

2023

NEW YORK STATE

PEER REVIEW OVERSIGHT COMMITTEE

ANNUAL REPORT

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I. Message from the Committee

The timing of this year's report covers the time period January 1, 2023 to December 31, 2023. The Pennsylvania Institute of CPAs (PICPA), the administering entity (AE) for most New York firms, continued remote operations for most of the year. PICPA continued its policy of providing limited information as part of adhering to Chapter 3 of the AICPA Peer Review Standards. Peer Review Oversight Committee (PROC) staff continued to find sources of information to allow the PROC to continue to monitor firms.

As reported in the 2021 and 2022 reports, the changes to the Commissioner's Regulations and the Board of Regents Rules were adopted by the Regents, which allowed the PROC to make significantly more referrals to the Office of Professional Discipline throughout 2023. These changes have provided the PROC with additional tools to improve firm compliance with the Mandatory Peer Review Program.

The Peer Review Integrated Management Program (PRIMA) data and utilization issues continued, and as a result, posted information by AEs is not timely, and in some cases inaccurate. PROC staff continue to submit "tickets" to the AICPA and PICPA to correct information in PRIMA.

During 2023, with recent rules and regulations, the PROC continued to monitor the administering entity (PICPA), other AEs, and firms to continue to improve the quality of assurance services in New York State.

II. Background

In 2009, the NYS Legislature passed significant changes to laws that regulate Public Accounting in New York. The legislature required the implementation of the Mandatory Quality Review Program (MQRP). The program became effective for firms registering on or after January 1, 2012. Firms in the MQRP are required to undergo a peer review once every three years as a condition of their firm registration renewal. The purpose of the MQRP is to promote quality in the attest services provided by CPAs. The 2009 law required firms with three or more CPAs, providing attest services, to participate in the MQRP.

In the fall of 2017, the NYS Legislature revised the MQRP law. The new legislation repealed the small firm exemption and, therefore, all firms that provide attest services are required to participate in the peer review program. The changes to the law also included a name change of the program from the Mandatory Quality Review Program to "Mandatory Peer Review Program" (MPRP) and the committee from the Quality Review Oversight Committee to the Peer Review Oversight Committee (PROC).

The New York State definition of attest is in the Education Law as follows:
"Attest" means providing the following public accountancy services which all require the independence of licensees:

- a. any audit to be performed in accordance with generally accepted auditing standards or other similar standards, developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations;
- b. any review of a financial statement to be performed in accordance with standards, developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations;
- c. any examination to be performed in accordance with attestation standards developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations; or
- d. any engagement to be performed in accordance with the auditing standards of the public company accounting oversight board.

III. PROC Regulatory Authority and Responsibilities

The PROC derives its regulatory authority from Section 70.10 of the Regulations of the Commissioner (Regulations). In November 2021 the Regulations were permanently amended by the Board of Regents. The purpose of the PROC includes approving and monitoring the Sponsoring Organization, informing, and reporting matters concerning peer review to the Department, assessing, and reporting on the effectiveness of the program, and reviewing individual peer review reports for compliance. Following the amendments to the Regulations, the PROC has the responsibility to:

- receive and approve administration plans from entities applying to be sponsoring organizations;
- monitor sponsoring organizations to provide reasonable assurance that the sponsoring organization is conducting the peer review program in accordance with the peer review standards;
- inform the Department of any issues and/or problems relating to the peer review program which may require the Department's intervention;
- annually report to the Department as to whether each sponsoring organization meets the standards necessary to continue as an approved sponsoring organization;
- annually assess the effectiveness of the peer review program;
- annually report to the Department on any recommended modifications to the peer review program;
- review each peer review report submitted by a firm, as part of its registration or renewal of its registration, to determine whether the firm is complying with applicable professional standards.
- where applicable, the PROC may refer firms that are not in compliance with applicable standards to the Office of Professional Discipline pursuant to Education Law section 6510; and
- ensure that any documents received from a firm or reviewer remain confidential and not constitute a public record, unless such document is admitted into evidence in a hearing held by the Department.

Additionally, a new subdivision (j) of the Board of Regents Rules Part 29, Unprofessional Conduct, Section 29.10, Special Provisions for the Profession for Public Accountancy (Rules) was adopted as it relates to the Mandatory Peer Review Program.

The Rules define unprofessional conduct as follows:

- failure to cooperate with the peer review process;
- making a false, fraudulent, misleading or deceptive statement, as part of, or in support of, a firm's peer review reporting;
- a firm's termination or expulsion from the peer review program;
- failure of a firm and its licensees to follow the peer review process and complete any remedial actions required;
- failure of a firm to provide access to its peer review information, as required by subdivision (j) of section 70.10 of the Regulations of the Commissioner.

IV. PROC Recognized Peer Review Program Providers

The American Institute of Certified Public Accountants (AICPA) is currently the only Peer Review Program Provider (sponsoring organization) that is acceptable to the PROC. The PROC accepts all AICPA approved organizations (administering entities) that are authorized to administer the AICPA Peer Review Program. The AICPA's Peer Review Board (PRB) is responsible for maintaining, furthering, and governing the activities of the AICPA's Peer Review Program, including the issuance of peer review standards, and peer review guidance. The Peer Review Program provides for a triennial review of a firm's accounting and auditing practice. The review is performed by a peer reviewer who is unaffiliated with the firm being reviewed. The goal of the program is to monitor and enhance quality, and conformity with professional standards.

There are two types of peer reviews. System reviews are designed for firms that perform audits or other attest engagements. Engagement reviews are for firms that do not perform audits but perform other engagements such as compilations and/or reviews. Firms can receive a rating of pass, pass with deficiency, or fail. Firms that receive ratings of pass with deficiency or fail must perform corrective actions.

Entities that are currently acceptable to administer the peer review program in New York State are:

- Pennsylvania Institute of CPAs (PICPA) – As of March 15, 2018, PICPA administers the AICPA Peer Review Program for the majority of New York firms. Prior to this date, the New York State Society of CPAs (NYSSCPA) administered the peer review program for most NY firms. As the administering entity, PICPA is responsible for ensuring that peer reviews are performed in accordance with the AICPA's Standards. The PICPA Peer Review Committee (PRC) monitors the administration, acceptance, and completion of peer reviews.
- National Peer Review Committee (NPRC) -The AICPA also administers a peer review program through the National Peer Review Committee for firms required to be registered with and/or inspected by the Public Company Accounting Oversight Board (PCAOB) or perform audits of non-Securities and Exchange Commission (SEC) issuers pursuant to the standards of the PCAOB.
- Other State Societies and Organizations - New York registered accountancy firms are allowed to have their peer review administered by an AICPA approved administering entity in another state. The AICPA maintains the listing of the administering entities assigned to each state.

V. Committee Members and Staff

The PROC consists of six members who are appointed by the NYS Board of Regents for five-year terms and may serve up to two terms. At least five members must be licensed CPAs and the sixth member may be a public member or a licensed CPA. Additionally, PROC members cannot be members of the State Board for Public Accountancy or one of its committees.

During 2023 we had several member changes. Ms. MacKrell completed her second, five-year term. Mr. Iles assumed the role of the Vice Chair after Ms. MacKrell. The Committee welcomed Mr. Neyman as a new member in 2023.

Licensed members must be certified public accountants licensed in New York State and hold current registrations with the Department. If a public member is appointed to the PROC, he or she must have received or used the services provided by CPAs.

<u>Member Name:</u>	<u>Member Term:</u>
David Iles, CPA Vice Chair	Oct 1, 2020 – Sep 30, 2025 (Second term)
Mary MacKrell, CPA Vice Chair	Mar 1, 2018 – Feb 28, 2023 (Second term)
Mitchell Mertz, CPA	Jun 1, 2021 – May 31, 2026 (First term)
Andrew Neyman	May 1, 2023 – Apr 30, 2028 (First term)
David Pitcher, CPA	Dec 1, 2019 – Nov 30, 2024 (First term)
Grace Singer, CPA	Feb 1, 2019 – Jan 31, 2024 (First term)
Frank S. Venezia, CPA Chair	Apr 1, 2020 – Mar 31, 2025 (Second term*)

*Frank Venezia served an initial 3-year term at the inception of the program. This is his second, 5-year term.

Staff of the PROC – The PROC has three staff members, the Executive Secretary and Auditor 1 and 2 who support its efforts in effectively carrying out its duties and responsibilities. The Executive Secretary, Jennifer Winters, is the lead staff liaison for the members. The Auditor 2 position was filled with Thomas Cordell in August 2019. The Auditor 1, Philip Jesmonth, has been in the position since November 2015.

The volunteer members of the PROC rely on the support of the staff to conduct its meetings and handle routine firm matters related to peer review. The staff review the firms' annual statement on peer review compliance, compile the information on the firms that are monitored, and communicate outstanding matters with the firms on behalf of the volunteer PROC members.

VI. Statistics: This year's report includes the calendar year, note the timing of the reported data for prior years*. The following statistics were obtained from the PRIMA system.

	Jan 1, 2020 to Dec 31, 2020				Jan 1, 2021 to Dec 31, 2021				Jan 1, 2022 to Dec 31, 2022				Jan 1, 2023 to Dec 31, 2023						
	NYSSCPA/ PICPA		NPRC		PICPA		NPRC		PICPA		NPRC		PICPA		NPRC				
<u>System Reviews</u>																			
Pass	202	65%	25	86%	196	75%	36	95%	143	63%	19	76%	157	69%	20	87%			
Pass with deficiencies	55	18%	1	4%	45	17%	2	5%	46	20%	2	8%	38	17%	2	9%			
Fail	53	17%	3	10%	20	8%	0	0%	39	17%	4	16%	33	14%	1	4%			
Subtotal – System	310		29		261		38		228		25		228		23				
<u>Engagement Reviews</u>																			
Pass	86	78%				162	88%				137	85%				110	84%		
Pass with deficiencies	16	14%				13	7%				17	11%				12	9%		
Fail	9	8%				9	5%				7	4%				9	7%		
Subtotal – Engagement	111					184					161					131			
Total System & Engagement	450				483				414				382						

VII. Meetings, Accomplishments and Advocacy Efforts

Following are the meetings, accomplishments, and advocacy efforts in 2023.

a. Committee Meetings - The PROC holds meetings to conduct business and report to the Department regarding the effectiveness of the mandatory peer review program. Minutes from each public meeting are available upon request.

Since the last annual report was issued, the PROC has held the following meetings in 2023:

- February 1st
- May 17th
- August 9th
- October 24th

On July 26, 2023, the Chair of the PROC attended the State Board for Public Accountancy's Board meeting to present its 2022 Annual Report.

b. Oversight Reports from the AICPA on the Administering Entities (AE) - The Committee reviewed the AICPA Oversight Reports on the Administering Entities.

c. Oversight of the Peer Review Committee (PRC) and Report Acceptance Body (RAB) of PICPA - To continue the Committee's monitoring of the sponsoring organization, Ms. Singer attended a PRC meeting on May 23, 2023, and Mr. Pitcher attended a RAB meeting on July 20, 2023.

The PROC members who attended these meetings unanimously agreed the program is run by dedicated professionals in accordance with the AICPA standards. Based on the report from the members who attended the meetings, the PROC agreed that the PRC is well informed and engaged in the process and the RAB meetings are organized and well run. The conclusion regarding the PRC oversight by the PROC members was that the peer review program was administered in accordance with the AICPA standards.

d. Guidance – In 2023, the PROC made recommendations to the Department to modify the Frequently Asked Questions on the website for additional clarity and guidance on the Mandatory Peer Review Program.

e. PCAOB - At the February meeting the Committee reviewed and discussed the PCAOB's report on a Firm's System of Quality Control and other Amendments to PCAOB Standards, Rules, and Forms. At the May meeting the Committee briefly reviewed the PCAOB annual report.

f. AICPA Peer Review Board (PRB) Open Meetings - The PROC monitors the AICPA's PRB's public sessions throughout the year. PROC members and staff attend these meetings via teleconference and report back to the full PROC. The sessions are informative and allow for an exchange of ideas and practices across state lines. The following PRB meetings were attended in 2023:

- February 8th
- May 3rd
- November 16th

Committee members Iles, Pitcher, and Singer attended the AICPA Peer Review Conference in August 2023. At the Committee's October meeting they provided a recap of the conference.

g. Monitoring of Firms in Peer Review - The PROC monitors firms throughout the remediation phase of their peer review, where applicable. Firms are informed by letter that the PROC is monitoring their remediation progress and are required to acknowledge receipt of the letter. Remediation is considered complete when the peer review is accepted as complete by the respective Peer Review Committee. The PROC also monitors the firms that have dropped out of the program and those that are terminated by the program. The determination to monitor, continue to monitor, or remove from monitoring is done at the PROC meetings in executive session.

System and Engagement Reviews that have a rating of fail or pass with deficiencies are monitored by the PROC. During 2023, the PROC has monitored 227 firms, including firms that have been carried over from the prior year. During this time, 115 of these firms had their peer reviews accepted as complete, while 112 firms are still being actively monitored.

h. As part of the changes to the regulations previously mentioned, the PROC has increased the number of referrals to the Office of Professional Discipline.

i. The Committee drafted an outline of PROC monitoring and review procedures that was added to the members only Sharepoint site.

VIII. Recommendations

The PROC recommends that the Department continue its monitoring effort of the Mandatory Peer Review Program.

IX. Conclusions

Based on its oversight activities, the PROC concluded that the Pennsylvania Institute of Certified Public Accountants has been an effective administrator as it performs the majority of the peer reviews of New York public accountancy firms that are subject to the Mandatory Peer Review Program's (MPRP). The PROC has established a monitoring and oversight role utilizing the Facilitated State Board Access system; however, the AICPA's Chapter 3 of the AICPA Peer Review Standards continue to impede our monitoring and oversight efforts. The lack of cooperation and transparency by the AICPA makes it difficult to obtain timely information about the status of a firm's peer review during our monitoring efforts. This is especially true when a firm is not in compliance with the three-year peer review cycle that is required of the MPRP in the New York State Education Law. The PROC continues to express concern with the transparency issues that continue to impede our mission to protect the public interest in New York State.