



Building Standards and Codes

New York State
Department of State
Division of Building Standards and Codes
One Commerce Plaza
99 Washington Avenue, Suite 1160
Albany, NY 12231-0001
(518) 474-4073
Fax: (518) 486-4487
www.dos.ny.gov

COMPLAINT AGAINST A CODE ENFORCEMENT OFFICIAL OR BUILDING SAFETY INSPECTOR

PURPOSE OF THIS FORM: This form should be used when filing a complaint alleging that a **Code Enforcement Official (“CEO”)** or a **Building Safety Inspector (“BSI”)** has materially failed to uphold his or her duties as a CEO or BSI. Please see the “Summary of Subpart 1208-6” at the end of this form for additional information.

Please do not use this form if you wish to file a complaint alleging that a city, town, village, or county that is responsible for administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the “Uniform Code”) and/or the State Energy Conservation Construction Code (the “Energy Code”) is failing to do so in compliance with the minimum standards established by the Department of State’s regulations. Please see the webpage entitled “Regional Services Unit – Complaints” at <https://www.dos.ny.gov/DCEA/complaints.html> for further information about filing such a complaint against a city, town, village, or county, and please use the “Local Code Enforcement Complaint Form” posted at <https://www.dos.ny.gov/dcea/forms.html> to file such a complaint.

INSTRUCTIONS: Please read the “Summary of Subpart 1208-6” at the end of this form before completing this form. Next, please complete Items 1, 2, and 3; read items 4 and 5; and date and sign this form in the space provided below Item 5. Please submit the completed, dated, and signed form (and any additional supporting documentation you may wish to include as part of this Complaint) to:
New York State Department of State

Division of Building Standards and Codes

99 Washington Avenue

Albany, NY 12231-0001

1. Person filing this Complaint (please type or print)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Email: _____

2. CEO or BSI against whom this Complaint is being filed (please type or print)

Name: _____

City, Town, Village, County, or State agency for which the CEO or BSI performs enforcement activities:

3. Acts or omissions of the CEO or BSI that the person filing this Complaint alleges constitute a material failure to uphold the CEO's or BSI's code enforcement duties

NOTE: For the purposes of 19 NYCRR Subpart 1208-6, personnel-related matters such as tardiness, absenteeism, insubordination, rude behavior, and the like shall not be deemed to be a material failure to uphold code enforcement duties.

PART A. Please indicate below the manner in which you believe the CEO or BSI has materially failed to uphold his or her code enforcement duties:

- The CEO or BSI failed to note one or more serious violations of the Uniform Code on an inspection report relating to a fire safety and/or property maintenance inspection, and that such violations are of a type that should have been observed by a certified BSI exercising reasonable care in the performance of the inspection;
- The CEO or BSI made any other material error or omission on an inspection report relating to a fire safety and/or property maintenance inspection, and that such error or omission is of a type that should not have been made by a certified BSI exercising reasonable care in the performance of the inspection;
- The CEO or BSI demonstrated, by act or omission, willful misconduct, gross negligence, or gross incompetence in the performance of his or her code enforcement activities;
- The CEO or BSI performed code enforcement activity at a time when his or her certification was inactive or suspended;
- (*For BSI ONLY*): The BSI performed code enforcement activity other than fire safety and/or property maintenance inspections of existing buildings; or
- Other (Please specify):

PART B. Please state more specifically what you believe the CEO or BSI did, or failed to do, that constitutes a material failure to uphold his or her duties as a CEO or BSI. (If this space is not large enough to contain your entire statement, please continue on a separate sheet and attach that sheet to this form):

4. Agreement to Cooperate. The person filing this Complaint agrees to cooperate with any investigation conducted by the Department of State and/or by any City, Town, Village, County, or State agency named in Item 2 of this Complaint.

5. Providing copies of complaint. The person filing this Complaint acknowledges that the Department of State is permitted, but not required, to submit a copy of this Complaint (and any supporting information and documentation provided to the Department of State by the person submitting this Complaint) to each city, town, village, county, State agency, or other governmental unit or agency for which the CEO or BSI named in this Complaint performs code enforcement activities. In addition, if this Complaint relates to an inspection performed pursuant to Section 807-a of the Education Law, the Department of State shall be permitted, but not required, to submit a copy of this Complaint (and any supporting information and documentation provided to the Department of State by the person filing this Complaint) to the school authorities in charge of the subject school and to the New York State Department of Education. To the extent required by the Personal Privacy Protection Law (Article 6-A of the Public Officers Law), the Department of State shall redact the complainant's name, address, and contact information, and any other "personal information" (as that term is defined in Public Officers Law Section 92(7)), from copies submitted to an authority having jurisdiction or to any other person or entity pursuant this paragraph.

Dated: _____, 20_____.

(Signature of Person filing this Complaint)

PERSONAL PRIVACY PROTECTION NOTIFICATION

The New York State Department of State (the Department) and the Department's Division of Building Standards and Code (the Division) is requesting the information to be provided in this Complaint form, and may be contacting you to obtain additional information. The information in this Complaint form, and in response to any follow up request, will be maintained in the Division's records. The Director of the Division of Building Standards and Codes, 99 Washington Avenue, Albany, NY 12231 (telephone [518] 474-4073) is responsible for those records. The principal purposes for which the information is to be collected are to obtain information about an allegation that a CEO or BSI has materially failed to uphold his or her duties as a CEO or BSI; to enable the Department or the Division to contact you if additional information about your complaint is required; to request your cooperation in any investigation that may be conducted by the Department and the Division and/or by any City, Town, Village, County, or State agency named in Item 2 of the Complaint; to request your attendance at any hearing that may be conducted by the Department; and otherwise to assist the Department in meeting its legal obligations. Collection and maintenance of the information is authorized by Executive Law, Section 376-a, and 19 NYCRR Subpart 1208-6. Failure to provide the requested information may result in the Department and the Division not being able to investigate your complaint effectively. The information will be used in accordance with Section 96 of the Personal Privacy Protection Law. The information may be provided to those officers and employees of, and to those who contract with, the Department if such disclosure is necessary to the performance of their official duties pursuant to a purpose of the Department required to be accomplished by statute or executive order or necessary to operate a program specifically authorized by law. The information may be disclosed in connection with any use of such information relevant to the purpose for which it was collected, and which use is necessary to the statutory duties of the Department, or necessary for the Department to operate a program specifically authorized by law. The information may be disclosed as specifically authorized by statute or federal rule or regulation.

Summary of Subpart 1208-6

The Department of State is authorized by Executive Law Section 376-a and 19 NYCRR Subpart 1208-6 to revoke or suspend the certification of any Code Enforcement Official (CEO) or Building Safety Inspector (BSI) who is found, after a hearing, to have “materially failed to uphold duties of a code enforcement officer, including but not limited to, making material errors or omissions on an inspection report.”

CEOs and BSIs perform code enforcement activities related to administration and/or enforcement of the New York State Uniform Fire Prevention and Building Code (the “Uniform Code”) and/or the State Energy Conservation Construction Code (the “Energy Code”). Code enforcement activities include, for example, reviewing applications for building permits, conducting construction inspections, and performing fire safety and/or property maintenance inspections of existing buildings and structures. Code enforcement activities do not include purely ministerial acts (such as signing permits, certificates of occupancy, orders, appearance tickets, or similar documents in reliance on reviews, approvals and/or inspections performed by other persons), or secretarial or other clerical activities.

To become certified, a CEO is required to complete a 120-hour basic training course. Once certified, a CEO is required to take certain annual in-service training to maintain his or her certification in “active” status.

To become certified, a BSI is required to complete a 60-hour basic training course. Once certified, a BSI is required to take certain annual in-service training to maintain his or her certification in “active” status.

A CEO can perform any enforcement activity. A BSI can perform only fire safety and/or property maintenance inspections of existing buildings and structures.

A **BSI** shall be deemed to have materially failed to uphold his or her code enforcement duties if he or she:

- fails to note one or more serious violations of the Uniform Code on an inspection report relating to a fire safety and/or property maintenance inspection, provided that such violations are of a type that should have been observed by a certified BSI exercising reasonable care in the performance of the inspection;
- makes any other material error or omission on an inspection report relating to a fire safety and/or property maintenance inspection, provided that such error or omission is of a type that should not have been made by a certified BSI exercising reasonable care in the performance of the inspection;
- demonstrates, by act or omission, willful misconduct, gross negligence, or gross incompetence in the performance of his or her code enforcement activities;
- performs any code enforcement activity other than fire safety and/or property maintenance inspections of existing buildings; or
- performs any code enforcement activity at a time when his or her certification is inactive or suspended.

A **CEO** shall be deemed to have materially failed to uphold his or her code enforcement duties if he or she:

- fails to note one or more serious violations of the Uniform Code and/or Energy Code on an inspection report relating to any type of inspection, provided that such serious violations are of a type that should have been observed by a certified CEO exercising reasonable care in the performance of the inspection;
- makes any other material error or omission on an inspection report relating to any type of inspection, provided that such error or omission is of a type that should not have been made by a certified CEO exercising reasonable care in the performance of the inspection;
- demonstrates, by act or omission, willful misconduct, gross negligence, or gross incompetence in the performance of his or her code enforcement activities; or
- performs any code enforcement activity at a time when his or her certification is inactive or suspended.

NOTE: For the purposes of 19 NYCRR Subpart 1208-6, personnel-related matters such as tardiness, absenteeism, insubordination, rude behavior, and the like shall not be deemed to be a material failure to uphold code enforcement duties.

The Department of State will review this Complaint to determine if it states, on its face, an allegation that the CEO or BSI named in this Complaint has materially failed to uphold his or her code enforcement duties. The Department of State shall be permitted, but not required, to contact the person filing this Complaint to request additional information or documentation related to this Complaint.

If the Department of State determines that this Complaint, on its face, does not state an allegation that the CEO or BSI named in this Complaint has materially failed to uphold his or her code enforcement duties, the Department of State will notify the person who filed this Complaint of that determination, and the Department of State will take no further action with respect to this Complaint.

If the Department of State determines that this Complaint, on its face, does state an allegation that the CEO or BSI named in this Complaint has materially failed to uphold his or her code enforcement duties, the Department of State will investigate the complaint and/or refer the complaint to the appropriate authority having jurisdiction, as provided in 19 NYCRR section 1208-6.4.

See the rule that added Subpart 1208-6 to 19 NYCRR Part 1208 for additional information. That rule is posted on-line at <https://www.dos.ny.gov/dcea/Text%20-%201208-6%20-%202018-07-31.pdf>.