

17 CAR § 236-1311. Sanctions.

(a) First fail classification.

(1) The licensee shall respond in writing by the date identified on the fail notification correspondence stating whether the licensee agrees or disagrees with the classification.

(2)(A) If the licensee agrees with the fail classification, the Arkansas State Board of Public Accountancy shall request that the licensee obtain sixteen (16) hours of CPE in specific subjects.

(B) This CPE requirement:

- (i) Is intended to be educational, for the purpose of improving the quality of the licensee's reports, rather than disciplinary in nature;
- (ii) Shall not be self-study; and
- (iii) Shall be approved in advance by the board's Executive Director.

(C) The licensee shall complete said CPE hours and deliver acceptable documentation thereof to the board on or before June 30 of the following year.

(D) The CPE obtained to satisfy this subpart may not be used for license renewal purposes.

(3)(A) If the licensee disagrees with the fail classification, he or she may include with their response an explanation of their objection to the classification, citations to applicable professional standards, and any relevant documentation supporting the licensee's objection to the classification.

(B) The QR Consultant shall review the summary of deficiencies and comments, original documents from the licensee, and any supplemental information from the licensee, and will affirm the classification of, or reclassify, the licensee's report.

(C) The licensee will be provided with a written notice of the QR Consultant's review of the report.

(4)(A) The licensee can appeal the QR Consultant's decision on the classification and request a hearing by the board by filing a written notice of appeal with the board within thirty (30) days of the date from which the licensee received notification.

(B) The board shall notify the licensee of the time and place of the hearing.

(C)(i) The board shall consider the classification of the report based solely upon the record considered by the QR Consultant as per subdivision (a)(3)(B) of this section.

(ii) Should the facts show convincingly that the report should be classified as "fail", the board will consider the report as fail.

(iii) If the evidence of record is equally balanced, or the board cannot find that the facts are convincing, the board shall determine that the report should not be classified as fail.

(D) Should the board find that the report should be classified as fail, it may require additional action by the licensee that is designed to ensure that the licensee's professional services are performed consistent with applicable professional standards as provided under this part.

(5)(A) Following any first fail classification of the report that becomes final, the licensee will be requested to obtain the sixteen (16) hours of CPE as stated in subdivision (a)(2) of this section.

(B) Should the licensee not agree to obtain CPE described above, fail to complete said CPE, or fail to timely deliver satisfactory documentation thereof to the board, the board shall conduct a hearing to determine whether the licensee has failed to comply with the Code of Professional Conduct and the Public Accountancy Act of 1975, Arkansas Code § 17-12-101 et seq., and if so, the necessary corrective action to be taken to improve the quality of the licensee's reports or to otherwise protect the public interest.

(b) Second consecutive fail report.

(1) The licensee shall respond in writing by the date identified on the notification of a second fail classification stating whether the licensee agrees or disagrees with the classification.

(2) If the licensee agrees with the classification, the licensee will be requested to submit reports for preissuance review pursuant to the board's current Preissuance

Review Procedures that shall be provided to the licensee.

(3)(A) If the licensee disagrees with the fail classification, he or she will be instructed to file notice including an explanation of his or her objection to the classification, citation to applicable professional standards, and any relevant documentation supporting his or her position for reconsideration by the QR Consultant.

(B) The provisions set forth in subdivisions (a)(3)(B) and (C) for reconsideration by the QR Consultant and subdivision (a)(4) regarding an appeal to the board are also applicable to second consecutive fail reports.

(4) Should the board find that the report should be classified as fail, it may require additional action by the licensee that is designed to ensure the licensee's professional services are performed consistent with applicable professional standards as provided under this part or to otherwise protect the public interest.

(5) If at any stage of the QR process defined in this part pertaining to second consecutive fail reports, the licensee fails to respond to the notice of the classification of the report as fail in the original review or upon reconsideration by the QR Consultant, the board shall:

(A) Conduct a hearing to determine whether the licensee has failed to comply with the board's Code of Professional Conduct or the Public Accountancy Act of 1975, Arkansas Code § 17-12-101 et seq.; and, if so

(B) Determine the necessary corrective action to be taken to improve the quality of the licensee's reports or to otherwise protect the public interest.

(c) Third consecutive fail report.

(1) The licensee shall respond in writing by the date identified on the notification of a third fail classification stating whether the licensee agrees or disagrees with the classification.

(2) If the licensee agrees with the classification, the board will determine whether to conduct a hearing to consider whether the licensee's report violates the board's Code of Professional Conduct and the Public Accountancy Act of 1975, Arkansas Code § 17-12-101 et seq.

(3)(A) If the licensee disagrees with the fail classification, he or she will be

instructed to file notice including an explanation of his or her objection to the classification, citation to applicable professional standards, and any relevant documentation supporting his or her position for reconsideration by the QR Consultant.

(B) The provisions set forth in subdivisions (a)(3)(B) and (C) for reconsideration by the QR Consultant and subdivision (a)(4) regarding an appeal to the board are also applicable to third consecutive fail reports.

(4) Should the board find that the report is in violation of the Code of Professional Conduct or the Public Accountancy Act of 1975, Arkansas Code § 17-12-101 et seq., it may take appropriate action to protect the public interest.

(5) If at any stage of the QR process defined in this part pertaining to third consecutive fail reports, the licensee fails to respond to the notice of the classification of the report as fail in the original review or upon review by the QR Consultant, the board shall:

(A) Conduct a hearing to determine whether the licensee has failed to comply with the board's Code of Professional Conduct or the Public Accountancy Act of 1975, Arkansas Code § 17-12-101 et seq.; and, if so

(B) Determine the necessary corrective action to be taken to improve the quality of the licensee's reports or to otherwise protect the public interest.

(d) **Consent orders.** At any stage in the QR process, when a licensee will agree not to perform any further reports that have been classified as fail or to other appropriate action to protect the public interest, the board may resolve the controversy by an appropriate consent order.