

PEEC and ASB issue new requirements for CPAs regarding NOCLAR

By Bryan Strickland

June 23, 2022

The AICPA Professional Ethics Executive Committee (PEEC) recently developed and approved new interpretations related to noncompliance with laws and regulations (NOCLAR) within the AICPA *Code of Professional Conduct*.

The new interpretations (<https://www.journalofaccountancy.com/issues/2022/jun/code-of-conduct-changes-address-noclar-unpaid-fees-loans-assisting-clients-standards.html>) of the "Integrity and Objectivity Rule" (ET §1.100.001 (<http://pub.aicpa.org/codeofconduct/resourceseamlesslogin.aspx?prod=ethics&tdoc=et-cod&tpr=et-cod1.100.001>) and ET §2.100.001 (<http://pub.aicpa.org/codeofconduct/resourceseamlesslogin.aspx?prod=ethics&tdoc=et-cod&tpr=et-cod2.100.001>)) are titled "Responding to Noncompliance With Laws and Regulations" (ET §1.180.010 (<https://pub.aicpa.org/codeofconduct/ethics.aspx?targetdoc=et-cod&targetptr=et-cod2.180.010>) and ET §2.180.010 (<https://pub.aicpa.org/codeofconduct/ethics.aspx?targetdoc=et-cod&targetptr=et-cod2.180.010>)). The interpretations are effective June 30, 2023. Early implementation is allowed.

The "Integrity and Objectivity Rule" states: "In the performance of any *professional service*, a *member* shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others."

Coinciding with the issuance of the interpretations, the AICPA's Auditing Standards Board issued Statement on Auditing Standards No. 147 (<https://www.aicpa.org/resources/download/aicpa-statement-on-auditing-standards-no-147>), *Inquiries of the Predecessor Auditor Regarding Fraud and Noncompliance With Laws and Regulations*, which requires an auditor, once management authorizes the predecessor auditor to respond, to inquire of the predecessor auditor regarding identified or suspected fraud or NOCLAR.

An overview of SAS 147 (<https://www.aicpa.org/resources/download/sas-no-147-at-a-glance>), which is effective for audits of financial statements for periods beginning on or after June 30, 2023, is available to AICPA members.

The NOCLAR interpretations set forth members' responsibilities when they encounter noncompliance with laws or regulations when working with a client or within their employing organization. The interpretations define NOCLAR as acts of omission or commission, intentional or unintentional, that are contrary to prevailing laws and regulations and are committed by a client or an employer, by those charged with governance, by management, or by other individuals working for or under the direction of the client or the employer.

When an AICPA member encounters a known or suspected NOCLAR, he or she should alert the appropriate parties to enable a client's or employing organization's management and those charged with governance to rectify, mitigate the effects of, or deter the commission of the NOCLAR.

The new interpretation for members in public practice (<https://pub.aicpa.org/codeofconduct/ethics.aspx?targetdoc=et-cod&targetptr=et-cod1.180.010>) has separate requirements for members providing financial statement audit or review services and members providing other services. The requirements are more robust for members providing financial statement audit or review services, who must:

- Obtain an understanding of the matter;
- Advise the client to take appropriate and timely actions to rectify or remediate the NOCLAR; and
- Document certain aspects of the NOCLAR.

There are separate requirements for members in business (<https://pub.aicpa.org/codeofconduct/ethics.aspx?targetdoc=et-cod&targetptr=et-cod2.180.010>) who are senior professional accountants and members other than those who are senior professional accountants in business. The requirements are more robust for members who are senior professional accountants in business, who must:

- Obtain an understanding of the matter;
- Take the appropriate steps to:
- Have the matter communicated to those charged with governance;
- Comply with applicable laws and regulations;
- Have the consequences of the NOCLAR rectified, remediated, or mitigated;
- Reduce the risk of reoccurrence;
- Seek to deter the commission of the NOCLAR if it has not yet occurred; and
- Evaluate the appropriateness of the response of the member's superiors, if any, and those charged with governance and determine if further action is necessary in the public interest.

Members in business are permitted to report a NOCLAR to an appropriate authority unless prohibited by laws or regulations. Documentation is encouraged but not required.

The new interpretations do not apply to an engagement or the provision of professional services by a member involving:

- A litigation or investigation as defined in AICPA Statement on Standards for Forensic Services No. 1;
- An engagement or service where the primary purpose is to identify, reach a conclusion regarding, or otherwise respond to a known or potential NOCLAR;
- An engagement or service pursuant to which the protections set forth in Internal Revenue Code Sec. 7525 or any comparable state or local statutes apply; or

- An engagement or service where compliance with this interpretation would cause a violation of law or regulation.

PEEC adopted the NOCLAR interpretations to the *Code of Professional Conduct* at its February 2022 meeting and the ASB approved SAS No. 147 in March.

— *To comment on this article or to suggest an idea for another article, contact Bryan Strickland at Bryan.Strickland@aicpa-cima.com (<mailto:Bryan.Strickland@aicpa-cima.com>).*

[_\(<https://www.aicpa-cima.com>\)](https://www.aicpa-cima.com)

© 2023 Association of International Certified Professional Accountants. All rights reserved.