

1 21 NCAC 08I .0101 is amended with changes as published in 31:11 NCR 1114 as follows:

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3 **21 NCAC 08I .0101 DISCIPLINARY ACTION**

4 (a) Any person may ~~petition the Board for appropriate disciplinary action against a CPA.~~ file a complaint with the Board
5 against a CPA, pursuant to ~~G.S. 150B~~ G.S. 150B, Article 3A for disciplinary action against a CPA for violations of
6 G.S. 93 and this Chapter on forms provided by the Board that are on the Board's website at www.nccpaboard.gov and
7 may be requested from the Board.

8 (b) The ~~petition complaint~~ shall set forth ~~in simple language~~ the facts upon which the ~~petition complaint~~ is based. ~~It~~
9 ~~shall bear an affidavit of the petitioner stating~~ The complainant shall confirm that he or she believes the facts stated in
10 the ~~petition complaint~~ are true and that he or she is prepared to prove them at a hearing.

11 (c) The ~~petition complaint~~ shall be filed in the office of the Board. The Board's professional standards staff shall open a
12 case file, notify the complainant of receipt of the complaint, notify and provide a copy of the complaint to the respondent
13 named in the complaint, and conduct ~~any appropriate investigation.~~ an investigation of the allegations in the complaint.
14 Based upon its investigation, the professional standards staff the investigation and the recommendation of the
15 Professional Standards Committee of the Board appointed by the Board President, and with the approval of the Board,
16 the professional standards staff may do any of the following:

- 17 (1) close the case without prejudice;
- 18 (2) close the case with prejudice;
- 19 (3) prepare a Consent Order;
- 20 (4) apply to the courts for injunctive relief; or
- 21 (5) ~~may~~ prepare a proposed Hearing Notice.

22 ~~A The Professional Standards Committee, appointed by the President of the Board, Committee~~ shall determine whether
23 the allegations in a case warrant applying to the courts for injunctive relief and whether the allegations in the proposed
24 Hearing Notice, if proven, ~~would~~ warrant a contested case proceeding pursuant to G.S. 150B-38 - 150B-42. A copy of
25 any Hearing Notice filed and application for injunctive relief applied for shall be provided to the complainant in that
26 matter.

27 (d) The Board ~~may~~ shall notify the complainant and the respondent in any complaint filed with the Board of the
28 disposition of the case and shall publish or announce the disciplinary action against a CPA in such manner and for such
29 period as it deems appropriate. CPA.

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31 *History Note: Authority G.S. 55B-12; 93-12(9);*
32 *Eff. February 1, 1976;*
33 *Readopted Eff. September 26, 1977;*
34 *Amended Eff. May 1, 2017; April 1, 1994; May 1, 1989; June 1, 1985; October 1, 1984;*
35 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28,*
36 *2014.*

1 21 NCAC 08N .0305 is amended with changes as published in 31:11 NCR 1114-1116 as follows:

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3 **21 NCAC 08N .0305 RETENTION OF CLIENT RECORDS**

4 ~~(a) Return Upon Demand. A CPA shall return client records in his or her possession to the client after a demand is~~
5 ~~made for their return. The records shall be returned upon demand unless circumstances make some delay reasonable~~
6 ~~in order to retrieve a closed file or to extract the CPA's work papers described in Paragraph (f) of this Rule. If the~~
7 ~~records cannot be returned upon demand, the CPA shall immediately notify the client of the date the records will be~~
8 ~~returned. Nothing in this Rule shall be interpreted to require a CPA to pay delivery costs when the records are~~
9 ~~returned to the client.~~

10 ~~(b) Who May Demand Client Records. If the client is a partnership, records shall be returned upon request to any of~~
11 ~~its general partners. If the client is a limited partnership or a registered limited liability partnership, records shall be~~
12 ~~returned upon request to its general partner(s) and the managing partner, or his or her designated individual~~
13 ~~respectively. If the client is a corporation, records shall be returned upon request to its president. If the client is a~~
14 ~~limited liability company, records shall be returned upon request to the manager. Joint records shall be returned~~
15 ~~upon request to any party to the record.~~

16 ~~(c) Return of Original Records. If the engagement is terminated prior to completion or the CPA's work product has~~
17 ~~neither been received nor paid for the by the client, the CPA shall be required to return only those records originally~~
18 ~~given to the CPA by the client.~~

19 ~~(d) Retention to Force Payment. A CPA shall not retain a client's records in order to force payment of any kind.~~

20 ~~(e) Work Papers Included in Client Records. Work papers are usually the CPA's property and need not be~~
21 ~~surrendered to the client. However, in some instances work papers may contain data that should be reflected in the~~
22 ~~client's books and records but for convenience have not been duplicated therein with the result that the client's~~
23 ~~records are incomplete. In such instances, the portion of the work papers containing such data constitutes part of the~~
24 ~~client's records, and copies shall be given to the client along with the rest of the client's records. Work papers~~
25 ~~considered part of the client's records include but are not limited to:~~

- 26 (1) ~~worksheets in lieu of original entry (such as listings and distributions of cash receipts or cash~~
27 ~~disbursements on columnar work paper);~~
- 28 (2) ~~worksheets in lieu of general ledger or subsidiary ledgers, such as accounts receivable, job cost~~
29 ~~and equipment ledgers, or similar types of depreciation records;~~
- 30 (3) ~~all adjusting and closing journal entries and supporting details not fully set forth in the journal~~
31 ~~entry; and~~
- 32 (4) ~~consolidating or combining journal entries and worksheets and supporting detail used in arriving~~
33 ~~at final figures incorporated in an end product such as financial statements or tax returns.~~

34 ~~(f) Work Papers Belonging to the CPA. Work papers developed by the CPA incident to the performance of an~~
35 ~~engagement that do not result in changes to the client's records, or are not in themselves part of the records~~
36 ~~ordinarily maintained by such clients, are the CPA's work papers and are not the property of the client. For example,~~
37 ~~the CPA may make extensive analyses of inventory or other accounts as part of the selective audit procedures. These~~

1 ~~analyses are considered to be a part of the CPA's work papers, even if the analyses have been prepared by client~~
2 ~~personnel at the request of the CPA. Only to the extent these analyses result in changes to the client's records would~~
3 ~~the CPA be required to furnish the details from the work papers in support of the journal entries recording the~~
4 ~~changes, unless the journal entries themselves contain all necessary details.~~

5 (g) ~~Reasonable fees for Copies. Nothing in this Rule shall be construed to require the CPA to furnish a client with~~
6 ~~copies of the client's records already in the client's possession. However, if the client asserts that such records have~~
7 ~~been lost, or are otherwise not in the client's possession, the CPA shall furnish copies of the records and may charge~~
8 ~~a reasonable fee.~~

9 (h) ~~Retention of Work Product and Work Papers. A CPA shall ensure that the work product and the work papers~~
10 ~~created in the performance of an engagement for a client are retained for at least of five years after the date of~~
11 ~~issuance of the work product unless the CPA is required by law to retain such records for a longer period.~~

12 (a) A CPA shall return client-provided records in the CPA's custody or control to the client at the client's request.
13 [Client provided] Client-provided records are accounting or other records, including hardcopy and electronic
14 reproductions of such records, belonging to the client that were provided to the CPA by, or on behalf of, the client.

15 (b) Unless a CPA and the client have agreed to the contrary, when a client makes a request for CPA prepared
16 records or a CPA's work products that are in the CPA's custody or control ~~and~~ that have not previously been
17 provided to the client, the CPA ~~should~~ shall respond to the client's request as follows:

18 (1) The CPA ~~should~~ shall provide CPA prepared records relating to a completed and issued work
19 product to the client, except that such records may be withheld if fees are due to the CPA for that
20 specific work product; and

21 (2) CPA's work products ~~should~~ shall be provided to the client, except that such work products may
22 be withheld:

23 (a) if fees are due to the CPA for the specific work product;

24 (b) if the work product is incomplete;

25 (c) if for purpose of complying with professional standards (for example, withholding an audit
26 report due to outstanding audit issues); or

27 (d) if threatened or outstanding litigation exists concerning the engagement or CPA's work.

28 (c) CPA prepared records are accounting or other records that the CPA was not specifically engaged to prepare and
29 that are not in the client's books and records or are otherwise not available to the client, thus rendering the client's
30 financial information incomplete. Examples include adjusting, closing, combining, or consolidating journal entries
31 (including computations supporting such entries) and supporting schedules and documents that the CPA proposed or
32 prepared as part of an engagement, (for an example, an audit). CPA's work products are deliverables set forth in the
33 terms of the engagement, such as tax returns.

34 (d) Once a CPA has complied with these requirements, he or she ~~is under no~~ shall not be under any further ethical
35 obligation to:

36 (1) comply with any subsequent requests to again provide records or copies of records described in
37 Paragraphs (a) and (b) of this Rule. ~~However, if~~ If subsequent to complying with a request, a

1 client experiences a loss of records due to a natural disaster, the CPA ~~should~~ shall comply with
2 an additional request to provide such records; and

3 (2) retain records for periods that exceed applicable professional standards, state and federal statutes
4 and regulations, and contractual agreements relating to the service performed.

5 (e) A CPA who has provided records to an individual designated or held out as the client's representative, such as
6 the general partner, majority shareholder, or spouse, ~~is not~~ shall not be obligated to provide such records to other
7 individuals associated with the client.

8 (f) Work papers ~~are~~ shall be the CPA's property, and the CPA is not required to provide such information to the
9 client. However, state and federal statutes and regulations and contractual agreements may impose additional
10 requirements on the CPA.

11 (g) In fulfilling a request for client provided records, CPA prepared records, or a CPA's work products, the CPA
12 may:

13 (1) charge the client a fee for the time and expense incurred to retrieve and copy such records and
14 require that the client pay the fee before the CPA provides the records to the client;

15 (2) provide the requested records in any format usable by the client. ~~However, the~~ The CPA is not
16 required to convert records that are not in electronic format to electronic format. If the client
17 requests records in a specific format and the records are available in such format within the CPA's
18 custody and control, the client's request should be honored. In addition, the CPA is not required
19 to provide the client with formulas, unless the formulas support the client's underlying accounting
20 or other records or the CPA was engaged to provide such formulas as part of a completed work
21 product; and

22 (3) make and retain copies of any records that the CPA returned or provided to the client.

23 (h) A CPA who is required to return or provide records to the client ~~should~~ shall comply with the client's request
24 as soon as ~~practicable but, absent extenuating circumstances,~~ practicable, but no later than 45 days after the request
25 is made.

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27 *History Note:* Authority G.S. 55B-12; 57D-2-02; 93-12(9);
28 Eff. April 1, 1994;
29 Amended Eff. May 1, 2017; January 1, 2006; April 1, 2003;
30 Readopted Eff. February 1, 2016.