

The New York State Society of Certified Public Accountants Board Procedures

Leadership Policy 1 - Code of Conduct for Board Members

I. Introduction

Individuals serving on the NYSSCPA Board of Directors must behave ethically and with civility. Full compliance with this Code of Conduct is mandatory so as to foster a culture of mutual respect, transparency, integrity, and honesty.

The Code of Conduct is intended to be used in concert with applicable law and the NYSSCPA's governing documents, including its Certificate of Incorporation, Bylaws, Board Standing Rules, and such policies as the Board may adopt. However, it outlines a set of fundamental principles and is not a listing of legal requirements as such.

This Code of Conduct addresses the values of the NYSSCPA and how they reflect the values of society at large. It is intended to help Board members define what is right, fair, just, and good in those cases where it may be less than obvious which path constitutes the high road.

This Code of Conduct has several goals:

- It is an ethics document defining what the NYSSCPA means when it states that Board members must behave ethically. It details the fundamental maxim—do the right thing—by defining right and wrong in some detail.
- It has official standing, in that the standards articulated here become tangible evidence of the NYSSCPA's expectations and intentions, with respect to the behavior of Board members.
- It is pragmatic in that it provides an agreed-to description of both organizational values and the behaviors that those values prescribe.
- It is intended to remind Board members that although their primary duty as Board members is to the NYSSCPA itself, the vested interest of the members of the NYSSCPA are impacted by Board members' decisions and actions.

If a NYSSCPA Board member fails to comply with this Code of Conduct or with any applicable laws, rules or regulations, such person will be subject to discipline in accordance with NYSSCPA policy LP – 2, Resolving NYSSCPA Policy Disputes. References in this policy to the Board and Board members also apply to Board committees and subcommittees and their members.

II. Personal Ethics

Board members are expected to act in accordance with a well-developed sense of both personal and professional ethics. The principles of personal ethics include without limitation the following:

- Concern for the well-being of others,
- Respect for the privacy and autonomy of others,
- Trustworthiness and honesty,

- Compliance with the law,
- Basic justice: being fair,
- Refusal to take unfair advantage,
- Benevolence: doing good, and
- Prevention of harm.

III. Professional Ethics

An individual acting as a Board member takes on ethical responsibilities in addition to the obligations placed on Society members by the *NYSSCPA Code of Professional Conduct*. This code provides rules of conduct and standards of behavior based on broad-based principles of professional ethics, which include without limitation the following:

- Impartiality,
- Openness and full disclosure,
- Confidentiality,
- Due diligence and duty of care,
- Fidelity to professional responsibilities, and
- Avoiding potential or apparent conflict of interest.

IV. Civil Behavior

Board members are expected to conduct themselves with civility. Civility means that Board members shall not:

- Engage in personal attacks on other Board members or staff inside or outside of board meetings.
- Raise questions or make statements of personal attitude and preference unrelated to the business activities of the NYSSCPA.
- Act in a way which is intended to intimidate another person in the conduct of their office, or which a reasonable person would conclude had such intent, or which, in fact, would intimidate such person.
- Undermine the authority of the Board or the NYSSCPA Executive Director to perform their duties.
- Commit an act which a person would reasonably expect to cause harm to the reputation of the NYSSCPA, the Board, or individual members of the staff.

V. Compliance with Laws, Rules, and Regulations

Board members are expected to comply with both the letter and spirit of all applicable governmental laws, rules and regulations. Compliance with a standard of care is required by New York Not-for-profit Corporation Law § 717 (attached), and interpretive case law. The standard of care encompasses three principal elements—a Duty of Care, a Duty of Loyalty and a Duty of Obedience.

The Duty of Care. The satisfaction of the duty of care requires each Board member to:

- Prepare in advance for meetings;
- Attend Board meetings, at least by phone;
- Participate in Board deliberations and votes;

- Show independent judgment when voting;
- Be informed about organizational activities;
- Rely on trustworthy sources of information (staff included);
- Delegate only to responsible persons;
- Follow up regularly;
- Fulfill these obligations honestly, in good faith, and with the care of an ordinarily prudent person in similar circumstances; and
- Timely complete tasks and projects.

The Duty of Loyalty. The duty of loyalty requires Board members to exercise their powers in good faith and in the best interests of the NYSSCPA rather than in their own interest or the interest of another entity or person. The duty of loyalty primarily relates to the following:

- Conflicts of Interest – A Board member must act with candor and care in dealing with situations which have the potential for a conflict of interest. (See, NYSSCPA policy LP – 5, Conflict of Interest Policy.)
- Corporate Opportunity – Before a Board member engages in a business transaction that may be of interest to the NYSSCPA, the Board member must disclose the transaction to the Board to enable the Board to act or decline to act with regard to the transaction.
- Confidentiality – A Board member shall maintain the confidentiality of information that is proprietary, private, or confidential to the NYSSCPA.

The Duty of Obedience. Board members have a duty to ensure that the NYSSCPA

- Remains obedient to its stated purposes (see next section),
- Acts only within the authority granted to it in its governing documents or law, and
- Avoids illegal activities.

VI. The Best Interests of the NYSSCPA

Board members shall bear in mind the purposes in the NYSSCPA's governing documents. When determining the best interests of the NYSSCPA, each Board member must consider the following:

A. The NYSSCPA Certificate of Incorporation. According to the its Certificate of Incorporation, the NYSSCPA's purpose is to

1. cultivate, promote and disseminate knowledge and information concerning accountancy and subjects related thereto;
2. establish and maintain high standards of integrity, honor and character among certified public accountants;
3. furnish information regarding accountancy and the practice and methods thereof to its members, and to other persons interested therein, and to the general public; to protect the interests of its members and of the general public with respect to the practice of accountancy;
4. promote reforms in the law;
5. provide lectures and cause the publication of articles, relating to accountancy and the practice and methods thereof;
6. correspond and hold relations with other organizations of accountants, both within and outside the United States of America;
7. establish and maintain a library and reading rooms, meeting rooms and social rooms for the

use of its members;

8. promote social intercourse among its own members and between its own members and the members of other organizations of accountants and other persons interested in accountancy or related subjects; and

9. do any and all things which shall be lawful and appropriate in furtherance of any of the purposes hereinbefore expressed.

B. The Financial Condition of the NYSSCPA. Board members should consider the NYSSCPA's financial ability to remain viable and to continue to achieve its purpose and mission.

C. The Interest of the NYSSCPA Membership as a Whole. Each Board member should take into account the interest of the whole membership of the NYSSCPA and not just the interests of the Board member, his or her firm or employer, committee, chapter, or other constituency. Once all constituent perspectives are established and acknowledged, they must be considered in relation to the perspective of the entire NYSSCPA membership.

VII. Application.

If a person believes a Board member has violated this Code of Conduct, he or she first should (but is not required to) communicate his or her concern directly to the Board member. If the Board member continues the behavior, or if, from the onset, the person considers the behavior to be egregious, then a complaint may be filed in accordance with LP-2, Resolving NYSSCPA Policy Disputes.

This Code of Conduct describes many actions which should be avoided by a Board Member. The Board considers some violations to be inherently serious violations of this Code of Conduct. These include (without limitation) the following:

- Disclosing confidential proceedings of the Board or confidential information learned during Board meetings outside the boardroom, or release of confidential information not previously available to the public by order of the Board.
- Speaking for or acting on behalf of the NYSSCPA without specific Board authorization.
- Conducting him- or herself in a manner that assumes any greater rights or privileges than any other member of the NYSSCPA, unless he or she has received such rights or privileges pursuant to the bylaws or Board action.
- Filing frivolous complaints under this policy.

Approved: Board of Directors, December 7, 2007, Agenda Item 10.

New York Not-for-Profit Corporation Law § 717. Duty of directors and officers.

(a) Directors and officers shall discharge the duties of their respective positions in good faith and with that degree of diligence, care and skill which ordinarily prudent men would exercise under similar circumstances in like positions. In the administration of the powers to make and retain investments pursuant to section 512 (Investment authority), to appropriate appreciation pursuant to section 513 (Administration of assets received for specific purposes), and to delegate investment management of institutional funds pursuant to section 514 (Delegation of

investment management), a governing board shall consider among other relevant considerations the long and short term needs of the corporation in carrying out its purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

(b) In discharging their duties, directors and officers, when acting in good faith, may rely on information, opinions, reports or statements including financial statements and other financial data, in each case prepared or presented by: (1) one or more officers or employees of the corporation, whom the director believes to be reliable and competent in the matters presented, (2) counsel, public accountants or other persons as to matters which the directors or officers believe to be within such person's professional or expert competence or (3) a committee of the board upon which they do not serve, duly designated in accordance with a provision of the certificate of incorporation or the bylaws, as to matters within its designated authority, which committee the directors or officers believe to merit confidence, so long as in so relying they shall be acting in good faith and with that degree of care specified in paragraph (a) of this section. Persons shall not be considered to be acting in good faith if they have knowledge concerning the matter in question that would cause such reliance to be unwarranted. Persons who so perform their duties shall have no liability by reason of being or having been directors or officers of the corporation