



## Board of Accountancy



### Consumer Information

- About Us
- Contact Us
- Administrative Rules
- Forms
- CPA Exam
- Grades
- Licensing Requirements
- Renewal Information
- CPE Ethics Requirements
- Keeping Current
- FAQ
- Firms
- Licensee Look-Up
- Address Change
- Address Change Firm
- Consumer Information
- Board Policies
- Peer Review
- Links
- Meetings

[Do you have a complaint?](#)

[Engagement Letters](#)

[Fee Disputes](#)

[Filing a Complaint](#)

[How to Choose a CPA or PA](#)

[Investigation Process](#)

[Public Records Requests](#)

[Selecting a CPA or PA from the Internet](#)

[Verifying Client Information for Lenders and Loan Brokers](#)

#### Do you have a complaint?

This material has been prepared for anyone with a complaint about a certified public accountant or a public accountant. This information is designed to explain rules, regulations and procedures which the Oregon Board of Accountancy follows regarding complaint and disciplinary matters.

#### Not All Accountants Are Licensed

The Oregon Board of Accountancy does not usually have jurisdiction over unlicensed accountants. However, in order to use the title certified public accountant or a public accountant, a person must be licensed by the Oregon Board of Accountancy. The Board may be able to deal with your complaint if it is against a certified public accountant or a public accountant. If your complaint is against a Licensed Tax Consultant or Tax Preparer, you should contact the Board of Tax Service Examiners at (503) 378-4034.

#### CPA and PA Standards are High

Most CPAs and PAs sincerely try to do all they can on behalf of their clients. They value their good reputation and want to do what they can to resolve any difficulties which may have arisen. When there has been no illegal or unethical conduct, but only a misunderstanding, the Board wants to help clear up that misunderstanding. The procedures for dealing with your complaint are designed to provide a thorough review of the matter and to resolve the questions according to the provisions of ORS Chapter 673 and OAR Chapter 801.

#### Ethics and Discipline

All CPAs and PAs are guided by rules adopted by the Board. Among these rules is the Code of Professional Conduct. An individual who violates this code is subject to discipline which, in very serious matters, could mean suspension or revocation of the permit to practice.

Discipline of a CPA or PA must be considered carefully since it may have a profound effect on the licensee's career, reputation and ability to make a living. You can understand, therefore, that it takes more than a claim of illegal or unethical conduct to justify a disciplinary action. It takes evidence - proof of illegal or unethical conduct - to justify discipline of a licensee, just as it takes proof before you or any member of society may be penalized for wrongdoing. An honest disagreement about how a matter should be handled, or should have been handled, does not constitute illegal or unethical conduct. A mistake or an error in judgment is not illegal or unethical conduct.

Disagreement about fees does not constitute illegal or unethical conduct alone. There can be legitimate differences about fees, of course. If your complaint is found to be a fee dispute only, you will be advised and receive information about other resources available, if any. The Board has no jurisdiction over fees and will be unable to help you unless there are other reasons for your complaint.

Finally, there are situations which a client may find annoying, but which do not constitute illegal or unethical conduct. An example would be the licensee's failure to respond to the client's telephone calls inquiring about progress. Although such situations do not constitute unethical conduct, except in

extreme cases, the Board will advise the licensee of the complaint.

Illegal or unethical conduct means wrongdoing - a violation of the law or of the Professional Code of Conduct - which must be proven by evidence.



## Engagement Letters

The Board receives frequent inquiries regarding fees charged by Oregon accountants. Many times the caller is surprised by a bill they have received and report it to the Board.

It is up to the accountant to determine the appropriate fee to charge for services provided. Clients can avoid an unpleasant surprise when the bill arrives by requesting an engagement letter during the initial appointment.

An engagement letter describes the services to be provided, the amount to be charged and other provisions that may affect the services provided.

Common provisions in an engagement letter include the following:<sup>1</sup>

- Identification of the client;
- Description of the agreement and its limitations;
- Timing of the work and staffing of the engagement;
- Client information and responsibilities;
- Designation of the party to work with the CPA;
- Identification of intended users of the CPA's work product;
- Fees and payments;
- Withdrawing from and/or terminating the engagement;
- Responding to discovery requests, subpoenas, and outside inquiries;
- Alternative dispute resolution as a means of resolving disputes;
- Where applicable, disclosures recommended or required by the AICPA; and
- Client signature.

After reviewing and signing the engagement letter, the client should request a copy for the clients records.

Well-structured engagement letters can help reduce misunderstandings regarding fees and services to be performed, increasing the likelihood that you will be satisfied with both the services and the bill you receive from your accountant.

1. "Activity Review" by NC State Board of Certified Public Accountant Examiners - No. 3 2000



## Fee Disputes

Disagreement between licensees and clients about fees does not constitute illegal or unethical conduct except in unusual circumstances. The Board has no jurisdiction over fee disputes and is unable to help unless there is another basis for the complaint.

CPAs and PAs normally charge according to the amount of time required to perform the services requested. There are no "fee schedules" common to the profession. Fees vary depending on the type of service required, the prevailing costs in the community, the licensee's level of expertise, and the complexity of the work.



## Filing a Complaint

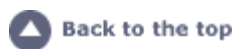
The Board of Accountancy responds to all written complaints submitted to the Board. Complaints can originate from the public, another accountant, a client, a previous client, or anyone at all. The Board may also initiate an investigation based on information received, such as a notice in the newspaper.

The Board has authority to investigate complaints filed against licensees (CPAs and PAs licensed in

Oregon), and against non-licensed individuals; for example an individual who is practicing public accounting without a license or holding themselves out to be a licensee.

Licensees of the Board are guided by the Code of Professional Conduct ([OAR 801, Division 30](#)). Those who violate this code are subject to disciplinary action which, in the worst case, could result in revocation of their license to practice public accounting. Discipline is considered carefully since it may have a profound effect on the licensee's career, reputation, and ability to make a living. It takes more than a claim of wrongdoing; it requires evidence to substantiate the claim(s). Neither an honest disagreement about how a matter should have been handled, nor an honest mistake constitute illegal or unethical conduct. Disagreement about fees does not constitute illegal or unethical conduct; except in unusual circumstances. The Board has no jurisdiction over fee disputes and will be unable to help you unless there are other reasons for your complaint.

If you believe your licensed accountant was unethical or made a serious error, and if efforts to clear up the matter with the accountant have been unsuccessful, you may wish to file a complaint with the Board. The complaint must be in writing. **No special form is necessary**, but all important information should be included with copies of supporting documents.



### How to Choose a CPA or PA

A Certified Public Accountant (CPA) or Public Accountant (PA) is a person who has met the requirements of Oregon law and has been issued a permit to practice public accounting by the Oregon Board of Accountancy.

Only persons who are licensed may call themselves a Certified Public Accountant or Public Accountant. CPAs and PAs provide accounting, auditing, tax, financial planning, and management consulting services.

In order for you to get the most value from a CPA or PA it is important to first analyze your current and future needs. This will help you to select someone who can address your particular concerns.

#### When you choose a CPA or PA:

- Check the license status from our [Web License Lookup](#) or call the Oregon Board of Accountancy at 503.378.4181 x 21. Specifically, make sure the license is current, and inquire whether there have been any disciplinary actions against the licensee.
- Interview the prospective CPA or PA either by telephone or in person. A common inquiry is "what type of accounting work do you typically perform?" Compare the licensee's experience to your service needs.
- To what professional organizations does the CPA/PA belong? To what extent is he or she an active member? You may wish to ask if a firm has non-CPA owners. OAR 801-010-340, allows a public accounting firm to have non-licensee owners if certain requirements are met.
- Talk frankly with a CPA/PA about fees. It is important to make certain before any work is done that you receive an engagement letter detailing the work to be performed for you, who will specifically be performing the work, and the cost of the service.



### Investigation Process

Your complaint will be referred to the [Board Investigator](#). The investigator will prepare a report that will be presented to the Complaints Committee for consideration. The Complaints Committee is composed of Certified Public Accountants and Public Accountants who are appointed by the Board. The committee, which meets every 6 to 8 weeks, will make a recommendation on each case to the Board.

A copy of your complaint will be sent to the licensee so that his or her side of the story may be presented. If the answer raises additional questions, you may be asked to submit your comments on the Licensee's explanation.

#### How Long Does it Take?

You should receive acknowledgment of your complaint within one week after it is received. The length of time required to investigate a complaint varies depending on the nature of the complaint, whether or not the facts of the case are in dispute, and the cooperativeness of the individuals involved in the case. A complaint involving a complex financial matter, for example, will take more time to investigate

than a complaint that a licensee failed to return client's records.

Your complaint will be handled as quickly as possible and you will be notified of the outcome.

Both parties to the complaint will be notified of the following events:

- Written notice that the complaint is opened.
- During the investigation the Investigator may contact either part for additional information.
- Written notice of the Board's decision

#### **Some Things You Should Not Expect**

You should not expect that your complaint will be decided solely on the basis of your statement. The licensee about whom you complained cannot expect that the matter will be decided solely on the basis of his or her statement. The final decision will be based on the weight of all evidence and testimony.

You should not expect, as a result of your complaint, that you will receive any money or reimbursement of loss. Any monetary loss you may claim must be recovered through a legal proceeding. Board disciplinary proceedings are restricted to the question of an accountant's fitness to practice public accounting.

#### **What You Can Expect**

You can expect that your complaint will receive serious consideration. You can expect that every attempt will be made to deal with your complaint in a manner which is fair to you and to the CPA or PA about whom you complained. You can expect to receive written notice of the Board's final decision concerning your complaint.

The Board's disciplinary system is designed to provide an orderly and just way to deal with complaints of misconduct against its licensees. We sincerely hope that the problems which gave rise to your complaint will be resolved in a manner that is effective and fair.

If you wish to file a complaint, write a letter to the Board at: 3218 Pringle Rd SE #110, Salem, OR 97302.

If you have any questions or would like to discuss a matter, please contact the Board office at (503) 378-4181 ext 27 or by e-mail at [Noela Kitterman](mailto:Noela.Kitterman@boa.oregon.gov).

The complaint is not officially closed until the Board takes action and all parties are notified of the final action. If disciplinary action is taken, the licensee, firm or non-licensee has the right to a contested case hearing if they dispute the facts of the case. The Board can only discipline those who violate the rules and laws of the Board. The Board has no authority to award damages to any individuals.



## **Public Records Requests**

### Public Records Requests

The rules governing Public Records can be found in ORS 192.420(1).

Every person has a right to inspect the public records of a public body in this state, except as otherwise expressly provided in ORS 192.501 to 192.505.

Public records requests must be made in writing by letter, email, or List Order Form which is available on the Board of Accountancy website:

<http://oregon.gov/BOA/>

Before a public records request is prepared, an invoice for the cost of the public record request is returned to the person making the request. Payment must be received and processed before the requested records are released. The Board of Accountancy accepts Visa or MasterCard, or personal or company checks.

The cost to produce public records includes the cost of preparation and materials.

- Preparation is calculated at the hourly rate of \$17.00 in quarter hour increments of \$4.25
- Copies of documents are charged at a rate of \$2.50 for the first five pages and .25 cents per page thereafter, and
- Cost of materials and mailing.

To submit a request for public records, click here or contact:  
David Hunter at the Oregon Board of Accountancy  
Phone: 503-378-4181x21  
Fax: 503-378-3575  
Email: david.r.hunter@state.or.us

Mailing Address:  
Oregon Board of Accountancy  
3218 Pringle Rd SE #110  
Salem OR 97302-6307



### Selecting a CPA or PA from the Internet

It is now possible to purchase public accounting services on the Internet. While this is a convenient way to access a broad range of services, it is important to "do your homework" before selecting a licensed accountant. Because internet practice does not allow face-to-face client contact, it may be easier for unqualified, unlicensed persons to pose as licensees. Remember as well that a practitioner offering services on the Internet may be physically located anywhere in the world.

To provide CPA services to consumers in Oregon, a practitioner should be licensed as a Certified Public Accountant or Public Accountant by the Oregon Board of Accountancy, (or may be practicing in Oregon under provisions of substantial equivalency. (OAR 801-010-0080).

The information below should not be construed as an endorsement or recommendation to purchase public accounting services on the Internet. Rather, these tips are offered as consumer protection suggestions in advance of contemplating the selection of an Internet practitioner.

- Keep in mind that if you encounter a problem with an accountant who is not licensed by the Oregon Board of Accountancy, the Board will probably not be able to assist you.
- Check the status of the licensee using our [licensee search](#) or call the Oregon Board office at 503.378.4181 ext. 21. Make sure the practitioner holds a current Oregon license. You may also want to ask if there has been any disciplinary action against the licensee.
- Interview the licensee either by e-mail or telephone to ensure that he or she can provide the services that you need. Ask about procedures for providing and receiving information. If you are interested in income tax preparation services, ask if the licensee can be reached later in the year if you need help with an audit. What are their policies or concerns about timeliness, accuracy and confidentiality?
- It is of primary importance to make certain that before any work is done by the CPA or PA that you receive an engagement letter or other written documentation detailing the work to be performed for you, who specifically will be performing the work and the cost of the services.
- If you are using the Internet to obtain a directory of CPAs, keep in mind that the directory listing does not ensure that the person is well qualified. You always want to contact the State Board to ensure the person is properly licensed.
- Verify that the information given by the firm on its website matches the information on record with the State Board. Does the address on the website match the address on the Board database?

*- This message is modified for Oregon consumers with permission from its originator, the California Board of Accountancy*



### Verifying Client Information for Lenders and Loan Brokers

Over the past few months, the Board has received numerous phone calls and e-mails from CPAs who have been asked by lenders and loan brokers to provide letters verifying that clients are self-employed, financially sound, profitable, creditworthy, or a combination of such attributes.

There is a strong temptation to comply, especially when the CPA is familiar with the finances of a long-term client who appears to be financially sound. The CPA wants to help the client and is put in a very difficult position – he or she is told that the client will not qualify for a loan unless he or she provides a letter to confirm or verify certain types of information about the client.

Some lenders and brokers ask for a statement verifying the accuracy of the client's tax returns or verifying that any funds used from the client's business make a down payment for a loan will not affect the business. Some lenders and brokers go as far as providing a "canned" letter for the CPA to sign.

The motives behind the lender's requests are important to understand. The client wants to cooperate

with the lender in order to get the loan approved, while the broker wants to make the client happy and earn a commission, neither or which will happen unless the loan is approved. The lender's motive however, is not necessarily so simple.

Normally, when a lender grants a loan to a borrower, it relies on many factors to determine the advisability of extending credit to the borrower. These factors include, but are not limited to, assessing the creditworthiness of the customer, collateral, primary sources of repayment, as well as market conditions. However, some lenders have been attempting to shift onto the CPA the burden of responsibility for assessing the information supplied by the borrower in the event the borrower defaults on the loan and the lender incurs a loss.

The CPA should be concerned about providing what is in effect an attest letter based on nonattest work. He or she may be providing a false sense of assurance to the lender or broker by complying with the request. If the client defaults on the terms of the loan, the lender could argue that it relied on the CPA's letter (in lieu of other due diligence steps and as a result suffered a loss. The CPA may then be at risk for a lawsuit.

Even an apparently harmless verification of client information, such as self-employment, carries much more risk that it appears to, especially if the CPA prepared tax returns based on information provided by the client without performing procedures to verify the information.

The CPA should communicate to the client and the lender (if the client has authorized such communication) that although the CPA would like to comply with the lender's request, the services rendered in this situation were limited to the preparation of tax returns from the information that the client provided to the CPA.

Since the CPA has not audited, reviewed, or otherwise verified the information provided by the client, the CPA is not in a position to make any conclusions or assurances regarding the accuracy or completeness of the information, nor is the CPA able to forecast the future ability of the clients to repay a loan. However, if the client agrees, the CPA may offer to send a copy of the tax returns or client payroll records so that the lender may compare the records in its possession with the returns prepared by the CPA.

The bottom line is that the CPA should speak with his or her client, verify all information, review all applicable attest and assurance standards, and check with his or her professional liability insurance carrier before providing any information to a lender or loan broker.

**North Carolina Activity Review Newsletter**



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Page updated: March 28, 2008

[Text Only](#) | [State Directories](#) | [Agencies A to Z](#) | [Site Map](#) | [About Oregon.gov](#) | [Oregon.gov](#)

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