

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Board Meeting Agenda

The William P. Hobby Jr. Bldg., Tower III, Room 102

333 Guadalupe Street

Austin, Texas

Wednesday, August 16, 2017

11:00 a.m. – Conclusion

1. Preliminary Matters

- A. Call to order Debra Dockery
- B. Roll call Jennifer Walker
- C. Excused and unexcused absences Debra Dockery
- D. Determination of a quorum
- E. Recognition of guests
- F. Chair's opening remarks
- G. Public Comments

2. Approval of June 8, 2017 Board Meeting Minutes (Action) Debra Dockery

3. Executive Director Report (Information) Julie Hildebrand

- A. Summary of Executive Accomplishments (Information)
- B. Operating Budget/Scholarship Fund: Presentation on 3rd Quarter 2017 Expenditures/Revenues
- C. Discussion of Office Rental/SWCAP
- D. Report on Conferences and Meetings (Information)
 - I. NCARB Annual Business Meeting – Jun 22-24
 - II. NCARB Licensing Advisors Summit – Jul 27-29
 - III. METROCON17 – Aug 10-11
- E. Report on Upcoming Conferences and Meetings (information)
 - I. 2017 CLARB Annual Meeting – Sep 14-16
 - II. 2017 LRGV-AIA BCC Conference – Sep 28-30
 - III. TxA Conference – Nov 9-11
 - IV. 2017 CIDQ Council of Delegates Meeting – Nov 10-11

4. Approval of the Fiscal Year 2018 Budget (Action) Debra Dockery

5. General Counsel Report (Action) Lance Brenton

- A. **Draft Rules for Proposal relating to Registration as Registered Interior Designer by Examination – Implementation of Senate Bill 1932, 85th Regular Session (2017)**
 - I. Amendment of Rule 5.5 relating to Definitions
 - II. Amendment of Rule 5.31 relating to Registration by Examination
 - III. Amendment of Rule 5.32 relating to Registration by Reciprocal Transfer
 - IV. Amendment of Rule 5.33 relating to Application Process

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- V. Amendment of Rule 5.35 relating to Pending Applications
- VI. Amendment of Rule 5.36 relating to Preliminary Evaluation of Criminal History
- VII. Amendment of Rule 5.37 relating to Provisional Licensure
- VIII. Amendment of Rule 5.51 relating to Requirements
- IX. Amendment of Rule 5.52 relating to Examination Administration and Scoring
- X. Amendment of Rule 5.53 relating to Scheduling of Examinations
- XI. Repeal of Rule 5.54 relating to Transfer of Passing Scores
- XII. Amendment of Rule 5.55 relating to Special Accommodations
- XIII. Repeal of Rule 5.201 relating to Description of Approved Education for Registration by Examination
- XIV. Repeal of Rule 5.202 relating to Description of Approved Experience for Registration by Examination
- XV. Repeal of Rule 5.203 relating to Other Experience and Education

B. Discussion of Agency Informal Conference Procedures (Action)

C. Update on Attorney General Collections in Case No. 144-14N (Information)

6. Enforcement Cases (Action)

Review and possibly adopt ED's recommendation in the following enforcement cases:

A. Registrant/Non-Registrant Cases

Freeman, Charles E. (#244-17A)

Lobb, Chuck (#166-17N)

Steinberg, Sanford P. (#209-17A)

B. CE Cases

Bailey, Amy S. (#259-17I)

Hunter, Zachry M. (#256-17L)

Krupa, Laurence (#257-17A)

McGaughy, Peggy (#291-17I)

Mink, Marcia L. (#262-17I)

O'Keefe, Oscar (#290-17A)

Palis, Douglas W. (#208-17A)

Powell, Raymond D. (#206-17A)

Qualls, Curtis L. (#293-17A)

Rios, Gabriela (#173-17I)

Zadina, Peggy J. (#258-17I)

Lance Brenton

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Austin, Texas

Wednesday, August 16, 2017

11:00 a.m. – Conclusion

*The Board may meet in closed session pursuant to TEX. GOV'T
CODE ANN. §551.071(1) to confer with legal counsel*

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|---|---------------|
| 7. Board's Review and Consideration of CLARB's Revised Draft Model Law and Regulations (Action) | Debra Dockery |
| 8. Approval of the Proposed 2018 Board Meeting Dates (Action) February 1, 2018 May 31, 2018 August 9, 2018 November 15, 2018 | Debra Dockery |
| 9. Executive Director Performance Evaluation (Action) I. Report on findings based upon performance evaluation II. Consider and possibly act upon any proposed personnel action that may be proposed by the Board | Debra Dockery |

*The Board may meet in closed session pursuant to TEX. GOV'T
CODE ANN. §551.074 to confer on personnel matters*

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| 10. Upcoming Board Meeting (Information) Wednesday, November 8, 2017 | Debra Dockery |
| 11. Chair's Closing Remarks | Debra Dockery |
| 12. Adjournment | Debra Dockery |
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NOTE:

- ◆ *Items may not necessarily be considered in the order they appear on the agenda.*
- ◆ *Executive session for advice of counsel may be called regarding any agenda item under the Open Meetings Act, Government Code §551.*
- ◆ *Action may be taken on any agenda item.*

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services are required to call (512) 305-8548 at least five (5) work days prior to the meeting so that appropriate arrangements can be made.

FREQUENTLY USED ACRONYMS

| | |
|---------------|--|
| ACSA | Association of Collegiate Schools of Architecture |
| ADA | Americans with Disabilities Act |
| AIA | American Institute of Architects |
| AREFAF | Architect Registration Examination Financial Assistance Fund (Scholarship) |
| ASID | American Society of Interior Designers |
| ASLA | American Society of Landscape Architects |
| ARE | Architect Registration Examination |
| BOAT | Building Officials Association of Texas |
| CACB | Canadian Architectural Certification Board |
| CIDA | Council for Interior Design Accreditation (Formerly FIDER) |
| CLARB | Council of Landscape Architectural Registration Boards |
| GAA | General Appropriations Act |
| GRF | General Revenue Fund |
| IDCEC | Interior Design Continuing Education Council |
| IDEC | Interior Design Educators Council |
| IDP | Intern Development Program |
| IIDA | International Interior Design Association |
| LARE | Landscape Architect Registration Examination |
| MBA | Member Board Administrator (within NCARB) |
| NAAB | National Architectural Accreditation Board |
| NCARB | National Council of Architectural Registration Boards |
| CIDQ | Council for Interior Design Examination |
| OAG | Office of the Attorney General |
| SOAH | State Office of Administrative Hearings |
| SORM | State Office of Risk Management |
| TAID | Texas Association for Interior Design |
| TAS | Texas Accessibility Standards |
| TASB | Texas Association of School Boards |
| TBPE | Texas Board of Professional Engineers |
| TxA | Texas Society of Architects |
| TSPE | Texas Society of Professional Engineers |

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of June 8, 2017 Board Meeting
 William P. Hobby Jr. Building, 333 Guadalupe Street
 Tower III, Room 102
 Austin, TX 78701
 1:00 p.m. until completion of business

AGENDA ITEMS

DESCRIPTIONS

1A. Call to Order

Ms. Dockery called the meeting to order at 1:00 p.m.

1B. Roll Call

Ms. Walker called the roll.

Present Board Members

| | |
|-------------------------|---------------------------------|
| Debra Dockery | Chair, Architect FAIA |
| Michael (Chad) Davis | Vice-Chair, Landscape Architect |
| Jennifer Walker | Architect, Secretary/Treasurer |
| Charles (Chuck) Anastos | Architect |
| Robert (Bob) Wetmore | Architect |
| Chase Bearden | Public Member |
| Sonya Odell | Registered Interior Designer |
| Paula Ann Miller | Public Member |

1C. Excused and unexcused absences

None.

1D. Determination of a Quorum

A quorum was present.

1E. Recognition of Guests

Ms. Dockery acknowledged the following guests and members of TBAE Staff: Julie Hildebrand, Executive Director; Lance Brenton, General Counsel; Kenneth Liles, Finance Manager; Mike Alvarado, Registration Manager; Jack Stamps, Managing Investigator; Dale Dornfeld, IT Manager; Glenda Best, Operations Manager; Christine Brister, HR Program Specialist; Tony Whitt, Continuing Education Coordinator; Katherine Crain, Legal Assistant; Julio Martinez, Systems Analyst; Donna Vining, Texas Association for Interior Design.

1F. Chair’s Opening Remarks

Ms. Dockery welcomed the audience and thanked them for coming to the meeting. She reflected on her recent induction as a FAIA fellow at the AIA Annual Meeting in Orlando, Florida. She stated that the overall theme of the convention focused on diversity in the profession and social responsibility in architecture. She attended a brief presentation which discussed how regulatory bodies have had the most emphasis and success in achieving diversity in the profession. Ms. Dockery believes it is especially appropriate to be thinking about this topic because it has been 50 years since Whitney Young Jr. gave his address to the AIA, which was notable for its criticism of the under-representation of women and minorities

in the architectural profession. Ms. Dockery expressed hope that the continued review of licensure laws would result in continued growth in the profession, consistent with the public health, safety, and welfare.

1G. Public Comments None.

2. Approval of February 16, 2017 Board Meeting Minutes

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPROVE THE FEBRUARY 16, 2017 BOARD MEETING MINUTES.

Mr. Anastos requested that a change be made to an item under Section 11 beginning with: "Mr. Anastos asked whether a respondent...." After Board discussion it was determined that the item should read as follows: **"Mr. Anastos asked whether a respondent could construe that he or she had a constitutional right to speak to a Board member on a pending investigation...."**

A MOTION WAS MADE TO WITHDRAW THE MOTION (Anastos/Odell) AND A SECOND MOTION WAS MADE TO ACCEPT THE MINUTES AS MODIFIED (Anastos/Odell). THE MOTION PASSED UNANIMOUSLY.

3. Executive Director's Report

Ms. Hildebrand provided the Board with the Executive Director's report as follows:

A. Summary of Executive Accomplishments

Ms. Hildebrand presented information regarding executive accomplishments as described on page 13 of the Board materials. In addition to the materials discussed on page 13, Ms. Hildebrand discussed a preliminary report on the post-payment audit and identified two issues, which have been rectified. Once the report has been finalized, she will provide a full report to the Board at the next meeting.

Ms. Hildebrand stated that she applied for and was selected to serve on the NCARB Experience Committee for the 2017/2018 fiscal year. Additionally, she said that NCARB will be assembling a task force to conduct research into the future of architectural practice as impacted by technology and other factors, as well as how the future may require evolved approaches to regulation. She stated she will keep the Board abreast of the findings of the committee and share relevant information.

Ms. Dockery discussed the growth of the virtual model as work product, and the Board expressed an intention to follow the progress of the task force on this topic.

Mr. Anastos suggested that the Board would be well-advised to look for white papers and work product from other committees and Boards on this subject, to aid the Board in building additional expertise.

B. Review of Dismissed Complaints

Ms. Hildebrand presented the Board with statistics from the Registration and Enforcement Departments as described on pages 14 and 15 of the Board materials. In response to previous Board inquiries, Ms. Hildebrand has included additional columns which will provide information on dismissed complaints.

C. Operating Budget/Scholarship: Presentation on 2nd Quarter Expenditures/Revenues

Ms. Hildebrand presented information regarding the 2017 2nd quarter operating budget as described on page 16 of the Board materials. She also provided an update on the Scholarship Fund, as described on page 17. Ms. Hildebrand noted that instead of drawing from the fund balance at the end of FY 2017, the Board was projected to add to the fund balance. Ms. Hildebrand noted that changes to the ARE as well as IXP may have resulted in greater-than-expected income from application and registration fees. Ms. Hildebrand also noted that the loss of grandfathered RIDs has evened out following adoption of HB 1657.

With respect to expenses, Ms. Hildebrand noted that Board travel expenses have been lower than expected, as a result of NCARB funding of attendance of the annual meeting, Board members living closer to Austin, and shorter Board meetings.

Ms. Hildebrand stated that required server expenses were expected to have been incurred in FY 2017, will actually be incurred in FY 2018. As a result, expenditures were lower in FY 2017, but will be made up in FY 2018.

D. Legislative Update

Ms. Hildebrand provided the Board with a summary of the 85th Legislative Session and the bills considered during the session, as discussed on pages 18-21.

Mr. Anastos inquired as to whether HB 1440 changes the requirement for a quorum of the Board. Mr. Brenton stated that all board members may be together as a group for dinner as long as board business is not discussed.

Mr. Davis followed up on Ms. Hildebrand's discussion of HB 1508, which would require educational programs to inform applicants and students of potential grounds for ineligibility for a professional license based on criminal history issues. Mr. Davis stated that, if the Board conducts outreach to programs about this bill, it may want to provide information about how accreditation may be required in order to satisfy Board educational requirements for registration.

Mr. Davis applauded staff's response to an inquiry from a legislative office on potential legislation relating to the regulation of landscape architects. Mr. Davis complimented the efficient cooperation between the legislative office, Texas ASLA, and TBAE to share full information on the subject matter of the potential legislation.

Ms. Hildebrand referred the Board to the list at page 18 that identified the hearings that Staff attended and registered for resource testimony. Ms. Hildebrand said that her focus was to take a proactive approach to contact legislators and professional organizations in advance of hearings, which she felt was a successful strategy.

E. Report on Conferences and Meetings

Ms. Hildebrand presented information on conferences and meetings as follows:

I. NCARB 2017 Regional Summit/MBE Workshop – Mar 8-10

Ms. Hildebrand stated that she and Ms. Dockery attended the Regional Summit/MBE Workshop. Ms. Hildebrand notified the Board that a resolution relating to payment of state dues was withdrawn as unnecessary.

Ms. Dockery stated that she was pleased that NCARB was in a place in which a number of the biggest issues have been addressed, and that it was a good time for NCARB to be looking forward to issues that will be becoming more important in the future.

II. 2017 Texas ASLA Annual Conferences – April 25-27

Ms. Hildebrand stated that she and Mr. Davis attended the 2017 Texas ASLA Annual Conference in Austin along with other staff members. Mr. Garry and Mr. Davis made a presentation at the conference.

Mr. Davis discussed a booklet featured at the conference which included a number of new projects that have been completed, and said that it was exciting to see the quality of the work and types of projects that are being done by landscape architects.

F. Report on upcoming conferences and meetings

I. NCARB Annual Business Meeting – June 22-24

Ms. Hildebrand stated that she would attend the NCARB Annual Business Meeting in Boston, MA with Ms. Dockery and Mr. Bearden.

II. Building Officials Association of Texas (BOAT) Conference – August 8-10

Ms. Hildebrand stated that normally Jack Stamps attends the BOAT Conference, but it has been determined that he should attend every other year instead of yearly. Therefore, he will be attending next year's conference.

III. METROCON17 – Aug 10-11

Ms. Hildebrand stated that she and Sonya Odell would attend the upcoming METROCON Conference scheduled for August 10-11 in Dallas, Texas.

4. General Counsel Report

Mr. Brenton provided the general counsel's report to the Board, as follows:

A. Proposed Rule for Adoption – Adoption of Proposed Rule 7.11, relating to enhanced contract and performance monitoring

Mr. Brenton presented information on the proposed rule for adoption as described on pages 22 and 23 of the Board materials.

A MOTION WAS MADE AND SECONDED (Davis/Bearden) TO APPROVE PROPOSED 22 TEX. ADMIN. CODE § 7.11 FOR FINAL ADOPTION. THE MOTION PASSED UNANIMOUSLY.

5. Enforcement Cases

The Board considered the following enforcement cases:

B. Registrant Cases

Cosme, Frank C. (#159-17A)

The Chair recused herself from voting on this case. The Vice Chair assumed the position as Chair and requested that staff provide information on this matter to the Board.

Mr. Brenton presented a summary of this matter as described on page 24 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Wetmore) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST FRANK C. COSME (#159-17A). THE MOTION PASSED UNANIMOUSLY WITH THE CHAIR ABSTAINING FROM THE VOTE.

Garrison, David L. (#096-16L)

Ms. Dockery resumed as the Chair. Mr. Davis recused himself from voting on this case because he participated in an informal conference in this matter.

Mr. Brenton presented a summary as described on page 25 of the Board materials.

A MOTION WAS MADE AND SECONDED (Odell/Walker) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST DAVID L. GARRISON (#096-16L).

Mr. Wetmore inquired as to whether the engineer was sanctioned and Mr. Brenton stated no because he was not subject to TBAE laws. Mr. Anastos asked whether the matter involving the engineer was referred to TBPE and Mr. Brenton stated that he did not believe that the engineer violated any laws of TBPE in this matter; therefore, TBAE did not refer it to the PE Board.

THE MOTION PASSED UNANIMOUSLY WITH MR. DAVIS ABSTAINING FROM THE VOTE.

Keller, Michael R. (#112-16A)

Mr. Brenton presented a summary of this matter as described on page 27 of the Board materials.

A MOTION WAS MADE AND SECONDED (Anastos/Bearden) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST MICHAEL R. KELLER (#112-16A). THE MOTION PASSED UNANIMOUSLY.

McCrery, James C. (#029-17A)

Mr. Brenton presented a summary of this matter as described on page 28 of the Board materials.

A MOTION WAS MADE AND SECONDED (Walker/Davis) TO ACCEPT STAFF'S RECOMMENDATION OF A \$3,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST JAMES C. MCCRERY (#029-17A). THE MOTION PASSED UNANIMOUSLY.

Reibenstein, Charles A. (#066-17A)

Mr. Brenton presented a summary of this matter as described on page 29 of the Board materials. Mr. Brenton noted that the next two cases involve late TDLR submittals.

A MOTION WAS MADE AND SECONDED (Bearden/Davis) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST CHARLES A. REIBENSTEIN (#066-17A). THE MOTION PASSED UNANIMOUSLY.

Rogers, Mason S. (#118-16A)

Mr. Brenton presented a summary of this matter as described on page 30 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Wetmore) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST MASON S. ROGERS (#118-16A). THE MOTION PASSED UNANIMOUSLY.

C. CE Cases

Mr. Wetmore recused himself from the following two cases:

Linehan, Paul F. (#040-16L)

Randolph, Hugh J. (#175-17A)

Mr. Brenton stated that the Board would hear the following cases with the exception of the above-referenced two cases (Linehan and Randolph) regarding continuing education violations and vote on them together.

Gallaher, Charlye (#225-17I)
Garrett, Valerie J. (#095-17A)
Grish, Michael W. (#160-17A)
Hughes, Barbara L. (#165-17A)
King, Palmer F. (#099-17A)
Mayfield, Kelie A. (#161-17I)
Nash, Patricia B. (#097-17I)
Pena, Mario A. (#100-17A)
Reedy, Frank B. (#094-17A)
Sheats, Patricia T. (#078-16I)
Tang, Albert L. (#089-17I)
Walker, Michael D. (#207-17A)

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE STAFF'S RECOMMENDATION AND PENALTIES FOR THE FOLLOWING CASE NUMBERS: (#225-17I), (#095-17A), (#160-17A), (#165-17A), (#099-17A), (#161-17I), (#097-17I), (#100-17A), (#094-17A), (#078-16I), (#089-17I), AND (#207-17A). THE MOTION PASSED UNANIMOUSLY.

Mr. Anastos asked a procedural question about whether it is advisable for a Board member to participate in an informal settlement conference (IFC). Mr. Brenton gave an explanation of the process regarding IFCs. Ms. Hildebrand gave a further explanation on board member participation in the IFC process. The Chair indicated that she would like this topic included on the August agenda, with information about previous informal conference practices by TBAE, what TBAE's rules say regarding informal conferences, practices by other boards, and an analysis of the benefits of informal conferences.

The Chair noted that the Board still needed to vote on the two remaining continuing education cases.

A MOTION WAS MADE AND SECONDED (Davis/Odell) TO APPROVE STAFF'S RECOMMENDATION AND PENALTIES FOR THE CASES INVOLVING PAUL W. LINEHAN (#040-16L) AND HUGH J. RANDOLPH (#175-17A). THE MOTION PASSED UNANIMOUSLY WITH BOB WETMORE ABSTAINING FROM THE VOTE.

6. Update on Cases Received from the Texas Department of Licensing and Regulation (TDLR)

Following up on a Board request at the February meeting, Mr. Brenton presented information regarding disciplinary cases involving a failure to submit plans to TDLR as required under the Architectural Barriers Act. Mr. Brenton explained that the Board follows a standard progression for TDLR violations: issue a warning for a first violation, assess a penalty of \$1,000 for a second violation, and impose an additional penalty plus a requirement to complete the TDLR Accessibility Academy for a third violation. Mr. Brenton noted that the agency has experienced a significant

increase in TDLR caseloads, having gone from about 30 TDLR referrals per year to 30 TDLR referrals per month. This has resulted in a massive increase in agency investigations. Year to date for FY 2017, the agency has opened 289 cases. At the same time last year, the agency had opened 89.

Mr. Brenton complimented the investigative staff for meeting the challenge of the increased case load. He noted that Mr. Stamps had developed a process for expediting the analysis of the TDLR cases. Additionally, Mr. Stamps has written a newsletter article which provides tips to registrants on how to avoid TDLR referrals. Finally, agency staff have been invited by TDLR to amend the TDLR submission form to provide greater clarity for registrants filling out the form.

7. Discussion of Architectural Intern Title

The Chair stated that she asked staff to present information to the Board regarding this issue.

Mr. Brenton referred to AIA's statement on page 47. In the statement, AIA has advocated for the use of two new titles by emerging professionals, "design professional" and "architectural associate." Mr. Brenton explained that the problem with the AIA position is that it could lead individuals to use a professional title that does not comply with state law. In Texas, for example, the use of the title "architectural associate" would not be consistent with Tex. Occ. Code §1051.801 or Board Rule 1.123.

8. Delegation of Voting Authority to be Acted Upon at the NCARB 2017 Annual Business Meeting

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO ACCEPT DEBRA DOCKERY AND CHASE BEARDEN AS THE VOTING DELEGATES AT THE 2017 ANNUAL BUSINESS MEETING. THE MOTION PASSED UNANIMOUSLY.

9. Budget Development for FY18

Ms. Hildebrand discussed a handout that was provided to the Board detailing the draft budget for FY 2018. She stated that the Budget Committee had met earlier in the day and tentatively approved the draft budget. Ms. Hildebrand discussed various adjustments and projections which have been applied to the FY 2018 budget based on information from the FY2017 budget.

She stated that construction continues at a healthy pace, and the number of registrants has increased. In addition, the approval of HB1657 enables the grandfathered RIDs to keep their registrations, therefore, which will result in increased projected receipts from RID renewal fees. Additionally, business registration has increased from the previous year as well as late fees.

Overall, the projected draw on the reserve fund is \$93,000 for FY 2018. Ms. Hildebrand reviewed other items on the budget and stated that some projected budget figures could change by the time the final budget is

provided to the Board in August, specifically, IT upgrades and income from licenses and fees. At that time, the Board will meet to approve the full budget.

Mr. Anastos stated that the budget committee was in favor of the draft budget as it currently exists.

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE THE GENERAL DIRECTION THE BUDGET IS MOVING IN AND WILL BE FINALIZED AT THE AUGUST MEETING.

There was discussion amongst the board members regarding certain expenses within the budget, without any suggested changes.

The Chair called for the vote. THE MOTION PASSED UNANIMOUSLY (WITH THE EXCEPTION OF BOB WETMORE WHO WAS OUT OF THE ROOM AT THE TIME OF THE VOTE).

10. Discussion of Executive Director Annual Performance Review

The Chair stated that the annual review of the Executive Director is due in August. Last year, she convened a committee that developed a form for the process. She intends to use the same form and requested that the Board members return the form by the last week in July.

11. Upcoming Board Meetings (*Information*)

Wednesday, August 16, 2017
Wednesday, November 8, 2017

The Chair stated that the Board would need to convene a rules committee meeting to be held the morning of August 16th prior to the board meeting.

12. Chair's Closing Remarks

The Chair stated that normally the Board would have selected new committee assignments but she has held off because of pending board member appointments. She thanked the Board for their service and stated that all committees will remain the same.

13. Adjournment

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO ADJOURN THE MEETING AT 3:43 P.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE BOARD:

DEBRA J. DOCKERY, FAIA
Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Summary of Executive Accomplishments

August 16, 2017

Executive

1. Employee performance evaluations have been completed with merit increases for FY18.
2. TBAE has begun its transition to CAPPs for HR and payroll, with Glenda Best as the project manager. This transition will be completed by the end of FY18. The transition for Finance has not been scheduled. Below is some basic information regarding this project.
3. ProjectONE — Our New Enterprise — is charged with implementing Enterprise Resource Planning (ERP) for the state of Texas. The end result is to be a single source of state financial and human resources (HR)/payroll information that maximizes state agencies' ability to:
 - a. Efficiently manage operations.
 - b. Minimize conflicting data.
 - c. Provide decision makers with in-depth, accurate and timely financial/HR/payroll information.
4. The Centralized Accounting and Payroll/Personnel System or CAPPs is the ERP solution for Texas, designed and built by ProjectONE and currently in production at 53 state agencies. Implementing CAPPs statewide benefits Texas state government by providing:
 - a. A single, Web-based source of financial and HR/Payroll information for all state agencies.
 - b. Real-time, reliable information on the state's revenue and spending.
 - c. Simpler, more transparent reporting on the state's business.
 - d. An up-to-date system that allows agencies to retire outdated processes and systems.
5. All legislation from the 85th Regular Legislative Session has been reviewed and necessary rule amendments are being presented at this board meeting.
6. Lance and I completed training on The Importance of the International Building Code (IBC) in the Design and Construction of Safe Buildings.
7. Please see my monthly Executive Director Updates for more details.

NCARB

Chase Bearden has been appointed to the Credentials Committee for NCARB as the public member on the committee.

Summary of Registration Department Accomplishments

| | Sept | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June | July | Aug |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|------|-----|
| Examination Applications Received | 100 | 105 | 64 | 35 | 81 | 60 | 43 | 54 | 53 | 73 | | |
| Reciprocal Applications Received | 31 | 40 | 35 | 44 | 35 | 34 | 46 | 40 | 49 | 38 | | |
| Total Applications Received | 131 | 145 | 99 | 79 | 116 | 94 | 89 | 94 | 102 | 111 | | |
| | | | | | | | | | | | | |
| Exam Scores Received/Entered | 529 | 342 | 537 | 428 | 293 | 393 | 490 | 421 | 584 | 600 | | |
| | | | | | | | | | | | | |
| Examination Registrations Issued | 26 | 46 | 41 | 55 | 38 | 38 | 57 | 37 | 40 | 92 | | |
| Reciprocal Registrations Issued | 49 | 35 | 28 | 42 | 36 | 24 | 37 | 38 | 47 | 39 | | |
| Total Registrations Issued | 75 | 81 | 69 | 97 | 74 | 62 | 94 | 75 | 87 | 131 | | |
| | | | | | | | | | | | | |
| Active Architects | 12,040 | 12,079 | 12,095 | 12,118 | 12,132 | 12,151 | 12,208 | 12,254 | 12,303 | 12,374 | | |
| Active Reg. Interior Designers | 3,586 | 3,574 | 3,554 | 3,561 | 3,556 | 3,557 | 3,558 | 3,561 | 3,559 | 3,574 | | |
| Active Landscape Architects | 1,508 | 1,516 | 1,516 | 1,520 | 1,526 | 1,533 | 1,537 | 1,536 | 1,539 | 1,551 | | |
| Total Active Registrants | 17,134 | 17,169 | 17,165 | 17,199 | 17,214 | 17,241 | 17,303 | 17,351 | 17,401 | 17,499 | | |
| | | | | | | | | | | | | |
| CE Audits Conducted | 119 | 122 | 123 | 128 | 119 | 123 | 117 | 133 | 120 | 127 | | |
| CE Audits Referred for Investigation | 3 | 5 | 5 | 8 | 3 | 5 | 8 | 4 | 5 | 9 | | |
| | | | | | | | | | | | | |
| Approved Scholarship Applications | 6 | 3 | 3 | 4 | 6 | 1 | 1 | 5 | 4 | 3 | | |
| | | | | | | | | | | | | |
| Certificates of Standing | 15 | 20 | 20 | 15 | 6 | 17 | 16 | 17 | 12 | 12 | | |

Summary of Enforcement Accomplishments

| | Sept | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June | July | Aug |
|---|------|-----|-----|-----|-----|-----|-----|-----|-----|------|------|-----|
| Cases Received and Opened | 33 | 8 | 23 | 29 | 66 | 5 | 58 | 15 | 32 | 51 | | |
| Cases Closed by Investigations – Total | 4 | 11 | 4 | 4 | 27 | 18 | 7 | 28 | 20 | 20 | | |
| Cases Closed by Investigations – TDLR | | | | | 27 | 18 | 7 | 27 | 19 | 19 | | |
| Cases Closed by Investigations – Other | | | | | 0 | 0 | 0 | 1* | 1** | 1*** | | |
| Cases Referred to Legal | 5 | 15 | 13 | 17 | 15 | 16 | 8 | 4 | 6 | 6 | | |
| Average Number of Days to Investigate | 86 | 57 | 81 | 61 | 70 | 60 | 58 | 51 | 58 | 71 | | |
| Notices of Violation by Legal | 5 | 9 | 9 | 0 | 4 | 6 | 7 | 9 | 10 | 8 | | |
| Voluntary Surrenders by Legal | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | | |
| Disciplinary Action Entered by the Board | 0 | 0 | 17 | 0 | 0 | 10 | 0 | 0 | 0 | 20 | | |
| Warnings from Executive Director | 0 | 3 | 4 | 10 | 4 | 18 | 19 | 1 | 11 | 3 | | |
| Complaints Filed at SOAH | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | | |
| Informal Settlement Conferences Held | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | | |

* Voluntary Compliance – Non-registered business removed the word architect from their webpage.

** CE – Registrant furnished CE documentation after case file opened.

*** No evidence of any violation.

**Texas Board of Architectural Examiners
Fiscal Year 2017 Budget**

| | FY 2017 Approved Budget | FY 2017 Budget through 7-31-17 | FY 2017 Percentage Spent |
|--|-------------------------------|--------------------------------------|--------------------------------|
| Revenues: | | | |
| Licenses & Fees | 2,617,560 | 2,407,712 | 91.98% |
| Business Registration Fees | 80,000 | 98,961 | 123.70% |
| Late Fee Payments | 120,000 | 123,703 | 103.09% |
| Other | 2,500 | 3,990 | 159.59% |
| Interest | 2,000 | 8,645 | 432.25% |
| Potential Draw on Fund Balance | 93,902 | | |
| Total Revenues | 2,915,962 | 2,643,009 | 90.64% |
| Expenditures: | | | |
| Salaries and Wages | 1,526,423 | 1,376,995 | 90.21% |
| Payroll Related Costs | 525,897 | 483,330 | 91.91% |
| Professional Fees & Services | 25,000 | 10,617 | 42.47% |
| Travel | | | |
| Board Travel | 30,000 | 9,594 | 31.98% |
| Staff Travel | 20,000 | 13,258 | 66.29% |
| Office Supplies | 10,000 | 4,268 | 42.68% |
| Postage | 13,000 | 7,771 | 59.78% |
| Communication and Utilities | 13,000 | 11,516 | 88.59% |
| Repairs and Maintenance | 1,000 | 218 | 21.75% |
| Office Rental | 51,000 | 10,551 | 20.69% |
| Equipment Leases--Copiers | 8,500 | 7,534 | 88.64% |
| Printing | 15,000 | 7,404 | 49.36% |
| Operating Expenditures | 30,000 | 24,028 | 80.09% |
| Registration Fees--Employee Training | 11,000 | 8,343 | 75.84% |
| Membership Dues | 21,000 | 19,685 | 93.74% |
| SWCAP Payment | 65,142 | 102,463 | 157.29% |
| Payment to GR | 510,000 | 510,000 | 100.00% |
| IT Upgrades | 40,000 | 32,746 | 81.87% |
| Total Expenditures | 2,915,962 | 2,640,320 | 90.55% |
| Excess/ (Deficiency) of Rev over Exp. | - | 2,689 | |

| | |
|-----------------------------|------------------|
| Funding for 8 months | 1,943,780 |
| Excess Fund Balance | 587,065 |
| Total Fund Balance | 2,530,845 |

| | | |
|------------------------------------|----|--------|
| Administrative Penalties Collected | \$ | 82,527 |
| General Revenue Collected | \$ | 7,800 |

**Texas Board of Architectural Examiners
Fiscal Year 2017 Budget
Scholarship Fund**

| | FY 2017 Budget | FY 2017 Actual Sept. 1, 2016--July 31, 2017 |
|---|-------------------|--|
| Operating Fund Beginning Fund Balance: | - | - |
| Adjusted Beginning Balance | - | - |
| Scholarship Fund Beginning Balance | 68,455.86 | |
| Total Beginning Scholarship Fund Balance | 68,455.86 | 68,455.86 |
| Revenues: | | |
| Scholarship Fees | - | 10,977.00 |
| Total Revenues | - | 10,977.00 |
| Expenditures: | | |
| Operating Expenditures-Scholarship Payments | | 23,328.74 |
| Total Expenditures | | 23,328.74 |
| Excess/(Deficiency) of Rev. over Exp. | 68,455.86 | 56,104.12 |
| Fund Balance | 68,455.86 | 56,104.12 |

Number of Scholarships Awarded

47

Frequency per Fiscal Year----September 30, January 31, and May 31

Allocation of SWCAP and Rent Costs

| | | | Budgeted |
|--------------|-----------------|---------|-----------------|
| 2012 | | | |
| SWCAP | \$76,609 | 58.48% | \$ 60,908 |
| Rent | <u>\$54,390</u> | 41.52% | \$ 55,339 |
| Total | \$130,999 | 100.00% | \$ 116,247 |
| 2013 | | | |
| SWCAP | \$68,939 | 58.83% | \$ 60,910 |
| Rent | <u>\$48,251</u> | 41.17% | \$ 76,610 |
| Total | \$117,190 | 100.00% | \$ 137,520 |
| 2014 | | | |
| SWCAP | \$68,474 | 61.14% | \$ 60,910 |
| Rent | <u>\$43,526</u> | 38.86% | \$ 68,939 |
| Total | \$112,000 | 100.00% | \$ 129,849 |
| 2015 | | | |
| SWCAP | \$38,026 | 32.66% | \$ 60,910 |
| Rent | <u>\$78,392</u> | 67.34% | \$ 68,939 |
| Total | \$116,418 | 100.00% | \$ 129,849 |
| 2016 | | | |
| SWCAP | \$65,142 | 56.08% | \$ 78,000 |
| Rent | <u>\$51,017</u> | 43.92% | \$ 38,000 |
| Total | \$116,159 | 100.00% | \$ 116,000 |
| 2017 | | | |
| SWCAP | \$102,463 | 90.66% | \$ 65,142 |
| Rent | <u>\$10,551</u> | 9.34% | \$ 51,000 |
| Total | \$113,014 | 100.00% | \$ 116,142 |

**Texas Board of Architectural Examiners
Proposed 2018 Budget**

| | FY 2017 Approved Budget | FY 2017 Projected through 8/31/17 | FY 2018 Proposed Budget |
|--|-------------------------------|---|-------------------------------|
| Revenues: | | | |
| Licenses & Fees | 2,617,560 | \$ 2,626,594 | \$ 2,650,000 |
| Business Registration Fees | 80,000 | \$ 107,957 | \$ 100,000 |
| Late Fee Payments | 120,000 | \$ 133,363 | \$ 125,000 |
| Other | 2,500 | \$ 3,990 | \$ 3,000 |
| Interest | 2,000 | \$ 8,645 | \$ 2,500 |
| Potential Draw on Fund Balance | 93,902 | | \$ 140,830 |
| Total Revenues | 2,915,962 | \$ 2,880,549 | \$ 3,021,330 |
| Expenditures: | | | |
| Salaries and Wages | 1,526,423 | \$ 1,504,945 | \$ 1,572,215 |
| Payroll Related Costs | 525,897 | \$ 527,269 | \$ 548,115 |
| Professional Fees & Services | 25,000 | \$ 15,000 | \$ 75,000 |
| Travel | | | |
| Board Travel | 30,000 | \$ 13,000 | \$ 25,000 |
| Staff Travel | 20,000 | \$ 16,000 | \$ 20,000 |
| Office Supplies | 10,000 | \$ 5,000 | \$ 8,000 |
| Postage | 13,000 | \$ 9,000 | \$ 11,000 |
| Communication and Utilities | 13,000 | \$ 13,000 | \$ 14,000 |
| Repairs and Maintenance | 1,000 | \$ 500 | \$ 1,000 |
| SWCAP Payment with Office Rental | 116,142 | \$ 113,014 | \$ 115,000 |
| Equipment Leases--Copiers | 8,500 | \$ 8,500 | \$ 9,000 |
| Printing | 15,000 | \$ 8,000 | \$ 8,000 |
| Operating Expenditures | 30,000 | \$ 30,000 | \$ 30,000 |
| Registration Fees--Employee Training | 11,000 | \$ 9,000 | \$ 9,000 |
| Membership Dues | 21,000 | \$ 19,685 | \$ 21,000 |
| Payment to GR | 510,000 | \$ 510,000 | \$ 510,000 |
| IT Upgrades | 40,000 | \$ 40,000 | \$ 45,000 |
| Total Expenditures | 2,915,962 | \$ 2,841,913 | \$ 3,021,330 |
| Excess/ (Deficiency) of Rev over Exp. | - | 38,636 | 0 |

| | |
|-----------------------------|-------------------|
| Funding for 8 months | 1,943,780 |
| Excess Fund Balance | 649,129.71 |
| Total Fund Balance | 2,592,910 |

**Draft Amendments to Rules 5.5, 5.31, 5.32, 5.33, 5.35, 5.36, 5.37, 5.51, 5.52, 5.53, and 5.55,
and Repeal of Rules 5.54, 5.201, 5.202, and 5.203**

Relating to Eligibility Requirements for Registration as an Interior Designer

Background

Recently, the legislature passed SB 1932, which amends Tex. Occ. Code 1053.155(b) and changes the educational and experience requirements to become registered as an interior designer by examination. Under the previous law, an applicant for RID registration was required to have graduated from an interior design educational program recognized and approved by the Board, and have professional experience in interior design, as established by the Board. The Board implemented this law by adopting rules under Chapter 5, Subchapters B, C, and J, which specifically identified the educational programs and professional experience that would qualify an applicant for registration by examination.

However, under SB 1932, which becomes effective on September 1, 2017, an applicant is required to satisfy the educational and professional experience requirements for the examination adopted by the Board under Tex. Occ. Code 1053.154. In other words, in order to qualify for registration, an applicant must meet the educational and experience requirements of CIDQ to sit for the CIDQ examination. Since CIDQ's requirements differ from the requirements that had previously been implemented by the Board, it is necessary to revise the Board's rules.

Draft Amendments

The processes used to grant registrations are shaped by the registration requirements they implement. In light of the major change in registration requirements, Staff has reexamined all of the Board's rules relating to application, examination, and registration. The attached draft rules not only implement the revised registration requirements, but also amend TBAE processes to ensure a good fit between process and end result. Most notably, the draft amendments include the following changes:

- The rules in Subchapter J, which outlined the Board's eligibility requirements for education and experience, would be repealed. Instead, under Rule 5.31, an applicant would be

required to “demonstrate that the Applicant has satisfied the education and professional experience eligibility requirements adopted by CIDQ to sit for its examination.” Reference to the CIDQ requirements, as opposed to adopting the requirements within the Board’s rules, is preferable because it would not require the Board to engage in rulemaking if CIDQ changes its requirements. Rules 5.33 and 5.51 have also been amended to include reference to the CIDQ requirements.

- Since the Board would no longer have educational and experience requirements that differ from CIDQ, Rule 5.33 would be amended to require CIDQ approval of an applicant’s education and experience in accordance with CIDQ’s requirements prior to filing an application with the Board. Additionally, Rule 5.51 would be amended to eliminate a provision relating to Board approval to take the examination. Individuals may apply for and complete the CIDQ examination independent of the approval of any state regulatory board. Under current practices, over half of new applicants for Texas RID registration by examination have already completed the NCIDQ, and thus the Board does not “approve” these applicants prior to examination. The draft rule would reflect this procedure.
- Many of these rules were drafted to be identical to rules that were adopted for architects, and don’t necessarily align with the procedures at CIDQ. In order to provide further simplification of the rules, it is staff’s recommendation that Rule 5.52 be amended to state that, unless otherwise noted in the rules, the administration and scoring of the NCIDQ examination shall be governed by the procedures adopted CIDQ.
- Current Board rules allow an applicant to be approved for testing prior to the completion of experience requirements (at a different time than what is allowed under CIDQ’s procedures). However, under the revised statute, an application for admission to the registration examination must be accompanied by evidence that the applicant has completed the educational and professional experience requirements of CIDQ. Therefore, it would be inappropriate for the Board to receive an application from an applicant who has not completed CIDQ experience requirements and “approve” that applicant to take the exam early.
 - For this reason, it is staff’s recommendation that Rule 5.53 be simplified to require an applicant to schedule and pass all sections of the NCIDQ within the time period required by CIDQ.

- In other words, rolling clock requirements would be governed by CIDQ policies, and early testing would be governed by CIDQ requirements (which is allowed for certain degrees prior to completion of all experience).
- Rule 5.54, which describes an NCARB process for transferring scores between states, and does not have applicability for the NCIDQ exam, should be repealed.
- Because some individuals will have pending applications for RID registration by examination at the time the Board adopts rule amendments, it is advisable to include grandfathering provisions. Under amendments to Rules 5.31 and 5.53, those individuals may qualify for registration by either:
 - Meeting the educational and professional experience requirements of CIDQ and scheduling and passing all sections of the NCIDQ exam within the time period required by CIDQ; or
 - Meeting the educational and professional experience requirements and passing all sections of the NCIDQ exam within the time period adopted by the Board and in effect at the time the application was filed.
- Various housekeeping amendments have been included:
 - Previously, the organization that offers the NCIDQ examination changed its name to CIDQ – the Council for Interior Design Qualification. The Board rules have been updated throughout to use the term “CIDQ” to refer to the organization, and “NCIDQ” to refer to the examination.
 - Rule 5.36, which previously referred to “accredited” educational programs, should refer to “qualifying” programs, since accreditation is not required under CIDQ’s requirements.
 - Definitions have been added, amended, or repealed, as necessary.
 - Greater consistency of language between rules that address the same topic.
 - References to “applicant,” “candidate,” and “examinee” have been amended as needed.
 - Capitalization of defined terms

Attached you will find the following supporting documents:

- Relevant statutory provisions, with strikethrough and underline formatting indicating amendments to Tex. Occ. Code 1053.155 under SB 1932

- Copies of all rules proposed for amendment, with underline and strikethrough formatting indicating all changes
- CIDQ Exam Eligibility Requirements

Staff Recommendation

Move to approve the draft amendments to 22 Tex. Admin. Code §§ 5.5, 5.31, 5.32, 5.33, 5.35, 5.36, 5.37, 5.51, 5.52, 5.53, and 5.55. and repeal of §§ 5.54, 5.201, 5.202, and 5.203 for publication and proposal in the Texas register, with authority for the General Counsel to make editorial changes as necessary to clarify rule and Board intent and to comply with the formatting requirements of the Texas Register.

Sec. 1053.152. ELIGIBILITY REQUIREMENTS. (a) The board shall establish the qualifications for the issuance or renewal of a certificate of registration under this chapter.

(b) To be eligible for a certificate of registration, an applicant must:

- (1) meet the qualifications established by the board under Subsection (a);
- (2) pass the registration examination; and
- (3) pay the required fees.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1053.153. APPLICATION FOR CERTIFICATE OF REGISTRATION. Each application for a certificate of registration must:

- (1) be on a form prescribed and furnished by the board; and
- (2) include a:
 - (A) verified statement of the applicant's education; and
 - (B) detailed summary of the applicant's interior design work experience.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1053.154. EXAMINATION REQUIRED. (a) An applicant for a certificate of registration must pass the examination adopted by the board.

(b) The examination must cover subjects established by and must be graded according to board rules. The board by rule may adopt the examination of the National Council for Interior Design Qualification or a comparable examination.

(c) The board shall determine the time and place for each examination. The examination shall be offered at least once a year. The board shall give reasonable public notice of the examination in the manner provided by board rule.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1053.155. APPLICATION FOR ADMISSION TO EXAMINATION. (a) An applicant for a certificate of registration must apply to the board, on a form prescribed by the board, for admission to the registration examination.

(b) An application for admission to the registration examination must be accompanied by evidence satisfactory to the board that the applicant has satisfied the educational and professional experience requirements for the examination adopted by the board under Section 1053.154[-];

~~(1) has graduated from an interior design educational program recognized and approved by the board;
and~~

~~(2) has professional experience in the field of interior design].~~

~~[(c) The board shall adopt rules establishing standards for:~~

~~(1) the recognition and approval of interior design educational programs; and~~

~~(2) the amounts and types of professional experience necessary for registration examination eligibility.-]~~

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003, as amended S.B. 1932, 85th
Legislature

1 **RULE §5.5 Terms Defined Herein**

2 (1) The Act--The Interior Designers' Registration Law.

3 (2) Administrative Procedure Act (APA)--Texas Government Code §§2001.001 et seq.

4 (3) APA--Administrative Procedure Act.

5 (4) Applicant--An individual who has submitted an application for registration or reinstatement but has
6 not yet completed the registration or reinstatement process.

7 (5) Architectural Barriers Act--Texas Government Code, Chapter 469.

8 (6) Architectural Interior Construction--A building project that involves only the inside elements of a
9 building and, in order to be completed, necessitates the "practice of architecture" as that term is
10 defined in 22 Texas Administrative Code §1.5.

11 (7) Barrier-Free Design--The design of a facility or the design of an alteration of a facility which complies
12 with the Texas Accessibility Standards, the Americans with Disabilities Act, the Fair Housing Accessibility
13 Guidelines, or similarly accepted standards for accessible design.

14 (8) Board--Texas Board of Architectural Examiners.

15 (9) Cancel, Cancellation, or Cancelled--The termination of a Texas Interior Design registration certificate
16 by operation of law two years after it expires without renewal by the certificate-holder.

17 (10) Candidate--An individual that is seeking registration by examination but has not yet completed the
18 examination or application process.~~Applicant approved by the Board to take the Interior Design~~
19 ~~registration examination.~~

20 (11) CEPH--Continuing Education Program Hour(s).

21 (12) Chair--The member of the Board who serves as the Board's presiding officer.

22 ~~(13) CIDA--The Council for Interior Design Accreditation.~~

23 (13) CIDQ--The Council for Interior Design Qualification

24 (14) Construction Documents--Drawings; specifications; and addenda, change orders, construction
25 change directives, and other Supplemental Documents prepared for the purpose(s) of Regulatory
26 Approval, permitting, or construction.

27 (15) Consultant--An individual retained by a Registered Interior Designer who prepares or assists in the
28 preparation of technical design documents issued by the Registered Interior Designer for use in
29 connection with the Registered Interior Designer's Construction Documents.

30 (16) Contested Case--A proceeding, including a licensing proceeding, in which the legal rights, duties, or
31 privileges of a party are to be determined by a state agency after an opportunity for adjudicative
32 hearings.

33 (17) Continuing Education Program Hour (CEPH)--At least fifty (50) minutes of time spent in an activity
34 meeting the Board's continuing education requirements.

~~(18) Council for Interior Design Accreditation (CIDA)—An agency that sets standards for postsecondary Interior Design education and evaluates college and university Interior Design programs.~~

~~(18) Council for Interior Design Qualification (CIDQ)—An organization comprised of regulatory boards from the United States and Canada which administers the NCIDQ examination.~~

(19) Delinquent--A registration status signifying that a Registered Interior Designer:

(A) has failed to remit the applicable renewal fee to the Board; and

(B) is no longer authorized to use the title "~~R~~egistered ~~I~~nterior ~~D~~esigner" in Texas.

~~(20) Direct Supervision--The amount of oversight by an individual overseeing the work of another whereby the supervisor and the individual being supervised work in close proximity to one another and the supervisor has both control over and detailed professional knowledge of the work prepared under his or her supervision.~~

(201) Emeritus Interior Designer (or Interior Designer Emeritus)--An honorary title that may be used by a Registered Interior Designer who has retired from the practice of Interior Design in Texas pursuant to §1053.156 of the Texas Occupations Code.

(212) Energy-Efficient Design--The design of a project and the specification of materials to minimize the consumption of energy in the use of the project. The term includes energy efficiency strategies by design as well as the incorporation of alternative energy systems.

(223) Feasibility Study--A report of a detailed investigation and analysis conducted to determine the advisability of a proposed Interior Design project from a technical Interior Design standpoint.

(234) Good Standing--

(A) a registration status signifying that a Registered Interior Designer is not delinquent in the payment of any fees owed to the Board; or

(B) an application status signifying that an Applicant or Candidate is not delinquent in the payment of any fees owed to the Board, is not the subject of a pending TBAE enforcement proceeding, and has not been the subject of formal disciplinary action by an Interior Design registration board that would provide a ground for the denial of the application for Interior Design registration in Texas.

(245) Governmental Jurisdiction--A governmental authority such as a state, territory, or country beyond the boundaries of Texas.

(256) Inactive--A registration status signifying that a Registered Interior Designer may not practice Interior Design in the State of Texas.

(267) Interior Design--The identification, research, or development of creative solutions to problems relating to the function or quality of the interior environment; the performance of services relating to interior spaces, including programming, design analysis, space planning of non-load-bearing interior construction, and application of aesthetic principles, by using specialized knowledge of interior construction, building codes, equipment, materials, or furnishings; or the preparation of Interior Design plans, specifications, or related documents about the design of non-load-bearing interior spaces.

- 1 (278) Interior Designers' Registration Law--Chapter 1053, Texas Occupations Code.
- 2 (289) Interior Design Intern--An individual participating in an internship to complete the experiential
3 requirements for Interior Design registration by examination in Texas.
- 4 (2930) Licensed--Registered.
- 5 (301) Member Board--An Interior Design registration board that is part of NCIDQ.
- 6 ~~(32) National Council for Interior Design Qualification (NCIDQ)–A nonprofit organization of state and~~
7 ~~provincial interior design regulatory agencies and national organizations whose membership is made up~~
8 ~~in total or in part of interior designers.~~
- 9 (313) NCIDQ--~~National~~The examination developed and administered by the Council for Interior Design
10 Qualification, which is the adopted examination for registration as a Texas Registered Interior Designer.-
- 11 (324) Nonregistrant--An individual who is not a Registered Interior Designer.
- 12 (335) Principal--A Registered Interior Designer who is responsible, either alone or with other Registered
13 Interior Designers, for an organization's practice of Interior Design.
- 14 (346) Registered Interior Designer--An individual who holds a valid Texas Interior Design registration
15 granted by the Board.
- 16 (357) Registrant--Registered Interior Designer.
- 17 (368) Regulatory Approval--The approval of Construction Documents by a Governmental Entity after a
18 review of the Interior Design content of the Construction Documents as a prerequisite to construction or
19 occupation of a building of facility.
- 20 (3739) Reinstatement--The procedure through which a Surrendered or ~~R~~evoked Texas Interior Design
21 registration certificate is restored.
- 22 (3840) Renewal--The procedure through which a Registered Interior Designer pays a periodic fee so
23 that his or her registration certificate will continue to be effective.
- 24 (3941) Responsible Charge--That degree of control over and detailed knowledge of the content of
25 technical submissions during their preparation as is ordinarily exercised by Registered Interior Designers
26 applying the applicable Interior Design standard of care.
- 27 (402) Revocation or Revoked--The termination of a Texas Interior Design registration certificate by the
28 Board.
- 29 (413) Rules and Regulations of the Board--22 Texas Administrative Code §§5.1 et seq.
- 30 (424) Rules of Procedure of SOAH--1 Texas Administrative Code §§155.1 et seq.
- 31 (435) Secretary-Treasurer--The member of the Board responsible for signing the official copy of the
32 minutes from each Board meeting and maintaining the record of Board members' attendance at Board
33 meetings.

1 (446) Signature--A personal signature of the individual whose name is signed or an authorized copy of
2 such signature.

3 (457) SOAH--State Office of Administrative Hearings.

4 (468) Sole Practitioner--A Registered Interior Designer who is the only design professional to offer or
5 render ~~i~~interior ~~d~~esign services on behalf of a business entity.

6 (4749) State Office of Administrative Hearings (SOAH)--A ~~g~~overnmental ~~e~~ntity created to serve as an
7 independent forum for the conduct of adjudicative hearings involving the executive branch of Texas
8 government.

9 (4850) Supervision and Control--The amount of oversight by a Registered Interior Designer overseeing
10 the work of another whereby:

11 (A) the Registered Interior Designer and the individual performing the work can document frequent
12 and detailed communication with one another and the Registered Interior Designer has both control
13 over and detailed professional knowledge of the work; or

14 (B) the Registered Interior Designer is in Responsible Charge of the work and the individual performing
15 the work is employed by the Registered Interior Designer or by the Registered Interior Designer's
16 employer.

17 (4951) Supplemental Document--A document that modifies or adds to the technical Interior Design
18 content of an existing Construction Document.

19 (502) Surrender--The act of relinquishing a Texas Interior Design registration certificate along with all
20 privileges associated with the certificate.

21 (513) Sustainable Design--An integrative approach to the process of design which seeks to avoid
22 depletion of energy, water, and raw material resources; prevent environmental degradation caused by
23 facility and infrastructure development during their implementation and over their life cycle; and create
24 environments that are livable and promote health, safety and well-being. Sustainability is the concept of
25 meeting present needs without compromising the ability of future generations to meet their own needs.

26 ~~(54) Table of Equivalents for Education and Experience in Interior Design--22 Texas Administrative Code~~
27 ~~§§5.201 et. seq. (§§5.201--5.203 of this chapter).~~

28 (525) TBAE--Texas Board of Architectural Examiners.

29 (536) TDLR--Texas Department of Licensing and Regulation.

30 (547) Texas Department of Licensing and Regulations (TDLR)--A Texas state agency responsible for the
31 implementation and enforcement of the Texas Architectural Barriers Act.

32 (558) Texas Guaranteed Student Loan Corporation (TGS LC)--A public, nonprofit corporation that
33 administers the Federal Family Education Loan Program.

34 (5659) TGS LC--Texas Guaranteed Student Loan Corporation.

1 ~~(5760)~~ Vice-Chair--The member of the Board who serves as the assistant presiding officer and, in the
 2 absence of the Chair, serves as the Board's presiding officer. If necessary, the Vice-Chair succeeds the
 3 Chair until a new Chair is appointed.

4
 5 **RULE §5.31 Registration by Examination**

6 (a) In order to obtain Interior Design registration by examination in Texas, an Applicant shall
 7 demonstrate that the Applicant has satisfied the educational and professional experience eligibility
 8 requirements adopted by the Council for Interior Design Qualification (CIDQ) to sit for the NCIDQ
 9 examination, -a combined total of at least six years of approved Interior Design education and
 10 experience-and shall successfully complete the ~~Interior Design registration~~NCIDQ examination or a
 11 predecessor or other examination deemed equivalent by ~~NCIDQ~~ as more fully described in Subchapter C
 12 of this chapter.

13 (b) Alternatively, prior to December 31, 2018, an Applicant may obtain Interior Design registration by
 14 examination by successfully completing the Architectural Registration Examination or another
 15 examination deemed equivalent by NCARB after fulfilling the prerequisites of §1.21 and §1.41 of this
 16 title relating to Board approval to take the Architectural Registration Examination for architectural
 17 registration by examination. This subsection is repealed effective January 1, 2019.

18 (c) An Applicant for Interior Design registration by examination who, as of January 1, 2018, has been
 19 approved to take the examination by the Board and has paid all application maintenance fees associated
 20 with the application, may qualify for registration by successfully completing the NCIDQ or other
 21 qualifying examination and satisfying:

22 (1) the educational and professional experience required by CIDQ to sit for its examination; or

23 (2) the educational and professional experience requirements adopted by the Board and in
 24 effect at the time the application was filed.

25 ~~(c) For purposes of this section, an Applicant has "approved Interior Design education" if:~~

26 ~~-(1) The Applicant graduated from:~~

27 ~~—(A) a program that has been granted professional status by the Council for Interior Design~~
 28 ~~Accreditation (CIDA) or the National Architectural Accreditation Board (NAAB);~~

29 ~~—(B) a program that was granted professional status by CIDA or NAAB not later than two years after the~~
 30 ~~Applicant's graduation;~~

31 ~~—(C) a program that was granted candidacy status by CIDA or NAAB and became accredited by CIDA or~~
 32 ~~NAAB not later than three years after the Applicant's graduation; or~~

33 ~~—(D) an Interior Design education program outside the United States where an evaluation by World~~
 34 ~~Education Services or another organization acceptable to the Board has concluded that the program is~~
 35 ~~substantially equivalent to a CIDA or NAAB accredited professional program;~~

36 ~~-(2) The Applicant has a doctorate, a master's degree, or a baccalaureate degree in Interior Design;~~

1 ~~(3) The Applicant has:~~

2 ~~—(A) A baccalaureate degree in a field other than Interior Design; and~~

3 ~~—(B) An associate's degree or a two- or three-year certificate from an Interior Design program at an~~
4 ~~institution accredited by an agency recognized by the Texas Higher Education Coordinating Board;~~

5 ~~(4) The Applicant has:~~

6 ~~—(A) A baccalaureate degree in a field other than Interior Design; and~~

7 ~~—(B) An associate's degree or a two- or three-year certificate from a foreign Interior Design program~~
8 ~~approved or accredited by an agency acceptable to the Board.~~

9 ~~(d) In addition to educational requirements, an applicant for Interior Design registration by examination~~
10 ~~in Texas must also complete approved experience as more fully described in Subchapter J of this chapter~~
11 ~~(relating to Table of Equivalents for Education and Experience in Interior Design).~~

12 ~~(e) The Board shall evaluate the education and experience required by subsection (a) of this section in~~
13 ~~accordance with the Table of Equivalents for Education and Experience in Interior Design.~~

14 ~~(f) For purposes of this section, the term "approved Interior Design education" does not include~~
15 ~~continuing education courses.~~

16 ~~(g) An Applicant for Interior Design registration by examination who enrolls in an Interior Design~~
17 ~~educational program after September 1, 2006, must graduate from a program described in subsection~~
18 ~~(c)(1) of this section.~~

19 ~~(h)~~ In accordance with federal law, the Board must verify proof of legal status in the United States.
20 Each Applicant shall provide evidence of legal status by submitting a certified copy of a United States
21 birth certificate or other documentation that satisfies the requirements of the Federal Personal
22 Responsibility and Work Opportunity Reconciliation Act of 1996. A list of acceptable documents may be
23 obtained by contacting the Board's office.

24

25 **RULE §5.32 Registration by Reciprocal Transfer**

26 (a) A person may apply for Interior Design registration by reciprocal transfer if the person holds an
27 Interior Design registration that is active and in good standing in another jurisdiction and the other
28 jurisdiction:

29 (1) has licensing or registration requirements substantially equivalent to Texas registration
30 requirements; or

31 (2) has entered into a reciprocity agreement with the Board that has been approved by the Governor of
32 Texas.

33 (b) In order to obtain Interior Design registration by reciprocal transfer, an Applicant must demonstrate
34 that the Applicant has:

1 (1) successfully completed the NCIDQ examination or a predecessor or other examination deemed
2 equivalent by the another Interior Design registration examination which the National Council for
3 Interior Design Qualification (NCIDQ) has approved as conforming to NCIDQ's examination standards or
4 as being acceptable in lieu of the NCIDQ examination; and

5 (2) acquired at least two years of acceptable Interior Design experience following registration in
6 another jurisdiction.

7 (c) An Applicant for Interior Design registration by reciprocal transfer must remit the required
8 registration fee to the Board within 60 days after the date of the tentative approval letter sent to the
9 Applicant by the Board.

10

11 **RULE §5.33 Application Process**

12 (a) An Applicant for Interior Design registration by examination or by reciprocal transfer must apply for
13 registration by submitting to the Board's office a completed registration application and all required
14 supporting documentation.

15 (b) Prior to filing an application for registration by examination, an Applicant must:

16 (1) satisfy the educational and professional experience eligibility requirements adopted by the Council
17 for Interior Design Qualification (CIDQ) to sit for the NCIDQ examination; and

18 (2) be approved by CIDQ to sit for the examination.

19 (c) An application for registration by examination must include:

20 (1) a verified statement of the Applicant's education, such as a transcript;

21 (2) a detailed summary of the Applicant's interior design work experience; and

22 (3) proof of acceptance by CIDQ to sit for the examination.

23 ~~(d)~~ Upon receipt of the completed application and all required supporting documentation and receipt
24 of the required application fee, the Board shall evaluate the Applicant's application materials. The Board
25 may require additional information or documentation from the Applicant.

26 ~~(e)~~ The Board will notify each Applicant in writing regarding the approval or rejection of the Applicant's
27 application.

28 ~~(f)~~ Pursuant to the provisions of §231.302 of the Texas Family Code, each Applicant shall submit his/her
29 social security number to the Board. The Applicant's social security number shall be considered
30 confidential as stated in §231.302(e) of the Texas Family Code.

31 ~~(g)~~ The Board may take action against an Applicant or Candidate pursuant to §5.160 of this title
32 (relating to Effect of Enforcement Proceedings on Application).

33

34 **RULE §5.35 Pending Applications**

1 (a) A properly submitted application for registration by examination will be effective for three years
2 from the date it is received by the Board. After three years, the Board may require the Applicant or
3 Candidate to update the application or reapply.

4 (b) Each ~~Candidate approved for examination~~Applicant must pay an annual record maintenance fee as
5 prescribed by the Board or the ~~Candidate's~~ application file will be closed. An ~~Candidate-Applicant~~ may
6 reopen an application file that was closed pursuant to this section only after payment of a fee equal to
7 the sum of the record maintenance fees for the current year and each year the file has been closed plus
8 any costs directly related to the reopening of the application file. An application file that has been closed
9 for five years or longer may not be reopened.

10

11 **RULE §5.36 Preliminary Evaluation of Criminal History**

12 (a) An Applicant, Candidate or a person enrolled or planning to enroll in a ~~an~~ qualifying accredited Interior
13 Design educational program may make a written request to the Board's executive director for a
14 preliminary criminal history evaluation letter which states the person's eligibility for registration under
15 §5.158 of this chapter (relating to Criminal Convictions).

16 (b) A person who requests a criminal history evaluation shall provide the following information:

17 (1) a statement describing the offenses for which the requestor has a criminal history;

18 (2) any court documents including, but not limited to, indictments, orders of deferred adjudication,
19 judgments, probation records, and evidence of completion of probation, if applicable;

20 (3) the names and contact information of the parole or probation department, if any, to which the
21 requestor reports; and

22 (4) the required fee for determining eligibility.

23 (c) Within 90 days after receiving a request which complies with subsection (b) of this section, the
24 executive director shall issue a criminal history evaluation letter which states:

25 (1) a determination that a ground for ineligibility based upon criminal conduct does not exist; or

26 (2) a determination that the requestor is ineligible due to criminal conduct and a specific explanation of
27 the basis for that determination, including the relationship between the conduct in question and the
28 practice of Interior Design.

29 (d) For purposes of determining eligibility for registration, a record of conviction is conclusive evidence
30 of guilt. The Board may not consider a conviction in determining eligibility for registration upon receipt
31 of proof that the conviction or an order of probation with or without adjudication of guilt has been
32 reversed or set aside.

33 (e) In the absence of evidence that was not disclosed by the requestor or reasonably available when a
34 request for a criminal history evaluation was under consideration, the executive director's criminal
35 history evaluation letter is a final determination regarding the requestor's eligibility for registration. If
36 found to be ineligible for registration, a requestor may not apply for registration until one year after the
37 date the letter is issued. A requestor who is determined to be ineligible may:

1 (1) submit a request for reconsideration of the determination of ineligibility based upon evidence that
2 was not disclosed or reasonably available to the agency at the time the determination was made;

3 (2) submit a new request for an evaluation no sooner than one year after the date upon which the
4 criminal history evaluation letter was issued; or

5 (3) request a hearing on the determination made in the executive director's criminal history evaluation
6 letter. A hearing conducted pursuant to this section is subject to the Administrative Procedure Act,
7 Chapter 2001, Government Code.

8 (f) The Board shall issue a final order on the determination made in the criminal history evaluation after
9 consideration of a proposal for decision issued by an administrative law judge at the State Office of
10 Administrative Hearings. The Board's final order must specify findings of fact and conclusions of law,
11 stated separately, regarding the person's eligibility for registration in light of his or her criminal history
12 record.

13 (g) A person who is found to be ineligible by a final order of the Board may not file another request for a
14 criminal history evaluation or apply for registration until three years after the date of the Board's final
15 order. However, a person may request reconsideration of the final order based upon evidence that was
16 not disclosed or reasonably available to the Board at the time the final order was issued.

17

18 **RULE §5.37 Provisional Licensure**

19 (a) The Board shall grant a Certificate of Registration or a provisional Certificate of Registration to an
20 otherwise qualified Candidate-Applicant who has been convicted of an offense that:

21 (1) is not directly related to the Practice of Interior Design as determined by the executive director
22 under §5.158 of this chapter (relating to Criminal Convictions);

23 (2) was committed earlier than five (5) years before the date the Candidate-Applicant filed an
24 application for registration;

25 (3) is not an offense listed in §3g, Article 42.12, Code of Criminal Procedure; and

26 (4) is not a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

27 (b) A provisional Certificate of Registration expires six (6) months after the date it is issued.

28 (c) A provisional Certificate of Registration may be Revoked for the following reasons:

29 (1) the provisional Registrant commits another offense during the 6-month provisional Registration
30 period;

31 (2) the provisional Registrant's community supervision, mandatory supervision, or parole is Revoked; or

32 (3) the provisional Registrant violates a statute or rule enforced by the Board.

33 (d) A provisional Registrant who is subject to community supervision, mandatory supervision, or parole
34 shall provide the Board name and contact information of the probation or parole department to which
35 the provisional Registrant reports. The Board shall provide notice to the department upon the issuance

1 of the provisional Certificate of Registration, as well as any terms, conditions or limitations upon the
2 provisional Registrant's practice.

3 (e) Upon successful completion of the provisional Registration period, the Board shall issue a Certificate
4 of Registration to the provisional Registrant. If a provisional Registrant's provisional Certificate is
5 Revoked, the provisional Registrant is disqualified from receiving a Certificate of Registration and may
6 not apply for a Certificate of Registration for a period of three (3) years from the date of Revocation.

7

8 **RULE §5.38 Child Support Arrearage**

9 Pursuant to Texas Family Code §232.0135, the Board shall not approve an application for registration
10 from an Applicant who has failed to pay court ordered child support. The Board shall refuse to approve
11 such an application upon receipt of notice of the child support arrearage from the child support agency
12 until receipt of notice from the agency that the arrearage has been paid or other conditions specified in
13 Texas Family Code §232.0135 have been met.

14

15 **RULE §5.39 Registration of a Military Service Member, Military Veteran, or Military Spouse**

16 (a) Definitions.

17 (1) "Active duty" means current full-time military service in the armed forces of the United States or
18 active duty military service as a member of the Texas military forces, as defined by Section 437.001,
19 Government Code, or similar military service of another state.

20 (2) "Armed forces of the United States" means the army, navy, air force, coast guard, or marine corps
21 of the United States or a reserve unit of one of those branches of the armed forces.

22 (3) "Military service member" means a person who is on active duty.

23 (4) "Military spouse" means a person who is married to a military service member.

24 (5) "Military veteran" means a person who has served on active duty and who was discharged or
25 released from active duty.

26 (b) Interior design registration eligibility requirements for military service members, military veterans,
27 and military spouses.

28 (1) Verified military service, training, or education will be credited toward the registration
29 requirements, other than an examination requirement, of an Applicant who is a military service member
30 or a military veteran.

31 (2) An Applicant who is a military service member, military veteran, or military spouse may be eligible
32 for registration if the Applicant:

33 (A) Holds an active interior design registration issued by another jurisdiction that has licensing or
34 registration requirements that are substantially equivalent to the requirements for the license in this
35 state; or

1 (B) Held an active interior design registration in this state within the five years preceding the
2 application.

3 (3) As soon as practicable after a military service member, military veteran, or military spouse files an
4 application for registration, the Board shall process the application, and if the applicant qualifies for
5 registration under this subsection, issue the registration.

6 (4) This subsection does not apply if the Applicant holds a restricted registration issued by another
7 jurisdiction or has an unacceptable criminal history.

8

9 **RULE §5.51 Requirements**

10 (a) An Applicant for Interior Design registration by examination in Texas must meet the eligibility and
11 application requirements contained in §5.33(b) and (c) of this chapter, and successfully complete all
12 sections of the National Council for Interior Design Qualification (NCIDQ) NCIDQ examination or a
13 predecessor or other examination deemed equivalent by the Council for Interior Design Qualification
14 (CIDQ)NCIDQ deems equivalent to the NCIDQ examination. Alternatively, prior to December 31, 2018,
15 an applicant may obtain Interior Design registration by examination by successfully completing all
16 sections of the Architectural Registration Examination (ARE), or another examination NCARB deems
17 equivalent to the ARE, after fulfilling the requirements of §1.21 and §1.41 of this title relating to Board
18 approval to take the ARE for architectural registration by examination.

19 ~~(b) The Board may approve an Applicant to take the NCIDQ examination only after the Applicant has~~
20 ~~completed the educational requirements for Interior Design registration by examination in Texas, has~~
21 ~~completed at least six (6) months of full-time experience working under the Direct Supervision of a~~
22 ~~Registered Interior Designer, and has submitted the required application materials. In jurisdictions~~
23 ~~where interior designers are not licensed, the supervision may be under a licensed architect or a~~
24 ~~Registered Interior Designer who has passed the NCIDQ examination.~~

25 ~~(c) An Applicant may take the NCIDQ examination at any official NCIDQ testing center but must satisfy~~
26 ~~all Texas registration requirements in order to obtain Interior Design registration by examination in~~
27 ~~Texas.~~

28 ~~(d)~~ Each Candidate Applicant must achieve a passing score in each division of the NCIDQ examination.
29 Scores from individual divisions may not be averaged to achieve a passing score.

30 ~~(e)~~ An examination fee may be refunded as follows:

31 (1) The application fee paid to the Board is not refundable or transferable.

32 (2) The Board, on behalf of an examinee Candidate, may request a refund of a portion of the
33 examination fee paid to ~~the national examination provider~~CIDQ for scheduling all or a portion of the
34 registration examination. A charge for refund processing may be withheld by ~~the national examination~~
35 ~~provider~~CIDQ. Refunds of examination fees are subject to the following conditions:

36 (A) An Candidate examinee, because of extreme hardship, must have been precluded from scheduling
37 or taking the examination or a portion of the examination. For purposes of this subsection, extreme
38 hardship is defined as a serious illness or accident of the Candidate-examinee or a member of the

1 ~~Candidate's examinee's~~ immediate family or the death of an immediate family member. Immediate
2 family members include the spouse, child(ren), parent(s), and sibling(s) of the ~~Candidate examinee~~. Any
3 other extreme hardship may be considered on a case-by-case basis.

4 (B) A written request for a refund based on extreme hardship must be submitted not later than thirty
5 (30) days after the date the examination or portion of the examination was scheduled or intended to be
6 scheduled. Documentation of the extreme hardship that precluded the ~~applicant-examinee~~ from
7 scheduling or taking the examination must be submitted by the ~~Candidate-examinee~~ as follows:

8 (i) Illness: verification from a physician who treated the illness.

9 (ii) Accident: a copy of an official accident report.

10 (iii) Death: a copy of a death certificate or newspaper obituary.

11 (C) Approval of the request and refund of the fee or portion of the fee by ~~the national examination~~
12 ~~provider CIDQ~~.

13 (3) An examination fee may not be transferred to a subsequent examination.

14
15 **RULE §5.52 Examination Administration and Scoring**

16 (a) An Applicant must apply for Interior Design registration by examination as described in §5.33 of this
17 title (relating to Application Process).

18 (b) ~~Unless otherwise noted in this chapter, the administration and scoring of the NCIDQ examination~~
19 ~~shall be governed by the procedures adopted by the Council for Interior Design Qualification (CIDQ). The~~
20 ~~NCIDQ examination shall be administered once during the spring and once during the fall of every year.~~

21 ~~(c) In order for an Applicant to take the NCIDQ examination in the spring, the Applicant's application and~~
22 ~~supporting documentation must be postmarked or received by the Board no later than December 1st of~~
23 ~~the preceding year. In order for an Applicant to take the NCIDQ examination in the fall, the Applicant's~~
24 ~~application and supporting documentation must be postmarked or received by the Board no later than~~
25 ~~June 1st. If the deadline falls on a date when the Board's office is closed, the application and supporting~~
26 ~~documentation must be postmarked or received by the Board no later than the next date when the~~
27 ~~Board's office is open.~~

28 ~~(d) A Candidate who is approved to take the NCIDQ examination must appear personally for~~
29 ~~examination as directed in the notification letter sent to the Applicant. In order to be admitted for~~
30 ~~examination, the Candidate must present the candidate's identification card that was mailed to the~~
31 ~~Candidate prior to the examination date and must present a separate official form of identification~~
32 ~~bearing a recent photograph of the Candidate.~~

33 ~~(e) Each Candidate shall be responsible for taking to the examination all tools necessary to complete the~~
34 ~~examination.~~

35 ~~(f) An explanation of the scoring procedures for the NCIDQ examination shall be provided to each~~
36 ~~Candidate before the examination is administered to the Candidate.~~

1 ~~(g) A Candidate's NCIDQ examination scores shall be determined by the entity that administers the~~
2 ~~examination.~~ The Board shall not review any NCIDQ examination score to determine its validity.

3 ~~(h) If, for any reason, a Candidate takes a section or sections of the NCIDQ examination but does not~~
4 ~~receive a score for the section or sections, the Board shall have no liability beyond authorizing the~~
5 ~~Candidate to retake the section or sections with the corresponding fee waived.~~

6
7 **RULE §5.53 ~~Reexamination~~Scheduling of Examinations**

8 (a) In order to qualify for registration by examination, an Applicant must schedule and pass all sections
9 of the NCIDQ within the time period required by the Council for Interior Design Qualification (CIDQ).

10 (b) Notwithstanding subsection (a) of this section, an Applicant described by §5.31(c) of this chapter may
11 schedule and pass all sections of the NCIDQ examination within the time period:

12 (1) required by CIDQ; or

13 (2) adopted by the Board and in effect at the time the application was filed.~~A Candidate's~~
14 ~~passing grade for any section of the examination is valid for five (5) years. Each Candidate must pass all~~
15 ~~sections of the examination within five (5) years after the date the Candidate passes a section of the~~
16 ~~examination. A Candidate who does not pass all sections of the examination within five (5) years after~~
17 ~~passing a section of the examination will forfeit credit for the section of the examination passed and~~
18 ~~must pass that section of the examination again.~~

19 ~~(c) A qualifying examinee may request an extension if the examinee is~~ The Board may grant extensions
20 ~~to the 5-year period for completion of the examination if the Candidate is unable to pass all sections of~~
21 ~~the examination within that the required time period for the following reasons:~~

22 (1) The ~~Candidate-examinee~~ gave birth to, or adopted a child ~~within that 5-year period;~~

23 (2) The ~~Candidate-examinee~~ developed a serious medical condition ~~within that 5-year period;~~ or

24 (3) The ~~Candidate-examinee~~ commenced active duty service as a member of the United States military
25 ~~within that 5-year period.~~

26 ~~(d) An Candidate-examinee~~ may receive an extension of up to 6 months for the birth or adoption of a
27 child by filing a written application with the Board together with any corroborating evidence
28 immediately after the ~~Candidate-examinee~~ learns of the impending adoption or birth. A ~~Candidate~~
29 ~~examinee~~ may receive an extension for the period of the serious medical condition or for the period of
30 active duty military service by filing a written application with the Board together with corroborating
31 evidence immediately after the ~~Candidate-examinee~~ learns of the medical condition or the
32 commencement of active duty military service. An ~~Candidate-examinee~~ shall immediately notify the
33 Board in writing when the medical condition is resolved or active duty military service ends. Any request
34 for an extension under this section must be approved by the Board and CIDQ.

35
36 **RULE §5.54 — Transfer of Passing Scores**

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~~(a) A Candidate's examination score may be transferred from one NCIDQ member board to another. The acceptance of the Candidate's score by the board receiving the score shall terminate the Candidate's application with the board transferring the score so that the Candidate has an application pending in only one (1) jurisdiction at all times. In order to be approved for Interior Design registration in Texas, a Candidate whose examination score is transferred to Texas must satisfy all requirements for Interior Design registration in Texas in effect at the time the examination score is transferred.~~

~~(b) If a Candidate's examination score is transferred from another member board and accepted by the Board, the Candidate must pass all sections of the examination no later than five (5) years from the date the first examination section was passed. If the Candidate does not pass all sections of the examination within five (5) years after passing a section of the examination, the Candidate will forfeit credit for the section of the examination passed and must pass that section of the examination again.~~

RULE §5.55 Special Accommodations

(a) In accordance with the Americans with Disabilities Act (ADA), every registration examination must be conducted in an accessible place and manner, or alternative accessible arrangements must be afforded so that no qualified individual with a disability is unreasonably denied the opportunity to complete the licensure process because of his/her disability.

(b) Special accommodations can be provided for examinees with physical or mental impairments that substantially limit major life activities. Available accommodations include the modification of examination procedures and the provision of auxiliary aids and services designed to furnish an individual with a disability an equal opportunity to demonstrate his/her knowledge, skills, and ability.

(c) The Board is not required to approve every request for accommodation or auxiliary aid or provide every accommodation or service as requested. The Board is not required to grant a request for accommodation if doing so would fundamentally alter the measurement of knowledge or the measurement of a skill intended to be tested by the examination or would create an undue financial or administrative burden.

(d) Procedure for requesting accommodation:

(1) To protect the integrity of the testing process, an Applicant-examinee requesting an accommodation must submit documentation regarding the existence of a disability and the reason the requested accommodation is necessary to provide the Applicant-examinee with an equal opportunity to exhibit his/her knowledge, skills, and ability through the examination. The Board shall evaluate each request on a case-by-case basis.

(2) An Applicant-examinee requesting an accommodation must have a licensed health care professional or other qualified evaluator provide certification regarding the disability as described in Subsection (e) of this section.

(3) An Applicant-examinee seeking an accommodation must make a request for accommodation on the prescribed form and provide documentation of the need for accommodation well in advance of the

1 examination date. If the form is submitted less than sixty (60) days prior to the examination date, the
2 Board will attempt to process the request but might not be able to provide the necessary
3 accommodation for the next examination.

4 (e) The following information is required to support a request for an accommodation or an auxiliary aid:

5 (1) Identification of the type of disability (physical, mental, learning);

6 (2) Credential requirements of the evaluator:

7 (A) For physical or mental disabilities (not including learning), the evaluator shall be a licensed health
8 care professional qualified to assess the type of disability claimed. If a person who does not fit these
9 criteria completes the evaluation, the Board may reject the evaluation and require another evaluation,
10 and the request for accommodation may be delayed.

11 (B) In the case of learning disabilities, a qualified evaluator shall have sufficient experience to be
12 considered qualified to evaluate the existence of learning disabilities and proposed accommodations
13 needed for specific learning disabilities. The evaluator shall be one of the following:

14 (i) a licensed physician or psychologist with a minimum of three years' experience working with
15 adults with learning disabilities; or

16 (ii) another professional who possesses a master's or doctorate degree in special education or
17 educational psychology and who has at least three years of equivalent training and experience in all of
18 the areas described below:

19 (I) assessing intellectual ability and interpreting tests of such ability;

20 (II) screening for cultural, emotional, and motivational factors;

21 (III) assessing achievement level; and

22 (IV) administering tests to measure attention and concentration, memory, language reception and
23 expression, cognition, reading, spelling, writing, and mathematics.

24 (3) Professional verification of the disability, which shall include a description of:

25 (A) the nature and extent of the disability, including a description of its effect on major life activities
26 and the anticipated duration of the impairment;

27 (B) the effect of the disability on the ~~applicant's~~ examinee's ability to:

28 (i) evaluate written material;

29 (ii) complete graphic sections of the examination by drawing, drafting, and lettering; and

30 (iii) complete computerized sections of the examination that require data entry via keyboard and the
31 manipulation of a mouse.

32 (C) whether the disability limits the amount of time the ~~Applicant-examinee~~ can spend on specific
33 examination tasks;

34 (D) the recommended accommodation and how it relates to the ~~applicant's~~ examinee's disability;

- 1 (E) the professional's name, title, telephone number, and his/her original signature;
- 2 (F) any other information necessary, in the professional's opinion, to enable the exam provider to
- 3 understand the examinee's disability and the accommodation necessary to enable the examinee to
- 4 demonstrate his/her knowledge, skills, and ability.
- 5 (f) Documentation supporting an accommodation shall be valid for five (5) years from the date
- 6 submitted to the Board except that no further documentation shall be required where the original
- 7 documentation clearly states that the disability will not change in the future.
- 8 (g) The Board has the responsibility to evaluate each request for accommodation and to approve, deny,
- 9 or suggest alternative reasonable accommodations. The Board may consider an Applicant's examinee's
- 10 history of accommodation in determining its reasonableness in relation to the currently identified
- 11 impact of the disability.
- 12 (h) Information related to a request for accommodation shall be kept confidential to the extent provided
- 13 by law.

14 SUBCHAPTER J - TABLE OF EQUIVALENTS FOR EDUCATION AND EXPERIENCE IN INTERIOR DESIGN -
 15 REPEALED

16 RULE §5.201 — Description of Approved Education for Registration by Examination

17 (a) Pursuant to §5.31 of this title (relating to Registration by Examination), an Applicant must
 18 successfully demonstrate that he/she has approved Interior Design education and experience in
 19 accordance with the following table. An Applicant for Interior Design registration by examination who
 20 enrolls in an Interior Design educational program after September 1, 2006, must graduate from a
 21 program described in ID-1:

22 Attached Graphic

Figure: 22 TAC §5.201(a)

| Approved Education | | Minimum Experience Required |
|---------------------------|--|------------------------------------|
| ID-1 (Per §5.31(a)(1)) | Graduation from a program granted professional status by the Council for Interior Design Accreditation (CIDA) or the National Architectural Accreditation Board (NAAB) or from an interior design education program outside the U.S. that is substantially equivalent to a CIDA-accredited or NAAB-accredited professional program | 2 years |
| ID-2 (Per §5.31(a)(2)) | A doctorate, master's degree, or baccalaureate degree in Interior Design from a degree program that | 3 years |

| | | |
|---------------------------|---|-------------|
| | does not satisfy the requirements of category ID-1 | |
| ID-3 (Per §5.31(a)(3)) | A baccalaureate degree in a field other than Interior Design plus an associate's degree or a two-year or three-year certificate from an Interior Design program at an institution accredited by an agency recognized by the Texas Higher Education Coordinating Board (THECB) | 3 years |
| ID-4 (Per §5.31(a)(4)) | A baccalaureate degree in a field other than Interior Design plus an associate's degree or a two-year or three-year certificate from a foreign interior design program approved or accredited by an agency acceptable to the Board | 3 1/2 years |

1

2 (b) An Applicant may not earn credit in more than one of categories ID-1 through ID-4.

3

4 **RULE §5.202** — Description of Approved Experience for Registration by Examination

5 Every Applicant for registration by examination must successfully demonstrate that he/she has gained a
6 minimum of two years of experience credit in accordance with the following table subject to the
7 following terms and conditions:

8

9 Attached Graphic

Figure: 22 TAC §5.202

| Description of Experience | | Credit Allowed | Maximum Credit |
|---------------------------|---|----------------|----------------|
| ID-7 | Diversified experience directly related to Interior Design as an employee working under the Direct Supervision of a Registered Interior Designer or architect | Full credit | No limit |
| ID-8 | Diversified experience directly related to Interior Design when the experience is not under the Direct Supervision of a Registered Interior Designer or architect | Half credit | 1 year |

| | | | |
|------|--|-------------|--------|
| ID-9 | Teaching on a full-time basis in a CIDA-accredited program in Interior Design | Full credit | 1 year |
|------|--|-------------|--------|

1

2 ~~—(1) An Applicant must earn at least one year of experience credit under the conditions described in~~
 3 ~~category ID-7.~~

4 ~~—(2) In order to earn credit in category ID-7 or ID-8, an Applicant must:~~

5 ~~—(A) work at least thirty-five (35) hours per week for a minimum of ten (10) consecutive weeks; or~~

6 ~~—(B) for half credit, work between twenty (20) and thirty-four (34) hours per week for a minimum of six~~
 7 ~~(6) consecutive months.~~

8 ~~—(3) In order to earn credit in category ID-9, an Applicant must teach subjects that are directly related to~~
 9 ~~the practice of interior design. An Applicant may earn one year of credit by teaching for twenty (20)~~
 10 ~~semester credit hours or thirty (30) quarter credit hours.~~

11 ~~—(4) An Applicant may not earn credit for experience gained prior to the date the Applicant completed~~
 12 ~~the educational requirements for Interior Design registration by examination in Texas.~~

13

14 ~~RULE §5.203 — Other Education and Experience~~

15 ~~An Applicant may earn credit for education or experience other than under the conditions described in~~
 16 ~~Sections 5.201 and 5.202 of this subchapter if the Board considers such education or experience to be~~
 17 ~~substantially equivalent to the education and experience described therein. For purposes of this~~
 18 ~~subsection, education may be considered as experience.~~

CIDA Degree

(ROUTE 1)

| | | | | | | | |
|--|--------|--------|---|----------------|--|--|---|
| <p>Education Bachelor's or Master's degree from a CIDA-accredited interior design program.</p> <p>BY END OF YEAR 3 96 sem/144 qtr credits completed</p> | | | <p>Up to 1,760 hours of work experience can be earned before education is completed.</p> <p>BY END OF YEAR 4 Education completed</p> | APPLY FOR IDFX | <p>Work Experience 3,520 hours qualified interior design experience.²</p> <p>Final 1,760 hours must be earned after all education is completed.</p> | | APPLY FOR IDPX/ PRAC TO COMPLETE THE EXAM |
| YEAR 1 | YEAR 2 | YEAR 3 | YEAR 4 | YEAR 5 | YEAR 6 | | |

Interior Design Degree — Non-CIDA

(ROUTE 2)

| | | | | | | | |
|--|--------|--------|---|----------------|--|--|---|
| <p>Education Bachelor's degree (minimum) in an interior design program not accredited by CIDA.¹</p> <p>Including: No less than 120 semester or 180 quarter credits, of which no less than 60 semester or 90 quarter credits are interior design coursework.</p> <p>BY END OF YEAR 3 96 sem/144 qtr credits completed</p> | | | <p>Up to 1,760 hours of qualified work experience can be earned before education is completed.</p> <p>BY END OF YEAR 4 Education completed</p> | APPLY FOR IDFX | <p>Work Experience 3,520 hours qualified interior design experience.²</p> <p>Final 1,760 hours must be earned after all education is completed.</p> | | APPLY FOR IDPX/ PRAC TO COMPLETE THE EXAM |
| YEAR 1 | YEAR 2 | YEAR 3 | YEAR 4 | YEAR 5 | YEAR 6 | | |

Other Degree + Interior Design Degree

(ROUTE 3)

| | | | | | | | |
|--|--------|--------|---|----------------|--|--|---|
| <p>Education Bachelor's degree (minimum) in any other major and no less than 60 semester or 90 quarter credits of interior design coursework that culminates in a certificate, degree or diploma.</p> <p>BY END OF YEAR 3 30 sem/45 qtr interior design credits completed</p> | | | <p>Up to 1,760 hours of qualified work experience can be earned before education is completed.</p> <p>BY END OF YEAR 4 Education completed</p> | APPLY FOR IDFX | <p>Work Experience 3,520 hours qualified interior design experience.²</p> <p>Final 1,760 hours must be earned after all education is completed.</p> | | APPLY FOR IDPX/ PRAC TO COMPLETE THE EXAM |
| YEAR 1 | YEAR 2 | YEAR 3 | YEAR 4 | YEAR 5 | YEAR 6 | | |

Associates Degree (60 Hrs) in Interior Design

(ROUTE 4)

| | | | | | | |
|---|--------|--------|----------------|--|--------|---|
| <p>Education No less than 60 semester or 90 quarter credits of interior design coursework that culminates in a certificate, degree or diploma.</p> <p>BY END OF YEAR 3 Education completed</p> | | | APPLY FOR IDFX | <p>Work Experience 5,280 hours qualified interior design experience.²</p> <p>Education must be complete before work experience can be earned.</p> | | APPLY FOR IDPX/ PRAC TO COMPLETE THE EXAM |
| YEAR 1 | YEAR 2 | YEAR 3 | YEAR 4 | YEAR 5 | YEAR 6 | |

Associates Degree (40 Hrs) in Interior Design Route 5 ENDS December 31, 2018 (ROUTE 5)

| | | | | | | |
|--|--------|--|--------|--------|--------|----------------|
| Education No less than 40 semester or 60 quarter credits of interior design coursework that culminates in a certificate, degree or diploma. BY END OF YEAR 2 Education completed | | Work Experience 7,040 hours qualified interior design experience. ² Education must be complete before work experience can be earned. | | | | APPLY FOR EXAM |
| YEAR 1 | YEAR 2 | YEAR 3 | YEAR 4 | YEAR 5 | YEAR 6 | |

NAAB or CACB Degree

(ROUTE 6)

| | | | | | | | |
|---|--|--|----------------|--|--|--|---|
| Education Bachelor's or Master's degree from an NAAB or CACB accredited architecture program. ³ BY END OF YEAR 5 - 6 Education completed | | | APPLY FOR IDFX | Work Experience 5,280 hours qualified interior design experience. ² Education must be complete before work experience can be earned. | | | APPLY FOR IDPX/ PRAC TO COMPLETE THE EXAM |
| 5 - 6 YEARS | | | | 3 YEARS | | | |

Architecture Degree – Non-NAAB or CACB

(ROUTE 7)

| | | | | | | | | |
|--|--------|--------|--------|--|--------|--------|--------|----------------|
| Education Bachelor of Science or Bachelor of Arts in Architecture BY END OF YEAR 4 Education completed | | | | Work Experience 7,040 hours qualified interior design experience. ² Education must be complete before work experience can be earned. | | | | APPLY FOR EXAM |
| YEAR 1 | YEAR 2 | YEAR 3 | YEAR 4 | YEAR 5 | YEAR 6 | YEAR 7 | YEAR 8 | |

Do not see a route that matches your background?
 Please give our offices a call to discuss your options at 202.721.0220

Go to www.cidq.org to learn more and apply online!

- 1 CIDA – the Council for Interior Design Accreditation – was formerly known as FIDER. To qualify, the degree program must have been CIDA-accredited at graduation or must have become CIDA-accredited within two years following graduation.
- 2 If you began accruing interior design work experience after January 1, 2008, you must earn qualified work experience in order to be eligible to take the NCIDQ Examination.
- 3 NAAB – the National Architectural Accrediting Board
 CACB – the Canadian Architectural Accrediting Board
 To qualify, the degree program must have been accredited at graduation or within two years of graduation.

The NCIDQ Certificate: Professionalism. Prestige.



Discussion of Informal Conference Procedures

Background

At the June board meeting, the board considered a disciplinary action involving a landscape architect registrant. Prior to this matter being brought before the board, an informal conference had been held with the respondent and a board member in attendance. The proposed settlement that had been offered at the informal conference was accepted by the board, but a conversation followed in which the board discussed informal conferences and the appropriate role of board members in that process. The chair asked staff to place the matter on the agenda for the next board meeting, so that relevant information could be provided for board consideration.

Relevant Law, Rules, and Policies

Under Section 2001.056 of the Texas Administrative Procedures Act, an administrative agency is authorized to informally dispose of a case by stipulation, agreed settlement, or consent order, unless precluded by law. The informal settlement conference is one tool that has been developed by agencies to encourage informal disposition of disciplinary cases by agreement. Generally, an informal conference is an opportunity for a respondent to respond to an investigation by appearing in person before an informal conference panel made up of agency representatives.

TBAE's enabling legislation does not specifically address informal conference procedures. However, the board has adopted an informal conference rule for each profession¹ which states:

“. . . (b) An informal conference shall be attended by the respondent and each person designated by the Executive Director to attend the conference. The respondent shall have the right to employ legal counsel to attend the informal conference at the respondent's expense.”

The agency's adopted policies and procedures do not address informal conferences, with the exception of a brief mention in Policy LE-001 that a Notice of Violation shall include “Notice that the Respondent may request an informal conference in accordance with Board Rules 1.166,

¹ Board Rules 1.166, 3.616, and 5.176.

3.166 and/or 5.176.” The board training manual, which was drafted by staff for board reference and not formally adopted or approved by the board, states that, “Most often, an informal conference will be attended by the Executive Director, the General Counsel, investigative staff, and a Board member, in addition to the Respondent and his representatives.”

Recent History of Informal Conferences at TBAE

Prior to Ms. Hildebrand’s arrival as executive director, board members did not participate in informal conferences. Staff identified fourteen informal conferences which took place from 2000-2015, and none included board member attendance. During that time, TBAE engaged in two mediations, with three board members present at each.

Since Ms. Hildebrand became executive director in April of 2015, two informal conferences have been held. On October 18, 2016, an informal conference was held on the request of a candidate for architectural registration. The candidate had previously been convicted of a felony, and had requested a preliminary determination of eligibility for registration. Ms. Hildebrand contacted Ms. Dockery, and asked her to attend the informal conference. In addition, Ms. Hildebrand designated herself, Mr. Brenton, and Mr. Stamps as panelists under Rule 1.166. The respondent attended the informal conference with his attorney, and after his presentation, the panel recommended that the respondent be granted a provisional certificate of registration following completion of the ARE. The respondent agreed to this proposed settlement, which was presented to the board and adopted at the December 2016 board meeting.

The most recent informal conference was held on April 28, 2017. The respondent, a landscape architect who was accused of having placed his seal on a single page landscape plan that was not prepared under his supervision and control, had been offered a Notice of Violation which included a recommended penalty of \$1,000. Subsequently, the executive director granted the respondent’s request for an informal conference. The meeting was attended by Ms. Hildebrand, Mr. Davis, Mr. Brenton, Mr. Stamps, and the respondent. After the respondent’s presentation, the informal conference panel discussed the matter, and it was determined that staff’s original recommended penalty was appropriate. The respondent accepted the penalty, and the board approved the settlement at the June board meeting.

Comparison with Other Agencies' Procedures

Because the informal conference procedures instituted by Ms. Hildebrand and Mr. Brenton are informed by their previous experience at other agencies, it is helpful to consider the procedures followed by those agencies. Although each agency is different, these procedures are fairly representative of state agency practice.

Pharmacy Board

- Panel – The informal conference always includes one board member, the executive director (pharmacist), the director of enforcement (pharmacist), and the general counsel. A staff attorney presents the case to the panel.
- Selection of board member – The Pharmacy Board holds informal conferences once per (non-board meeting) month, for two to three days each. The informal conference schedule is developed at the beginning of the year, and board members are asked to volunteer and sign up for informal conferences as available.
- Recusal – Board members recuse themselves from consideration of the settlement when it is presented to the full board.

Dental Board – Upcoming Process

- The Dental Board's recent sunset bill has instituted changes to the board's informal conference procedures which will go into effect in September. The new procedures are statutorily required, and require panels to include at least two board members and/or individuals selected from the "Dental Review Committee," a new body appointed by the governor. This procedure is similar to the Medical Board's statutorily-required procedure, and is intended to provide a larger pool of individuals to participate in informal conferences, thus decreasing the time commitment required of board members.

Dental Board – Current Process

- Panel – The panel always includes one to three board members and the general counsel. The executive director does not attend.

- Selection of board member – The Dental Board has 1-2 informal conferences per month. Board member attendance is requested by staff, who attempt to group cases by type and match those cases to a board member with a corresponding specialty or practice area.
- Recusal – Following an informal conference, board members do not recuse themselves from consideration of agreed settlements, but do recuse from consideration of a PFD after a SOAH case, if the settlement is not approved.

Nursing Board

- Panel – The panel includes the executive director or her designee (nurse), the director of enforcement, and an attorney. The case is presented by the investigator, who may be a nurse. Board members do not generally attend informal conferences.
- Eligibility and Disciplinary Committee – The Eligibility and Disciplinary Committee is a committee of three which is appointed by the board president. It consists of two nurse members and a public member. The disciplinary committee meets according to the Open Meetings Act, and is granted authority to provide final approval of agreed orders and to hear eligibility cases and grant or deny licensure.

Advantages and Disadvantages of Board Member Participation in Informal Conferences

In order to facilitate board discussion of this topic, staff have attempted to identify advantages and disadvantages of board member participation in the informal conference process. A non-exclusive list is as follows:

- Advantages
 - Because TBAE staff does not include a member of any of the three professions, a registered board member can offer expertise that assists in responding to any contentions made at the informal conference.
 - While in-person expertise could be provided by an expert witness, a board member has the unique perspective of participating in previous board decisions, and weighing those decisions against the facts and circumstances of the informal conference case. While the board member is not able to speak for all other board

members, his or her opinion on the appropriate sanction is more probative than an expert witness who does not have experience in assigning penalties.

- Cost of board attendance is lower than expert attendance.
 - Increases board oversight of staff activity.
 - If staff is uncertain about whether the board would accept any particular settlement, it is helpful to have the opportunity to present it to one board member before bringing it before the full board. Allowing this “first level” review could save board resources by settling a case that staff would otherwise bring to SOAH.
- Disadvantages
 - Informal conference participation could result in the board member having disproportionate influence in the outcome, in that other board members could be hesitant to reject the proposed settlement.
 - Greater chance of conflict of interest exercised by one board member as opposed to the full board, though state law and agency policy would prohibit such conduct.
 - Attendance at an informal conference is an expenditure of the board member’s time.
 - Financial cost to agency associated with board member’s trip.
 - If a board member participates in an informal conference and recuses from the board’s consideration, as advised, the board member loses the opportunity to vote on the matter.

Attachments

Staff have gathered the following documents for consideration by the board:

- Board Rules 1.166, 3.166, and 5.176
- Excerpt from board training manual regarding informal conferences
- Agency Policy LE-001 – Contested Case Process
- History of TBAE informal conferences and mediations, 2000-2017
- Agency Policy GC-006 – Conflict of Interest and Recusal Policy

Action

Staff have not prepared a draft rule or policy for consideration by the board. Rather, staff is seeking direction from the board about general preferences for informal conferences, so that corresponding drafts can be prepared for the Board's future consideration, if necessary and as appropriate. To this end, discussion and consensus on the following matters would be helpful:

- Should Board members participate in informal conferences?
- If so, how many?
- If so, how should the board members be designated for participation?
- If not, should staff seek attendance by outside experts?

RULE §1.166 Informal Conference

- (a) An informal conference may be held in order to provide a respondent with the opportunity to appear and answer a charge against the respondent in person.
- (b) An informal conference shall be attended by the respondent and each person designated by the Executive Director to attend the conference. The respondent shall have the right to employ legal counsel to attend the informal conference at the respondent's expense.
- (c) An informal conference shall be voluntary and shall not be a prerequisite to a formal hearing.

RULE §3.166 Informal Conference

- (a) An informal conference may be held in order to provide a respondent with the opportunity to appear and answer a charge against the respondent in person.
- (b) An informal conference shall be attended by the respondent and each person designated by the Executive Director to attend the conference. The respondent shall have the right to employ legal counsel to attend the informal conference at the respondent's expense.
- (c) An informal conference shall be voluntary and shall not be a prerequisite to a formal hearing.

RULE §5.176 Informal Conference

- (a) An informal conference may be held in order to provide a respondent with the opportunity to appear and answer a charge against the respondent in person.
- (b) An informal conference shall be attended by the respondent and each person designated by the Executive Director to attend the conference. The respondent shall have the right to employ legal counsel to attend the informal conference at the respondent's expense.
- (c) An informal conference shall be voluntary and shall not be a prerequisite to a formal hearing.

Chapter 6. Enforcement/Compliance

Board Powers Relating to Disciplinary Matters

State law gives the Board general authority to take enforcement action in response to violations of the enabling acts for architecture, landscape architecture, and interior design. Occupations Code §1051.501. This includes disciplinary authority to suspend, revoke, or refuse to renew registrations issued by the Board, as well as the imposition of administrative penalties against registrants and non-registrants who violate the Board's laws. §§ 1051.401 and 1051.451. The Board also has authority to order a registrant to pay restitution to a consumer, not to exceed the amount the consumer paid the registrant for a service. Occupations Code §1051.505.

Complaint Procedures

When the Board receives a complaint, it is initially reviewed by the Managing Investigator to determine if there is probable cause to believe an actionable violation of agency statutes or rules might have occurred. When probable cause exists, a case is opened, assigned to an investigator and the respondent is notified of the allegations. The Respondent is given an opportunity to respond to any cited violations. The investigator contacts the complainant, respondent and witnesses, and collects evidence as necessary to investigate the matter fully. If technical expertise is required, a subject matter expert may be asked to review the case.

When the investigation is complete, the case file is forwarded to the Board's legal counsel. At this time, a Notice of Violation is prepared which outlines the violations of Board laws and rules, and offers the Respondent an opportunity to accept the Executive Director's proposed settlement. Occupations Code 1051.453. If the Respondent does accept the settlement, the Respondent returns a signed copy of the Notice of Violation, and the matter is placed on the agenda for the next Board meeting, where the Board must approve the settlement terms.

If the settlement is not accepted, the matter proceeds to further to informal conference and/or formal hearing at the State Office of Administrative Hearings (SOAH).

Informal Conferences

In the event a proposed settlement is not accepted by the Respondent, Staff may recommend that an informal conference be held. An informal conference is an opportunity for the Respondent to present information to a TBAE panel concerning the disciplinary case. The Board has adopted procedures regarding informal conferences in Rules §§1.166, 3.166, and 5.176. The Board is not required to grant the Respondent an informal conference. Generally, an informal conference will only be offered in matters where factual circumstances in dispute can be better addressed in person. Most often, an informal conference will be attended by the Executive Director, the General Counsel, investigative staff, and a Board member, in addition to the Respondent and his representatives. Depending upon the results of the informal conference, the proposed settlement may be revised or kept the same, or the disciplinary action dismissed. The informal conference recommendation is not binding, and the Respondent may request a formal hearing.

The Formal Hearing Process

If a disciplinary action is not disposed of through acceptance of a settlement or informal

| | | | |
|---------------------------------|---|------------------------|---|
| Policy Title: | Contested Case Process | Policy Number | LE-001 |
| Originally Issued: | April 1, 2012 | Revision Dates: | Sep 16, 2013 - Amended Aug 31 – Reviewed |
| Revisions: | Change: Managing Litigator to General Counsel Revised: Page 3 – Policy statement Revised: Page 4 – Separation of Responsibilities Revised: Page 8, paragraph 17 & 21 | | |
| Approved By: | Julie Hildebrand, Executive Director | | |
| Responsible Department: | Legal Department | | |
| Primary Policy Custodian | General Counsel | | |

Purpose

The purpose of this policy is to describe the steps taken by the legal division subsequent to a referral from the investigations division in evaluating, developing and bringing to final resolution violations of laws within the jurisdiction of TBAE.

References and related Resources or Statutory Authority

Texas Occupations Code, Subchapter B –“Regulation of Architecture and Related Practices.”

- 1051.201 (“Scope of Administrative Authority”)
- 1051.202 (“General Rulemaking Authority”)
- 1051.204 (“Subpoenas”)
- 1051.208 (“Standards of Conduct”)
- 1051.401 (“Right to Hearing; Appeal”)
- 1051.451 (“Imposition of Administrative Penalty”)
- 1051.452 (“Amount of Administrative Penalty”)
- 1051. 453 (“Report and Notice of Violation”)
- 1051.454 (“Administrative Penalty to be Paid or Hearing Requested”)
- 1051.455 (“Hearing”)
- 1051.456 (“Notice of Board Order”)
- 1051.457 (“Options Following Board Order: Pay or Appeal”)
- 1051.458 (“Collection of Administrative penalty”)
- 1051.501 (“General Enforcement Authority”)
- 1051.502 (“Injunctive Relief”)
- 1051.503 (“Cumulative Effect of Provisions”)
- 1051.504 (“Cease and Desist Order”)
- 1051.505 (“Restitution”)
- 1051.701 (“Registration Required”)
- 1051.751 (“Disciplinary Power of Board”)
- 1051.752 (“Grounds for Disciplinary Action”)

Landscape Architecture

- 1052.003 (“Practice of Landscape Architecture”)
- 1052.151 (“Registration Required; Exceptions”)
- 1052.251 (“Disciplinary Powers of Board”)

INTERIOR DESIGNERS

- 1053.251 (“Disciplinary Powers of Board”)
- 1053.252 (“Grounds for Disciplinary Action”)
- 1053.351 (“Criminal Penalty”)

22 Tex. Admin. Code §§ 1.1 – 1.234 (Architecture)

- §1.66 (“Reinstatement”)
- §1.141 (“General”)
- §1.149 (“Criminal Convictions”)
- §1.151 (“Effect of Enforcement Proceedings on Application”)
- §1.164 (“Initiating a Contested Case”)
- §1.165 (“Informal Disposition of a Contested Case”)
- §1.166 (“Informal Conference”)
- §1.168 (“Dismissal”)
- §1.169 (“Alternative Dispute Resolution”)
- §1.170 (“Referrals from the Texas Department of Licensing and Regulation”)
- §1.172 (“Continuing Violation”)
- §1.173 (“Violation by One Not an Architect”)
- §1.174(h) (“Complaint Process”)
- §1.177 (“Administrative Penalty Schedule”)
- §1.232 (“Board Responsibilities”)
- §1.234 (“Suspension of Registration”)

22 Tex. Admin. Code §§ 3.1 – 3.234 (Landscape Architecture)

- §3.66 (“Reinstatement”)
- §3.141 (“General”)
- §3.149 (“Criminal Convictions”)
- §3.151 (“Effect of Enforcement Proceedings on Application”)
- §3.164 (“Initiating a Contested Case”)
- §3.165 (“Informal Disposition of a Contested Case”)
- §3.166 (“Informal Conference”)
- §3.168 (“Dismissal”)
- §3.169 (“Alternative Dispute Resolution”)
- §3.170 (“Referrals from the Texas Department of Licensing and Regulation”)
- §3.172 (“Continuing Violation”)
- §3.173 (“Violation by One Not a Landscape Architect”)
- §3.174 (“Complaint Process”)
- §3.177 (“Administrative Penalty Schedule”)
- §3.232 (“Board Responsibilities”)
- §3.234 (“Suspension of Registration”)

22 Tex. Admin. Code §§ 5.1 – 5.244 (Interior Design)

- §5.76 (“Reinstatement”)

§5.151 (“General”)
§5.158 (“Criminal Convictions”)
§5.160 (“Effect of Enforcement Proceedings on Application”)
§5.174 (“Initiating a Contested Case”)
§5.175 (“Informal Disposition of a Contested Case”)
§5.176 (“Informal Conference”)
§5.178 (“Dismissal”)
§5.179 (“Alternative Dispute Resolution”)
§5.180 (“Referrals from the Texas Department of Licensing and Regulation”)
§5.182 (“Continuing Violation”)
§5.183 (“Violation by One Not a Registered interior Designer”)
§5.184 (“Complaint Process”)
§5.187 (“Administrative Penalty Schedule”)
§5.242 (“Board Responsibilities”)
§5.244 (“Suspension of Registration”)

OTHER

TEXAS GOVERNMENT CODE §311.005¹

TEXAS OPEN MEETINGS ACT, TEX. GOV’T CODE CH. 551.

TEXAS GOVERNMENT CODE CH. 2001

(ADMINISTRATIVE PROCEDURE ACT)

1 TEX. ADMIN. CODE §§ 155.1 – 155.507

(PROCEDURAL RULES OF THE STATE OFFICE OF ADMINISTRATIVE HEARINGS)

Scope

The legislature has mandated that a violation of the laws (which includes both statutory and regulatory duties) regulating the professions of architecture, landscape architecture and registered interior designers be reported to TBAE and that enforcement action is taken against a person who violates these laws. Tex. Occ. Code §1051.501.

This policy will direct the activities of the General Counsel, attorneys, and paralegals in the legal division in their evaluation, preparation, negotiation, and prosecution of cases under the statutory mandate.

Policy

It is the function of the General Counsel to evaluate contested cases referred from the investigations division to ensure that the evidence collected during the investigation of a matter support a conclusion that a violation of law has occurred and to ensure that the administrative response is guided by, and reflects, the criteria established by law. The guidelines for calculating an administrative *penalty* are identified as policy number LE-002. The General Counsel may delegate the preparation of settlement documents for routine matters, subject to review and approval by General Counsel prior to recommendation to the Executive Director.

In addition to the administrative *penalty*, which is a monetary sum, the General Counsel is responsible for recommending any other disciplinary sanction which may be other than, or include, the imposition of an administrative penalty. Texas Occupations Code §1051.503 permits the Board, in the exercise of its enforcement function, to use a combination of administrative responses.² These may include seeking

² Non-registrants who violate the laws within the agency’s jurisdiction may also be prosecuted. §§1051.801, 1053.351; Board Rules 1.173 and 5.183.

an injunction (§1051.502), issuance of a cease and desist order (§1051.504), an order that a registrant pay restitution to a consumer (§1051.505), reprimand a certificate holder or revoke, suspend or refuse to renew a certificate of registration (§1051.751; Board Rules 1.232(j); 3.232(j); 5.242(j)). Staff may also seek the criminal prosecution of an individual (§1051.801; §1053.351) and impose terms and conditions upon the practice of a person whose registration is subject to a probated suspension (Board Rule 1.234 Tex. Occ. Code §1051.751; 1052.251; 1053.251).

In addition the General Counsel is responsible for representing the agency if a Respondent or applicant makes a request for the issuance or reinstatement of a certificate of registration which the Executive Director believes is not warranted. §1051.401.

It is the policy of the Texas Board of Architectural Examiners that the legal department thoroughly evaluate the facts and the governing law applicable to all cases in order to apply principles which treat similarly situated persons in a similar manner, ensure that any administrative response reflects the unique facts and circumstances of each case, and that enforcement proceedings safeguard life, health, property, and the public welfare and protect the public against the irresponsible practice of architecture. §1051.0015.

SEPARATION OF RESPONSIBILITIES

The General Counsel provides legal counsel to the Board and the agency regarding general legal matters in conducting Board meetings and carrying out agency business. However, the General Counsel does not provide legal counsel to the Board regarding matters arising from a case the General Counsel is prosecuting before the Board. On those matters, the Board receives independent representation from legal counsel provided by the Office of the Attorney General.

PROCEDURES

1. The legal division is primarily responsible for review of an investigative file upon its transfer from the investigations division. Upon receipt of a case referral from the investigations division the General Counsel will review the file to ensure legal adequacy of the facts to support a finding that a violation of the laws over which the agency has jurisdiction exists. A review will also be made of the recommended administrative response which may, as noted, involve cumulative remedies. §1051.503
2. If the General Counsel determines that the facts do describe a violation of law which cannot be disposed of by a written warning pursuant to Board Rules 1.174(i)(2), 3.174(i)(2), 5.184(i), he or she shall prepare a Report and Notice of Violation for review and possible adoption by the Executive Director in accordance with Tex. Occ. Code §1051.453, Board Rules 1.165, 3.165, 5.175. The Report and Notice of Violation shall contain both Findings of Fact, which describe the specific acts or omissions supporting a legal violation, and Conclusions of Law which provide legal references to the specific statutory or regulatory provisions which have been violated.
3. If the General Counsel determines that the facts do not give rise to a legal violation he or she shall have the case returned to the Managing Investigator with a Confidential Legal Memorandum (thereby exempting it from possible disclosure under the Public Information Act or subsequent discovery during case prosecution) specifically setting forth the elements which are lacking in order to make out a *prima facie* case. Staff may take other action consistent with the options set forth in Board Rules 1.174(h); 3.174(h); 5.184(h)

4. The draft Report and Notice of Violation which is prepared for the Executive Director's review and signature shall state the General Counsel's recommendation for disciplinary sanction, including an administrative penalty based upon the criteria set forth in statute and Board Rules including Tex. Occ. Code §§1051.452, 22 TAC §§1.141, 1.165, 1.177, 1.232(j); 3.141, 3.165, 3.177, 3.232(j); 5.151, 5.175, 5.187, and 5.242. See Policy Number LE-002. **The following shall be included in the Report and Notice of Violation:**

- Notice that the Respondent may either:
 - (1) accept the Executive Director's proposed resolution, subject to Board approval, or
 - (2) request a hearing at the State Office of Administrative Hearings;
- **Notice that the Respondent may request an informal conference in accordance with Board Rules 1.166, 3.166 and/or 5.176.**
- Language which the Respondent must sign and have notarized in order to accept the proposal. This language shall, at a minimum, contain
 - The Respondent's acknowledgement that he, she or it has read the materials and accepts the Findings and Conclusions contained in the Report and Notice of Violation;
 - The Respondent waives rights to any appeal from the Board order including a hearing before the State Office of Administrative Hearings; and
 - The Respondent agrees to pay the administrative penalty within a specified period of time after the Board accepts the terms of a proposed informal resolution.

5. Upon receipt of the Report and Notice of Violation signed by the Respondent and containing the Executive Director signature it shall constitute a settlement agreement which is taken to the Board by the General Counsel for possible approval. Board Rules 1.165(b) 3.165(b), 5.174(b); 1 TAC 2001.056.

6. The Report and Notice of Violation executed by both the Executive Director and the Respondent will be placed on the agenda as a proposed informal case settlement for the first regularly scheduled Board meeting which permits posting of the item in compliance with the Open Meetings Act, Tex. Gov't Code §551.014.

7. If the Board rejects the terms of the settlement agreement the Respondent will be notified and offered another proposal for informal settlement. Board Rules 1.165(c), 3.165(c), 5.1749(c).

8. If the Board approves of the proposed settlement agreement the Chairman will be provided with a document titled "Final Order of the Board" which attaches and incorporates by reference the settlement agreement and recites that the Board considered and voted on the proposed settlement agreement and has approved of its terms. The Respondent will be provided a copy of the Final Order of the Board and all incorporated documents along with written notice of the date by which the administrative penalty must be paid.

SOAH PROCEDURES

9. The General Counsel shall docket a case at the State Office of Administrative Hearings if the Respondent neither accepts the Executive Director's proposed resolution nor requests a formal hearing within 20 days of actual receipt of the Report and Notice of Violation. Prior to docketing a case the General Counsel may attempt to contact the Respondent to ensure receipt

of the Report and Notice of Violation, the possibility of an informal settlement, and the Respondent's desire to participate in an informal conference. Tex. Occ. Code §1051.455

10. The State Office of Administrative Hearings will, usually within one week, notify the General Counsel of the docket number and hearing date for the matter. The General Counsel shall draft a Notice of Hearing which conforms to Tex. Govt Code 2001.02 and SOAH Rule 155.401 and the legal assistant will be responsible for ensuring that the Notice of Hearing is served upon the respondent and filed with SOAH.

11. Upon the docketing of a case with the State Office of Administrative Hearings the General Counsel will oversee, and be responsible for, the development and prosecution of the case in accordance with Tex. Occ. Code §1051.401, 1051.455; Board Rules 1.231, *et seq.*, 3.231, *et seq.* 5.241, *et seq.*; 1 TAC §155, *et seq.* (SOAH procedural Rules); and Tex. Gov't Code §§2001.051, *et seq.* (Texas Administrative Procedure Act)

12. Upon the Administrative Law Judge's issuance of a Proposal for Decision the General Counsel shall, in consultation with the Executive Director decide whether exceptions shall be submitted to the Administrative Law Judge; Board Rules 1.232, 2.232, 5.242; 1 TAC 155.507.

13. Upon the issuance of a PFD to which no exceptions have been filed, or upon receipt of a PFD which adopts, or is revised in response to exceptions filed by either party, the Executive Director in consultation with General Counsel shall decide whether the agency should argue before the Board in favor of adopting or amending the PFD as the Board's final order.

14. If it is decided that staff wishes the Board to make changes to the PFD he or she shall prepare a proposed final order which states the changes staff wishes the Board to make and which complies with Tex. Gov't Code 2001.058(e); Board Rules 1.232, 3.232, 5.242.

15. After receipt of the Administrative Law Judge's PFD, and the expiration of timelines for the filing of exceptions and replies as set out in SOAH rule 155.507, the General Counsel shall place the matter on the agenda for a regularly scheduled Board meeting.

16. The General Counsel shall notify the Respondent in writing of the date when the Board will consider the PFD issued by the Administrative Law Judge.

17. The General Counsel shall provide this information to the legal assistant who is responsible for ensuring that the matter is placed on the Board's agenda and that a copy of the PFD is provided to the Board prior the meeting.

18. The General Counsel or the Respondent may request an opportunity to address the Board in order to influence its action of the PFD. Board rules 1.232; 2.232; 5.241. No other communication shall be made by either party to the Board except through the Board's Executive Director with a copy to the other party.

19. If necessary, the Executive Director shall contact the Attorney General's Office to request legal representation for the Board in consideration of a PFD.

20. After the Board's meeting at which it has considered and taken action upon the PFDs issued by SOAH the legal assistant shall send written notice of the Board's action to the Respondent along with an invoice for the amount of the administrative penalty.

21. The General Counsel will monitor the receipt of a motion for rehearing submitted by the Respondent as a condition necessary for any subsequent effort to obtain judicial review.
22. Upon appeal, General Counsel shall prepare a letter for the Executive Director's signature requesting the Office of the Attorney General to assign counsel to represent the agency before the Court.

CLOSING OF CASES AND MONITORING

23. A case is considered closed within the legal division upon the Board's issuance of a Final Order, whether the final order is issued as the final agency action in the informal settlement of a case or in response to a Proposal for Decision issued by an Administrative Law Judge after the time period for the filing of exceptions has expired.
24. Upon the closing of a case, the Legal Assistant will enter the amount of the administrative penalty into TBAsE and the investigations specialist will verify that the entry accurately reflects the sum imposed by the board and will make an entry that this check has been performed within TBAsE.
25. The General Counsel shall monitor, or delegate the monitoring of, the Respondent's compliance with the final Order of the Board and, if the Board Order was the result of a previous hearing before the State Office of Administrative Hearings, shall monitor the Respondent's activities for post-hearing review. Tex. Occ. Code §§1051.457, 1051.459; Board rules 1.232(d); 3.232(d), 5.242(d).
26. Payments of administrative penalties will be governed by Agency Policies LE005 and LE006.

Review Cycle

Policies and procedures are reviewed at least every two years or updated as required to ensure they reflect current information and requirements. Policies and procedures are reviewed in consultation with staff, management, and agency regulatory bodies to ensure they accommodate and are reflective of the needs of our registrants, oversight agencies, and best practice guidelines.

SUMMARY OF TBAE INFORMAL CONFERENCES

Case Number: #096-16L
 Case Name: David L. Garrison
 Date of IFC: April 28, 2017
 Attendees: David L. Garrison (R), Julie Hildebrand (ED), Chad Davis (Bd. Member), Lance Brenton (GC), Jack Stamps (MI)
 Violation: Board Rule 3.104(a) – sealed document prepared by another
 Settlement: \$1,000

Case Number: #031-17N
 Case Name: Rojelio Hernandez
 Date of IFC: October 18, 2016
 Attendees: Rojelio Hernandez (R), Matt Ryan (R’s atty.), Julie Hildebrand (ED), Debra Dockery (Bd. Member), Lance Brenton (GC), Jack Stamps (MI)
 Violation: Criminal Conviction – Determination of Eligibility for Licensure
 Settlement: Approved for provisional registration upon completion of ARE

Case Number: #088-14N
 Case Name: Dawn Moore
 Date of IFC: April 1, 2015
 Attendees: Dawn Moore (R), Michael Dietch (R’s atty.), Glenn Garry (Interim ED), Zindia Thomas (OAG Rep.) Jack Stamps (MI), Katherine Crain (LA)
 Violation: Board Rule 1.104(c) – use of architect’s seal
 Settlement: \$40,000

Case Number: #105-13I
 Case Name: Paul Sanchez
 Date of IFC: January 28, 2015
 Attendees: Paul Sanchez (R), J.J. Trevino & Louis Lechter (R’s attys.) Glenn Garry (Interim ED), Scott Gibson (GC), Jack Stamps (MI), Katherine Crain (LA)
 Violation: Tex. Occ. Code §1051.702 – use of architect’s seal
 Settlement: \$15,000

Case Number: #075-11A
 Case Name: James C. Walker
 Date of IFC: May 22, 2014
 Attendees: James C. Walker (R), Gordon Landreth (former TBAE Chair), Cathy Hendricks (ED), Scott Gibson (GC), Jack Stamps (MI), Katherine Crain (LA)
 Mediation @ SOAH: October 21, 2014

Attendees: Michael O'Malley (ALJ), James C. Walker (R), Matt Ryan & Will Allensworth (R's attys.), Gordon Landreth (Former TBAE Chair), Chuck Anastos (Board Member), Debra Dockery (Board Member), Davey Edwards (Board Member) Glenn Garry (Interim ED), Scott Gibson (GC), Jack Stamps (MI), Katherine Crain (LA)
 Violation: Board Rule 1.104(a) – sealed documents not prepared by an architect
 Settlement: \$25,000 + 24 month probated suspension

Case Number: #116-13N
 Case Name: Rafael Sanchez
 Date of IFC: April 23, 2014
 Attendees: Rafael Sanchez (R), Gil Peralez (R's atty.), Scott Gibson (GC), Jack Stamps (MI), Katherine Crain (LA)
 Violation: Tex. Occ. Code §1051.702 – person other than architect practicing
 Settlement: \$15,000

Case Number: #006-12A; 139-11A; 005-12A; 007-12A
 Case Name: Irene Nigaglioni, Raymond Gignac, Joel Hernandez, James Ian Powell
 Date of Mediation: January 15, 2014 @ SOAH
 Attendees: Alfred Vidaurri (Chair), Debra Dockery (Bd. Member), Chad Davis (Bd. Member), Cathy Hendricks (ED), Scott Gibson (GC), Nancy Fuller (OAG Rep.)
 Violation: Board Rule 1.147
 Settlement: Administrative Penalties (\$10,000, \$17,500, \$10,000, \$15,000) for each Respondent + 2 hours Ethics Course

Case Number: #219-12N
 Case Name: Sheila Jetton
 Date of IFC: July 22, 2013
 Attendees: Sheila Jetton (R), Cathy Hendricks (ED), Scott Gibson (GC), Michael Shirk (ML), Jack Stamps (MI), Katherine Crain (LA)
 Violation: Tex. Occ. Code §1051.801(a)(1) – a person other than an architect practicing architecture
 Settlement: \$800 (low penalty due to R's mitigating circumstances)

Case Number: #168-13N
 Case Name: Michael Garrison
 Date of IFC: September 18, 2013
 Attendees: Michael Garrison (R), Cathy Hendricks (ED), Scott Gibson (GC), Jack Stamps (MI), Katherine Crain (LA)
 Violation: Tex. Occ. Code §1051.702 & 1051.801(a)(3) – use of architect's seal
 Settlement: \$6,000

Case Number: #123-11A
Case Name: Kai Geschke
Date of IFC: November 7, 2011
Attendees: Kai Geschke (R), Cathy Hendricks (ED), Michael Shirk (ML), Jack Stamps (MI), Katherine Crain (LA)
Violation: Board Rule 1.142 & 1.143 – practiced reckless architecture
Settlement: Warning

Case Number: #107-9A
Case Name: David Lee Walker
Date of IFC: February 15, 2011
Attendees: David Lee Walker (R), Debora Pickens & Joel B. Bennett (R's attys.), Cathy Hendricks (ED), Michael Shirk (ML), Steve Franz (I), Katherine Crain (LA)
Violation: Board Rule 1.144(a) – dishonest practice
Settlement: 1 year suspension of license with 18 months probated

Case Number: #245-08N & #246-08N
Case Name: Hector & Protasio Guerra
Date of IFC: December 2, 2010
Attendees: Hector Guerra (R), Protasio Guerra (R), Cathy Hendricks (ED), Michael Shirk (ML), Steve Franz (I), Katherine Crain (LA)
Violation: Tex. Occ. Code §1051. 801(a)(1) – practiced without a license
Settlement: \$6,000 (for both cases)

Case Number: #026-09N
Case Name: Pedro Ayala
Date of IFC: March 29, 2010
Attendees: Pedro Ayala (R), Cathy Hendricks (ED), Michael Shirk (ML), Steve Franz (I), Katherine Crain (LA)
Violation: Tex. Occ. Code §1051.801(a)(1) – advertising as architect
Settlement: \$5,000

Case Number: #207-08N
Case Name: Israel Pena
Date of IFC: February 18, 2009
Attendees: Israel Pena (R), Cathy Hendricks (ED), Charles Schiesser (Staff Atty.), Steve Franz (I), Katherine Crain (LA)
Violation: Board Rule 1.123(b) & (c) – used of the word architecture by firm
Settlement: \$2,000

Case Number: #167-06N
Case Name: Bryan Weiss
Date of IFC: December 10, 2009
Attendees: Bryan Weiss (R), J. Mark Mann (R's atty.), Cathy Hendricks (ED), Michael Shirk (ML), Scott Gibson (GC), Jack Stamps (MI)
Violation: Tex. Occ. Code §1051.701(a) & 1051.801(a)(1) – advertising as architect
Settlement: \$6,000

Case Number: #523-04N
Case Name: Kyle Smith
Date of IFC: April 11, 2007
Attendees: Kyle Smith (R), Roger Borgelt (R's atty.), Cathy Hendricks (ED), Scott Gibson (GC), Michael Shirk (ML), Katherine Crain (LA)
Violation: Tex. Occ. Code §1051.752 – use of bogus seal
Settlement: \$15,000 + 5 year probated suspension upon being licensed; mentoring architect over list of projects which must be submitted to TBAE every 60 days; 10 hours of CE plus Ethics Course @ NCARB

Case Number: #278-98A
Case Name: Charles Wilson
Date of IFC: January 6, 2000
Attendees: Charles Wilson (R), Diane Wilson (R's wife), Cathy Hendricks (ED), Cynthia Canfield (GC), Scott Gibson (Staff atty.), Cynthia Black (MI)
Violation: Tex. Occ. Code §1051.752(4) – gross incompetency
Settlement: Case Settled on October 18, 2005 prior to SOAH hearing. Settlement terms were as follows: 24 month suspension with all probated except for 90 days of active suspension; supervising architect over projects; reimbursement of litigations costs to TBAE in the amount of \$23,000

Key Definitions:

R = Respondent; ED = Executive Director; Interim Executive Director = Interim ED; GC = General Counsel; MI = Managing Investigator; ML = Managing Litigator; I = Investigator in Charge; LA = Legal Assistant

| | | | |
|---------------------------------|---|----------------------|--------|
| Policy Title: | Conflict of Interest and Recusal Policy | Policy Number | GC-006 |
| Originally Issued: | | Revisions: | |
| Approved By: | Julie Hildebrand, Executive Director | | |
| Responsible Department: | General Counsel | | |
| Primary Policy Custodian | General Counsel | | |

Purpose

To define the standards of conduct expected of all TBAE Board member relating to conflicts of interest and recusal.

References and related Resources or Statutory Authority

Govt. Code Sec. 572.058
Govt. Code Sec. 572.051

Scope

Members of the Texas Board of Architectural Examiners

Policy

It is the policy of the Texas Board of Architectural Examiners (Board) that all decisions of the Board are made with impartiality and fairness, consistent with the Board’s mission to protect the interest of the public health, safety, and welfare and to preserve the public’s trust in the Board.

Procedures

These procedures are intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest applicable to Board members.

Recusal

1. Under Government Code Sec. 572.058, a member of the Board who has a personal or private interest in a measure, proposal, or decision pending before the board may not participate in the decision of the matter. A Board member who fails to recuse him or herself from a matter in violation of Sec. 572.058 is subject to removal from the Board.
2. The determination of whether a Board member has a personal or private interest in a matter is the responsibility of the Board member in question. However, in considering whether recusal in a matter is required, the Board member must be aware that the Board’s fairness and impartiality are of vital importance to its mission to protect the public health and safety. For this reason, Board members shall liberally construe the statutory requirements in favor of recusal where participation in the matter could give the public the appearance of a conflict of interest.

3. In determining whether recusal is appropriate, the following factors should be considered:
 - a. Whether the Board member, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, has a financial interest in the outcome of a cause, proceeding, application, petition, or any other matter pending before the Board.
 - b. Whether the Board member, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, has or had a business, personal, or private relationship with a person appearing before the Board, and whether participation in the matter would give the appearance of a conflict of interest.
4. If a Board member identifies any potential conflict of interest, and is unsure whether recusal is appropriate, the Board member should contact the general counsel for further consideration.
5. A Board member shall recuse him or herself if:
 - a. the Board member has publicly displayed a pre-judgment of the merits of a particular proceeding. This shall not apply to a member's general political views or general opinion on a given issue.
 - b. the Board member has engaged in ex parte communications with a party in a proceeding or was contacted by a party to a proceeding and did not immediately end the contact and refer the party to Board staff.
6. If a Board member determines that recusal is appropriate, the Board member shall announce the decision and publicly disclose the interest to the Board in an open meeting. In such cases, the Board member may not vote or participate in the decision. A recused Board member is not required to leave the meeting, provided that the Board member does not participate in the debate.
7. A Board member who is aware of a potential conflict of interest, but believes that he or she is able to act fairly, objectively, and in the public's best interest, despite the potential conflict of interest, shall, prior to participating in any official action on the matter, disclose at the Board's open meeting on the matter under consideration, the nature of the potential conflict of interest and why he or she believes that he or she is able to act fairly, objectively, and consistently with the Board's mission in the matter.
8. A Board member's recusal and disclosure of interest shall be entered in the minutes of the meeting.
9. If a Board member determines that recusal is not required, but the Board disagrees, the Board shall not prohibit the Board member's participation in a pending decision by its own action, in accordance with previous guidance issued by the attorney general's office (Tex. Atty. Gen. Op. H-1319, 1978). Rather, the appropriate remedy is a petition of the attorney general for removal from office on the attorney general's own initiative or on the relation of a resident or of any other member of the Board following a Board member's violation of Government Code Sec. 572.058.

Other Conflicts of Interest

In compliance with the requirements of Texas Government Code Sec. 572.051, a Board member shall not:

1. accept or solicit any gift, favor, or service that might reasonably tend to influence the Board member in the discharge of official duties or that the Board member knows or should know is being offered with the intent to influence the Board member's official conduct;
2. accept other employment or engage in a business or professional activity that the Board member might reasonably expect would require or induce the Board member to disclose confidential information acquired by reason of the official position;
3. accept other employment or compensation that could reasonably be expected to impair the Board member's independence of judgment in the performance of the Board member's official duties;
4. make personal investments that could reasonably be expected to create a substantial conflict between the Board member's private interest and the public interest; or
5. intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the Board member's official powers or performed the Board member's official duties in favor of another.

Review Cycle

Policies and procedures are reviewed at least every two years or updated as required to ensure they reflect current information and requirements. Policies and procedures are reviewed in consultation with staff, management, and agency regulatory bodies to ensure they accommodate and are reflective of the needs of our registrants, oversight agencies, and best practice guidelines.

Katherine Crain

From: Le, Mary <Mary.Le@oag.texas.gov>
Sent: Thursday, July 06, 2017 2:01 PM
To: Katherine Crain
Subject: Dominic Couturier - TABE #144-14N

Katherine,

We took a default judgment against Mr. Couturier for \$31,372.44 on April 26, 2017. We were unable to collect, so I'll be closing this case as uncollectible. Please let me know if you have any questions.

Thank you,

Mary Le
Supervising Investigator
Office of Attorney General
Bankruptcy & Collections Division MC008
PO Box 12548
Austin TX 78711-2548
(512) 475-4568 direct line
(512) 936-1401 fax
mary.le@oag.texas.gov

PRIVILEGED & CONFIDENTIAL

| | | |
|----------------------|---|-------------------------|
| IN THE MATTER OF THE | § | BEFORE THE STATE OFFICE |
| COMPLAINT AGAINST | § | OF |
| DOMINIC COUTURIER | § | ADMINISTRATIVE HEARINGS |

OPINION AND ORDER OF THE BOARD

TO: DOMINIC COUTURIER
12501 CENTRAL PARK
AUSTIN, TX 78732

SHANNON KILGORE
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TX 78701

At the regularly scheduled public meeting on August 17, 2016, the Texas Board of Architectural Examiners (Board) considered the following items: (1) The Proposal for Decision (PFD) regarding the above cited matter; (2) Staff's recommendation that the Board adopt the PFD, and (3) Respondent's recommendation to the Board regarding the PFD and order, if any.

The Board finds that after proper and timely notice was given, the above styled case was heard by an Administrative Law Judge (ALJ) who made and filed a PFD containing the ALJ's findings of facts and conclusions of law. The PFD was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein. No exceptions were filed by any party.

The Board, after review and due consideration of the PFD, Staff's recommendations, and Respondent's presentation during the open meeting, if any, adopts all of the findings of fact and conclusions of law of the ALJ contained in the PFD as if fully set out and separately stated herein.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

WHEREFORE, Respondent is ORDERED to pay an administrative penalty in the amount of \$26,000 and is further ORDERED to cease-and-desist from any and all activity which constitutes the offering of, or practice of, architecture. This ORDER shall become final on the 20th day after it is issued as indicated by the date below; unless Respondent files a Motion for Rehearing which is granted by the Board. Not later than the 30th day after the date this ORDER becomes final Respondent shall pay the administrative penalty and come into compliance with the cease-and-desist ORDER or file a petition for judicial review as provided by TEX. OCC. CODE ANN. §1051.457 and otherwise at law.

If Respondent fails to perfect an appeal or to pay the administrative penalty as required by law, Staff is directed to henceforth refer this matter to the Office of the Texas Attorney General for immediate commencement of collection and other enforcement activity.

Entered this the 17th day of August, 2016.

TEXAS BOARD OF ARCHITECTURAL EXAMINERS



JULIE HILDEBRAND
EXECUTIVE DIRECTOR FOR THE BOARD

APPROVED:



DEBRA J. DOCKERY, AIA
CHAIR
TEXAS BOARD OF ARCHITECTURAL EXAMINERS

ATTACHMENT: PROPOSAL FOR DECISION; DOCKET NO. 459-16-3577

State Office of Administrative Hearings

RECEIVED



2016 JUN 20 AM 10: 59

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Lesli G. Ginn
Chief Administrative Law Judge

June 17, 2016

Cathy L. Hendricks, RID/ASID, IIDA
Executive Director
Texas Board of Architectural Examiners
333 Guadalupe, II-350
Austin, TX 78701

VIA INTERAGENCY

RE: Docket No. 459-16-3577; Texas Board of Architectural Examiners v. Dominic Couturier

Dear Ms. Hendricks:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Kilgore".

Shannon Kilgore
Administrative Law Judge

SK/tt
Enclosure

xc: Lance Brenton, General Counsel, Texas Board of Architectural Examiners, 333 Guadalupe, Suite 2-350, Austin, TX 78701 – VIA INTERAGENCY
Katherine Crain, Legal Assistant, Texas Board of Architectural Examiners, 333 Guadalupe, Suite 2-350, Austin, TX 78701 (with 1 CD; Certified Evidentiary Record) – VIA INTERAGENCY
Dominic Couturier, 12501 Central Park, Austin, TX 78732 – VIA REGULAR MAIL
Dominic Couturier, Italia Fine Homes, 4500 Steiner Ranch Blvd, Suite 3215, Austin, TX 78732 – VIA REGULAR MAIL
Dominic Couturier, Italia Fine Homes, 1514 Crenshaw Way, Austin, TX 78746 – VIA REGULAR MAIL
Dominic Couturier, 15305 Pheasant Lane, Suite 105, Austin, TX 78734 – VIA REGULAR MAIL

300 W. 15th Street, Suite 504, Austin, Texas 78701/P.O. Box 13025, Austin, Texas 78711-3025
512.475.4993 (Main) 512.475.3445 (Docketing) 512.475.4994 (Fax)
www.soah.texas.gov

SOAH DOCKET NO. 459-16-3577

| | | |
|--|---|--------------------------------|
| TEXAS BOARD OF ARCHITECTURAL EXAMINERS, | § | BEFORE THE STATE OFFICE |
| Petitioner | § | |
| | § | |
| v. | § | OF |
| | § | |
| DOMINIC COUTURIER, | § | |
| Respondent | § | ADMINISTRATIVE HEARINGS |

PROPOSAL FOR DECISION

This matter was scheduled for hearing at the request of the Texas Board of Architectural Examiners (the referring agency). Despite being sent proper notice, the Respondent did not appear and was not represented at the hearing. For the reasons set out in the Findings of Fact and Conclusions of Law, the Administrative Law Judge finds that the relief requested by the referring agency should be granted on a default basis.

FINDINGS OF FACT

1. Staff's Notice of Hearing and Formal Charges, attached to this Proposal for Decision and incorporated by reference, were mailed to the Respondent at the Respondent's address(es) of record (including an address provided by Respondent to the Board's staff) at least ten days prior to the scheduled hearing.
2. Staff's Notice of Hearing and Formal Charges contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short plain statement of the matters asserted.
3. Staff's Notice of Hearing and Formal Charges contained a statement in at least 12-point, boldface type that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against a party that failed to appear at the hearing.
4. The hearing was held and the record closed on May 10, 2016.
5. The Respondent did not appear at the scheduled hearing and was not represented at the hearing.

6. The referring agency's staff moved for a default, which was granted.
7. The factual allegations set out in Staff's Notice of Hearing and Formal Charges are deemed admitted and are incorporated by reference into this Finding of Fact.

CONCLUSIONS OF LAW

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.
2. The referring agency has jurisdiction over this matter.
3. Proper and timely notice was provided to the Respondent in accordance with Tex. Gov't Code ch. 2001 and 1 Tex. Admin. Code ch. 155.
4. The allegations in Staff's Notice of Hearing and Formal Charges were properly deemed admitted. 1 Tex. Admin. Code § 155.501.
5. The referring agency staff has established the basis for sanction alleged in Staff's Notice of Hearing and Formal Charges, incorporated into this Conclusion of Law.
6. The referring agency is entitled to the imposition of an administrative penalty \$26,000 as requested at the hearing.

SIGNED June 17, 2016.



**SHANNON KILGORE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**



333 Guadalupe, Suite 2-350 • Austin, TX 78701-3942
P.O. Box 12337 • Austin, TX 78711
PH 512.305.9000 FAX 512.305.8900 WEB www.tbae.state.tx.us

Upload Date: 20160407123040

Account Number: 311

Upload Description: Staff's Notice of Hearing and Formal Charges

April 7, 2016

Administrative Law Judge
State Office of Administrative Hearings
P.O. Box 13025
Austin, TX 78711-3025

Filed Electronically

Re: In the Matter of Dominic Couturier
SOAH Docket No. 459-16-3577

Dear Judge:

Enclosed please find *Staff's Notice of Hearing* and *Formal Charges* in the above-referenced matter.

By copy of this letter, I am forwarding a copy of this document to Respondent.

Please feel free to contact me at 512-305-8519 if you have questions.

Sincerely,


Lance Brenton
General Counsel

Cc: Mr. Dominic Couturier
12501 Central Park
Austin, TX 78732

Mr. Dominic Couturier
Italia Fine Homes
4500 Steiner Ranch Blvd., Ste. 3215
Austin, TX 78732

Mr. Dominic Couturier
Italia Fine Homes
1514 Crenshaw Way
Austin, TX 78746

Mr. Dominic Couturier
15305 Pheasant Lane, Ste. 105
Austin, TX 78734

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

In the Matter of

DOMINIC COUTURIER

STAFF'S NOTICE OF HEARING

SOAH Docket No. 459-16-3577

Respondent: DOMINIC COUTURIER
12501 Central Park
Austin, TX 78732

In accordance with Section 2001.051 et seq., Texas Government Code, you are hereby notified that a hearing will be held before an Administrative Law Judge (ALJ) on May 10, 2016 beginning at 9:00 a.m., at the State Office of Administrative Hearings, William P. Clements Building, 300 West 15th Street, 4th Floor, Austin, TX 78701, regarding the Formal Charges filed by the Texas Board of Architectural Examiners and attached and incorporated by reference as a part of this notice.

The hearing is to be held under the legal authority and jurisdiction of the Administrative Procedures Act, Texas Government Code §2001 et seq; Title I Part 1 Texas Administrative Code Chapter 1; Texas Occupations Code §1051.401 and §1051.451 through §1051.455; and Board Rules 1.231 and 1.232 at 22 Texas Administrative Code.

The particular sections of statutes and rules involved in determining the charges are stated in the attached Formal Charges in connection to the facts or conduct alleged.

You are requested to enter an appearance in this proceeding by filing a written answer or other responsive pleading with the State Office of Administrative Hearings, P.O. Box 13025, Austin, Texas, 78711-3025, with a copy to the Staff (General Counsel), Texas Board of Architectural Examiners, 333 Guadalupe, Ste. 2-350, Austin, Texas 78701). Continuances are set by the Administrative Law Judge.

You are the right to appear at this hearing and to have legal representation at the hearing at your own expense. **FAILURE TO APPEAR AT THE HEARING IN PERSON OR BY LEGAL REPRESENTATIVE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN ENTERED, WILL RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF STAFF SHALL BE GRANTED BY DEFAULT.**

If it is determined that the Formal Charges are substantiated, then any prior disciplinary findings against you by the Texas Board of Architectural Examiners will be considered when determining the appropriate sanction for these violation(s).

Issued, dated, and mailed this, the 7th day of April, 2016.

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

By:


Julie Hildebrand
Executive Director

| | | |
|--------------------|---|------------------------|
| In the Matter of | § | BEFORE THE TEXAS |
| | § | |
| DOMINIC COUTURIER, | § | BOARD OF ARCHITECTURAL |
| | § | |
| Respondent | § | EXAMINERS |

FORMAL CHARGES

This is a disciplinary proceeding under Sections 1051.451 and 1051.455, Texas Occupations Code. Respondent, DOMINIC COUTURIER, does not hold a registration with the Texas Board of Architectural Examiners.

Written notice of the facts and conduct alleged to warrant imposition of an administrative penalty was sent to Respondent at Respondent's address of record and Respondent was given an opportunity to respond to the allegations prior to commencement of this proceeding.

CHARGE I.

On or about February 2, 2013, Respondent engaged in the unauthorized practice of architecture by preparing and issuing architectural plans and specifications with the term "Architecture" affixed to the plans thereon for the "Baweja Residence." Additionally, Respondent represented to the client that he was registered to practice architecture in Texas. Furthermore, Respondent inappropriately represented to the public that the firm was engaged in the practice of architecture or was offering architectural services, despite the fact that the firm did not employ a registered architect and had not associated with an architect to provide architectural services, as required under 22 TEX. ADMIN. CODE 1.123(b)(2).

The above action constitutes grounds for disciplinary action in accordance with Sections 1051.701(a) and (b); 1051.752(1) and 1051.801(a)(3) Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE 1.123(c).

CHARGE II.

On or about March 27, 2013, Respondent engaged in the unauthorized use of the term "architect" by referring to himself as an "architect" in an email to a client in which he gave an opinion on documents discussing impervious cover restrictions on the client's lot.

The above action constitutes grounds for disciplinary action in accordance with Sections 1051.701(a); 1051.752(1) and 1051.801(a)(3) Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE 1.123(c).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on its rules relating to disciplinary sanctions, including 22 Tex. Admin. Code §§ 1.141, 1.177, and 1.232 which can be found at www.tbae.state.tx.us.

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website: <http://www.tbae.state.tx.us/LawsAndEnforcement/StatutesAndRules>.

Filed this the 7th day of April, 2016.

TEXAS BOARD OF ARCHITECTURAL EXAMINERS



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**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Case Number: 244-17A
Respondent: Charles E. Freeman
Location of Respondent: Kennedale, TX
Location of Project(s): Keene, TX
Nature of Violation: Violation of Architectural Barriers Act (TDLR)
Instrument: Report and Notice of Violation

Findings:

- Charles E. Freeman (hereafter “Respondent”) is registered as an architect in Texas with registration number 6167.
- Previous History
 - On April 20, 2010, the Executive Director issued a Warning to the Respondent based on findings that the Respondent failed to timely submit plans to TDLR for accessibility review.
- On March 16, 2017, the Texas Board of Architectural Examiners (TBAE) received a referral from the Texas Department of Licensing and Regulation (TDLR) indicating that Respondent had failed to submit plans for a project known as “Keene ISD Field House” located in Keene, Texas, to TDLR for accessibility review within 20 days of issuance as required by Texas Government Code §469.102(b). The plans and specifications were issued on April 25, 2016, and were submitted to TDLR on January 12, 2017.

Applicable Statutory Provisions and Rules:

- By failing to submit plans and specifications on a project for accessibility review no later than 20 days after issuance, Respondent violated §1051.252(2) of the Architect Registration Law and Board Rule 1.170(a).

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$1,000**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise, and assist the Board in addressing this uncontested case.

Case Number: 166-17N
Respondent: Chuck Lobb
Location of Respondent: Dallas, TX
Date of Complaint Received: February 28, 2017
Instrument: Report and Notice of Violation

Findings:

- Chuck Lobb (hereafter “Respondent”) is not and has never been registered as an architect in Texas.
- Respondent’s firm, identified as “Chuck Lobb – Architectural” was not registered with the Board as a firm which may lawfully be held out to the public as practicing or offering to engage in the practice of architecture.
- On February 27, 2017, Respondent prepared and issued a construction document “A-1” for a project identified as *Space Demising for Future Tenants-Shops at Willow Bend, 6121 W. Park Blvd., Plano, Texas.* This construction document was not prepared under the “supervision and control” of an architect.
- On February 28, 2017, Respondent used the phrase “Architectural at Chuck Lobb” to describe himself and his services on his LinkedIn webpage.

Applicable Statutory Provisions and Rules:

- By engaging or offering to engage in the practice of architecture on a project prior to obtaining an individual architect registration in Texas, Respondent violated Tex. Occ. Code §1051.701 and 22 Tex. Admin. Code §1.123(c).
- By referring to his services as architectural on his LinkedIn webpage, Respondent violated Board Rule 1.123.

Action Recommended by Executive Director:

- The Executive Director recommends the imposition of an administrative penalty in the sum of **\$1,000**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Case Number: 209-17A
Respondent: Sanford Palmer Steinberg
Location of Respondent: Houston, TX
Location of Project(s): Austin, TX and Houston, TX
Nature of Violation: Violation of Architectural Barriers Act (TDLR)
Instrument: Report and Notice of Violation

Findings:

- Sanford Palmer Steinberg (hereafter “Respondent”) is registered as an architect in Texas with registration number 17815.
- Previous History
 - On August 9, 2006, the Executive Director issued a Warning to the Respondent based on findings that the Respondent failed to timely submit plans to TDLR for accessibility review.
- On February 8, 2017, the Texas Board of Architectural Examiners (TBAE) received a referral from the Texas Department of Licensing and Regulation (TDLR) indicating that Respondent had failed to submit plans for a project known as “Broadstone Burnet” located in Austin, Texas, to TDLR for accessibility review within 20 days of issuance as required by Texas Government Code §469.102(b). The plans and specifications were issued on December 9, 2016, and were submitted to TDLR on January 17, 2017.
- On February 8, 2017, the Texas Board of Architectural Examiners (TBAE) received a referral from the Texas Department of Licensing and Regulation (TDLR) indicating that Respondent had failed to submit plans for a project known as “Havens at Liberty Hills” located in Houston, Texas, to TDLR for accessibility review within 20 days of issuance as required by Texas Government Code §469.102(b). The plans and specifications were issued on February 8, 2016, and were submitted to TDLR on January 18, 2017.

Applicable Statutory Provisions and Rules:

- By failing to submit plans and specifications on two (2) projects for accessibility review no later than 20 days after issuance, Respondent violated §1051.252(2) of the Architect Registration Law and Board Rule 1.170(a).

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$2,000**.

**ATEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 259-171 |
| Respondent: | Amy Sue Bailey |
| Location of Respondent: | Dallas, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Amy Sue Bailey (hereafter “Respondent”) is registered as an interior designer in Texas with registration number 3099.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete her continuing education requirements for the audit period of January 1, 2015 through December 31, 2015, but completed them prior to the renewal of her interior design registration.

Applicable Statutory Provisions and Rules:

- By failing to timely complete the required continuing education program hours during the audit period, but before her renewal period, Respondent violated Board Rule 5.79(b). The standard administrative penalty assessed for this violation is **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$500**.

**ATEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 256-17L |
| Respondent: | Zachry Michael Hunter |
| Location of Respondent: | Austin, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Zachry Michael Hunter (hereafter “Respondent”) is registered as a landscape architect in Texas with registration number 2157.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete his continuing education requirements for the audit period of January 1, 2015 through December 31, 2015 but completed them prior to the renewal of his landscape architectural registration.

Applicable Statutory Provisions and Rules:

- By failing to timely complete the required continuing education program hours during the audit period, but before his renewal period, Respondent violated Board Rule 3.69(b). The standard administrative penalty assessed for this violation is **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$500**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 257-17A |
| Respondent: | Laurence Krupa |
| Location of Respondent: | Houston, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Laurence Krupa (hereafter “Respondent”) is registered as an architect in Texas with registration number 18700.
- On December 15, 2016, Respondent was notified by the Board that she was being audited for compliance with the continuing education requirements for the audit period of January 1, 2015 through December 31, 2015.
- On March 28, 2017, Respondent replied that due to a loss of information from a failed computer server, she could not produce her continuing education certificates.

Applicable Statutory Provisions and Rules:

- By failing to maintain a detailed record of her continuing education activities for the period of January 1, 2015 through December 31, 2015, Respondent violated Board Rule 1.69. The standard administrative penalty imposed upon a registrant for failing to maintain a detailed record of continuing education activities for a period of five (5) years after the end of the registration period for which credit is claimed is **\$700**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$700**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 291-171 |
| Respondent: | Peggy B. McGaughy |
| Location of Respondent: | Bellaire, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Peggy B. McGaughy (hereafter “Respondent”) is registered as an interior designer in Texas with registration number 1861.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete her continuing education requirements for the audit period of January 1, 2016 through December 31, 2016.
- In addition to failing to complete the required continuing education hours, Respondent falsely certified completion of CE responsibilities in order to renew her interior design registration.

Applicable Statutory Provisions and Rules:

- By indicating at the time of her online renewal that she was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board Rule 5.79(g). The Board’s standard assessment for providing false information is **\$700**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board Rule 5.79(b). The standard administrative penalty assessed for this violation is **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$1,200**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 262-171 |
| Respondent: | Marcia Lee Mink |
| Location of Respondent: | Houston, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Marcia Lee Mink (hereafter “Respondent”) is a registered interior designer in Texas with registration number 4956.
- Based upon the results of a random continuing education audit, it was determined that Respondent falsely reported continuing education compliance to the Board for the audit period of January 1, 2016 through December 31, 2016.
- Subsequently, she completed supplemental CEPH pursuant to Board Rule 5.79(g)(2).

Applicable Statutory Provisions and Rules:

- By indicating at the time of her online renewal that she was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board Rule 5.79. The Board’s standard assessment for providing false information is **\$700**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$700**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 290-17A |
| Respondent: | Oscar O’Keefe, Jr. |
| Location of Respondent: | Henderson, Nevada |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Oscar O’Keefe, Jr. (hereafter “Respondent”) is a registered architect in Texas with registration number 12956.
- Based upon the results of a random continuing education audit, it was determined that Respondent falsely reported continuing education compliance to the Board for the audit period of January 1, 2016 through December 31, 2016.
- Subsequently, he completed supplemental CEPH pursuant to Board Rule 1.69(g)(2).

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board Rule 1.69. The Board’s standard assessment for providing false information is **\$700**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$700**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 208-17A |
| Respondent: | Douglas Wayne Palis |
| Location of Respondent: | Dallas, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Douglas Wayne Palis (hereafter “Respondent”) is registered as an architect in Texas with registration number 14031.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete his continuing education requirements for the audit period of January 1, 2015 through December 31, 2015, but completed them prior to the renewal of his architectural registration.

Applicable Statutory Provisions and Rules:

- By failing to timely complete the required continuing education program hours, Respondent violated Board Rule 1.69(b). The standard administrative penalty assessed for this violation is **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$500**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 206-17A |
| Respondent: | Raymond D. Powell |
| Location of Respondent: | Lubbock, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Raymond D. Powell (hereafter "Respondent") is registered as an architect in Texas with registration number 3533.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete his continuing education requirements for the audit period of January 1, 2015 through December 31, 2015.

Applicable Statutory Provisions and Rules:

- By failing to timely complete the required continuing education program hours during the audit period, but before his renewal period, Respondent violated Board Rule 1.69(b). The standard administrative penalty assessed for this violation is **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$500**.

**ATEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Case Number: 293-17A
Respondent: Curtis Lan Qualls
Location of Respondent: Madison, WI
Nature of Violation: Violation of Continuing Education Requirements
Instrument: Report and Notice of Violation

Findings:

- Curtis Lan Qualls (hereafter “Respondent”) is registered as an architect in Texas with registration number 20039.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete his continuing education requirements for the audit period of January 1, 2016 through December 31, 2016, but completed them prior to the renewal of his architectural registration.

Applicable Statutory Provisions and Rules:

- By failing to timely complete the required continuing education program hours during the audit period, but before his renewal period, Respondent violated Board Rule 1.69(b). The standard administrative penalty assessed for this violation is **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$500**.

**ATEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 173-171 |
| Respondent: | Gabriela Rios |
| Location of Respondent: | San Antonio, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Gabriela Rios (hereafter “Respondent”) is registered as an interior designer in Texas with registration number 11551.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete her continuing education requirements for the audit period of January 1, 2016 through December 31, 2016, but completed them prior to the renewal of her interior design registration.

Applicable Statutory Provisions and Rules:

- By failing to timely complete the required continuing education program hours during the audit period, but before her renewal period, Respondent violated Board Rule 5.79(b). The standard administrative penalty assessed for this violation is **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$500**.

**ATEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

| | |
|--------------------------------|---|
| Case Number: | 258-171 |
| Respondent: | Peggy Jean Zadina |
| Location of Respondent: | Dallas, TX |
| Nature of Violation: | Violation of Continuing Education Requirements |
| Instrument: | Report and Notice of Violation |

Findings:

- Peggy Jean Zadina (hereafter “Respondent”) is registered as an interior designer in Texas with registration number 6839.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete her continuing education requirements for the audit period of January 1, 2015 through December 31, 2015, but completed them prior to the renewal of her interior design registration.

Applicable Statutory Provisions and Rules:

- By failing to timely complete the required continuing education program hours during the audit period, but before her renewal period, Respondent violated Board Rule 5.79(b). The standard administrative penalty assessed for this violation is **\$500**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$500**.

Summary of Enhancements to the CLARB Model Law and Regulations:

The Model Law task force, co-facilitated by Phil Meyer and Veronica Meadows, has drafted a new model law and supporting regulations using the FARB Uniform Model Practice Act as the basis to encourage uniformity, not only among landscape architecture licensing boards, but across all professions. In addition, the draft model attempts to resolve the following concerns given today's uncertain political environment:

Qualifications for licensure

- Utilization of CLARB's standards of eligibility for certification as the licensing standard which recognizes alternate paths to licensure (reduces barriers) and to encourage mobility across jurisdictions.
- Requires LA firm registration to reduce risk of unlicensed practice.

Regulatory board composition

- Determines optimal (recommended) structure for composite and autonomous boards to address anti-trust liability concerns and to best perform in the changing environment.
- Reduces the number of years required to serve to increase diversity of the board.
- Requires a public (non-landscape architect) member on the board.
- Eliminates potential for the appearance of conflict of interest by not allowing board members to serve simultaneously in leadership positions in the professional society.

Board authority

- Establish authority over unlicensed practice to ensure public health, safety and welfare.
- Ability to temporarily fill vacancies left un-appointed for more than six months in the interest of public protection and continued board function.
- Provide broad authority to the board on disciplinary matters to ensure protection of health, safety and welfare.

Data sharing

- Enable regulatory boards to utilize data verified by CLARB (transcripts, employment, etc.) as "official" copies to streamline the licensure process.

Reporting

- Require reporting of unlawful, unethical and egregious practice that risks public health, safety and welfare by licensees and civil and criminal courts.

Worksheet for Your Board Meeting

(for use at a board meeting before the 2017 CLARB Annual Meeting)

Revised Model Language – How Will Your Board Vote?

CLARB has revised its Model Law and Regulations. Member Boards represented at the 2017 Annual Meeting will vote “yes” or “no” on the resolution to adopt the revised model language.

The vote will occur during the General Business Session on Saturday, September 16 starting at 9 a.m.

Each Member Board represented at the 2017 Annual Meeting may cast one vote.

To do:

1. Read the [resolution](#).
2. Read the [revised Model Law](#).
3. Read the [revised Model Regulations](#).
4. Discuss with your board how it will vote:
 - a. Yes, to adopt the resolution
 - b. No, to reject the resolution
5. Decide who from your board will cast the vote during the General Business session on Saturday, September 16 at the 2017 Annual Meeting.

Questions? Watch the [May “In the Know”](#) webcast about the revised model language or contact Veronica Meadows (vmeadows@clarb.org or 571-432-0332 ext. 116).

Resolution to Approve the Draft Model Law and Regulations

WHEREAS, the CLARB Board of Directors charged a Task Force to revise the CLARB model law and regulations to provide a core resource to members to strengthen landscape architectural regulation;

WHEREAS, the revised models should support the regulation of the full licensed scope of practice, reflect best practices in regulation, consider the evolving legal environment, achieve balance between public protection and access to licensure, and provide flexibility for a changing environment;

WHEREAS the Board of Directors has considered and agrees with the Task Force's recommendation to completely re-write the models to encourage uniformity across professions and streamline licensure;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors hereby approves the revised model law and regulations as shown on the attached documents, and approves the submission of the revised documents to the Members for consideration;

AND BE IT FURTHER RESOLVED that the revised model law and regulations be published and submitted to the Members for their approval, in accordance with Article 6, Section 5 of the Bylaws.

Council of Landscape Architectural Registration Boards – May 2017

Statement in Support

The revised CLARB model law and regulations represent the culmination of nearly two years of discussion, research, analysis and feedback to ensure that the models best support our members in their role of public protection through the regulation of landscape architecture. At the end of this lengthy, thorough process, we concluded that model law and regulations must evolve and the proposed models represent a reasoned, practical and sound approach.

The proposed model documents reflect best practices in regulation, encourages uniformity across professions, responds to the current legal and political environment, reduces barriers to licensure, maintains proper authority to protect the public and streamlines licensure processes.

We are pleased to present the completely revised draft model law and regulations to the membership for review and consideration as we all work together to protect the efficient and effective regulation of landscape architecture.

CLARB

Model Law

Council of Landscape Architectural Registration Boards

February 2017

CLARB

Introduction

What Landscape Architects Do

Since the 1800s, landscape architecture has encompassed analysis, planning, design, management, and stewardship of the natural and built environment through science and design. Landscape architects create well-planned, livable communities, leading the way by creating neighborhood master plans, designing green streets, managing storm-water runoff, and planning high-utility transportation corridors.

Landscape architecture includes iconic and neighborhood places, local parks, residential communities, commercial developments, and downtown streetscapes. Larger well-known examples include Central Park and the Highline in New York City, the U.S. Capitol grounds in Washington, D.C., the Oklahoma City National Memorial, and Chicago's Millennium Park.

Why Landscape Architects Must Be Licensed

The practice of landscape architecture includes keeping the public safe from hazards, protecting natural resources, and sustainably managing the natural and built environment surrounding our homes and communities. It requires a breadth of knowledge and training in many substantive areas of science, engineering, and aesthetics. The adverse risks and consequences of negligent, unqualified, unethical, or incompetent persons engaging in landscape architectural design services without the requisite education and training are significant—sometimes irreparable—economically, environmentally, and in terms of public safety, health, and welfare.

At stake are hundreds of millions of dollars' worth of infrastructure and site improvements every year, and the safety of persons and property these improvements affect. Licensure of landscape architects permits consumers to manage these risks, and reduce exposure for liability from hazardous and defective design.

To properly serve and protect the public these risks and consequences and the potential for harm must be minimized and prevented. The public interest is best served when qualified, licensed professionals carry out these responsibilities safely in accordance with rigorous and essential professional standards, and when other non-qualified individuals are prevented from providing such services to the public. Moreover, licensing is necessary and appropriate given landscape architecture's technical nature—and consumer/public inability to accurately and reliably assess the competence of such providers.

Without regulatory standards, consumers have no mechanism to ensure they can rely on a professional to produce design and technical documentation meeting minimum standards of competence.

How the CLARB Model Law Promotes Public Protection

The CLARB Model is a resource for legislatures and licensing boards addressing issues related to the public-protection mission of regulation.

This Model Law promotes uniformity in licensing laws (affording predictability, commercial efficiency, and enhanced trust in the profession), establishes minimal standards of competence for those practicing landscape architecture, and facilitates professional mobility and portability through a licensure transfer process.

How CLARB Member Boards Benefit from the Model Law

Member Boards should review and use the Model Law in the context of regulatory and language issues unique to each jurisdiction.

The Model Law includes the following sections:

- Article I – Title, Purpose and Definitions
- Article II – Board of (Profession)
- Article III – Licensing
- Article IV – Discipline
- Article V – Mandatory Reporting
- Article VI – Other

The Model Law is intended to be fluid, subject to regular review and periodic changes, when necessary. Revisions are generally stimulated by societal shifts, evolution of practice and technological advancements. Proposed revisions will be presented to CLARB members for consideration.

The language included in this Model Law version is framed with a single, stand-alone board structure in mind—i.e., for circumstances in which the promulgating Board's role is limited to serving/regulating one design discipline, not multiple related design disciplines. When this Model Law is used by Boards serving or regulating more than one professional discipline, its language will require adaptation/modification to accommodate that composite board structure/approach and the specific design professions governed.

Article I - Title, Purpose, and Definitions

Section 101. Title of Act.

This Act is called the “[State] Landscape Architecture Practice Act.”

Section 102. Legislative Declaration.

- A. The practice of Landscape Architecture in [State] is declared a professional practice affecting public health, safety, and welfare and subject to regulation and control in the public interest. The public interest requires that Landscape Architecture merit and receive public confidence and that only qualified persons practice Landscape Architecture in [State]. This Act will be liberally construed to carry out these objectives and purposes.
- B. This legislation regulates the Landscape Architecture profession. Any restriction on competition is outweighed by protecting the public interest. The regulatory structure calls for Licensees and Public Members to serve on the Board, recognizing the need for practitioners’ professional expertise in serving the public interest.

This Act provides active State oversight and Supervision through its enactment, promulgation of enabling regulations, appointment and removal of Board members by the (Governor), legal representation of the Board by the [State] Attorney General, legislative appropriation of monies to support the Board, periodic legislative sunset review, application to the Board of ethics laws, mandatory Board-member training, and judicial review.

Section 103. Statement of Purpose.

This Act’s purpose is to promote, preserve, and protect public health, safety, and welfare by licensing and regulating persons, whether in or outside [State], who practice Landscape Architecture in [State]. This Act creates the Board of Landscape Architecture whose members, functions, and procedures will be established in accordance with the Act.

Section 104. Practice of Landscape Architecture.

The practice of Landscape Architecture means the application of mathematical, physical and social-sciences principles in Landscape Architectural consultation, evaluation, planning, and design; it includes preparing, filing, and administering plans, drawings, specifications, permits, and other contract documents involving projects that direct, inform or advise on the functional use and preservation of natural and built environments.

Sections 102 and 103

One of the most important sections of a practice act is the legislative declaration and statement of purpose. These essential sections express the foundation and need for regulation of the profession with affirmative statements of the Act’s legislative intent. The “liberal construction” directive provides guidance to the judiciary when addressing language ambiguities in the statutes and regulations.

The guiding principles of legislation to regulate a profession include delegation of authority from the legislative to the executive branch through board appointments and authorization to regulate.

To provide an efficient and effective regulatory process, boards are populated with persons with knowledge of and expertise in the profession. For balance, boards also include members of the public with no direct connection to the profession regulated.

Section 104

The definition of the scope of practice provides the basis for the regulatory system and is used to identify work for which a license is necessary.

Those operating within the scope of practice must be licensed under the eligibility criteria. Eligibility criteria are provided in the regulations.

The scope of practice is purposefully defined using broad terms to allow interpretative opportunities and to recognize the interplay among the related design professions. When necessary, and using Board-member expertise, specificity can be clarified in regulations.

Section 105. Activities Not Subject to the Act .

This Act does not apply to:

- A. Persons licensed to practice Landscape Architecture in another State while serving in the U. S. military; provided services occur during military service.
- B. Persons licensed to practice Landscape Architecture in another State while performing official duties as a federal government employee.
- C. Persons training for the practice of Landscape Architecture under a Licensee's direct Supervision.

Section 106. Definitions.

Words and phrases used in this Act have the meanings stated below, unless the context otherwise requires:

- A. **Adjudicatory Proceeding or Hearing** — formal processes of an administrative determination in which the Board adjudicates allegations of violations of law and, if appropriate, renders sanctions, all in accord with applicable procedural and substantive standards to protect rights.
- B. **Applicant** — a Person who submits an application to the Board for licensure to practice Landscape Architecture in [State] under this Act.
- C. **Approved Educational Program** — an educational program for Landscape Architects approved by the Board.
- D. **Approved Program of Continuing Education** — an educational program offered by an Approved Provider of Continuing Education.
- E. **Approved Provider of Continuing Education** — any professional association or society, university, college, corporation, or other entity approved by the Board to provide educational programs designed to ensure continued Competence in the practice of Landscape Architecture.
- F. **Board** — the legislatively created Board granted the authority to enforce the [State] Landscape Architects Practice Act.
- G. **Business Entity** — any firm, partnership, sole proprietorship, association, limited liability company, or corporation organized by and registered in [State] to provide or offer Landscape Architectural services.

Section 105

CLARB understands there exists significant overlap in scopes of practice of the design professions. This section statutorily recognizes that certain activities are not subject to the Act.

The Model Law purposefully avoids use of the term "exemptions," the concept of activities being included within the scope of practice, but not subject to licensure, undermines the need for regulation.

Section 106(C), (D), (E), and (P)

Specific references to programs and other standards of practice and ethics are not referenced in the Model Law. Such specifics are instead included in regulations created using Board members' expertise.

The legal reasons specific references are included in regulations instead of in the Model Law are related to delegation of authority and prohibitions of recognizing private-sector programs as a prerequisite to licensure in the statute.

Section 106

Definitions identify terms used consistently throughout the Model Law. Note that capitalized words or phrases can be found in the Model Law's definition section.

Throughout the document defined terms are capitalized.

- H. **Certificate of Authorization** — a certificate issued by the Board to a Business Entity permitting it to offer or provide Landscape Architectural services.
- I. **CLARB** — the Council of Landscape Architectural Registration Boards.
- J. **Client** — a Person, group, or corporation that enters into an agreement with a licensed Landscape Architect or Business Entity to obtain Landscape Architectural services.
- K. **Competence** — applying knowledge and using affective, cognitive, and psychomotor skills required by Landscape Architects to deliver safe Landscape Architectural care in accord with accepted practice standards.
- L. **Consultation** — providing advice to or receiving advice from another professional, or both, related to the practice of Landscape Architecture, to assist a Licensee.
- M. **Continuing Education** — training designed to ensure continued Competence in the practice of Landscape Architecture.
- N. **Continuing Education Contact Hour** — a 50-minute clock-hour of instruction, not including breaks or meals.
- O. **Conviction** — conviction of a crime by a court with jurisdiction, including a finding or verdict of guilt—regardless of whether adjudication of guilt is withheld, not entered on admission of guilt, or involves deferred conviction, deferred prosecution, deferred sentence, a no consent plea, a plea of *nolo contendere*, or a guilty plea.
- P. **Examination** — an examination approved by the Board.
- Q. **Felony** — a criminal act defined by [State] laws, the laws of any other State, province, or federal law.
- R. **Good Standing** — a License not restricted in any manner and that grants Licensee full practice privileges.
- S. **Inactive License** — an inactive category of licensure affirmatively elected by a Licensee in Good Standing who is not engaged in the active practice of Landscape Architecture, to maintain such License in a nonpractice status.
- T. **Landscape Architect** — a Person licensed by the Board under this Act.

- U. **Landscape Architecture** — the practice of the profession as defined under this act.
- V. **License** — an authorization granted by the Board to practice Landscape Architecture.
- W. **Licensee** — a Person licensed by the Board under this Act.
- X. **Person** — any individual, firm, Business Entity, partnership, association, joint venture, cooperative, corporation, or other combination acting in concert, or as a Principal, trustee, fiduciary, receiver, or a representative, or as successor in interest, assignee, agent, factor, servant, employee, director, or officer of another Person.
- Y. **Principal** — an individual who is a Landscape Architect and is in Responsible Charge of a Business Entity’s Landscape Architectural practice.
- Z. **Public Member** — a Person that is not and has never been a Licensee, or the spouse of a current or former Licensee, or a Person with material financial interest in providing Landscape Architectural services, or engaged in activity directly related to Landscape Architecture.
- AA. **Responsible Charge** — the direct control and personal Supervision of the practice of Landscape Architecture.
- BB. **Seal** — a symbol, image, or information in the form of a rubber stamp, embossed seal, computer-generated data, or other form acceptable to the Board applied or attached to a document to verify document authenticity and origin.
- CC. **State** — any State, commonwealth, the District of Columbia, other insular U.S. territories, and Canadian provinces.
- DD. **Supervision** and Supervision-related terms are defined as follows:
 - (i) Supervising (Professional) — a Licensee who assumes responsibility for professional Client care given by a Person working under Licensee’s direction.
 - (ii) Direct control and personal Supervision — Supervision by a Landscape Architect of another’s work in which supervisor is directly involved in all practice-related judgments affecting public health, safety and welfare.

Section 106(Z)

The definition of Public Member is intended to preclude those involved with or related to persons in the profession of Landscape Architecture from serving in this role.

When a composite board approach is considered, the definition of public member will be reassessed and expanded to preclude other design professionals from serving as public members.

Section 201

This section recognizes and legislatively affirms that certain authority is delegated from the legislative branch to the board. A clear articulation authorizing the board to enforce the practice act in the interest of public protection provides added emphasis of legislative intent. This designation is important in times of added judicial and political scrutiny and in light of the recent U.S. Supreme Court ruling regarding antitrust liability and state action defense.

Article II - Board of Landscape Architecture

Section 201. Delegation of Authority.

Enforcing this Act is the Board of Landscape Architecture's ("the Board") responsibility. Under the State's active oversight and Supervision, the Board has all duties, powers, and authority granted by, or necessary to enforce, this Act, and other duties, powers, and authority it is granted by law.

Section 202. Board Composition.

Landscape Architect Board Option

- A. The Board will consist of [Number] members; at least [Number] will be public representative(s), and the remainder will be Licensees qualified under Section 203 of this Act. This Board member composition ensures the necessary expertise to efficiently and effectively regulate the profession, using professionals acting on the public's behalf and bound by applicable ethics and public-service laws.

Composite Board Option

- B. The Board will consist of [Number] members appointed under Section 204 and comprised of the following:
- (i) Two (2) Public Members as defined by this act.
 - (ii) Two (2) Landscape Architects as defined in Section 203.
 - (iii) Two (2) [Profession] as defined in...*[citation to relevant practice act referencing resident, licensed in Good Standing, other licenses in Good Standing, licensed for a specified period of time]*.
 - (iv) Two (2) [Profession] as defined in...*[citation to relevant practice act referencing resident, licensed in Good Standing, other licenses in Good Standing, licensed for a specified period of time]*.
 - (v) Two (2) [Profession] as defined in...*[citation to relevant practice act referencing resident, licensed in Good Standing, other licenses in Good Standing, licensed for a specified period of time]*.
 - (vi) Two (2) [Profession] as defined in...*[citation to relevant practice act referencing resident, licensed in Good Standing, other licenses in Good Standing, licensed for a specified period of time]*.
 - (vii) *[Intended to include two (2) members from each professions under the Board's jurisdiction.]*
- C. In addition to these qualifications, each Board member shall during the appointed period comply with Section 203(b), (c), (d), and (e).

Section 202

With respect to states' rights and differing current regulatory structures, CLARB provides two board models in this Model Law. The language included in this version of the Model Law works with a single, stand-alone board structure.

Language in various parts of the Model Law require modification if a different board structure is used.

The remaining portions of the Model Act do not include the multiple scopes and licensure eligibility criteria factors. Regardless of the type of board structure, the board composition includes persons with expertise of the represented design professions and public members.

Section 202(A) identifies a stand-alone board option with Landscape Architects and public members involved in regulation of the profession.

Section 202(B) identifies a composite board option and includes equal representation of the design professions regulated by the board. Public members are also included on the composite board.

Related design professions on a composite board may include, but are not limited to, architects, engineers, landscape architects, land surveyors, geologists, and interior designers.

- D. This Board member composition ensures the necessary expertise to efficiently and effectively regulate the professions using professionals acting on the public's behalf and bound by applicable ethics and public-service laws.

Section 203. Qualifications for Board Membership.

- A. Each Landscape Architect Board member must during their Board tenure:
 - i) Be a resident of [State] for at least one (1) year.
 - ii) Be a Licensee in Good Standing.
 - iii) Maintain in Good Standing any other professional License they hold.
 - iv) Have been licensed as a Landscape Architect for at least three (3) years.
- B. Each Public Member of the Board must be a resident of [State] and at least 21 years of age.
- C. Each Board member shall maintain eligibility to serve on the Board by avoiding relationships that may interfere with the Board's public-protection mission. Board members shall be especially cognizant of conflict-of-interest issues including, for example, participation in [State] or national professional associations.
- D. Board members are barred from being an officer of or holding any leadership position (being a voting member of the governing Board) in a State or national professional association_during the Board member's appointed term. .
- E. Each Board member shall annually attest to completing coursework or training hours and content approved by Board policy. Coursework or training must address relevant regulatory issues such as the Board's role, Board members' roles, conflicts of interest, administrative procedures, enforcement, and immunity.

Section 204. Board Member Appointment and Oversight by Governor.

The Governor shall appoint members of the Board in accordance with Article II of this Act and the [State] constitution. In addition, the Governor can remove Board members with or without cause.

Section 203

Expertise of board members is essential to effective and efficient decision-making.

This section identifies eligibility criteria to serve on the board.

All board members serve the public interest when undertaking and acting within the scope of board duties and responsibilities.

Section 204

Government oversight is intended in the regulatory structure. Legislative enactment creating and delegating authority, Governor appointments, and removal authority assists in providing necessary governmental oversight.

Section 205. Terms.

- A. Except as provided in subsection B below, Board members are appointed for four-year terms. Board members appointed to fill vacancies occurring before a former member's full term expires shall serve the remaining portion of that unexpired term.
- B. Board-member terms must be staggered so no more than [Number/Percentage] member terms expire in any year. Each member shall serve until a qualified successor is appointed, unless such member resigns or is removed from the Board under Article II Section 207 of this Act.
- C. Board members can serve for up to three (3) consecutive full terms. Completing the remainder of an unexpired term is not a "full term".

Section 205

This section identifies a four-year term of appointment and limits service to three consecutive full terms. CLARB understands and appreciates the institutional knowledge and continuity of volunteers and attempts to balance longevity with the need for an infusion of new representation.

Section 206. Board Member Vacancies.

- A. Any vacancy in Board membership for any reason, including expiration of term, removal, resignation, death, disability, or disqualification, must be filled by the Governor or appointing authority as prescribed in Article II Section 204 of this Act as soon as practicable.
- B. If a vacancy is not filled within six (6) months, the Board may appoint an individual qualified under Section 203 to temporarily fill the vacancy until the Governor (or appointing authority) approves the temporary Board member or appoints a new member.

Section 206

This section addresses how a vacancy is filled by Governor appointment. CLARB identified and understands the value of a fully constituted board, but recognizes that vacancies may exist for months and years. To provide an incentive for the appointing authority to fill vacancies and keep boards fully populated, this section authorizes the board to fill a position that remains vacant for over six (6) months.

Section 207. Removal of Board Member.

The Board may remove a Board member on an affirmative vote of three quarters ($\frac{3}{4}$) of members otherwise eligible to vote, and based on one or more of the following grounds:

- A. Board member's refusal or inability to perform required duties efficiently, responsibly, and professionally.
- B. Misuse of a Board-member position to obtain, or attempt to obtain, any financial or material gain, or any advantage personally or for another, through the office.
- C. A final adjudication (by a court or other body with jurisdiction) that the Board member violated laws governing the practice of Landscape Architecture.
- D. Conviction of a crime other than a minor traffic offense.

Section 207

This section authorizes the Board to remove Board members under specified conditions following identified procedures.

Section 208. Organization of the Board.

- A. The Board shall elect from its members a Chairperson, Vice-Chairperson, and such other officers appropriate and necessary to conduct its business. The Chairperson shall preside at all Board meetings and perform customary duties of the position and other duties assigned by the Board.

The Chairperson may establish Board committees to further Board business, and may designate Board members as committee members.

- B. Officers elected by the Board serve terms of one (1) year starting the day of their election and ending when their successors are elected. Officers may serve no more than [Number] consecutive one-year terms in each elected office.

Section 209. Executive Director and Employees of Board.

- A. The Board shall employ an Executive Director who is responsible for performing administrative functions and such other duties the Board directs, under its oversight.
- B. The Board may employ persons (in addition to the Executive Director) in positions or capacities necessary to properly conduct Board business and fulfill Board responsibilities under this Act.

Section 210. Compensation of Board Members.

Each Board member is paid a *per diem* amount for each day the member performs official Board duties, and is reimbursed for reasonable and necessary expenses of discharging such official duties.

Section 211. Meetings of Board.

- A. Frequency. The Board shall meet at least once every three months to transact its business, and at such additional times as the Board's Chairperson or two-thirds (2/3) of the Board's voting members determine.
- B. Location. The Board shall determine the location and format for each meeting and provide notice to the public as required by [citation to open meetings laws].
- C. Remote Participation. The Board, consistent with [State] law and related regulations, may provide for remote participation in Board meetings by members not present at the meeting location.

Section 211

This section specifies that the Board shall meet a minimum number of times annually. CLARB recognizes that boards must meet often enough to transact business on a regular basis and to ensure that applicants' and respondents' issues are timely addressed. Technology provides a means for boards to meet regularly if it is difficult for a board to meet face-to-face on a frequent basis.

- D. Notice. Notice of all Board meetings will be given in the manner prescribed by [State]’s applicable open-meetings laws.
- E. Quorum. A majority of Board members is a quorum for convening and conducting a Board meeting and all Board actions will be by a majority of a quorum, unless more are required under this Act or Board regulation.
- F. Access by Public. All Board meetings must be conducted in accordance with [State]’s open-meeting law.
- G. Record of Meetings of the Board. A record of all Board meetings must be maintained in accordance with [State]’s open-records law.

Section 212. Regulations Governing Licensure and Practice.

The Board shall make, adopt, amend, and repeal regulations necessary for the proper administration and enforcement of this Act. Such regulations must be promulgated in accordance with [State]’s Administrative Procedures Act.

Section 213. Powers and Duties Delegated to Board.

- A. Under active State oversight and Supervision, the Board shall regulate the practice of Landscape Architecture in [State] and is responsible for conducting all of its activities in connection therewith. The powers and duties of this Section 213 are in addition to other powers and duties delegated to the Board under this Act. Once licensed by the Board, Licensees cannot divest the Board of jurisdiction by changing their licensure status or relinquishing licensure. Moreover, persons never licensed by the Board who engage in the unlawful practice of Landscape Architecture in [State] are subject to the Board’s jurisdiction.
- B. Licensure. The Board is authorized to issue licenses to, and renew licenses for:
 - (i) Persons qualified to engage in the practice of Landscape Architecture under this Act.
 - (ii) Businesses qualified to engage in the practice of Landscape Architecture under this Act.
- C. Standards. The Board is authorized to establish and enforce:
 - (i) Minimum standards of practice and conduct for Landscape Architects.
 - (ii) Standards for recognizing and approving programs for Landscape Architect education and training.

Section 212

One of the most important authorities delegated from the legislature to the Board is rulemaking by regulation. Statutes are intended to be general in nature while regulations add specifics.

Using its expertise and public representation perspectives, boards create regulations that add specificity to the statute. Expertise is needed to provide practice-specific details to the regulations.

As practice evolves, regulations are more flexible and easier to amend than are statutes.

Section 213

This section is the heart of the authority delegated by the legislature to the Board. CLARB determined that this section must be robust and specify the breadth of the authority of the Board to engage in all actions necessary to effectively and efficiently regulate the profession in the interest of public protection.

Additional commentary is provided throughout this section to highlight some of the important authority delegated to the Board.

- (iii) Standards, educational program criteria, or other mechanisms to ensure the continuing Competence of Landscape Architects.

D. Enforcement. The Board is authorized to enforce this Act and its regulations relating to:

- (i) The conduct or Competence of licensed Landscape Architects practicing in [State], and the suspension, revocation, other restriction of, or action against, any License issued by the Board.
- (ii) The assessment and collection of fines, costs, and attorneys' fees:
 - a. Against Persons licensed by the Board (irrespective of their licensure status, whether active, inactive, expired, lapsed, surrendered or disciplined) relative to acts, omissions, complaints, and investigations that occurred during the licensure period.
 - b. Against Persons who engage in the unlawful practice of Landscape Architecture as defined under this Act.
- (iii) With probable cause that an Applicant or Licensee has engaged in conduct prohibited under this Act or its regulations, the Board may issue an order directing Applicant or Licensee to submit to a mental or physical examination or chemical dependency evaluation. Every Applicant or Licensee is deemed to consent to undergo mental, physical, or chemical-dependency examinations, when ordered by the Board to do so in writing, and to waive all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that such testimony or reports constitute a privileged or confidential communication.
- (iv) The Board may investigate and inspect any Licensee, whether Licensee is a Person or a Business Entity, at all reasonable hours to determine a violation of the laws or regulations governing the practice of Landscape Architecture.

The Board, its officers, investigators, inspectors, and representatives shall cooperate with all agencies charged with enforcement of laws of the United States, [State], and all other States relating to the practice of Landscape Architecture.

- (v) The Board can subpoena persons and documents in connection with its complaint investigations before commencing, and during, any formal Adjudicatory Proceeding to take depositions and testimony as in civil cases in [State]

courts. Any Board member, Hearing officer, or administrative law judge has power to administer oaths to witnesses at any Hearing the Board conducts, and any other oath the Board is authorized by law to administer.

- (vi) The Board may conduct its authorized investigations, inquiries, or Hearings before any Board member(s). The findings and orders of such member(s) are deemed to be the findings and orders of the Board when approved and confirmed as set forth in Section 211(e) of Article II of this Act.
- (vii) The Board may report any violation of this Act or its regulations that implicates criminal law to the Attorney General or State's Attorney who shall without delay institute appropriate proceedings and investigations in the proper court for prosecution as required by law. This does not require the Board to so report the potential application of criminal law if the Board reasonably believes the public interest is adequately served by a suitable written notice or warning. Any decision by the Board to issue a written notice or warning must be made in Consultation with legal counsel, the State's Attorney or other appropriate law enforcement entity.
- (viii) The Board may seek declaratory, injunctive, and other appropriate remedies from a court with jurisdiction.

E. Recovery of Costs and Assessment of Fines.

- (i) The Board may assess against a respondent reasonable costs (e.g., attorneys' fees, investigation and prosecution costs) of any Adjudicatory Proceeding through which respondent is found to have violated any law or regulation governing the practice of Landscape Architecture. The assessment of reasonable costs must be formalized in a Board order directing payment of the costs to the Board, and issued together with the Board's final decision.

This authorization to assess costs exists so long as the Board operates in good faith and succeeds on any portion of the administrative prosecution, and even if some counts are not substantiated.

- (ii) In the case of a Person or Business Entity, the Board may issue an order for recovery of reasonable costs authorized under this Section 213 to the corporate owner, if any, and to any Licensee, officer, owner, or partner of the practice or Business Entity:

Section 213(E)

This section authorizes the board to assess fines and costs as administrative sanctions of disciplined respondents. Differentiating costs (reimbursement of out-of-pocket expenses related to administrative prosecution of respondents) and fines (monetary assessments intended to deter future conduct) is important. Both cost assessments and fines are important tools used when negotiating resolution of complaints.

- a. found to have knowledge of, or
 - b. who should have reasonably known of, or
 - c. who knowingly participated in, a violation of any provision of this Act or any regulation issued hereunder.
- (iii) When the Board issues an order to pay costs, and timely payment of the costs is not made to the Board as directed in its final decision and order, the Board may enforce the order in the [State] Courts in the county where the Adjudicatory Proceeding occurred. The Board's right of enforcement is in addition to other rights the Board has concerning Persons directed to pay costs, including denial of licensure.
- (iv) In any action for recovery of costs, the Board's final decision and order is conclusive proof of the validity of the order and terms of payment.
- (v) The Board may assess administrative fines against a respondent not exceeding \$[dollars] for each count adjudicated a violation of law or regulation governing the practice of Landscape Architecture. Assessment of fines must be formalized in a Board order directing payment of such fines to the Board, and issued together with the Board's final decision. The Board is authorized to assess additional fines for continued violation(s) of any Board order.

This authorization to assess fines exists so long as the Board operates in good faith and succeeds on any portion of the administrative prosecution, even if some counts are not substantiated.

F. Expenditure of Funds. The Board may receive and expend funds from parties other than [State], in addition to its (Annual/Biennial) appropriation, provided:

- (i) Such funds are awarded to pursue a specific objective the Board is authorized to accomplish under this Act, or is qualified to accomplish by reason of its jurisdiction or professional expertise.
- (ii) Such funds are expended to pursue the specific objective for which they were awarded.
- (iii) Activities connected with, or occasioned by, spending the funds do not interfere with the Board's performance of its duties and responsibilities and do not conflict with the Board's exercise of its powers under this Act.
- (iv) Funds are segregated in a separate account.

- (v) The Board provides periodic written reports to [state]'s Governor detailing its receipt and use of the funds, provides sufficient information for governmental oversight, and notes that such reports are deemed a public record under applicable law.

G. Fees for Services. In addition to fees specifically provided for under this Act, the Board shall establish nonrefundable fees, including (but not limited to) the following:

- i) Applications.
- ii) Examination administration.
- iii) Renewals.
- iv) Board publications.
- v) Data maintained by the Board, which may include mailing lists, Licensee lists, or other information requested under applicable open-records laws.
- vi) Copies of audiotapes, videotapes, computer discs, or other media used for recording sounds, images or information.
- vii) Temporary, duplicate or replacement licenses or certificates.
- viii) Notices of meetings.
- ix) Returned checks.
- x) Other fees deemed necessary by the Board.

The Board shall publish a list of established fees and deposit and expend the fees it collects in accord with [State] statutes.

H. Other Powers and Duties of the Board. The Board is granted other powers and duties necessary to enforce regulations issued under this Act including, but not limited to, the following:

- (i) The Board may belong to professional organizations, societies, and associations that promote improvement of Landscape Architecture practice standards for protection of public health, safety, and welfare, or whose activities support the Board's mission.
- (ii) The Board may establish a Bill of Rights concerning the landscape-architectural services Client's may expect to receive.
- (iii) The Board may collect, and participate in collecting, professional demographic data.

I. Oversight of Board through Annual Report. To provide continued oversight, the Board shall file with the Governor an annual report on the Board's activities, including reference to the Board's effectiveness and efficiencies. The annual report shall, through statistics, at minimum, identify the number of Licensees, Applicants, renewals, complaints, and disposition of such complaints, the number of Board meetings, and all financial data relevant to Board operations.

Section 213(G)

This section identifies that the board is able to charge fees for various services and documents to offset expenses of board operations.

Section 213(H)(ii)

This section authorizes the board to establish a Code of Conduct intended to provide clients and licensees with what to expect of the relationship. Information that may be included: how the practitioner is regulated and by whom, how a complaint can be filed, how billing and payment occur; expected work product, time period to completion, and other contractual details.

Section 213(I)

This section identifies the oversight intended through the statute by setting expectations regarding reporting. It references an annual report filed by the Board including its contents.

Section 214 Source of Data

When making determinations under this Act, and to promote uniformity and administrative efficiencies, the Board may rely on the expertise of, and documentation and verified data gathered and stored by, not-for-profit organizations sharing the Board's public-protection mission.

Article III. - Licensing.

Section 301. Unlawful Practice.

- A. Unless this Act provides otherwise, it is unlawful to engage or offer to engage in the practice of Landscape Architecture unless the acting party is licensed as a Landscape Architect under this Act.
- B. No Person offering services may use the designation *Professional Landscape Architect*, *Registered Landscape Architect* or *Licensed Landscape Architect*, or any other designation, words, or letters indicating licensure as a Landscape Architect, including abbreviations, or hold himself or herself out as a Landscape Architect unless licensed by the Board.
- C. Providing any service defined under this Act as the practice of Landscape Architecture to a Client in [State] through digital, telephonic, electronic, or other means, regardless of the service provider's location, constitutes the practice of Landscape Architecture in [State] and requires the service provider's licensure under this Act.
- D. Providing any service defined under this Act as the practice of Landscape Architecture by a service provider located in [State] through digital, telephonic, electronic, or other means, regardless of the location of the Client receiving such services, constitutes the practice of Landscape Architecture in [State] and requires the service provider's licensure under this Act.
- E. Any Person who, after Hearing, is found by the Board to have unlawfully engaged in the practice of Landscape Architecture is, in addition to any other authorized remedies, subject to a fine imposed by the Board not exceeding \$[dollars] for each offense, and the imposition of costs described in this Act.
- F. Nothing in this Act prevents members of other professions from engaging in the practice for which they are licensed by the State. However, such other professionals shall not hold themselves out as licensed Landscape Architects or refer to themselves by any title, designation, words, abbreviations, or other description stating or implying they are engaged in, or licensed to engage in, the practice of Landscape Architecture.

Section 214

This section authorizes the Board to rely on the private sector for certain services to promote efficiencies and uniformity. It recognizes the existence of CLARB-like organizations and that such associations can provide a wealth of services and products consistent with the Board's public-protection mission.

Section 301

This section addresses the fact that practice and use of titles are limited to licensees and that unlicensed persons are prohibited from practicing landscape architecture or using titles that confuse the public.

Section 301(C) and (D)

These sections recognize that electronic practice and other means of technology affect professional practice and need regulation through statute. Sections (C) and (D) establish where practice occurs and that the Board has authority over such modalities of practice.

Section 301(E)

This section establishes jurisdiction/authority of the Board to administratively prosecute unlicensed persons. This authority is essential to the Board's ability to protect the public and not rely solely on criminal prosecutions.

Section 302. Qualifications for Licensure.

- A. Initial Licensure: To obtain an initial License to practice Landscape Architecture an Applicant must substantiate each item below to the Board's satisfaction:
- (i) Submission of a completed and signed application in the form determined by the Board.
 - (ii) Possession of good moral character as determined by the Board.
 - (iii) Payment of all fees specified by the Board.
 - (iv) Documentation of United States citizenship or other recognized/permitted immigration status as required under [State] law or, in the absence of [State] law, applicable federal law.
 - (v) Completion of an Approved Education Program.
 - (vi) Completion of experience under Supervision requirements established by the Board.
 - (vii) Successful completion of the licensure Examination, as administered and graded in accordance with the Council of Landscape Architectural Registration Boards (CLARB) standards at that time.
- B. Licensure Transfer / Licensure by Endorsement: To obtain a License to practice Landscape Architecture, an Applicant licensed in another jurisdiction must substantiate each item below to the Board's satisfaction:
- i) Submission of a completed and signed application in the form determined by the Board.
 - ii) Possession of good moral character as determined by the Board. and
 - iii) Payment of all fees specified by the Board.
 - iv) Documentation of United States citizenship or other recognized/permitted immigration status as required under [State] law or, in the absence of [State] law, applicable federal law.
 - v) Possession—when initially licensed as a Landscape Architect—of all qualifications necessary to have been eligible for licensure in this State at that time.
 - vi) Demonstration that Applicant's professional licenses, in any State, are in Good Standing, or demonstration of Applicant's CLARB Certification.

Section 302

This section sets forth the eligibility criteria for licensure, both initial licensure (section (A)) and licensure through transfer program (section (B)). CLARB elected to include the licensure eligibility criteria for both applicants under the same section for ease of reference. All persons previously licensed by another jurisdiction must proceed under subsection (B).

Section 302(A)(B)

This section recognizes the important need for reasonable mobility and portability of programs in times of increased scrutiny of regulatory systems and requirements.

The CLARB Certificate program can be used to provide most of the required information for Initial Licensure or reciprocal licensure. Licensure eligibility criteria have been vetted through this program, thus alleviating the need to undertake duplicate assessments. Program requirements are designed to meet the licensure eligibility criteria required by most member boards.

C. Examinations and Examination Attempts

- i) Consistent with Article II section 214, the Board is authorized to use and rely on any Examination determined by the Board to assess necessary entry-level Competence. Such Examinations must be administered often enough to meet the Applicant population's needs, as determined by the Board.
- ii) The Board can limit the number of examination attempts by issuing a rule addressing such limits based on industry standards for high-stakes licensure Examination.

Section 303. Qualifications for Certificate of Authorization

A. Business Entities organized to practice Landscape Architecture must obtain a Certificate of Authorization before doing business in [State]. No Business Entity may provide Landscape Architectural services, hold itself out to the public as providing Landscape Architectural services, or use a name including the terms *Landscape Architect*, *professional Landscape Architect*, or *registered Landscape Architect*, or confusingly similar terms, unless the Business Entity first obtains a Certificate of Authorization from the Board. To obtain a Certificate of Authorization a Business Entity must meet the following criteria:

- (i) At least one Principal is designated as in Responsible Charge for the activities and decisions relating to the practice of Landscape Architecture, is licensed to practice Landscape Architecture by the Board, and is a regular employee of, and active participant in, the Business Entity.
- (ii) Each Person engaged in the practice of Landscape Architecture is licensed to practice Landscape Architecture by the Board.
- (iii) Each separate office or place of business established in this State by the Business Entity has a licensed Landscape Architect regularly supervising and responsible for the work done and activities conducted there.

This requirement does not apply to offices or places of business established to provide construction-administration services only.

B. Business Entities shall apply to the Board for a Certificate of Authorization on a Board-prescribed form, providing Principals' names and addresses and other information the Board requires. The application must be accompanied by an application fee fixed by the Board, and must be renewed per the Board's renewal requirements.

Section 302(C)

This section authorizes the Board to determine what examination is necessary to assess entry-level competence as part of the licensure application process. Under Article II section 214, the Board is already authorized to rely on outside private entities for certain services so long as they share the Board's public-protection mission.

This section also authorizes the Board to promulgate rules related to limits on examination attempts.

The Applicant shall notify the Board in writing within 30 days of any change in the status of registered principals, the firm's name or address, or a branch office address or designated Licensee. If a Principal changes, the Applicant shall provide details of the change to the Board within 30 days after the effective change date.

- C. If the Board finds the Business Entity is in compliance with this section's requirements, it shall issue a Certificate of Authorization to such Business Entity designating the Business Entity as authorized to provide Landscape Architectural services.
- D. No Business Entity issued a Certificate of Authorization under this section is relieved of responsibility for the conduct or acts of its agents, employees or principals by reason of its compliance with this section, nor is any individual practicing Landscape Architecture relieved of responsibility and liability for services performed by reason of employment or relationship with such Business Entity. This section does not affect a Business Entity and its employees performing services solely for the benefit of the Business Entity, or a subsidiary or affiliated business entity. Nothing in this section exempts Business Entities from other applicable law.

Section 304. Qualifications for Practice under Disaster Declaration

Disaster Declaration. Any Person licensed to practice Landscape Architecture in another State or Province who provides services within the scope of their License and in response to a disaster declared by the governor or other appropriate authority of [State] may, on prior written notice to the Board, provide such services in [State] without a License issued by the Board for the duration of the declared emergency. Any practitioner providing services under this Section 304 submits to the Board's jurisdiction and is bound by [State] law. The Board retains authority to remove, revoke, rescind, or restrict this disaster-declaration practice privilege without Hearing by majority vote of its members.

Section 305. Requirement of Continuing Competence.

The Board shall by regulation establish requirements for continuing Competence, including determination of acceptable Continuing Education program content. The Board shall issue regulations necessary to the stated objectives and purposes of Continuing Education and to enforce this Section 305 to ensure Licensees' continuing Competence.

Section 304

This section addresses the temporary practice privileges of licensees in other states to come into the state and practice for a limited time corresponding with a declared disaster. This language is consistent with the EMAC legislation that allows temporary practice under declared emergencies.

Section 306. Requirements for Licensure Renewal.

- A. To maintain licensure, each Licensee shall renew such License when and in the manner established by the Board.
- B. To renew licensure, each Licensee shall provide documentation satisfactory to the Board of successful completion of at least 12 Continuing Education Contact Hours of an Approved Program of Continuing Education per year.
- C. To maintain licensure, each Business Entity shall renew its License when and in the manner established by the Board.

Section 307. Nonrenewal of Licensure; Requirements for Reinstatement of Expired License.

- A. Failure to renew a License by the designated renewal date as prescribed under applicable law, this Act, and its regulations will result in License expiration, which terminates authority to practice Landscape Architecture in [State].

Applicants for reinstatement of an expired License must substantiate by documentation satisfactory to the Board that Applicant meets the following criteria:

- i) When no more than 120 days have passed since the License expiration date, an Applicant for License reinstatement shall submit to the Board:
 - (1) A written petition for License reinstatement addressed to the Board.
 - (2) A completed and signed application for License reinstatement.
 - (3) Documentation of successful completion of all applicable licensure-renewal requirements.
 - (4) A written and signed attestation by Applicant that Applicant has not practiced Landscape Architecture at any time during the period of License expiration.
 - (5) All applicable fees, including a late fee determined by the Board that does not exceed three times the Board's initial licensure application fee.
 - ii) When more than 120) days have passed since the License expiration date, an Applicant for License reinstatement shall meet the requirements set forth in this Section 307(A)(i) and Section 302 of Article III of this Act. However, any application under this Section 307 is deemed an application for License reinstatement.
- B. The Board may impose additional reasonable License-reinstatement requirements necessary to fulfill its public-protection mission.

- C. The Board may also consider relevant extenuating circumstances submitted with any petition and application for License reinstatement in which Applicant demonstrates hardship, so long as the Board maintains its public-protection mission in considering the petition and application.

Section 310. Inactive License.

The Board shall by regulation establish procedures for issuing an Inactive License to a Licensee in Good Standing, under which the Applicant is exempted from licensure renewal requirements, but is not authorized to engage in the practice of Landscape Architecture while inactive.

Reinstatement of an Inactive License to active status will occur under procedures established by the Board and include an application for License reinstatement, payment of a reinstatement fee not to exceed two (2) times the initial licensure fee, and an attestation by Applicant that Applicant has not practiced Landscape Architecture while inactive.

Article IV Discipline.

Section 401. Grounds; Penalties; Reinstatement of License Following Board Discipline.

- A. The Board may refuse to issue or renew, or may suspend, revoke, reprimand, restrict or otherwise limit the License of, or fine, any Person or Business Entity, whether or not licensed, under the [State] Administrative Procedures Act or the procedures in Article IV, Section 402 of this Act, on one or more of the following grounds as determined by the Board:
 - (i) Unprofessional conduct as determined by the Board.
 - (ii) Unethical conduct as determined by the Board.
 - (iii) Practice outside the scope of practice authorized under this Act or its regulations.
 - (iv) Conduct in violation of this Act or its regulations, including failure to cooperate with the Board's inspection or investigative processes within a reasonable time.
 - (v) Incapacity or impairment, for whatever reason, that prevents a Licensee from engaging in the practice of Landscape Architecture with reasonable skill, Competence, and safety to the public.

Section 401

This section delineates the grounds for administrative discipline of respondents found to have violated the Act. CLARB has elected to specify the grounds to ensure adequate scope of authority for the Board to protect the public through enforcement proceedings.

- (vi) Adjudication resulting in a finding of mental incompetence by regularly constituted authorities.
- (vii) Conviction of a Felony as defined under [State/Province] or federal law.
- (viii) Violation of any law, rule, or regulation of [State], any other State, or the federal government, pertaining to any aspect of the practice of Landscape Architecture.
- (ix) Misrepresentation of a fact by an Applicant or Licensee:
 - a) In securing or attempting to secure the issuance or renewal of a License.
 - b) In any statement regarding the Landscape Architect's skills or value of any service/treatment provided, or to be provided.
 - c) Using any false, fraudulent, or deceptive statement in connection with the practice of Landscape Architecture including, but not limited to, false or misleading advertising.
- (x) Licensee Fraud related to the practice of Landscape Architecture, including engaging in improper or fraudulent billing practices.
- (xi) Engaging in, or aiding and abetting any Person engaging in, the practice of Landscape Architecture without a License, or falsely using the title Landscape Architect, or a confusingly similar title.
- (xii) Failing to conform to accepted minimum standards of practice or failing to maintain a Landscape Architectural Business Entity at accepted minimum standards.
- (xiii) Attempting to use the License of another.
- (xiv) Failing to pay costs assessed in connection with a Board Adjudicatory Proceeding, or failing to comply with any stipulation or agreement involving probation or settlement of such Proceeding, or any order entered by the Board in such Proceeding.

- (xv) Conduct that violates the security of any Examination or Examination materials including, but not limited to:
 - (a) Removing from the Examination setting any Examination material without appropriate authorization.
 - (b) Unauthorized reproduction by any means of any portion of the actual Examination.
 - (c) Aiding by any means the unauthorized reproduction of any portion of the actual Examination.
 - (d) Paying, or using professional or paid examination-takers, for the purpose of reconstructing any portion of the Examination.
 - (e) Obtaining Examination questions or other Examination material, except by appropriate authorization before, during, or after an Examination administration.
 - (f) Using or purporting to use any Examination question or material that was improperly removed, or taken from, any Examination.
 - (g) Selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered Examination.
 - (h) Communicating in any manner with any other examinee during the administration of an Examination.
 - (i) Copying answers from any other examinee or permitting one's answers to be copied by any other examinee.
 - (j) Examinee's possession during the administration of any Examination any books, equipment, notes, written or printed materials, or data of any kind, other than the Examination materials provided, or otherwise authorized to be in the examinee's possession during any Examination.
 - (k) Impersonating any examinee or having any Person take any Examination on the examinee's behalf.

- (xvii) Failure of a Licensee or Applicant to report to the Board any information required under Article VI of this Act.

- (xviii) Having had any right, credential, or license to practice a profession in this or another State subjected to adverse action or denial of right to practice. In such case, a certified copy of the record of the adverse action or denial of right to practice is conclusive evidence of such disciplinary action or denial.

Section 401(A)(xvi)

This section ensures that violations of examination agreements, including examination breaches and security protocols, constitute grounds for discipline. For the benefit of the public, and the integrity of licensure and examination processes, this authority is essential.

- B. The Board may defer discipline or other action regarding any impaired Licensee who enters into a binding agreement, in a form satisfactory to the Board, under which Licensee agrees not to practice Landscape Architecture and to enter into, and comply with, a Board-approved treatment and monitoring program in accordance with Board regulations.

This Section 310(B) does not apply to any Licensee convicted of, or who pleads guilty or *nolo contendere* to, a Felony, or to Licensee Convictions in another State or federal court relating to controlled substances or sexual misconduct.

- C. Subject to a Board order, any Person whose License to practice Landscape Architecture in [State] is suspended or restricted under this Act (whether by formal agreement with or by action of the Board), has the right, at reasonable intervals, to petition the Board for License reinstatement. The petition must be in writing and in the form prescribed by the Board.

After investigation and Hearing, the Board may grant or deny the petition, or modify its original findings to reflect circumstances changed sufficiently to warrant granting or denying the petition or modifying the findings and order. The Board may require petitioner to pass one or more Examination(s) or complete Continuing Education in addition to that required for licensure renewal, or impose any other sanction, condition, or action appropriate for reentering into the practice of Landscape Architecture and public protection.

- D. The Board, after Consultation and concurrence with the [(County) District Attorney or [State] Attorney General], may issue a cease-and-desist order to stop any Person from engaging in the unlawful practice of Landscape Architecture or from violating any statute, regulation, or Board order. The cease-and-desist order must state the reason for its issuance and explain the Person's right to request a Hearing under the [State] Administrative Procedures Act. This provision does not bar criminal prosecutions by appropriate authorities for violations of this Act.
- E. Final Board decisions and orders after a Hearing are subject to judicial review under the [State] Administrative Procedures Act, unless otherwise provided by law.

Section 402. Summary Suspension.

The Board may, without a Hearing, temporarily suspend a License for up to 60 days when the Board concludes a Landscape Architect violated any law or regulation the Board is authorized to enforce, and if continued practice by the Landscape Architect portends imminent risk of harm to the public (notwithstanding [State]’s Administrative Procedures Act). The suspension takes effect on written notice to the Landscape Architect specifying the law or regulation allegedly violated. When the Board issues the suspension notice, it shall schedule and notify the Licensee of an Adjudicatory Proceeding to be held under the [State] Administrative Procedures Act within [number] days after the notice is issued.

Section 402
This section authorizes the Board to suspend a license immediately without a hearing under identified circumstances that create imminent harm to the public. Such respondents are provided with a hearing within an identified period of time under administrative procedures.

Article V. - Mandatory Reporting.

Section 501. Requirement to Report.

Any Applicant, Licensee or Person with knowledge of conduct by any Person that may be grounds for disciplinary action under this Act or its regulations, or of any unlicensed practice under this Act, shall report such conduct to the Board.

Section 504. Reporting Other Licensed Professionals.

Any Applicant, Licensee or Person shall report to applicable licensing Boards conduct by a Licensee that is, or may be, grounds for disciplinary action under applicable law, if the conduct must by law be reported to such licensing boards.

Section 505. Reporting by Courts.

The administrator of any court with jurisdiction shall report to the Board any court judgment or other determination that an Applicant for licensure by the Board or a Licensee is mentally ill, mentally incompetent, guilty of a Felony, guilty of violating federal or State narcotics laws or controlled substances act, or guilty of crimes reasonably related to the practice of Landscape Architecture, or that appoints a guardian of Applicant or Licensee, or commits Applicant or Licensee under applicable law.

Section 506. Self-Reporting by Applicant for Licensure and Licensee.

An Applicant for licensure by the Board or a Licensee shall self-report to the Board any personal conduct or action that requires a report be filed under Article IV of this Act.

Section 507. Reporting Deadlines; Forms.

All reports required by this Act must be submitted to the Board no later than 30 days after the reportable conduct or action occurs. The Board may provide forms for reports required by Article VI of this Act and may require that reports be submitted on the forms. The Board may issue regulations to ensure prompt and accurate reporting as required by Article VI of this Act.

Section 508. Immunity for Reporters.

Any Person who in good faith submits a report required under Article VI of this Act, or who otherwise reports, provides information, or testifies in connection with alleged violations of this Act, is immune from liability or prosecution. Notwithstanding laws to the contrary, the identity of Persons submitting mandated reports is not disclosable, except as required in connection with an Adjudicatory Proceeding initiated by the Board or other proceeding in courts with jurisdiction.

Article VI Other.

Section 701. Severability.

If any provision of this Act is declared unconstitutional or illegal, or the applicability of this Act to any Person or circumstance is held invalid by a court with jurisdiction, the constitutionality or legality of the Act's other provisions and the Act's application to other persons and circumstances, is not affected, and those provisions remain in full force and effect, without the invalid provision or application.

Section 702. Effective Date.

This Act is effective on [date].

Model Regulations

Council of Landscape Architectural Registration Boards

March 2017

DRAFT

CLARB

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PREFACE

Duly enacted statutes provide the basis for establishing a regulatory structure by legislatively creating and delegating authority to the regulatory board. Such statutes (practice act) establish the basis for and authority of the Board. The Board is also delegated with the authority to promulgate regulations/rules that are intended to provide specificity to the statutes using the expertise of the Board, generally populated with subject matter experts (licensees) and members of the public. (see *CLARB Model Law Article II, Section 212*)

For purposes of this document, the Council of Landscape Architectural Registration Board (CLARB) will use the term “regulations”. For the most part, rules and regulations are terms that can be used interchangeably. Duly promulgated regulations have the force of law and can be used as a basis for board action(s). This is why the process for proposing, discussing, seeking public comment and modifying proposed regulations must follow strict adherence to administrative procedures before becoming effective. Such administrative procedures can vary from jurisdiction to jurisdiction.

The CLARB Model Law authorizes the Board to promulgate regulations. While the CLARB Model Law represents a complete document, the Model Regulations are not intended to provide a complete set of regulations, but to provide guidance on where regulations are needed. The Model is a fluid document that will be subjected to regular review and, where necessary, change. Of course, CLARB Member Boards are encouraged to use this model as a resource when necessary to address or suggest proposed legislative language in both statutes and regulations.

INTRODUCTION

The purpose of adopting regulations is to safeguard the health, safety and welfare of the public by ensuring the proper performance of the duties of the Board and the regulation of its procedures, meetings, records, examinations and the conduct thereof. The adopted regulations may not be inconsistent with the constitution and laws of this jurisdiction. They must be approved by appropriate legislative authority of the jurisdiction. Regulations adopted by the Board shall be binding upon individuals licensed or recognized under the licensure act and on non-licensees found by the Board to be in violation of provisions of the licensure act and shall be applicable to firms that hold or should hold a Certificate of Authorization.

103.10 PURPOSE.

These regulations are promulgated by the Board of Landscape Architects under [cite statutes] for the purpose of protecting the public health, safety and welfare. These regulations contain the information necessary to become licensed as a Landscape Architect, or offer landscape architectural services as a Business Entity.

104.10 PRACTICE OF LANDSCAPE ARCHITECTURE.

The practice of Landscape Architecture is defined as any service where landscape architectural education, training, experience and the application of mathematical, physical and social science principles are applied in consultation, evaluation, planning, design (including, but not limited to, the preparation and filing of plans, drawings, specifications and other contract documents) and

administration of contracts relative to projects principally directed at the functional and aesthetic use and preservation of land.

Services included in the licensed scope of Landscape Architecture include, but are not limited to the following:

- Investigation, selection and allocation of land and water resources for appropriate uses;
- Formulation of feasibility studies, and graphic and written criteria to govern the planning, design and management of land and water resources;
- Preparation, review and analysis of land use master plans, subdivision plans and preliminary plats;
- Determining the location and siting of improvements, including buildings and other features, as well as the access and environs for those improvements;
- Design of land forms and land form elements, storm water drainage, soil conservation and erosion control methods, pedestrian and vehicular circulation systems and related construction details;
- Consultation, planning, designing or responsible supervision in connection with the development of land areas for preservation and enhancement;
- Design of non-habitable structures for aesthetic and functional purposes, such as pools, walls and structures for outdoor living spaces, for public and private use;
- Determination of proper land use as it pertains to natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; and the development of outdoor space in accordance with ideals of human use and enjoyment;
- Design with a priority to ensure equal access to all public goods and services through the use of barrier-free design in compliance with the Americans with Disabilities Act (ADA);
- Consideration of the health, safety and welfare of the public. Public welfare is defined through: environmental sustainability; contribution to economic sustainability and benefits; promotes public health and well-being; builds communities; encourages landscape awareness/stewardship; offers aesthetic and creative experiences; and enables people and communities to function more effectively.

105.10 ACTIVITIES NOT SUBJECT TO THE ACT.

Effective regulation is targeted to address the specific risks of harm to consumers and not to restrict competition or be a barrier to incentives for innovation in products and services.

The activities to engage in the practice of Landscape Architecture shall not be construed to prevent or to affect the right of any individual licensed in related design profession practicing within their licensed scope. In addition, nothing shall be construed to prevent or affect the right of any individual to engage in any occupation related to growing, marketing and the design of landscaping material.

106.10 DEFINITIONS.

The [CLARB Model Law Section 106 Definitions] provides definitions applicable to the [CLARB Model Regulations].

213.10 POWERS AND DUTIES DELEGATED TO BOARD.

Authority is delegated to the Board by the [STATE] legislature to effectively and efficiently regulate the profession of Landscape Architecture in the interest of public protection.

213.11 PROFESSIONAL PRACTICE.

Pursuant to [CLARB Model Law Section 213(C)(i)], the Board is authorized to establish and enforce minimum standards of practice and conduct for Landscape Architects and to provide Licensees and Clients with expectations regarding professional conduct.

A. Competence.

- (i) In engaging in the practice of Landscape Architecture, a Licensee shall act with reasonable care and competence, and shall apply the technical knowledge and skill which are ordinarily applied by Landscape Architects of good standing, practicing in the same locality.
- (ii) In designing a project, a Landscape Architect shall abide by all applicable federal state, county, regional and municipal laws and regulations. While a Landscape Architect may rely on the advice of other professionals, (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, a Landscape Architect shall not knowingly design a project in violation of such laws and regulations.
- (iii) A Landscape Architect shall undertake to perform professional services only when he or she, together with those whom the Landscape Architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved.
- (iv) No individual shall be permitted to engage in the practice of Landscape Architecture if, in the Board's judgment, such individual's professional competence is substantially impaired by physical or mental disabilities.

B. Conflict of Interest.

- (i) A Landscape Architect shall not accept compensation for his or her services from more than one party on a project unless the circumstances are fully disclosed to and agreed to by (such disclosure and agreement to be in writing) all interested parties.
- (ii) If a Landscape Architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with his or her performance of professional services, the Landscape Architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and, if the client or employer objects to such association or financial interest, the Landscape Architect will either terminate such association or interest or offer to give up the commission or employment.
- (iii) A Landscape Architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.
- (iv) When acting as the interpreter of construction contract documents and the judge of contract performance, a Landscape Architect shall render decisions impartially, favoring neither party to the contract.

C. Full Disclosure.

- (i) A Landscape Architect, making public statements on landscape architectural questions, shall disclose when he or she is being compensated for making such statements.
- (ii) A Landscape Architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.
- (iii) If, in the course of his or her work on a project, a Landscape Architect becomes aware of a decision taken by his or her employer or client, against such Landscape Architect's advice, which violates applicable federal, state, county, regional or municipal laws and regulations and which will, in the Landscape Architect's judgment, materially and adversely affect the health, safety or welfare of the public, the Landscape Architect shall:
 - i. report the decision to the applicable public official charged with the enforcement of the applicable laws and regulations;
 - ii. refuse to consent to the decision; and
 - iii. in circumstances where the Landscape Architect reasonably believes that other such decisions will be taken, notwithstanding his or her objections, terminate his or her services with respect to the project. In the case of a termination in accordance with this clause (3), the Landscape Architect shall have no liability to his or her client or employer on account of such termination.
- (iv) A Landscape Architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her application for a registration or renewal thereof.
- (v) A Landscape Architect shall not assist the application for a registration of an individual known by the Landscape Architect to be unqualified in respect to education, training, experience or character.
- (vi) A Landscape Architect possessing knowledge of a violation of the provisions set forth in these rules by another Landscape Architect shall report such knowledge to the Board.

D. Compliance with Laws.

- (i) A Landscape Architect shall not, while engaging in the practice of Landscape Architecture, knowingly violate any state or federal criminal law.
- (ii) A Landscape Architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the Landscape Architect is interested.
- (iii) A Landscape Architect shall not solicit a contract from a governmental body on which a principal or officer of the licensee's organization serves as a member, except upon public disclosure of all pertinent facts and circumstances and consent of the appropriate public authority.
- (iv) A Landscape Architect shall not offer, directly or indirectly, to pay a commission or other consideration or to make a political contribution or other gift in order to secure work, except for payment made to an employment agency for its services.
- (v) A Landscape Architect shall comply with the registration laws and regulations governing his or her professional practice in any jurisdiction.
- (vi) Each Landscape Architect shall cooperate with the Board in its investigation of complaints or possible violations of the [STATE] Statutes or Regulations of the Board.

This cooperation shall include responding timely to written communications from the Board, providing any information or documents requested within 30 days of the date on which the communication was mailed, and appearing before the Board or its designee upon request.

(vii) Landscape Architect shall not violate any order of the Board.

E. Professional Conduct.

- (i) Each office in [STATE] maintained for the preparation of drawings, specifications, reports or other professional landscape architectural work shall have a licensed Landscape Architect resident and regularly employed in that office having direct supervision of such work.
- (ii) A Landscape Architect shall not sign or seal drawings, specifications, reports or other professional work for which he or she does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of the portions of such professional work prepared by the Landscape Architect's consultants, registered under this or another professional registration of [STATE], the Landscape Architect may sign or seal that portion of the professional work if the Landscape Architect has reviewed such portion, has coordinated its preparation and intends to be responsible for its adequacy.
- (iii) A Landscape Architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the Landscape Architect is interested.
- (iv) A Landscape Architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.
- (v) In all professional reports, statements and testimony, each Landscape Architect shall be completely objective and truthful and include all relevant and pertinent information.
- (vi) Conviction of a felony or the revocation or suspension of a professional license by another jurisdiction, if for a cause the State of [STATE] would constitute a violation of [STATE] law or of these regulations, or both, shall constitute unprofessional conduct.

213.12 FEES FOR SERVICES.

[Insert schedule of fees, with cross-references to [CLARB Model Law Section 213(G)] permitting the Board to establish fees, or any fees set by statute. This list should identify all categories of fees, including those to be established from time to time by the Board, and it should require the Board to maintain and provide to all individuals upon request a current and complete list of its fees.]

213.13 OTHER POWERS AND DUTIES OF THE BOARD.

In addition to the Statutes of [STATE], other powers and duties of the Board shall include, but are not limited to, the following:

- A. All members of the Board, including the chairperson, are entitled to vote and to make or to second motions. A majority vote of those present is required to pass a motion. The chairperson shall vote as a member of the Board.
- B. The latest edition of Roberts Rules of Order, Revised shall govern the normal proceedings of the Board. Exceptions include hearings that may be disciplinary in nature.

- C. All applications and requests for which the Board has prescribed a form must be presented on these forms.
- D. A roster of all Licensees and firms holding a Certificate of Authorization will be updated annually and shall be accessible to the public.

213.14 SEALS.

Each licensed Landscape Architect shall procure a Seal, which shall contain the name of the Landscape Architect; his or her license number and the state or territory; and the words LANDSCAPE ARCHITECT—[NAME OF STATE]. The Seal may be a rubber stamp, an embossed Seal, or a computer-generated Seal. After the Licensee's Seal has been applied to the original or record copy, the Licensee shall place the Licensee's signature and date across the Seal. This Seal shall comply in all respects, including size and format, which the specimen shown below:

[INSERT SPECIMEN SEAL IMPRINT]

- A. The Seal shall be imprinted on all technical submissions, as follows: On each design and each drawing; on the cover and index pages identifying each set of specifications; and on the cover page (and index, if applicable) of all other technical submissions. The original signature of the individual named on the Seal shall appear across the face of each original Seal imprint.

The Seal appearing on any technical submission shall be prima facie evidence that said technical submission was prepared by or under the direct supervision of the individual named on said Seal.

- B. All technical submissions prepared by a licensed Landscape Architect shall contain the following legend wherever the Landscape Architect's Seal appears: "The professional services of the Landscape Architect are undertaken for and are performed in the interest of [name of person employing Landscape Architect]. No contractual obligation is assumed by the Landscape Architect for the benefit of any other person involved in the project."
- C. Any Licensee may use a digital signature if the signature meets all of the following requirements: (1) Is unique to the person using it; (2) is able to be verified; (3) is under the sole control of the person using it; and (4) is linked to an electronic document bearing the digital signature in such a manner that the signature is invalidated if any data in the document is altered.

214.10 SOURCE OF DATA.

The Board may rely on the expertise of, and documentation and verified data gathered and stored by CLARB and other not-for-profit organizations as determined by the Board. This data shall include but is not limited to: CLARB Council Record; professional exam scores; verified educational transcripts; verified employment references; professional references; licensure history; disciplinary history; and other information gathered by third parties sharing the Board's public-protection mission.

The Board shall recognize all applicable Open Records Laws in [STATE] for data as it shall pertain to Records of the Board.

302.10 QUALIFICATIONS FOR LICENSURE.

Pursuant to [CLARB Model Law Section 302] an applicant for licensure must substantiate each item listed in this referenced Section to the Board's satisfaction.

302.11 APPROVED EDUCATION PROGRAMS.

An Approved Education Program means a first professional degree in Landscape Architecture from a program which has been accredited by the Landscape Architectural Accreditation Board (LAAB) or the Canadian Society of Landscape Architects Accreditation Council (CSLAAC). In lieu of this degree, satisfaction of 5 (five) years of combined education and experience credit may be substituted as follows:

| Education Equivalency | Maximum Education Credit | Additional Experience Credit Needed |
|---|---------------------------------|---|
| Non-accredited B.L.A. or M.L.A. | 4 years | 1 year under the direct supervision of a Landscape Architect |
| NAAB-accredited B.Arch. or M. Arch. | 4 years | 1 year under the direct supervision of a Landscape Architect |
| ABET-accredited degree in Civil Engineering | 4 years | 1 year under the direct supervision of a Landscape Architect |
| Any Bachelor's degree | 2 years | 3 years under the direct supervision of a Landscape Architect |

Other landscape architectural curriculum which has not been accredited by LAAB but has been evaluated and found to be of an equivalent standard, may be reviewed and accepted by the Board.

302.12 EXPERIENCE SUPERVISION REQUIREMENTS.

The work experience required of each applicant shall expose the applicant to all phases of work integral to the practice of Landscape Architecture, and shall be performed under the direct supervision of a Licensee. Landscape architectural work experience shall fall within the definition of "the practice of Landscape Architecture" under [CLARB Model Law Section 104] and amendments thereto.

Experience supervision shall be verified by references which are those individuals who should have personal knowledge of an applicant and who can issue judgments concerning an applicant's experience, ability, character or reputation. Relatives may not be used as references. No current Board member shall be used as a reference. Replies received from references regarding the qualifications of an applicant shall be placed in files that are considered nonpublic records. The source and character of the information will not be divulged except in special cases when required by law.

302.13 EXAMINATIONS.

Applicants shall substantiate successful completion of CLARB's examinations where the examination administration and grading were conducted in accordance with CLARB's standards in effect at the time. CLARB examination administration requirements will be enforced as listed, but not limited to:

- A. examinations are offered on dates set by CLARB;
- B. locations at which the examinations are given are designated by CLARB;
- C. language of the examination will be English;
- D. results will be released in accordance with established CLARB policy;
- E. there shall be no post-administration access to, or review of, examination questions;
- F. re-examination limits shall be imposed by CLARB as necessary for the integrity of each exam;
- G. any applicant's examination results may be rejected by the Board and permission to retake an examination may be withheld by the Board upon a report by the testing administrator of any possible violation by the applicant of the provisions of any candidate testing agreement regarding examination irregularities.

303.10 QUALIFICATIONS FOR CERTIFICATE OF AUTHORIZATION.

Pursuant to [CLARB Model Law Section 303] an applicant for a Certificate of Authorization must substantiate each item in this referenced Section to the Board's satisfaction.

305.10 REQUIREMENTS OF CONTINUING COMPETENCE.

The purpose of the continuing professional competency requirement is to demonstrate a continuing level of competency of Landscape Architects. Every Licensee shall meet the continuing professional competency requirements of these regulations for professional development as a condition for licensure renewal.

- A. Each Licensee shall have completed 12 (twelve) Continuing Education Contact Hours during the one-year period immediately preceding the renewal date established by the Board;
- B. Continuing Education Contact Hours shall be related to the practice of Landscape Architecture and address subjects in the protection of public Health/Safety/Welfare (HSW).
- C. Other activities may be accepted for Continuing Education credit upon approval by the Board;
- D. If Licensee is licensed to practice Landscape Architecture in another jurisdiction in which the Licensee resides, the Licensee may meet the Continuing Education requirements of the jurisdiction in which the Licensee resides. If such jurisdiction requires no Continuing Education, the Licensee shall meet the Continuing Education requirements of [STATE];
- E. Each dual Licensee shall earn at least [8] of the required Continuing Education credits for each renewal period in each profession;
- F. Excess Continuing Education Contact Hours may not be credited to a future calendar year;
- G. Each Licensee shall provide proof of satisfying the Continuing Education requirements as required by the Board. If the Licensee fails to furnish the information as required by the Board, the License shall not be renewed. If the Board does not approve of submitted Continuing Education, Licensee shall have a period of 120 days after notification to provide further information or additional Continuing Education.

305.11 APPROVED PROVIDERS OF CONTINUING EDUCATION.

The following providers of Continuing Education programs have been approved by the Board and courses provided by approved providers are acceptable for meeting the mandatory Continuing Education requirements for licensure renewal:

- Landscape Architects Continuing Education System (LA CES)
- American Society of Landscape Architects (ASLA)
- Council of Landscape Architect Registration Boards (CLARB)
- [State/Provincial] Board name
- National Society of Professional Engineers (NSPE)
- American Institute of Architects (AIA)
- Agencies of the state or federal government offering training programs in landscape architecture
- Accredited colleges and universities offering training programs in landscape architecture

306.10 REQUIREMENTS FOR LICENSURE RENEWAL.

- A. Each Licensee shall renew the License by [DATE] each year. A written or electronic notice shall be issued by the Board to each Licensee no later than 30 days before this renewal date. An expired License shall be terminated if not renewed by the renewal date. A late fee may be charged for renewals up to 60 days past this renewal date. A reinstatement will be necessary for licenses 120 days past the renewal date.
- B. Each Business Entity shall renew its Certificate of Authorization by [DATE] each year. A written or electronic notice shall be issued by the Board to each Licensee not later than 30 days before this renewal date. An expired Certificate of Authorization shall be terminated if not renewed by the renewal date. A late fee may be charged for renewals up to 60 days past the renewal date. A reinstatement will be necessary for Certificates of Authorization 120 days past the renewal date.
- C. A Licensee or Business Entity shall not practice Landscape Architecture after the expiration date until the License or Certificate of Authorization has been renewed or reinstated.

307.10 NON RENEWAL OF LICENSURE; REQUIREMENTS FOR REINSTATEMENT OF EXPIRED LICENSE.

An individual may reinstate a terminated License from inactive, temporary or emeritus status, or a terminated status by obtaining all delinquent required Continuing Education. Upon completion of a reinstatement application and proof that the individual has complied with the requirements for obtaining Continuing Education, the individual shall meet the Board's other requirements for reinstatement before reinstatement shall be granted.

Reinstatement of a Certificate of Authorization shall occur upon completion of a reinstatement application and requirements stated therein.

310.10 LICENSE STATUSES.

- A. The following License statuses shall apply:

- (i) Active status shall require successful renewal every 2 (two) years with the appropriate fee and verification of continuing competency requirements.
- (ii) Inactive status shall require successful renewal every 2 (two) years with the appropriate fee. No continuing competency verification is required. The individual shall have no pending disciplinary action before the Board. The individual shall not practice Landscape Architecture in [State].
- (iii) Temporary status shall require a Disaster Declaration by the governor or other appropriate authority of [State]. Services by a Landscape Architecture must be provided within the scope of their License, on prior written notice to the Board and only provided for the duration of the declared emergency. [CLARB Model Law Section 304]
- (iv) Emeritus status shall require the individual to be at least 60 years of age. The individual shall submit a one-time application, with no fee and no verification of continuing competency required. The individual shall have no disciplinary action before the Board. Any individual who chooses this license status may use that individual's professional title in conjunction with the word "emeritus". The individual shall not practice Landscape Architecture in [State].

501.10 MANDATORY REPORTING.

Any Applicant, Licensee or Person with knowledge of conduct by any Person that may be grounds for disciplinary action under this Act or its regulations, or of any unlicensed practice under this Act, shall report such conduct to the Board on a form provided by the Board.

The form shall include but not be limited to information regarding the explanation of complaint, contact information of person making complaint, contact information of person who is the subject of complaint and other information as necessary for investigative purposes.

701.10 SEVERABILITY.

If any provision or application of these regulations is found to be invalid for any reason, such invalidity shall not affect other provisions or applications of these regulations which can be given effect without the invalid provision or application, and therefore, the provisions of these regulations are declared to be severable.

CLARB Model Law and Regulation 2017 Revision

Frequently Asked Questions

What is a model law?

A model law contains recommended statutory language that is intended to provide guidance for establishing and enhancing licensure laws. The model law can be modified to meet the needs in each jurisdiction.

What are model regulations?

Model regulations complement the model law providing suggestions for ways member boards can carry out the provisions introduced in the model law. The model regulations provide the necessary administrative details not covered in the model law. The model regulations are designed to assist member boards in drafting and revising board regulations and can be modified to meet the needs in each jurisdiction.

How can boards use the CLARB model law/regulations?

Boards can use the model law and regulations as a resource when establishing a new law or revising an existing law.

The model language can be used as extensively as desired to strengthen or clarify existing statutes or regulations. The models can be used in whole or in part or not at all, depending on local needs, opportunities and constraints. CLARB does, however, recommend that members give serious consideration to important issues that the CLARB model law and regulations address—issues that underlie some of the current and expected future stress on regulation including professional mobility, access to practice and public protection.

What does voting “yes” to approve the resolution to adopt the revised models mean for members?

This would enable CLARB to publish the documents as a recommended standard to promote public protection and facilitate reasonable access to licensure in any jurisdiction. It is a voluntary standard and, while Boards are encouraged to adopt it to the greatest extent possible, it is understood that each jurisdiction will make an independent decision on adoption.

How does the CLARB Model Law promote public protection?

It is a resource for legislatures and licensing boards addressing issues related to the public-protection mission of regulation.

This Model Law promotes uniformity in licensing laws (affording predictability, commercial efficiency, and enhanced trust in the profession), establishes minimal standards of competence for those practicing landscape architecture, and facilitates professional mobility and portability through a licensure transfer process.

What is the process by which the proposed model law and regulations are offered for adoption by the membership?

From the CLARB Bylaws: A resolution is drafted and distributed to the membership for review and consideration no later than 60 days prior to the Annual Meeting. Members in attendance at the meeting will vote on the resolution and an affirmative vote of the majority is required for passage.

How do the CLARB Models compare to other laws published by other regulatory board associations (including design profession groups)?

The model law task force took into consideration all of the related design discipline models as well as the Federation of Associations of Regulatory Boards (FARB) Uniform Practice Act. Ultimately the revised model was drafted using the FARB model as the basis to encourage uniformity, not only among landscape architecture licensing boards, but across all regulated professions.

What are CLARB's plans for future updates?

Due to the evolving nature of the regulatory environment, CLARB will review and revise the CLARB model law and regulation on an as-needed basis.

Who can I contact with questions?

Please feel free to contact Veronica Meadows if you have further questions regarding the draft models. Phone 571-432-0332 x116 or vmeadows@clarb.org

TBAE Event Calendar 2017

- 02 New Year's Day Holiday *(Skeleton Crew)*
- 10 **Legislative Session Convenes**
- 16 M.L. King Day *(Agency Closed)*
- 19 Confederate Heroes Day *(Skeleton Crew)*
- 26 41st Annual FARB Forum San Antonio *(Julie)*

| JANUARY | | | | | | |
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| JULY | | | | | | |
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- 04 Independence Day
- 27 NCARB Licensing Advisors Summit *Chicago, IL (Staff)*

- 04 CLARB MBE Committee Meeting *New York, NY (Julie)*
- 16 **Board Meeting - Member Training**
- 20 Presidents Day *(Agency Closed)*

| FEBRUARY | | | | | | |
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| AUGUST | | | | | | |
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- 10 METROCON17 - *Dallas Market Hall*
- 16 **Board Meeting**
FY18 Budget Approval/ED Annual Performance Evaluation
- 21 **First Day of School**

- 02 TX Independence Day *(Skeleton Crew)*
- 08 NCARB 2017 Regional Summit/ MBE Workshop *Jersey City, NJ*
- 13 **Spring Break**

| MARCH | | | | | | |
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| SEPTEMBER | | | | | | |
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- 04 Labor Day *(Agency Closed)*
- 05 NCARB @ UT Arlington, AIA Dallas, AIA Ft. Worth
- 13 2017 CLARB Annual Meeting *Boise, Idaho*
- 28 2017 LRGV-AIA BCC Conf. *(South Padre Convention Center)*

- 14 Good Friday *(4 hrs. Skeleton Crew)*
- 21 San Jacinto Day *(Skeleton Crew)*
- 25 ASLA TX Conference *Palmer Event Center, Austin, TX*

| APRIL | | | | | | |
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| OCTOBER | | | | | | |
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- 11 NCARB @ Rice University, University Of Houston
- 13 NCARB @ Nat'l Organization of Minority Architects' Conference, Houston

- 01 **Personal Financial Statement electronic filing Due to the Ethics Commission**
- 29 Memorial Day *(Agency Closed)*
- 29 Last Day, 85th Legislature Regular Session *(Sine die)*

| MAY | | | | | | |
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| NOVEMBER | | | | | | |
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- 08 **Board Meeting**
- 08 NCARB @ Texas A&M University
- 09 TxA Conference, *Austin, TX*
- 10 2017 CIDQ Council of Delegates Meeting *Hilton Hotel, Old Town, Alexandria, VA*
- 11 Veterans Day
- 22 TBAE Holiday *(Skeleton)*
- 23-24 Thanksgiving Holidays *(Closed)*

- 01 **Last day of the School Year**
- 08 **Board Meeting**
- 19 Emancipation Day *(Skeleton Crew)*
- 22 NCARB Annual Business Meeting - *Boston, MA*

| JUNE | | | | | | |
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| DECEMBER | | | | | | |
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- 22 Christmas Eve Holiday *(Closed)*
- 25 Christmas Day *(Closed)*
- 26 Day after Christmas *(Closed)*
- 27-29 TBAE Holiday *(Skeleton)*
- 29 NCARB @ AIA Forum, Austin

August 2017

TBAE Event Calendar 2018

| January 2018 | | | | | | | |
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01: New Year's Day (Closed)
 01: NCARB AIA Students' Forum, Austin
 15: Martin Luther King Day (Closed)
 19: Confederate Heroes Day (Skeleton Crew)

04: Independence Day (Closed)
 05: TBAE Holiday (Skeleton)

| July 2018 | | | | | | | |
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| February 2018 | | | | | | | |
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01: Board Meeting
 19: Presidents Day (Closed)

07: Building Officials Association of Texas (BOAT) 2018 Conference - Amarillo, TX
 09: Board Meeting
 08: METROCON18 - Dallas Market Center
 27: LBJ's Birthday (Skeleton)

| August 2018 | | | | | | | |
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| 33 | 12 | 13 | 14 | 15 | 16 | 17 | 18 |
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| March 2018 | | | | | | | |
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| 13 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |

02: Texas Independence Day (Skeleton)
 09: NCARB 2018 Regional Summit Wichita, KS
 30: Good Friday (Skeleton)

03: Labor Day (Closed)
 : 2018 LRGV-AIA Building Communities Conference & Expo - South Padre Island
 27: 2018 CLARB Annual Meeting Toronto, Canada

| September 2018 | | | | | | | |
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| April 2018 | | | | | | | |
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18: 2018 TX ASLA Conference - Galveston, TX

| October 2018 | | | | | | | |
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| 42 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
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| May 2018 | | | | | | | |
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| 22 | 27 | 28 | 29 | 30 | 31 | | |

28: Memorial Day (Closed)
 31: Board Meeting

08: TxA Design Expo - Ft. Worth, TX
 09: 2018 CIOO Council of Delegates Meeting (Nashville, TN)
 11: Veterans' Day
 15: Board Meeting
 21: TBAE Holiday (Skeleton)
 22: Thanksgiving (Closed)
 23: Day after Thanksgiving (Closed)

| November 2018 | | | | | | | |
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| 46 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 47 | 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 48 | 25 | 26 | 27 | 28 | 29 | 30 | |

| June 2018 | | | | | | | |
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| 25 | 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 26 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |

28: NCARB 2018 Annual Business Meeting - Detroit, MI
 19: Emancipation Day (Skeleton)

24: Christmas Eve (Closed)
 25: Christmas Day (Closed)
 26: Day after Christmas (Closed)
 27-28: TBAE Holiday (Skeleton)
 31: TBAE Holiday (Skeleton)

| December 2018 | | | | | | | |
|---------------|----|----|----|----|----|----|----|
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| 48 | | | | | | | 1 |
| 49 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 50 | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| 51 | 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| 52 | 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| 1 | 30 | 31 | | | | | |