

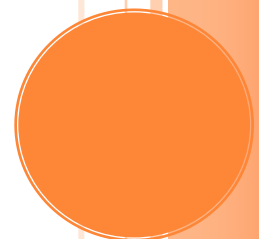
LIBERIAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS SANCTION REGULATIONS OF 2020

The LICPA Sanction Regime of 2020

The provision of a sanction regime for Professional Misconduct, Unethical Conduct, and non-compliant with Professional Responsibilities is the sole obligation of a regulatory institution, in this case the LICPA, whose responsibilities it is to clearly spell out what sanction is associated with a particular prohibited action, and the required process/procedure that allows a sanction and the one that lift sanction.

Cllr. Frederick L.M. Gbemie

8/31/2020



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2020

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1. PREAMBLE

WHEREAS, there is provided in Part 10, Section 26.1 and Section 26.2 of the LICPA Act of 2011 (as Amended) for Sanctions;

WHEREAS, the LICPA Act of 2011 (as Amended) provides for Professional Responsibility and Professional Misconduct in Part 8, Sections 22 and 23;

WHEREAS, there is provided for in Section 11.1 of the LICPA Act of 2011 (as Amended) the Bylaws of the Institute, and in Section 11.1.3 the inclusion in the Bylaws sanctions for violators of particular provision of the Act or the Bylaws, valid Council Regulations;

WHEREAS, the LICPA Act of 2011 (as Amended) provides for in Sections 23.1, 23.2, 23.3, and 23.4 the inclusion in the Bylaws or the issuance of policy and regulatory guidelines to define acts and/or omissions to the acts that constitute professional misconduct, and the nature and range of sanctions for proven professional misconduct; that stipulates procedure under which full professional members or student members of the Institute deemed unfit for continued membership are to be struck off the membership register of the Institutes; that stipulates procedures under which the practicing license of anyone who is deemed unfit to operate as a Public Accountant or as a Registered Practicing Accountant shall be suspended, revoked or cancelled; and make appropriate provisions under which membership or a registration certificate or a practicing license and/or other certificate or permit that is suspended, revoked or cancelled may be restored;

AND WHEREAS, the Council is mandated by Section 23.1, 23.2, 23.3, and 23.4 of the LICPA Act of 2011 (as Amended) to issues regulatory guidelines or Regulations under the LICPA Act of 2011 for adoption by two-third (2/3) or

grater majority vote of the Members of the Institute and the approval of the Council to regulate, amongst other things, the Professional misconduct and provide appropriate procedure for sanctioning or lifting of sanctions for full professional members or student members;

NOW THEREFORE, consistent with the statutory mandate aforementioned, the Council approves these Regulations adopted by two-third (2/3) or grater majority vote of Members of the Institute.

2. Citation

These Regulations shall be cited as Liberian Institute of Certified Accountants Sanction Regulations of 2020.

3. Purpose

The purpose of these Regulations is to provide for categories of Professional misconduct; the nature and range of sanctions for proven professional misconduct; the procedure under which members are deemed unfit for continued membership and are struck off the membership register; procedure under which practicing license of unfit members shall be suspended, revoked or cancelled; and appropriate provisions under which membership or a registration certificate or a practicing license and/or other certificate or permit that is suspended, revoked or cancelled may be restored.

4. Commencement

These Regulations shall come into force on the 18th day of November 2020.

5. Coverage

These Regulations is applicable to all members of LICPA (full professional members, student members of the Institute, and member firm, Public Accountant, and Registered Practicing Accountant)

6. Revocation

Upon the coming into force of these Regulations, any previous Regulations, policies, instructions and directives or part thereof, relating to Professional Misconduct and Sanction which are inconsistent with these Regulations, stand revoked and shall cease to have any effect.

7. Professional Misconduct and Other Sanctioned Acts

It shall be a professional misconduct and a sanctioned act if a member of the Liberian Institute of Certified Public Accountants:

- A. Commits and be convicted of a criminal act in the course of the provision of an accounting or accounting related services as a Certified Public Accountant or a Registered Practicing Accountant, or otherwise;
- B. Violates any provision of the LICPA Act and/or any of the related provisions of the Bylaws and regulations signed and published.
- C. Fails any of the professional responsibilities as outlined in Section 22.1 and Section 22.2 of the LICPA Act of 2011 (as Amended). Said Professional Responsibilities shall include:-
 - i. The obligation to be competent;
 - ii. The obligation to keep oneself adequately up to date with developments in the accounting profession generally as well as in one's area(s) of specialization within the profession as a minimum by meeting applicable Continuing Professional Development (CPD) requirements prescribed by the Council;
 - iii. The obligation to be ethical in keeping with the Professional Ethics Code and standards prescribed by the Council;

- iv. The obligation to avoid conflict of interest;
 - v. In the case of member firms, the obligation to comply with educational and quality standards and regulations promulgated by the Institute;
 - vi. The obligation to abide by the rules and regulations of the Institute, including but not limited to each member's obligation to attend and actively participate in scheduled general meetings of members of the Institute, particularly the annual General Meetings and other general meetings of members; and
 - vii. The violation or non-adherence to the mandatory attendance at and active participation in a minimum number of scheduled Institute:-
 - a. Meetings; and
 - b. Continuing Professional Development (CPD) programs of the institute.
- D. Fails to comply with the Code of Professional Conduct or Professional Code of Ethics and Guide for Members prescribed by the Council consistent with Section 23.1 of the LICPA Act of 2011 (as Amended) and outlined in the Code of Professional Conduct or Professional Code of Ethics and Guide. Member are required to comply with the below fundamental principles:-
- i. Integrity;
 - ii. Objectivity;
 - iii. Professional Competence and Due Care;
 - iv. Confidentially; and
 - v. Professional Behavior.
- E. Failure to abide by Specific Restrictions and Prohibitions on practicing as Certified Public Accountant consistent with Section 24 of the LICPA Act of 2011 (as Amended). Said Restrictions and Prohibitions shall include:-
- i. The conduct of any and every external audit, review or other assurance examination of the financial statements or other financial report of any entity.....[in accordance with Section 24.1 of the LICPA Act of 2011 (as Amended)], by only a member or member firm of the Institute or by Registered Practicing Accountant whose practice license is currently in force for the duration of the engagement;
 - ii. To cause to be issued or granted a license or certificate or otherwise authorized to operate or carry on business in Liberia as a Certified Public Accountant (CPA) or Registered Practicing Accountant (RPA).....[in

- accordance with Section 24.5 of the LICPA Act of 2011 (as Amended)] if not a citizen of Liberia and has not been a resident of Liberia for three or more years, and has not met such other requirements as determined by the National Accountancy Board of Liberia or the Governing Council until the Board is established;
- iii. To engage in or carry on public accounting or accounting practice in any manner, form or guise, at any time anywhere in Liberia by someone who is not a Certified Public Accountant (CPA) or Registered Practicing Accountant (RPA) consistent with Section 24.8 of the LICPA Act of 2011 (As Amended);
 - iv. A Certified Public Accountant or Practicing Accountant carry on business as a Certified Public Accountant or Practicing Accountant who is not currently the holder of a valid certificate or permit to practice issued by the National Accountancy Board of Liberia;
 - v. A person using the title “Registered Practicing Accountant” or its initial “RPA” who is not a duly Registered Practicing Accountant; and A person using the title “Certified Public Accountant” or its initial “CPA” who has not been enrolled in the Institute as a Certified Public Accountant;
 - vi. The hiring, retaining, or continued use of the services of any person who is currently suspended from practice; who is suspended or expelled from the institute, or has been denied admission into the institute for reason of dishonesty, other forms of corruption or other unprofessional conduct; who has been struck off the membership records of the institute or who is disqualified for admission into the institute by reason of a fair judgment/decision under due process by the institute or by a court of law or other competent body for reason of dishonesty or other professional misconduct; and has been convicted in a court for act of dishonesty or corruption consistent with Section 24.12 of LICPA Act of 2011 (As Amended);
 - vii. The signing of any account, statement, report, financial statement submitted for tax purposes or otherwise for the purpose of any business transaction with any financial institution, or to any other users for business transaction purposes by a Certified Public Accountant or Registered Practicing Accountant when the work to which such account, statement, report or financial statement pertains was not performed by the accountant as consistent with Section 24.13 of the LICPA Act of 2011 (As Amended);
 - viii. The provision of accounting service(s), assurance (including auditing)

service(s) or any other kind of accounting-related services to a person who is not an employer of an accountant consistent with Section 24.15 of the LICPA Act of 2011 (As Amended); and

ix. A member firm of the Institute that is also a member firm or an exclusive correspondent of an international network of accounting firms operating under the same international network collaborating with one or more firms or other offices of such a network in Liberia without satisfactory evidence that there was appropriate transfer of knowledge and skills, and without the allocation of fifteen percent (15%) or more of the gross revenue of the engagement in Liberia payable to the member firm of the institute.

F. Failure to adequately comply with the relevant audit and/or other applicable assurance engagement standards prescribed by the Governing Council of the Institute for which remedial measures shall be required when a Quality Assurance Review (QAR) Report designates a RPA's, member's and member firm's operations, activities and working papers filed as Class B, and categorized as Tier-1 and Tier-2 consistent with Section 17 of the LICPA Act of 2011 (As Amended). Said standards are the relevant standards prescribed by the appropriate standard setting boards of the International Federation of Accountant (IFAC) or satisfactorily consistent with such IFAC standards.

8. Categories of Offences

8.1. Category one offences shall include :

- a. Criminal misconduct;
- b. Failure of any of the professional responsibilities consistent with the LICPA Act of 2011 (As Amended) and subsequent regulations;
- c. Failure to comply with the Code of Professional Conduct or Professional Code of Ethics and Guide for Members prescribed by the Council; and
- d. Three or more repeated Category Two Offences within any two consecutive years

8.2. Category Two offences shall include:

- a. Failure to abide by Specific Restrictions and Prohibitions on practicing as Public Accountant; and
- b. Failure to adequately comply with the relevant audit and/or other applicable assurance engagement standards prescribed by the Governing Council.

9. Disciplinary Proceedings

9.1 Lodging Allegation of Misconduct

- a. An allegation of Professional Misconduct/Sanctioned acts against a member and member firm, and Registered Practicing Accountant shall be reported at any time when the commission or omission of said act is known. .
- b. Every allegation of misconduct against a member and member firm, and Registered Practicing Accountant shall be made to the Ethics and Discipline or an ad hoc Committee through the Governing Council.
- c. An allegation of misconduct shall be made in writing, and shall include the time, date, place and details of the alleged misconduct.

9.2 Processing Allegations of Misconduct and Investigation

- a. Upon receipt of a complaint the Ethics and Discipline Committee or ad hoc Committee shall record the allegation, and create a registration number or code for each complaint.
- b. After the registration, the Ethics and Discipline Committee or an ad hoc Committee shall conduct initial assessment in order to determine whether the reported misconduct is receivable based on the scope of misconducts provided in these Regulations and sufficiency of information to proceed.
- c. Where it is determined that the matter warrants investigation, and it is not a criminal offense, it will appropriately be assigned to the Ethics and Disciplinary Committee or an ad hoc Committee as deemed appropriate by Council to conduct an investigation.
- d. Upon the determination that the complaint warrants investigation, and it is not a criminal offense, the Ethics and Discipline Committee or an ad hoc Committee shall notify the member or member firm or the RPA against whom the allegation is made, in writing or by phone call, where necessary that such an allegation has been made as well as the nature of the allegation.

- e. But where it is determined that the matter warrants investigation, and it is a criminal offense, it will appropriately be forwarded to the Liberia National Police (LNP) for possible investigation and prosecution.

9.3 Investigating a complaint of Misconduct

- a. A copy of the written allegation of misconduct, together with all other documentation in support of the allegation, shall be served on the subject member, member firm, or RPA not less than seven days from the determination to proceed with investigation.
- b. The Ethics and Discipline Committee or an ad hoc Committee when conducting the investigation may interview witnesses as it deems fit for the purposes of the investigation or may call any witnesses to make a statement and provide exhibits to substantiate the allegation or otherwise.
- c. Where in the course of or as a result of the investigation a possible criminal misconduct arises, the Ethics and Discipline Committee or an ad hoc Committee shall notify the President of LICPA, who shall cause the matter to be referred to the Liberia National Police Crime Services Department for criminal investigation and possible prosecution.
- d. Where an allegation has been referred to the Crime Services Department, the disciplinary proceedings shall continue unless they are suspended by a court of law.

9.4 Interdiction

Where disciplinary proceedings are being or are about to be taken, or if criminal proceedings are being instituted against a member and member firm or RPA, the Council may, if it considers that the interests of the LICPA requires that member and member firm or RPA concerned should immediately cease to provide accounting services or prohibit the member and member firm or RPA by temporarily suspending said member's and member firm's or RPA's license to practice and only restored after being legally exonerated.

9.5 Rights of an Accused Member and Member Firm or RPA

- a. The disciplinary proceedings or criminal investigation and prosecution, does not impede the right of an accused of misconduct to institute civil action against the accuser or the LICPA.
- b. An accused member and member firm or RPA shall be given ten working days and facilities where applicable for the preparation of his/her/its defense.
- c. The accused member and member firm or RPA is entitled to respond to the allegation of misconduct by himself/herself/itself or through a representative/lawyer and may submit such evidence as may be required to substantiate his/her/its response to the allegation of misconduct within ten working days.
- d. The accused member and member firm or RPA may in writing request an extension of time within which to submit a statement in explanation of the alleged misconduct. The Ethics and Discipline Committee conducting investigation, if satisfied that the request is reasonable, may grant such extension and shall not proceed to investigate the allegation of misconduct until the expiration of the period of such extension.
- e. Where disciplinary proceedings have been conducted against an accused member, member firm or RPA, said member, member firm or RPA shall not subsequently undergo any disciplinary proceedings arising out of substantially the same facts.
- f. The accused member, member firm or RPA shall not be compelled to make a statement and provide exhibits in any proceedings against himself/herself/itself; but shall be entitled to make a statement and provide exhibits on his/her/its own behalf.
- g. An accused member and member firm or RPA shall be allowed to call any witnesses to make a statement and provide exhibits on his or her behalf.

- h. An accused member and member firm or RPA against whom disciplinary proceedings have been instituted shall be entitled to be represented by Counsel of his/her/its choice or by himself/herself/itself.

10 Disciplinary Decision

10.1 Findings

The Ethics and Discipline Committee or an ad hoc Committee conducting the investigation shall provide a full written report of the entire case, including the allegation of misconduct, the evidence, the findings, and their recommendations to the President for onward transmission to the Governing Council.

10.2 Recommendations

The Ethics and Discipline Committee or an ad hoc Committee conducting the investigation shall, based on the findings, make recommendations to the President on what sanction/punishment, if any, shall be imposed on the accused member and member firm or RPA.

10.3 Action by the Governing Council

- a. The Council may, upon receipt of the report and recommendations of the Ethics and Discipline Committee or an ad hoc Committee from the President of LICPA, the Governing Council may, by the standard of clear and convincing evidence:
 - i. Endorse the recommendations;
 - ii. Refer the case back to the Ethics and Discipline Committee or an ad hoc Committee conducting the investigation with specific queries to be answered;
 - iii. Vary the recommendations and provide written reasons for the variation; or
 - iv. Reject and substitute the recommendations and provide written reasons for the variation.

10.4 Publication of the Report and the Actions

- a. The Ethics and Discipline Committee or an ad hoc Committee shall, within seven days after the decision of the Governing Council, communicate in writing the decision to the person/institution who made the allegation of misconduct and to member and member firm or RPA.
- b. The Ethics and Discipline Committee or an ad hoc Committee shall publish in writing the decision of the Governing Council within one month of the decision, excluding portions deemed /considered confidential by the Council.

11 Sanctions

- 11.1 The sanctions that may be imposed on a member and member firm or RPA following disciplinary proceedings shall include:
 - a. One or more official warning letters to the culprit with or without limitations imposed;
 - b. Mandatory attendance and active participation in one or more remedial programs designed to help all persons concerned to each improve performance as a public accountant or firm of public accountants; or otherwise participate in appropriate Continuing Professional Development (CPD) programs, with or without limitation imposed;
 - c. A limitation order under which the violator is barred from providing one or more specified types of professional services to any new client(s) unless and until the defect, deficiency and/or inadequacy identified in the QAR report has been cured based on a follow up review or otherwise to the satisfaction of the Governing Council;
 - d. Suspension of the practice license of a violator [member, member firm or Registered Practicing Accountant (RPA) for a specified period or indefinitely, as the Governing Council may deem fit under specified conditions;

- e. Withdrawal of the practicing certificate of a violator;
- f. Declassification as a Certified Public Accountant or Member Firm of Certified Public Accountants, as applicable; or as a Registered Practicing Accountant;
- g. Dishonorable dismissal from the Institute and being struck off the records of the Institute;
- h. Fines and/or any other sanction(s) or combination of fine(s) and other forms(s) of sanction(s) as the Governing Council shall deem fit under the circumstance; and
- i. Any other action duly approved by the Governing Council

12 Appeal

12.1 Right of Appeal

A member and member firm or RPA against whom adverse findings are made or in respect of whom disciplinary action has been taken has the right to appeal the finding or decision.

12.2 Appellate Procedures

- a. A member and member firm or RPA against whom an adverse finding has been made in an investigation shall first seek a review of the findings with the President.
- b. Said review by the President shall be conducted within ten working days from the date first submitted for review.
- c. An appeal from a decision of the President shall lie to the Governing Council.
- d. An appeal shall not be entertained unless it is submitted within six weeks after the date on which the decision appealed from was communicated to the person making the appeal.

- e. The appeal shall be in writing, addressed to the Governing Council, setting out all the points of law or of fact that the appellant considers were not applied, wrongfully appreciated, or wrongfully applied and attaching any evidence in support of the appeal.
- f. Upon receipt of an appeal, the Governing Council shall constitute a five persons board called the Appeal Board and refer the appeal to the said Board, which shall determine the matter by way of a hearing.
- g. The Board shall include the Chairperson and one person from the Ethics and Discipline Committee; the Executive Director of LICPA who shall serve as secretary; and two other persons who are members of LICPA.
- h. The Board is entitled to request for a response from the committee or person from whose findings and decision the appeal arises or request the production of any record, document, or evidence in that person's possession.
- i. An appellant is entitled to be represented by counsel or other representative of his/her/its choice.
- j. Each and every appellate process shall not exceed three months from the time an appeal is received.

12.3 Appellate Decision

- a. After considering an appeal and any other documentation that may be requested from the person from whose decision the appeal emanates, the appellate Board shall submit its advice to the Governing Council and the advice may:
 - i. Annul the proceedings;
 - ii. Refer the proceedings back to the body below for such further investigation and report as the appellate body may direct;
 - iii. Substitute a finding of its own and reduce, cancel, increase or alter

- a penalty; or
- iv. Uphold a penalty.

b. The Appeal Board shall provide full reasons in writing in support of its advice to the Governing Council and the Council shall act in accordance with the advice.

c. Where the proceedings are annulled, it shall be as if the proceedings were never commenced against a member and member firm or RPA.

13 Right of Resort to the Courts of Law

- a. At any stage before, during or after the proceedings, a member and member firm or RPA may bring a civil action in Court for any appropriate relief.
- b. Unless otherwise ordered by the Court, the civil case may not serve as a stay of investigation or other proceedings.

14. Transitional Provisions

14.1 All misconduct occurring before the coming into force of these Regulations may proceed and be concluded under these Regulations.

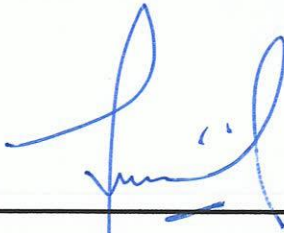
14.2 All misconduct occurring after the coming into force of these Regulations shall be processed only under these Regulations.

THE LIBERIAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS (LICPA) SANCTIONS REGULATIONS OF 2020.

NOW THEREFORE, PRESENTED TO THE PRESIDENT OF THE LIBERIAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS AND CHAIRPERSON OF THE GOVERNING COUNCIL FOR APPROVAL.

APPROVED THIS: 18th DAY OF November A.D. 2020

AT THE HOUR OF 12:11 PM



THE PRESIDENT AND CHAIRPERSON OF THE GOVERNING COUNCIL OF THE LIBERIAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS (LICPA)