

ENFORCEMENT HANDBOOK FOR CERTIFIED PUBLIC ACCOUNTANT LICENSURE APPLICANTS



CALIFORNIA BOARD OF
ACCOUNTANCY

**CALIFORNIA BOARD OF ACCOUNTANCY
ENFORCEMENT DIVISION**

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CALIFORNIA BOARD OF ACCOUNTANCY

Mission

The mission of the California Board of Accountancy (CBA) is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.

Vision

The vision of the CBA is that all consumers are well informed and receive quality accounting services from licensees they can trust.

Authority

The CBA derives its authority from Business and Professions Code (BPC), Division 3, Chapter 1, Article 1 through Article 10 (Accountancy Act) and Title 16 California Code of Regulations, Division 1, Article 1 through Article 13 (CBA Regulations). The Accountancy Act and CBA Regulations are available on the CBA website at www.cba.ca.gov.

CBA Responsibilities

From its inception in 1901, the CBA has, by statute, been charged with regulating the practice of accountancy. The original law prohibited anyone from falsely claiming to be a certified public accountant, a mandate which exists today. By authority of the Accountancy Act, the CBA:

- Ensures that only candidates who meet certain qualifications are allowed to take the national Uniform Certified Public Accountant (CPA) Examination
- Certifies, licenses, and renews licenses of individual CPAs and Public Accountants (PA)
- Registers accountancy partnerships and accountancy corporations
- Takes disciplinary action against licensees for violation of the Accountancy Act and CBA Regulations
- Monitors compliance with continuing education and peer review requirements
- Reviews work products of CPAs, PAs, and accountancy firms to ensure adherence to professional standards
- Through its Practice Privilege program, the CBA oversees a no notice, no fee program for out-of-state licensed CPAs who meet specific conditions to practice public accountancy in California

The CBA website, www.cba.ca.gov, contains valuable information for consumers, licensees, practice privilege holders, examination candidates, and licensure applicants regarding CBA meetings, forms, enforcement matters, and the CBA publication UPDATE. Consumers can utilize the website to verify the status of CPA and Firm certificates, and to view any public discipline documents regarding CPAs and/or Firms.

INTRODUCTION

The CBA regulates the practice of public accountancy in the State of California and may deny, revoke, suspend, or refuse to renew any permit or certificate for violation of applicable statutes or regulations. The CBA, through its Enforcement Division, assisted by its statutorily established Enforcement Advisory Committee (EAC), receives and investigates complaints; initiates and conducts investigations or hearings, with or without the filing of a complaint; and obtains information and evidence relating to any matter involving the conduct of CPAs, PAs, and accountancy firms. The Accountancy Act and the CBA Regulations provide the basis for CBA enforcement action.

Pursuant to [BPC section 480](#), any person applying for licensure with the CBA must disclose any prior convictions on his/her record on the Criminal Conviction Disclosure Form, which is included in the initial licensure application packet. Additionally, BPC section 144 requires applicants to be fingerprinted for purposes of conducting a criminal history record check with the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). Applicants must also disclose any discipline or enforcement action taken against any professional or vocational license, permit, certificate, or registration by any other state, agency of the federal government, or a foreign country. The information provided will be used by the CBA to determine qualifications for a CPA License. Failure to provide any of the required information is grounds for rejection of the application as being incomplete.

If a conviction is disclosed, or if a conviction appears on the applicant's Criminal Offender Record Information report, the application for licensure will be referred to the Enforcement Division for review. This handbook is designed to provide applicants with important and useful information regarding the processing of applications that are referred to the Enforcement Division.

CONVICTION HISTORY/REPORTABLE EVENTS

Applicants are required to complete a Criminal Conviction Disclosure Form. A conviction means a plea or jury verdict of guilty or a conviction following a plea of nolo contendere ("no contest"). This includes a conviction that has been dismissed (also referred to as "expunged") pursuant to Penal Code sections 1203.4, 1203.4(a), or 1203.41, including infractions, misdemeanors, and felonies. Applicants must disclose these and provide evidence of rehabilitation, including any proof of dismissal to the CBA.

Applicants must also include any conviction that arose from military service, any in which the imposition of execution of sentence was suspended, any which arose as a result of a failure to appear, an order of rehabilitation was entered, any record of conviction which was expunged, or a pardon was granted.

“Minor Traffic Violations” and convictions that were adjudicated in the juvenile court or convictions under California Health and Safety Code sections 11357(b), (c), (d), or (e), or section 11360(b) which are two years or older do not need to be reported. “Minor traffic violations” are defined as traffic infractions under \$1,000 **not** involving alcohol, dangerous drugs, or controlled substances.

Fingerprinting and the Criminal Conviction Disclosure Form provides the CBA with vital information upon which to base licensing decisions. Pursuant to BPC section 480, an applicant may be denied licensure based on the following:

- Knowingly making a false statement of fact, required to be revealed, in an application for licensure.
- Conviction of a substantially related crime.
- Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or another, or substantially injure another.
- Commission of any act which, if performed by a licentiate of the business or profession in question, would be grounds for suspension or revocation of the license.

In addition to disclosing conviction history, applicants are required to disclose whether they have ever had a professional or vocational license, permit, certificate, or registration disciplined, or received any other form of enforcement action within California or any other state, agency of the federal government, or foreign country. Applicants must also disclose if they have ever been cited or sanctioned for unlawfully engaging in the practice of public accountancy in another state.

ENFORCEMENT REFERRAL

If a conviction is disclosed or discovered, the application will be referred to the CBA's Enforcement Division for further review. The CBA will review the conviction history and determine if further investigation is needed. To avoid delays in the investigation process it is important that applicants provide the CBA with current contact information.

During the investigation the CBA will determine what, if any, certified documents need to be obtained from the arresting agency, the adjudicating court, state, agency of the federal government, or foreign country. Obtaining certified documents takes approximately four to 12 weeks.

In some cases the CBA may request a statement or additional information from the applicant. If an applicant fails to disclose a conviction, a written statement as to why the applicant failed to disclose the conviction may be requested.

Once an investigation is complete, the CBA will evaluate the application and a determination will be made to approve or deny the application. The CBA evaluates each application with any reported convictions on a case-by-case basis to make a determination concerning the applicant's ability to safely practice in California. Included

in the CBA's evaluation is the nature and severity of the offense, additional subsequent acts, how recently the conviction occurred, compliance with sanctions, and evidence of rehabilitation. [CBA Regulation section 99](#) sets forth the substantial relationship criteria that aids in determining if a prior conviction warrants denial of a license.

If the application is approved, it will be returned to the Initial Licensing Unit for processing. For more information on application processing, please see the [CPA Licensing Applicant Handbook](#).

If the application is denied, the applicant will be notified by mail and afforded the opportunity to contest the denial.

DENIAL OF LICENSE

In the event that the application is denied, the applicant may request a hearing under the Administrative Procedures Act (Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code (GC)). A written request for a hearing must be made within 60 days of the issuance date of the CBA Applicant Denial Letter (Letter), or the right to a hearing is deemed waived. In addition, under BPC section 486, the earliest date to reapply for licensure shall be one year from the date of the Letter.

If a hearing is requested, the case will be referred to the Attorney General's (AG) office. The applicant can contact the CBA with any questions until the case is formally assigned to the AG's Office, at which point all communication will need to be with the assigned Deputy Attorney General (DAG). The applicant will receive a letter from the AG's office when the case has been formally assigned to the DAG. The DAG will prepare a Statement of Issues and set the case for hearing with the Office of Administrative Hearings (OAH), where the case will be heard by an Administrative Law Judge (ALJ).

An applicant can learn more about what to expect at the hearing at the [OAH's website](#). An applicant has rights similar to those at a civil trial, including the right to subpoena relevant documents and witnesses and to cross-examine witnesses. The ALJ will prepare a Proposed Decision, which will be provided to the CBA for its consideration.

Statement of Issues

A Statement of Issues (SOI) is a formal document that states the reasons why an application for licensure was denied. It is a formal document filed against an applicant pursuant to [BPC section 480](#). The SOI is served upon the applicant at the address provided on the application for licensure.

Representation by Counsel

An applicant has the right to be represented by counsel throughout the process, including at the hearing if one is requested. The CBA does not provide counsel for an applicant. Applicants may also appear and represent themselves.

Proposed Decision

After a hearing, the ALJ will draft a Proposed Decision. The Proposed Decision is the ALJ's opinion on whether or not the application for licensure should be granted or denied. The ALJ may grant a license but propose certain restrictions, such as probation. The Proposed Decision must be adopted by the CBA before it becomes effective. Adoption of the Proposed Decision by the CBA will result in imposition of whatever terms and conditions are reflected in the Proposed Decision. Once a Proposed Decision is adopted, it becomes a Decision and Order. Non-adoption would generally result in the CBA's later review of the hearing transcript and then the CBA reaching its own decision. The CBA could also adopt a Proposed Decision but reduce the penalty or make technical changes to the Proposed Decision by the ALJ, or remand a case back to an ALJ for further hearing and the taking of additional evidence.

Petition for Reconsideration

Pursuant to [GC section 11521](#), an applicant may request a reconsideration of all or part of the case. Petitions for reconsideration must be received prior to the effective date of the decision. Please be aware that the CBA needs approximately one week to process a petition for reconsideration. An applicant will receive a letter confirming receipt of the petition, and an Order informing the applicant of the CBA's decision. If the CBA grants a petition, reconsideration of the case will typically occur at the next regularly scheduled CBA meeting.

Cost Recovery

The CBA is not authorized by law to seek cost recovery for cases involving applicants for a CPA license.

PROBATION

In some cases, a probationary license is recommended and approved for applicants with a substantially related criminal history. A substantially related criminal history involves crimes that present potential unfitness to perform the functions and duties of a CPA in a manner consistent with the public health, safety, or welfare.

The purpose of probation is to ensure consumer protection and assist in the rehabilitation of an applicant. The period of probation is generally five years, but may be reduced if evidence of mitigation or rehabilitation is provided. Upon successful completion of probation, the applicant's license will be fully granted, unless otherwise restricted by the Decision and Order adopted by the CBA.

The terms and conditions of probation typically consist of two parts: standard conditions of probation and optional conditions of probation. The [CBA Disciplinary Guidelines](#) contain both the standard and optional terms and conditions. The standard terms of probation apply to nearly all applicants on probation.

Optional conditions of probation are determined on a case-by-case basis, and may include: taking continuing educations (CE) courses, supervised practice, and maintaining an active license, to name a few.

Probation Monitoring

When the CBA adopts a Decision and Order placing an applicant on probation, s/he is assigned a probation monitor. The probation monitor reviews the terms and conditions of the probation and mails the applicant a packet of information that includes a summary of the terms and conditions and any forms s/he may need. The applicant is then scheduled for a probation orientation meeting with the probation monitor at which time the monitor is available to discuss each term and condition of probation. The probation orientation is intended to give the applicant a complete understanding of the requirements that must be met to successfully complete probation.

An applicant on probation is required to submit Quarterly Reports that detail any changes in the applicant's areas of practice and track compliance with the specific terms and conditions of the probation.

An applicant found to be out of compliance with any terms of the probation is mailed a letter detailing the violation(s) and a deadline to bring the applicant into compliance with the terms of the probation.

Petition to Revoke Probation

If an applicant violates probation in any respect, the CBA, after giving the applicant notice and an opportunity to be heard, may revoke probation. If an Accusation or a Petition to Revoke Probation is filed against the applicant during probation, the CBA shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

MISCELLANEOUS INFORMATION

Address of Record

The CBA sends all official correspondence to the applicant's address of record which was provided on the application. Once licensed, [CBA Regulations section 3](#) requires a licensee to report in writing to the CBA any change in their address of record within 30 days after the change.

To submit an address change, an applicant or licensee may complete and sign the [Address Change Form](#), then mail or fax it to the CBA at (916) 263-3672. The Address Change Form is available on the CBA website or by contacting the CBA directly.

Bilingual Services

Applicants that require language assistance services can contact the CBA and request that they speak through an interpreter. The CBA, through the Department of Consumer

Affairs (DCA), provides both telephonic and written interpreter and translation services at no cost to the applicant.

If the applicant needs an interpreter for a hearing at OAH, the applicant must immediately contact the AG's office or OAH so that a certified interpreter can be provided. Normally, it is not sufficient to bring a friend or relative to interpret.

Publicly Available Enforcement Documents

Pursuant to [BPC section 27](#), the CBA posts copies of its enforcement actions on its [website](#). This includes Statement of Issues when the applicant is granted licensure with restrictions (e.g., a probationary license). The enforcement actions stay on the website indefinitely. The CBA includes all formal disciplinary outcomes in [UPDATE](#), the CBA's triannual newsletter. The CBA on occasion will issue a [press release](#) regarding final disciplinary decisions and orders. The CBA also submits disciplinary decisions and orders to [CPAverify](#).¹

The public may send in a written request for documents to: California Board of Accountancy, Attention: Disciplinary/Enforcement Actions, 2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833.

The CBA's investigative files are confidential under the Public Records Act ([GC section 6254\(f\)](#)). This means that the information generally is not available to the public. However, there are a variety of circumstances in which all or part of the investigation may become public or be provided to a government agency. Examples include information subpoenaed or obtained through discovery or offered as evidence at a disciplinary hearing. Information also may be disclosed to potential witnesses, experts, attorneys, or others in furtherance of the investigation.

Contact Information

For questions regarding the material covered in the handbook, please contact the Enforcement Division at (916) 561-1705.

¹ CPAverify is an online central repository of information about licensed CPAs and public accounting firms maintained by the National Association of State Boards of Accountancy to provide a single-search resource covering participating jurisdictions where a person or firm has been licensed.