

# **Michigan Compiled Laws and Federal Law: Addressing Police and Certified Public Accountant Misconduct**

## **I. Introduction**

The maintenance of public trust in professionals vested with significant authority and responsibility is paramount to a well-functioning society. Law enforcement officers, entrusted with coercive state power, and Certified Public Accountants (CPAs), holding fiduciary responsibilities and access to sensitive financial information, occupy positions where misconduct can have profound and damaging consequences. Such misconduct can range from violations of fundamental civil rights and abuse of power by police to fraud, negligence, and ethical breaches by CPAs, leading to financial ruin and erosion of confidence in financial markets.

This report provides a detailed analysis of the legal frameworks established under Michigan Compiled Laws (MCL) and federal statutes to address misconduct by both police officers and CPAs. The examination herein is strictly confined to the information available within the provided research materials. The aim is to elucidate the definitions of misconduct, the mechanisms for oversight and discipline, the procedural safeguards, and the crucial role of due process rights afforded to individuals within these contexts. While seemingly disparate, the focus on these two professions highlights a common societal imperative for high ethical standards and robust accountability mechanisms for those in positions of significant public trust. The legal responses, though tailored to the distinct nature of each profession's duties, often share foundational principles concerning due process, the necessity of clear conduct standards, and the importance of effective oversight.

The subsequent sections will delve into the specific legal landscapes governing police misconduct, followed by an analysis of the regulations pertaining to CPA misconduct. A further section will address the framework for Child Protective Services (CPS) misconduct, a distinct but related area of public accountability for which substantial information was available. Each area will explore relevant Michigan statutes, federal laws, the roles of pertinent oversight bodies, and the due process considerations inherent in investigative and disciplinary proceedings.

## **II. Police Misconduct: Legal Framework and Due Process**

### **A. Michigan Law (MCL) and State-Level Oversight**

#### **1. Statutory Definitions and Prohibitions of Police Misconduct under MCL**

Michigan law addresses the issue of police misconduct through a combination of specific statutory provisions and broader common law principles, reflecting a multi-layered approach to ensuring accountability. The Michigan Legislature website serves as the primary portal for

accessing the Michigan Compiled Laws (MCL), which constitute the general statutory framework of the state. Understanding the hierarchy of Michigan law—which flows from the Constitution, through statutes, administrative regulations, and finally to case law—is essential for a comprehensive interpretation of these provisions.

One explicit statutory provision is MCL 257.750, which directly addresses certain behaviors by police officers related to traffic enforcement. This statute prohibits requiring officers to issue a predetermined or specified number of citations and also forbids officers from receiving any fees for issuing a citation. A violation of these provisions is expressly defined as "misconduct in office," carrying the potential penalty of removal from office. The specificity of MCL 257.750 suggests these particular actions were areas of significant concern, warranting direct legislative intervention to curb potential abuses related to revenue generation or performance metrics based on citation quotas.

Beyond such specific prohibitions, Michigan law also recognizes the common law offense of "misconduct in office." This broader offense is applicable to "public officers," a category that includes deputy sheriffs as established by the Michigan Supreme Court in *People v. Coutu*, 459 Mich. 348 (1999), and by logical extension, would likely encompass police officers who meet the defined criteria. The *Coutu* decision outlined five elements for determining if an individual holds a public office: (1) the position must be created by the constitution, legislature, or a municipality under legislative authority; (2) it must possess a delegation of sovereign governmental power for public benefit; (3) its powers and duties must be defined by or through legislative authority; (4) duties must be performed independently, unless it's a subordinate office under superior control; and (5) the position must have permanency and continuity. If police officers consistently satisfy these criteria, the common law offense of misconduct in office becomes a significant instrument for addressing a wide array of wrongful actions.

This common law offense, punishable as a felony under MCL 750.505 if no other statutory provision expressly provides punishment, covers acts of malfeasance (a wrongful act), misfeasance (a lawful act performed wrongfully), and nonfeasance (failure to perform a required duty), provided there is evidence of corrupt intent. The existence of MCL 750.505 allows the legal system to address evolving forms of misconduct that may not be explicitly detailed in specific statutes, providing a flexible tool for accountability.

**Table 1: Key Michigan Compiled Laws (MCL) for Police Misconduct**

MCL Section	Brief Description of Provision	Relevance to Police Misconduct	Snippet Source
MCL 257.750	Prohibits requiring predetermined citation quotas; prohibits fees for citations; violation is misconduct in office.	Directly defines specific police actions related to traffic enforcement as misconduct, subject to removal from office.	
MCL 750.505	Penalizes common law indictable offenses not otherwise codified (e.g., misconduct in office by a public officer).	Provides a felony charge for broader common law police misconduct, including malfeasance, misfeasance, or nonfeasance committed with corrupt intent by a public	

MCL Section	Brief Description of Provision	Relevance to Police Misconduct	Snippet Source
		officer.	
MCL 750.81d	Criminalizes assaulting, battering, wounding, resisting, obstructing, opposing, or endangering an individual known to be performing official duties.	While primarily protective of officers, its definition of "obstruct" (including knowing failure to comply with a lawful command) is relevant to assessing the lawfulness of police conduct.	
MCL 780.951	Self-Defense Act; creates a rebuttable presumption of honest and reasonable belief of imminent danger for individuals using force in certain circumstances.	Critically, this presumption <i>does not apply</i> if the person against whom force is used is a peace officer performing official duties in accordance with applicable law.	
MCL 750.479c	Prohibits individuals from knowingly making false statements or concealing material facts from a peace officer during a criminal investigation.	Establishes offenses for citizens interacting with police; contextual for understanding police investigative powers and potential for abuse if police misrepresent investigations.	
MCL 750.411a	Prohibits individuals from intentionally making a false report of the commission of a crime to a peace officer or police agency.	Relates to the integrity of information police act upon; misuse by officers (e.g., coercing false reports) would constitute misconduct.	
MCL 42.12	Authorizes charter township boards to establish police forces and prescribe powers and duties for the preservation of quiet and order.	Provides foundational authority for local police forces and their governance.	
MCL 257.749	Referenced in MCL 257.750 as a related section whose violation by certain officials constitutes misconduct	Linked to misconduct in office under MCL 257.750.	

MCL Section	Brief Description of Provision	Relevance to Police Misconduct	Snippet Source
	in office. (Content of 257.749 not in snippets).		

This table provides a quick reference to primary Michigan statutes that directly or indirectly define or relate to police misconduct, centralizing key legal provisions for easier comprehension of the statutory landscape.

## 2. Michigan Commission on Law Enforcement Standards (MCOLES)

The Michigan Commission on Law Enforcement Standards (MCOLES) plays a crucial role in the regulation of law enforcement officers within the state. Established by Public Act 203 of 1965 (MCL 28.601 et seq.), MCOLES is statutorily mandated to prepare and publish mandatory minimum standards for the recruitment, selection, and training of entry-level law enforcement officers. Its authority extends to establishing standards and procedures for the licensing of these officers.

MCOLES possesses investigative and enforcement authority and is empowered to promulgate administrative rules, which are codified in the Michigan Administrative Code, specifically at R 28.14101 et seq.. These administrative rules, particularly Part 6 (Investigations and Revocations) and Part 7 (Contested Case Hearings), delineate the procedures for investigating alleged violations by licensed officers. Notably, these rules address specific, severe post-licensing issues such as felony convictions (R 28.14604) and instances of fraud or material false statements made to obtain licensure (R 28.14605). Such violations can trigger summary suspension of an officer's license and initiate proceedings for license revocation. The MCOLES rules incorporate due process elements, including providing officers with notice of allegations and an opportunity to show compliance or request a contested case hearing conducted under the Administrative Procedures Act of 1969.

The primary statutory emphasis of MCOLES appears to be on setting standards for individuals entering the law enforcement profession and the initial licensing process. While its disciplinary authority is clear for specific, egregious post-licensing events like felony convictions or fraudulent licensure, its direct power to discipline for a broader spectrum of on-the-job misconduct (e.g., excessive force not resulting in a felony, patterns of unprofessional behavior) may be less explicitly defined in its enabling statute. Such matters might rely more on the interpretation of "good moral character" requirements or other rule-based standards, or be primarily addressed through local agency disciplinary processes. The effectiveness of MCOLES in ensuring ongoing officer accountability may, therefore, hinge significantly on the comprehensiveness of its administrative rules and its proactive stance in investigating and acting upon complaints that fall outside the narrow categories of felony convictions or licensure fraud.

Recent legislative proposals, such as Senate Bills 1097-1098 and 1099 (part of a larger package discussed later), aim to bolster MCOLES's role by granting it clearer authority to revoke licenses for excessive force and to manage officer separation records more effectively. This legislative interest suggests a potential recognition of existing gaps or limitations in MCOLES's current authority or practices concerning ongoing officer conduct. If MCOLES's primary disciplinary triggers remain relatively narrow, the responsibility for addressing most forms of police misconduct may continue to fall predominantly on individual police departments'

internal affairs mechanisms and local civilian oversight structures, with MCOLES serving as a final arbiter for license revocation in the most severe cases.

### 3. Specific Areas of Police Conduct under MCL

Michigan law addresses several specific areas of police conduct, particularly concerning use of force and the integrity of arrests, though the statutory framework sometimes appears to focus more on penalizing citizen actions against officers than on directly criminalizing officer misconduct beyond the general common law offense.

**Use of Force:** The Michigan Self-Defense Act (MCL 780.951) establishes a rebuttable presumption that an individual using deadly or other force under specified circumstances (e.g., during a breaking and entering) has an honest and reasonable belief of imminent death, sexual assault, or great bodily harm. Crucially, this presumption *does not apply* if the individual against whom force is used is a peace officer who has entered or is attempting to enter a dwelling, business premises, or vehicle in the performance of his or her official duties *in accordance with applicable law*. This provision is vital in assessing the legality of force used by citizens in encounters with police, hinging on the lawfulness of the officer's actions.

Conversely, MCL 750.81d criminalizes actions such as assaulting, battering, wounding, resisting, obstructing, opposing, or endangering a person whom the individual knows or has reason to know is performing their official duties, which includes various categories of law enforcement officers. The term "obstruct" is defined to include the use or threatened use of physical interference or force, or a knowing failure to comply with a *lawful command*. The lawfulness of the officer's command or conduct is therefore a pivotal element in determining whether a citizen's actions constitute a violation of this statute.

Recognizing a potential need for more explicit statewide standards, proposed legislation (Senate Bill 1091) seeks to mandate that all police agencies create use of force policies. These policies would be required to state that officers may only use physical force that is "objectively reasonable," incorporate standards for and alternatives to physical force including de-escalation techniques, and classify chokeholds as "deadly force". This legislative effort indicates a movement towards codifying stricter and more uniform use-of-force standards across Michigan.

**False Arrest/Wrongful Imprisonment:** The provided legal materials do not detail a specific Michigan Compiled Law that explicitly criminalizes "false arrest" or "wrongful imprisonment" committed by a police officer as a standalone offense, distinct from the common law offense of misconduct in office or federal civil rights violations. However, the Fourth Amendment to the U.S. Constitution provides the primary federal protection against such actions, and false arrest can serve as the basis for a civil lawsuit against officers and their departments.

While direct criminal statutes for officer-initiated false arrest are not prominent in the snippets, Michigan law does criminalize citizen actions that undermine the integrity of police investigations. For instance, MCL 750.479c makes it an offense for a person to knowingly and willfully conceal material facts or make false or misleading statements to a peace officer conducting a criminal investigation. Similarly, MCL 750.411a prohibits individuals from intentionally making a false report of the commission of a crime to police. These statutes underscore the legal expectation of truthfulness in interactions with law enforcement. If an officer were to subvert these principles by, for example, fabricating evidence to support an arrest or coercing a false report, such actions would constitute severe misconduct, potentially prosecutable under the common law offense of misconduct in office or as a federal civil rights violation.

The balance in Michigan law between protecting officers in the performance of their duties and

ensuring citizen rights means that the interpretation of terms like "lawful command" (MCL 750.81d) and "performing official duties in accordance with applicable law" (MCL 780.951) is critical. If an officer's command is unlawful, or if their actions (such as an unlawful stop or the use of excessive force) are not in accordance with the law, then a citizen's response might be viewed differently, and the officer's conduct itself becomes the central issue of misconduct. The proposed legislative reforms concerning use-of-force policies reflect a recognition that existing laws or their application may be insufficient, prompting calls for more explicit and stringent state-level requirements.

#### 4. Citizen Complaints and Internal Affairs Processes in Michigan

Michigan features a varied landscape for addressing citizen complaints against law enforcement, with mechanisms ranging from internal police department processes to independent civilian oversight bodies, depending on the municipality. There does not appear to be a single, uniform statewide citizen complaint system for all types of grievances, beyond MCOLES's specific jurisdiction over officer licensing standards.

Victims of police misconduct, such as excessive force, have the option to file complaints directly with the relevant police department's Internal Affairs Division or with independent oversight committees where they exist. Several Michigan cities have established such bodies:

- The **Detroit Board of Police Commissioners (BOPC)** possesses Charter-mandated supervisory control and oversight of the Detroit Police Department. Its Office of the Chief Investigator (OCI), led by a civilian, is tasked with investigating non-criminal complaints concerning the department and its personnel. The OCI reports findings and patterns of misconduct to the BOPC.
- The **Ann Arbor Independent Community Police Oversight Commission (ICPOC)** was established to build mutual trust between the community and law enforcement and provides a channel for filing complaints about the Ann Arbor Police Department.
- The **Lansing Police Department** utilizes an Office of Internal Affairs (OIA) to investigate alleged violations and civilian complaints. Additionally, Lansing has an Independent Civilian Investigator who works for the Police Commission to monitor and process citizen complaints.
- The **Farmington Hills Police Department** details a process whereby all complaints, regardless of significance or anonymity, are investigated by a Command Officer, with final review and determination by the Chief of Police. This department also informs citizens of their right to report misconduct to external agencies, including the Michigan Department of Civil Rights (MDCR), the Oakland County Prosecutor's Office, the Federal Bureau of Investigation (FBI), the Michigan Department of Attorney General, and the U.S. Attorney's Office.

A common feature across several of these local systems is the ability for complainants to file anonymously. The OCI in Detroit, for example, outlines a process where complaints are investigated, and findings are categorized as sustained, not sustained, exonerated, or unfounded, with the complainant being notified of the outcome.

This localized approach to handling citizen complaints, while providing avenues for redress, may lead to inconsistencies in investigation thoroughness, transparency, and outcomes across different jurisdictions within Michigan. The effectiveness of these various oversight bodies likely correlates with their degree of independence from the police departments they oversee, the resources allocated to them, and the actual scope of their investigatory and disciplinary powers. For instance, a body with "Charter-mandated supervisory control" like the Detroit BOPC may

wield more direct authority than a purely advisory commission. The existence of multiple complaint pathways (internal departmental processes, local civilian bodies, state agencies like MDCR, and federal agencies) offers citizens choices but could also create confusion or lead to forum shopping. Ultimately, the impact of these complaint mechanisms on officer accountability depends on the impartiality, rigor, and transparency of the investigations conducted by these varied entities.

## **5. Proposed Legislative Reforms in Michigan (e.g., SB 1091-1101, HB 6112-6121)**

In a significant bipartisan effort to enhance public safety and bolster community trust in law enforcement, a comprehensive package of legislation was introduced in the Michigan Legislature. This package, comprising Senate Bills 1091–1101 and House Bills 6112–6121, aimed to address various facets of police conduct and accountability. Although these bills did not pass into law during the 2024 legislative session, there is an anticipation that they will be revisited in future sessions, reflecting sustained interest in police reform.

The proposed reforms cover a wide spectrum of issues, indicating a systemic approach to improving police practices and oversight. Key provisions within this legislative package include:

- **Use of Force Policies:** Mandating that all law enforcement agencies create use of force policies that require officers to use only "objectively reasonable" force. These policies would also have to include standards for and alternatives to physical force, such as de-escalation techniques, and would classify chokeholds as "deadly force" (SB 1091 / HB 6117).
- **Training Requirements:** Requiring law enforcement officers to receive training, vetted by behavioral health experts, in de-escalation techniques, implicit bias recognition, procedural justice, and crisis response (SB 1092).
- **Duty to Intervene:** Mandating that all law enforcement agencies adopt a duty to intervene policy, directing officers to intervene when observing another officer using excessive force and to report such incidents to their immediate supervisor (SB 1093 / HB 6119).
- **Body Camera Integrity:** Implementing measures to penalize body camera tampering, allowing digital images or video/audio recordings from body-worn cameras to be considered "tampering with evidence." The legislation would also prohibit an officer from intentionally failing to activate a camera to interfere with an investigation (SBs 1095–1096 / HBs 6113–6114).
- **MCOLES Authority and Officer Licensing:** Strengthening the authority of the Michigan Commission on Law Enforcement Standards (MCOLES) concerning officer separation records. This includes requiring separation records to detail any disciplinary process or investigation against an officer and giving MCOLES the authority to create provisional separation of service records. Furthermore, the bills aim to ensure MCOLES revokes an officer's license if they used excessive force resulting in death or serious bodily injury and to guarantee consistency in background checks prior to licensure (SBs 1097–1098, SB 1099 / HBs 6115–6116, HB 6112).
- **Officer Statements in Internal Investigations:** Limiting the protection afforded to compulsory statements made by police officers during internal investigations of wrongdoing, ensuring such protection applies only to truthful statements (SB 1100 / HB 6120).
- **Complainant Anonymity:** Prohibiting the disclosure of information in a misconduct complaint against an officer that personally identifies the individual who filed the

complaint, unless there is a court order or the complainant gives permission for their identity to be revealed (SB 1101 / HB 6121).

Public opinion polls in Michigan have indicated strong support for many of these proposed reforms. The introduction of such a broad suite of bills suggests a legislative acknowledgment that isolated changes may be insufficient and that a more holistic approach is necessary to address public concerns about police misconduct and accountability. The impetus for these bills likely arises from a combination of public demand and specific incidents of police misconduct, both locally and nationally, that have highlighted perceived deficiencies in existing laws and practices. The failure of the package to pass in 2024 points to potential political or practical challenges, but the stated intent to pursue these reforms signifies ongoing pressure for legislative action. If enacted, this legislative package could substantially reshape the landscape of police accountability in Michigan by establishing clear statewide standards, enhancing the regulatory power of MCOLES, and increasing transparency in police operations.

## **6. Relevant Michigan Case Law**

Michigan courts have issued several rulings pertinent to police conduct, officer accountability, and the rights of individuals during interactions with law enforcement. These decisions help to interpret statutory and constitutional provisions and shape the boundaries of permissible police action.

In *People v. Lucynski*, the Michigan Supreme Court (with orders in 2022 and 2024) addressed a significant Fourth Amendment issue arising from a traffic stop. The deputy involved had based the stop on an unreasonable mistake of law concerning MCL 257.676b(1). The Court unequivocally held that a seizure predicated on an officer's unreasonable interpretation of the law warrants the application of the exclusionary rule, emphasizing that the Fourth Amendment does not excuse unreasonable mistakes of law, whether of fact or law. This ruling underscores the responsibility of officers to have an accurate understanding of the laws they enforce and acts as an incentive for proper training, as evidence obtained from stops based on such unreasonable legal interpretations may be suppressed.

The Sixth Circuit Court of Appeals, in a case with Michigan and federal law implications, *Salter v. City of Detroit, Mich., et al.* (2025), dealt with a claim of a *Brady* violation where a detective allegedly withheld exculpatory evidence. The court affirmed that police officers have a "Brady-derived" duty to disclose material exculpatory evidence to the prosecution. This decision reinforces the principle that the constitutional obligation to disclose favorable evidence to the accused extends to law enforcement personnel involved in investigations, meaning misconduct can encompass not only direct wrongful actions but also omissions that undermine the fairness of the judicial process.

As previously discussed, the Michigan Supreme Court's decision in *People v. Coutu* (1999) is foundational for understanding the common law offense of misconduct in office under MCL 750.505. The Court established that deputy sheriffs are "public officers" for the purposes of this offense and delineated the five essential elements for determining public officer status. This case provides the legal basis for holding a range of public officials, including potentially all police officers meeting the criteria, accountable for corrupt acts of malfeasance, misfeasance, or nonfeasance.

Together, these judicial pronouncements illustrate an increasing expectation for officer professionalism, a thorough knowledge of applicable laws, and adherence to constitutional mandates. They highlight that accountability extends not only to direct actions but also to the understanding and application of legal principles and the fulfillment of duties related to the fair



administration of justice.

## **B. Federal Law and Constitutional Protections**

Federal law, particularly the U.S. Constitution and specific civil rights statutes, provides a crucial layer of protection against police misconduct, establishing minimum standards for officer conduct and offering avenues for redress when these standards are violated.

### **1. Constitutional Rights Implicated by Police Misconduct (Fourth, Fourteenth, First Amendments)**

Several amendments to the U.S. Constitution are frequently implicated in cases of police misconduct, forming the bedrock for legal challenges:

- The **Fourth Amendment** safeguards individuals against "unreasonable searches and seizures". This protection is central to claims involving unlawful stops, detentions, searches, arrests without probable cause, and the use of excessive force during an arrest or other seizure. Generally, searches and seizures require a warrant based on probable cause, although various exceptions to this requirement have been recognized by the courts.
- The **Fourteenth Amendment** guarantees "due process of law" and "equal protection of the laws" to all persons. It is pertinent in cases alleging racial profiling or other forms of discrimination, deprivations of life, liberty, or property without due process, and malicious prosecution. Violations of the *Brady* rule, which requires disclosure of exculpatory evidence, also implicate the due process clause.
- The **First Amendment** protects fundamental freedoms including speech, the press, assembly, and the right to petition the government. It also encompasses the right to record police officers in the public performance of their duties. Attempts by officers to suppress these rights, or to retaliate against individuals for exercising them (provided the expression is not threatening or obstructive), can constitute police misconduct.

These constitutional provisions establish a foundational set of rights that police actions must not infringe. They serve as a primary basis for challenging misconduct, particularly when state laws or remedies may be less robust or unavailable. The interpretation of these rights by federal courts, especially the U.S. Supreme Court, continuously shapes the permissible boundaries of police conduct nationwide, including within Michigan.

### **2. Federal Civil Rights Liability: 42 U.S.C. § 1983**

A cornerstone of federal litigation against police misconduct is 42 U.S.C. § 1983. This statute provides a civil cause of action for individuals who have been deprived of their constitutional or federal statutory rights by persons acting "under color of state law". Originally enacted as part of the Ku Klux Klan Act of 1871, its historical purpose was to enforce the provisions of the Fourteenth Amendment and to provide a federal remedy for abuses of official power, particularly those targeting African Americans in the post-Civil War South.

To successfully state a claim under § 1983, a plaintiff must establish two essential elements: (1) that the conduct complained of was committed by a person acting under color of state law (which includes local police officers performing their official duties); and (2) that this conduct deprived the plaintiff of rights, privileges, or immunities secured by the Constitution or laws of the United States.

The primary purposes of § 1983 are twofold: to provide compensation to victims whose constitutional rights have been violated and to deter future misconduct by state and local officials. Remedies available under § 1983 can include monetary damages for the harm suffered by the plaintiff, as well as injunctive relief. Injunctive relief might take the form of a court order requiring a police department to change its policies, implement new training programs, or take other corrective actions to prevent similar harms from occurring in the future.

Despite its critical role as a tool for seeking redress, the practical effectiveness of § 1983 in deterring police brutality and other forms of misconduct has been a subject of considerable debate and critique. Academic analyses have pointed to numerous drawbacks and difficulties in successfully bringing and winning § 1983 lawsuits. Even when such suits are successful, their deterrent effect on broader police practices may be limited unless they result in extensive media coverage, impose a substantial financial burden on the municipality, or both. The "endless cycle of abuse" described in some critiques suggests that individual lawsuits, while important for the plaintiffs involved, may not always lead to systemic changes in police departments or a significant reduction in misconduct.

The challenges associated with § 1983 litigation, such as the doctrine of qualified immunity (which can shield officers from liability even if they violated someone's rights, if those rights were not "clearly established" at the time), contribute to these limitations. These difficulties may, in turn, fuel calls for legislative reforms at both state and federal levels, as well as advocacy for stronger internal disciplinary mechanisms and more robust civilian oversight of law enforcement. The perceived shortcomings of § 1983 as a comprehensive solution underscore the necessity of a multi-faceted approach to police accountability, one that relies not solely on post-incident litigation but also on proactive measures like improved training, clear policies, effective internal and external oversight, and strong state laws.

### 3. Federal Preemption Issues in the Context of Police Regulation

The principle of federal preemption, rooted in the Supremacy Clause of the U.S. Constitution (Article VI, Clause 2), dictates that federal law is "the supreme Law of the Land" and can supersede conflicting state laws. Preemption can occur in several ways:

- **Express Preemption:** This arises when a federal statute or regulation contains explicit language stating that it preempts state law in a particular area.
- **Implied Preemption:** This can take two primary forms:
  - **Field Preemption:** Occurs when the scheme of federal regulation is so pervasive that it implies Congress left no room for states to supplement it, or when there is a dominant federal interest in a particular field that precludes state regulation.
  - **Conflict Preemption:** Arises when it is impossible to comply simultaneously with both federal and state regulations (impossibility preemption), or when state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress (obstacle preemption).

In all preemption cases, the "ultimate touchstone" of the analysis is the intent of Congress. Courts often apply a "presumption against preemption," particularly when federal law might supersede states' historic police powers (which include the general authority to regulate for the health, safety, and welfare of their citizens, including the regulation of local police forces), unless preemption was the "clear and manifest purpose of Congress".

The provided research materials do not offer specific instances where federal law has been found to preempt Michigan state laws concerning police misconduct or regulation. Generally, while federal constitutional standards (such as those derived from the Fourth and Fourteenth

Amendments) establish a minimum baseline for police conduct across the nation, states retain significant authority to regulate their own law enforcement agencies. States can, and often do, enact laws and regulations that provide greater protections or impose stricter standards than federal minimums, as long as these state laws do not directly conflict with federal law or intrude upon a field exclusively occupied by federal regulation. The proposed police reform legislation in Michigan, for example, aims to establish specific state-level standards for use of force and training, which would operate in conjunction with, rather than in opposition to, federal constitutional requirements.

In the absence of widespread federal preemption in most areas of day-to-day police operational standards, training, and discipline, state-level reforms can be highly impactful. Federal law typically does not dictate specific training curricula, internal disciplinary matrices, or detailed operational procedures for state and local police departments. Thus, initiatives like those proposed in Michigan represent a critical avenue for enhancing police accountability and professionalism beyond the floor set by federal constitutional law and statutes like 42 U.S.C. § 1983.

**Table 2: Key Federal Laws & Constitutional Provisions for Police Misconduct**

Federal Law/Amendment	Brief Description	Relevance to Police Misconduct	Snippet Source
U.S. Constitution, Fourth Amendment	Protects individuals from unreasonable searches and seizures by government actors.	Forms the basis for claims of unlawful stops, detentions, false arrests, improper searches, and excessive force.	
U.S. Constitution, Fourteenth Amendment	Guarantees due process of law and equal protection of the laws; applicable to state actions.	Basis for claims of racial profiling, denial of due process in investigations or disciplinary actions, <i>Brady</i> violations.	
U.S. Constitution, First Amendment	Protects freedoms of speech, assembly, and the press, including the right to record police activities.	Basis for claims of retaliation by police for exercising these rights or suppression of such activities.	
42 U.S.C. § 1983	Provides a civil cause of action against state or local officials for violations of constitutional rights.	The primary federal statutory remedy used to sue police officers and departments for misconduct.	

This table delineates the foundational federal legal principles that govern police conduct and provide avenues for redress, complementing the MCL table by illustrating the federal layer of legal protection and accountability.

## C. Due Process in Police Investigations and Proceedings

Due process is a fundamental principle ensuring fair treatment and adherence to established

legal procedures, particularly when an individual's life, liberty, or property interests are at stake. This principle applies to police officers facing internal investigations or disciplinary actions, as well as to individuals subject to police investigations.

## **1. Michigan Constitutional Protections (Article I, § 17)**

Article I, Section 17 of the Michigan Constitution provides robust due process protections. It states: "No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed".

This provision is significant for several reasons. It enshrines the right against self-incrimination and the guarantee of due process in criminal cases. Crucially, the second sentence extends a right to "fair and just treatment" to all entities, including individuals like police officers, during "legislative and executive investigations and hearings". Police internal affairs investigations, disciplinary hearings conducted by police departments or local oversight bodies, and proceedings before MCOLES are all forms of executive investigations or hearings. Therefore, Article I, § 17 ensures that police officers subjected to such processes are entitled to fair and just treatment under the Michigan Constitution. This state-specific provision can offer a strong basis for challenging unfair investigative or disciplinary procedures at the state level, potentially providing protections that align with or even exceed federal due process minimums in certain administrative contexts.

## **2. Federal Due Process Standards**

The Fourteenth Amendment to the U.S. Constitution similarly guarantees that no state shall "deprive any person of life, liberty, or property, without due process of law". This federal guarantee ensures a baseline of fairness that all state-level police disciplinary processes must meet. Due process encompasses concepts such as adequate notice of charges or allegations, an opportunity to be heard and present a defense, the right to confront accusers (in certain contexts), and a decision made by an impartial adjudicator. These rights apply not only to individuals accused of crimes but also, to varying degrees, to individuals facing administrative sanctions that could affect significant liberty or property interests, such as a police officer's employment or professional license. The administrative rules governing MCOLES disciplinary actions, for example, explicitly reference compliance with the Administrative Procedures Act, which itself incorporates these fundamental due process principles.

## **3. *Brady v. Maryland* Obligations: Disclosure of Exculpatory and Impeachment Evidence by Police and Prosecutors**

The due process rights of an accused in a criminal proceeding include the right to access favorable evidence in the possession of the government. The landmark U.S. Supreme Court case, *Brady v. Maryland*, 373 U.S. 83 (1963), established that the suppression by the prosecution of the good or bad faith of the prosecution. This duty to disclose encompasses both exculpatory evidence (evidence that tends to show the defendant's innocence) and impeachment evidence (evidence that could undermine the credibility of a prosecution witness). Significantly, this disclosure obligation is not limited to prosecutors. As affirmed in cases like *Salter v. City of Detroit* and *Moldowan v. City of Warren*, police officers also have a

"Brady-derived" duty to turn over evidence with "apparent" exculpatory value to the prosecutor. This means that police misconduct can include not only direct actions but also the failure to disclose information that could be crucial to a fair trial. The Prosecuting Attorneys Association of Michigan (PAAM) has issued best practice recommendations urging prosecutors to coordinate closely with police agencies to ensure that all *Brady* and *Giglio* (impeachment) material is identified and disclosed. This includes potential impeachment evidence concerning law enforcement officers who may testify as witnesses, such as prior instances of misconduct that bear on their truthfulness or credibility.

The *Brady/Giglio* framework thus imposes a significant, affirmative duty on police officers. They must not only investigate crimes but also do so in a manner that identifies and preserves evidence favorable to a potential defendant. A failure in this duty can lead to wrongful convictions, subsequent exonerations, and substantial civil liability for the officers and their employing agencies. This framework implicitly makes police internal affairs records and officer disciplinary histories potentially discoverable in criminal cases if they contain material impeachment information regarding an officer-witness, thereby creating a powerful link between an officer's past conduct and their ongoing ability to function credibly within the justice system. This has profound implications for police transparency and accountability.

#### **4. Rights During Custodial Interrogations and Evidence Handling**

Due process protections are also critical during the investigative phase, particularly concerning custodial interrogations and the handling of evidence. Individuals subjected to custodial interrogation by police have well-established rights, including the right to remain silent and the right to have an attorney present during questioning.

Recognizing the potential for coercion and the importance of an accurate record, Michigan has enacted statutory safeguards. MCL §§ 763.7-763.11 mandate the audiovisual recording of the entirety of custodial interrogations conducted in a place of detention for individuals suspected of involvement in major felonies. While an unexcused failure to record does not automatically render a statement inadmissible, the statute provides that the jury "shall be instructed that it is the law of this state to record statements...and that the jury may consider the absence of a recording in evaluating the evidence relating to the individual's statement and in determining whether the statement was voluntarily made". This statutory requirement serves as a proactive measure to enhance the reliability of evidence obtained by police and to protect the rights of suspects, thereby potentially preventing certain forms of police misconduct related to coerced confessions or misrepresentations of suspect statements.

The proper handling of physical evidence, including maintaining a clear chain of custody, is also essential to due process and the integrity of the criminal justice system. Testimony offered to establish the chain of custody for a piece of evidence is subject to the Confrontation Clause of the Sixth Amendment. This means that if a defendant objects, the prosecution must present live testimony for crucial steps in the chain of custody; it cannot rely solely on affidavits or reports for contested links.

The fabrication of evidence by police officers, such as including false information in a probable cause affidavit to secure an arrest warrant or planting evidence, represents a severe form of police misconduct that directly violates an individual's civil rights and subverts the course of justice. Such actions can lead to the suppression of evidence, dismissal of charges, wrongful convictions, and significant civil liability. These procedural requirements for interrogations and evidence handling are integral to due process, and violations constitute serious forms of police

misconduct that undermine the legitimacy of the legal system.

### III. Certified Public Accountant (CPA) Misconduct: Legal Framework and Due Process

The regulation of Certified Public Accountants (CPAs) involves a complex interplay of state and federal laws designed to ensure professional competence, ethical conduct, and the protection of the public and financial markets. Misconduct by CPAs can range from negligence in performing professional services to outright fraud, with significant financial and reputational consequences.

#### A. Michigan Law (MCL) and State-Level Regulation

Michigan has established a comprehensive legal framework for addressing CPA misconduct, encompassing civil liability for malpractice and a robust system for professional licensing and discipline.

##### 1. Civil Liability for CPA Malpractice (MCL 600.2962)

Michigan Compiled Law § 600.2962 specifically governs civil actions for professional malpractice brought against CPAs. This statute carefully delineates the circumstances under which a CPA can be held liable for civil damages.

A CPA is liable for damages resulting from their negligent acts, omissions, decisions, or other conduct if the claimant is the CPA's direct client [(1)(a), ]. Liability for negligence to non-clients (third parties) is significantly restricted. A third party can only hold a CPA liable for negligence if the CPA was informed in writing, directly by the client and *before the commencement of the engagement*, that a primary intent of the client was for the professional public accounting services to benefit or influence that specific third party. Furthermore, the CPA must also have separately identified in writing, directly to the client and *before the engagement*, each person, generic group, or class description that the CPA intended to have rely on the services. Liability is then limited only to those specifically identified parties [(1)(c), ]. These stringent requirements for written, pre-engagement notifications create substantial hurdles for third parties seeking to sue CPAs for simple negligence, effectively establishing a near-privity standard.

In contrast to negligence, a CPA's liability for acts, omissions, decisions, or conduct that constitute fraud or an intentional misrepresentation is broader, extending to any person harmed by such conduct, regardless of client status [(1)(b), ].

MCL 600.2962 also explicitly enumerates situations where a CPA is *not* liable for civil damages. These include claims asserted by a non-client based on an assignment of the claim from the client (with limited exceptions for actions related to specific cemetery and prepaid funeral acts), or claims by a non-client based on a voluntary surrender of assets or acquisition of the claim through foreclosure or surrender under a security agreement between the claimant and the client [(2)(a), (2)(b), ]. Additionally, liability is precluded if a non-client's claim relies on the third-party notification provision (subsection (1)(c)) but the requisite writing was not properly signed by the client or an authorized representative of a client entity [(2)(c), ].

This statutory framework clearly aims to shield CPAs from unforeseen and widespread liability to third parties for mere negligence, while ensuring accountability for intentional wrongdoing like fraud. The limitations on third-party negligence claims likely influence the nature of malpractice lawsuits in Michigan, potentially compelling non-clients who cannot meet the strict notification

requirements of MCL 600.2962(1)(c) to allege fraud to have standing. While protective of CPAs, this could mean that some third parties who suffer financial loss due to CPA negligence, but not fraud, may find themselves with limited legal recourse if the specific pre-engagement documentation was not executed.

## 2. Michigan Occupational Code (MCL 339.720 et seq.)

The Michigan Occupational Code, particularly Article 7 (Public Accountancy, MCL 339.720 et seq.), provides the primary statutory basis for the licensure and regulation of CPAs in the state. Section 339.734 of this Code details numerous grounds upon which a CPA holding a certificate, registration, or license, or an individual exercising practice privileges in Michigan, can be subjected to disciplinary action by the Department of Licensing and Regulatory Affairs (LARA) and the Michigan Board of Accountancy. These grounds are comprehensive and extend beyond civil malpractice to encompass a wide range of professional and ethical failings:

- **Fraud or deceit** in obtaining a CPA certificate, registration, license, or practice privilege [(1)(a), ].
- **Dishonesty, fraud, or negligence** in the practice of public accounting [(1)(b), ]. This means that even unintentional lapses falling below professional standards (negligence) can result in licensing consequences.
- **Violation of a rule of professional conduct** promulgated under the article [(1)(c), ].
- **Departure from standards of professional practice** applicable at the time of the engagement [(1)(d), ].
- **Conviction of a felony** under state or federal law, or conviction of any crime (including misdemeanors) an element of which is dishonesty, fraud, or negligence. This explicitly includes the failure to file personal federal, state, or local income tax returns [(1)(e), ].
- **Cancellation, revocation, suspension, or refusal to renew authority to practice** as a CPA by another state or U.S. jurisdiction for a cause other than failure to pay fees [(1)(f), ].
- **Suspension or revocation of the right to practice public accounting** before a state or federal agency or a public accounting oversight board (such as the PCAOB) [(1)(g), ].
- **Conduct discreditable to the public accounting profession** [(1)(h), ].
- **Determination of mental incompetency** by a court of law [(1)(i), ].
- **Violation of any provision of Article 7 of the Occupational Code** or its promulgated rules [(1)(j), ].
- **Violation of professional standards** regarding the issuance of reports on financial statements, the provision of management advisory, financial advisory, or consulting services, the preparation of tax returns, or the furnishing of advice on tax matters [(1)(l), ].

Violations of these provisions can lead to penalties, including administrative fines payable to the department of not more than \$25,000 per violation [(2), ]. Furthermore, CPAs are under an affirmative duty to report to LARA, within 30 days, any final adverse determination, order, judgment, or conviction from an administrative agency or court involving dishonesty, fraud, or negligence [(3), ]. This self-reporting requirement, along with provisions for discipline based on actions in other jurisdictions, helps ensure LARA and the Board of Accountancy are aware of misconduct that might not otherwise be reported through direct complaints.

MCL 339.734a extends Michigan's regulatory reach by stipulating that individuals exercising practice privileges in Michigan based on an out-of-state license (and their firms) consent to the personal and subject matter jurisdiction and disciplinary authority of the Michigan board and department, and must comply with Michigan's act and rules.

The detailed list of prohibited conduct in MCL 339.734 serves as a clear set of standards for

CPAs and a robust basis for public protection, ensuring that licensed professionals maintain a high degree of integrity and competence.

### **3. Role of the Michigan Department of Licensing and Regulatory Affairs (LARA) and the Board of Accountancy**

The Michigan Department of Licensing and Regulatory Affairs (LARA), through its Bureau of Professional Licensing (BPL), and the Michigan Board of Accountancy are the primary state entities responsible for the oversight and regulation of the accounting profession in Michigan. They are tasked with ensuring that CPAs meet requisite standards of practice and adhere to ethical conduct.

The BPL is typically the body that initiates investigations into allegations of CPA misconduct. Complaints can be lodged by any member of the public, including clients, colleagues, or supervisors, and can often be filed online through LARA's systems. The disciplinary process generally follows several stages:

1. **Complaint and Investigation:** Upon receipt of a complaint, LARA reviews it to determine if a potential violation of the Occupational Code or administrative rules has occurred. If deemed credible, an investigation is launched, which may involve interviewing the complainant, the CPA, and other relevant witnesses, as well as collecting documents and other evidence. The CPA under investigation is typically given an opportunity to respond to the allegations. General LARA investigative procedures also apply.
2. **Resolution and Penalties:** If the investigation substantiates a violation, LARA may issue a formal administrative complaint against the licensee. At this point, the CPA has several options. They may choose to negotiate a settlement, often through a consent order or a compliance conference, which might involve admitting to certain facts and agreeing to sanctions. Such settlements must typically be approved by a disciplinary subcommittee of the Board of Accountancy. Alternatively, if no settlement is reached or desired, the CPA can request a formal contested case hearing. This hearing is conducted before an Administrative Law Judge (ALJ) from the Michigan Office of Administrative Hearings and Rules.
3. **Contested Case Hearing:** During the administrative hearing, both LARA (representing the state) and the CPA (or their legal counsel) have the opportunity to present evidence, call and cross-examine witnesses, and make legal arguments. The ALJ then prepares a Proposal for Decision, which includes findings of fact and conclusions of law, and recommends a disposition to the Board of Accountancy's disciplinary subcommittee.
4. **Final Decision and Appeal:** The disciplinary subcommittee of the Board of Accountancy makes the final decision regarding whether a violation occurred and, if so, the appropriate sanction. Sanctions can range from reprimands and fines to probation, limitations on practice, requirements for additional education, or, in more severe cases, suspension or revocation of the CPA's license. A CPA adversely affected by a final decision of the Board has the right to appeal that decision to the Michigan Court of Appeals.

The American Institute of CPAs (AICPA) Code of Professional Conduct serves as a foundational ethical standard for the profession. In Michigan, the Michigan Association of Certified Public Accountants (MICPA), a professional organization, also plays a role in ethics enforcement for its members. The MICPA has its own ethics complaint process and often coordinates investigations with the AICPA under the Joint Ethics Enforcement Program (JEEP). The MICPA typically recommends that complainants also file their grievances with the State Board of Accountancy, ensuring that the official state regulatory body is involved, particularly for matters that could lead



to licensing sanctions. This multi-layered approach, involving both state regulatory bodies and professional associations referencing national standards, aims to provide comprehensive oversight of CPA conduct. The availability of online complaint filing with both LARA and MICPA enhances public accessibility for reporting alleged misconduct.

4. Relevant Michigan Case Law

While the provided materials do not contain extensive Michigan case law specifically detailing CPA malpractice or disciplinary appeals, some general principles and illustrative instances can be noted.

The Michigan Supreme Court case *Charles Reinhart Co. v. Winiemko*, 444 Mich. 579 (1994), although addressing legal malpractice, establishes overarching principles applicable to professional malpractice actions in Michigan generally. The Court outlined the essential elements a plaintiff must prove: (1) the existence of a professional relationship (e.g., accountant-client); (2) negligence in the performance of professional duties; (3) that the negligence was a proximate cause of an injury; and (4) the fact and extent of the injury alleged. These elements would form the analogous framework for a CPA malpractice claim, with the specific duties and standards of care being those applicable to the accounting profession (e.g., Generally Accepted Accounting Principles (GAAP), Generally Accepted Auditing Standards (GAAS), and statutory duties like those in MCL 600.2962). The *Reinhart* decision also discussed the distinction between issues of law for the court and issues of fact for the jury in malpractice actions. In the context of CPA malpractice, determining whether a CPA complied with professional standards might involve factual inquiries, while the interpretation of those standards or the scope of legal duty (e.g., under MCL 600.2962) could be questions of law for judicial determination.

A more recent, albeit briefly summarized, Michigan business court opinion (C06-24-205489-CB, issued November 14, 2024) indicates ongoing litigation involving CPAs. In this case, plaintiffs alleged breach of fiduciary duties and conversion against CPAs (named Jenkins and McAuliffe) in connection with a shareholder dispute that involved a "Profit Center Accounting" methodology. While this snippet does not provide a ruling on the merits of the CPA misconduct allegations, it illustrates that CPAs can be embroiled in complex litigation concerning their professional conduct, adherence to agreements, and fiduciary responsibilities. The same opinion also touched upon due process in the context of court proceedings, affirming that parties had received adequate notice and an opportunity to be heard regarding arguments and submissions, thereby satisfying due process requirements for that particular procedural aspect of the case.

These examples suggest that Michigan courts apply general tort principles to professional malpractice claims against CPAs, supplemented by specific statutory provisions like MCL 600.2962, and that CPAs are subject to litigation concerning a range of professional duties.

Table 3: Key Michigan Laws & Regulations for CPA Misconduct

MCL Section/Rule	Brief Description	Relevance to CPA Misconduct	Snippet Source
MCL 600.2962	Governs civil liability for CPA professional malpractice; defines client and specific third-party liability for	Defines the statutory basis and limitations for suing CPAs for monetary damages due to malpractice.	

MCL Section/Rule	Brief Description	Relevance to CPA Misconduct	Snippet Source
	negligence; broader liability for fraud.		
MCL 339.734	Lists grounds for disciplinary action by LARA/Board of Accountancy (e.g., fraud, deceit, negligence, ethics violations, criminal convictions).	The primary Michigan statute authorizing state licensing sanctions against CPAs for a wide range of professional misconduct.	
MCL 339.734a	Subjects CPAs practicing in Michigan under privilege (e.g., based on an out-of-state license) to Michigan disciplinary authority and rules.	Extends Michigan's regulatory and disciplinary reach to non-resident CPAs serving Michigan clients or practicing in the state.	
AICPA Code of Professional Conduct	A comprehensive set of ethical principles and rules governing the conduct of CPAs.	Widely adopted and referenced by state boards, including Michigan's, forming the basis for many ethical violation charges.	
Michigan Board of Accountancy Administrative Rules	Specific rules promulgated by the Board detailing requirements for licensure, professional conduct, and disciplinary processes.	Provide detailed operational guidelines for CPA regulation in Michigan, supplementing the Occupational Code.	

This table consolidates the key Michigan statutory and regulatory provisions that specifically govern CPA conduct, liability, and discipline, providing a clear overview of the state-level framework.

## B. Federal Law and Regulatory Oversight

CPAs, particularly those involved in federal tax practice or the audit of publicly traded companies, are subject to significant federal laws and regulatory oversight in addition to state-level requirements.

### 1. IRS Regulations and Penalties for Tax Preparer Misconduct (IRC § 6694, § 6695, § 6700, § 6701, § 7206, § 7207)

The Internal Revenue Service (IRS) enforces a stringent set of rules and imposes various penalties on tax return preparers, including CPAs, for non-compliance with federal tax laws and

regulations. These measures are designed to protect the integrity of the federal tax system.

- **Internal Revenue Code (IRC) § 6694** imposes penalties for understatements of taxpayer liability due to unreasonable positions or willful or reckless conduct by the preparer.
- **IRC § 6695** levies penalties for a range of compliance failures, such as failing to furnish a copy of the tax return to the taxpayer, failing to sign the return as preparer, failing to furnish an identifying number, failing to retain a copy of the return, and improperly negotiating a taxpayer's refund check. These penalties are typically assessed on a per-failure basis, subject to annual maximums. For example, for returns filed in calendar year 2025, the penalty for certain failures is \$60 per instance, up to a maximum of \$31,500, while the penalty for improper negotiation of a check is \$635 per check.
- **IRC § 6700** targets individuals who organize or sell abusive tax shelters or arrangements. Penalties can be severe, including 50% of the gross income derived from the activity for making false statements about the tax benefits, or \$1,000 (or 100% of gross income, whichever is less) per activity for providing a gross valuation overstatement.
- **IRC § 6701** imposes penalties for aiding and abetting the understatement of tax liability.
- **IRC § 7206 (Fraud and False Statements)** makes it a felony for any person to willfully make and subscribe any return, statement, or other document which contains or is verified by a written declaration that it is made under the penalties of perjury, and which they do not believe to be true and correct as to every material matter. This applies directly to preparers who knowingly file false returns. Conviction can result in fines up to \$100,000 (\$500,000 for a corporation), imprisonment for not more than 3 years, or both, plus the costs of prosecution.
- **IRC § 7207 (Fraudulent Returns, Statements, or Other Documents)** makes it a misdemeanor to willfully deliver or disclose to the IRS any list, return, account, statement, or other document known by the preparer to be fraudulent or false as to any material matter. Penalties include fines up to \$10,000 (\$50,000 for a corporation), imprisonment for not more than 1 year, or both.
- The IRS also imposes penalties for the **unauthorized disclosure or use of tax return information** by preparers, which can be a misdemeanor with fines, imprisonment, and potential felony charges if connected to identity theft.

This robust system of civil penalties and criminal charges underscores the federal government's significant interest in ensuring the accuracy and honesty of tax filings. The threat of these IRS actions serves as a powerful deterrent against tax-related misconduct by CPAs, supplementing state-level disciplinary measures. CPAs engaged in tax practice therefore operate under a dual system of oversight: their state board of accountancy for general professional conduct and ethical standards, and the IRS for specific compliance with federal tax laws and regulations. Misconduct in the tax arena can trigger severe repercussions from both authorities.

## 2. Federal Tax Fraud (26 U.S.C. § 7206) and Implications for CPAs

Federal tax fraud, particularly as defined under 26 U.S.C. § 7206, carries grave implications for CPAs. This statute specifically targets individuals who knowingly and willfully make false statements or material omissions on tax documents filed under penalties of perjury. As a felony offense, a conviction under § 7206 can lead to substantial fines, imprisonment for up to three years, and the costs of prosecution.

Beyond these direct criminal penalties, a federal tax fraud conviction has profound and often automatic consequences for a CPA's professional standing. Involvement in tax fraud is a direct contravention of the fundamental ethical principles of the accounting profession, such as those

enshrined in the AICPA Code of Professional Conduct (e.g., integrity, objectivity, due care). State boards of accountancy, including Michigan's, have provisions in their occupational codes that mandate disciplinary action upon a licensee's conviction for a felony or any crime involving dishonesty, fraud, or negligence [(1)(e)]. Consequently, a conviction under 26 U.S.C. § 7206 typically triggers disciplinary proceedings by the CPA's state licensing board, which can result in sanctions ranging from censure or fines to the suspension or permanent revocation of the CPA license, effectively ending their ability to practice as a CPA. This direct linkage between federal criminal law and state professional licensing means that CPAs cannot view tax compliance solely as an IRS matter; it is inextricably tied to their professional license and reputation.

### 3. Sarbanes-Oxley Act (SOX) Compliance

The Sarbanes-Oxley Act of 2002 (SOX) was a landmark piece of federal legislation enacted in response to major corporate accounting scandals. Its primary purpose is to protect investors by improving the accuracy, reliability, and transparency of corporate financial disclosures made pursuant to securities laws. SOX fundamentally reshaped the regulatory environment for CPAs and accounting firms that audit publicly traded companies, imposing a significant federal oversight layer.

Key provisions of SOX relevant to CPA conduct and responsibilities include:

- **Auditor Independence:** SOX established stricter rules regarding auditor independence to prevent conflicts of interest that could compromise the integrity of audits. It prohibits registered public accounting firms from providing certain non-audit services contemporaneously with an audit to their audit clients. These prohibited services include bookkeeping, financial information systems design and implementation, appraisal or valuation services, actuarial services, internal audit outsourcing services, management functions, human resources, broker-dealer services, and legal services. The aim is to ensure that auditors maintain objectivity and are not auditing their own work or too closely aligned with management. SOX also requires disclosure of relationships that might impair independence, and an audit firm may need to withdraw if personal relationships develop that could obstruct objectivity.
- **Public Company Accounting Oversight Board (PCAOB):** A central feature of SOX was the creation of the PCAOB, a private-sector, non-profit corporation, to oversee the audits of public companies that are subject to the securities laws. The PCAOB's responsibilities include:
  - Registering public accounting firms that prepare audit reports for issuers.
  - Establishing or adopting auditing, quality control, ethics, independence, and other standards relating to the preparation of audit reports.
  - Conducting inspections of registered public accounting firms to assess compliance with SOX, PCAOB rules, SEC rules, and professional standards.
  - Conducting investigations and disciplinary proceedings and imposing appropriate sanctions (such as fines, censures, suspension or revocation of registration, or limitations on activities) for violations. Failure by an accounting firm or its associated persons to maintain fairness and accuracy in SOX audits, or to comply with PCAOB standards, can result in severe penalties, including the loss of the firm's registration or an individual's ability to participate in public company audits.
- **Internal Controls:** SOX Section 302 requires that the principal officers (typically CEO and CFO) of the reporting company certify the appropriateness of their financial statements and disclosures and the adequacy of internal controls. SOX Section 404 requires

management and the external auditor to report on the adequacy of the company's internal control over financial reporting (ICFR). CPAs auditing public companies must therefore not only audit the financial statements but also examine and provide an opinion on the effectiveness of ICFR.

- **CPA Responsibilities under SOX:** Auditors of public companies have numerous responsibilities under SOX and PCAOB standards, including conducting risk assessments, designing and performing tests of internal controls, maintaining thorough audit documentation, obtaining management representations, and issuing an audit report that complies with PCAOB standards. Auditors are also required to communicate significant findings, material corrected misstatements, unusual transactions, and any obstacles encountered during the audit to the company's management and audit committee.

The establishment of the PCAOB means that accounting firms auditing public companies are subject to an additional, rigorous layer of registration, inspection, and potential discipline, distinct from and often more specialized than that of state boards of accountancy, specifically for their public company audit practice.

#### **4. Federal Preemption and State CPA Licensing**

In the realm of professional licensing and regulation, the general principles of federal preemption apply: federal law can supersede state law if there is an explicit congressional intent to do so, if federal regulation in a field is so pervasive as to leave no room for state action (field preemption), or if state law conflicts with federal law (conflict preemption).

However, in the specific area of CPA licensing and the general regulation of the accounting profession, there is no broad federal preemption of state authority. States retain the primary responsibility for licensing CPAs, setting educational and experience requirements, and disciplining licensees for general professional misconduct. The Sarbanes-Oxley Act itself acknowledges the ongoing role of state regulatory bodies, defining "appropriate State regulatory authority" as the state agency or other authority responsible for the licensure or other regulation of the practice of accounting in the state. This indicates a system of concurrent regulation rather than federal preemption of state licensing functions.

While states maintain primary licensing authority, specific federal regulatory schemes exert significant influence and control over particular areas of CPA practice. As discussed, the IRS heavily regulates CPAs involved in federal tax practice, and the SOX/PCAOB framework governs the audit of publicly traded companies. CPAs practicing in these areas must comply with these federal rules in addition to their state board's requirements. Misconduct can trigger actions from multiple authorities. For instance, a CPA sanctioned by the PCAOB for audit deficiencies related to a public company might also face disciplinary action from their state board of accountancy based on that PCAOB sanction, as state occupational codes often list disciplinary actions by other regulatory bodies as grounds for their own sanctions [(1)(g)]. Efforts towards national uniformity in CPA licensing standards, such as the Uniform Accountancy Act (UAA)—a model law developed by the AICPA and the National Association of State Boards of Accountancy (NASBA) for adoption by state legislatures—are driven by professional bodies rather than federal mandate. Proposed changes to the UAA aim to facilitate interstate practice mobility for CPAs under an "individual-based" model and provide safe-harbor language to protect the practice privileges of CPAs who meet existing licensure requirements. These initiatives reflect a desire for consistency and ease of practice across state lines, achieved through state-level adoption of model provisions, not federal preemption.

Thus, CPAs must navigate a complex regulatory environment, adhering to their state board's rules for initial licensure and ongoing professional conduct, as well as complying with specific and stringent federal rules if their practice involves federal taxation or the audit of public companies.

**Table 4: Key Federal Laws & Regulations for CPA Misconduct**

Federal Statute/Regulation	Brief Description	Relevance to CPA Misconduct	Snippet Source
IRC § 6694, § 6695, § 6700, § 6701, § 7206, § 7207	Internal Revenue Code sections imposing civil penalties and criminal charges for tax return preparer misconduct, including fraud and false statements.	Directly governs and penalizes CPA conduct in the context of federal tax return preparation, tax advice, and representation before the IRS.	
Sarbanes-Oxley Act (SOX) of 2002	Federal law designed to improve corporate governance and financial reporting accuracy; established the PCAOB and new rules for auditors of public companies.	Imposes significant federal standards, independence requirements, and oversight (via PCAOB) on CPAs and firms that audit publicly traded companies.	
Public Company Accounting Oversight Board (PCAOB) Rules & Standards	Rules and standards established by the PCAOB governing auditing, quality control, ethics, and independence for auditors of public companies.	Legally binding and enforceable rules for CPAs and accounting firms involved in the audit of public companies registered with the SEC.	
26 U.S.C. § 7206	Federal statute defining the felony of fraud and false statements on documents filed under penalties of perjury (e.g., tax returns).	Provides a basis for severe criminal penalties for CPAs involved in tax fraud, which also triggers state licensing disciplinary actions.	

This table highlights the primary federal statutes and regulatory bodies that directly impact CPA conduct and can impose sanctions, distinct from state-level regulation, crucial for understanding the multifaceted oversight CPAs face.

## C. Due Process in CPA Disciplinary Proceedings

CPAs facing disciplinary proceedings in Michigan are afforded due process rights under both the state and federal constitutions, ensuring fairness throughout the investigative and adjudicative process.

## 1. Michigan Constitutional Protections (Article I, § 17)

As with police officers, Article I, Section 17 of the Michigan Constitution extends crucial protections to CPAs. This provision guarantees that no person shall be "deprived of life, liberty or property, without due process of law" and, significantly, that "[t]he right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed". Disciplinary proceedings conducted by LARA and the Michigan Board of Accountancy are executive investigations and hearings. Therefore, CPAs subject to these proceedings are constitutionally entitled to "fair and just treatment". This state constitutional safeguard provides an independent basis for ensuring fairness in CPA disciplinary actions in Michigan, potentially offering protections that align with or, in some administrative contexts, might even exceed federal due process minimums.

## 2. Due Process Rights in LARA/Board of Accountancy Investigations and Hearings

The disciplinary process administered by LARA and the Michigan Board of Accountancy is structured to incorporate fundamental elements of due process at each stage, from the initial complaint to the final adjudication. CPAs accused of misconduct are entitled to:

- **Notification of the allegations** against them, providing them with a clear understanding of the charges they face.
- **An opportunity to present their side of the story** and mount a defense before a third-party neutral decision-maker.

The LARA/BPL disciplinary process typically unfolds as follows:

1. **Complaint and Investigation:** The process begins with a complaint, followed by an investigation by LARA's BPL. The CPA is usually informed of the investigation and given an opportunity to respond to the allegations. Investigators may interview relevant parties and gather evidence.
2. **Informal Resolution Attempts:** If the investigation indicates a potential violation, the CPA may be offered an opportunity to resolve the matter informally through a compliance conference or by entering into a consent order. This allows for a negotiated settlement, which might include admitting to certain facts and agreeing to specific sanctions, subject to approval by the Board's disciplinary subcommittee.
3. **Formal Administrative Complaint and Contested Case Hearing:** If the matter is not resolved informally, LARA may issue a formal administrative complaint. The CPA then has the right to request a contested case hearing before an Administrative Law Judge (ALJ) with the Michigan Office of Administrative Hearings and Rules. At this hearing, both LARA (representing the public interest) and the CPA (who may be represented by counsel) can present evidence, call and examine witnesses, and make legal arguments.
4. **Proposal for Decision and Final Board Action:** Following the hearing, the ALJ issues a Proposal for Decision, containing findings of fact, conclusions of law, and a recommended disposition. This proposal is then submitted to the disciplinary subcommittee of the Board of Accountancy for review and final decision. The Board makes the ultimate determination of whether a violation occurred and imposes appropriate sanctions if necessary.

This multi-stage process, incorporating notice, an opportunity to be heard, the potential for informal resolution, and the right to a formal hearing before an impartial adjudicator, is designed to ensure that disciplinary actions are taken in a manner consistent with due process principles.

### **3. Appeals Process for Disciplinary Actions**

A CPA who is aggrieved by a final adverse decision of the Michigan Board of Accountancy's disciplinary subcommittee has the right to seek judicial review. Such appeals are typically made to the Michigan Court of Appeals. This right to appeal to an independent judicial body provides an important check on the administrative disciplinary process, ensuring that LARA and the Board of Accountancy have acted within their statutory and constitutional authority and have adhered to due process requirements.

Furthermore, there are provisions for the potential expungement of LARA disciplinary actions that were based on criminal convictions, if the underlying criminal conviction itself has been set aside or expunged under Michigan's Clean Slate Act or other relevant statutes. Eligibility for such expungement of disciplinary records typically requires that the conviction did not involve certain severe offenses (e.g., patient harm, though less directly applicable to CPAs than healthcare providers mentioned in the source) and that the licensee has no other pending investigations or disciplinary actions. This possibility of expunging professional disciplinary records linked to cleared criminal convictions reflects a policy of allowing individuals who have met legal requirements for criminal record clearing a pathway to also clear their professional record, mitigating some long-term collateral consequences. This indicates that disciplinary actions are not always immutable and that mechanisms exist for review and, in certain circumstances, for the amelioration of their lasting impact.

## **IV. Child Protective Services (CPS) Misconduct: Legal Framework and Due Process**

The provided materials also contain significant information regarding the legal framework surrounding Child Protective Services (CPS) in Michigan, including definitions of misconduct (such as failure to follow statutory mandates or due process), oversight mechanisms, and the due process rights of parents and children. While distinct from police and CPA roles, CPS workers are state agents whose actions profoundly impact fundamental rights, making an examination of their accountability structures relevant.

### **A. Michigan Law (MCL) and State-Level Oversight for CPS**

#### **1. Definitions of Child Abuse and Neglect under MCL**

The foundation of CPS intervention lies in statutory definitions of child abuse and neglect. Michigan Compiled Law § 722.622 defines "child abuse" as harm or threatened harm to a child's health or welfare occurring through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment by a parent, legal guardian, or other person responsible for the child's health or welfare. "Child neglect" includes failing to provide adequate food, clothing, shelter, or medical care despite financial ability or failure to seek means to do so, or placing a child at an unreasonable risk to their health or welfare by failing to intervene when able and aware of the risk. The Michigan Child Protection Law (1975 PA 238, MCL 722.621 et seq.) mandates reporting of suspected child abuse and neglect by certain professionals ("mandated reporters") and permits reporting by any person. These clear statutory definitions are crucial for guiding CPS investigations and subsequent legal proceedings.



## 2. Office of the Child Advocate (OCA) (MCL 722.923)

Michigan has established the Office of the Child Advocate (OCA) as an autonomous entity to provide oversight of the child welfare system. Under MCL 722.923, the OCA is empowered to investigate complaints against the Michigan Department of Health and Human Services (MDHHS, which oversees CPS), child placing agencies, and child caring institutions or residential facilities. The OCA's functions include investigating specific actions, monitoring compliance with relevant statutes, rules, and policies, educating the public, and recommending changes in policy, procedure, and legislation to improve the delivery of services and protection for children. The Governor appoints the Child Advocate and may remove them for cause, which includes official misconduct, habitual or willful neglect of duty, or other misfeasance or malfeasance. The existence of the OCA provides an important independent mechanism for accountability, given the significant authority wielded by CPS over children and families. The grounds for removal of the Child Advocate underscore the expectation of integrity for this vital oversight role.

## 3. CPS Investigations and Court Procedures

Upon receiving a report of suspected child abuse or neglect, CPS is required to initiate an investigation (or reject the complaint if unreasonable) typically within 24 hours. Investigations, which must generally be completed within 30 days, involve interviews with the child, parents, other household members, and collateral contacts, and may include home visits and review of records. While cooperation with CPS is generally advised, CPS has limited direct enforcement power to compel actions from parents before a court becomes involved.

If CPS finds a preponderance of evidence of child abuse or neglect, the case is categorized based on severity and risk of future harm (Categories I through V). Category I (child unsafe or serious abuse) and Category II (significant risk of future harm) are the most serious and typically lead to the opening of a protective services case, potential placement of the abuser's name on the Child Abuse and Neglect Central Registry, and often the filing of a petition with the court to initiate child protective proceedings.

Child protective proceedings in court are designed to balance the paramount concern for child safety with the due process rights of parents. Key stages include:

- **Petition:** Filed by CPS (or others) alleging abuse or neglect and requesting court intervention.
- **Preliminary Inquiry/Hearing:** An initial review by a judge or referee to determine if there is probable cause to believe the allegations are true and if the child needs court protection. If removal of the child from the home is sought or has occurred, a more formal preliminary hearing is held, often within 24 hours of an emergency removal.
- **Representation:** The respondent parent (accused of abuse/neglect) has the right to a court-appointed attorney if they cannot afford one. The child is also a party to the case and is represented by a Lawyer-Guardian Ad Litem (LGAL) who advocates for the child's best interests.
- **Adjudication (Trial):** If the petition is authorized and the parent does not enter a plea, a trial is held to determine the truth of the allegations. The standard of proof is a preponderance of the evidence.
- **Dispositional Hearing:** If abuse or neglect is found, a dispositional hearing is held to determine the actions the court will order to protect the child, which can range from in-home services to removal and placement, or even termination of parental rights if

requested and proven by clear and convincing evidence.

- **Review Hearings and Permanency Planning:** If a child is under court jurisdiction, regular review hearings are held to monitor progress, and a permanency planning hearing is held within one year of removal to plan for the child's long-term future.

These detailed court procedures, with rights to notice, counsel, and a trial, aim to provide due process to parents while ensuring the court can act to protect children found to be at risk.

#### **4. DHHS (CPS) Duty for Reasonable Reunification Efforts and Due Process Violations**

A critical aspect of Michigan's Child Protection Law is the requirement that DHHS (CPS) generally make "reasonable efforts" to reunify a child with their family before seeking the termination of parental rights. This duty is codified in MCL 712A.19a(2), which also lists exclusive exceptions to this requirement.

The Michigan Court of Appeals case, *In re C. Walters* (issued January 2, 2025), powerfully illustrates the judiciary's role in enforcing this statutory duty and protecting parental due process rights. In *Walters*, the court reversed a trial court's order terminating a mother's parental rights because DHHS had failed to make reasonable efforts toward reunification and had violated the mother's due process rights. The due process violation stemmed from DHHS basing its termination request largely on the mother's alleged failure to comply with an informal, oral "safety plan" that was implemented *before* the court had taken jurisdiction over the child and without any formal court approval or order making the plan legally binding. The appellate court emphasized that due process requires fundamental fairness, including adequate notice of what is legally required to avoid the deprivation of fundamental parental rights. Terminating rights based on non-compliance with a vague, unwritten, and non-court-ordered plan was found to be a clear violation of this principle.

Cases like *In re C. Walters* demonstrate that misconduct by CPS can include not only direct harm to children but also failures to adhere to statutory mandates (like providing reasonable reunification efforts) and violations of the due process rights of parents through procedurally flawed or unfair actions. Such judicial oversight is essential to prevent agency overreach and ensure that the profound power of CPS to intervene in families is exercised lawfully and fairly.

#### **B. Federal Law: Child Abuse Prevention and Treatment Act (CAPTA)**

At the federal level, the Child Abuse Prevention and Treatment Act (CAPTA), originally enacted in 1974 and most recently amended in 2019, provides a framework and federal funding to states to support their efforts in child abuse and neglect prevention, assessment, investigation, prosecution, and treatment activities. To be eligible for CAPTA grants, states are required to develop a comprehensive state CAPTA plan that outlines how the federal funds will be used to improve their child protection systems and must demonstrate compliance with various federal requirements.

While CAPTA influences state CPS systems by setting certain standards and providing financial support, it does not appear from the provided materials to create direct federal causes of action for individuals to sue CPS workers or agencies for specific instances of misconduct in the same way that 42 U.S.C. § 1983 does for violations of constitutional rights by police officers. Due process rights for parents and children in the context of CPS interventions are primarily grounded in state law and the Fourteenth Amendment to the U.S. Constitution, enforced through state court proceedings and potentially federal court actions if constitutional

deprivations are alleged. CAPTA's role is more systemic, aimed at improving state child welfare systems overall.

**Table 5: Overview of Michigan Disciplinary/Accountability Processes for Police, CPAs, and CPS**

Aspect of Process	Police (MCOLES/Local Agency/Oversight)	CPA (LARA/Board of Accountancy)	CPS (MDHHS/Court/OCA)
<b>Primary State Statutes</b>	MCL 257.750, MCL 750.505 (common law misconduct), MCOLES Act (MCL 28.601 et seq.), Local Charters/Ordinances	MCL 600.2962 (Civil Liability), Occupational Code Art. 7 (MCL 339.720 et seq., esp. MCL 339.734)	Child Protection Law (MCL 722.621 et seq.), Juvenile Code (MCL 712A.1 et seq.), Office of Child Advocate Act (MCL 722.921 et seq.)
<b>Key Misconduct Definitions</b>	Misconduct in office (statutory & common law), excessive force, unlawful arrest, <i>Brady</i> violations, violation of MCOLES standards.	Malpractice (negligence, fraud), dishonesty, violation of professional conduct/standards, criminal convictions, conduct discreditable to profession.	Child abuse/neglect (as defined in MCL 722.622), failure to provide reasonable reunification efforts, due process violations by agency, malfeasance by OCA staff.
<b>Primary State Oversight Body</b>	MCOLES (licensing, standards), Local Police Dept. (Internal Affairs), Civilian Oversight Boards (local).	LARA / Michigan Board of Accountancy.	MDHHS (CPS internal), Juvenile Court system, Office of the Child Advocate (OCA).
<b>Complaint Initiation</b>	Citizen complaint to agency/oversight body, internal initiation, MCOLES investigation.	Complaint to LARA/Board of Accountancy or MICPA (professional assoc.), self-reporting of convictions/judgments.	Report to CPS Centralized Intake, complaint to OCA, court petition.
<b>Investigative Authority</b>	Local Agency IA/Oversight, MCOLES (for licensing matters).	LARA / Board of Accountancy.	CPS, Law Enforcement (in some cases), OCA (for agency actions).
<b>Hearing Process</b>	Local agency disciplinary hearing, MCOLES contested case hearing (for licensing).	LARA/Board of Accountancy contested case hearing before ALJ, with Board disciplinary subcommittee making final decision.	Juvenile Court hearings (preliminary, adjudication, disposition, review), OCA investigation process.
<b>Typical Sanctions</b>	Reprimand, suspension, termination (local); MCOLES license	Reprimand, fines, probation, license suspension/revocation, continuing education.	Court orders for services, removal of child, termination of parental rights; OCA

Aspect of Process	Police (MCOLES/Local Agency/Oversight)	CPA (LARA/Board of Accountancy)	CPS (MDHHS/Court/OCA)
	suspension/revocation.		recommendations for systemic change.
<b>Appeal Route</b>	Varies by local process (e.g., arbitration, civil service); MCOLES decisions appealable to Circuit Court/Court of Appeals.	LARA/Board decisions appealable to Michigan Court of Appeals.	Juvenile Court orders appealable to Court of Appeals; OCA findings may lead to legislative/policy changes.
<b>Key Due Process Guarantees</b>	Notice, opportunity to be heard (MI Const. Art I §17, US 14th Am.), <i>Brady</i> rights, rights in interrogation.	Notice, opportunity to be heard, right to counsel (often at own expense), appeal (MI Const. Art I §17, US 14th Am.).	Notice, right to counsel (for respondent parent & child), right to trial, clear & convincing evidence for TPR (MI Const. Art I §17, US 14th Am.).

This table offers a comparative snapshot of the accountability structures within Michigan for these distinct professional groups and agencies, highlighting both common principles (like due process) and differences tailored to their specific functions and the nature of potential misconduct.

## V. Conclusion

This report has examined the intricate legal frameworks established under Michigan Compiled Laws (MCL) and federal statutes to address misconduct by police officers and Certified Public Accountants (CPAs), with an additional analysis of the accountability structures for Child Protective Services (CPS) in Michigan. The analysis reveals a societal commitment to upholding standards of integrity and accountability for professionals and agencies vested with significant public trust and power.

For **police officers**, Michigan law provides specific statutory definitions of misconduct, such as MCL 257.750 concerning traffic citation quotas, and a broader common law offense of "misconduct in office" (MCL 750.505), applicable to public officers demonstrating corrupt intent in malfeasance, misfeasance, or nonfeasance. The Michigan Commission on Law Enforcement Standards (MCOLES) primarily sets entry-level standards and handles licensing, with disciplinary authority for severe issues like felony convictions or fraudulent licensure. Citizen complaint mechanisms and internal affairs processes vary by locality, with some municipalities having robust civilian oversight. Federal law, particularly the Fourth, Fourteenth, and First Amendments, and 42 U.S.C. § 1983, provides crucial avenues for redress against constitutional violations. Due process rights under both the Michigan Constitution (Article I, § 17) and the U.S. Constitution are paramount, extending to fair treatment in investigations, *Brady* disclosure obligations, and rights during custodial interrogations. Proposed legislative reforms in Michigan signal a move towards more uniform and stringent statewide standards for police conduct and accountability.

For **Certified Public Accountants**, Michigan law addresses misconduct through civil liability for malpractice (MCL 600.2962), which notably restricts third-party negligence claims while allowing broader claims for fraud. The Michigan Occupational Code (MCL 339.734) provides extensive

grounds for disciplinary action by the Department of Licensing and Regulatory Affairs (LARA) and the Board of Accountancy, covering a wide range of professional and ethical violations, including negligence, fraud, criminal convictions, and conduct discreditable to the profession. Federal law heavily impacts CPAs through IRS regulations and penalties for tax preparer misconduct, and the Sarbanes-Oxley Act (SOX) imposes stringent requirements and oversight by the Public Company Accounting Oversight Board (PCAOB) for CPAs auditing public companies. Due process rights for CPAs in disciplinary proceedings are secured by state and federal constitutional guarantees, reflected in LARA's multi-stage investigative and hearing process, with rights to notice, an opportunity to be heard, and appeal to the courts.

For **Child Protective Services**, Michigan law defines child abuse and neglect (MCL 722.622) and establishes the Office of the Child Advocate (OCA) (MCL 722.923) as an oversight body for MDHHS/CPS actions. Court procedures in child protective cases are designed to balance child safety with parental due process rights, including rights to notice, counsel, and fair hearings. The duty of DHHS to make reasonable reunification efforts, as underscored by case law like *In re C. Walters*, is a critical component of this framework. Federal law, through CAPTA, influences state systems by providing funding and setting certain requirements.

Across all three areas, a recurring theme is the balance sought between ensuring professional accountability and public protection, on the one hand, and safeguarding the due process rights of individuals subject to investigation or discipline, on the other. The roles of various oversight bodies—MCOLES, LARA/Board of Accountancy, PCAOB, IRS, and the OCA—are critical, though their effectiveness often depends on their independence, resources, and the scope of their authority. The legal frameworks are dynamic, with ongoing legislative efforts and judicial interpretations continually shaping the landscape of professional and agency accountability. Ultimately, robust due process mechanisms are essential not only for protecting individual rights but also for maintaining the legitimacy and public trust in the systems designed to hold these powerful actors accountable.

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