed the required CPE credits.

2. Petitioner takes exception to the Findings of Fact in Paragraph 13 on page 6 of the Recommended Order, which state, in part:

The Board considered Petitioner's request at public meetings held on May 14 and June 18, 2021. Petitioner attended the second meeting at which he was asked if he wished to explain what good faith efforts he took to comply with the licensure requirements. In response, Petitioner referred the Board members back to his hardship letter and never offered any explanation as to what good faith effort he made to comply. [***]

This finding is not supported by competent substantial evidence or the law. At the beginning of the June meeting, Board members asked Mr. Pillion whether there was "anything [he'd] like to share with the Board," at which time Mr. Pillion referred the Board to his hardship letter. At no point did Board members ask Mr. Pillion to explain what good faith efforts he took to comply with the licensure requirements.

The first motion made was to approve the application based on Mr. Pillion's significant hardship preventing him from being able to comply with the licensure requirements. That motion failed five to three. Thereafter, the Board ended the hearing, and Mr. Pillion disconnected from the call. A few minutes later, the Board took up the case again, without Mr. Pillion, and considered another motion, this time to deny the application for reinstatement based on Mr. Pillion's

failure to make a good faith effort. Mr. Pillion was not present for this discussion and, thus, could not participate. Therefore, competent substantial evidence does not support the Findings of Fact in Paragraph 13 of the Recommended Order. Accordingly, the Board should reject these Findings of Fact and replace them with the following:

During the June hearing, the Board never asked Mr. Pillion what good faith efforts he made to comply with the licensure requirements. However, the evidence presented during the formal administrative hearing established that Mr. Pillion did, in fact, complete some, but not all, of the CPE requirements during the relevant time period.

See (Petitioner's Amended Composite Exhibit 11).

3. Petitioner takes exception to the Findings of Fact in Paragraph 26 on page 9 of the Recommended Order, which state, in part:

However, Petitioner offered little explanation for how these issues contributed to his failure to maintain his CPA license, except that his anxiety caused him to procrastinate and precluded him from getting things done.
[***]

This finding is not supported by competent substantial evidence. Petitioner presented significant evidence as to how the stated issues contributed to his failure to maintain his CPA license. See (Petitioner's Exhibits 1, 3, 7, 8, and 9). Indeed, the evidence and argument established several facts about Generalized Anxiety Disorder ("GAD").

According to the National Institute of Mental Health:

Occasional anxiety is a normal part of life. Many people may worry about things such as health, money, or fam-

ily problems. But people with GAD feel extremely worried or nervous more frequently about these and other things—even when there is little or no reason to worry about them. GAD usually involves a persistent feeling of anxiety or dread that interferes with how you live your life. It is not the same as occasionally worrying about things or experiencing anxiety due to stressful life events. People living with GAD experience frequent anxiety for months, if not years.

National Institute of Mental Health; <https://www.nimh.nih.gov/health/publications/generalized-anxiety-disorder-gad> (last visited March 5, 2023).

Generally, symptoms of GAD include “heightened auditory sensitivity that results in increased distractibility (e.g. shuffling of paper, tapping of foot or pen, or hearing another coughing); an urge to urinate frequently; heart racing and palms sweating; difficulty concentrating and pervasive feelings of worry.” (Pet. Ex. 3). “This type of symptomatology can easily lead to forgetfulness and procrastination due to obsessive need for perfection.” (Pet. Ex. 3; Pet. Ex. 8, 35).

Procrastination is often a large component of GAD. According to Dr. Best, “people procrastinate because they want it to be perfect, or they don’t want to deal with it, but it’s anxiety provoking.” (Pet. Ex. 8, 37). Tasks frequently get “backburnered,” and whatever provoked the anxiety takes center stage. (Pet. Ex. 8, 37).

GAD is considered to be an “impairment” under the Americans with Disabilities Act [“ADA”] because “mental impairment means . . . [a]ny mental or psychological disorder,” and can qualify as a disability under the ADA depending on the severity of the symptoms and their impact on the person’s life. *See Equal*

Emp. Opportunity Comm’n v. Phoebe Putney Mem. Hosp., Inc., 488 F. Supp. 3d 1336, 1349 (M.D. Ga. 2020).

While Dr. Best classified Petitioner as “functioning,” she made clear that sufferers of GAD can experience spikes in their level of anxiety under certain circumstances like testing or social encounters. (Pet. Ex. 8, 32). People with GAD are not able to easily compartmentalize anxiety-inducing circumstances and, as a result, they often cannot set stressful matters aside in order to attend to and complete other tasks. (Pet. Ex. 8, 37). This is especially true for people like Petitioner who also present with obsessive compulsive tendencies. (Pet. Ex. 8, 21–22, 37).

The findings in Paragraph 26 suggest that GAD causing procrastination and resulting in tasks getting “backburnered” does not explain Mr. Pillion’s failure to comply with the licensure requirements. Procrastination and the “backburnering” of tasks literally explains why Mr. Pillion failed to maintain his license. Thus, competent substantial evidence does not support the Findings of Fact in Paragraph 26 of the Recommended Order. Accordingly, the Board should reject these Findings of Fact and replace them with the following:

Petitioner’s GAD caused him to procrastinate on completing the CPA licensure requirements and resulted in their being placed on the “back burner,” thus precluding him from getting them done.

4. Petitioner takes exception to the Findings of Fact in Paragraph 27 on page 9 and 10 of the Recommended Order, which state, in part:

Based on the weight of the credible evidence, Petitioner failed to establish that he made a good faith effort to comply with the statutory requirements.

[***]

Petitioner's actions do not constitute a good faith effort to comply with the requirements to reactivate his delinquent license prior to it becoming null and void.

This finding is not supported by competent substantial evidence. It is premised on the biased belief that, unlike a coma, a mental disorder cannot prevent a person from making a good-faith effort. This simply is not true. Furthermore, during the hearing, Director Scarborough testified that a licensee would have to demonstrate that he or she completed "some" CPE credits in order to show that he or she made a good-faith effort. The undisputed evidence showed that Mr. Pillion did, in fact, complete "some" CPE credits during the relevant time period. See (T2, 80) ("Q: For the following biennium, July 1, 2017, to June 30, 2019, how many did petitioner's certification represent as completed? A: Ten."); (T2, 127) (Q: "Ms. Munson showed you a diagram where you indicated – or which showed that Mr. Pillion did, in fact, do some CPEs during the relevant period? A: Yes. Yes.").

In any event, it is unclear that the Legislature had this type of quantitative standard in mind when it wrote the words "good faith effort." Black's Law Dictionary defines "good faith" as "A state of mind consisting in (1) honesty in belief or purpose, (2) faithfulness to one's duty or obligation, (3) observance of reasonable commercial standards of fair dealing in a given trade or business, or (4) absence of intent to defraud or to seek unconscionable advantage." Good Faith, *Black's Law Dictionary* (11th ed. 2019). There was no evidence presented, or even a suggestion, that Mr. Pillion's state of mind did not consist of "honesty in belief

or purpose,” or that he had any intent to defraud or seek unconscionable advantage. In fact, the only evidence of Petitioner’s state of mind established the precise opposite. See (T2. 131–32) (“I had no intent to fraud [sic], you’re correct, And it’s not out of malice. It’s because of the illness that I couldn’t concentrate and focus on that with everything going on in my world.”). See also (Pet. Ex. 7, 55–56) (“And I also know that he’s sincere and he’s remorseful when he says this was not intentional. The fact that he let his license lapse is not because he did not deem it important enough to do what he has to do to keep it active. It was because of the constant state of anxiety that he’s in. It was not intentional on his part.”).

Thus, competent substantial evidence does not support the Findings of Fact in Paragraph 27 of the Recommended Order. Accordingly, the Board should reject these Findings of Fact and replace them with the following:

Based on the weight of the credible evidence, Petitioner established that he made a good-faith effort to comply with the statutory requirements. The evidence demonstrated that he completed “some” CPE credits during the relevant time frame, and that his state of mind did consist of “honesty in belief or purpose,” and he had no intent to defraud or seek unconscionable advantage.

5. Petitioner takes exception to the Findings of Fact in Paragraph 28 on page 10 of the Recommended Order, which state, in part:

Regardless, even if Petitioner established a good faith effort to comply with the licensure requirements, the weight of the credible evidence failed to establish that his failure to timely renew and reactivate his license resulted from his GAD or hardships.

[***]

But, despite his GAD and the hardships he faced, Petitioner was able to manage a successful, busy law firm and complete all the requirements to annually renew his law license.

These findings are not supported by competent substantial evidence. The evidence presented showed that Mr. Pillion was only able to maintain his law license with significant assistance from his staff. *See* (T2. 21–22). In any event, being able to accomplish a task in one area of life does not automatically mean that one should be able to accomplish a task in a different area. In other words, it is not inconsistent to maintain a law license while being unable to maintain a CPA license. In fact, it is entirely consistent with GAD. As shown above, people with GAD are not able to easily compartmentalize anxiety-inducing circumstances and, as a result, they often cannot set stressful matters aside in order to attend to and complete other tasks. (Pet. Ex. 8, 37). This is especially true for people like Petitioner who also present with obsessive compulsive tendencies. (Pet. Ex. 8, 21–22, 37). If anything, having to maintain a law license is but one more stressor experienced by Mr. Pillion that caused him to neglect his CPA license.

Thus, competent substantial evidence does not support the Findings of Fact in Paragraph 28 of the Recommended Order. Accordingly, the Board should reject these Findings of Fact and replace them with the following:

The weight of the credible evidence established that Petitioner's failure to maintain his CPA license resulted from his GAD and hardships.

6. Petitioner takes exception to the Findings of Fact in Paragraph 29 on page 10 of the Recommended Order, which state, in part:

[**] The weight of the credible evidence simply does not support a finding that Petitioner's failure to maintain his CPA license was caused by an illness or unusual hardship.

For all the reasons and facts articulated above, particularly in the exceptions to Paragraphs 26, 27, and 28 of the Recommended Order, this finding is not supported by competent substantial evidence. Accordingly, the Board should reject these Findings of Fact and replace them with the following:

The weight of the credible evidence established that Petitioner's failure to maintain his CPA license resulted from his GAD and hardships.

7. Petitioner takes exception to Findings of Fact and Conclusions of Law in Paragraph 41 on page 14 of the Recommended Order, which state, in part:

Based on the Findings of Fact above, Petitioner failed to establish by a preponderance of the evidence that he made a good faith effort to comply with statutory requirements for renewal but failed to do so because of illness or unusual hardship.

For all the reasons and facts articulated above, particularly in the exceptions to Paragraphs 26, 27, and 28 of the Recommended Order, this finding is not supported by competent substantial evidence. Accordingly, the Board should reject these Findings of Fact and replace them with the following:

The weight of the credible evidence established that Petitioner's failure to maintain his CPA license resulted from his GAD and hardships.

8. Petitioner takes exception to Conclusions of Law in Paragraph 42 on page 15 of the Recommended Order, which state:

Petitioner argues that section 473.313(5) fails to specify what constitutes good faith efforts and that the Board's witness also could not articulate a clear standard as to what a sufficient amount of CPE hours would be. However, section 473.313(5) gives the Board broad discretion to determine in a given case what constitutes a good faith effort. Indeed, Petitioner is seeking grace from the Board to reinstate a license that he allowed to sit as delinquent for two years and as null and void for another 15 months. Regardless, the undersigned has no hesitation in finding that Petitioner's completion of just ten of the required 120 CPE hours to reactivate his license—without taking any other steps to submit the required applications or filing fees—does not constitute a good faith effort to comply with the licensure requirements.

These Conclusions of Law do not comport with the decisional law of the courts of this state. The Florida Supreme Court held in *Dep't of State, Div. of Elections v. Martin*, 916 So. 2d 763 (Fla. 2005):

In other words, statutes granting power to the executive branch “must clearly announce adequate standards to guide ... in the execution of the powers delegated. The statute must so clearly define the power delegated that the [executive] is precluded from acting through whim, showing favoritism, or exercising unbridled discretion.”

Id. at 770. In *Sloban v. Fla. Bd. of Pharmacy*, 982 So. 2d 28 (Fla. 1st DCA 2008), the First District was asked to determine the constitutionality of a statute that empowered the Board of Pharmacy to “establish by rule the requirements for reapplication by applicants whose licenses have been permanently revoked. The requirements may include, but are not limited to, satisfying current requirements for an initial license.” *Id.* at 30. The First District held:

By providing the Board with the discretion to enact re-application rules, the legislature has impermissibly given an administrative agency the authority to declare what the law shall be, as the Board alone may decide whether an entire group of formerly licensed professionals shall be permitted to reapply. *Cf. Sims*, 754 So. 2d at 669–70 (finding law was not unconstitutional because it clearly fixed the penalty to be imposed, delegating only the details of carrying out the execution to the department). Further, section 456.072(6) provides no standards or guidelines regarding when the Board should exercise its discretion to establish re-application rules.

Id. Here, the statute in question impermissibly gives the Board unbridled discretion and provides no standards of guidelines regarding when the Board should exercise its discretion. The Board has adopted no rules to establish what constitutes a good-faith effort; to date, the standard that has been articulated is that the applicant show that he or she completed “some” CPE requirements. However, as shown in this case, even that standard is subject to the whims of the Board.

Florida law does not countenance the delegation of “unbridled authority” to state agencies or boards. Because no number of hours, and no guidance as to how the Board should evaluate good-faith efforts, have been adopted in rule form, the method employed by the Board smacks of arbitrariness. How many hours constitute a good-faith effort? The best answer Mr. Scarborough could offer was “some.” This comes extremely close to the very definition of arbitrary. *See Arbitrary*, *Black’s Law Dictionary* (11th ed. 2019) (“Depending on individual discretion; of, relating to, or involving a determination made without consideration of or regard for facts, circumstances, fixed rules, or procedures.”).

Section 120.57(1)(e)(1), Florida Statutes, provides: “An agency or an administrative law judge may not base agency action that determines the substantial interests of a party on an unadopted rule or a rule that is an invalid exercise of delegated legislative authority.” That is precisely what the ALJ did in this case. Accordingly, the Board should reject the Conclusions of Law in Paragraph 42 of the Recommended Order and replace them with the following:

While section 473.313(5) gives the Board a measure of discretion in these matters, the Board has not reduced any guidance to rule. To date, the only standard that has been applied is that the applicant must show that he or she completed “some” CPE credits. Here, Mr. Pillion has established that he completed “some” CPE credits; thus, he has demonstrated by a preponderance of the evidence that he made a good faith effort to comply with the statutory requirements under this Board’s precedent.

9. Petitioner takes exception to Findings of Fact and Conclusions of Law in Paragraph 43 on page 15 of the Recommended Order, which state, in part:

[***] The weight of the credible evidence does not support a finding that Petitioner failed to comply with the requirements to renew his CPA license as a result of his illness or hardship.

For all the reasons and facts articulated above, particularly in the exceptions to Paragraphs 26, 27, and 28 of the Recommended Order, this finding is not supported by competent substantial evidence. Accordingly, the Board should reject these Findings of Fact and replace them with the following:

The weight of the credible evidence established that Petitioner’s failure to maintain his CPA license resulted from his GAD and hardships.

Conclusion

To sum up, the undisputed evidence established that Mr. Pillion suffers from GAD, a debilitating condition recognized as a disability under the ADA, and that his GAD and myriad unusual circumstances prevented him from completing the requirements to maintain his CPA license. Even though he suffers from GAD, Mr. Pillion did manage to complete “some” CPE credits. Under the circumstances, and under the only standard articulated by the Board, these credits constitute a good-faith effort. But, even if Mr. Pillion had not completed any CPE credits, the evidence established that his GAD prevented him from doing so. Holding otherwise is essentially embracing the unconscious bias we all have with respect to mental illness.

As anyone who has suffered from a mental disorder can attest, they can be just as debilitating, if not more so, than many physical ailments. A person who suffers from severe clinical depression may be able to put on a “good face” while at work, but their home life might be in shambles. Just because a person can make things work in one aspect of his or her life, does not mean that they ought to be able to do so in all other aspects as well. Mental illness is real and it causes real hardships. This Board should recognize this reality and reject the ALJ’s findings of fact and conclusions of law.

Respectfully submitted,

/s/ [Dwight O. Slater]
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Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via e-filing with Agency Clerk Ronda L. Bryan, Department of Business and Professional Regulation, 2601 Blair Stone Rd., Tallahassee, FL 32399, at AGC.Filing@myfloridalicense.com; via facsimile to the Division of Certified Public Accounting, 240 NW 76th Dr., Suite A, Gainesville, FL 32607, at (352) 333-2508; and via email to Counsel for Respondent, Rachelle R. Munson, Esq., at m.munson@myfloridalegal.com, and Kara Aikens, Esq., at kara.aikens@myfloridalegal.com, on this 25th day of May, 2023.

/s/ [Dwight O. Slater]
Dwight O. Slater
Counsel for Petitioner

Melanie S. Griffin, Secretary

Ron DeSantis, Governor

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
FLORIDA BOARD OF ACCOUNTANCY
EDUCATIONAL ADVISORY COMMITTEE
TELEPHONE CONFERENCE CALL

May 16, 2023

Minutes

I. Call to order

The meeting was called to order at 2:05 p.m. by Dr. Fennema, Chair.

II. Roll Call

The roll was called by Niyati Bhatt, Regulatory Specialist II, reflecting the following:

Committee Members Present:

Dr. Martin Fennema – Chair
Mr. Michael Kridel
Dr. Nicholas Mastracchio
Dr. Gary McGill
Dr. Richard Morton
Mr. Steven Platau
Dr. Gregory Trompeter

Staff Members Present:

Roger Scarborough, Director
Karan Lee
Niyati Bhatt
Cody Donnelly
Trecia Jenkins
Barbara Whitney

Others Present:

Rachelle Munson, Senior Assistant Attorney General and Board Counsel
Jiaqi Dong - Applicant
Jessica Gallinatti - Applicant
Sierra Marie Gaunder – Applicant
Madalina Grigoriu – Applicant
Steven Silvers – Applicant
Professor Hoa Burrows – Miami Dade College

Alexis Portuondo – Miami Dade College
Silvina Barros – Miami Dade College
Elgin Polo – Miami Dade College

III. Ratify Minutes from February 14, 2023 meeting

Motion was made by Dr. McGill and seconded by Dr. Trompeter to approve the minutes from the February 14, 2023 meeting. Upon vote motion passed unanimously.

IV. Individual Course Review

A. Balsera, Tomas

Mr. Balsera is requesting three (3) semester hours of upper-division accounting credit for VSB 3006 Managerial Accounting from Villanova University. He has already been given credit for ACC 2470 Cost Accounting from Villanova University.

Motion was made by Dr. Trompeter and seconded by Dr. McGill to deny three (3) semester hours of upper-division accounting credits for VSB 3006 Managerial Accounting from Villanova University as it duplicates ACC 2470 Cost Accounting from Villanova University. Upon vote the motion passed unanimously.

Mr. Balsera is requesting six (6) semester hours of upper-division accounting credit for VSB 2010 Financial Management & Reporting from Villanova University.

Motion was made by Dr. Morton and seconded by Dr. Trompeter to deny six (6) semester hours of upper-division accounting credits for VSB 2010 Financial Management & Reporting from Villanova University as it might duplicate Intermediate Accounting I and Intermediate Accounting II from Villanova University. Upon vote the motion passed unanimously.

B. Cervantes, Faith Marie

Ms. Cervantes is requesting reconsideration for three (3) semester hours of upper-division accounting credit for AC 843OA Accounting Information for Management from Emporia State University. She has already been given credit for ACT 3333 Cost Accounting from St. Edward's University.

Motion was made by Mr. Platau and seconded by Dr. McGill to deny three (3) semester hours of upper-division accounting credit for AC 843OA Accounting Information for Management from Emporia State University as it duplicates ACT 3333 Cost Accounting from St. Edward's University. Upon vote the motion passed unanimously.

C. Dong, Jiaqi

Ms. Dong is requesting two (2) semester hours of upper-division accounting credit for ACCY 569 Data Driven Decisions in Accounting from the University of Illinois.

Motion was made by Dr. McGill and seconded by Dr. Mastracchio to approve two (2) semester hours of upper-division accounting credit for ACCY 569 Data Driven Decisions in Accounting from the University of Illinois. Upon vote the motion passed unanimously.

D. Gallinatti, Jessica

Ms. Gallinatti is requesting three (3) semester hours of upper-division accounting credit for BUNW-A 513 Accounting for Decision Making from Indiana University.

Motion was made by Dr. Trompeter and seconded by Dr. Morton to deny three (3) semester hours of upper-division accounting credit for BUNW-A 513 Accounting for Decision Making from Indiana University. Upon vote the motion passed unanimously.

Ms. Gallinatti is requesting three (3) semester hours of upper-division accounting credit for BUNW-A 523 Managing Accounting Info Decision Making from Indiana University.

Motion was made by Dr. McGill and seconded by Dr. Mastracchio to approve three (3) semester hours of upper-division accounting credit for BUNW-A 523 Managing Accounting Info Decision Making from Indiana University. Upon vote the motion passed unanimously.

Ms. Gallinatti is requesting four (4) quarter hours of upper-division accounting credit for ACC 500 Financial Accounting from DePaul University.

Motion was made by Dr. Morton and seconded by Mr. Kridel to deny four (4) quarter hours of upper-division accounting credit for ACC 500 Financial Accounting from DePaul University. Upon vote the motion passed unanimously.

E. Gaunder, Sierra Marie

Ms. Gaunder is requesting three (3) semester hours of upper-division accounting credit for ACC 732 Government and Nonprofit Accounting from Missouri State University. She has already been given credit for ACTY 4140 Government and Nonprofit Accounting from Western Michigan University.

Motion was made by Dr. Trompeter and seconded by Dr. Morton to deny three (3) semester hours of upper-division accounting credit for the ACC 732 Government and Nonprofit Accounting from Missouri State University as it duplicates ACTY 4140 Government and Nonprofit Accounting from Western Michigan University. Upon vote the motion passed unanimously.

F. Grigoriu, Madalina

Ms. Grigoriu is requesting three (3) semester hours of upper-division accounting credit for ACCT 3007 Technology for Accountants from the University of Louisiana.

Motion was made by Dr. Mastracchio and seconded by Dr. McGill to approve three (3) semester hours upper-division accounting credit for ACCT 3007 Technology for Accountants from the University of Louisiana. Upon vote the motion passed with majority votes – opposed by Dr. Fennema.

Ms. Grigoriu is requesting three (3) semester hours of upper-division accounting credit for BMBA 5012 Accounting Analysis for Decision Making for Accountants from the University of Louisiana.

Motion was made by Dr. McGill and seconded by Dr. Trompeter to deny three (3) semester hours upper-division accounting credit for BMBA 5012 Accounting Analysis for Decision Making from the University of Louisiana as it will duplicate ACCT 3020 Cost Accounting from the University of Louisiana. Upon vote the motion passed unanimously.

G. Hanlon, Jacob

Mr. Hanlon is requesting three (3) semester hours of upper-division accounting credit for ACCM 5020 – Communication and Accounting Research from Metropolitan State University of Denver.

Motion was made by Dr. McGill and seconded by Dr. Morton to approve three (3) semester hours of upper-division accounting credit for ACCM 5020 – Communication and Accounting Research from Metropolitan State University of Denver. Upon vote the motion passed unanimously.

H. Hansen, Jacqueline Annette

Ms. Hansen is requesting three (3) semester hours of upper-division accounting credit for ACCT 6300 Accounting for Business Executives from Cedarville University.

Motion was made by Dr. Morton and seconded by Dr. Trompeter to deny three (3) semester hours of upper-division accounting credit for ACCT 6300 Accounting for Business Executives from Cedarville University as it might duplicate other courses the applicant has already taken like Cost Accounting or Intermediate Accounting I or Intermediate Accounting II. Upon vote the motion passed unanimously.

I. Martin, Marguerite Thamar

Ms. Martin is requesting three (3) semester hours of upper-division accounting credit for ACG 2071 Managerial Accounting from Miami Dade College.

Motion was made by Dr. Morton and seconded by Dr. McGill to deny three (3) semester hours of upper-division accounting credit for ACG 2071 Managerial Accounting from Miami Dade College as it is an introductory level course. Upon vote the motion passed unanimously.

Ms. Martin is requesting three (3) semester hours of upper-division accounting credit for BUS 630 Managerial Accounting from Ashford University. She has already been given credit for ACC 310 Cost Accounting I from Ashford University.

Motion was made by Mr. Platau and seconded by Dr. Trompeter to deny three (3) semester hours of upper-division accounting credit for BUS 630 Managerial Accounting from Ashford University as it duplicates ACC 310 Cost Accounting I from Ashford University. Upon vote the motion passed unanimously.

J. Silvers, Steven

Mr. Silvers is requesting two (2) semester hours of upper-division accounting credit for 501 Financial Accounting from the University of Massachusetts Lowell.

Motion was made by Dr. McGill and seconded by Dr. Trompeter to deny two (2) semester hours upper-division accounting credit for 501 Financial Accounting from the University of Massachusetts Lowell as it is an introductory level course. Upon vote the motion passed unanimously.

V. University Course Review

A. Miami Dade College

Miami Dade College is requesting three (3) semester hours of upper-division accounting credits for ACG 4401 Accounting Information Systems.

Motion was made by Dr. Morton and seconded by Dr. Trompeter to approve three (3) semester hours of upper-division accounting credit for ACG 4401 Accounting Information Systems. Upon vote the motion passed unanimously.

Miami Dade College is requesting three (3) semester hours of upper-division business law credits for BUL 4320 Business Law.

Motion was made by Mr. Platau and seconded by Dr. McGill to approve three (3) semester hours of upper-division business law credit for BUL 4320 Business Law. Upon vote the motion passed unanimously.

B. University of Central Florida

The University of Central Florida is requesting three (3) semester hours of graduate accounting credit for Tax 5022 – Individual Federal Income Tax.

Motion was made by Dr. McGill and seconded by Dr. Morton to approve three (3) semester hours of graduate accounting credit for Tax 5022 – Individual Federal Income Tax. However, it will duplicate Individual Income Tax taken at the undergraduate level. Upon vote the motion passed unanimously.

VI. Administrative Matters

- A.** Discuss changing Rule 61H1-27.002, F.A.C. to allow coverage in accounting data analytics or coverage in cost and managerial accounting.

The Committee discussed the proposed change and agreed with the change. Director Scarborough informed the Committee that he will present it to Board.

- B.** Laws and Rules (informational)

- C.** Executive Director/Licensing Supervisor comments

Director Scarborough informed the Committee that Dr. Mastracchio will be retiring from the Educational Advisory Committee. He informed them that Mr. Mark Margulies will be replacing Dr. Mastracchio.

Director Scarborough updated the Committee on the status of the course approval lists that are being prepared to go on our website. He informed the Committee that we will be sending the lists to the FICPA for their feedback before putting the list on the website.

VII. Set Future Meeting Date

August 15, 2023 @ 10:00 a.m.

VIII. Adjourn

The meeting was adjourned at 4:01 p.m.

McFennema

5/30/23

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
FLORIDA BOARD OF ACCOUNTANCY
COMMITTEE ON CONTINUING PROFESSIONAL EDUCATION**

May 30, 2023

CONFERENCE CALL

MINUTES

The meeting was called to order at 10:21 a.m. by Jason Lafser, Chair. The roll was called by Karan Lee reflecting the following:

Committee members present:

Jason Lafser – Chair
Sean Dennis
Madeline Domino
Jeffrey Haller
Mindy Rankin

Committee members absent:

Maria Caldwell
Bill Michaelson
Johnny Session

Staff members present:

Roger Scarborough, Director
Niyati Bhatt
Harini Kumar
Trecia Jenkins
Karan Lee
Barbara Whitney

Others present:

Rachelle Munson, Senior Attorney General and Board Counsel
Carrie Summerlin, FICPA
Jennifer Green – Liberty Partners of Tallahassee, LLC on behalf of the FICPA
Jennifer Smith – WebCE Inc.
Andy Freed – Beacon Hill Financial Educators
Debra Casey – Checkpoint Learning (c/o CeriFi LLP) – Formerly PASS Online
Janet Houston – Gleim Publications, Inc.
Ryan Van Tress – Gleim Publications, Inc.

Ratify Minutes from March 21, 2023 meeting.

Motion was made by Ms. Rankin and seconded by Ms. Domino to approve the minutes from the March 21, 2023 meeting. Upon vote, motion passed unanimously.

ETHICS

Consider Ethics Provider and Initial Course Applications:

- a. The Center for Professional Education, Inc. (CPE Inc.)

- 1. Ethical Conduct for Florida CPAs – Self-Study - 4 CPE hours

Motion was made by Ms. Rankin and seconded by Mr. Dennis to approve the course listed above. Upon vote, motion passed unanimously.

- b. WebCE Inc.

- 1. Florida CPAs – Professional Ethics – Self-Study – 4 CPE hours

Motion was made by Mr. Dennis and seconded by Ms. Rankin to approve the course listed above pending the final exam is updated to show that at least 51 percent of the questions are related to Florida statutes and rules. The Committee ruled that the amended exam could be submitted to board staff to confirm the requested changes had been made to the exam. Upon vote, motion passed unanimously.

Consider Renewal Ethics Provider and Course Applications:

- a. Accounting Tools, Inc.

- 1. Accountant Ethics for Florida – Self-Study – 4 CPE hours

- b. Allison M. McLeod, L.L.M., CPA A PLLC

- 1. A Basic Ethics Guidebook for Florida CPAs – Self-Study – 4 CPE hours

- c. Beacon Hill Financial Educators

- 1. Ethics for Accountants: Florida – Self-Study – 4 CPE hours

- d. Becker Professional Education

- 1. Ethics and Professional Conduct for CPAs in Florida – Self-Study – 4 CPE Hours

- e. Checkpoint Learning (c/o CeriFi LLP) – Formerly PASS Online

- 1. Personal and Professional Ethics for Florida CPAs – Self-Study – 4 CPE hours

- f. CPE Depot

- 1. Ethics for Florida CPAs – Self-Study – 4 CPE hours
 - 2. Ethical Conduct for Florida CPAs – Self-Study – 4 CPE hours

- g. CPE247.com LLC

1. Ethical Conduct for Florida CPAs – Self-Study – 4 CPE hours
- h. Encoursa LLC
 1. Ethical Conduct of Florida CPAs – Self-Study – 4 CPE hours
- i. FICPA
 1. Ethics: Protecting the Integrity of Florida CPAs – Live Study – 4 CPE hours
 2. Ethics: Protecting the Integrity of Florida CPA in Industry – Live Study – 4 CPE hours
 3. Ethics for Governmental CPAs in Florida – Live Study – 4 CPE hours
 4. Ethics: Protecting the Integrity of Florida CPA Online Course (ETHOL) – Self-Study – 4 CPE hours
- j. Gleim Publications, Inc.
 1. Florida CPA Ethics – Self-Study – 4 CPE hours
- k. Jeff Sailor Seminar
 1. Enjoyable Ethics for Florida CPAs – Live Study – 4 CPE hours
- l. JN Productions CPE Courses
 1. Ethics for Florida CPAs – Self-Study – 4 CPE hours
- m. Kaplan Financial Education
 1. Ethics for Florida CPAs – Self-Study – 4 CPE hours
- n. MasterCPE LLC
 1. Ethics for Florida CPAs – Self-Study – 4 CPE hours
- o. Professional Education Services LP
 1. Ethics and Professional Conduct for Florida CPAs – Self-Study – 4 CPE hours
- p. Professional Scholastics Inc.
 1. Ethical Conduct for Florida CPAs – Self-Study - 4 CPE hours
- q. Surgent CFO Resources LLC dba CPAselfstudy.com
 1. Ethical Conduct for Florida CPAs – Self-Study – 4 CPE hours
- r. Surgent McCoy CPE, LLC
 1. Florida Ethics for CPAs – Self-Study – 4 CPE hours

- s. The Center for Professional Education Inc. (CPE Inc.)
 - 1. Ethical Conduct for Florida CPAs – Live Study – 4 CPE hours
- t. The CPE Store, Inc.
 - 1. Ethics for Florida CPAs – Self-Study – 4 CPE hours
- u. Ultimate CPE, Inc.
 - 1. Ethical Conduct for Florida CPAs – Self-Study – 4 CPE hours
- v. University of South Florida, St. Petersburg
 - 1. ABCs of Florida Ethics – Live Study – 4 CPE hours
- w. Web CPE Inc.
 - 1. Ethics for Florida CPAs – Self-Study – 4 CPE hours
- x. Western CPE
 - 1. Ethical Conduct for Florida CPAs – Self-Study – 4 CPE hours
 - 2. Ethics for Florida CPAs – Self-Study – 4 CPE hours
- y. Wolters Kluwer, CCH CPE Link
 - 1. A Basic Ethics Guidebook for Florida CPAs – Self-Study – 4 CPE hours

Motion was made by Ms. Rankin and seconded by Mr. Dennis to approve all courses listed in a – y above. Upon vote, motion passed unanimously.

REPORTS

- a. Review of Department Approved Sponsors

Mr. Lafser acknowledge that the Committee received and reviewed the Department's Approved Sponsors list.

ADMINISTRATIVE

- a. Laws and Rules (informational).
- b. Executive Director and/or Licensing Supervisor Remarks.

Mr. Scarborough informed the Committee that he is unable to give them an update on the current audit because we have not received a report from BET.

Mr. Scarborough gave an update on the CPE Reporting Tool. He shared with the Committee that he is working with Technology on sending out reminder notices to the licensees informing them of the status of their CPE for renewal.

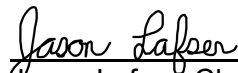
c. Other Business

None

SET FUTURE MEETING DATE

June 28, 2023 at 10:00 a.m.

Meeting adjourned at 11:03 a.m.



Jason Lafser, Chair

2023 Changes to Rules of the Auditor General

Chapter 10.550 – Local Governmental Entity Audits

1. Revised Rules to correct or update references to authoritative literature and effective date of the Rules.

**RULES
OF THE
AUDITOR GENERAL**



**CHAPTER 10.550
LOCAL GOVERNMENTAL ENTITY AUDITS**

EFFECTIVE 9-30-23

RULES OF THE AUDITOR GENERAL
CHAPTER 10.550

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PREFACE TO RULES

Audits of certain “local governmental entities” are required by Florida Statutes. These various statutes may (and certain of the statutes do) describe who or what is to be audited; describe when, where, how, and by whom the audits are to be made; and require that certain standards and procedures be followed.

Certain of these statutes use various terms that may have common meanings. However, a number of these terms such as “State single audit,” “financial audit,” “management letter,” “county agency,” and “local governmental entity” have statutory definitions. When defined by statute, the statutory definitions prevail over other definitions.

Auditors are cautioned that, in general, these rules neither repeat nor paraphrase the statutory provisions. Hence, knowledge of statutory provisions is the responsibility of individual auditors.

These rules are intended to and do implement, interpret, or make specific certain statutory provisions that are within the authority of the Auditor General to implement, interpret, or make specific. However, the rules are not intended to supersede, nor do the rules impinge on, the authority of the Board of Accountancy in the regulation of the practice of accountancy as authorized by Chapter 473, Florida Statutes.

These rules are intended to implement the provisions of Section 163.387(8), Florida Statutes, which prescribes the requirements for financial audits of community redevelopment agencies with revenues or a total of expenditures and expenses in excess of \$100,000; Section 215.97, Florida Statutes, which prescribes the requirements for Florida Single Audit Act audits; Section 218.39, Florida Statutes, which prescribes the requirements for financial audits of local governmental entities; and Section 288.8018(1), Florida Statutes, which prescribes the requirements for audits of entities that received or expended funds related to the Deepwater Horizon Oil Spill. Where applicable, the contents of the audit report required by Rule 10.557(3) to be submitted by each local governmental entity shall include the reports and related financial information required for an audit conducted pursuant to Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), as well as the reports and information specified for financial and Florida Single Audit Act audit reports. It is the intent of these rules that the auditor shall combine required reports and schedules to the extent possible under these laws and shall avoid including duplicate findings in the various reports, schedules, and management letter.

Sections 215.97(2)(a) and 215.97(8)(a), Florida Statutes, provide that each nonstate entity that expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such nonstate entity shall be required to have an audit for such year in accordance with the Florida Single Audit Act.

Section 218.31(1), Florida Statutes, defines a local governmental entity, for purposes of Section 218.39, Florida Statutes, to mean a county agency, municipality, or special district but not a housing authority established under Chapter 421, Florida Statutes. Section 215.97(2)(k), Florida Statutes, defines a local governmental entity, for purposes of the Florida Single Audit Act, to include, in addition to a county as a whole, municipality, and special district, any other entity (other than a district school board, charter school, or State college or university) that independently exercises any type of governmental function within the State. Entities required to have audits in accordance with the Florida Single Audit Act that meet the definition in Section 215.97(2)(k), Florida Statutes, but are not local governmental entities as defined for purposes of Section 218.39, Florida Statutes, shall comply with these rules except that the management letter is required to include only the items prescribed by Rule 10.554(1)(i)3. and 4. Rules 10.556(7) through 10.556(10) do not apply to the scope of such audits.

Note: All statutory references are to the 2023 Florida Statutes.

History: New 06-30-92
Last Amended 06-30-23

10.551**PURPOSE**

- (1) Local governmental entities located in Florida are, in general, required by Florida law (Section 218.39, Florida Statutes) to have an annual “financial audit.” Under Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), a local governmental entity may also be required to have an audit of Federal awards.
- (2) The Comptroller General of the United States has adopted professional auditing standards for the audit of entities, including “local governmental entities,” receiving Federal awards. These standards are contained in the publication titled *Government Auditing Standards*.
- (3) The Auditor General has adopted the auditing standards set forth in *Government Auditing Standards* as the standards for auditing local governmental entities pursuant to Florida law. Hence, the same auditing standards are applicable to Federal awards audits, State financial assistance audits, and financial audits required by Florida law and should eliminate duplication of audit activity.
- (4) Under the Florida Single Audit Act (Section 215.97, Florida Statutes) and Department of Financial Services Rules, Chapter 69I-5, Florida Administrative Code, *State Financial Assistance*, a local governmental entity may also be required to have an annual audit of State financial assistance. The audit threshold defined in Rule 10.554(1)(b) applies to audits of State financial assistance. Under Florida law, a local governmental entity “financial audit” would include an audit of State financial assistance.
- (5) There are statutory differences between Federal and Florida audit requirements as to what is to be audited. There may also be differences in the way similar terms are defined in Federal law and Florida law. Auditors shall preserve these distinctions.
- (6) The purpose of these rules is to implement, interpret, or make specific various provisions of Sections 11.45, 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes.
- (7) These rules will also form the basis of the review of local governmental entity audit reports and financial reporting packages pursuant to Sections 11.45(7)(b) and 215.97(12)(f), Florida Statutes.

General Authority and Law Implemented - Sections 11.45, 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes.

History: New 08-01-86
Last Amended 09-30-20

10.552 RULES OF CONSTRUCTION

- (1) Applicable provisions of Florida law and expressed provisions of these rules shall prevail over conflicting provisions of material incorporated by reference.
- (2) Audits of non-Federal resources shall be guided by Florida law and these rules, and audits of Federal awards shall be guided by Federal law and applicable provisions of Florida law.

General Authority and Law Implemented - Sections 11.45, 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes.

History: New 08-01-86
 Last Amended 09-30-20

10.553 PUBLICATIONS INCORPORATED BY REFERENCE

For purposes of these rules, the following material is incorporated by reference and shall be followed when applicable.

- (1) *Codification of Governmental Accounting and Financial Reporting Standards* promulgated by the Governmental Accounting Standards Board (GASB), effective for the fiscal year ending September 30, 2023.
- (2) *AICPA Professional Standards* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending September 30, 2023.
- (3) *Government Auditing Standards* (2018 Revision) issued by the Comptroller General of the United States.
- (4) *Audit & Accounting Guide—State and Local Governments* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending September 30, 2023.
- (5) *Audit & Accounting Guide—Health Care Entities* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending September 30, 2023.
- (6) *Audit Guide—Government Auditing Standards and Single Audits* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending September 30, 2023.
- (7) Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).
- (8) *Accounting Standards Codification* promulgated by the Financial Accounting Standards Board (FASB), effective for the fiscal year ending September 30, 2023.
- (9) Department of Financial Services Rules, Chapter 69I-5, Florida Administrative Code, State Financial Assistance.

General Authority and Law Implemented - Sections 11.45, 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes.

History: New 08-01-86
Last Amended 06-30-23

10.554 DEFINITIONS

(1) As used in these rules, the term:

- (a) “Affidavit” means the affidavit required by Section 163.31801, Florida Statutes, for local governmental entities that adopted an impact fee by ordinance or resolution.
- (b) “Audit threshold” means the threshold amount used to determine when a State single audit or a project-specific audit of a nonstate entity shall be conducted in accordance with Section 215.97, Florida Statutes. Each nonstate entity that expends a total amount of State financial assistance equal to or in excess of \$750,000 in any fiscal year of such nonstate entity is required to have a State single audit, or a project-specific audit for such fiscal year in accordance with the requirements of Section 215.97, Florida Statutes (see Section 215.97(2)(a), Florida Statutes).
- (c) “Auditor” means an independent certified public accountant licensed pursuant to Chapter 473, Florida Statutes, and retained and paid by a local governmental entity to perform an audit pursuant to Sections 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes.
- (d) “County agency” means a board of county commissioners or other legislative and governing body of a county, however styled, including that of a consolidated or metropolitan government, a clerk of the circuit court, a separate or ex officio clerk of the county court, a sheriff, a property appraiser, a tax collector, a supervisor of elections, or any other officer in whom any portion of the fiscal duties of a body or officer expressly stated in this paragraph are separately placed by law (see Section 11.45(1)(c), Florida Statutes).
- (e) “County audit report” means a single document that includes a financial audit of the county as a whole and, for each county agency other than a board of county commissioners, an audit of its financial accounts and records, including reports on internal controls and compliance, reports on compliance requirements, management letters, and financial statements as required by Rule 10.557. In addition, if a board of county commissioners elects to have a separate financial audit of its financial accounts and records, such separate audit shall be in the manner required by these rules and included in the county audit report (see Section 218.39(2), Florida Statutes).
- (f) “Deteriorating financial condition” means a circumstance determined as of the fiscal year end that significantly impairs a county, municipality, or special district’s ability to generate enough revenues to meet its expenditures without causing a condition described in Section 218.503(1), Florida Statutes, to occur.
- (g) “Generally accepted accounting principles” are those accounting principles generally accepted in the United States of America, as defined by the GASB *Codification of Governmental Accounting and Financial Reporting Standards*, Section 1000 *The Hierarchy of Generally Accepted Accounting Principles*.

- (h) “*Government Auditing Standards*” are those audit standards set forth in the publication *Government Auditing Standards* (2018 Revision) issued by the Comptroller General of the United States.
- (i) “Management letter” means a statement of the auditor’s comments and recommendations. This letter shall be included as a part of each audit report prepared pursuant to Sections 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes, in accordance with Rule 10.557(3)(g). Unless otherwise required to be reported in the auditor’s report on internal control and compliance or schedule of findings and questioned costs (see Rule 10.554(1)(l)), the management letter shall include, but not be limited to:
1. A statement as to whether or not corrective actions have been taken to address findings and recommendations made in the preceding financial audit report not otherwise addressed in the auditor’s report pursuant to Rule 10.557(3)(b), (c), (d), or (e). If an audit finding in the preceding financial audit report is uncorrected, the auditor shall determine whether the finding was also included in the second preceding fiscal year financial audit report. Uncorrected findings in the current fiscal year audit report shall cite the finding reference numbers used in the preceding and, as applicable, the second preceding fiscal year financial audit reports.
 2. Any recommendations to improve the local governmental entity’s financial management.
 3. Noncompliance with provisions of contracts or grant agreements, or waste or abuse, that have occurred, or are likely to have occurred, that have an effect on the financial statements that is less than material but which warrants the attention of those charged with governance. **Note:** Fraud, noncompliance with provisions of laws or regulations and contracts or grants agreements, or waste or abuse that does not warrant the attention of those charged with governance, or internal control deficiencies that are not material weaknesses or significant deficiencies may be reported in the management letter based on professional judgment.
 4. The name or official title and legal authority for the primary government and each component unit of the reporting entity as defined in publications cited in Rule 10.553, unless disclosed in the notes to the financial statements. Legal authority includes the general law, special acts, ordinances, resolutions, or other means by which the local governmental entity was created and is governed. For county agencies, legal authority disclosure shall include a reference to a county charter, if applicable.
 5. For counties as a whole, municipalities, and special districts:
 - a. A statement describing the results of the auditor’s determination as to whether or not the entity met one or more of the conditions described in Section 218.503(1), Florida Statutes, and identification of the specific condition(s) met (see also Rule 10.558(2)).

- b. The following information regarding the auditor's application of financial condition assessment procedures pursuant to Rule 10.556(8):
 - (1) A statement that the auditor applied financial condition assessment procedures pursuant to Rule 10.556(8).
 - (2) If a deteriorating financial condition(s) is noted, a statement that the entity's financial condition is deteriorating and a description of conditions causing the auditor to make this conclusion. If the auditor reported that the entity met one or more of the conditions specified in Section 218.503(1), Florida Statutes (see Rule 10.554(1)(i)5.a. above), this statement shall indicate whether such condition(s) resulted from a deteriorating financial condition(s). Findings regarding deteriorating financial conditions shall be prepared in accordance with Rule 10.557(4)(b).
 - c. If appropriate, a statement indicating the failure of a special district that is a component unit of a county, municipality or special district, to provide the financial information necessary to a proper reporting of the component unit within the audited financial statements of the county, municipality, or special district (see Section 218.39(3)(b), Florida Statutes).
- 6. For a dependent special district or an independent special district, or a local government entity that includes the information of a dependent special district as provided in Section 218.39(3)(a), Florida Statutes, the following specific information provided by management (with explanatory verbiage that the auditor provides no assurance on the information):
 - a. The total number of district employees compensated in the last pay period of the district's fiscal year being reported (see information required in Section 218.32 (1)(e)2.a., Florida Statutes).
 - b. The total number of independent contractors to whom nonemployee compensation was paid in the last month of the district's fiscal year being reported (see information required in Section 218.32 (1)(e)2.b., Florida Statutes).
 - c. All compensation earned by or awarded to employees, whether paid or accrued, regardless of contingency (see information required in Section 218.32 (1)(e)2.c., Florida Statutes).
 - d. All compensation earned by or awarded to nonemployee independent contractors, whether paid or accrued, regardless of contingency (see information required in Section 218.32 (1)(e)2.d., Florida Statutes).
 - e. Each construction project with a total cost of at least \$65,000 approved by the district that is scheduled to begin on or after October 1 of the fiscal year being reported, together with the total

expenditures for such project (see information required in Section 218.32 (1)(e)2.e., Florida Statutes).

- f. A budget variance report based on the budget adopted under Section 189.016(4), Florida Statutes, before the beginning of the fiscal year being reported if the district amends a final adopted budget under Section 189.016(6), Florida Statutes (see information required in Section 218.32 (1)(e)3., Florida Statutes).
7. For an independent special district that imposes ad valorem taxes, the following specific information provided by management (with explanatory verbiage that the auditor provides no assurance on the information). (see information required in Section 218.32 (1)(e)4., Florida Statutes.)
- a. The millage rate or rates imposed by the district.
 - b. The total amount of ad valorem taxes collected by or on behalf of the district.
 - c. The total amount of outstanding bonds issued by the district and the terms of such bonds.
8. For an independent special district that imposes non-ad valorem special assessments, the following specific information provided by management (with explanatory verbiage that the auditor provides no assurance on the information). (see information required in Section 218.32 (1)(e)5., Florida Statutes.)
- a. The rate or rates of such assessments imposed by the district.
 - b. The total amount of special assessments collected by or on behalf of the district.
 - c. The total amount of outstanding bonds issued by the district and the terms of such bonds.
9. For water management districts:
- a. A statement describing the results of the auditor's determination as to whether or not the district provided monthly financial statements to its governing board and posted the monthly financial statements on its Web site (see Sections 215.985(11) and 373.536(4)(e), Florida Statutes).
 - b. A statement describing the results of the auditor's determination as to whether or not the district provided a link on its Web site to the Florida Department of Financial Services' Web site to allow viewing of the district's annual financial report (see Section 218.32(1)(g), Florida Statutes).

- c. A statement describing the results of the auditor's determination as to whether or not the district posted its tentative and final budgets on its Web site (see Section 373.536(5)(d) and (6)(d), Florida Statutes).
- (j) "Pass-through entity" means a local governmental entity that provides State financial assistance to a subrecipient to carry out a State project.
- (k) "Schedule of Expenditures of State Financial Assistance" refers to a schedule prepared in accordance with the requirements of Department of Financial Services Rules, Chapter 69I-5, Florida Administrative Code, State Financial Assistance.
- (l) "Schedule of Findings and Questioned Costs relating to State Financial Assistance" refers to a schedule prepared by the auditor and included as part of each audit report submitted pursuant to Section 215.97(8)(g), Florida Statutes. The schedule shall include:
 - 1. A summary of the auditor's results, including:
 - a. The type of report the auditor issued on the financial statements of the auditee (i.e., unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);
 - b. Where applicable, a statement that significant deficiencies or material weaknesses in internal control were disclosed by the audit of the financial statements;
 - c. A statement as to whether the audit disclosed any noncompliance that was material to the financial statements of the auditee;
 - d. Where applicable, a statement that significant deficiencies or material weaknesses in internal control over major State projects were disclosed by the audit;
 - e. The type of report the auditor issued on compliance for major State projects (i.e., unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);
 - f. A statement as to whether the audit disclosed any audit findings that the auditor was required to report under Rule 10.557;
 - g. An identification of major State projects; and
 - h. The calculated dollar threshold used to distinguish between Type A and Type B projects as described in Department of Financial Services Rules, Chapter 69I-5, Florida Administrative Code, State Financial Assistance.
 - 2. Findings relating to the financial statements that are required to be reported in accordance with *Government Auditing Standards*.
 - 3. Findings and questioned costs for State financial assistance, which shall include audit findings as described in Rule 10.554(1)(l)4.
 - a. Audit findings (e.g., internal control findings, compliance findings, questioned costs, fraud, or significant instances of waste or abuse)

that relate to the same issue shall be presented as a single finding. Where practical, audit findings shall be organized by State awarding agency or pass-through entity.

- b. Audit findings reported under (l)2. and (l)3.a. of this subsection, shall clearly indicate whether they relate to the financial statements and State financial assistance, respectively, and shall be reported in a manner that avoids duplication of findings within the schedule.

4. The following audit findings:

- a. Deficiencies in internal control over major State projects that are determined to be a material weakness either individually or in combination. Material weaknesses may include reportable conditions in internal controls that are referred to in Section 215.97(8)(i), Florida Statutes. The auditor's determination of whether a deficiency in internal control is a material weakness is in relation to a type of compliance requirement for a major State project or an audit objective identified in the compliance supplement.
- b. Deficiencies in internal control over major State projects that are determined to be significant deficiencies. Significant deficiencies may include reportable conditions in internal controls that are referred to in Section 215.97(8)(i), Florida Statutes. The auditor's determination of whether a deficiency in internal control is a significant deficiency is in relation to a type of compliance requirement for a major State project or an audit objective identified in the compliance supplement.
- c. Material noncompliance with provisions of laws, regulations, contracts, or grant agreements related to a major State project. The auditor's determination of whether a noncompliance with provisions of laws, regulations, contracts, or grant agreements is material for the purpose of reporting an audit finding in this schedule is in relation to a type of compliance requirement for a major State project or an audit objective identified in the compliance supplement.
- d. Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major State project. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor shall also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major State project. In reporting questioned costs, the auditor shall include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.
- e. Known questioned costs that are greater than \$25,000 for a State project that is not audited as a major State project. Except for audit follow-up, the auditor is not required to perform audit procedures for such a State project; therefore, the auditor will normally not find

questioned costs for a project that is not audited as a major State project. However, if the auditor does become aware of questioned costs for a State project that is not audited as a major State project (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than \$25,000, then the auditor shall report this as an audit finding.

- f. The circumstances concerning why the auditor's report on compliance for major State projects is other than an unmodified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs relating to State financial assistance.
 - g. Known fraud affecting a major State project, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs relating to State financial assistance. This does not require the auditor to make an additional reporting when the auditor confirms that the fraud was reported outside of the auditor's reports under the direct reporting requirements of *Government Auditing Standards*.
 - h. Significant instances of waste or abuse relating to a major State project. Waste is the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse and does not necessarily involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate. Abuse does not necessarily involve fraud, or noncompliance with provisions of laws, regulations, contracts, or grant agreements.
 - i. Instances where the results of auditor follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with Rule 10.557(3)(e)5. materially misrepresents the status of any prior audit finding.
- (m) "Summary Schedule of Prior Audit Findings" means a schedule that reports the status of any audit findings included in the prior audit's schedule of findings and questioned costs relating to State financial assistance. The summary schedule shall also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected or no longer valid or not warranting further action. The schedule shall include the audit finding reference number required by Rule 10.557(4)(b)7.
- 1. When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

2. When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken.
3. When corrective action taken is significantly different from corrective action previously reported in a corrective action plan, the summary schedule shall provide an explanation.
4. When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that two years have passed since the audit report containing the finding was submitted to the State awarding agency and the State awarding agency or pass-through entity is not currently following up with the auditee on the audit finding.

General Authority and Law Implemented - Sections 11.45, 163.387(8), 215.97, 219.39, and 288.8018(1), Florida Statutes.

History: New 08-01-86
Last Amended 05-31-22

10.556**SCOPE OF THE FINANCIAL AUDIT AND FLORIDA SINGLE AUDIT ACT AUDIT**

- (1) It is the intent of these rules to make *Government Auditing Standards* applicable in the State of Florida to audits of local governmental entities required to be audited pursuant to Sections 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes.
- (2) The scope of a “financial audit” shall include:
 - a. An examination of financial statements to determine whether they are presented fairly, in all material respects, in conformity with generally accepted accounting principles.
 - b. An examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements.
 - c. An examination of any additional financial information necessary to comply with generally accepted accounting principles.
- (3) For entities other than county agencies, the financial statements referred to in paragraph (2)(a) are basic financial statements as identified by Section 2200.102b. of the *GASB Codification of Governmental Accounting and Financial Reporting Standards*. In addition, the basic financial statements shall be accompanied by: (1) management’s discussion and analysis, as identified by Section 2200.102a. of the *GASB Codification of Governmental Accounting and Financial Reporting Standards*, and (2) other required supplementary information, as identified by Section 2200.102c. of the *GASB Codification of Governmental Accounting and Financial Reporting Standards*.
- (4) For the separate audits of boards of county commissioners and other county agencies (see Rule 10.554(1)(d)), the financial statements referred to in Rule 10.556(2)(a) are the fund financial statements (Section 2200.102b.(2) of the *GASB Codification of Governmental Accounting and Financial Reporting Standards*), except that the reconciliations referred to in Section 2200.160 of the *GASB Codification of Governmental Accounting and Financial Reporting Standards*, are not required. If a county agency elects to present government-wide financial statements (Section 2200.102b.(1) of the *GASB Codification of Governmental Accounting and Financial Reporting Standards*), in addition to the required fund financial statements, the reconciliations required by Section 2200.160 of the *GASB Codification of Governmental Accounting and Financial Reporting Standards* shall be presented for the individual county agency.
- (5) The scope of the financial audit shall include any additional activities necessary to establish compliance with the term “financial statement audit” as defined and used in *Government Auditing Standards*.
- (6) When applicable, the scope of the financial audit shall encompass the additional activities necessary to establish compliance with Uniform Guidance, the Florida Single Audit Act, and other applicable Federal and State law.
- (7) For counties as a whole, municipalities, and special districts, the scope of the financial audit shall include appropriate procedures, based on the auditor’s professional judgment, to determine whether or not the entity met one or more of the conditions described in Section 218.503(1), Florida Statutes.

- (8) For counties as a whole, municipalities, and special districts, the scope of the financial audit shall include the use of financial condition assessment procedures in determining whether deteriorating financial conditions exist pursuant to Section 218.39(5)(a), Florida Statutes. The auditor is responsible for assessing financial condition and the methodology used is a matter of professional judgment. Example financial condition assessment indicators and related procedures are available on the Auditor General Web site. The financial condition assessment shall be done as of the fiscal year end; however, the auditor shall give consideration to subsequent events, through the date of the audit report, that could significantly impact the entity's financial condition.
- (9) For water management districts, the scope of the financial audit shall include appropriate procedures, based on the auditor's professional judgment, to determine whether or not the water management district provided monthly financial statements to its governing body and posted on its Web site; the monthly financial statements (see Sections 215.985(11) and 373.536(4)(e), Florida Statutes), a link to the Florida Department of Financial Services Web site to allow viewing of the district's annual financial report (see Section 218.32(1)(g), Florida Statutes), and its tentative and final budgets (see Section 373.536(5)(d) and (6)(d), Florida Statutes).
- (10) The scope of the financial audit shall include an examination pursuant to *AICPA Professional Standards*, AT-C Section 315, promulgated by the American Institute of Certified Public Accountants, as follows, if applicable:
- a. For county agencies, municipalities, and special districts, a determination of the entity's compliance with the requirements of Section 218.415, Florida Statutes.
 - b. For counties that received E911 funds, a determination that all E911 fee revenues, interest, and E911 grant funding were used for payment of authorized expenditures, as specified in Section 365.172(10), Florida Statutes, and as specified in the E911 Board grant and special disbursement programs (see Section 365.173(2)(d), Florida Statutes).
 - c. For clerks of the courts, a determination of the clerk's compliance with the requirements of Sections 28.35 and 28.36, Florida Statutes.
 - d. For clerks of the courts, a determination of the clerk's compliance with Section 61.181, Florida Statutes.
 - e. For county agencies, municipalities, and special districts that received or expended funds related to the Deepwater Horizon oil spill, that are not Federal awards audited as major programs or State financial assistance audited as major projects: a determination of the entity's compliance with Federal and State laws, rules, regulations, contracts, or grant agreements related to the receipt and expenditure of the funds (see Section 288.8018(1), Florida Statutes). The scope of the financial audit shall include additional activities necessary to prepare the report required in Rule 10.557(3)(f).

- f. For community redevelopment agencies with revenues or a total of expenditures and expenses in excess of \$100,000, a determination that the community redevelopment agency complied with Sections 163.387(6) and (7), Florida Statutes.

A Compliance Supplement and Guidance on Community Redevelopment Agency Stand-Alone Financial Statements are available on the Auditor General Web site to assist auditors with these requirements.

General Authority and Law Implemented - Sections 11.45, 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes.

History: New 08-01-86
Last Amended 09-30-20

10.557**AUDIT REPORT**

- (1) To the extent possible, the auditor shall combine required reports and schedules and shall avoid including duplicate findings in the various reports, schedules, and management letter.
- (2) Each audit report shall comply with the applicable reporting standards as contained in the publications referenced in Rule 10.553.
- (3) Each audit report required by Section 163.387(8), Florida Statutes, and each audit report submitted pursuant to Sections 215.97, 218.39, and 288.8018(1), Florida Statutes, and these rules, shall be a single document and contain at least the following:
 - (a) A table of contents.
 - (b) The auditor's report on the basic financial statements and report on internal control and compliance. The reports shall be based on an audit of the financial statements conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*.
 - (c) The auditor's report based on an examination conducted in accordance with *AICPA Professional Standards*, AT-C Section 315, promulgated by the American Institute of Certified Public Accountants, regarding the compliance requirements referenced in Rule 10.556(10). The report shall be prepared in accordance with AT-C Section 315.20.
 - (d) Any other auditor's reports, related financial information, and auditee-prepared documents required pursuant to Uniform Guidance, the Florida Single Audit Act, and other applicable Federal and State law.
 - (e) For counties as a whole, municipalities, and special districts, auditor's reports and related financial information required pursuant to the Florida Single Audit Act and these rules as described below. These reports and information may be combined with the similar reports and information required by Uniform Guidance; however, the State financial assistance and related findings shall be clearly distinguished from the Federal awards and related findings in such reports and information. Florida Single Audit Act reports and related financial information shall include:
 1. A schedule of expenditures of State financial assistance prepared in accordance with Department of Financial Services Rules, Chapter 69I-5, Florida Administrative Code, State Financial Assistance. This schedule shall be included on the schedule of expenditures of Federal awards, where applicable.
 2. A report that includes an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of State financial assistance is presented fairly in all material respects in relation to the financial statements taken as a whole. This report shall include the elements prescribed by the American Institute of Certified Public Accountants *Audit Guide – Government Auditing Standards and Single Audits*, modified as appropriate to apply to an audit conducted in accordance with the Florida Single Audit Act and these rules.

3. A report on compliance with requirements that could have a direct and material effect on each major State project and on internal control over compliance. This report shall describe the scope of testing of internal control and the results of those tests and shall include an opinion (or disclaimer of opinion) as to whether the auditee complied with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on a major State project. Where applicable, this report shall refer to the separate schedule of findings and questioned costs relating to State financial assistance (see Rule 10.554(1)(l)). The report shall include the elements prescribed by the American Institute of Certified Public Accountants *Audit Guide – Government Auditing Standards and Single Audits*, modified as appropriate to apply to an audit conducted in accordance with the Florida Single Audit Act and these rules.
 4. A schedule of findings and questioned costs relating to State financial assistance (see Rule 10.554(1)(l)).
 5. A summary schedule of prior audit findings, unless there were no prior audit findings to be reported on, in which case the auditor shall so indicate in the schedule of findings and questioned costs (see Rule 10.554(1)(m)).
 6. A corrective action plan as defined in Section 215.97(8)(i), Florida Statutes.
- (f) For any fiscal year in which funds related to the Deepwater Horizon oil spill are received or expended, a report that includes an opinion (or disclaimer of opinion) as to whether the schedule of receipts and expenditures of such funds required by Rule 10.557(3)(m) is presented fairly in all material respects in relation to the financial statements taken as a whole. The report shall be prepared in accordance with *AICPA Professional Standards*, AU-C Section 725, promulgated by the American Institute of Certified Public Accountants.
- (g) The “management letter” defined in Rule 10.554(1)(i). Separate management letters are required for the county as a whole and for each county agency for which a separate audit was conducted pursuant to Section 218.39(2), Florida Statutes. The management letter for the county as a whole shall include all the elements of a management letter as prescribed in Rule 10.554(1)(i), while the separate county agency management letters shall include all the elements of a management letter as prescribed in Rule 10.554(1)(i) except for those prescribed in Rules 10.554(1)(i)5. through 9. For those findings that are specific to a particular county agency, the management letter for the county as a whole may make reference to the separate county agency management letters rather than duplicating such findings included in the separate county agency management letters.
- (h) A “management’s discussion and analysis” as required by Sections 2200.106 through 2200.109 of the *GASB Codification of Governmental Accounting and Financial Reporting Standards* except that the “management’s discussion and analysis” is not required for the separate audits of county agencies (see Rule 10.554(1)(e)).

- (i) The basic financial statements and required supplementary information as described in Rules 10.556(3) and (4). Reporting options allowed by generally accepted accounting principles shall be applied consistently for the countywide and individual county agency financial statements, and among the county agencies within a particular county. The notes to the financial statements shall include the disclosures required by Section 2300 of the *GASB Codification of Governmental Accounting and Financial Reporting Standards*, except as provided in (j), below.
- (j) The notes to the financial statements presented in the separate audits of county agencies may supplement rather than duplicate the notes to the financial statements included in the countywide financial statements. If a particular disclosure for a county agency is adequately presented in the notes to the countywide financial statements, disclosure may be made in the notes to the county agency financial statements by reference to the notes to the countywide financial statements. The notes to the financial statements of a county agency are only required for elements actually reported in the county agency statements. If the county agency presents government-wide financial statements, the notes shall include disclosures related to capital assets and long-term liabilities. If the county agency only presents fund financial statements, capital assets and long-term liabilities note disclosures are required only for those capital assets and long-term liabilities presented in proprietary fund (internal service funds and enterprise funds) financial statements.
- (k) Required supplementary information for separate audits of county agencies shall include a budgetary comparison schedule as required by Sections 2200.206 and 2200.207 of the *GASB Codification of Governmental Accounting and Financial Reporting Standards* unless presented as part of the basic financial statements. Other required supplementary information of a county agency is only required for elements actually reported in the county agency statements. If the county agency presents government-wide financial statements, the required supplementary information shall include disclosures related to capital assets and long-term liabilities. If the county agency only presents fund financial statements, capital assets and long-term liabilities required supplementary information is required only for those capital assets and long-term liabilities presented in proprietary fund (internal service funds and enterprise funds) financial statements.
- (l) The written statement of explanation or rebuttal required by Rule 10.558(2). Such written statement of explanation or rebuttal should include the finding reference number used by the auditor in the auditor's report (see also Rule 10.557(4)(b)7).
- (m) For any fiscal year in which funds related to the Deepwater Horizon oil spill are received or expended, a schedule of receipts and expenditures of such funds that are not Federal awards or State financial assistance reported on the schedule of expenditures of Federal awards or schedule of expenditures of State financial assistance. The schedule shall show for each source of such funds the amounts received and expended during the fiscal year. The schedule shall include a note referencing any Deepwater Horizon oil spill related expenditures reported on the schedule of expenditures of Federal awards or schedule of expenditures of State financial assistance, including the Catalog of Federal Domestic Assistance or Catalog of State Financial Assistance number(s).

(4) Other reporting requirements:

- (a) The financial statements as described in Rule 10.556(4) and included in the separate county agency audit report pursuant to Rule 10.557(3)(i) are financial statements that do not constitute a complete presentation of a county but otherwise constitute financial statements prepared in conformity with generally accepted accounting principles. Separate financial statements prepared for the board of county commissioners shall include any component units of the board of county commissioners. Auditor's reports on county agency financial statements shall be prepared in accordance with the *AICPA Professional Standards*, AU-C Section 805, promulgated by the American Institute of Certified Public Accountants (a sample county agency auditor's report on the financial statements is available on the Auditor General Web site). All county agency audit reports shall be included in the county audit report submitted to the Auditor General pursuant to Sections 215.97(8)(g) and 218.39(7), Florida Statutes.
- (b) Audit findings contained in reports, schedules, and management letters shall include the following specific information:
 - 1. The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.
 - 2. The condition found, including facts that support the condition identified in the audit finding.
 - 3. The cause, or the reason or explanation for the condition or the factor(s) responsible for the difference between the situation that exists (condition) and the required or desired state (criteria).
 - 4. The effect or potential effect (i.e., outcome or consequence) of the condition. This should include information to provide proper perspective for judging the prevalence and consequences of the audit finding, such as whether the audit finding represented an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined, and shall be quantified in terms of dollar value.
 - 5. Recommendations to prevent future occurrences of the deficiency identified in the audit finding.
 - 6. Views of responsible officials of the local governmental entity and, if applicable, an explanation as to why the auditor disagrees with views of responsible officials when there is disagreement with the audit finding.
 - 7. Reference number.
- (c) Audit findings included in the schedule of findings and questioned costs related to State financial assistance shall include the following additional information:
 - 1. State project identification including the Catalog of State Financial Assistance number and year, name of the State awarding agency, and name of any applicable pass-through entity. When any such information is not available, the auditor shall provide the best information available to describe the State financial assistance.

2. Identification of questioned costs and how they were computed.

Note: Section 11.45(7)(i), Florida Statutes, requires the Auditor General to annually transmit by July 15, to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services, a list of all local governmental entities that have failed to comply with the transparency requirements as identified in audit reports submitted to the Auditor General pursuant to Section 218.39, Florida Statutes.

General Authority and Law Implemented - Sections 11.45, 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes.

History: New 08-01-86
Last Amended 09-30-21

10.558**DELIVERY OF AUDIT REPORT AND AUDITEE'S RESPONSE**

- (1) County agencies, municipalities, and special districts that have adopted an impact fee by ordinance or resolution must submit with its annual financial report required under Section 218.32, Florida Statutes, or its financial audit report a separate affidavit signed by the chief financial officer or, if there is no chief financial officer, its executive officer attesting, to the best of his or her knowledge, that all impact fees were collected and expended by the local governmental entity or were collected and expended on its behalf, in full compliance with the spending period provision in the local ordinance or resolution, and that funds expended from each impact fee account were used only to acquire, construct, or improve specific infrastructure needs.
- (2) To promote uniformity in the conduct of financial audits and to provide the public with the auditee's explanations of corrective action designed to prevent recurrence of any findings in the auditor's reports and management letter, a written statement of explanation or rebuttal concerning the auditor's findings and recommendations, including corrective action to be taken, shall be filed with the governing body of the local governmental entity within 30 days after delivery of the auditor's findings to be included in the audit report. The written statement shall include corrective actions taken, or to be taken, regarding one or more conditions reported by the auditor pursuant to Rule 10.554(1)(i)5.a., or a deteriorating financial condition(s) reported pursuant to Rule 10.554(1)(i)5.b.2) (see Section 218.39(6) and (7), Florida Statutes).
- (3) The auditor shall provide a copy of the audit report to management, each member of the governing body of the local governmental entity, each member of an audit committee charged with governance as defined in *AICPA Professional Standards*, AU-C Section 260.06, and the head of the governing body of all component units included in the audit. Copies of a State financial assistance recipient's audit report shall be submitted to the recipient organization, State awarding agencies, and the Auditor General. Copies of a subrecipient's audit report shall be submitted to the recipient organization that provided the State financial assistance.
- (4) Copies of the audit report required by Section 163.387(8), Florida Statutes, and copies of the audit report required to be submitted pursuant to Sections 215.97 and 218.39, Florida Statutes, including the auditee's responses thereto, and the corrective action plans required for the Federal awards and Florida Single Audit Act audits, shall be submitted to the Auditor General and State awarding agencies (if applicable) within 45 days after delivery of the audit report to the local governmental entity but no later than 9 months after the end of the fiscal year of the local governmental entity. One paper copy and one electronic copy of the audit report shall be submitted to the Auditor General at the following mailing address and e-mail address, respectively:

Auditor General
Local Government Audits/251
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

flaudgen_localgovt@aud.state.fl.us

The State awarding agencies, if applicable, will specify the number of copies and format of the audit report required to be submitted to them. The date that the audit report was delivered to the local governmental entity shall be indicated by the local governmental entity in the submittal checklist (form located on FLAuditor.gov under Technical Guidance) accompanying the audit report submitted to the Auditor General pursuant to Section 218.39(7), Florida Statutes.

General Authority and Law Implemented - Sections 11.45, 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes.

History: New 08-01-86
Last Amended 06-30-23

10.559 EFFECTIVE DATE

These rules, as amended, shall take effect for fiscal years ending September 30, 2023, and thereafter.

General Authority and Law Implemented - Sections 11.45, 163.387(8), 215.97, 218.39, and 288.8018(1), Florida Statutes.

History: New 08-01-86

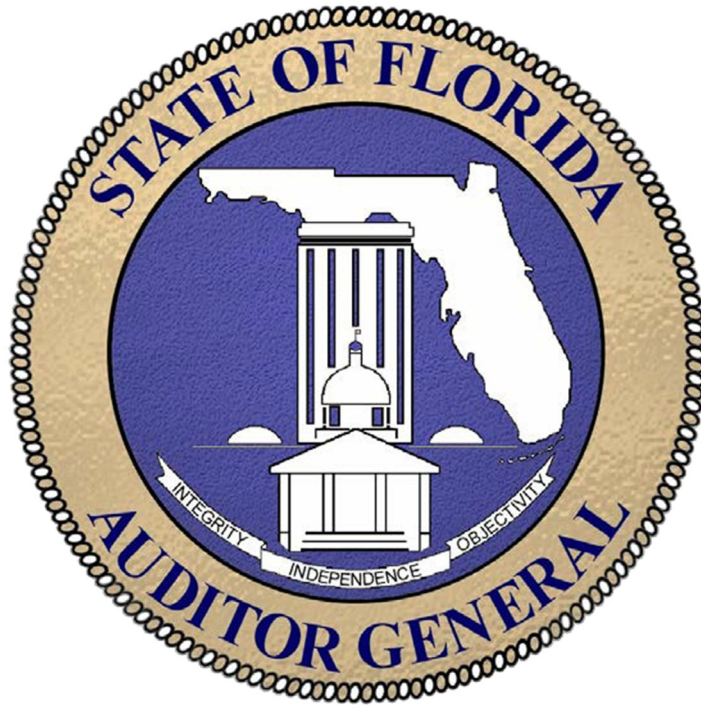
Last Amended 06-30-23

2023 Changes to Rules of the Auditor General

Chapter 10.650 – Florida Single Audit Act Audits for Nonprofit and For-profit Organizations

1. Revised Rules to correct or update references to authoritative literature and effective date of the Rules.

**RULES
OF THE
AUDITOR GENERAL**



CHAPTER 10.650

**FLORIDA SINGLE AUDIT ACT AUDITS
NONPROFIT AND FOR-PROFIT
ORGANIZATIONS**

EFFECTIVE 6-30-23

RULES OF THE AUDITOR GENERAL
CHAPTER 10.650

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PREFACE TO RULES

These rules are intended to implement the provisions of Section 215.97, Florida Statutes, which prescribes the requirements for a Florida Single Audit Act audit. This statute describes who or what is to be audited; describes when, where, how, and by whom State single audits of nonprofit and for-profit organizations are to be made; and requires that certain standards and procedures be followed. Rules for implementation of the Florida Single Audit Act for local governmental entities are separately promulgated in Chapter 10.550, Rules of the Auditor General.

Sections 215.97(2)(a) and 215.97(8)(a), Florida Statutes, provide that each nonstate entity that expends a total amount of State financial assistance equal to or in excess of \$750,000 in any fiscal year of such nonstate entity shall be required to have an audit for such year in accordance with the Florida Single Audit Act.

The statutes use various terms that may have common meanings. However, a number of these terms, such as “State single audit,” “nonprofit organization,” and “for-profit organization,” have statutory definitions. When defined by statute, the statutory definitions prevail over other definitions.

Auditors are cautioned that, in general, these rules neither repeat nor paraphrase the statutory provisions. Hence, knowledge of statutory provisions is the responsibility of individual auditors.

These rules are intended to and do implement, interpret, or make specific certain statutory provisions that are within the authority of the Auditor General to implement, interpret, or make specific. However, the rules are not intended to supersede, nor do the rules impinge on, the authority of the Board of Accountancy in the regulation of the practice of accountancy as authorized by Chapter 473, Florida Statutes.

The contents of the financial reporting package required by Rule 10.656(3) to be submitted by nonprofit and for-profit organizations shall include an audit of the financial statements of such organizations and reports and related information required for an audit conducted pursuant to Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). It is the intent of these rules that the auditor shall combine reports and schedules to the extent possible and shall avoid including duplicate findings in the various reports, schedules, and management letter.

Project-specific audits conducted pursuant to the Florida Single Audit Act shall comply with these rules except with respect to requirements imposed by these rules applicable to financial statements and notes thereto. The scope of project-specific audits shall not be required to include an examination of the financial statements as described in Rule 10.655(2) and (3), as applicable.

These rules are effective for fiscal years ending June 30, 2023, and thereafter. Any nonprofit or for-profit organizations that have not filed required financial reporting packages for earlier fiscal years should submit financial reporting packages that have been prepared and submitted in accordance with the rules in effect for those fiscal years.

Note: All statutory references are to the 2023 Florida Statutes.

History: New 06-30-01
 Last Amended 06-30-23

10.651 PURPOSE

- (1) Under the Florida Single Audit Act (Section 215.97, Florida Statutes), a nonprofit or for-profit organization may be required to have an annual audit of State financial assistance. The audit threshold defined in Rule 10.654(1)(a) applies to audits of State financial assistance.
- (2) Under Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), as applicable, a nonprofit organization may also be required to have an annual audit of Federal awards. The Federal Awards audit shall be conducted as part of the Florida Single Audit Act audit.
- (3) The Comptroller General of the United States has adopted professional auditing standards for the audit of entities, including nonprofit or for-profit organizations, receiving Federal awards. These standards are contained in the publication entitled *Government Auditing Standards*.
- (4) The Auditor General has adopted the auditing standards set forth in *Government Auditing Standards* as the standards for State single audits of nonprofit and for-profit organizations pursuant to Florida law. Hence, the same auditing standards are applicable to Federal awards audits and State financial assistance audits and should eliminate duplication of audit activity.
- (5) There are statutory differences between Federal and Florida audit requirements as to what is to be audited. There may also be differences in the way similar terms are defined in Federal law and Florida law. Auditors shall preserve these distinctions.
- (6) The purpose of these rules is to implement, interpret, or make specific various provisions of Section 215.97, Florida Statutes.
- (7) These rules will also form the basis of the review of financial reporting packages pursuant to Section 215.97(12)(f), Florida Statutes.

General Authority and Law Implemented - Section 215.97, Florida Statutes.

History: New 06-30-01
 Last Amended 07-01-17

10.652 RULES OF CONSTRUCTION

- (1) Applicable provisions of Florida law and expressed provisions of these rules shall prevail over conflicting provisions of material incorporated by reference.
- (2) Audits of State financial assistance shall be guided by Florida law and these rules.

General Authority and Law Implemented – Section 215.97, Florida Statutes.

History: New 06-30-01
 Last Amended 09-30-08

10.653 PUBLICATIONS INCORPORATED BY REFERENCE

For purposes of these rules, the following material is incorporated by reference and shall be followed when applicable.

- (1) *Codification of Governmental Accounting and Financial Reporting Standards* promulgated by the Governmental Accounting Standards Board (GASB), effective for the applicable fiscal year audited.
- (2) *AICPA Professional Standards* promulgated by the American Institute of Certified Public Accountants, effective for the applicable fiscal year audited.
- (3) *Government Auditing Standards* (2018 Revision) issued by the Comptroller General of the United States.
- (4) *Audit & Accounting Guide—State and Local Governments* promulgated by the American Institute of Certified Public Accountants, effective for the applicable fiscal year audited.
- (5) *Audit & Accounting Guide—Not-for-Profit Entities* promulgated by the American Institute of Certified Public Accountants, effective for the applicable fiscal year audited.
- (6) *Audit & Accounting Guide—Health Care Entities* promulgated by the American Institute of Certified Public Accountants, effective for the applicable fiscal year audited.
- (7) *Audit Guide—Government Auditing Standards and Single Audits* promulgated by the American Institute of Certified Public Accountants, effective for the applicable fiscal year audited.
- (8) Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).
- (9) *Accounting Standards Codification* promulgated by the Financial Accounting Standards Board (FASB), effective for the applicable fiscal year audited.
- (10) Department of Financial Services Rules, Chapter 69I-5, Florida Administrative Code, State Financial Assistance.

General Authority and Law Implemented - Section 215.97, Florida Statutes.

History: New 06-30-01

Last Amended 06-30-20

10.654**DEFINITIONS**

(1) As used in these rules, the term:

- (a) “Audit threshold” means the threshold amount used to determine when a State single audit or a project-specific audit of a nonstate entity shall be conducted in accordance with Section 215.97, Florida Statutes. Each nonstate entity that expends a total amount of State financial assistance equal to or in excess of \$750,000 in any fiscal year of such nonstate entity is required to have a State single audit or a project-specific audit for such fiscal year in accordance with the requirements of Section 215.97, Florida Statutes. [Section 215.97(2)(a), Florida Statutes]
- (b) “Auditor” means an independent certified public accountant licensed pursuant to Chapter 473, Florida Statutes, and retained and paid by a nonprofit or for-profit organization to perform an audit pursuant to Section 215.97(8), Florida Statutes.
- (c) “Generally accepted accounting principles” are those accounting principles, generally accepted in the United States of America, as defined by the FASB *Accounting Standards Codification*, Topic 105 *Generally Accepted Accounting Principles* or the GASB *Codification of Governmental Accounting and Financial Reporting Standards*, Section 1000 *The Hierarchy of Generally Accepted Accounting Principles*, as applicable.
- (d) “Government Auditing Standards” are those audit standards set forth in the publication *Government Auditing Standards* (2018 Revision) issued by the Comptroller General of the United States.
- (e) “Management letter” means a written statement of the auditor’s comments and recommendations. This letter shall be prepared and included as a part of each financial reporting package submitted pursuant to Section 215.97(8)(g), Florida Statutes. Unless otherwise required to be reported in the auditor’s report on internal control and compliance or schedule of findings and questioned costs (see Rule 10.654(1)(h)), the management letter shall include, but not be limited to, noncompliance with provisions of contracts or grant agreements, or waste or abuse, that have occurred, or are likely to have occurred, that have an effect on the financial statements or State project amounts that is less than material but which warrants the attention of those charged with governance. **Note:** Fraud, noncompliance with provisions of laws or regulations and contracts or grant agreements, or waste or abuse that does not warrant the attention of those charged with governance, or internal control deficiencies that are not material weaknesses or significant deficiencies may be reported in the management letter based on professional judgment.
- (f) “Pass-through entity” means a nonprofit or for-profit entity that provides State financial assistance to a subrecipient to carry out a State project.
- (g) “Schedule of Expenditures of State Financial Assistance” refers to a schedule prepared in accordance with the requirements of Department of Financial Services Rules, Chapter 69I-5, Florida Administrative Code, State Financial Assistance.

- (h) “Schedule of Findings and Questioned Costs relating to State Financial Assistance” refers to a schedule prepared by the auditor and included as part of each financial reporting package submitted pursuant to Section 215.97(8)(g), Florida Statutes. The schedule shall include:
1. A summary of the auditor’s results, including:
 - a. The type of report the auditor issued on the financial statements of the auditee (i.e., unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);
 - b. Where applicable, a statement that significant deficiencies or material weaknesses in internal control were disclosed by the audit of the financial statements;
 - c. A statement as to whether the audit disclosed any noncompliance that was material to the financial statements of the auditee;
 - d. Where applicable, a statement that significant deficiencies or material weaknesses in internal control over major State projects were disclosed by the audit;
 - e. The type of report the auditor issued on compliance for major State projects (i.e., unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);
 - f. A statement as to whether the audit disclosed any audit findings that the auditor was required to report under Rule 10.656;
 - g. An identification of major State projects;
 - h. The calculated dollar threshold used to distinguish between Type A and Type B projects as described in Department of Financial Services Rules, Chapter 69I-5, Florida Administrative Code, State Financial Assistance.
 2. Findings relating to the financial statements that are required to be reported in accordance with *Government Auditing Standards*.
 3. Findings and questioned costs for State financial assistance, which shall include audit findings as described in Rule 10.654(1)(h)4.
 - a. Audit findings (e.g., internal control findings, compliance findings, questioned costs, fraud, or significant instances of waste or abuse) that relate to the same issue shall be presented as a single finding. Where practical, audit findings shall be organized by State awarding agency or pass-through entity.

- b. Audit findings reported under (h)2. and (h)3.a. of this subsection shall clearly indicate whether they relate to the financial statements and State financial assistance, respectively, and shall be reported in a manner that avoids duplication of findings within the schedule.
4. The following audit findings:
- a. Deficiencies in internal control over major State projects that are determined to be a material weakness either individually or in combination. Material weaknesses may include reportable conditions in internal controls that are referred to in Section 215.97(8)(i), Florida Statutes. The auditor's determination of whether a deficiency in internal control is a material weakness is in relation to a type of compliance requirement for a major State project or an audit objective identified in the compliance supplement.
 - b. Deficiencies in internal control over major State projects that are determined to be significant deficiencies. Significant deficiencies may include reportable conditions in internal controls that are referred to in Section 215.97(8)(i), Florida Statutes. The auditor's determination of whether a deficiency in internal control is a significant deficiency is in relation to a type of compliance requirement for a major State project or an audit objective identified in the compliance supplement.
 - c. Material noncompliance with provisions of laws, regulations, contracts, or grant agreements related to a major State project. The auditor's determination of whether a noncompliance with provisions of laws, regulations, contracts, or grant agreements is material for the purpose of reporting an audit finding in this schedule is in relation to a type of compliance requirement for a major State project or an audit objective identified in the compliance supplement.
 - d. Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major State project. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor shall also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major State project. In reporting questioned costs, the auditor shall include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

- e. Known questioned costs that are greater than \$25,000 for a State project that is not audited as a major State project. Except for audit follow-up, the auditor is not required to perform audit procedures for such a State project; therefore, the auditor will normally not find questioned costs for a project that is not audited as a major State project. However, if the auditor does become aware of questioned costs for a State project that is not audited as a major State project (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than \$25,000, then the auditor shall report this as an audit finding.
 - f. The circumstances concerning why the auditor's report on compliance for major State projects is other than an unmodified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs relating to State financial assistance.
 - g. Known fraud affecting a major State project, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs relating to State financial assistance. This does not require the auditor to make an additional reporting when the auditor confirms that the fraud was reported outside of the auditor's reports under the direct reporting requirements of *Government Auditing Standards*.
 - h. Significant instances of waste or abuse relating to a major State project. Waste is the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse and does not necessarily involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate. Abuse does not necessarily involve fraud, or noncompliance with provisions of laws, regulations, contracts, or grant agreements.
 - i. Instances where the results of auditor follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with Rule 10.656(3)(d)5. materially misrepresents the status of any prior audit finding.
- (i) "Summary Schedule of Prior Audit Findings" means a schedule that reports the status of any audit findings included in the prior audit's schedule of findings and questioned costs relating to State financial assistance. The summary schedule shall also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected or no longer valid or not warranting further action. The schedule shall include the audit finding reference number required by Rule 10.656(4)(a)7.

1. When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.
2. When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken.
3. When corrective action taken is significantly different from corrective action previously reported in a corrective action plan, the summary schedule shall provide an explanation.
4. When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that two years have passed since the financial reporting package in which the finding occurred was submitted to the State awarding agency and the State awarding agency or pass-through entity is not currently following up with the auditee on the audit finding.

10.655**SCOPE OF THE FLORIDA SINGLE AUDIT ACT AUDIT**

- (1) It is the intent of these rules to make *Government Auditing Standards* applicable in the State of Florida to audits of nonprofit and for-profit organizations required to be audited pursuant to Section 215.97, Florida Statutes.
- (2) Independent audits of nonprofit organizations conducted by certified public accountants in accordance with these rules will include an examination of the financial statements, which shall be presented in accordance with the reporting standards set forth in Section 958-205 of the FASB *Accounting Standards Codification*. However, if the nonprofit organization is determined to be a governmental entity based on the guidance provided in the American Institute of Certified Public Accountants *Audit & Accounting Guide—Not-for-Profit Entities*, the audit will instead include a report on financial statements presented in accordance with reporting standards established by the GASB.
- (3) For those nonprofit organizations that have been determined to be governmental entities, the financial statements referred to in subsection (2) are basic financial statements as identified by Section 2200.102b. of the GASB *Codification of Governmental Accounting and Financial Reporting Standards*. In addition, the basic financial statements should be accompanied by: (1) management's discussion and analysis, as identified by Section 2200.102a. of the GASB *Codification of Governmental Accounting and Financial Reporting Standards* and (2) other required supplementary information, as identified by Section 2200.102c. of the GASB *Codification of Governmental Accounting and Financial Reporting Standards*.
- (4) The scope of the audit shall include any additional activities necessary to establish compliance with the term "financial statement audit" as defined and used in *Government Auditing Standards*.
- (5) When applicable, the scope of the audit shall encompass the additional activities necessary to establish compliance with the Uniform Guidance and other applicable Federal law.

General Authority and Law Implemented - Section 215.97, Florida Statutes.

History: New 06-30-01

Last Amended 06-30-17

10.656**FINANCIAL REPORTING PACKAGE**

- (1) To the extent possible, the auditor shall combine required reports and schedules and shall avoid including duplicate findings in the various reports, schedules, and management letter.
- (2) Each financial reporting package shall comply with the applicable reporting standards as contained in the publications referenced in Rule 10.653.
- (3) Each financial reporting package submitted pursuant to Section 215.97(8)(g), Florida Statutes, and these rules, shall be a single document and contain at least the following:
 - (a) A table of contents.
 - (b) The auditor's report on the basic financial statements and report on internal control and compliance. The reports shall be based on an audit of the financial statements conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in *Government Auditing Standards*.
 - (c) Any other auditor's reports, related financial information, and auditee-prepared documents required pursuant to the Uniform Guidance and other applicable Federal law.
 - (d) Auditor's reports and related financial information required pursuant to the Florida Single Audit Act and these rules as described below. These reports and information may be combined with the similar reports and information required by the Uniform Guidance; however, the State financial assistance and related findings shall be clearly distinguished from the Federal awards and related findings in such reports and information. Florida Single Audit Act reports and related financial information shall include:
 1. A schedule of expenditures of State financial assistance prepared in accordance with Department of Financial Services, Rules, Chapter 69I-5, Florida Administrative Code, State Financial Assistance. This schedule shall be included on the schedule of expenditures of Federal awards, where applicable.
 2. A report that includes an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of State financial assistance is presented fairly in all material respects in relation to the financial statements taken as a whole. This report shall include the elements prescribed by the American Institute of Certified Public Accountants *Audit Guide— Government Auditing Standards and Single Audits*, modified as appropriate to apply to an audit conducted in accordance with the Florida Single Audit Act and these rules.
 3. A report on compliance with requirements that could have a direct and material effect on each major State project and on internal control over compliance. This report shall describe the scope of testing of internal control and the results of those tests and shall include an opinion (or disclaimer of opinion) as to whether the auditee complied with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which

could have a direct and material effect on a major State project. Where applicable, this report shall refer to the separate schedule of findings and questioned costs relating to State financial assistance (see Rule 10.654(1)(h)). The report shall include the elements prescribed by the American Institute of Certified Public Accountants *Audit Guide—Government Auditing Standards and Single Audits*, modified as appropriate to apply to an audit conducted in accordance with the Florida Single Audit Act and these rules.

4. A schedule of findings and questioned costs relating to State financial assistance (see Rule 10.654(1)(h)).
 5. A summary schedule of prior audit findings, unless there were no prior audit findings to be reported on, in which case the auditor shall so indicate in the schedule of findings and questioned costs (see Rule 10.654(1)(i)).
 6. A corrective action plan as defined in Section 215.97(8)(i), Florida Statutes.
- (e) The “management letter” required by Sections 215.97(10)(f), and 215.97(11)(d), Florida Statutes, and defined in Rule 10.654(1)(e), unless there are no items related to State financial assistance required to be reported in the management letter, in which case the auditor shall indicate such in the schedule of findings and questioned costs. The financial reporting package shall include a written statement of explanation or rebuttal, including corrective action to be taken, concerning deficiencies cited in the management letter.
- (f) The financial statements as described in Rule 10.655(2) and (3), as applicable, together with related notes to the financial statements and required supplementary information required by generally accepted accounting principles.
- (4) Other reporting requirements:
- (a) Audit findings contained in reports, schedules, and management letters shall include the following specific information:
 1. The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.
 2. The condition found, including facts that support the condition identified in the audit finding.
 3. The cause, or the reason or explanation for the condition or the factor(s) responsible for the difference between the situation that exists (condition) and the required or desired state (criteria).
 4. The effect or potential effect (i.e., outcome or consequence) of the condition. This should include information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represented an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and

the number of cases examined, and shall be quantified in terms of dollar value.

5. Recommendations to prevent future occurrences of the deficiency identified in the audit finding.
 6. Views of responsible officials of the nonprofit or for-profit organization and, if applicable, an explanation as to why the auditor disagrees with views of responsible officials when there is disagreement with the audit finding.
 7. Reference number.
- (b) Audit findings included in the schedule of findings and questioned costs related to State financial assistance shall include the following additional information:
1. State project identification including the Catalog of State Financial Assistance number and year, name of the State awarding agency, and name of any applicable pass-through entity. When any such information is not available, the auditor shall provide the best information available to describe the State financial assistance.
 2. Identification of questioned costs and how they were computed.

10.657**DELIVERY OF FINANCIAL REPORTING PACKAGE**

- (1) Copies of the financial reporting package required by Rule 10.656 shall be submitted to those charged with governance of the recipient organization, the State awarding agencies, and the Auditor General. Copies of a subrecipient's financial reporting package shall be submitted to the subrecipient organization, the recipient organization that provided the State financial assistance, and to the Auditor General. One paper copy and one electronic copy of the financial reporting package shall be provided to the Auditor General at the following mailing address and e-mail address, respectively:

Auditor General
Local Government Audits/251
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

flaudgen_localgovt@aud.state.fl.us

- (2) The financial reporting package required to be submitted pursuant to Section 215.97(8)(g), Florida Statutes, shall be submitted to the Auditor General and the State awarding agencies within 45 days after delivery of the financial reporting package to the auditee, but no later than 9 months after the end of the fiscal year of the auditee. The date that the financial reporting package was delivered to the auditee shall be indicated by that organization in the submittal checklist (form located on FLAuditor.gov under Technical Guidance) accompanying the financial reporting package submitted to the Auditor General.

General Authority and Law Implemented - Section 215.97, Florida Statutes.

History: New 06-30-01

Last Amended 06-30-23

10.658 EFFECTIVE DATE

These rules shall take effect for fiscal years ending June 30, 2023, and thereafter.

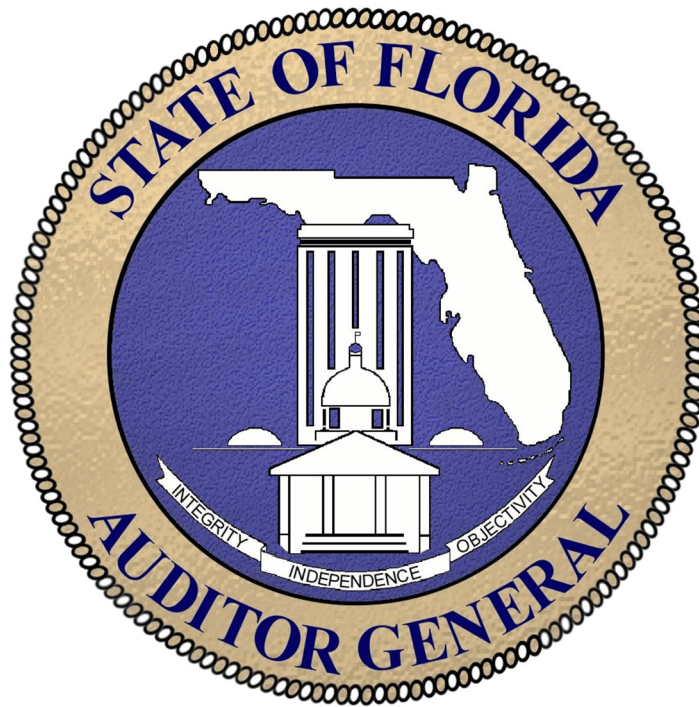
General Authority and Law Implemented - Section 215.97, Florida Statutes.
History: New 06-30-01
Last Amended 06-30-23

2023 Changes to Rules of the Auditor General

Chapter 10.700 – Audits of Certain Nonprofit Organizations

1. Revised Rules to correct or update references to authoritative literature and effective date of the Rules.
2. Added Rule 10.710(5) to include the Florida Scholars Academy.
3. Revised Rule 10.720(8) to define the Florida Scholars Academy.
4. Revised Rule 10.740(1) to include audit report filing requirements for the Florida Scholars Academy.

**RULES
OF THE
AUDITOR GENERAL**



CHAPTER 10.700

**AUDITS OF
CERTAIN NONPROFIT ORGANIZATIONS**

EFFECTIVE 6-30-23

RULES OF THE AUDITOR GENERAL
CHAPTER 10.700

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PREFACE TO RULES

Auditors are cautioned that, in general, these rules do not repeat nor paraphrase the various laws, rules, and regulations governing the operations of certain nonprofit organizations. Hence, knowledge of legal and regulatory requirements governing these organizations is the responsibility of individual auditors.

These rules are intended to and do implement, interpret, or make specific, certain statutory provisions that are within the authority of the Auditor General to implement, interpret, or make specific. However, the rules are not intended to supersede, nor to impinge on, the authority of the Board of Accountancy in the regulation of the practice of accountancy as authorized by Chapter 473, Florida Statutes.

Note: All statutory references are to the 2023 Florida Statutes.

History: New 06-30-03
 Last Amended 06-30-23

10.710 PURPOSE

- (1) Direct-support organizations and citizen-support organizations are subject to varying legal, regulatory, and contractual requirements.
 - (a) Each direct-support organization and citizen-support organization required by Section 215.981(1), 288.1226(7), 1001.453(4), 1004.28(5), or 1004.70(6), Florida Statutes, to provide for an annual financial audit of its accounts and records by an independent certified public accountant shall do so in accordance with rules adopted by the Auditor General.
 - (b) Section 215.981(1), Florida Statutes, provides that audits of direct-support and citizen-support organizations created, approved, or administered by a State agency, other than a university, community college, or district school board, are also subject to rules adopted by the State agency that created, approved, or administers the direct-support or citizen-support organization.
 - (c) Section 1001.453(4), Florida Statutes, provides that audits of district school board direct-support organizations are also subject to rules adopted by the Commissioner of Education.
 - (d) Section 1004.28(5), Florida Statutes, provides that audits of university direct-support organizations are also subject to rules adopted by the university board of trustees.
 - (e) It is the intent of these rules to supplement audit requirements, if any, promulgated by other governmental entities that have authority over direct-support and citizen-support organizations.
- (2) Scholarship-funding organizations shall comply with eligibility and other requirements as prescribed by Sections 212.099, 1002.394, 1002.395, 1002.40, and 1002.411, Florida Statutes.
- (3) Enterprise Florida, Inc., shall comply with the requirements of Chapter 288, Part VIII, Florida Statutes.
- (4) Florida Is For Veterans, Inc., shall comply with the requirements of Section 295.21, Florida Statutes.
- (5) The Scripps Florida Funding Corporation shall comply with the requirements of Section 288.955, Florida Statutes.
- (6) The Florida Scholars Academy shall comply with the requirements of Section 985.619, Florida Statutes.
- (7) Nonprofit entities operating more than one school of hope shall comply with the requirements of Section 1002.333, Florida Statutes, and with Section 218.39, Florida Statutes, regarding audits of a school board.
- (8) Eligible charitable organizations designated as such by the Department of Children and Families shall comply with the requirements of Section 402.62, Florida Statutes.

- (9) The purpose of these rules is to implement, interpret, or make specific, various provisions of Sections 11.45, 215.981(1), 288.1226(7), 288.906(1)(h), 288.955(14)(g), 295.21(8)(f), 402.62(3)(c)1., 985.619(7)(a); 1001.453(4), 1002.333(6)(h)2.b., 1002.395(6)(m), 1004.28(5), and 1004.70(6), Florida Statutes.

General Authority and Law Implemented – Sections 11.45, 215.981(1), 288.1226(7), 288.906(1)(h), 288.955(14)(g), 295.21(8)(f), 402.62(3)(c)1., 985.619(7)(a), 1001.453(4), 1002.333(6)(h)2.b., 1002.395(6)(m), 1004.28(5), and 1004.70(6), Florida Statutes.

History: New 06-30-93
Last Amended 06-30-23

10.720 DEFINITIONS

(1) As used in these rules, the term:

(a) "Certain nonprofit organizations" means the following entities:

1. "Citizen-support organization" means a Florida corporation not-for-profit incorporated under the provisions of Chapter 617, Florida Statutes, and authorized by Florida law to exist as a citizen-support organization to benefit or provide assistance to a governmental entity.
2. "Direct-support organization" means a Florida corporation not-for-profit incorporated under the provisions of Chapter 617, Florida Statutes, and authorized by Florida law to exist as a direct-support organization to benefit or provide assistance to a governmental entity, including the Florida Tourism Industry Marketing Corporation, which is a direct-support organization of Enterprise Florida, Inc., pursuant to Section 288.1226(2), Florida Statutes.
3. "Enterprise Florida, Inc." means the organization created pursuant to Section 288.901(1), Florida Statutes.
4. "Florida Is For Veterans, Inc." means the organization created pursuant to Section 295.21(1), Florida Statutes.
5. "Scholarship-funding organization" means an eligible nonprofit scholarship funding organization as defined by Section 1002.395(2)(f), Florida Statutes.
6. "Scripps Florida Funding Corporation" means a not-for-profit corporation registered, incorporated, organized, and operated under Chapter 617, Florida Statutes, and created pursuant to Section 288.955(2), Florida Statutes.
7. "Scripps Research Institute" means a not-for-profit benefit corporation authorized by Section 288.955(3), Florida Statutes, to establish a state-of-the-art biomedical research institution and campus in the State of Florida.
8. "Florida Scholars Academy" means a not-for-profit corporation authorized by Section 985.619(1), Florida Statutes, to deliver educational opportunities to students served in residential commitment programs.
9. "Nonprofit entity operating schools of hope" means a nonprofit entity that operates more than one school of hope through a performance-based agreement with a school district pursuant to Section 1002.333, Florida Statutes.
10. "Eligible charitable organization" means an organization designated by the Department of Children and Families to be eligible to receive funding under Section 402.62, Florida Statutes.

(b) "Certified public accountant" means a person licensed to practice public accounting under Chapter 473, Florida Statutes.

- (c) “Compliance audit” means an audit of an organization’s compliance with applicable compliance requirements.
- (d) “Financial audit” means an examination of financial statements to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles as defined by the Financial Accounting Standards Board (FASB) *Accounting Standards Codification*, Topic 105 *Generally Accepted Accounting Principles* or Governmental Accounting Standards Board *Codification of Governmental Accounting and Financial Reporting Standards*, Section 1000 *The Hierarchy of Generally Accepted Accounting Principles*, as applicable. Financial audits shall be conducted in accordance with generally accepted auditing standards as contained in the applicable *AICPA Professional Standards* promulgated by the American Institute of Certified Public Accountants. Financial audits shall also be conducted in accordance with *Government Auditing Standards*.
- (e) “*Government Auditing Standards*” are those audit standards set forth in the publication *Government Auditing Standards* (2018 Revision) issued by the Comptroller General of the United States.
- (f) “Governmental entity” means a State agency, a county agency, or any other entity, however styled, that independently exercises any type of State or local governmental function.

General Authority and Law Implemented – Sections 11.45, 215.981(1), 288.1226(7), 288.906(1)(h), 288.955(14)(g), 295.21(8)(f), 402.62(3)(c)1., 985.619(1)(a), 1001.453(4), 1002.333(6)(h)2.b., 1002.395(6)(m), 1004.28(5), and 1004.70(6), Florida Statutes.

History: New 06-30-93
Last Amended 06-30-23

10.730**AUDIT REQUIREMENTS**

- (1) Financial audits of certain nonprofit organizations conducted by independent certified public accountants in accordance with these rules are to be conducted as specified by, and in accordance with, applicable laws, regulations, and contractual requirements. When applicable, the audit shall encompass the additional activities necessary to establish compliance with the Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance); the Florida Single Audit Act; Chapter 10.650, Rules of the Auditor General; and other applicable Federal and State law.
- (2) Financial audits of certain nonprofit organizations conducted by independent certified public accountants in accordance with these rules will include a report on financial statements presented in accordance with the reporting standards set forth in Section 958-205 of the FASB *Accounting Standards Codification*. However, if a certain nonprofit organization is determined to be a governmental organization based on the guidance provided in the American Institute of Certified Public Accountants *Audit & Accounting Guide - Not-for-Profit Entities*, the audit will instead include a report on financial statements presented in accordance with reporting standards established by the Governmental Accounting Standards Board.
- (3) The scope of the financial audit shall include the following:
 - (a) An examination of financial statements to determine whether they are presented fairly, in all material respects, in conformity with generally accepted accounting principles and an examination of any additional financial information necessary to comply with generally accepted accounting principles.
 - (b) For direct-support and citizen-support organizations, scholarship-funding organizations, nonprofit entities operating schools of hope, and eligible charitable organizations, a determination of compliance with requirements prescribed by the sections of law that created and govern such organizations, any rules promulgated pursuant to law, and the provisions of contracts or grant agreements.
 - (c) For Enterprise Florida, Inc., a determination of compliance with requirements prescribed by Chapter 288, Part VIII, Florida Statutes; any rules promulgated pursuant to law; and the provisions of contracts or grant agreements.
 - (d) For Florida Is For Veterans, Inc., a determination of compliance with requirements prescribed by Sections 295.21 and 295.22, Florida Statutes; any rules promulgated pursuant to law; and the provisions of contracts or grant agreements.

- (e) For the Scripps Florida Funding Corporation, a determination of compliance with applicable law, including the requirements prescribed by Section 288.955(2), Florida Statutes; the board membership and meeting requirements prescribed by Section 288.955(4) and (5), Florida Statutes; the investment requirements prescribed by Section 288.955(7), Florida Statutes; the contracting requirements prescribed by Section 288.955(8), (9), (10), and (11), Florida Statutes; the expenditure or disbursement requirements prescribed by Section 288.955(6), (11), and (12), Florida Statutes; the reporting requirements prescribed by Section 288.955(6)(h) and (14), Florida Statutes; any rules promulgated pursuant to law; and the provisions of contracts or grant agreements. The audit shall also include a determination of the Scripps Florida Funding Corporation's compliance with the monitoring requirements prescribed by Section 288.955(6)(g), Florida Statutes, including a determination of the adequacy of the Corporation's efforts to verify compliance by the Scripps Research Institute with the provisions of Section 288.955, Florida Statutes, and contractual requirements, either through the Corporation's own efforts or through the review of audits of the Institute conducted pursuant to Section 288.955(8)(b)16., Florida Statutes.
 - (f) For scholarship-funding organizations, disclosure of all transferred amounts received by any eligible nonprofit scholarship-funding organization pursuant to Sections 1002.395(6)(j)2., 1002.395(6)(l), 1002.395(15)(f), or 1002.40 (11)(i), Florida Statutes.
 - (g) When applicable, additional activities necessary to establish compliance with Uniform Guidance; the Florida Single Audit Act; Chapter 10.650, Rules of the Auditor General; and other applicable Federal and State law.
- (4) Each audit report submitted pursuant to law and these rules shall be a single document and contain at least the following:
- (a) A table of contents.
 - (b) The auditor's report on the basic financial statements and report on internal control and compliance. The reports shall be based on an audit of the financial statements conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*.
 - (c) Any other auditor's reports, related financial information, and auditee-prepared documents required pursuant to Uniform Guidance; the Florida Single Audit Act; Chapter 10.650, Rules of the Auditor General; and other applicable Federal and State law.
 - (d) The basic financial statements together with related notes to financial statements and required supplementary information required by generally accepted accounting principles.
 - (e) If applicable, management's response to audit findings required by Rule 10.740(2).

- (5) Audit findings contained in reports and schedules shall include the following specific information:
- (a) The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.
 - (b) The condition found, including facts that support the condition identified in the audit finding.
 - (c) The cause, or the reason or explanation for the condition or the factor(s) responsible for the difference between the situation that exists (condition) and the required or desired state (criteria).
 - (d) The effect or potential effect (i.e., outcome or consequence) of the condition. This should include information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represented an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined and shall be quantified in terms of dollar value.
 - (e) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.
 - (f) Views of responsible officials of the organization and, if applicable, an explanation as to why the auditor disagrees with views of responsible officials when there is disagreement with the audit finding.
 - (g) Reference number.
- (6) Certain nonprofit organizations which are component units, as defined by generally accepted accounting principles, of a governmental entity, shall also comply with any other audit report submittal deadlines that exist for the governmental entity and that are prior to the deadline established by these rules.

General Authority and Law Implemented – Sections 11.45, 215.981(1), 288.1226(7), 288.906(1)(h), 288.955(14)(g), 295.21(8)(f), 402.62(3)(c)1., 1001.453(4), 1002.333(6)(h)2.b., 1002.395(6)(m), 1004.28(5), and 1004.70(6), Florida Statutes.

History: New 06-30-93
Last Amended 06-30-21

10.740 DELIVERY OF AUDIT REPORT AND MANAGEMENT'S RESPONSE

- (1) Audit reports of direct-support and citizen-support organizations shall be submitted as required by Sections 215.981(1), 288.1226(7), 985.619, 1001.453(4), 1004.28(5), and 1004.70(6), Florida Statutes. Audit reports of scholarship-funding organizations shall be submitted to the Department of Education and the Auditor General no later than 180 days after completion of the scholarship-funding organization's fiscal year. Audit reports of Enterprise Florida, Inc., shall be submitted to the Executive Office of the Governor and the Auditor General, within 45 days after delivery of the audit report but no later than 9 months after the end of its fiscal year. Audit reports of Florida Is For Veterans, Inc., shall be submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General within 45 days after delivery of the audit report but no later than December 1 after the end of its fiscal year. Audit reports of the Scripps Florida Funding Corporation shall be submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General within 45 days after delivery of the audit report but no later than 9 months after the end of its fiscal year. Audit reports of the Florida Scholars Academy shall be filed with the Auditor General within 45 days after delivery of the audit report to its governing body, but no later than 9 months after the end of its fiscal year. Audit reports of nonprofit entities operating schools of hope and audit reports of eligible charitable organizations shall be filed with the Auditor General within 45 days after delivery of the audit report to its governing body, but no later than 9 months after the end of its fiscal year. Audit reports of eligible charitable organizations must also be provided to the Department of Children and Families within 180 days after completion of its fiscal year.
- (2) One paper copy and one electronic copy of the audit report required by Rule 10.730(4), including management's responses to audit findings (if applicable), shall be submitted to the Auditor General at the following mailing address and e-mail address, respectively:

Auditor General
Local Government Audits/251
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

flaudgen_localgovt@aud.state.fl.us

The date that the audit report was delivered to the organization shall be indicated by the organization in the submittal checklist (form located on FLAuditor.gov under Technical Guidance) accompanying the audit report submitted to the Auditor General.

General Authority and Law Implemented – Sections 11.45, 215.981(1), 288.1226(7), 288.906(1)(h), 288.955(14)(g), 295.21(8)(f), 402.62(3)(c)1., 985.619(7)(a), 1001.453(4), 1002.333(6)(h)2.b., 1002.395(6)(m), 1004.28(5), and 1004.70(6), Florida Statutes.

History: New 06-30-18
Last Amended 06-30-23

10.750 EFFECTIVE DATE

These rules, as amended, shall take effect for fiscal years ending June 30, 2023, and thereafter.

General Authority and Law Implemented – Sections 11.45, 215.981(1), 288.1226(7), 288.906(1)(h), 288.955(14)(g), 295.21(8)(f), 402.62(3)(c)1., 985.619(7)(b), 1001.453(4), 1002.333(6)(h)2.b., 1002.395(6)(m), 1004.28(5), and 1004.70(6), Florida Statutes.

History: New 06-30-93
Last Amended 06-30-23

2023 Changes to Rules of the Auditor General

Chapter 10.800 – District School Board Audits

1. Revised Rules to correct or update references to authoritative literature and effective date of the Rules.

**RULES
OF THE
AUDITOR GENERAL**



CHAPTER 10.800

**AUDITS OF
DISTRICT SCHOOL BOARDS**

EFFECTIVE 6-30-23

RULES OF THE AUDITOR GENERAL
CHAPTER 10.800

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PREFACE TO RULES

Annual financial audits of district school boards are required by Section 218.39(1)(d), Florida Statutes. Auditors are cautioned that, in general, these rules do not repeat nor paraphrase the various laws, rules, and regulations governing the operations of the district school boards. Hence, knowledge of legal provisions governing the district school boards is the responsibility of individual auditors.

These rules are intended to and do implement, interpret, or make specific certain statutory provisions that are within the authority of the Auditor General to implement, interpret, or make specific. However, the rules are not intended to supersede, nor do the rules impinge on, the authority of the Board of Accountancy in the regulation of the practice of accountancy as authorized by Chapter 473, Florida Statutes.

Note: All statutory references are to the 2023 Florida Statutes.

History: New 07-01-99
 Last Amended 06-30-23

10.801 PURPOSE

- (1) District school boards located in Florida are required by Florida law (Section 218.39(1)(d), Florida Statutes) to have an annual “financial audit.” Under Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), as applicable, the district school boards are also required to have an audit of Federal awards.
- (2) The Comptroller General of the United States has adopted professional auditing standards for the audit of entities receiving Federal awards. These standards are contained in the publication titled *Government Auditing Standards*.
- (3) The Auditor General has adopted the auditing standards set forth in *Government Auditing Standards* as the standards for auditing district school boards pursuant to Florida law. Hence, the same auditing standards are applicable to both Federal awards audits and financial audits required by Florida law and should eliminate duplication of audit activity.
- (4) There are statutory differences between Federal and Florida audit requirements as to what is to be audited. There may also be differences in the way similar terms are defined in Federal law and Florida law. Auditors shall preserve these distinctions.
- (5) The purpose of these rules is to implement, interpret, or make specific various provisions of Sections 11.45 and 218.39, Florida Statutes.
- (6) These rules will also form the basis of the review of district school board audit reports pursuant to Section 11.45(7)(b), Florida Statutes.

General Authority and Law Implemented - Section 11.45, Florida Statutes.

History: New 07-01-99

Last Amended 06-30-17

10.802 RULES OF CONSTRUCTION

- (1) Applicable provisions of Florida law and expressed provisions of these rules shall prevail over conflicting provisions of material incorporated by reference.
- (2) Audits of non-Federal resources shall be guided by Florida law and these rules, and audits of Federal awards shall be guided by Federal law and applicable provisions of Florida law.

General Authority and Law Implemented - Section 11.45, Florida Statutes.

History: New 07-01-99

10.803 PUBLICATIONS INCORPORATED BY REFERENCE

For purposes of these rules, the following material is incorporated by reference and shall be followed when applicable.

- (1) *Codification of Governmental Accounting and Financial Reporting Standards* promulgated by the Governmental Accounting Standards Board (GASB), effective for the fiscal year ending June 30, 2023.
- (2) *AICPA Professional Standards* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending June 30, 2023.
- (3) *Government Auditing Standards* (2018 Revision) issued by the Comptroller General of the United States.
- (4) *Audit & Accounting Guide—State and Local Governments* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending June 30, 2022.
- (5) *Audit Guide—Government Auditing Standards and Single Audits* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending June 30, 2023.
- (6) Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).
- (7) *Financial and Program Cost Accounting and Reporting for Florida Schools* and amendments thereto, as published by the Florida Department of Education.

General Authority and Law Implemented - Section 11.45, Florida Statutes.

History: New 07-01-99
Last Amended 06-30-23

10.804 DEFINITIONS

(1) As used in these rules, the term:

- (a) "Affidavit" means the affidavit required by Section 163.31801, Florida Statutes, for district school boards that had an impact fee adopted by ordinance on their behalf.
- (b) "Auditor" means an independent certified public accountant licensed pursuant to Chapter 473, Florida Statutes, and retained and paid by a district school board to perform a financial audit pursuant to Section 218.39(1)(d), Florida Statutes.
- (c) "Deteriorating financial condition" means a circumstance determined as of the fiscal year end that significantly impairs a district school board's ability to generate enough revenues to meet its expenditures without causing a condition described in Section 218.503(1), Florida Statutes, to occur.
- (d) "Generally accepted accounting principles" are those accounting principles generally accepted in the United States, as defined by the GASB *Codification of Governmental Accounting and Financial Reporting Standards*, Section 1000 *The Hierarchy of Generally Accepted Accounting Principles*.
- (e) "Government Auditing Standards" are those audit standards set forth in the publication *Government Auditing Standards (2018 Revision)* issued by the Comptroller General of the United States.
- (f) "Management letter" means a statement of the auditor's comments and recommendations. This letter shall be prepared and included as a part of each financial audit report pursuant to Section 218.39(4), Florida Statutes, and Rule 10.806(2)(e). The management letter shall include, but not be limited to:
 - 1. A statement as to whether or not corrective actions have been taken to address findings and recommendations made in the preceding financial audit report, not otherwise addressed in the auditor's report pursuant to Rule 10.806(2)(b) or (c). If an audit finding in the preceding financial audit report is uncorrected, the auditor shall determine whether the finding was also included in the second preceding fiscal year financial audit report. Uncorrected findings in the current fiscal year audit report shall cite the finding reference numbers used in the preceding and, as applicable, the second preceding fiscal year financial audit reports.
 - 2. A statement describing the results of the auditor's determination pursuant to Rule 10.805(6) as to whether or not the district school board met one or more of the conditions described in Section 218.503(1), Florida Statutes, and identification of the specific condition(s) met. (See also Rule 10.807(2).)
 - 3. Any recommendations to improve the district school board's financial management.
 - 4. Noncompliance with provisions of contracts or grant agreements, or waste or abuse, that have occurred, or are likely to have occurred, that have an effect on the financial statements that is less than material but which

warrants the attention of those charged with governance. **Note:** Fraud, noncompliance with provisions of laws or regulations and contracts or grant agreements, or waste or abuse that does not warrant the attention of those charged with governance, or internal control deficiencies that are not material weaknesses or significant deficiencies may be reported in the management letter based on professional judgment.

5. The following information regarding the auditor's application of financial condition assessment procedures pursuant to Rule 10.805(7):
 - a. A statement that the auditor applied financial condition assessment procedures pursuant to Rule 10.805(7).
 - b. If a deteriorating financial condition(s) is noted, a statement that the district school board's financial condition is deteriorating and a description of conditions causing the auditor to make this conclusion. If the auditor has reported that the district school board has met one or more of the conditions specified in Section 218.503(1), Florida Statutes (see Rule 10.804(1)(f)2. above), this statement shall indicate whether such condition(s) resulted from a deteriorating financial condition(s). Findings regarding deteriorating financial condition(s) shall be prepared in accordance with Rule 10.806(3).
6. A statement describing the results of the auditor's determination pursuant to Rule 10.805(8) as to whether or not the district school board prominently posted on its Web site a plain language version of each proposed, tentative, and official budget that describes each budget item in terms that are easily understandable to the public and includes the required graphical representations and link to the Web-based fiscal transparency tool developed by the Florida Department of Education pursuant to Section 1010.20, Florida Statutes.
(See Section 1011.035, Florida Statutes.)

10.805 SCOPE OF THE FINANCIAL AUDIT

- (1) It is the intent of these rules to make *Government Auditing Standards* applicable in the State of Florida to audits of district school boards pursuant to Section 218.39(1)(d), Florida Statutes.
- (2) The scope of a “financial audit” shall include:
 - (a) An examination of financial statements to determine whether they are presented, in all material respects, in conformity with generally accepted accounting principles.
 - (b) An examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements.
 - (c) An examination of any additional financial information necessary to comply with generally accepted accounting principles.
- (3) The financial statements referred to in paragraph (2)(a) are the basic financial statements as identified by Section 2200.102b of the *GASB Codification of Governmental Accounting and Financial Reporting Standards*. In addition, the basic financial statements shall be accompanied by: (1) management’s discussion and analysis, as identified by Section 2200.102a of the *GASB Codification of Governmental Accounting and Financial Reporting Standards* and (2) other required supplementary information, as identified by Section 2200.102c of the *GASB Codification of Governmental Accounting and Financial Reporting Standards*.
- (4) The scope of the financial audit shall include any additional activities necessary to establish compliance with the term “financial statement audit” as defined and used in *Government Auditing Standards*.
- (5) When applicable, the scope of the financial audit shall encompass the additional activities necessary to establish compliance with Uniform Guidance and other applicable Federal law.
- (6) The scope of the financial audit shall include appropriate procedures, based on the auditor’s professional judgment, to determine whether or not the district school board met one or more of the conditions described in Section 218.503(1), Florida Statutes.
- (7) The scope of the financial audit shall include use of financial condition assessment procedures in determining whether deteriorating financial conditions exist pursuant to Section 218.39(5)(a), Florida Statutes. The auditor is responsible for assessing financial condition and the methodology used is a matter of professional judgment. The financial condition assessment shall be done as of the fiscal year end; however, the auditor shall give consideration to subsequent events, through the date of the audit report, which could significantly impact the district school board’s financial condition.
- (8) The scope of the financial audit shall include appropriate procedures, based on the auditor’s professional judgment, to determine whether or not the district school board prominently posted on its Web site a plain language version of each proposed, tentative, and official budget that describes each budget item in terms that are easily understandable to the public and includes the required graphical representations and link to the Web-based

fiscal transparency tool developed by the Florida Department of Education pursuant to Section 1010.20, Florida Statutes. (See Section 1011.035, Florida Statutes.)

- (9) The scope of the financial audit shall include an examination pursuant to *AICPA Professional Standards*, AT-C Section 315, promulgated by the American Institute of Certified Public Accountants, to determine whether or not the district school board complied with Section 218.415, Florida Statutes. Note: A Compliance Supplement is available on the Auditor General Web site (FLAuditor.gov) to assist auditors with this requirement.

General Authority and Law Implemented - Section 11.45, Florida Statutes.

History: New 07-01-99
Last Amended 06-30-20

10.806 AUDIT REPORT

- (1) Each audit report shall comply with the applicable reporting standards as contained in the publications referenced in Rule 10.803.
- (2) Each audit report submitted pursuant to Section 218.39(7), Florida Statutes, and these rules shall be a single document and contain at least the following:
 - (a) A table of contents.
 - (b) The auditor's report on the basic financial statements and report on internal control and compliance. The reports shall be based on an audit of the financial statements conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*.
 - (c) The auditor's report based on an examination conducted in accordance with *AICPA Professional Standards*, AT-C Section 315, promulgated by the American Institute of Certified Public Accountants, regarding the compliance requirements referenced in Rule 10.805(9). The report shall be prepared in accordance with AT-C Section 315.20.
 - (d) Any other auditor's reports, related financial information, and district school board documents required pursuant to Uniform Guidance and other applicable Federal law.
 - (e) The "management letter" required by Section 218.39(4), Florida Statutes, and defined in Rule 10.804(1)(f).
 - (f) The basic financial statements and required supplementary information required by generally accepted accounting principles.
 - (g) The written statement of explanation or rebuttal required by Rule 10.807(2). Such written statement of explanation or rebuttal should include the finding reference number used by the auditor in the auditor's report. (See also Rule 10.806(3)(g).)
- (3) Audit findings contained in reports, schedules, and management letters shall include the following specific information:
 - (a) The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.
 - (b) The condition found, including facts that support the condition identified in the audit finding.
 - (c) The cause or the reason or explanation for the condition or the factor(s) responsible for the difference between the situation that exists (condition) and the required or desired state (criteria).

- (d) The effect or potential effect (i.e., outcome or consequence) of the condition. This should include information to provide proper perspective for judging the prevalence and consequences of the audit finding, such as whether the audit finding represented an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined, and shall be quantified in terms of dollar value.
- (e) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.
- (f) Views of responsible officials of the district school board and, if applicable, an explanation as to why the auditor disagrees with views of responsible officials when there is disagreement with the audit finding.
- (g) Reference number.

10.807 DELIVERY OF AUDIT REPORT AND MANAGEMENT'S RESPONSE

- (1) District school boards that have adopted an impact fee by ordinance or resolution must submit with its annual financial report required under Section 218.32, Florida Statutes, or its financial audit report a separate affidavit signed by the chief financial officer or, if there is no chief financial officer, its executive officer attesting, to the best of his or her knowledge, that all impact fees were collected and expended by the district school board or were collected and expended on its behalf, in full compliance with the spending period provision in the local ordinance or resolution, and that funds expended from each impact fee account were used only to acquire, construct, or improve specific infrastructure needs.
- (2) To promote uniformity in the conduct of financial audits and to provide the public with management's explanations of corrective action designed to prevent recurrence of any findings in the auditor's reports and management letter, a written statement of explanation or rebuttal concerning the auditor's findings and recommendations, including corrective action to be taken, shall be filed with the governing body of the district school board within 30 days after delivery of the auditor's findings to be included in the auditor's report or management letter prepared pursuant to Section 218.39(4), Florida Statutes. The written statement shall include corrective actions taken, or to be taken, regarding one or more conditions reported by the auditor pursuant to Rule 10.804(1)(f)2., or a deteriorating financial condition(s) reported pursuant to Rule 10.804(1)(f)5.b. (Section 218.39(6) and (7), Florida Statutes.)
- (3) The auditor shall provide a copy of the audit report to management, each member of the governing body of the district school board, and each member of the audit committee charged with governance as defined in *AICPA Professional Standards*, AU-C Section 260.
- (4) One paper copy and one electronic copy of the audit report required by Rule 10.806, including management's responses thereto, shall be submitted to the Auditor General within 45 days after delivery of the audit report to the district school board but no later than 9 months after the end of the fiscal year of the district school board. The date that the audit report was delivered to the district school board shall be indicated by the district school board in the [submittal checklist](#) (form located on FLAuditor.gov under Technical Guidance) accompanying the audit report submitted to the Auditor General pursuant to Section 218.39(7), Florida Statutes. The paper copy and the electronic copy of the audit report shall be submitted to the Auditor General at the following mailing address and e-mail address, respectively:

Auditor General
Local Government Audits/251
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

flaudgen_dsb_charter@aud.state.fl.us

General Authority and Law Implemented - Section 11.45, Florida Statutes.

History: New 07-01-99

Last Amended 06-30-23

10.808 EFFECTIVE DATE

These rules shall take effect for fiscal years ending June 30, 2023, and thereafter.

General Authority and Law Implemented - Section 11.45, Florida Statutes.

History: New 07-01-99

 Last Amended 06-30-23

2023 Changes to Rules of the Auditor General

Chapter 10.850 – Charter School, Charter Technical Centers, The Florida Virtual School, and Virtual Instruction Program Provider Audits

1. Revised Rules to correct or update references to authoritative literature and effective date of the Rules.

**RULES
OF THE
AUDITOR GENERAL**



CHAPTER 10.850

**AUDITS OF
CHARTER SCHOOLS AND
CHARTER TECHNICAL CAREER CENTERS,
THE FLORIDA VIRTUAL SCHOOL, AND
VIRTUAL INSTRUCTION PROGRAM PROVIDERS**

EFFECTIVE 6-30-23

RULES OF THE AUDITOR GENERAL
CHAPTER 10.850

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PREFACE TO RULES

Annual financial audits of charter schools and charter technical career centers are required by Section 218.39(1)(e) and (f), Florida Statutes. An audit of the Florida Virtual School, including Florida Virtual School Global,¹ is required by Section 1002.37(6), Florida Statutes. Audits of virtual instruction program providers are required by Section 1002.45(2)(a)10., Florida Statutes. Auditors are cautioned that, in general, these rules do not repeat nor paraphrase the various laws, rules, and regulations governing the operations of the charter schools and similar entities. Hence, knowledge of legal provisions governing charter schools and similar entities, the Florida Virtual School, including Florida Virtual School Global, and virtual instruction program providers is the responsibility of individual auditors.

These rules are intended to and do implement, interpret, or make specific, certain statutory provisions that are within the authority of the Auditor General to implement, interpret, or make specific. However, the rules are not intended to supersede, nor do the rules impinge on, the authority of the Board of Accountancy in the regulation of the practice of accountancy as authorized by Chapter 473, Florida Statutes.

Note: All statutory references are to the 2023 Florida Statutes.

History: New 07-01-99
 Last Amended 06-30-23

¹ Florida Virtual School Global operates within the Florida Virtual School and has historically been reported as the Global Services Division as part of the Florida Virtual School's proprietary activities.

10.851 PURPOSE

- (1) Charter schools and charter technical career centers located in Florida are required by Florida law (Sections 218.39(1)(e) and (f), Florida Statutes) to have an annual “financial audit.” Under Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), as applicable, a charter school or charter technical career center may also be required to have an audit of Federal awards.
- (2) Under the provisions of Section 1002.37(6), Florida Statutes, these rules are made applicable to the Florida Virtual School, including Florida Virtual School Global, referred to in Section 1002.37, Florida Statutes.
- (3) Under the provisions of Section 1002.45(2)(a)10., Florida Statutes, these rules are made applicable to the virtual instruction program providers approved to offer virtual instruction programs pursuant to Section 1002.45(2), Florida Statutes.
- (4) The Comptroller General of the United States has adopted professional auditing standards for the audit of entities receiving Federal awards. These standards are contained in the publication titled *Government Auditing Standards*.
- (5) The Auditor General has adopted the auditing standards set forth in *Government Auditing Standards* as the standards for auditing charter schools, charter technical career centers, the Florida Virtual School (including Florida Virtual School Global) and the virtual instruction program providers pursuant to Florida law. Hence, the same auditing standards are applicable to both Federal awards audits and financial audits required by Florida law and should eliminate duplication of audit activity.
- (6) There are statutory differences between Federal and Florida audit requirements as to what is to be audited. There may also be differences in the way similar terms are defined in Federal law and Florida law. Auditors shall preserve these distinctions.
- (7) The purpose of these rules is to implement, interpret, or make specific, various provisions of Sections 11.45, 218.39, 1002.37, and 1002.45, Florida Statutes.
- (8) These rules will also form the basis of the review of charter school and charter technical career center audit reports pursuant to Section 11.45(7)(b), Florida Statutes.

General Authority and Law Implemented - Sections 11.45, 1002.37(6), and 1002.45(2)(a)10., Florida Statutes.

History: New 07-01-99

Last Amended 06-30-20

10.852 RULES OF CONSTRUCTION

- (1) Applicable provisions of Florida law and expressed provisions of these rules shall prevail over conflicting provisions of material incorporated by reference.
- (2) Audits of non-Federal resources shall be guided by Florida law and these rules, and audits of Federal awards shall be guided by Federal law and applicable provisions of Florida law.

General Authority and Law Implemented - Sections 11.45, 1002.37(6), and 1002.45(2)(a)10., Florida Statutes.

History: New 07-01-99

Last Amended 06-30-19

10.853 PUBLICATIONS INCORPORATED BY REFERENCE

For purposes of these rules, the following material is incorporated by reference and shall be followed when applicable.

- (1) *Codification of Governmental Accounting and Financial Reporting Standards* promulgated by the Governmental Accounting Standards Board (GASB), effective for the fiscal year ending June 30, 2023.
- (2) *AICPA Professional Standards* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending June 30, 2023.
- (3) *Government Auditing Standards* (2018 Revision) issued by the Comptroller General of the United States.
- (4) *Audit & Accounting Guide—State and Local Governments* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending June 30, 2023.
- (5) *Audit & Accounting Guide—Not-for-Profit Entities* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending June 30, 2023.
- (6) *Audit Guide—Government Auditing Standards and Single Audits* promulgated by the American Institute of Certified Public Accountants, effective for the fiscal year ending June 30, 2023.
- (7) Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).
- (8) *Accounting Standards Codification* promulgated by the Financial Accounting Standards Board, effective for the fiscal year ending June 30, 2023.
- (9) *Financial and Program Cost Accounting and Reporting for Florida Schools* and amendments thereto, as published by the Florida Department of Education.

General Authority and Law Implemented - Sections 11.45, 1002.37(6), and 1002.45(2)(a)10., Florida Statutes.

History: New 07-01-99

Last Amended 06-30-23

10.854 DEFINITIONS

(1) As used in these rules, the term:

- (a) “Auditor” means an independent certified public accountant licensed pursuant to Chapter 473, Florida Statutes, and retained and paid by a charter school or charter technical career center to perform a financial audit pursuant to Sections 218.39(1)(e) or (f), Florida Statutes; the Florida Virtual School, including Florida Virtual School Global, pursuant to Section 1002.37(6), Florida Statutes; or virtual instruction program providers pursuant to Section 1002.45(2)(a)10., Florida Statutes.
- (b) “Deteriorating financial condition” means a circumstance determined as of the fiscal year end that significantly impairs a charter school’s or charter technical career center’s ability to generate enough revenues to meet its expenditures without causing a condition described in Section 218.503(1), Florida Statutes, to occur.
- (c) “Generally accepted accounting principles” are those accounting principles generally accepted in the United States, as defined by FASB *Accounting Standards Codification*, Topic 105 *Generally Accepted Accounting Principles* or the GASB *Codification of Governmental Accounting and Financial Reporting Standards*, Section 1000 *The Hierarchy of Generally Accepted Accounting Principles*.
- (d) “Government Auditing Standards” are those audit standards set forth in the publication *Government Auditing Standards* (2018 Revision) issued by the Comptroller General of the United States.
- (e) “Management letter” means a written statement of the auditor’s comments and recommendations. This letter shall be prepared and included as a part of each financial audit report pursuant to Section 218.39(4), Florida Statutes, and Rule 10.856(2)(d). The management letter shall include, but not be limited to:
 - 1. A statement as to whether or not corrective actions have been taken to address findings and recommendations made in the preceding financial audit report, not otherwise addressed in the auditor’s report pursuant to Rule 10.856(2)(b). If an audit finding in the preceding financial audit report is uncorrected, the auditor shall determine whether the finding was also included in the second preceding fiscal year financial audit report. Uncorrected findings in the current fiscal year audit report shall cite the finding reference numbers used in the preceding and, as applicable, the second preceding fiscal year financial audit reports.
 - 2. A statement describing the results of the auditor’s determination pursuant to Rule 10.855(11) as to whether or not the charter school or charter technical career center met one or more of the conditions described in Section 218.503(1), Florida Statutes, and identification of the specific condition(s) met. (See also Rule 10.857(2))
 - 3. Any recommendations to improve the entity’s financial management.
 - 4. Noncompliance with provisions of contracts or grant agreements, or waste or abuse, that have occurred, or are likely to have occurred, that

have an effect on the financial statements that is less than material but which warrants the attention of those charged with governance. **Note:** Fraud, noncompliance with provisions of laws or regulations and contracts or grant agreements, or waste or abuse that does not warrant the attention of those charged with governance, or internal control deficiencies that are not material weaknesses or significant deficiencies may be reported in the management letter based on professional judgment.

5. The name or official title of the entity and, for charter schools and charter technical career centers, the school code assigned by the Florida Department of Education.
6. For charter schools and charter technical career centers:
 - a. A statement that the auditor applied financial condition assessment procedures pursuant to Rule 10.855(12).
 - b. If a deteriorating financial condition(s) is noted, a statement that the charter school's or charter technical career center's financial condition is deteriorating and a description of conditions causing the auditor to make this conclusion. If the auditor has reported that the charter school or charter technical career center has met one or more of the conditions specified in Section 218.503(1), Florida Statutes (see Rule 10.854(1)(e)2. above), this statement shall indicate whether such condition(s) resulted from a deteriorating financial condition(s). Findings regarding deteriorating financial conditions shall be prepared in accordance with Rule 10.856(3).
7. For charter schools, a statement describing the results of the auditor's determination pursuant to Rule 10.855(13) as to whether or not the charter school maintains on its Web site the information specified in Section 1002.33(9)(p), Florida Statutes.

10.855 SCOPE OF THE FINANCIAL AUDIT

- (1) It is the intent of these rules to make *Government Auditing Standards* applicable in the State of Florida to audits of charter schools and charter technical career centers pursuant to Section 218.39(1)(e) and (f), Florida Statutes; to audits of the Florida Virtual School, including Florida Virtual School Global, pursuant to Section 1002.37(6), Florida Statutes; and to audits of virtual instruction program providers pursuant to Section 1002.45(2)(a)10., Florida Statutes.
- (2) The scope of a “financial audit” shall include:
 - (a) An examination of financial statements to determine whether they are presented, in all material respects, in conformity with generally accepted accounting principles.
 - (b) An examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements.
 - (c) An examination of any additional financial information necessary to comply with generally accepted accounting principles.
- (3) Section 1002.33(12)(i), Florida Statutes, provides that a charter school shall be organized as, or be operated by, a nonprofit organization. A charter school also may be operated by a municipality or other public entity. Based on the guidance provided in the American Institute of Certified Public Accountants *Audit & Accounting Guide — Not-for-Profit Entities*, and the provisions of Section 1002.33(9), Florida Statutes, an individual charter school established as a separate legal entity (i.e., organized as a separate nonprofit organization) generally is a governmental organization for financial reporting purposes. In these circumstances, the financial statements referred to in paragraph (2)(a) should be prepared following the hierarchy of generally accepted accounting principles (GAAP) applicable to state and local governments (governmental accounting model).

If the individual charter school is not organized as a separate legal entity (i.e., it is operated by a nonprofit organization that operates other charter schools or carries on other functions or is operated by a municipality or other public entity), financial statements for the charter school should be prepared in accordance with the GAAP hierarchy required for the entity that operated the charter school. The auditor’s report on the financial statements should be prepared in accordance with *AICPA Professional Standards*, AU-C Section 805. Since standalone financial statements for college-sponsored charter technical career centers and university-sponsored charter laboratory schools do not constitute a complete presentation of the sponsoring college or university, the financial statement audit opinion should include an emphasis of matter paragraph consistent with the *AICPA Professional Standards*, AU-C Section 805A.34 (see illustration 5).

- (4) For a charter school organized as a separate legal entity and reporting under the governmental accounting model, the financial statements referred to in paragraph (2)(a) are the basic financial statements as identified by Section 2200.102b. of the *GASB Codification of Governmental Accounting and Financial Reporting Standards*. For other charter schools, the financial statements referred to in paragraph (2)(a) are financial statements that do not constitute a complete presentation of the organization that operates the charter school but otherwise constitute financial statements in conformity with generally accepted accounting principles. The financial statements, as

described in paragraph (2)(a), should present the charter school's financial position including the charter school's current and capital assets and current and long-term liabilities and net assets, changes in financial position, and cash flows.

- (5) For standalone financial statements related to college-sponsored charter technical career centers and university-sponsored charter laboratory schools, assets and liabilities attributable to the center or school should be presented to the extent possible. Liabilities, such as pension and other post-employment benefits (OPEB) liabilities, do not have to include prorated amounts of the sponsor; however, any amount reported should be estimated using a reasonable documented method. The required supplementary information (RSI) pension and OPEB schedules may be, but are not required to be, included in the center or school's financial statements. If portions of the pension and OPEB liabilities are not allocated and reported as liabilities of the center or school, or RSI pension and OPEB schedules are not included in the center or school's financial statements, the related note disclosures should indicate such and reference the sponsoring college or university's financial statement audit, in which complete pension and OPEB disclosures are reported.
- (6) Section 1002.34(7), Florida Statutes, provides that a charter technical career center shall be organized as a nonprofit organization and is a body corporate and politic. Based on the guidance provided in the American Institute of Certified Public Accountants *Audit & Accounting Guide—Not-for-Profit Entities*, and the provisions of Sections 1002.34(9) and (15), Florida Statutes, a charter technical career center generally is a governmental organization for financial reporting purposes. In these circumstances, the financial statements referred to in paragraph (2)(a) should be prepared following the hierarchy of GAAP applicable to state and local governments (governmental accounting model).
- (7) Section 1002.37(2), Florida Statutes, provides that the Florida Virtual School shall be governed by a board of trustees appointed by the Governor and the board of trustees shall be a public agency. Also, Section 1002.37(2)(l), Florida Statutes, provides that the financial records and accounts of the school shall be maintained under the uniform system of financial records and accounts for the schools of the State. Based on the guidance provided in the American Institute of Certified Public Accountants *Audit & Accounting Guide—Audits of State and Local Governments*, and the provisions of Section 1002.37, Florida Statutes, the Florida Virtual School would be considered a governmental organization for financial reporting purposes. In these circumstances, the financial statements referred to in paragraph (2)(a) should be prepared following the hierarchy of GAAP applicable to state and local governments (governmental accounting model).
- (8) For those charter schools, charter technical career centers, and the Florida Virtual School that follow the governmental accounting model, the basic financial statements should be accompanied by: (1) management's discussion and analysis, as identified by Section 2200.102a. of the GASB *Codification of Governmental Accounting and Financial Reporting Standards*, and (2) other required supplementary information, as identified by Section 2200.102c. of the GASB *Codification of Governmental Accounting and Financial Reporting Standards*.
- (9) Section 1002.45, Florida Statutes, establishes requirements for each school district to offer virtual instruction programs to public school students within its boundaries. To be approved by the Florida Department of Education as a virtual instruction program provider, Section 1002.45(2), Florida Statutes, requires a provider to document

adherence to a number of criteria, one of which is to provide for an annual financial audit. Financial statements of virtual instruction program providers subjected to audit should be prepared in conformity with the *Accounting Standards Codification* promulgated by the Financial Accounting Standards Board effective for the applicable fiscal year.

- (10) The scope of the financial audit shall include any additional activities necessary to establish compliance with the term “financial statement audit” as defined and used in *Government Auditing Standards*.
- (11) When applicable, the scope of the financial audit shall encompass the additional activities necessary to establish compliance with Uniform Guidance and other applicable Federal law.

For charter schools and charter technical career centers, the scope of the financial audit shall include appropriate procedures, based on the auditor’s professional judgment, to determine whether or not the charter school or charter technical career center met one or more of the conditions described in Section 218.503(1), Florida Statutes.

- (12) For charter schools and charter technical career centers, the scope of the financial audit shall include the use of financial condition assessment procedures in determining whether deteriorating financial conditions exist pursuant to Section 218.39(5)(a), Florida Statutes. The auditor is responsible for assessing financial condition and the methodology used is a matter of professional judgment. The financial condition assessment shall be done as of the fiscal year end; however, the auditor shall give consideration to subsequent events, through the date of the audit report, that could significantly impact the charter school’s or charter technical career center’s financial condition.
- (13) For charter schools, the scope of the financial audit shall include appropriate procedures, based on the auditor’s professional judgment, to determine whether or not the charter school maintains on its Web site the information specified in Section 1002.33(9)(p), Florida Statutes.

10.856 AUDIT REPORT

- (1) Each audit report shall comply with the applicable reporting standards as contained in the publications referenced in Rule 10.853.
- (2) Each audit report submitted pursuant to Sections 218.39(7), 1002.37(6), or 1002.45(2)(a)10., Florida Statutes, and these rules, shall be a single document and contain at least the following:
 - (a) A table of contents.
 - (b) The auditor's report on the basic financial statements and report on internal control and compliance. The reports shall be based on an audit of the financial statements conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*.
 - (c) Any other auditor's reports, related financial information, and auditee-prepared documents required pursuant to Uniform Guidance and other applicable Federal law.
 - (d) The "management letter" required by Section 218.39(4), Florida Statutes, and defined in Rule 10.854(1)(e).
 - (e) The basic financial statements and required supplementary information required by generally accepted accounting principles.
 - (f) The written statement of explanation or rebuttal required by Rule 10.857(2). Such written statement of explanation or rebuttal should include the finding reference number used by the auditor in the auditor's report. (See also Rule 10.856(3)(g).)
- (3) Audit findings contained in reports, schedules, and management letters shall include the following specific information:
 - (a) The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.
 - (b) The condition found, including facts that support the condition identified in the audit finding.
 - (c) The cause, or the reason or explanation for the condition or the factor(s) responsible for the difference between the situation that exists (condition) and the required or desired state (criteria).
 - (d) The effect or potential effect (i.e., outcome or consequence) of the condition. This should include information to provide proper perspective for judging the prevalence and consequences of the audit finding, such as whether the audit finding represents an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined, and shall be quantified in terms of dollar value.

- (e) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.
- (f) Views of responsible officials of a school or center and, if applicable, an explanation as to why the auditor disagrees with views of responsible officials when there is disagreement with the audit finding.
- (g) Reference number.

10.857 DELIVERY OF AUDIT REPORT AND MANAGEMENT'S RESPONSE

- (1) When financial audits reveal that one or more of the conditions specified in Section 218.503(1), Florida Statutes, have occurred or will occur if action is not taken to assist the charter school or charter technical career center, the auditor shall notify the governing body of the charter school or charter technical career center, the sponsor, and the Commissioner of Education within 7 business days after the finding is made. (Section 1002.345(2)(a)1., Florida Statutes.)
- (2) To promote uniformity in the conduct of financial audits and to provide the public with management's explanations of corrective action designed to prevent recurrence of any findings in the auditor's reports and management letter, a written statement of explanation or rebuttal concerning the auditor's findings and recommendations, including corrective action to be taken, shall be filed with the governing body, and with the charter school's or charter technical career center's sponsor, within 30 days after delivery of the auditor's findings to be included in the auditor's report or management letter prepared pursuant to Section 218.39(4), Florida Statutes. For charter schools and charter technical career centers, the written statement shall include corrective actions taken, or to be taken, regarding one or more conditions reported by the auditor pursuant to Rule 10.854(1)(e)2. or 10.857(1), and determined to be the result of a deteriorating financial condition reported pursuant to Rule 10.854(1)(e)6.b. (Section 218.39(6) and (7), Florida Statutes.)
- (3) The auditor shall provide a copy of the audit report to management; each member of the governing body; the charter school's or charter technical career center's sponsor; each member of an audit committee charged with governance as defined in *AICPA Professional Standards*, AU-C Section 260; and the Florida Department of Education. For the Florida Virtual School, including Florida Virtual School Global, the auditor shall deliver a copy of the audit report as specified in Section 1002.37(6), Florida Statutes, and to management, each member of the governing body, and each member of an audit committee charged with governance as defined in *AICPA Professional Standards*, AU-C Section 260. For virtual instruction program providers, the auditor shall deliver a copy of the audit report to management, each member of the governing body, and each member of an audit committee charged with governance as defined in *AICPA Professional Standards*, AU-C Section 260.

- (4) One paper copy and one electronic copy of the audit report required by Rule 10.856, including management's responses thereto, shall be submitted to the Auditor General within 45 days after delivery of the audit report to the governing body, but no later than 9 months after the end of the charter school's or charter technical career center's fiscal year. The date that the audit report was delivered to the governing body shall be indicated by the entity in the [submittal checklist](#) (form located on [FLAuditor.gov](#) under Technical Guidance) accompanying the audit report submitted to the Auditor General pursuant to Section 218.39(7), Florida Statutes. The paper copy and the electronic copy of the audit report shall be submitted to the Auditor General at the following mailing address and e-mail address, respectively:

Auditor General
Local Government Audits/251
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

flaudgen_dsb_charter@aud.state.fl.us

10.858 EFFECTIVE DATE

These rules, as amended, shall take effect for fiscal years ending June 30, 2023, and thereafter.

General Authority and Law Implemented - Sections 11.45, 1002.37(6), 1002.45(2)(a)10., Florida Statutes.

History: New 07-01-99
 Last Amended 06-30-23