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To: New York State Registered Public Accounting Firms That Perform Audits
of New York State School Districts

From: Daniel J. Dustin, CPA, Executive Secretary

Date: January 3, 2005

Subject: Auditor Independence

I write to share with you some important reminders concerning the performance of audits of New York State School Districts by New York registered public accounting firms. School district auditors must be independent of their audit clients and must follow specific guidance from various sources, including the State Education Department and the federal General Accountability Office, when performing school district audits.

The New York State Education Department's Educational Management Services unit and the New York State Society of Certified Public Accountant's Joint Committee on Public School Accounting annually produce, a *Reference Manual, For Audits of Financial Statements of New York State School Districts (8 or more teachers)*. This audit reference manual is available on the Office of Elementary, Middle, Secondary and Continuing Education's Web site at: <http://www.emsc.nysed.gov/mgtserv/gemsho.htm>.

The cover letter to the manual informs school districts that Education Law, Section 2116-a and the Regulations of the Commissioner, Section 170(r) require each Board of Education to secure an annual audit by an independent auditor. The Single Audit Act of 1984 requires that an annual audit of the district's federal award programs be included with the annual school district audit if \$500,000 or more in Federal Aid was expended.

In addition, independent auditors that are auditing school districts must conduct their audits in accordance with generally accepted government auditing standards (GAGAS). These standards are promulgated by the US General Accountability Office (GAO) and are published in a document called the "Yellow Book." These standards, which were first published in 1972, cover federal entities and organizations, such as school districts, that receive federal funds.

During January 2002, the GAO issued Amendment #3, Independence. This amendment substantially changed the independence standards that existed under the Government Auditing Standards (1994 revision). The GAO also published a document entitled "Government Audit Standards, Answers to Independence Standards Questions" during July 2002 as a follow-up to this amendment. A fourth revision to the Yellow Book was issued in 2003 and applies to audits for periods ending on or after January 1, 2004.

All certified public accountants, public accountants and registered accounting firms are subject to the oversight of the New York State Board of Regents when performing audits, including school district audits. Section 29.10(a)(7) of the Rules of the Board of Regents defines unprofessional conduct in the practice of the profession as:

permitting the public accountant's name to be associated with statements purporting to show financial position or results of operations in such a manner as to imply that he or she is acting as an independent certified public accountant or public accountant, unless:

- i. the licensee has complied with generally accepted auditing standards. The State Board for Public Accountancy may consider statements on auditing standards promulgated by an organization whose standards are generally accepted by other licensing jurisdictions in the United States, including but not limited to: the American Institute of Certified Public Accountants to be interpretations of generally accepted auditing standards. Departures from such standards, or other standards considered by the State Board to be applicable in the circumstances, must be justified by a licensee who does not follow them; and*
- ii. the licensee expresses an opinion on financial statements or financial data presented in conformity with generally accepted accounting principles. The State Board for Public Accountancy may consider those principles promulgated by an organization whose principles are generally accepted by other licensing jurisdictions in the United States, including but not limited to: the American Institute of Certified Public Accountants and the Financial Accounting Standards Board to be generally accepted accounting principles. If financial statements or data contain departures from generally accepted accounting principles but the licensee can demonstrate that the financial statements or data would have been misleading had generally accepted accounting principles been followed, the licensee's opinion should describe the departure, its approximate effect if practicable, and the reasons why compliance with generally accepted accounting principles would have otherwise been misleading.*

Generally Accepted Government Auditing Standards and their interpretations are considered to be standards applicable under § 29.10(a)(8)(i).

If you have any questions regarding the laws, rules or regulations governing the practice of public accountancy in New York, please contact the Office of the State Board for Public Accountancy, New York State Education Department, Office of the Professions, State Education Building - 2nd Floor East Wing, 89 Washington Ave., Albany, New York, 12234, phone (518) 474-3817 ext. 160, fax (518) 474-6375, e-mail cpabd@mal.nysed.gov.

cc: Johanna Duncan-Poitier, Deputy Commissioner