



Code Outreach Program – Certification Status

This Issue of the Code Outreach Program intends to inform Building Safety Inspectors (BSIs) and Code Enforcement Officials (CEOs) on how their certification may become suspended or revoked pursuant to Subparts [1208-6](#) and [1208-3.5](#) of 19 NYCRR. The previous Code Outreach Program, [Issue 2018-13](#), titled "BSI and CEO Training Requirements," included a section on consequences of an inactive certification. However, in this issue we intend to highlight how the regulations identify "material failure to uphold code enforcement duties." CEOs and BSIs must refer to these parts for the complete requirements.

Suspension or Revocation of Certifications

Pursuant to [Executive Law § 376-a](#), the Secretary of State (Secretary) has promulgated rules and regulations with respect to the revocation or suspension of the certification of a BSI or CEO. Section [1208-6.2\(a\)](#) of 19 NYCRR authorizes the Secretary to,

"suspend or revoke the certification of a building safety inspector or code enforcement official if the Administrative Law Judge conducting a hearing pursuant to section [1208-6.5](#) of this Subpart finds, after such hearing, that such building safety inspector or code enforcement official has materially failed to uphold his or her code enforcement duties"

Section [1208-6.2\(b\)](#) provides that a BSI shall be deemed to have materially failed to uphold his or her code enforcement duties if he or she:

- "(1) 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 building safety inspector exercising reasonable care in the performance of the inspection;*
- (2) 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 building safety inspector exercising reasonable care in the performance of the inspection;*
- (3) demonstrates, by act or omission, willful misconduct, gross negligence, or gross incompetence in the performance of his or her code enforcement activities;*
- (4) performs any code enforcement activity other than fire safety and/or property maintenance inspections of existing buildings; or*
- (5) performs any code enforcement activity at a time when his or her certification is inactive or suspended."*

Section [1208-6.2\(c\)](#) provides that a CEO shall be deemed to have materially failed to uphold his or her code enforcement duties if he or she:

- "(1) 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 code enforcement official exercising reasonable care in the performance of the inspection;*
- (2) 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 code enforcement official exercising reasonable care in the performance of the inspection;*
- (3) demonstrates, by act or omission, willful misconduct, gross negligence, or gross incompetence in the performance of his or her code enforcement activities; or*
- (4) performs any code enforcement activity at a time when his or her certification is inactive or suspended."*

[Section 1208-6.8](#) provides that if a BSI or CEO whose certification,

"has been designated as inactive pursuant to section [1208-3.5](#) of this Part materially fails to uphold his or her code enforcement duties, whether before or after such designation, such person's certification shall be subject to suspension or revocation pursuant to this Subpart"

As indicated in [1208-6.8\(b\)](#), authorities having jurisdiction will be in violation of [1208-2.2\(a\)](#) if they allow a BSI or CEO, whose certification is designated as inactive, to perform enforcement activities.

The effect of suspension or revocation based on Subpart 1208-6 can be found in [1208-6.2\(e\)](#).

Training Requirements

We provide a summary of [Code Enforcement Training Requirements](#) on our website, it covers the following topics: [CEO and BSI annual In-Service training requirements](#); [In-Service training opportunities](#); Information on the [Statewide Learning Management System \(SLMS\)](#); and [PDF](#) or [video](#) instructions on how to check your CEO or BSI training history. You can also check your status by going to the [List of Active Building Safety Inspectors and Code Enforcement Officials](#) webpage.

Please look for our next edition of the Code Outreach Program at the beginning of next month.