

Rules Committee Members

Charles "Chuck" Anastos, Chair

Chad Davis

Sonya Odell

Jennifer Walker

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Rules Committee Meeting Agenda

William P. Hobby State Office Building

333 Guadalupe Street

Tower II, Conference Room 350-L

Austin, Texas

Wednesday, May 25, 2016

1:30 PM to conclusion

1. Call to Order
2. Roll Call
3. Public Comments
4. Approval of minutes of the February 23, 2016 meeting of the Rules Committee
(Action)
5. Discussion of contemplated changes regarding administrative penalties, warnings, and other sanctions. Rules 1.174, 3.174, 5.184, 1.177, 3.177, 5.187, 1.232, 3.232, and 5.242
6. Discussion of comments received regarding proposed amendments to Rule 1.22, relating to educational requirements for eligibility for architectural registration by reciprocity
7. Discussion of potential need for rulemaking resulting from 2016 Annual Meeting of NCARB
8. Discussion of qualification for interior design registration by architects who pass the Architect Registration Examination. Rules 5.31 and 5.51
9. Discussion of application of International Residential Code to unincorporated areas
10. Adjourn

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of February 23, 2016 Rules Committee Meeting
William P. Hobby Jr. Building, 333 Guadalupe Street
Tower III, Conference Room 350L
Austin, TX 78701

AGENDA ITEMS

DESCRIPTIONS

1.
Call to Order Mr. Davis called the meeting of the Rules Committee to order at 1:30 p.m.

2.
Roll Call Mr. Davis called the roll and declared a quorum of the Committee was present.

Present Committee Members:

Michael (Chad) Davis, Chair

Charles (Chuck) Anastos

Sonya Odell

TBAE Staff Present:

Julie Hildebrand, Executive Director

Lance Brenton, General Counsel

Jack Stamps, Managing Investigator

Katherine Crain, Legal Assistant

Non-Committee Members Present:

Debra Dockery

**Excused and Unexcused
absences**

None.

3.
Public Comment

None.

4.
**Approval of minutes of
the August 24, 2015
meeting of the Rules
Committee**

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPROVE THE MINUTES FROM THE AUGUST 24, 2015 RULES COMMITTEE MEETING. THE MOTION PASSED UNANIMOUSLY.

5.
**Discussion of
contemplated changes
regarding
administrative
penalties, warnings,
and other sanctions.
Rules 1.165, 3.165,
1.177, 3.177, 5.187,
1.232, 3.232, and 5.242.**

Mr. Brenton stated that during the August Rules Committee Meeting it was decided by the Committee that the members take a more in-depth review of the administrative penalties schedule, the use of warnings and reprimands. The changes prepared for this meeting involve Chapter 1 of the Occupations Code. Mr. Brenton proposed that the committee members would discuss the changes for Chapter 1, and if they are approved, then draft rules for Chapters 3 and 5 would be prepared as well.

A MOTION WAS MADE AND SECONDED (Odell/Anastos) TO APPROVE THE DRAFT RULE CHANGES REGARDING ADMINISTRATIVE PENALTIES, WARNINGS, AND OTHER SANCTIONS FOR RULES 1.177, and 1.232 AND TO

DIRECT STAFF TO PREPARE SIMILAR RULES FOR CHAPTERS 3 AND 5 OF THE OCCUPATIONS CODE AND SHARE WITH THE COMMITTEE, INCLUDING THE PREVIOUSLY DELETED SUBSECTION G PROVIDED IN THE NOTEBOOK ON PAGE 16. THE MOTION PASSED UNANIMOUSLY.

Mr. Brenton presented Board Rule 1.174 on page 8 and explained that this rule pertains to violations that provide for a warning.

A MOTION WAS MADE AND SECONDED (Odell/Anastos) THAT COUNSEL REWORK 1.174 FOR CHAPTER 1 FOR ARCHITECTS AS WELL AS CHAPTERS 3 AND 5 FOR LANDSCAPE ARCHITECTS AND INTERIOR DESIGNERS BY DELETING ITEMS (j)(4)(E) and (G). THE MOTION PASSED UNANIMOUSLY.

6. Discussion of contemplated changes regarding eligibility for architectural registration by reciprocity, relating to education requirements for Rule 1.22.

A MOTION WAS MADE AND SECONDED (Odell/Anastos) TO APPROVE THE DRAFT AMENDMENTS TO RULE 1.22 WITH THE ADDITIONAL MODIFICATION TO SUBSECTION B WITH THE DELETION OF "OR AN EQUIVALENT INTERN PROGRAM." THE MOTION PASSED UNANIMOUSLY.

The Committee took a break at 2:57 p.m. and reconvened at 3:12.

7. Discussion of contemplated changes regarding eligibility for architectural registration by examination, relating to NCARB's overhaul of the intern development program for Rules 1.5, 1.191, and 1.192.

Mr. Brenton stated that NCARB's IDP is being streamlined and now being overhauled. He explained the draft rules and proposed that the Committee define NCARB's requirements in order to eliminate multiple rule changes by the Board.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPROVE THE RECOMMENDATION TO FOLLOW NCARB'S OVERHAUL OF THE INTERN DEVELOPMENT PROGRAM FOR RULES 1.5, 1.191, and 1.192. THE MOTION PASSED UNANIMOUSLY.

8. Adjourn

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO ADJOURN THE MEETING AT 4:17 P.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE BOARD:

MICHAEL (CHAD) DAVIS, Chair of Rules Committee
TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Consideration of Draft Amendments Relating to Disciplinary Issues:

Administrative Penalties, Warnings, and Reprimands

22 Tex. Admin. Code §§1.174, 3.174, 5.184, 1.177, 3.177, 5.187, 1.232, 3.232, and 5.242

Background

In August, the rules committee considered a draft amendment to Rule 1.177¹ that would have explicitly identified unauthorized use of an architectural seal as a “major” violation subject to the maximum \$5,000 administrative penalty allowable under our law. The committee was generally in favor of this change, but also expressed concern about other issues in the rule. Staff was asked to provide the committee with an alternate version of the rule that would provide more guidance on the appropriate levels of administrative penalties for other violations. Subsequently, staff identified two other issues relating to disciplinary sanctions: the issuance of warnings under Rule 1.174 and the reference to reprimands in Rule 1.232 (relating to recommended penalties in disciplinary actions). These issues were further discussed by the Rules Committee in February, and draft amendments have been developed for each of these rules in Chapters 1, 3, and 5. These rules are now presented to the Rules Committee and full Board for approval for proposal in the Texas Register.

Issues Presented:

Warnings

The issuance of warnings is governed by **Rules 1.174, 3.174, and 5.184**. Copies of these rules are attached, including amendments for discussion and staff comments in the margins. The issue with this rule is that it provides very broad authority for the issuance of warnings that gives staff little guidance in determining whether the issuance of a warning would be appropriate. It is staff’s recommendation that the Board specifically identify individual violations that would be appropriate for issuance of a warning. This would allow staff to act with greater confidence and consistency in implementing the Board’s policy determinations in issuing warnings.

Administrative Penalty Schedule (Rule 1.177)

The administrative penalties schedule is contained in **Rules 1.177, 3.177, and 5.187**. These rules provide the Board and staff with guidance in determining the appropriate amount of administrative penalties in settlement and contested case matters. As currently written, the rule attempts to define a given violation as major, moderate, or minor based upon the analysis of three factors: seriousness of misconduct, economic harm, and sanction history. As described in the

¹ Here, and elsewhere in this document, the reference to the chapter 1 rule relating to architects applies equally to the companion rules in chapters 3 and 5, and draft amendments have been drafted for all three chapters.

comments accompanying the rule text, this procedure often leaves staff and the Board with little guidance in determining an appropriate administrative penalty.

As an alternative, staff has drafted amendments for discussion which would specifically identify certain violations of the Board's laws and rules as minor, moderate, or major, with maximum penalties of \$1,000, \$3,000, and \$5,000, respectively. Each violation would then be considered individually on the factors contained in Board Rules 1.141(c) and 1.165(f) (and Chapter 3 and 5 equivalents) to arrive at a specific penalty amount within the recommended range. This approach has the advantage of providing staff with more objective guidance in recommending administrative penalties, while reserving the ability to consider each case individually.

Reprimands

A reprimand is an authorized disciplinary action under Tex. Occ. Code Sec. 1051.751 and is also listed as a recommended sanction in the Board's disciplinary guidelines in **Rules 1.232, 3.232, and 5.242**. However, it does not appear that the Board has issued a reprimand since 2004. Given that the issuance of reprimands is no longer within the Board's regular practice, removal of this sanction from the disciplinary guidelines should be considered. Otherwise, there is a risk that an Administrative Law Judge (ALJ) would recommend a reprimand as an appropriate penalty following a SOAH hearing. This would force the Board to decide whether to overrule the ALJ on sanction, which is a permissible action but one that arguably increases the likelihood of appeal in district court. Staff's recommendation is to update the disciplinary guidelines in order to achieve consistency with current practice.

Additional amendments for discussion include the alteration of procedural language in subsection (d), and the inclusion of language that clarifies the Board's authority to issue administrative penalties in addition to other sanctions. These proposals are more fully discussed in the comments accompanying the rule text.

Staff's Recommendation:

Staff recommends that the Board move to approve draft amendments to 22 Tex. Admin. Code §§1.174, 3.174, 5.184, 1.177, 3.177, 5.187, 1.232, 3.232, and 5.242 for proposal and publication 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.

- 1
- 2 CHAPTER 1 ARCHITECTS
- 3 SUBCHAPTER I DISCIPLINARY ACTION
- 4 RULE §1.174 Complaint Process
- 5 (a) A person may file a complaint by submitting the following information to the Board:
- 6 (1) the name of and contact information for the complainant unless evidence regarding a possible
- 7 violation was submitted anonymously;
- 8 (2) the name of the person against whom the complaint is filed;
- 9 (3) the address, telephone number, Web site, or other contact information for the person against
- 10 whom the complaint is filed, if available;
- 11 (4) the date and location of the alleged violation that is the subject of the complaint;
- 12 (5) a description of each alleged violation; and
- 13 (6) the name, address, and telephone number for any known witness who can provide information
- 14 regarding the alleged violation.
- 15 (b) A complaint should be submitted on the complaint form that may be obtained by accessing the form
- 16 on the Board's Web site or by contacting the Board's staff. If a completed complaint form is not
- 17 submitted, the Board's staff will not be able to initiate an investigation unless the Board's staff receives
- 18 information sufficient to establish probable cause to believe an actionable violation might have
- 19 occurred.
- 20 (c) Once a complaint has been received, the Board's enforcement staff shall:
- 21 (1) conduct a preliminary evaluation of the complaint within thirty (30) days to determine:
- 22 (A) Jurisdiction: whether the complaint provides information sufficient to establish probable cause for
- 23 the Board's staff to believe an actionable violation might have occurred;
- 24 (B) Disciplinary History: whether there has been previous enforcement activity involving the person
- 25 against whom the complaint has been filed; and
- 26 (C) Priority Level: the seriousness of the complaint relative to other pending enforcement matters;
- 27 (2) provide the complainant and respondent with information which will permit review of the Board's
- 28 policies and procedures from the Board's web site regarding complaint investigation and resolution. If
- 29 the complainant or respondent requests a copy of the policies and procedures in written format a copy
- 30 shall be mailed upon request.
- 31 (3) notify the complainant and respondent of the status of the investigation at least quarterly unless
- 32 providing notice would jeopardize an investigation; and
- 33 (4) maintain a complaint file that includes at least:

Rule 1.174

- 1 (A) the name of the person who filed the complaint unless the complaint was filed anonymously;
- 2 (B) the date the complaint was received by the Board's staff;
- 3 (C) a description of the subject matter of the complaint;
- 4 (D) the name of each person contacted in relation to the complaint;
- 5 (E) a summary of the results of the review and investigation of the complaint; and
- 6 (F) an explanation for the reason the complaint was dismissed if the complaint was dismissed without
- 7 action other than the investigation of the complaint.
- 8 (d) After the preliminary evaluation period, the Board's staff may contact the complainant, the
- 9 respondent, and any known witness concerning the complaint.
- 10 (e) After the preliminary evaluation period, the Board's staff shall take steps to dismiss the complaint or
- 11 proceed with an investigation of the allegation(s) against the respondent. A complaint may be referred
- 12 to another government agency if it appears that the other agency might have jurisdiction over the
- 13 issue(s) raised in the complaint.
- 14 (f) If the Board's staff proceeds with an investigation, the staff shall:
 - 15 (1) investigate the complaint according to the priority level assigned to the complaint;
 - 16 (2) notify the complainant and respondent that, as a result of the staff's preliminary evaluation of the
 - 17 complaint, the staff has determined that the Board has jurisdiction over the allegations(s) described in
 - 18 the complaint and has decided to proceed with an investigation of the allegation(s) against the
 - 19 respondent; and
 - 20 (3) gather sufficient information and evidence to determine whether there is probable cause to believe
 - 21 that a violation of a statutory provision or rule enforced by the Board has occurred.
- 22 (g) The Board's staff may conduct an investigation regardless of whether a complaint form was received
- 23 as described in subsection (a) of this section.
- 24 (h) If the information and evidence gathered during an investigation are insufficient to establish
- 25 probable cause to believe that a violation has occurred, the Board's staff shall:
 - 26 (1) dismiss the complaint;
 - 27 (2) send notices to the complainant and respondent regarding the dismissal;
 - 28 (3) if warranted, include in the respondent's notice a recommendation or warning regarding the
 - 29 respondent's future conduct; and
 - 30 (4) if a complaint is determined to be unfounded, state in the respondent's notice that no violation was
 - 31 found.
- 32 (i) If the information and evidence gathered during an investigation are sufficient to establish probable
- 33 cause to believe that a violation has occurred, the Board's staff shall:
 - 34 (1) seek to resolve the matter pursuant to §§1.165, 1.166 or 1.173 of this subchapter; or

Rule 1.174

1 (2) issue a warning in accordance with Subsection (j), to the respondent if the violation is the
 2 respondent's first violation and:

3 ~~(A) the respondent has not received a written warning or advisory notice from the Board;~~
 4 ~~(B) the respondent provided a satisfactory remedy which has eliminated any harm or threat to the~~
 5 ~~health or safety of the public; and~~

6 ~~(C) the guidelines for determining an appropriate penalty for the violation recommend an~~
 7 ~~administrative penalty or a reprimand as an appropriate sanction for the violation.~~

8 (j) A warning may be issued by the Executive Director only as follows:

9 (1) the violation is the Respondent's only violation of the Board's laws and rules;
 10 (2) the Respondent has not previously been subject to a Board warning or order;
 11 (3) the Respondent has provided a satisfactory remedy which has eliminated any harm or threat to the
 12 health or safety of the public; and

13 (4) The Respondent has committed one of the following violations:

14 (A) failure to provide or timely provide plans and specifications to TDLR under the requirements of
 15 Govt. Code Chap. 469 (Elimination of Architectural Barriers);

16 (B) Unauthorized use of term "architect" or "architecture";
 17 (C) Failure to respond to a Board inquiry;
 18 (D) Failure to provide a statement of jurisdiction;
 19 (E) Failure to seal documents or insert statement in lieu of seal;
 20 (F) Use of a non-compliant seal by registrant;
 21 (G) Practice of architecture while registration is delinquent;
 22 (H) Failure to register or annually renew the registration of a business; or
 23 (I) Creation of misleading impression by an architect advertising for services.

24 (k) The decision to issue a warning is at the sole discretion of the Executive Director and not available as
 25 a result of a contested case proceeding conducted pursuant to the Government Code Chapter 2001.

26 (l) Before a proposed settlement agreement may be approved by the Board:

27 ~~(1) the complainant, if known, must be notified of the terms of the agreement and the date, time, and~~
 28 ~~location of the meeting during which the Board will consider the agreement; and~~

29 ~~(2), the terms of the agreement must be reviewed by legal counsel for the Board to ensure that all legal~~
 30 ~~requirements have been satisfied.~~

31 (m) If a complaint is dismissed, the complainant may submit to the Executive Director a written request
 32 for reconsideration. The written request must explain why the complaint should not have been

Commented [LB1]: These provisions are retained below in subsection (j).

Commented [LB2]: The guidelines which are referred to here are contained in Rule 1.232. The issue is that many violations that would not normally be considered for a warning meet this requirement. This includes:

- Unauthorized use of a seal
- Unauthorized practice of architecture
- Unlawful practice of architecture by emeritus architect
- Continuing education violations
- Disclosure of fee information inconsistent with the PSPA

Commented [LB3]: This has been included on the list for Board member consideration. According to staff research, this is a violation that has previously resulted in a warning on about 18 occasions. However, this has not been a recent practice. 2/23/15 Rule Committee recommends this provision be removed

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Commented [LB4]: This is a violation on which we might receive a self-report. Would we want to reserve the possibility of a warning in this type of case? Possible alternatives – eliminate from the list; offer warnings only for limited period of practice i.e. less than a month or two; or leave as is. 2/23/15 Rule Committee recommends this provision be removed

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Commented [LB5]: This provision identifies a warning as a matter of agency discretion and not a sanction available for a SOAH ALJ.

Commented [LB6]: This provision is far more extensive than what is required under the statute, as well as standard practice by other agencies.

Rule 1.174

1 dismissed. The Executive Director may, but is not required to, respond to the request for
2 reconsideration.

Rule 1.174

1 CHAPTER 3 LANDSCAPE ARCHITECTS

2 SUBCHAPTER I DISCIPLINARY ACTION

3 RULE §3.174 Complaint Process

4 (a) A person may file a complaint by submitting the following information to the Board:

5 (1) the name of and contact information for the complainant unless evidence regarding a possible
6 violation was submitted anonymously;

7 (2) the name of the person against whom the complaint is filed;

8 (3) the address, telephone number, Web site, or other contact information for the person against
9 whom the complaint is filed, if available;

10 (4) the date and location of the alleged violation that is the subject of the complaint;

11 (5) a description of each alleged violation; and

12 (6) the name, address, and telephone number for any known witness who can provide information
13 regarding the alleged violation.

14 (b) A complaint should be submitted on the complaint form that may be obtained by accessing the form
15 on the Board's Web site or by contacting the Board's staff. If a completed complaint form is not
16 submitted, the Board's staff will not be able to initiate an investigation unless the Board's staff receives
17 information sufficient to establish probable cause to believe an actionable violation might have
18 occurred.

19 (c) Once a complaint has been received, the Board's enforcement staff shall:

20 (1) conduct a preliminary evaluation of the complaint within thirty (30) days to determine:

21 (A) Jurisdiction: whether the complaint provides information sufficient to establish probable cause for
22 the Board's staff to believe an actionable violation might have occurred;

23 (B) Disciplinary History: whether there has been previous enforcement activity involving the person
24 against whom the complaint has been filed; and

25 (C) Priority Level: the seriousness of the complaint relative to other pending enforcement matters;

26 (2) provide the complainant and respondent with information which will permit review of the Board's
27 policies and procedures from the Board's web site regarding complaint investigation and resolution. If
28 the complainant or respondent requests a copy of the policies and procedures in written format a copy
29 shall be mailed upon request.

30 (3) notify the complainant and respondent of the status of the investigation at least quarterly unless
31 providing notice would jeopardize an investigation; and

32 (4) maintain a complaint file that includes at least:

33 (A) the name of the person who filed the complaint unless the complaint was filed anonymously;

- 1 (B) the date the complaint was received by the Board's staff;
- 2 (C) a description of the subject matter of the complaint;
- 3 (D) the name of each person contacted in relation to the complaint;
- 4 (E) a summary of the results of the review and investigation of the complaint; and
- 5 (F) an explanation for the reason the complaint was dismissed if the complaint was dismissed without
6 action other than the investigation of the complaint.
- 7 (d) During the preliminary evaluation period, the Board's staff may contact the complainant, the
8 respondent, and any known witness concerning the complaint.
- 9 (e) After the preliminary evaluation period, the Board's staff shall take steps to dismiss the complaint or
10 proceed with an investigation of the allegation(s) against the respondent. A complaint may be referred
11 to another government agency if it appears that the other agency might have jurisdiction over the
12 issue(s) raised in the complaint.
- 13 (f) If the Board's staff proceeds with an investigation, the staff shall:
- 14 (1) investigate the complaint according to the priority level assigned to the complaint;
- 15 (2) notify the complainant and respondent that, as a result of the staff's preliminary evaluation of the
16 complaint, the staff has determined that the Board has jurisdiction over the allegation(s) described in
17 the complaint and has decided to proceed with an investigation of the allegation(s) against the
18 respondent; and
- 19 (3) gather sufficient information and evidence to determine whether there is probable cause to believe
20 that a violation of a statutory provision or rule enforced by the Board has occurred.
- 21 (g) The Board's staff may conduct an investigation regardless of whether a complaint form was received
22 as described in subsection (a) of this section.
- 23 (h) If the information and evidence gathered during an investigation are insufficient to establish
24 probable cause to believe that a violation has occurred, the Board's staff shall:
- 25 (1) dismiss the complaint;
- 26 (2) send notices to the complainant and respondent regarding the dismissal;
- 27 (3) if warranted, include in the respondent's notice a recommendation or warning regarding the
28 respondent's future conduct; and
- 29 (4) if a complaint is determined to be unfounded, state in the respondent's notice that no violation was
30 found.
- 31 (i) If the information and evidence gathered during an investigation are sufficient to establish probable
32 cause to believe that a violation has occurred, the Board's staff shall:
- 33 (1) seek to resolve the matter pursuant to §§3.165, 3.166 or 3.173 of this subchapter; or

1 (2) issue a warning in accordance with Subsection (j).~~to the respondent, if the violation is the~~
2 ~~respondent's first violation and:~~

3 ~~—(A) the respondent has not received a written warning or advisory notice from the Board;~~
4 ~~—(B) the respondent provided a satisfactory remedy which has eliminated any harm or threat to the~~
5 ~~health or safety of the public; and~~

6 ~~—(C) the guidelines for determining an appropriate penalty for the violation recommend an~~
7 ~~administrative penalty or a reprimand as an appropriate sanction for the violation.~~

8 (j) A warning may be issued by the Executive Director only as follows:

9 (1) the violation is the Respondent's only violation of the Board's laws and rules;
10 (2) the Respondent has not previously been subject to a Board warning or order;
11 (3) the Respondent has provided a satisfactory remedy which has eliminated any harm or threat to the
12 health or safety of the public; and

13 (4) The Respondent has committed one of the following violations:

14 (A) failure to provide or timely provide plans and specifications to TDLR under the requirements of
15 Govt. Code Chap. 469 (Elimination of Architectural Barriers);

16 (B) Unauthorized use of term "landscape architect" or "landscape architecture";
17 (C) Failure to respond to a Board inquiry;
18 (D) Failure to provide a statement of jurisdiction;
19 (E) Use of a non-compliant seal by registrant;
20 (F) Failure to register or annually renew the registration of a business; or
21 (G) Creation of misleading impression by a landscape architect advertising for services.

22 (k) The decision to issue a warning is at the sole discretion of the Executive Director and not available as
23 a result of a contested case proceeding conducted pursuant to the Government Code Chapter 2001.

24 (l) Before a proposed settlement agreement may be approved by the Board:

25 ~~—(1) the complainant, if known, must be notified of the terms of the agreement and the date, time, and~~
26 ~~location of the meeting during which the Board will consider the agreement; and~~

27 ~~—(2), the terms of the agreement must be reviewed by legal counsel for the Board to ensure that all legal~~
28 ~~requirements have been satisfied.~~

29 (km) If a complaint is dismissed, the complainant may submit to the Executive Director a written request
30 for reconsideration. The written request must explain why the complaint should not have been
31 dismissed. The Executive Director may, but is not required to, respond to the request for
32 reconsideration.

1 CHAPTER 5 REGISTERED INTERIOR DESIGNERS

2 SUBCHAPTER I DISCIPLINARY ACTION

3 RULE §5.184 Complaint Process

4 (a) A person may file a complaint by submitting the following information to the Board:

5 (1) the name of and contact information for the complainant unless evidence regarding a possible
6 violation was submitted anonymously;

7 (2) the name of the person against whom the complaint is filed;

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9 whom the complaint is filed, if available;

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23 (B) Disciplinary History: whether there has been previous enforcement activity involving the person
24 against whom the complaint has been filed; and

25 (C) Priority Level: the seriousness of the complaint relative to other pending enforcement matters;

26 (2) provide the complainant and respondent with information which will permit review of the Board's
27 policies and procedures from the Board's web site regarding complaint investigation and resolution. If
28 the complainant or respondent requests a copy of the policies and procedures in written format a copy
29 shall be mailed upon request;

30 (3) notify the complainant and respondent of the status of the investigation at least quarterly unless
31 providing notice would jeopardize an investigation; and

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8 respondent, and any known witness concerning the complaint.
- 9 (e) After the preliminary evaluation period, the Board's staff shall take steps to dismiss the complaint or
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- 15 (2) notify the complainant and respondent that, as a result of the staff's preliminary evaluation of the
16 complaint, the staff has determined that the Board has jurisdiction over the allegations(s) described in
17 the complaint and has decided to proceed with an investigation of the allegation(s) against the
18 respondent; and
- 19 (3) gather sufficient information and evidence to determine whether there is probable cause to believe
20 that a violation of a statutory provision or rule enforced by the Board has occurred.
- 21 (g) The Board's staff may conduct an investigation regardless of whether a complaint form was received
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- 26 (2) send notices to the complainant and respondent regarding the dismissal;
- 27 (3) if warranted, include in the respondent's notice a recommendation or warning regarding the
28 respondent's future conduct; and
- 29 (4) if a complaint is determined to be unfounded, state in the respondent's notice that no violation was
30 found.
- 31 (i) If the information and evidence gathered during an investigation are sufficient to establish probable
32 cause to believe that a violation has occurred, the Board's staff shall:
- 33 (1) seek to resolve the matter pursuant to §§5.175, 5.176 or 5.183 of this subchapter; or

1 (2) issue a warning in accordance with Subsection (j). to the respondent if the violation is the
2 respondent's first violation and:

3 ~~—(A) the respondent has not received a written warning or advisory notice from the Board;~~
4 ~~—(B) the respondent provided a satisfactory remedy which has eliminated any harm or threat to the~~
5 ~~health or safety of the public; and~~

6 ~~—(C) the guidelines for determining an appropriate penalty for the violation recommend an~~
7 ~~administrative penalty or a reprimand as an appropriate sanction for the violation.~~

8 (j) A warning may be issued by the Executive Director only as follows:

9 (1) the violation is the Respondent's only violation of the Board's laws and rules;
10 (2) the Respondent has not previously been subject to a Board warning or order;
11 (3) the Respondent has provided a satisfactory remedy which has eliminated any harm or threat to the
12 health or safety of the public; and

13 (4) The Respondent has committed one of the following violations:

14 (A) failure to provide or timely provide plans and specifications to TDLR under the requirements of
15 Govt. Code Chap. 469 (Elimination of Architectural Barriers);

16 (B) Unauthorized use of term "registered interior designer";
17 (C) Failure to respond to a Board inquiry;
18 (D) Failure to provide a statement of jurisdiction;
19 (E) Use of a non-compliant seal by registrant;
20 (F) Failure to register or annually renew the registration of a business; or
21 (G) Creation of misleading impression by a registered interior designer advertising for services.

22 (k) The decision to issue a warning is at the sole discretion of the Executive Director and not available as
23 a result of a contested case proceeding conducted pursuant to the Government Code Chapter 2001.

24 (l) Before a proposed settlement agreement may be approved by the Board,
25 ~~(l) the complainant, if known, must be notified of the terms of the agreement and the date, time, and~~
26 ~~location of the meeting during which the Board will consider the agreement; and~~

27 ~~(2) the terms of the agreement must be reviewed by legal counsel for the Board to ensure that all legal~~
28 ~~requirements have been satisfied.~~

29 (km) If a complaint is dismissed, the complainant may submit to the Executive Director a written request
30 for reconsideration. The written request must explain why the complaint should not have been
31 dismissed. The Executive Director may, but is not required to, respond to the request for
32 reconsideration.

1
2 TITLE 22 EXAMINING BOARDS
3 PART 1 TEXAS BOARD OF ARCHITECTURAL EXAMINERS
4 CHAPTER 1 ARCHITECTS
5 SUBCHAPTER I DISCIPLINARY ACTION
6 RULE §1.177 Administrative Penalty Schedule

7 If the Board determines that an administrative penalty is the appropriate sanction for a violation of any
8 of the statutory provisions or rules enforced by the Board, the following guidelines shall be applied to
9 guide the Board's assessment of an appropriate administrative penalty:

10 ~~(1) The Board shall consider the following factors to determine whether the violation is minor,~~
11 ~~moderate, or major:~~

12 ~~—(A) Seriousness of misconduct and efforts to correct the ground for sanction:~~

13 ~~—(i) Minor the respondent has demonstrated that he/she was unaware that his/her conduct was~~
14 ~~prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted from the~~
15 ~~conduct or the respondent has demonstrated that there were significant extenuating circumstances or~~
16 ~~intervening causes for the violation; and the respondent has demonstrated that he/she provided a~~
17 ~~satisfactory remedy that alleviated or eliminated any harm or threat to the health or safety of the~~
18 ~~public.~~

19 ~~—(ii) Moderate the violation shows that the respondent knowingly disregarded a standard or practice~~
20 ~~normally followed by a reasonably prudent person under the same or similar circumstances. A violation~~
21 ~~of a Board order shall constitute, at a minimum, a moderate violation.~~

22 ~~—(iii) Major the conduct demonstrates gross negligence or recklessness or resulted in a threat to the~~
23 ~~health or safety of the public and the respondent, after being notified of the alleged violation~~
24 ~~intentionally refused or failed to take prompt and remedial action.~~

25 ~~—(B) Economic harm:~~

26 ~~—(i) Minor there was no apparent economic damage to property or monetary loss to the project~~
27 ~~owner or other involved persons and entities.~~

28 ~~—(ii) Moderate economic damage to property or monetary harm to other persons or entities did not~~
29 ~~exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.~~

30 ~~—(iii) Major economic damage to property or economic injury to other persons or entities exceeded~~
31 ~~\$1,000.~~

32 ~~—(C) Sanction history:~~

33 ~~—(i) Minor the respondent has not previously received a written warning, advisory notice or been~~
34 ~~subject to other enforcement proceedings from the Board.~~

Commented [LB1]: While these factors are certainly relevant in considering the level of administrative penalty, Staff feels they should not be the primary test. Problems include:

- Difficulty of proving state of mind
 - Determination of negligence, gross negligence, and recklessness is subjective, and could result in battle of experts at hearing. This subjectivity and unpredictability is not conducive to staff/Board determinations of the appropriate penalty at settlement stage
- The tests are not necessarily mutually exclusive and/or collectively exhaustive
 - Possibility that one violation could qualify under two or more tests, i.e. both unaware conduct was prohibited nature but also negligent
 - Satisfies one part of the test but not another, i.e. in subsection (iii): threat to health and safety but not notified of alleged violation/did not refuse to take prompt remedial action

Commented [LB2]: Often, there is no economic harm, economic harm is impossible to quantify, or staff lacks evidence of economic harm. Obviously, this does not necessarily mean the violation is minor.

Rule 1.177

- 1 ~~(ii) Moderate – the respondent was previously subject to an order of the Board or other enforcement~~
 2 ~~proceedings which resulted in a finding of a violation of the laws or rules over which the TBAE has~~
 3 ~~jurisdiction.~~
- 4 ~~(iii) Major – the respondent has received at least two prior written notices or has been subject to two~~
 5 ~~disciplinary actions for violation of the rules and laws over which the TBAE has jurisdiction.~~
- 6 (1) –In determining whether a minor, moderate, or major penalty is imposed under subsection (2) of
 7 this rule, the following classifications shall apply:

Commented [LB3]: Given the difficulties discussed above, it is possible in many cases that a clear answer might not be available for “seriousness of misconduct” or “economic harm.” That would leave the determination to be made on this factor alone. Most cases don’t have disciplinary history, which could result in an otherwise serious violation being considered a “minor” violation.

<u>Minor Violations</u>	
<u>Unauthorized duplication of registration certificate or failure to display registration certificate as required.</u>	<u>§1.62</u>
<u>Failure to respond to a Board inquiry.</u>	<u>§1.171</u>
<u>Failure to provide statement of jurisdiction.</u>	<u>§1.106</u>
<u>Failure to provide or timely provide plans and specifications to TDLR under the requirements of Govt. Code Chap. 469 (Elimination of Architectural Barriers).</u>	<u>Tex. Occ. Code Sec. 1051.752(2) and §1.170</u>
<u>Use of a non-compliant seal by registrant.</u>	<u>§1.102</u>
<u>Failure to register or annually renew the registration of a business.</u>	<u>§1.124</u>
<u>Moderate Violations</u>	
<u>Unlawful practice by emeritus architect or practice of architecture while registration is inactive.</u>	<u>§1.67</u> <u>§1.68</u>
<u>Practice of architecture while registration is expired.</u>	<u>§1.82(b)</u>
<u>Aiding or abetting an unregistered person in violating the Board’s laws and rules.</u>	<u>Tex. Occ. Code Sec. 1051.752(8)</u>
<u>Unauthorized use of term “architect” or “architectural.”</u>	<u>Tex. Occ. Code Sec. 1051.606 and §1.123(c)</u>
<u>Failure to maintain a sealed document for ten years.</u>	<u>§1.103(c)</u>
<u>Failure to seal documents</u>	<u>§1.103</u> <u>§1.105</u> <u>§1.122(c),(e)</u>
<u>Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required</u>	<u>§1.103(b)</u>
<u>Violation of prototypical design requirements</u>	<u>§1.105</u>
<u>Failure to take reasonable steps to notify sealing Architect of intent to modify that architect’s sealed documents and/or failure to clearly indicate extent of modifications to sealed plans</u>	<u>§1.104(d)</u>

<u>Failure to comply with requirements relating to preparation of only a portion of a document</u>	<u>§1.104(b)</u>
<u>Removal of seal after issuance of documents</u>	<u>§1.104(e)</u>
<u>Failure to enter into a written agreement of association when required</u>	<u>§1.122</u>
<u>Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture</u>	<u>§1.124(c)</u>

Major Violations

<u>Submitting or soliciting a prohibited competitive bid under Govt. Code 2254, or direct or indirect disclosure of fee information</u>	<u>Tex. Occ. Code Sec. 1051.203 and §1.147</u>
<u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work.</u>	<u>§1.144(c)</u>
<u>Giving false or forged evidence to the board or a board member in obtaining or assisting another person to obtain a certificate of registration.</u>	<u>Tex. Occ. Code Sec. 1051.752(7)</u>
<u>Dishonest practice in the practice of architecture by the holder of a certificate of registration.</u>	<u>Tex. Occ. Code Sec. 1051.752(6) and §1.144</u>
<u>Using or attempting to use as the person's own the certificate of registration of another person.</u>	<u>Tex. Occ. Code Sec. 1051.752(9)</u>
<u>Affixation of seal by an architect on a document not prepared by or under the supervision and control of the architect</u>	<u>§1.104(a)</u>
<u>Failure to exercise Supervision and Control or Responsible Charge over the preparation of a document, as required</u>	<u>§1.122(c) or (e)</u>
<u>Use of an architect's seal, or a copy or replica of an architect's seal without the architect's consent.</u>	<u>§1.104(c)</u>
<u>Engaging in the practice of architecture as defined by Sec. 1051.001(7)(A), (B), or (C) without a registration and not exempted by Sec. 1051.606.</u>	<u>Tex. Occ. Code Sec. 1051.701(a)</u>
<u>Recklessness in the practice of architecture, including recklessness in the construction or alteration of a building by an architect designing, planning, or observing the construction or alteration.</u>	<u>Tex. Occ. Code Sec. 1051.752(5) and §1.143</u>
<u>Failure to report a course of action taken against an Architect's advice which may have a materially adverse effect on the safe use of a completed building</u>	<u>§1.216</u>
<u>Gross incompetency in the practice of architecture</u>	<u>Tex. Occ. Code Section 1051.752(4) And §1.142</u>

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(2) After determining whether the violation is minor, moderate, or major, the Board shall impose an administrative penalty as follows:

Rule 1.177

1 (A) Minor violations--~~if the violation is minor in every category described in paragraph (1) of this~~
2 ~~section~~, an administrative penalty of not more than \$~~5~~1,000 shall be imposed.

3 (B) Moderate violations--~~if the violation is moderate in any category described in paragraph (1) of this~~
4 ~~section~~, an administrative penalty of not more than \$~~2~~3,000 shall be imposed.

5 (C) Major violations--~~if the violation is major in any category described in paragraph (1) of this section~~
6 ~~or if the Board determines that the facts of the case indicate a higher penalty is necessary in order to~~
7 ~~deter similar misconduct in the future~~, an administrative penalty of not more than \$5,000 shall be
8 imposed.

9 (3) In determining the specific amount of an administrative penalty within the minor, moderate, or
10 major range, the Board shall consider the factors outlined in Board Rules 1.141(c) and/or 1.165(f).

11 (4) If a violation of the Board's laws or rules is not specifically defined in subsection (1) as a minor,
12 moderate, or major violation, the Board shall consider the factors outlined in Board Rules 1.141(c)
13 and/or 1.165(f) in determining an appropriate administrative penalty.

14 (5) Previous Disciplinary History - If the respondent was previously found to have violated the Board's
15 laws or rules in a warning or Order of the Board, then any subsequent disciplinary action may be
16 considered at the next higher level of severity.

17 (6) Multiple Violations

18 (A) The administrative penalty ranges discussed in subsection (2) are to be applied to each individual
19 violation of the Board's laws and rules. If a respondent has violated multiple laws and/or rules, or has
20 committed multiple violations of a single law or rule, the Respondent shall be subject to a separate
21 administrative penalty for each violation.

22 (B) Each sheet of architectural plans and specifications created or issued in violation of the Board's
23 laws and rules shall be considered a separate violation for purposes of calculating the total
24 administrative penalty under subsection (6)(A).

25 (C) In the case of a continuing violation, each day a violation continues or occurs shall be considered a
26 separate violation for purposes of calculating the total administrative penalty under subsection (6)(A).

27 (7) The administrative penalties set out in this section may be considered in addition to any other
28 disciplinary actions, such as revocation, suspension, or refusal to renew a registration.

29 (48) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this
30 section.

31 (D) Because of the threat to human health, safety and well-being which necessarily arises out of a
32 Nonregistrant preparing and issuing architectural plans and specifications the Board possesses a
33 compelling interest in ensuring that architectural plans and specifications are prepared and issued only
34 by a registered architect or by a person who is working under the active and documented Supervision
35 and Control of a registered Architect when required by law. If the evidence establishes that Architectural
36 plans and specifications for a project that is not exempt from the Architects' Practice Act were prepared
37 by a person who is not registered to engage in the Practice of Architecture and was not working under
38 the active and documented Supervision and Control of an Architect the violation shall be presumed to

Commented [LB4]: The range of penalty is established under subsection 1, and then the specific amount within the range is determined under subsection (3).

Commented [LB5]: This retains the Board's ability to consider violations on a "per sheet" basis.

Commented [LB6]: Previously, the Board has entered orders which include administrative penalties in addition to other sanctions. It is appropriate to establish this practice in the rule

1 be a major violation and each sheet of architectural plans or separate section of the specifications shall
2 be considered a separate violation for purposes of calculating and imposing administrative penalties.

3 ~~—(E) Because of the threat to human health, safety and welfare which necessarily arises from
4 Nonregistrants engaging in the Practice of Architecture the Board has a compelling interest in ensuring
5 that only those persons who are registered to engage in the Practice of Architecture or whose work is
6 conducted under the active and documented Supervision and Control of a registered architect engage in
7 the Practice of Architecture. If the evidence establishes that an Architect has sealed architectural plans
8 and separately numbered section of the specifications without having exercised active and documented
9 Supervision and Control of the Nonregistrants's activities the Board shall presume such conduct by the
10 sealing architect to be a major violation and each sheet of architectural plans or separate section of the
11 specifications shall be considered a separate violation for purposes of calculating and imposing
12 administrative penalties.~~

13 ~~—(F) The agency is responsible for protecting the public's health, safety and welfare by interpreting and
14 enforcing the Architects' Practice Act. In fulfilling this statutory duty the Board depends upon, and
15 expects, that Registrants and Applicants will provide complete, truthful and accurate information to the
16 Board upon request. This prompt and accurate provision of information is essential to protecting the
17 public's health, safety and welfare.~~

18 ~~—(G) An Architect, Candidate, or Applicant who fails, without good cause, to provide information to
19 the Board under provision of §1.171 of this subchapter (relating to Responding to Request for
20 Information) is presumed to be interfering with and preventing the Board from fulfilling its
21 responsibilities. For these reasons a violation of §1.171 of this subchapter shall be considered a
22 moderate-minor violation if a complete response is not received within 30 days after receipt of the
23 Board's written inquiry. Any An further additional 15 day delay constitutes a moderate-major violation,
24 and eEach 15 day delay thereafter shall be considered a major violation of these rules.~~

25 ~~—(3) In order to determine the appropriate amount in a penalty range described in paragraph (2) of this
26 section, the Board shall consider the factors described in paragraph (1) of this section.~~

27 ~~(4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this
28 section.~~

29

Commented [LB7]: This provision was considered for deletion by the rules committee on 2/23/16. However, after discussion, it was determined the provision should be retained. Revisions are offered to clear up ambiguity.

1 CHAPTER 3 LANDSCAPE ARCHITECTS

2 SUBCHAPTER I DISCIPLINARY ACTION

3 RULE §3.177 Administrative Penalty Schedule

4 If the Board determines that an administrative penalty is the appropriate sanction for a violation of any
5 of the statutory provisions or rules enforced by the Board, the following guidelines shall be applied to
6 guide the Board's assessment of an appropriate administrative penalty:

7

8 ~~—(1) The Board shall consider the following factors to determine whether the violation is minor,
9 moderate, or major:~~

10 ~~—(A) Seriousness of misconduct and efforts to correct the ground for sanction:~~

11 ~~—(i) Minor—the respondent had demonstrated that he/she was unable that his/her conduct was
12 prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted from the
13 conduct or the respondent has demonstrated that there were significant extenuating circumstances or
14 intervening causes for the violation; and the respondent has demonstrated that he/she provided a
15 satisfactory remedy that alleviated or eliminated any harm or threat to the health or safety of the
16 public.~~

17 ~~—(ii) Moderate—the violation shows that the respondent knowingly disregarded a standard or practice
18 normally followed by a reasonably prudent person under the same or similar circumstances. A violation
19 of a Board order shall constitute, at a minimum, a moderate violation.~~

20 ~~—(iii) Major—the conduct demonstrates gross negligence or recklessness or resulted in a threat to the
21 health or safety of the public and the respondent, after being notified of the alleged violation
22 intentionally refused or failed to take prompt and remedial action.~~

23 ~~—(B) Economic harm:~~

24 ~~—(i) Minor—there was no apparent economic damage to property or monetary loss to the project
25 owner or other involved persons and entities.~~

26 ~~—(ii) Moderate—economic damage to property or monetary harm to other persons or entities did not
27 exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.~~

28 ~~—(iii) Major—economic damage to property or economic injury to other persons or entities exceeded
29 \$1,000.~~

30 ~~—(C) Sanction history:~~

31 ~~—(i) Minor—the respondent has not previously received a written warning, advisory notice or been
32 subject to other enforcement proceedings from the Board.~~

33 ~~—(ii) Moderate—the respondent was previously subject to an order of the Board or other enforcement
34 proceedings which resulted in a finding of a violation of the laws or rules over which the TBAE has
35 jurisdiction.~~

1 — (iii) Major ~~the respondent has received at least two prior written notices or has been subject to two~~
2 ~~disciplinary actions for violation of the rules and laws over which the TBAE has jurisdiction.~~

3 (1) In determining whether a minor, moderate, or major penalty is imposed under subsection (2) of
4 this rule, the following classifications shall apply:

Minor Violations

<u>Unauthorized duplication of registration certificate or failure to display registration certificate as required.</u>	<u>§3.62</u>
<u>Failure to respond to a Board inquiry.</u>	<u>§3.171</u>
<u>Failure to provide statement of jurisdiction.</u>	<u>§3.106</u>
<u>Failure to provide or timely provide plans and specifications to TDLR under the requirements of Govt. Code Chap. 469 (Elimination of Architectural Barriers).</u>	<u>Tex. Occ. Code Sec. 1052.252(8) and §3.170</u>
<u>Use of a non-compliant seal by registrant.</u>	<u>§3.102</u>
<u>Failure to register or annually renew the registration of a business.</u>	<u>§3.124</u>

Moderate Violations

<u>Unlawful practice by emeritus landscape architect or practice of landscape architecture while registration is inactive.</u>	<u>§3.67</u> <u>§3.68</u>
<u>Practice of landscape architecture while registration is expired.</u>	<u>§3.82(b)</u>
<u>Aiding or abetting an unregistered person in violating the Board's laws and rules.</u>	<u>Tex. Occ. Code Sec. 1052.252(10)</u>
<u>Unauthorized use of term "landscape architect" or related term</u>	<u>Tex. Occ. Code Sec. 1052.151(b) and §3.123(c)</u>
<u>Failure to maintain a sealed document for ten years.</u>	<u>§3.103(c)</u>
<u>Failure to seal documents or insert statement in lieu of seal.</u>	<u>§3.103</u>
<u>Violation of prototypical design requirements</u>	<u>§3.105</u>
<u>Failure to notify another landscape architect of modification to sealed plans and/or failure to clearly indicate extent of modifications to sealed plans</u>	<u>§3.104(d)</u>
<u>Failure to comply with requirements relating to preparation of only a portion of a document</u>	<u>§3.104(b)</u>
<u>Removal of seal after issuance of documents</u>	<u>§3.104(e)</u>
<u>Failure to enter into a written agreement of association when required</u>	<u>§3.122</u>
<u>Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture</u>	<u>§3.124(c)</u>

Major Violations

<u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work.</u>	<u>§3.144(c)</u>
<u>Using fraud or deceit or giving false or forged evidence to the board or a board member in obtaining or assisting another person to obtain a certificate of registration.</u>	<u>Tex. Occ. Code Sec. 1052.252(2) or (3)</u>
<u>Acting dishonestly in the practice of landscape architecture.</u>	<u>Tex. Occ. Code Sec. 1052.252(9) and §3.144</u>
<u>Using or attempting to use as the person's own the certificate of registration of another person.</u>	<u>Tex. Occ. Code Sec. 1052.252(4)</u>
<u>Use of the term "engineer," "professional engineer," or related term or otherwise creating the impression that one is authorized to practice engineering unless the person is registered under Occupations Code Chapter 1001</u>	<u>Tex. Occ. Code Sec. 1052.252(5)</u>
<u>Use of the term "surveyor" or related term or otherwise creating the impression that one is authorized to practice surveying unless the person is registered under Occupations Code Chapter 1071</u>	<u>Tex. Occ. Code Sec. 1052.252(6)</u>
<u>Affixation of seal by a landscape architect on a document not prepared by or under the supervision and control of the landscape architect</u>	<u>§3.104(a) and/or §3.122(c)&(e)</u>
<u>Failure to exercise Supervision and Control or Responsible Charge over the preparation of a document, as required</u>	<u>§3.122(c) or (e)</u>
<u>Use of a landscape architect's seal, or a copy or replica of a landscape architect's seal, without the landscape architect's consent.</u>	<u>§3.104(c)</u>
<u>Engaging in the practice of landscape architecture without a registration and not exempted by Sec. 1052.003.</u>	<u>Tex. Occ. Code Sec. 1052.151(a)</u>
<u>Recklessness in the practice of landscape architecture.</u>	<u>Tex. Occ. Code Sec. 1052.752(7) and §3.143</u>
<u>Gross incompetency in the practice of landscape architecture</u>	<u>Tex. Occ. Code Section 1052.252(7) and §3.142</u>
<u>Failure to report a course of action taken against the landscape architect's advice as required</u>	<u>§3.106(d)</u>

1

2 (2) After determining whether the violation is minor, moderate, or major, the Board shall impose an
3 administrative penalty as follows:

4 (A) Minor violations--~~if the violation is minor in every category described in paragraph (1) of this~~
5 ~~section,~~ an administrative penalty of not more than ~~\$500-1,000~~ shall be imposed.

6 (B) Moderate violations--~~if the violation is moderate in any category described in paragraph (1) of this~~
7 ~~section,~~ an administrative penalty ~~or of~~ not more than ~~\$23,000~~ shall be imposed.

1 (C) Major violations--~~if the violation is major in any category described in paragraph (1) of this section~~
2 ~~or if the Board determines that the facts of the case indicate a higher penalty is necessary in order to~~
3 ~~deter similar misconduct in the future,~~ an administrative penalty of not more than \$5,000 shall be
4 imposed.

5 (3) In determining the specific amount of an administrative penalty within the minor, moderate, or
6 major range, the Board shall consider the factors outlined in Board Rules 3.141(c) and/or 3.165(f).

7 (4) If a violation of the Board's laws or rules is not specifically defined in subsection (1) as a minor,
8 moderate, or major violation, the Board shall consider the factors outlined in Board Rules 3.141(c)
9 and/or 3.165(f) in determining an appropriate administrative penalty.

10 (5) Previous Disciplinary History - If the respondent was previously found to have violated the Board's
11 laws or rules in a warning or Order of the Board, then any subsequent disciplinary action may be
12 considered at the next higher level of severity.

13 (6) Multiple Violations

14 (A) The administrative penalty ranges discussed in subsection (2) are to be applied to each individual
15 violation of the Board's laws and rules. If a respondent has violated multiple laws and/or rules, or has
16 committed multiple violations of a single law or rule, the Respondent shall be subject to a separate
17 administrative penalty for each violation.

18 (B) Each sheet of plans and specifications created or issued in violation of the Board's laws and rules
19 shall be considered a separate violation for purposes of calculating the total administrative penalty
20 under subsection (6)(A).

21 (C) In the case of a continuing violation, each day a violation continues or occurs shall be considered a
22 separate violation for purposes of calculating the total administrative penalty under subsection (6)(A).

23 (7) The administrative penalties set out in this section may be considered in addition to any other
24 disciplinary actions, such as revocation, suspension, or refusal to renew a registration.

25 (8) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this
26 section.

27 ~~—(D) Because of the threat to human health, safety and well-being which necessarily arises out of a~~
28 ~~Nonregistrant preparing and issuing landscape architectural plans and specifications the Board~~
29 ~~possesses a compelling interest in ensuring that landscape architectural plans and specifications are~~
30 ~~prepared and issued only by registered landscape architect or by a person who is working under the~~
31 ~~active and documented Supervision and Control of a registered Landscape Architect when required by~~
32 ~~law. If the evidence establishes that Landscape Architectural plans and specifications for a project that is~~
33 ~~not exempt from the Landscape Architects' Practice Act were prepared by a person who is not~~
34 ~~registered to engage in the Practice of Landscape Architecture and was not working under the active~~
35 ~~and documented Supervision and Control of a Landscape Architect the violation shall be presumed to be~~
36 ~~a major violation and each sheet of architectural plans or separate section of the specifications shall be~~
37 ~~considered a separate section of the specifications shall be considered a separate violation for purposes~~
38 ~~of calculating and imposing administrative penalties.~~

1 —(E) Because of the threat to human health, safety and welfare which necessarily arises from
2 Nonregistrants engaging in the Practice of Landscape Architecture the Board has a compelling interest in
3 ensuring that only those persons who are registered to engage in the Practice of Landscape Architecture
4 or whose work is conducted under the active and documented Supervision and Control of a registered
5 Landscape Architect engage in the Practice of Landscape Architecture. If the evidence establishes that a
6 Landscape Architect has sealed landscape architectural plans and separately numbered section of the
7 specifications without having exercised active and documented Supervision and Control of the
8 Nonregistrants's activities the Board shall presume such conduct by the sealing landscape architect to be
9 a major violation and each sheet of landscape architectural plans or separate section of the
10 specifications shall be considered a separate violation for purposes of calculating and imposing
11 administrative penalties.

12 —(F) The agency is responsible for protecting the public's health, safety and welfare by interpreting and
13 enforcing the Landscape Architects' Practice Act. In fulfilling this statutory duty the Board depends upon,
14 and expects, that Registrants and Applicants will provide complete, truthful and accurate information to
15 the Board upon request. This prompt and accurate provision of information is essential to protecting the
16 public's health, safety and welfare.

17 - (9) ~~(G)~~ A Landscape Architect, Candidate, or Applicant who fails, without good cause, to provide
18 information to the Board under the provision of §3.171 of this subchapter (relating to Responding to
19 Request for Information) is presumed to be interfering with and preventing the Board from fulfilling its
20 responsibilities. ~~For these reasons a~~ A violation of §3.171 of this subchapter shall be considered a
21 ~~minor~~moderate violation if a complete response is not received within 30 days after receipt of the Board's
22 written inquiry. An ~~additionally further~~ 15 day delay constitutes a ~~moderate~~major violation, ~~and~~ eEach 15
23 day delay thereafter shall be considered a separate major violation of these rules.

24 ~~(3) In order to determine the appropriate amount in a penalty range described in paragraph (2) of this~~
25 ~~section, the Board shall consider the factors described in paragraph (1) of this section.~~

26 ~~(4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this~~
27 ~~section.~~

1 CHAPTER 5 REGISTERED INTERIOR DESIGNERS

2 SUBCHAPTER I DISCIPLINARY ACTION

3 RULE §5.187 Administrative Penalty Schedule

4 If the Board determines that an administrative penalty is the appropriate sanction for a violation of any
5 of the statutory provisions or rules enforced by the Board, the following guidelines shall be applied to
6 guide the Board's assessment of an appropriate administrative penalty:

7

8 ~~—(1) The Board shall consider the following factors to determine whether the violation is minor,
9 moderate, or major:~~

10 ~~—(A) Seriousness of misconduct and efforts to correct the ground for sanction:~~

11 ~~—(i) Minor—the respondent has demonstrated that he/she was unaware that his/her conduct was
12 prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted from the
13 conduct or the respondent has demonstrated that there were significant extenuating circumstances or
14 intervening causes for the violation; and the respondent has demonstrated that he/she provided a
15 satisfactory remedy that alleviated or eliminated any harm or threat to the health or safety of the
16 public.~~

17 ~~—(ii) Moderate—the violation shows that the respondent knowingly disregarded a standard or practice
18 normally followed by a reasonably prudent person under the same or similar circumstances. A violation
19 of a Board order shall constitute, at a minimum, a moderate violation.~~

20 ~~—(iii) Major—the conduct demonstrates gross negligence or recklessness or resulted in a threat to the
21 health or safety of the public and the respondent, after being notified of the alleged violation
22 intentionally refused or failed to take prompt and remedial action.~~

23 ~~—(B) Economic harm:~~

24 ~~—(i) Minor—there was no apparent economic damage to property or monetary loss to the project
25 owner or other involved persons and entities.~~

26 ~~—(ii) Moderate—economic damage to property or monetary harm to other persons or entities did not
27 exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.~~

28 ~~—(iii) Major—economic damage to property or economic injury to other persons or entities exceeded
29 \$1,000.~~

30 ~~—(C) Sanction history:~~

31 ~~—(i) Minor—the respondent has not previously received a written warning, advisory notice or been
32 subject to other enforcement proceedings from the Board.~~

33 ~~—(ii) Moderate—the respondent was previously subject to an order of the Board or other enforcement
34 proceedings which resulted in a finding of a violation of the laws or rules over which the TBAE has
35 jurisdiction.~~

1 — (iii) Major ~~the respondent has received at least two prior written notices or has been subject to two~~
 2 ~~disciplinary actions for violation of the rules and laws over which the TBAE has jurisdiction.~~

3 (1) In determining whether a minor, moderate, or major penalty is imposed under subsection (2) of this
 4 rule, the following classifications shall apply:

<u>Minor Violations</u>	
<u>Unauthorized duplication of registration certificate or failure to display registration certificate as required.</u>	<u>§5.72</u>
<u>Failure to respond to a Board inquiry.</u>	<u>§5.181</u>
<u>Failure to provide statement of jurisdiction.</u>	<u>§5.115</u>
<u>Failure to provide or timely provide plans and specifications to TDLR under the requirements of Govt. Code Chap. 469 (Elimination of Architectural Barriers).</u>	<u>Tex. Occ. Code Sec. 1053.252(8) and §5.180</u>
<u>Use of a non-compliant seal by registrant.</u>	<u>§5.112</u>
<u>Failure to register or annually renew the registration of a business.</u>	<u>§5.134</u>
<u>Moderate Violations</u>	
<u>Use of title “registered interior designer” while on emeritus status</u>	<u>§5.77</u>
<u>Practice of interior design while registration is inactive.</u>	<u>§5.78</u>
<u>Practice of interior design while registration is expired.</u>	<u>§5.92(b)</u>
<u>Aiding or abetting an unregistered person in violating the Board’s laws and rules.</u>	<u>Tex. Occ. Code Sec. 1053.252(7)</u>
<u>Unauthorized use of term “registered interior designer.”</u>	<u>Tex. Occ. Code Sec. 1053.101 and §5.133(c)</u>
<u>Failure to maintain a sealed document for ten years.</u>	<u>§5.113(c)</u>
<u>Failure to seal documents or insert statement in lieu of seal.</u>	<u>§5.113</u>
<u>Failure to notify another registered interior designer of modification to sealed plans and/or failure to clearly indicate extent of modifications to sealed plans</u>	<u>§5.114(d)</u>
<u>Failure to comply with requirements relating to preparation of only a portion of a document</u>	<u>§5.114(b)</u>
<u>Removal of seal after issuance of documents</u>	<u>§5.114(e)</u>
<u>Failure to enter into a written agreement of association when required</u>	<u>§5.132</u>
<u>Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture</u>	<u>§5.134(c)</u>
<u>Major Violations</u>	

<u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work.</u>	<u>§5.154(c)</u>
<u>Using fraud or deceit in obtaining a certificate of registration, or giving false or forged evidence to the Board or a Board member in obtaining or assisting another person to obtain a certificate of registration</u>	<u>Tex. Occ. Code Sec. 1053.252(3) or (9)</u>
<u>Acting dishonestly in the practice of interior design by the holder of a certificate of registration.</u>	<u>Tex. Occ. Code Sec. 1053.252(11) and §5.154</u>
<u>Advertising in a manner that tends to deceive or defraud the public</u>	<u>Tex. Occ. Code Sec. 1053.252(6)</u>
<u>Using or attempting to use as the person's own the certificate of registration of another person.</u>	<u>Tex. Occ. Code Sec. 1053.252(10)</u>
<u>Affixation of seal by a registered interior designer on a document not prepared by or under the supervision and control of the registered interior designer</u>	<u>§5.114(a) and/or §5.132(c)&(e)</u>
<u>Failure to exercise Supervision and Control or Responsible Charge over the preparation of a document, as required</u>	<u>§5.132(c) or (e)</u>
<u>Use of a registered interior designer's seal, or a copy or replica of a registered interior designer's seal without the registered interior designer's consent.</u>	<u>§5.114(c)</u>
<u>Recklessness in the practice of interior design.</u>	<u>Tex. Occ. Code Sec. 1053.252(4) and §5.153</u>
<u>Failure to report a course of action taken against a registered interior designer's advice as required</u>	<u>§5.115(d)</u>
<u>Gross incompetency in the practice of interior design</u>	<u>Tex. Occ. Code Section 1053.252(4) and §5.152(c)</u>

1

2 (2) After determining whether the violation is minor, moderate, or major, the Board shall impose an
3 administrative penalty as follows:

4 (A) Minor violations--~~if the violation is minor in every category described in paragraph (1) of this~~
5 ~~section,~~ an administrative penalty of not more than \$~~1,05~~00 shall be imposed.

6 (B) Moderate violations--~~if the violation is moderate in any category described in paragraph (1) of this~~
7 ~~section,~~ an administrative penalty of not more than \$~~32,~~000 shall be imposed.

8 (C) Major violations--~~if the violation is major in any category described in paragraph (1) of this section~~
9 ~~or if the Board determines that the facts of the case indicate a higher penalty is necessary in order to~~
10 ~~deter similar misconduct in the future,~~ an administrative penalty of not more than \$5,000 shall be
11 imposed.

12 – (3) ~~In determining the specific amount of an administrative penalty within the minor, moderate, or~~
13 ~~major range, the Board shall consider the factors outlined in Board Rules 5.151(c) and/or 5.175(f).~~

1 (4) If a violation of the Board's laws or rules is not specifically defined in subsection (1) as a minor,
2 moderate, or major violation, the Board shall consider the factors outlined in Board Rules 5.151(c)
3 and/or 5.175(f) in determining an appropriate administrative penalty.

4 (5) Previous Disciplinary History - If the respondent was previously found to have violated the Board's
5 laws or rules in a warning or Order of the Board, then any subsequent disciplinary action may be
6 considered at the next higher level of severity.

7 (6) Multiple Violations

8 (A) The administrative penalty ranges discussed in subsection (2) are to be applied to each individual
9 violation of the Board's laws and rules. If a respondent has violated multiple laws and/or rules, or has
10 committed multiple violations of a single law or rule, the Respondent shall be subject to a separate
11 administrative penalty for each violation.

12 (B) Each sheet of architectural plans and specifications created or issued in violation of the Board's
13 laws and rules shall be considered a separate violation for purposes of calculating the total
14 administrative penalty under subsection (6)(A).

15 (C) In the case of a continuing violation, each day a violation continues or occurs shall be considered a
16 separate violation for purposes of calculating the total administrative penalty under subsection (6)(A).

17 (7) The administrative penalties set out in this section may be considered in addition to any other
18 disciplinary actions, such as revocation, suspension, or refusal to renew a registration.

19 (48) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this
20 section.

21 ~~(D) Because of the threat to human health, safety and well-being which necessarily arises from a~~
22 ~~Nonregistrant representing himself or herself to be registered as a Registered Interior Designer the~~
23 ~~Board possesses a compelling interest in ensuring that only those persons who are permitted by statute~~
24 ~~and rule to use the title "registered interior designer" do so. If the evidence establishes that a person~~
25 ~~not registered as a Registered Interior Designer has represented himself or herself as a registrant, the~~
26 ~~violation shall be classified as a major violation and each sheet of Interior Design plans or separate~~
27 ~~section of the specifications shall be considered a separate violation for purposes of calculating and~~
28 ~~imposing administrative penalties.~~

29 ~~—(E) The agency is responsible for protecting the public's health, safety and welfare by interpreting and~~
30 ~~enforcing the Interior Designers' Registration Law. In fulfilling this statutory duty the Board depends~~
31 ~~upon, and expects, that Registrants, Candidates and Applicants will provide complete, truthful and~~
32 ~~accurate information to the Board upon request. This prompt and accurate provision of information is~~
33 ~~essential to protecting the public's health, safety and welfare.~~

34 ~~(F9) A Registered Interior Designer, a Candidate, or an Applicant who fails, without good cause, to~~
35 ~~provide information to the Board under §5.181 of this subchapter (relating to Responding to Request for~~
36 ~~Information) is presumed to be interfering with and preventing the Board from fulfilling its~~
37 ~~responsibilities. For these reasons a~~ violation of §5.181 of this subchapter shall be considered a
38 ~~moderate-minor~~ violation if a complete response is not received within 30 days after receipt of the

1 ~~Board's written inquiry the violation.~~ Any additional 15 day further delay constitutes a ~~major moderate~~
2 violation, ~~and, e~~Each 15 day delay thereafter shall be considered a separate violation of these rules.

3 ~~(3) In order to determine the appropriate amount in a penalty range described in paragraph (2) of this~~
4 ~~section, the Board shall consider the factors described in paragraph (1) of this section.~~

5 ~~(4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this~~
6 ~~section.~~

1
2 TITLE 22 EXAMINING BOARDS
3 PART 1 TEXAS BOARD OF ARCHITECTURAL EXAMINERS
4 CHAPTER 1 ARCHITECTS
5 SUBCHAPTER L HEARINGS--CONTESTED CASES
6 RULE §1.232 Board Responsibilities

7 (a) The Board shall investigate Contested Case matters and attempt to resolve Contested Cases
8 informally as provided in Subchapter I of this chapter (relating to Disciplinary Action). However, if a
9 Contested Case is not settled informally pursuant to Subchapter I of this chapter, it shall be referred to
10 SOAH for a formal hearing to determine whether there has been a violation of any of the statutory
11 provisions or rules enforced by the Board.

12 (b) A formal hearing shall be conducted in accordance with the Rules of Procedure of SOAH.

13 (c) After a formal hearing of a Contested Case, the SOAH administrative law judge who conducted the
14 formal hearing shall prepare a proposal for decision and submit it to the Board so that the Board may
15 render a final decision with regard to the Contested Case. The proposal for decision shall include
16 findings of fact and conclusions of law.

17 ~~(d) Any party of record in a Contested Case who is adversely affected by the proposal for decision may~~
18 ~~file exceptions and briefs within 20 days after the date of service of the proposal for decision. Replies to~~
19 ~~exceptions and briefs may be filed within 15 days after the date for the filing of exceptions and briefs.~~
20 ~~Exceptions, briefs, and replies shall be filed with the Board and copies shall be served on the~~
21 ~~administrative law judge and on all other parties in the same manner as for serving other documents in~~
22 ~~a Contested Case. If a party submits proposed findings of fact or conclusions of law, the proposal for~~
23 ~~decision shall include a ruling on each proposed finding or conclusion.~~

24 (e) Any party of record in a Contested Case may request an oral hearing before the Board. A request for
25 an oral hearing shall be filed with the Board and copies shall be served on the administrative law judge
26 and on all other parties in the same manner as for serving other documents in a Contested Case. The
27 Board, in its sole discretion, shall determine whether to grant or deny a request for an oral hearing. If a
28 request for an oral hearing is granted, each party of record shall be allotted 30 minutes to make an oral
29 presentation to the Board. The oral presentation shall be confined to matters contained within the
30 administrative record.

31 (f) Upon the expiration of the time provided for the filing of exceptions and briefs or, if exceptions and
32 briefs are filed, upon the 10th day following the time provided for the filing of replies to exceptions and
33 briefs, the Board may render a decision to finally resolve a Contested Case. The Board may change a
34 finding of fact or conclusion of law made by an administrative law judge or may vacate or modify an
35 order issued by an administrative law judge only if the Board determines:

36 (1) that the administrative law judge did not properly apply or interpret applicable law, agency rules,
37 written policies, or prior administrative decisions;

Commented [LB1]: These procedures are governed by the SOAH rules, and TBAE does not have authority to override those rules. Staff recommends removal of this provision.

Commented [LB2]: Under Sec. 2001.141(e), an agency may adopt a rule requiring an ALJ to make a ruling on proposed findings of fact and conclusions of law supplied by the parties. Staff recommends adoption of the amendment to allow for this procedure.

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- 1 (2) that a prior administrative decision on which the administrative law judge relied is incorrect or
 2 should be changed; or
- 3 (3) that a technical error in a finding of fact should be changed.
- 4 (g) If the Board makes a change to a finding of fact or conclusion of law or vacates or modifies an order
 5 pursuant to subsection (f) of this section, the Board must state in writing the specific reason and the
 6 legal basis for the change.
- 7 (h) The Board shall issue a written order regarding the Board's decision to finally resolve a Contested
 8 Case that is not settled informally. The written order shall include findings of fact and conclusions of law
 9 that are based on the official record of the Contested Case. The written order may adopt by reference
 10 the findings of fact and conclusions of law made by an administrative law judge and included in the
 11 proposal for decision submitted to the Board.
- 12 (i) Motions for rehearing and appeals may be filed and judicial review of final decisions of the Board may
 13 be sought pursuant to the Administrative Procedure Act. The party who appeals a final decision in a
 14 Contested Case shall be responsible for the cost of the preparation of the original or a certified copy of
 15 the record of the agency proceeding that is required to be sent to the reviewing court.
- 16 (j) The Board and the administrative law judge who presides over the formal hearing in a Contested Case
 17 shall refer to the following guidelines to determine the appropriate penalty for a violation of any of the
 18 statutory provisions or rules enforced by the Board:

Figure: 22 TAC §1.232(j)

Violation	Rule or Statutory Rule(s) Cited	Recommended Penalty
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§1.62	Administrative penalty or reprimand
Unlawful practice of architecture while registration is on emeritus status	§1.67(b)	Administrative penalty and cease and desist order
Practice of architecture while registration is inactive or expired	§1.68 or §1.82(b)	Administrative penalty and cease and desist order
Failure to fulfill mandatory continuing education requirements	§1.69	Administrative penalty, or suspension, or both
Failure to timely complete required continuing education program hours	§1.69(b)	Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses

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Commented [LB3]: According to our research, a reprimand has not been issued since 2004, which was about the time the Board began issuing warnings. Since this is not a sanction that we use, Staff's recommendation is to remove it from the guidelines so that it isn't relied upon by SOAH.

Commented [LB4]: A cease and desist letter is not normally associated with a disciplinary sanction. Rather, a cease and desist letter is usually issued at the beginning of an investigation, if at all. Staff recommends elimination of cease and desist as a disciplinary sanction for all violations.

Falsely reporting compliance with mandatory continuing education requirements	§1.69(g)	Administrative penalty of \$700; subject to higher penalties or suspension for second or subsequent offenses
Failure to maintain a detailed record of continuing education activities	§1.69(g)(1)	Administrative penalty of \$700; subject to higher penalties for second or subsequent offenses
Failure to use appropriate seal or signature Use of non-compliant seal by registrant	§1.102 §1.104(e)	Administrative penalty or reprimand
Failure to seal documents	§1.103 §1.105 §1.122(c),(e)	Administrative penalty or reprimand
Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required	§1.103(b)	Administrative penalty or reprimand
Sealing or authorizing the sealing of a document prepared by another without Supervision and Control or Responsible Charge – “plan stamping”	§1.104(a) and (b) §1.122(c) and or (e)	Administrative penalty and either s Suspension or revocation
Failure to take reasonable steps to notify sealing Architect of intent to modify that architect’s sealed documents	§1.104(d)	Administrative penalty or reprimand
Failure to indicate modifications or additions to a document prepared by another Architect	§1.104(b) and (d)	Administrative penalty, s Suspension, administrative penalty or both, or reprimand
Removal of seal after issuance of documents	§1.104(e)	Administrative penalty or reprimand
Failure to maintain a document for 10 years as required	§1.103(g) §1.105(b) §1.122(d)	Administrative penalty or reprimand
Unauthorized use of a seal or a copy or replica of a seal or unauthorized modification of a document	§1.104 (b) and (c)	Administrative penalty, reprimand, or suspension, or both
Failure to comply with requirements relating to preparation of only a portion of a document	§1.104(b)	Administrative penalty, suspension, or both

Commented [LB5]: Implementation of the Rules Committee recommendation from August regarding claims of lost or stolen CE documentation.

Commented [LB6]: It is a common practice for the Board to issue an administrative penalty in addition to a suspension, so Staff recommends changing the language to reflect this practice.

Commented [LB7]: Consistency between cells as suggest by Mr. Anastos

Violation of requirements regarding prototypical design	§1.105	Administrative penalty, reprimand, or suspension, <u>or both</u>
Failure to provide Statement of Jurisdiction	§1.106	Administrative penalty or reprimand
Failure to enter into a written agreement of association when required	§1.122	Administrative penalty or reprimand
Failure to exercise Supervision and Control over the preparation of a document as required	§1.122(c)	<u>Administrative penalty and either</u> S suspension, or revocation, or refusal to <u>renew registration</u>
Failure to exercise Responsible Charge over the preparation of a document as required	§1.122(e)	<u>Administrative penalty and either</u> S suspension or, revocation, or refusal <u>renew registration</u>
Failure of a firm, business entity, or association to register	§1.124(a) and (b)	Administrative penalty, cease and desist order, or both
Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture	§1.124(c)	Administrative penalty, reprimand, or suspension, <u>or both</u>
Offering or rendering the Practice of Architecture by and through a firm, business entity or association that is not duly registered	§1.124 §1.146(a)(2)(B)	Administrative penalty, cease and desist order, or both
Gross incompetency	<u>Tex. Occ. Code §1051.752(4)</u> , §1.142	<u>Administrative penalty and either</u> S suspension or, revocation, or refusal to <u>renew registration</u>
Recklessness	<u>Tex. Occ. Code §1051.752(5)</u> §1.143	<u>Administrative penalty and either</u> S suspension or, revocation, or refusal to <u>renew registration</u>
Dishonest practice	<u>Tex. Occ. Code §1051.752(6)</u> §1.144(a), (b), (e)	<u>Administrative penalty and either</u> S suspension or revocation, or refusal to <u>renew registration</u>
Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work	§1.144(b c)	<u>Administrative penalty and either</u> S suspension, or revocation, and payment of restitution

Commented [LB8]: According to subsection (l) below, where revocation is a recommended penalty, it also includes refusal to renew, so it is unnecessary to list both in the guidelines.

Conflict of interest	§1.145	Administrative penalty and either Suspension, or revocation, or refusal to renew registration
Participating in a plan, scheme or arrangement to violate the Act or rules of the Board	§1.146(a)	Administrative penalty, suspension, and/or revocation, or refusal to renew registration
Failure to provide information regarding an Applicant upon request; failure to report lost, stolen or misused architectural seal	§1.146(b), (c)	Administrative penalty or reprimand
Submission <u>or solicitation</u> of a competitive bid in violation of the Professional Services Procurement Act, <u>or direct or indirect disclosure of fee information</u>	§1.147	Administrative penalty and either S suspension, or revocation
Disclosure of fee information inconsistent with the Professional Services Procurement Act	§1.147	Administrative penalty or reprimand
Unauthorized practice or use of title "architect"	§1.123 §1.148	Administrative penalty, denial of registration, or refusal to renew, reinstate, or reactivate registration
Criminal conviction	§1.149	Suspension or revocation
Gross incompetence caused by substance abuse	§1.150	Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety, <u>followed by probated suspension if appropriate</u>
Violation by Applicant regarding unlawful use of the title "architect", unlawful practice, or criminal convictions	§1.148 §1.149 §1.151	Reprimand, a Administrative penalty, suspension, <u>revocation, denial of application, denial of reapplication for up to five years, and/ rejection, denial of right to reapply,</u> or probationary initial registration
Failure to submit a document as required by the Architectural Barriers Act	Tex. Occ. Code §1051.752(2), §1.170	Reprimand or a Administrative penalty
Failure to respond to a Board inquiry	§1.171	Administrative penalty
<u>Giving false or forged evidence to the Board or a Board member in obtaining or assisting another person to obtain a certificate of registration</u>	Tex. Occ. Code §1051.752(7)	<u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u>

Commented [LB9]: Relocated above.

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<u>Using or attempting to use as the person's own the certificate of registration of another person.</u>	<u>Tex. Occ. Code §1051.752(9)</u>	<u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u>
Unregistered individual engaging in construction observation for a nonexempt building	§1.217	Administrative penalty, reprimand, <u>denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u> denial registration or refusal to renew, reinstate, or reactivate registration
Failure to report course of action likely to have material adverse effect on safe use of building or failure to refuse to consent to the course of action	§1.216	Administrative penalty and either suspension, or revocation or refusal to renew registration
<u>Aiding or abetting an unregistered person in violating Occupations Code Chapters 1051, 1052, or 1053</u>	<u>Tex. Occ. Code §1051.752(9)</u>	<u>Administrative penalty equivalent to that which would be appropriate for the underlying conduct by the unregistered person, and/or suspension or revocation</u>

- 1
- 2 (k) The penalty for a violation of any of the statutory provisions or rules enforced by the Board may vary
3 from the penalty recommended in subsection (j) of this section if justified by the circumstances of the
4 matter or the disciplinary history of the respondent. If the Respondent has previously been subject to
5 disciplinary action before the Board, more severe discipline may be imposed.
- 6 (l) For any violation where revocation is recommended as an appropriate penalty for the violation,
7 refusing to renew the respondent's certificate of registration also shall be an appropriate penalty for the
8 violation.
- 9 (m) If the Board or the administrative law judge determines that an administrative penalty is the
10 appropriate sanction for a violation, the guidelines described in §1.177 of this chapter (relating to
11 Administrative Penalty Schedule) shall be applied to determine the amount of the administrative
12 penalty.

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1 CHAPTER 3 LANDSCAPE ARCHITECTS

2 SUBCHAPTER K HEARINGS--CONTESTED CASES

3 RULE §3.232 Board Responsibilities

4 (a) The Board shall investigate Contested Case matters and attempt to resolve Contested Cases
5 informally as provided in Subchapter I of this chapter (relating to Disciplinary Action). However, if a
6 Contested Case is not settled informally pursuant to Subchapter I of this chapter, it shall be referred to
7 SOAH for a formal hearing to determine whether there has been a violation of any of the statutory
8 provisions or rules enforced by the Board.

9 (b) A formal hearing shall be conducted in accordance with the Rules of Procedure of SOAH.

10 (c) After a formal hearing of a Contested Case, the SOAH administrative law judge who conducted the
11 formal hearing shall prepare a proposal for decision and submit it to the Board so that the Board may
12 render a final decision with regard to the Contested Case. The proposal for decision shall include
13 findings of fact and conclusions of law.

14 ~~(d) Any party of record in a Contested Case who is adversely affected by the proposal for decision may~~
15 ~~file exceptions and briefs within 20 days after the date of service of the proposal for decision. Replies to~~
16 ~~exceptions and briefs may be filed within 15 days after the date for the filing of exceptions and briefs.~~
17 ~~Exceptions, briefs, and replies shall be filed with the Board and copies shall be served on the~~
18 ~~administrative law judge and on all other parties in the same manner as for serving other documents in~~
19 ~~a Contested Case. If a party submits proposed findings of fact or conclusions of law, the proposal for~~
20 ~~decision shall include a ruling on each proposed finding or conclusion.~~

21 (e) Any party of record in a Contested Case may request an oral hearing before the Board. A request for
22 an oral hearing shall be filed with the Board and copies shall be served on the administrative law judge
23 and on all other parties in the same manner as for serving other documents in a Contested Case. The
24 Board, in its sole discretion, shall determine whether to grant or deny a request for an oral hearing. If a
25 request for an oral hearing is granted, each party of record shall be allotted 30 minutes to make an oral
26 presentation to the Board. The oral presentation shall be limited to matters contained in the
27 administrative record.

28 (f) Upon the expiration of the time provided for the filing of exceptions and briefs or, if exceptions and
29 briefs are filed, upon the 10th day following the time provided for the filing of replies to exceptions and
30 briefs, the Board may render a decision to finally resolve a Contested Case. The Board may change a
31 finding of fact or conclusion of law made by an administrative law judge or may vacate or modify an
32 order issued by an administrative law judge only if the Board determines:

33 (1) that the administrative law judge did not properly apply or interpret applicable law, agency rules,
34 written policies, or prior administrative decisions;

35 (2) that a prior administrative decision on which the administrative law judge relied is incorrect or
36 should be changed; or

37 (3) that a technical error in a finding of fact should be changed.

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- 1 (g) If the Board makes a change to a finding of fact or conclusion of law or vacates or modifies an order
 2 pursuant to subsection (f) of this section, the Board must state in writing the specific reason and the
 3 legal basis for the change.
- 4 (h) The Board shall issue a written order regarding the Board's decision to finally resolve a Contested
 5 Case that is not settled informally. The written order shall include findings of fact and conclusions of law
 6 that are based on the official record of the Contested Case. The written order may adopt by reference
 7 the findings of fact and conclusions of law made by an administrative law judge and included in the
 8 proposal for decision submitted to the Board.
- 9 (i) Motions for rehearing and appeals may be filed and judicial review of final decisions of the Board may
 10 be sought pursuant to the Administrative Procedure Act. The party who appeals a final decision in a
 11 Contested Case shall be responsible for the cost of the preparation of the original or a certified copy of
 12 the record of the agency proceeding that is required to be sent to the reviewing court.
- 13 (j) The Board and the administrative law judge who presides over the formal hearing in a Contested Case
 14 shall refer to the following guidelines to determine the appropriate penalty for a violation of any of the
 15 statutory provisions or rules enforced by the Board:

Figure: 22 TAC §3.232(j)

Violation	Rule(s) Cited	Recommended Penalty
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§3.62	Administrative penalty or reprimand
Unlawful practice of landscape architecture while registration is on emeritus status	§3.67(b)	Administrative penalty and cease and desist order
Practice of landscape architecture while registration is inactive or expired	§3.68	Administrative penalty
Failure to fulfill mandatory continuing education requirements	§3.69	Administrative penalty, or suspension, <u>or both</u>
Failure to timely complete required continuing education program hours	§3.69(b)	Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses
Falsely reporting compliance with mandatory continuing education requirements	§3.69(g)	Administrative penalty of \$700; subject to higher penalties or suspension for second or subsequent offenses

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<u>Failure to maintain a detailed record of continuing education activities</u>	<u>§3.69(g)(1)</u>	<u>Administrative penalty of \$700; subject to higher penalties for second or subsequent offenses</u>
<u>Failure to use appropriate seal or signature</u> <u>Use of non-compliant seal by registrant</u>	§3.102 §3.104(e)	Administrative penalty or reprimand
Failure to seal documents	§3.103 §3.105 §3.122(c), (e)	Administrative penalty or reprimand
Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required	§3.103(b)	Administrative penalty or reprimand
Sealing or authorizing the sealing of a document prepared by another without Supervision and Control or Responsible Charge – “plan stamping”	§3.104(a) and (b) §3.122(c) and (e)	Suspension <u>Administrative penalty and either suspension</u> or revocation
Failure to take reasonable steps to notify sealing Landscape Architect or of intent to modify that Landscape Architect’s sealed documents	§3.104(d)	Administrative penalty or reprimand
Failure to indicate modifications or additions to a document prepared by another Landscape Architect	§3. 104(e)	Administrative penalty, <u>suspension, or both</u> or reprimand
Removal of seal after issuance of documents	§3.104(e)	Administrative penalty or reprimand
Failure to maintain a document for 10 years as required	§3.103(g) §3.105(b) §3.122(d)	Administrative penalty or reprimand
Unauthorized use of a seal or a copy <u>or replica</u> of a seal or unauthorized modification of a document	§3.104 (b) and (c)	Administrative penalty, <u>reprimand or suspension, or both</u>
<u>Failure to comply with requirements relating to preparation of only a portion of a document</u>	<u>§3.104(b)</u>	<u>Administrative penalty, suspension, or both</u>

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Violation of requirements regarding prototypical design	§3.105	Administrative penalty, reprimand or suspension, <u>or both</u>
Failure to provide Statement of Jurisdiction	§3. 405 106	Administrative penalty or reprimand
Failure to report a course of action taken against the <u>landscape architect's</u> respondent's advice as required	§3.106(d)	Suspension <u>Administrative penalty and either suspension or,</u> revocation or refusal to <u>renew registration</u>
Failure to enter into a written agreement of association when required	§3.122	Administrative penalty or reprimand
Failure to exercise Supervision and Control over the preparation of a document as required	§3.122(c)	<u>Administrative penalty, and either</u> Suspension or, revocation, or refusal to <u>renew registration</u>
Failure to exercise Responsible Charge over the preparation of a document as required	§3.122(e)	<u>Administrative penalty and either</u> Suspension or, revocation, or refusal to <u>renew registration</u>
Failure of a firm, business entity, or association to register	§3.124(a) and (b)	Administrative penalty, cease and desist order, or both
Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide landscape architecture	§3.124(c)	Administrative penalty, reprimand, or <u>suspension</u> suspension, or both
Offering or rendering Landscape Architecture by and through a firm, business entity or association that is not duly registered	§3.124 §3.146(a)(2)(B)	Administrative penalty, cease and desist order, or both
Gross incompetency	<u>Tex. Occ. Code §1052.252(7)</u> §3.142	<u>Administrative penalty and either suspension or revocation</u> Suspension, revocation, or refusal to <u>renew registration</u>
Recklessness	<u>Tex. Occ. Code §1052.252(7)</u> §3.143	<u>Administrative penalty and either suspension or revocation</u> Suspension,

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		revocation, or refusal to renew registration
Dishonest practice	<u>Tex. Occ. Code §1052.252(9) §3.144(a), (b), (e)</u>	<u>Administrative penalty and either suspension or revocation</u> Suspension or revocation, or refusal to renew registration
Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work	§3.144(bc)	<u>Administrative penalty, suspension, and/or revocation</u> Suspension or revocation and payment of restitution
Conflict of interest	§3.145	<u>Administrative penalty and either suspension or revocation</u> Suspension, revocation, or refusal to renew registration
Participating in a plans, scheme or arrangement to violate the Act or the rules of the Board	§3.146(a)	<u>Administrative penalty, suspension and/or revocation</u> Administrative penalty, suspension, revocation, or refusal to renew registration
Failure to provide information regarding an Applicant upon request; failure to report lost, stolen or misused landscape architectural seal	§3.146(b), (c)	Administrative penalty or reprimand
Submission of a competitive bid in violation of the Professional Services Procurement Act	§3.147	Suspension or revocation
Disclosure of fee information inconsistent with the Professional Services Procurement Act	§3.147	Administrative penalty or reprimand
Disclosure of information with the intent to indirectly disclose fee information	§3.147	Suspension or revocation
Unauthorized practice or use of title "landscape architect"	§3.123 §3.148	<u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u> Administrative penalty, denial of

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		registration, or refusal to renew, reinstate, or reactivate registration
Criminal conviction	§3.149	Suspension or revocation
Gross incompetence caused by substance abuse	§ 4 3.150	Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety, followed by <u>probated suspension if appropriate</u>
Violation by Applicant regarding unlawful <u>use</u> of title “landscape architect”, unlawful practice, or criminal convictions	§3.148 §3.149 §3.151	Reprimand, administrative <u>Administrative</u> penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/rejection, denial of right to <u>reapply</u> , or probationary initial registration
Failure to submit a document as required by the Architectural Barriers Act	Tex. Occ. Code §1052.252(8) §3.170	A <u>Reprimand or</u> administrative penalty
Failure to respond to a Board inquiry	§3.171	Administrative penalty
<u>Using fraud or deceit in obtaining a certificate of registration, or giving false or forged evidence to the Board or a Board member in obtaining or assisting another person to obtain a certificate of registration</u>	Tex. Occ. Code §1052.252(2) or (3)	<u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u>
<u>Using or attempting to use as the person's own the certificate of registration of another person.</u>	Tex. Occ. Code §1052.252(4)	<u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u>
<u>Use of the term “engineer,” “professional engineer,” or related term or otherwise creating the impression that one is authorized to practice engineering unless the person is registered under Occupations Code Chapter 1001</u>	Tex. Occ. Code §1052.252(5)	<u>Administrative Penalty</u>
<u>Use of the term “surveyor” or related term or otherwise creating the impression that one is authorized to practice surveying unless the person</u>	Tex. Occ. Code §1052.252(6)	<u>Administrative Penalty</u>

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<u>is registered under Occupations Code Chapter 1071</u>		
<u>Aiding or abetting an unregistered person in violating Occupations Code Chapters 1051, 1052, or 1053</u>	<u>Tex. Occ. Code §1052.252(10)</u>	<u>Administrative penalty equivalent to that which would be appropriate for the underlying conduct by the unregistered person, and/or suspension or revocation</u>

- 1
- 2 (k) The penalty for a violation of any of the statutory provisions or rules enforced by the Board may vary
- 3 from the penalty recommended in subsection (j) of this section if justified by the circumstances of the
- 4 matter or the disciplinary history of the respondent. If the Respondent has previously been subject to
- 5 disciplinary action before the Board, more severe discipline may be imposed.
- 6 (l) For any violation where revocation is recommended as an appropriate penalty for the violation,
- 7 refusing to renew the respondent's certificate of registration also shall be an appropriate penalty for the
- 8 violation.
- 9 (m) If the Board or the administrative law judge determines that an administrative penalty is the
- 10 appropriate sanction for a violation, the guidelines described in §3.177 shall be applied to determine the
- 11 amount of the administrative penalty.
- 12

1 CHAPTER 5 REGISTERED INTERIOR DESIGNERS

2 SUBCHAPTER K HEARINGS--CONTESTED CASES

3 RULE §5.242 Board Responsibilities

4 (a) The Board shall investigate Contested Case matters and attempt to resolve Contested Cases
5 informally as provided in Subchapter I of this chapter (relating to Disciplinary Action). However, if a
6 Contested Case is not settled informally pursuant to Subchapter I of this chapter, it shall be referred to
7 SOAH for a formal hearing to determine whether there has been a violation of any of the statutory
8 provisions or rules enforced by the Board.

9 (b) A formal hearing shall be conducted in accordance with the Rules of Procedure of SOAH.

10 (c) After a formal hearing of a Contested Case, the SOAH administrative law judge who conducted the
11 formal hearing shall prepare a proposal for decision and submit it to the Board so that the Board may
12 render a final decision with regard to the Contested Case. The proposal for decision shall include
13 findings of fact and conclusions of law.

14 ~~(d) Any party of record in a Contested Case who is adversely affected by the proposal for decision may~~
15 ~~file exceptions and briefs within 20 days after the date of service of the proposal for decision. Replies to~~
16 ~~exceptions and briefs may be filed within 15 days after the date for the filing of exceptions and briefs.~~
17 ~~Exceptions, briefs, and replies shall be filed with the Board and copies shall be served on the~~
18 ~~administrative law judge and on all other parties in the same manner as for serving other documents in~~
19 ~~a Contested Case. If a party submits proposed findings of fact or conclusions of law, the proposal for~~
20 ~~decision shall include a ruling on each proposed finding or conclusion.~~

21 (e) Any party of record in a Contested Case may request an oral hearing before the Board. A request for
22 an oral hearing shall be filed with the Board and copies shall be served on the administrative law judge
23 and on all other parties in the same manner as for serving other documents in a Contested Case. The
24 Board, in its sole discretion, shall determine whether to grant or deny a request for an oral hearing. If a
25 request for an oral hearing is granted, each party of record shall be allotted 30 minutes to make an oral
26 presentation to the Board. The oral presentation shall be confined to matters contained within the
27 administrative record.

28 (f) Upon the expiration of the time provided for the filing of exceptions and briefs or, if exceptions and
29 briefs are filed, upon the 10th day following the time provided for the filing of replies to exceptions and
30 briefs, the Board may render a decision to finally resolve a Contested Case. The Board may change a
31 finding of fact or conclusion of law made by an administrative law judge or may vacate or modify an
32 order issued by an administrative law judge only if the Board determines:

33 (1) that the administrative law judge did not properly apply or interpret applicable law, agency rules,
34 written policies, or prior administrative decisions;

35 (2) that a prior administrative decision on which the administrative law judge relied is incorrect or
36 should be changed; or

37 (3) that a technical error in a finding of fact should be changed.

1 (g) If the Board makes a change to a finding of fact or conclusion of law or vacates or modifies an order
 2 pursuant to subsection (f) of this section, the Board must state in writing the specific reason and the
 3 legal basis for the change.

4 (h) The Board shall issue a written order regarding the Board's decision to finally resolve a Contested
 5 Case that is not settled informally. The written order shall include findings of fact and conclusions of law
 6 that are based on the official record of the Contested Case. The written order may adopt by reference
 7 the findings of fact and conclusions of law made by an administrative law judge and included in the
 8 proposal for decision submitted to the Board.

9 (i) Motions for rehearing and appeals may be filed and judicial review of final decisions of the Board may
 10 be sought pursuant to the Administrative Procedure Act. The party who appeals a final decision in a
 11 Contested Case shall be responsible for the cost of the preparation of the original or a certified copy of
 12 the record of the agency proceeding that is required to be sent to the reviewing court.

13 (j) The Board and the administrative law judge who presides over the formal hearing in a Contested Case
 14 shall refer to the following guidelines to determine the appropriate penalty for a violation of any of the
 15 statutory provisions or rules enforced by the Board:

Figure: 22 TAC §5.242(j)		
Violation	Rule(s) Cited	Recommended Penalty
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§5.72	Administrative penalty or reprimand
Using the title “Registered Interior Designer” while on emeritus status	§5.77(b)	Administrative penalty and cease and desist order
Practice of Interior Design while registration is inactive <u>or expired</u>	§5.78 <u>or</u> <u>§5.92(b)</u>	Administrative penalty and cease and desist order
Failure to fulfill mandatory continuing education requirements	§5.79	Administrative penalty or suspension
Failure to timely complete required continuing education program hours	§5.79(b)	Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses
Falsely reporting compliance with mandatory continuing education requirements	§5.79(g)	Administrative penalty of \$700; subject to higher penalties for second or

		subsequent offenses
<u>Failure to maintain a detailed record of continuing education activities</u>	<u>§5.79(g)(1)</u>	<u>Administrative penalty of \$700; subject to higher penalties for second or subsequent offenses</u>
Failure to use appropriate seal or signature <u>Use of non-compliant seal by registrant</u>	§5.112 §5.114(c)	Administrative penalty or <u>reprimand</u>
Failure to seal documents	§5.113 §5.132(c) and (e)	Administrative penalty or <u>reprimand</u>
Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required	§5.113(b)	Administrative penalty or <u>reprimand</u>
Sealing or authorizing the sealing of a document prepared by another without Supervision and Control or Responsible Charge – “plan stamping”	§5.114(a) and (b) §5.132(c) and (e)	<u>Administrative penalty and either § suspension or revocation</u>
Failure to take reasonable steps to notify sealing Registered Interior Designer of intent to modify sealed documents	§5.114(d)	Administrative penalty or <u>reprimand</u>
Failure to indicate modifications to or portion of document prepared by Registered Interior Designer	§5.114(b) and (d)	A <u>Suspension, administrative penalty, suspension, or both</u> or <u>reprimand</u>
Removal of seal after issuance of documents	§5.114(e)	Administrative penalty or <u>reprimand</u>
Failure to maintain a document for 10 years as required	§5.113(c) §5.132(d)	Administrative penalty or <u>reprimand</u>
Unauthorized use of a seal or a copy or replica of a seal or unauthorized modification of a document	§5.114(b) and (c)	Administrative penalty, reprimand, or <u>suspension, or both</u>
<u>Failure to comply with requirements relating to preparation of only a portion of a document</u>	<u>§5.115(b)</u>	<u>Administrative penalty, suspension, or both</u>

Failure to provide Statement of Jurisdiction	§5.115(a)	Administrative penalty or reprimand
Failure to report a course of action taken against the interior designer respondent 's advice as required	§5.115(d)	<u>Administrative penalty and either §</u> S <u>suspension, or</u> revocation, or refusal to renew registration
Failure to enter into a written agreement of association when required	§5.132	Administrative penalty or reprimand
Failure to exercise Supervision and Control over the preparation of a document as required	§5.132(c)	<u>Administrative penalty and either §</u> S <u>suspension or,</u> revocation, or refusal to renew registration
Failure to exercise Responsible Charge over the preparation of a document as required	§5.132(e)	<u>Administrative penalty and either §</u> S <u>suspension or,</u> revocation, or refusal to renew registration
Failure of a firm, business entity, or association to register	§5.134(a) and (b)	Administrative penalty or reprimand
Failure to timely notify the Board upon dissolution of a business entity or association or upon loss of the entity or association <u>lawful authority</u> to use the title "registered interior designer"	§5.134(c)	Administrative penalty, cease and desist order, or both
Representing an unregistered firm, business entity or association which is not registered as a Registered Interior Designer firm	§5.134	Administrative penalty, cease and desist order, or both
Gross incompetency	§5.152	<u>Administrative penalty and either §</u> S <u>suspension or,</u> revocation, or refusal to renew registration
Recklessness	§5.153	<u>Administrative penalty and either §</u> S <u>suspension or,</u> revocation, or refusal to renew registration
Dishonest practice	§5.154(a), (c)	<u>Administrative penalty and either §</u> S <u>suspension or,</u> revocation, or refusal to renew registration

Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work	§5.154(b)	<u>Administrative penalty and either § suspension or revocation and payment of restitution</u>
Conflict of interest	§5.155	<u>Administrative penalty and either § suspension or, revocation or refusal to renew registration</u>
Participating in a plan, scheme, or arrangement to violate the Act or rules of the Board	§5.156(a)	Administrative penalty, suspension, <u>and/or revocation, or refusal to renew registration</u>
Failure to provide information regarding an Applicant upon request; failure to report lost, stolen, or misused registered interior design seal	& §5.156(b), (c)	Administrative penalty or reprimand
Unauthorized practice or use of title "registered interior designer"	§5.133 §5.157	Administrative penalty, denial of registration, or refusal to renew, reinstate, or reactive registration
Criminal conviction	§5.158	Suspension or revocation
Gross incompetency caused by substance abuse	§5.159	Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety, <u>followed by probated suspension if appropriate</u>
Violation by Applicant regarding unlawful use of the title "registered interior designer," unlawful practice or criminal convictions	§5.157 §5.158 §5.160	A Reprimand, administrative penalty, suspension, <u>revocation, rejection denial of application, denial of reapplication for up to five years right to reapply, and/or</u> probationary initial registration
Failure to submit a document as required by the Architectural Barriers Act	<u>Tex. Occ. Code §1053.252(8)</u> §5.180	A Reprimand or administrative penalty
Failure to respond to a Board inquiry	§5.181	Administrative penalty

<u>Using fraud or deceit in obtaining a certificate of registration, or giving false or forged evidence to the Board or a Board member in obtaining or assisting another person to obtain a certificate of registration</u>	<u>Tex. Occ. Code §1053.252(3) or (9)</u>	<u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u>
<u>Practicing in a manner detrimental to the public health, safety, or welfare</u>	<u>Tex. Occ. Code §1053.252(5)</u>	<u>Administrative penalty, suspension, or revocation</u>
<u>Using or attempting to use as the person's own the certificate of registration of another person.</u>	<u>Tex. Occ. Code §1053.252(10)</u>	<u>Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration</u>
<u>Advertising in a manner that tends to deceive or defraud the public</u>	<u>Tex. Occ. Code §1053.252(6)</u>	<u>Administrative penalty, suspension, or revocation</u>
<u>Aiding or abetting an unregistered person in violating Occupations Code Chapters 1051, 1052, or 1053</u>	<u>Tex. Occ. Code §1053.252(7)</u>	<u>Administrative penalty equivalent to that which would be appropriate for the underlying conduct by the unregistered person, and/or suspension or revocation</u>

1

2 (k) The penalty for a violation of any of the statutory provisions or rules enforced by the Board may vary
3 from the penalty recommended in subsection (j) of this section if justified by the circumstances of the
4 matter or the disciplinary history of the respondent. If the Respondent has previously been subject to
5 disciplinary action before the Board, more severe discipline may be imposed

6 (l) For any violation where revocation is recommended as an appropriate penalty for the violation,
7 refusing to renew the respondent's certificate of registration also shall be an appropriate penalty for the
8 violation.

9 (m) If the Board or the administrative law judge determines that an administrative penalty is the
10 appropriate sanction for a violation, the guidelines described in §5.187 of this title (relating to
11 Administrative Penalty Schedule) shall be applied to determine the amount of the administrative
12 penalty.

Proposed Amendments to Rule 1.22
Relating to Eligibility for Architect Registration by Reciprocity

Background

Rule 1.22 identifies the eligibility requirements for architect registration by reciprocity. Currently, Rule 1.22 states that an applicant for registration by reciprocity may show eligibility by either becoming NCARB certified, or by demonstrating completion of the intern development program (IDP) and the architect registration exam (ARE). The rule does not address an educational requirement for registration by reciprocity, and it has been previous practice to grant reciprocity eligibility to applicants without NAAB-accredited architecture degrees. However, this practice is arguably contrary to the Board's enabling law (and subsection (a) of Rule 1.22), which limits the Board's authority to grant reciprocity eligibility to an applicant registered in another state "that has licensure or registration requirements *substantially equivalent*" to Texas requirements, which has been defined as a professional degree in architecture from a NAAB-accredited program.

The proposed amendments to Rule 1.22, which were approved for proposal at the February Board meeting, would require applicants for reciprocity registration to demonstrate completion of a professional degree in architecture from a NAAB-accredited program, in addition to completion of the IDP and the ARE, thereby ensuring consistency between the requirements for initial and reciprocity registration. The rule would preserve the alternate path to registration through NCARB certification.

Rule Proposal and Comments

The proposed amendments were published in the Texas Register on April 8, 2016 (41 TexReg 2572). The Board received five comments on the proposed amendments, all of which expressed opposition to the immediate implementation of the rule. The comments are attached herein. Three comments were received from 2010 graduates of UTSA with bachelor's degrees in architecture, who have pursued registration under more permissive requirements in Arizona with the goal of qualifying for reciprocity in Texas. Each of these applicants is in the process of completing the ARE, and propose that the Board consider a period of transition that would allow similarly situated registrants additional time to pass the ARE and qualify for reciprocity.

Matthew Dyer, a 2008 graduate of Texas A&M with a four-year degree in Environmental Design, also commented on the rule. Mr. Dyer completed IDP in 2012, and states that he contacted TBAE in September 2014 to confirm that he would be eligible for reciprocity if he pursued registration in Colorado with his four year degree. Mr. Dyer also requests a transition period during which applicants without NAAB degrees can qualify for registration prior to implementation of the rule. Please note that Mr. Dyer has already submitted an application, which will be considered under the rule already in effect.

Finally, Jonathan Chades also commented on the rule. Mr. Chades states that he has recently moved to Texas from Florida to expand his employer's architectural firm. Because he is a graduate of a non-accredited architectural program, Mr. Chades opposes the rule change.

The submitted comments describe the potential hardship for hopeful reciprocity candidates who have relied upon the existing rule to make important decisions relating to education, occupation, and residency. On the other hand, some of the comments illustrate how Texas-educated residents have pursued out-of-state licensure for the sole reason of gaining Texas registration, thereby frustrating the Board's previous determination that a NAAB-accredited degree is the expected standard. Though this would rightly be called a loophole or workaround, it is apparent that this is a path to registration that was previously offered by board staff and on which a large number of people are now currently relying, and a sudden change to the rule could cause hardship for such individuals.

In light of the comments, Staff has prepared an alternative version of the rule change for consideration by the Board. This alternative would result in a two-stage adoption of educational requirements for reciprocity. First, applicants who apply and qualify for reciprocity registration before December 31, 2020 would be required to have completed a pre-professional bachelor's degree in architecture by a U.S. regionally accredited institution. Any applicant who applies or becomes qualified for reciprocity registration after that date would be required to complete a NAAB-accredited degree, as described under the initial registration rule. Under this deadline, a sufficiently-motivated, Spring-2016 graduate of a four-year program would be able to complete the requirement of 96 months of combined education and experience for registration in Arizona, pass the ARE, and complete IDP in time to apply for reciprocity in Texas. It would not be easy, but it would be possible. Therefore, this time period should be sufficient to allow any hopeful applicant who has already acted in reliance of the current rule a reasonable opportunity to complete the process.

Staff Recommendation

Given the potential hardship to individuals who have relied upon the previous interpretation of the rule, Staff recommends that the Board include a transition period for applicants with four-year degrees in architecture in adopting changes to the reciprocity requirements. If this is acceptable to the Board, Staff recommends that the Board move to withdraw the previously proposed amendments to 22 Texas Admin. Code §1.22, and move to approve the alternative draft amendments to 22 Tex. Admin. Code §1.22 for publication 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.

2
3 RULE §1.22 Registration by Reciprocal Transfer

4 (a) A person may apply for architectural registration by reciprocal transfer if the person holds an
5 architectural registration that is active and in good standing in another jurisdiction and the other
6 jurisdiction:

7 (1) has licensing or registration requirements substantially equivalent to Texas registration
8 requirements; or

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

11 (b) In order to obtain architectural registration by reciprocal transfer, an Applicant must demonstrate
12 the following:

13 (1) the Applicant has:

14 (A) successfully completed a professional degree in architecture as described by §1.21(a)(1) of this
15 Subchapter;

16 ~~(A)(B)~~ successfully completed the Architect Registration Examination (ARE) or another architectural
17 registration examination which the National Council of Architectural Registration Boards (NCARB) has
18 approved as conforming to NCARB's examination standards; and

19 ~~(B)(C)~~ successfully completed the requirements of the Intern Development Program (IDP) or acquired
20 at least three years of acceptable architectural experience following registration in another jurisdiction;
21 or

22 (2) the Applicant has been given Council Certification by NCARB and such Council Certification is not
23 currently in an expired or revoked status.

24 (c) An Applicant who applies for architectural registration by reciprocity on or before December 31,
25 2020, and otherwise demonstrates satisfaction of all requirements for registration at that time, is not
26 required to complete a professional degree in architecture, as described by Rule §1.21(a)(1) of this
27 Subchapter, provided that the applicant has successfully completed a pre-professional bachelor's degree
28 in architecture by a U.S. regionally accredited institution. This subsection is repealed effective July 1,
29 2019.

30 ~~(c)~~ (d) An Applicant for architectural registration by reciprocal transfer must remit the required
31 registration fee to the Board within 60 days after the date of the tentative approval letter sent to the
32 Applicant by the Board.

2

3 RULE §1.22 Registration by Reciprocal Transfer

4 (a) A person may apply for architectural registration by reciprocal transfer if the person holds an
5 architectural registration that is active and in good standing in another jurisdiction and the other
6 jurisdiction:

7 (1) has licensing or registration requirements substantially equivalent to Texas registration
8 requirements; or

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

11 (b) In order to obtain architectural registration by reciprocal transfer, an Applicant must demonstrate
12 the following:

13 (1) the Applicant has:

14 (A) successfully completed a professional degree in architecture as described by §1.21(a)(1) of this
15 Subchapter;

16 (B) successfully completed the Architect Registration Examination (ARE) or another architectural
17 registration examination which the National Council of Architectural Registration Boards (NCARB) has
18 approved as conforming to NCARB's examination standards; and

19 (CB) successfully completed the requirements of the Intern Development Program (IDP) or acquired at
20 least three years of acceptable architectural experience following registration in another jurisdiction; or

21 (2) the Applicant has been given Council Certification by NCARB and such Council Certification is not
22 currently in an expired or revoked status.

23 (c) An Applicant for architectural registration by reciprocal transfer must remit the required registration
24 fee to the Board within 60 days after the date of the tentative approval letter sent to the Applicant by
25 the Board.

April 19, 2016

Julie Hildebrand
Executive Director
Texas Board of Architectural Examiners
333 Guadalupe Street, Ste. 2-350
Austin, TX 78701

Dear Ms. Hildebrand:

It has recently been brought to my attention that TBAE is considering making modifications to the rules and regulations affecting the reciprocity process; more specifically reciprocity from a state with different educational requirements.

I am currently employed by Nextgen Architects as a full-time employee. I have been working in the industry for over six years, have completed NCARB's Internship Development Program, have started the licensing testing process, and I am planning on completing within the current year.

I graduated 'cum laude' from the University of Texas at San Antonio with a Bachelor of Science in Architecture. In the spring of 2009, I was fortunate enough to attend a semester abroad in Barcelona, Spain which allowed me to not only broaden my knowledge of architecture but also gain an appreciation that will forever be engraved in my mind. I graduated in the spring of 2010, which to my disadvantage, the economy was not at its best. This is when I decided to venture to California where I was able to acquire a brief internship with a general contractor, Corporate Contractors. After realizing the shortage of jobs in my field, I decided to move back to San Antonio, Texas where I was blessed to find a full-time job at PBK Architects. Since then, I have been able to successfully advance within my field. I first started as an Architectural Intern at PBK, later becoming an Assistant Project Manager within the same firm. In 2013 I had the opportunity to join Nextgen Architects as a founding member and currently serve as the BIM Project Manager for the firm. In order to maintain my professional growth, I attained LEED AP BD+C accreditation and CSI Construction Document Technologist Accreditation. After 3 years in the field I realized that I needed to pursue my architectural licensure in order to continue to attain my personal and professional goals.

Due to personal obligations, my options were limited and decided that I needed to seek approval for ARE testing without leaving my full-time job. Through research on the NCARB website, I noticed that there were several states that allowed me to start taking the ARE exams based on my current work experience and accomplishments. Arizona was one of the nearest states with an option of reciprocity with the state of Texas but by no means was it an easy process. I was required to submit my completed degree, demonstrate a minimum of three years of architectural experience, two letters of recommendation, one experience reference from a direct supervisor, and a detailed summary of qualifying experience. I was approved and began the taking my ARE exams.

As I understand, the final vote on this particular issue is scheduled to take place on the May 26, 2016 board meeting. I am deeply concerned how this may affect my professional career as well as those who have opted for this path of reliance upon TBAE's practice of accepting these types of reciprocity applications. After committing time and money to this long process, the newly emerged changes will prove detrimental to my career as well as my personal life. It is my wish, that at the very least, TBAE would consider a transition period before the changes take place. I'm a vested Texan who has built a personal and professional career in this state. It would be a shame if the ability to practice architecture as a licensed architect was taken away from me.

If you have any additional questions about my current situation, please contact me at:

email: dparedes@nextgenarchitects.com

phone: 915.727.6802

Kind regards,



Diana E. Paredes, Assoc. AIA, CDT, LEED AP BD+C
BIM Project Manager
Nextgen Architects

cc:

Lance Brenton
David Lancaster, Hon AIA.



April 29, 2016

Via Electronic Mail

Texas Board of Architectural Examiners
333 Guadalupe St.
Austin, TX 78701

Dear TBAE,

I appreciate you taking the time from your busy schedule to read this letter. It has recently been brought to my attention that TBAE is planning to make some modifications to the rules and regulations affecting the reciprocity process; more specifically, reciprocity from a state with different educational requirements.

I am a first generation American and a life long Texan. I paid for my own education through scholarships and student loans. I am currently employed by Open Studio Architecture as a full time employee. I have been working in the industry for over six years, have completed NCARB's Internship Development Program, and have started the licensing testing process. To date, I have passed 5 ARE exams and will complete the last two within the present year.

I am a magna cum laude graduate of UTSA, Bachelor of Science Architecture. I was the recipient of the LIFE award for most outstanding undergraduate architecture student. In 2009, I was also fortunate enough to do a study abroad semester in Italy which allowed me to not only broaden my knowledge of architecture but also to return to Texas with a different and unique perspective. I graduated in the spring of 2010, which to my disadvantage the economy was at a low point, however, through persistence I was blessed to find a full time job at a firm. Since then, I have been able to successfully make strides within the architecture field. I first started as an architectural intern at a small private firm and now I am currently a Project Manager at Open Studio Architecture. In order to maintain the momentum in my professional growth I attained LEED AP BD+C accreditation. After 3 years in an architecture firm, I learned that I needed to seek licensure in order to progress competitively in the field I had found I truly loved.

My only option at the time was to seek approval for ARE testing without leaving my full time job because of many financial obligations. Through research on the NCARB website, I saw that there were a couple of states that allowed me to start taking ARE exams based on work experience and accomplishments. Arizona was the closest and the least expensive option, but by no means was it an easy process. I had to submit my completed degree, demonstrate three years of architectural experience, have three letters of recommendations completed by my supervisors, and submit a detailed summary of qualifying experience. I was approved and promptly started on my path to licensure.

As I understand, the final vote is scheduled to take place in May's board meeting. I am deeply concerned about how this is going to affect not only myself but many other soon to be licensed architects within Texas who have chosen to rely upon TBAE's practice of accepting these types of reciprocity applications. After all this time, personal sacrifice, and money invested in this long process, the newly emerged changes will prove detrimental to my

Open studio architecture
The Finesilver Building
816 Camaron St., Suite 230
San Antonio, Texas 78212
T. 210.417.4307

professional and personal life. With all this said, I hope at the very least a period of transition is allowed before the final changes take place. I truly hope to finish my ultimate goal which is to practice in this great state of Texas as a licensed architect.

Feel free to contact me if you have any additional questions about my current situation.

You can reach me at:

email: maritza.alvarado03@gmail.com

phone: [956.358.8600](tel:956.358.8600)

Sincerely,



Maritza Alvarado

CC:

julie.hildebrand@tbae.state.tx.us

lance.brenton@tbae.state.tx.us

Open studio architecture
The Finesilver Building
816 Camaron St., Suite 230
San Antonio, Texas 78212
T. 210.417.4307

April 20, 2016

Texas Board of Architectural Examiners
333 Guadalupe St.
Austin, TX 78701

Dear TBAE,

I appreciate you taking the time from your busy schedule to read this letter. It has recently been brought to my attention that TBAE is planning to make some modifications to the rules and regulations affecting the reciprocity process; more specifically reciprocity from a state with different educational requirements.

I am currently employed by Stantec as a full time employee. I have been working in the industry for over six years, have completed NCARB's Internship Development Program, and have started the licensing testing process. I have passed 3 exams and am planning on competing the last two within the present year.

I am a cum laude graduate of UTSA, Bachelor of Science Architecture. I was also fortunate enough to do a study abroad semester in Italy which allowed me to not only broaden my knowledge of architecture but also gain an appreciation that will forever be engraved in my mind. I graduated in the Spring of 2010, which to my disadvantage the economy was not at its best, however, I was blessed to find a full time job at a firm. Since then, I have been able to successfully move up within my field. I first started as an architectural intern at a small private firm and now I am currently a Project Designer/BIM Project Lead at Stantec. In order to maintain the momentum in my professional growth I attained LEED AP BD+C accreditation and after 3 years in the field realized I must seek licensure in order to keep reaching my career and personal goals.

My only option at the time was to seek approval for ARE testing without leaving my full time job because of financial obligations. Through research on the NCARB website, I saw that there were a couple of states that allowed me to start taking ARE exams based on work experience and accomplishments. Arizona was the closest and the least expensive option, but by no means was it an easy process. I had to submit my completed degree, demonstrate three years of architectural experience, have three letters of recommendations completed by my supervisors, and submit a detailed summary of qualifying experience. I was approved and promptly started on my licensure path.

As I understand, the final vote on this particular issue is scheduled to take place in May's board meeting. I am deeply concerned how this is going to affect not only myself but many other soon to be licensed architects within Texas who have chosen this set path, in reliance upon TBAE's practice of accepting these

types of reciprocity applications. After all this time and money invested in this long process, the newly emerged changes will prove detrimental to my career as well as my personal life. With all this said, I hope at the very least a transition period is allowed before the final changes take place. I truly hope to finish my ultimate goal which is to practice in this great state of Texas as a licensed architect.

Feel free to contact me if you have any additional questions about my current situation.

You can reach me at

Personal Email: megan.monedero@gmail.com

Cell Phone: 915.449.0755

Best,

Megan Monedero

Designer
Stantec
20 East Greenway Plaza Suite 200 Houston TX 77046-2012





Stantec Architecture Inc.
200 E. Greenway Plaza, Suite 200, Houston TX 77046-2012

RECEIVED

2016 APR 28 AM 9:30

TEXAS BOARD OF
ARCHITECTURAL EXAMINERS

To: Julie Hildebrand
Executive Director
Texas Board of Architectural Examiners
333 Guadalupe, Suite 2-350
Austin, TX 78701

Re: Reciprocity Application and Implementation of New Rule

Dear Ms. Hildebrand,

I am a licensed Architect whose application for reciprocity whose reciprocity application is pending but has not been approved based on the recent rule change proposed to the Board for approval. I would like to take this opportunity to present my case to the Board. My sincere hope is that the Board will consider an alternative implementation strategy and timeline for this very impactful rule change.

I graduated from Texas A&M University in 2008 with a four-year Bachelors of Environmental Design, which is a non-NAAB accredited degree program. Additionally, I completed a Minor in Business, and graduated Summa Cum Laude. Following graduation in 2008, I began my professional career with SHW Group (now Stantec Architecture), where I am currently still employed. Over the past eight years I have gained experience in project design, documentation and management on a wide range of project types and sizes, from small additions to multi-building campuses. I completed the IDP process in 2012, and in 2014 I began exploring my options towards professional licensure. In September of 2014, I read the requirements for Reciprocal Registration on both NCARB's "Registration Board Requirements" webpage and the TBAE's "Architectural Registration by Reciprocal Transfer" webpage. Both of these websites indicated that applicants holding a valid Architectural license from another state could submit the required Certificate of Standing, application and fees, Proof of Legal Status, transcript and fingerprint documentation to the Board as a means of receiving reciprocal registration in Texas. To confirm this information, on September 29th, 2014, I called the TBAE's direct line (512-305-9000) and was directed to a Registration Coordinator, who verbally confirmed that an applicant with my specific pre-professional degree who completed the A.R.E. and held an Architectural license from another state could apply for and receive reciprocal registration in Texas.

Had this option not been available to me, I might have chosen an alternate path towards licensure, such as a 2 or 3 year NAAB-accredited graduate degree. If I had pursued this option, I might have completed the professional degree education requirement and become registered directly in Texas. However, since the reciprocal licensure path was available and directly validated by the TBAE, I elected to pursue this option and began the next steps in the reciprocity process. I



April 22, 2016

Page 2 of 3

applied for and took the A.R.E. through the State of Colorado, completing my final exam in October of 2015. With my exams completed, I applied for and received my Architectural license in Colorado (ARC 00404138) on November 6, 2015. At this time, I confirmed the “Architectural Registration by Reciprocal Transfer” requirements on TBAE’s website and began the application process. Throughout this application process I was in contact with Steve Ramirez, who confirmed receipt of each of the required application submissions. On February 17, 2016 I received an email from Steve that explained that the Board would be meeting on February 25, 2016 to review the approval of reciprocal applicants, and that “no approvals will be granted without a professional architectural degree until [the agency is] given direction on the matter from our board members.” I received a follow-up call from Steve on February 26th, 2016 after the Board meeting, confirming that the amendment proposal had been approved, and that my application for reciprocity would not be approved.

I want to encourage the Board to consider a more reasonable implementation method and timeline for the proposed rule change, as the implications of such a change impact my professional career in an immediate and drastic way. One example of how other organizations have handled similar transitions can be seen with NCARB. When NCARB enacts changes to the IDP program, the A.R.E., or other broad-reaching milestones in the path towards licensure, it gives its members months of advance notice with regular email communication advising of the pending change, the period of overlap between the old and new procedures, and the date that the old procedures will expire. The phasing in of IDP 2.0 and graduated conversion from the A.R.E. 4.0 to 5.0 are both instances of major changes accompanied by effective communication and implementation timelines. In my situation, Mr. Ramirez’ email on February 17th, 2016 informed me that my application for reciprocity would not be approved even though the Board had not yet met to discuss the proposed rule change is an example of an implementation timeline. To me, this sudden, unforeseen denial of my completed (and paid for) application for reciprocity does not align with TBAE’s usually progressive communication strategy, or with the implementation procedures of other national organizations. At the time I submitted my application for reciprocity (including all forms, fees, fingerprinting and other documentation), I met the requirements as published on both NCARB’s and TBAE’s websites. With my application all-but-approved, this abrupt rejection seems unreasonable.

Given my reliance on the TBAE’s published rules at the onset of my path towards reciprocity, the subsequent verbal confirmation by a TBAE Registration Coordinator, the completion of all IDP, A.R.E. and professional licensure requirements, and my completed application for reciprocity with the TBAE, I want to respectfully request that the Board review my case and approve my application. Please do not hesitate to contact me if any clarification or additional information is needed.



April 22, 2016
Page 3 of 3

Sincerely yours,

Matthew Dyer
Project Architect
Stantec Architecture
200 E. Greenway Plaza, Suite 200
Houston, TX 77046-2012

Lance Brenton

From: Mike Alvarado
Sent: Monday, May 02, 2016 8:23 AM
To: Lance Brenton
Cc: Julie Hildebrand
Subject: FW: Hearing in May-Requirements for Reciprocal Registration

Follow Up Flag: Follow up
Flag Status: Flagged

From: Steve M. Ramirez
Sent: Monday, May 02, 2016 8:16 AM
To: Mike Alvarado <mike.alvarado@tbae.state.tx.us>
Subject: FW: Hearing in May-Requirements for Reciprocal Registration

From: Jonathan Chades [<mailto:jnchades@me.com>]
Sent: Saturday, April 30, 2016 10:59 PM
To: Steve M. Ramirez <steve.ramirez@tbae.state.tx.us>
Subject: Hearing in May-Requirements for Reciprocal Registration

Dear Texas Board of Architects & Engineers,

I am writing to you in regards to the recent motion to deny a candidate (architect) from applying for reciprocal registration if that candidate does not hold a NAAB accredited degree. I am concerned because this decision affects me personally as well as many others that may be in the same position.

Unfortunately the architectural degree that I currently hold is not a NAAB accredited degree. Due to personal circumstances I cannot pursue to further my education to achieve such an accredited degree in order to satisfy this proposed requirement. Within the last year I became a registered architect and therefore cannot apply for an NCARB certificate through the BEA program for some time - even though I have close to 10 years of professional experience in the field prior to obtaining licensure. I ask that you please take this into consideration for those candidates such as myself who do not hold the educational standards but instead have supplemental real world experience to qualify for registration.

Because the current requirements of the TBAE allows architects without an accredited degree the ability to apply for reciprocal registration through endorsement, I have been granted the opportunity to pursue expanding my firm's practice to Texas with plans for immediate developments throughout the state in both private and public sectors. As a result my family and I have journeyed to Texas with plans to further my career as a registered architect in your great state. It would be very unfortunate if this proposed motion passes as it will close the only path available to me for reciprocal registration; thus impacting not only my career but my family's way of life and reason for relocating to begin with.

I hope that you consider the effects of this decision and pray for a ruling in favor of keeping the current requirements which do not depend upon an accredited degree. I look forward to processing my application for

reciprocal registration in the near future through the Texas Board of Architects & Engineers. Thank you for your time and attention.

Best Regards,
Jonathan N. Chades

Summary of NCARB Resolutions 2016

1. *Mutual Recognition Arrangement with Australia and New Zealand*

NCARB, and specifically Texas, currently have Mutual Recognition Arrangements with Canada and Mexico. Under these arrangements, a foreign architect is allowed to pursue reciprocal licensure in Texas. This new resolution would allow the same for architects in Australia and New Zealand. The terms of this Arrangement follow along the lines of our current arrangement with Canada and Mexico and are strongly founded on accredited education, structured experience, and comprehensive examination. The Arrangement will also provide for an alternative path to licensure for those without accredited education. Those alternatives are appropriately rigorous and include extended periods of experience prior to licensure. Texas will also need to decide whether to enter into the new arrangement. No rule changes will be required.

2. *Revision of the Alternatives to the Education and Experience Requirements for Certification*

Currently, an individual may obtain an NCARB Certificate, and therefore reciprocal licensure in Texas, as a Broadly Experienced Architect. This new resolution proposes changes to the qualifications and procedures to obtain certification for a Broadly Experienced Architect. Below is a comparison chart of the current guidelines and the proposed new guidelines. One goal of the resolution is to reduce the cost to obtain certification by removing the costs of peer review. No rule changes will be required.

Current	Proposed
Good Moral Character	Same
Education – one of the following:	
<ul style="list-style-type: none"> • NAAB/CACB accredited professional degree 	Same
	4-year bachelor degree in an architecture-related program, IDP X 2, and 3 years continuous licensure with no discipline
<ul style="list-style-type: none"> • 4-year bachelor degree in an architecture-related program, EESA evaluation report stating that you have satisfied the education requirements through either education or experience, and six years' experience 	4-year bachelor degree in an architecture-related program, EESA evaluation report stating that you have satisfied the education requirements through either education or experience, and 3 years continuous licensure with no discipline
<ul style="list-style-type: none"> • Non-architect degree, EESA evaluation report stating that you have satisfied the education requirements through either education or experience, and eight years' experience 	Non-architect degree, EESA evaluation report stating that you have satisfied the education requirements through either education or experience, and 3 years continuous licensure with no discipline
<ul style="list-style-type: none"> • No post-secondary degree, EESA evaluation report stating that you have satisfied the education requirements through either education or experience, and ten years' experience 	No post-secondary degree, EESA evaluation report stating that you have satisfied the education requirements through either education or experience, and 3 years continuous licensure with no discipline

Experience – IDP	Same
Examination – ARE	Same
State Licensure	Same

3. Exam Equivalency for ARE 5.0

This resolution provides for the exam equivalents table, which is used as a reference document by NCARB staff to assess the examination history of licensed individuals seeking the NCARB Certificate who have taken a version of the ARE that is older than the current version being administered. The exam equivalents chart is NOT a table to be used to calculate current examination eligibilities for ARE candidates seeking initial licensure. No rule changes will be required.

4. Five-Year Rolling Clock and Rolling Clock Extension Policy Updates

This resolution retains the five-year rolling clock and rolling clock extension policies, but clarifies certain portions of the policy. No rule changes will be required.

5. Access to the ARE for Students Enrolled in an Integrated Path to Architectural Licensure Option

This resolution would amend the Legislative Guidelines and Model Law to allow students enrolled in an NCARB accepted Integrated Path to Architectural Licensure option within a NAAB-accredited program access to the Architect Registration Examination while they are enrolled in the program. This would require a law change for us to adopt the model language.

6. Addition of Architect Emeritus Status to Legislative Guidelines and Model Law

This resolution will the architect emeritus status to the Legislative Guidelines and Model Law. We and 40 other states already have this status in our law and rules. No rule changes will be required.

7. Addition of Reference to Military-Trained Applicants to Legislative Guidelines and Model Law

This resolution will modify the Legislative Guidelines and Model Law to incorporate registration requirements for military personnel. Due to legislative mandates in the 84th Legislative Session, we have already updated our rules. No additional rule changes will be required.

8. Updating the Name of the Intern Development Program

The Future Title Task Force recommended that the titles “architect” and “emeritus architect” should be the only regulated titles used by registrants and that the title “intern” should not be regulated or used in NCARB’s nomenclature. In support of this recommendation, this resolution would rename the Intern Development Program to the Architectural Experience Program and would update all references to program name in NCARB documents. All references to the new name would also list the former name. Rule changes will be required to update the name, but will not need to be done to continue our use of the program.

9. *Updating Name of Internship Committee*

This resolution also supports the recommendation of the Future Title Task Force and will rename the Internship Committee to the Experience Committee. No rule changes will be required.

10. *Changes to Program Requirements for the Intern Development Program*

This resolution was submitted by Region 6, and is not supported by the Board of Directors. This resolution would change the manner of approval and implementation of changes to the Intern Development Program and corresponding changes to the Certification Guidelines. Currently the Board of Directors may approve changes to the IDP and Certification Guidelines. This resolution would require that programmatic changes be approved by a majority vote of the Member Boards and that administrative changes be approved by the Board of Directors. No rule changes will be required.

Discussion of Current Exam Requirements for Interior Design Registration

Current Rule/Background

Recently, Donna Vining requested that the Board revisit the provision in Rules 5.31 and 5.51 that allows applicants to qualify for interior design registration based upon passage of the ARE. The provision was originally included in the rules at the time of the 2013 legislation that will eventually eliminate examination grandfathering for registered interior design candidates. The Act, as amended in 2013, states the following: “a person who holds a certificate of registration issued under Chapter 1053 without examination may not renew the certificate on or after September 1, 2017, unless, before September 1, 2017, the person has passed the registration examination adopted by the board under Section 1053.154 *and in effect on January 1, 2014.*”

This is different from the version that was first considered, which stated that the person would be required to pass the examination adopted by the Board in effect on *September 1, 2013*. Under the rules in effect at that time, this would have been limited to the NCIDQ. There is no disagreement that, by changing the date to January 1, 2014, the legislature intended for the Board to engage in rulemaking to allow architects to retain RID registration without having to take the NCIDQ. The question is whether the legislature intended for the ARE to be an acceptable test only for already registered architect/RIDs, or whether it would be a permanently acceptable examination for RID registration.

The bill was sent to the governor on May 20, and signed on June 14. Draft amendments were considered by the Board on June 14. Subsequently, the proposed rule was considered for adoption at the August Board meeting. According to comment provided by Ms. Vining at this meeting, the legislature’s decision to move the deadline from September to December was meant only to allow pre-existing RIDs to retain licensure based upon passing the ARE, and that the legislators did not intend for the ARE to become a permanently acceptable examination for RID registration. Some Board members at that time stated their intention to change the rule so that it would be in effect for the January 1, 2014 deadline, but then revisit the rule at a later date to determine whether it should be a permanent change. Ms. Vining has now requested for the Board to revisit the rule to eliminate the ARE as an acceptable examination for prospective registration as an interior designer.

If the Board is so inclined, it would be legally acceptable for the Board to amend the rule as discussed by Ms. Vining. The Board has the authority to adopt the testing standard under 1053.154, which states that the Board must adopt an exam and that the exam may be that “of the National Council for Interior Design Qualification or a comparable examination.” Such a change would not affect the continued RID registration for architects who have already been registered based on passage of the ARE, because the date in question for this purpose is what was in effect on January 1, 2014. Since the ARE was an acceptable test for registration on that date, such registrants would retain registration for as long as they renew.

Attachments

To aid in your consideration of this matter, Staff has included documentation for your review, including the August 2013 Board meeting minutes, comments that were submitted at the time the rule change was proposed, a roster of RIDs who have been registered through the ARE since the adoption of this rule, and descriptions of the testing subjects for the NCIDQ examination and the ARE.

Additionally, copies of Rules 5.31 and 5.51 have been included for your reference. The documents have been highlighted with language that would be deleted if the Committee determines that the ARE should be eliminated as a qualifying examination for interior design registration.

1 RULE §5.31 Registration by Examination

2 (a) In order to obtain Interior Design registration by examination in Texas, an Applicant shall
3 demonstrate that the Applicant has a combined total of at least six years of approved Interior Design
4 education and experience and shall successfully complete the Interior Design registration examination
5 or a predecessor or other examination deemed equivalent by NCIDQ as more fully described in
6 Subchapter C of this chapter. **Alternatively, an Applicant may obtain Interior Design registration by
7 examination by successfully completing the Architectural Registration Examination or another
8 examination deemed equivalent by NCARB after fulfilling the prerequisites of §1.21 and §1.41 of this
9 title relating to Board approval to take the Architectural Registration Examination for architectural
10 registration by examination.** For purposes of this section, an Applicant has "approved Interior Design
11 education" if:

12 (1) The Applicant graduated from:

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

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

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

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

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

23 (3) The Applicant has:

24 (A) A baccalaureate degree in a field other than Interior Design; and

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

27 (4) The Applicant has:

28 (A) A baccalaureate degree in a field other than Interior Design; and

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

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

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

1 (d) For purposes of this section, the term "approved Interior Design education" does not include
2 continuing education courses.

3 (e) An Applicant for Interior Design registration by examination who enrolls in an Interior Design
4 educational program after September 1, 2006, must graduate from a program described in subsection
5 (a)(1) of this section.

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

1 RULE §5.51 Requirements

2 (a) An Applicant for Interior Design registration by examination in Texas must successfully complete all
3 sections of the National Council for Interior Design Qualification (NCIDQ) examination or a predecessor
4 or other examination NCIDQ deems equivalent to the NCIDQ examination. In lieu of successfully
5 completing the NCIDQ examination, an applicant may successfully complete all sections of the
6 Architectural Registration Examination (ARE), or another examination NCARB deems equivalent to the
7 ARE, after fulfilling the requirements of §1.21 and §1.41 of this title relating to Board approval to take
8 the ARE for architectural registration by examination.

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

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

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

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

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

22 (2) The Board, on behalf of a Candidate, may request a refund of a portion of the examination fee paid
23 to the national examination provider for scheduling all or a portion of the registration examination. A
24 charge for refund processing may be withheld by the national examination provider. Refunds of
25 examination fees are subject to the following conditions:

26 (A) A Candidate, because of extreme hardship, must have been precluded from scheduling or taking
27 the examination or a portion of the examination. For purposes of this subsection, extreme hardship is
28 defined as a serious illness or accident of the Candidate or a member of the Candidate's immediate
29 family or the death of an immediate family member. Immediate family members include the spouse,
30 child(ren), parent(s), and sibling(s) of the Candidate. Any other extreme hardship may be considered on
31 a case-by-case basis.

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

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

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

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

- 1 (C) Approval of the request and refund of the fee or portion of the fee by the national examination
- 2 provider.
- 3 (3) An examination fee may not be transferred to a subsequent examination.

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Minutes of August 22, 2013 Board Meeting

William P. Hobby Jr. Building, 333 Guadalupe Street

Tower III, Conference Room 225

Austin, TX 78701

9:00 a.m. until completion of business

1. Preliminary Matters

A. Call to Order

Chair called the meeting of the Texas Board of Architectural Examiners to order at 9:03 a.m.

B. Roll Call

Secretary/Treasurer Sonya Odell called the roll.

Present

Alfred Vidaurri	Chair
Chase Bearden	Vice-Chair
Sonya Odell	Secretary/Treasurer
Charles H. (Chuck) Anastos	Member
Bert Mijares, Jr.	Member
Michael (Chad) Davis	Member
William (Davey) Edwards	Member

TBAE Staff Present

Cathy L. Hendricks	Executive Director
Scott Gibson	General Counsel
Glenda Best	Executive Administration Manager
Glenn Garry	Communications Manager
Mary Helmcamp	Registration Manager
Jackie Blackmore	Registration Coordinator
Christine Brister	Staff Services Officer
Ken Liles	Finance Manager
Julio Martinez	Network Specialist
Jack Stamps	Managing Investigator (in @ 10:30)
Katherine Crain	Legal Assistant

C. Excused absences

Debra Dockery (Excused) and Paula Ann Miller (Excused)

D. Determination of a quorum

A quorum was present.

E. Recognition of Guests

The Chair recognized the following guests: Donna Vining, Executive Director for Texas Association for Interior Design, David Lancaster, Senior Advocate for Texas Society of Architects, James Perry, Texas Society of Architects, Nancy Fuller, Office of the Attorney General and Kelly Barnett.

F. Chair's Opening Remarks

The Presiding Chair thanked everyone including the Board and staff for joining the meeting. He explained that he had been in leadership training and had read books by Jim Collins entitled *Good and Great* and *Great by Choice*. The concept in the second book is about leadership that goes above and beyond by at least ten times the industry average based on performance. He stated that these leaders are not the most creative, ambitious or charismatic. Their leadership was based upon one principle: control vs. no-control. They have a basic understanding on difference between things they can control and things they cannot control. They focus their energy on the things they can control and do not allow their decisions to be dictated by things outside of their control. The Chair noted that consistency of action, values, goals and performance defines leadership. He noted that the Board has tough, great work ahead of it and the members of the Board have it within their control to choose how to lead.

G. Public Comments

The Chair opened the floor for public comment and recognized Donna Vining, Kelly Barnett and David Lancaster.

Donna Vining, Executive Director for Texas Association for Interior Design, began her public comment by complimenting TBAE Executive Director and agency staff for coming to their aid during the legislative session by responding promptly to the association's public information requests. Ms. Vining addressed proposed amendments to Rules 5.31 and 5.51 which were on the agenda for the meeting. Ms. Vining stated it was her understanding that amendments to the agency Sunset bill was to accomplish two things – allow grandfathered registered interior designers one additional year to pass the registration examination in order to remain registered after 2017 and allow the ARE to substitute for the NCIDQ examination only for architects who are currently grandfathered registered interior designers and not to allow subsequent applicants to use the ARE in order to become registered interior designers.

Kelly Barnett, interior designer, read a statement to the Board. She noted it is TBAE's responsibility to the public to protect the health, safety and welfare. She stated the public assumes all registered interior designers listed on the agency Web site have passed the NCIDQ examination and have met current educational requirements. She stated the Web site must be changed immediately to specify which registered interior designers became registered through a grandfather provision. Furthermore, she read excerpts of a deposition of the Executive Director in a lawsuit filed against the agency by the Institute for Justice in which it was stated the agency had the ability to specify which registered interior designers became registered through a grandfather provision.

David Lancaster of Texas Society of Architects thanked the Board for the opportunity to make a public comment. He stated that he wanted to offer a reaction to Ms. Vining's comments. Entering into the Sunset process, TSA's understanding was that the Sunset Commission understood that passage of the ARE was at least equivalent to passage of the NCIDQ. Mr. Lancaster stated it was believed the original Sunset bill took this equivalency into account and excluded dual licensed architects/interior designers from the requirement that registered interior designers who had not passed the NCIDQ examination must do so in order to remain registered after 2017. However, TSA learned that the Sunset bill as originally written did not take into account the fact that architects who are also registered interior designers had passed the ARE. He said TSA raised the issue with the bill's sponsors in the Senate and House, informing them the language imposed a redundant and unnecessary examination requirement upon dual licensees who had already passed an architectural examination which is at least as rigorous as the NCIDQ. Mr. Lancaster stated TSA's representatives informed the legislators that the cleanest solution would be to allow registration beyond 2017 for registered interior designers who had passed either the ARE or the NCIDQ. According to Mr. Lancaster, TSA pointed out to the bill sponsors that this solution would be preferable in that it would have the most limited impact on interior design registration requirements. Only those architects who are currently registered as interior designers would be able to rely upon passage of the ARE to maintain interior design registration. He stated that TSA also told the sponsors an alternative would be to amend the bill to require passage of the examination specified by Board rule for interior design registration in effect on January 1, 2014 instead of September 1, 2013, as in the original bill. The amendment would give TBAE time to amend its rule to allow the ARE to count for interior design registration. Mr. Lancaster reported it was made clear to the bill sponsors that this change would allow all architects to become registered as registered interior designers upon passage of the ARE and its effect would not be limited to dual licensees as with the first option. Mr. Lancaster said the bill sponsors opted for the second version so that the Board would make the decision on whether to allow the ARE to count for interior design registration. Mr. Lancaster noted Ms. Vining's comments were to the effect that legislative intent was to limit the effect of the provision to architects who are grandfathered interior designers. He observed this is not the case.

The Chair introduced the two new board members, Chad Davis and Davey Edwards, and gave them their official TBAE pins.

2. **Approval of the June 14, 2013, Board Meeting Minutes**

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE THE JUNE 14, 2013, BOARD MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY.

3. **Executive Director Report – Presentation of Budget**

A. **Presentation of FY2013 end-of-year expenditures/revenue**

The Executive Director outlined a document before the Board which listed by budget item the actual revenues and expenditures at the end of Fiscal Year 2013 and a comparison to the budgeted revenues and expenditures set at the start of the year. She noted that revenue from interest is down by 40% as interest rates have been kept low. Revenue under the category of “other” is primarily cost recovery from public information requests and is at 60% of projections in the budget. She noted the total amount of revenue is very close to the budgeted projection at 94% of the budgeted amount. The Executive Director also pointed out that the budget item “actual expenditures” is very close to the budgeted amount. The major variations were for staff training for which the agency spent only \$10,000 or 43% of the budgeted amount.

The Executive Director noted the Board added four items at a cost of \$100,000 to the staff-recommended base budget at the start of Fiscal Year 2013. She reported the agency did not spend most of that money due to Sunset recommendations which would have had a significant impact on agency revenue. The agency postponed those expenditures until the impact of the legislative session became clear. As a result, the agency did not hire an Information Resource Manager and deferred expenditures for staff training and staff travel. The agency did expend \$45,000 in IT upgrades – one of the additional items. Expenditures for the items “salaries and wages” and “payroll related costs” were lower than budgeted because three employees retired and one left to work at another agency and those positions were not filled. The agency employed one part-time employee to cover some of the duties of one of those positions and reallocated the remainder of the workload to other staff.

Mr. Edwards inquired about the revenue item titled “Draw on Fund Balance” of approximately \$166,635 which was apparently not spent and does not appear in the proposed budget for Fiscal Year 2014. The Chair observed that it was a good question and suggested the item appear in the budget to illustrate the manner in which the agency will draw upon reserves to cover the cost of specific items added to the budget last year. The Finance Manager stated that is correct. The Finance Manager stated the Board had adopted a policy to maintain balanced budgets which requires expenditures not to be budgeted to exceed revenues. When an additional item is added to the balance budget, the agency will show a draw on fund balance to cover that cost and keep the budget balanced. As

the agency moved through the fiscal year, it was able to cover the additional expenditures (which were not postponed) through revenue the agency was collecting. Therefore, there was no draw on the fund balance and no amount appears for that revenue item in the column for actual and projected expenditures for the year.

Mr. Anastos inquired about the staff vacancies. The Executive Director stated they will remain vacant for the time being.

The Executive Director outlined a document before the Board regarding the budgeted and actual expenditures from the Architectural Registration Examination Financial Assistance Fund ("AREFAF"). She reported the current balance as \$140,000. The agency awarded roughly 50 scholarships from the fund during the fiscal year which is about normal.

Mr. Bearden asked the Executive Director to explain the origins and purpose for the fund. The Executive Director stated in the 1990's Representative Ferrar became concerned about the cost of the Architectural Registration Examination. Representative Ferrar sponsored legislation to create a fund to help pay the costs of the examination. Initially the law imposed a surcharge of \$10 upon the renewal of each architect's certificate of registration. The revenue stream created a large balance in the fund which began to accrue \$40,000 in interest each year. The law was amended to allow the agency leeway to impose a surcharge of less than \$10 and the charge was reduced and eventually eliminated roughly 10 years ago. The Executive Director reported awards have been charged against the balance, without replenishing the revenue, and income from revenue has dropped significantly. According to the Executive Director, the fund will be depleted in roughly 5 years.

Mr. Anastos asked if the agency could charge firms for value-added services on the agency's newsletter to restore the fund's balance. The Executive Director asked the Board if the scholarship fund may appear on the agenda for the October Board meeting. She indicated she would provide more information in greater detail and suggested Representative Ferrar should be consulted and the Board should receive input from the profession regarding funding of the scholarship program. She also asked Board members to share any ideas with her. The Executive Director also suggested that the Board consider amending the rules which implement the scholarship program to bar a candidate from receiving reimbursement until after successfully completing all parts of the examination. She noted a candidate might pass part of the examination but fail to complete all parts within 5 years as required under the "rolling clock" rule. She suggested candidates who never become licensed should not receive an award from the program.

Mr. Edwards asked if the Texas Society of Architects have a similar scholarship. Mr. Lancaster answered the Society has a comparable program for architectural students but not candidates for registration. He also stated many architectural firms have reimbursement programs for candidates working at the firm and noted that the statute was worded to avoid paying a scholarship to a person who has other means to cover the cost of the scholarship.

The Chair laid out the proposed budget for Fiscal Year 2014 before the Board. The Chair reported that the Executive Committee voted to recommend the proposed budget to the Board. The Executive Committee's recommendation is based upon projected losses in revenue due to a 25% projected reduction in the 1,811 registered interior designers who are subject to the examination requirement in the Sunset bill. The Executive Director stated the Committee considered five separate attrition scenarios and decided to project a reduction of 25% with a projected reduction in revenue of \$41,144. She noted the recommended budget includes lower travel expenses and includes \$41,000 for the purchase of servers. The Executive Director referenced a document before the Board which lists projected losses of \$75,000 in administrative penalties, \$140,000 in late penalties and the projected loss in projected attrition in registered interior designers, resulting from recent legislative changes. The Executive Director stated the Committee's recommended budget includes projected cost savings of \$110,000 in credit card fees by outsourcing online payment processing and projected additional revenue of \$67,500 from business registration fees. In addition, the agency will no longer conduct its own criminal background checks for which it is charged a specific fee per check. The recommended budget includes a reduction in expenditures of \$20,000 to reflect savings on criminal history background checks.

Mr. Edwards noted a cost for credit card fees in September and asked if the agency will continue to pay those fees until October. The Executive Director stated that is correct. The contract with Texas.gov will not be fully implemented until sometime in September so the recommended budget includes that cost for the month of September.

The Chair asked about note A in the budget. It specifies that the budget includes increased salary costs of 1% because of a state-mandated pay raise. But it also includes a .5% increase in salaries and wages for an increased payment to ERS. The Chair asked about "ERS". The Finance Manager stated "ERS" stands for the Employee Retirement System. The Legislature required an increase payment from the agencies to make the retirement fund viable.

Mr. Davis asked if the IRM function was currently being fulfilled by an outside contractor. The Executive Director stated she was currently carrying out that job with the assistance of the three members of the agency's IT division.

A MOTION WAS MADE AND SECONDED (Anastos/Bearden) TO ADOPT THE RECOMMENDED FISCAL YEAR 2014 BUDGET. THE MOTION PASSED UNANIMOUSLY.

4. General Counsel Report

A. Proposed Rules for Adoption:

The Chair recognized the General Counsel to describe proposed amendments to Rules 5.31 and 5.51 to modify exam requirements for registration as a registered interior designer; striking obsolete language. The General Counsel stated the effect of the proposed amendments would be to recognize that an applicant may become registered as an interior designer by passing the Architectural Registration Examination. If the amendments are adopted and in effect by January 1, 2014, registered interior designers who are also architects will have met examination requirements for registration as a registered interior designer and therefore, will not be required to pass the National Council for Interior Design Qualification examination in order to maintain registration after September 1, 2017 pursuant to the Sunset Bill. He stated the Board proposed the amendments at its last meeting and they were published for public comment. He said that he received two public comments in writing favoring adoption, including comment from the Texas Society of Architects. The General Counsel noted copies of public comment are before the Board for consideration. Referring to comment made during the public comment portion of the meeting, he noted that the Texas Association of Interior Designers is opposed to the proposed amendments.

The Chair asked if anyone on the Board wished to make a motion regarding the proposed amendments so that the motion will be before the Board for discussion. A MOTION WAS MADE AND SECONDED (Anastos/Edwards) TO ~~ADOPT AMENDMENTS TO RULES 5.31 AND 5.51 AS PROPOSED.~~

The Chair recognized Ms. Odell to comment on the Motion. Ms. Odell noted the Legislature rescinded grandfather status only for registered interior designers, not architects or landscape architects. The intent in the legislative amendment was to address only dual licensees – who are architects and registered interior designers – to allow them to maintain registration as interior designers and not to open up interior design registration to architects who are not grandfathered. She also noted that the legislation disenfranchises older registered interior designers who are

50 to 70 years old and are historically underutilized businesses that will lose their registrations and their businesses. She stated there will be two opportunities in the next two sessions before 2017 for the Legislature to change the examination requirement.

Mr. Anastos stated he also opposes the measure and expressed his hope the Legislature will reconsider and change it next session. Mr. Edwards suggested that the measure be tabled and referred to the Rules Committee for more extensive review.

The General Counsel noted that the Board may refer the proposed amendments to the Rules Committee. However, if the amendment is not in effect by January 1, 2014, it will not have any effect upon the examination requirement to the extent it applies to architects who are registered as interior designers. ~~The Board may reevaluate the rule at a later time to determine if allowing architectural candidates to become registered as interior designers has any adverse impact.~~ He also noted that the rules have been proposed and if they are substantially amended in a manner which substantively changes their original intent, they will have to be republished for public comment.

A MOTION WAS MADE (Anastos/Mijares) TO TABLE THE MOTION UNTIL LATER IN THE MEETING. THE MOTION PASSED UNANIMOUSLY.

The Board recessed at 10:48 a.m. and reconvened in open session at 11:08 a.m.

The Board convened in closed session at 11:09 a.m. to confer with legal counsel from the Office of the Attorney General regarding a settlement offer of pending litigation in the case *TBAE V. Powell, et al*, pursuant to Section 551.071, Texas Government Code.

The Board reconvened in an open meeting at 12:20 p.m.

The Chair announced that the Board decided to consider the mediation of the case at its next meeting, scheduled to be held on October 24, 2013. The Chair instructed staff to prepare documentation regarding the mediation conference and brief the Board at that meeting.

The Board took a break for lunch at 12:22 p.m. and reconvened at 1:00 p.m.

By unanimous consent, the Chair took the Motion to adopt proposed amendments to rules 5.31 and 5.51 from the table and the Board resumed consideration of the Motion. At the Chair's direction, the staff distributed copies of House Bill 1717, (the agency's Sunset bill) for the Board to review before

taking a vote on the Motion. The Chair stated the Motion to adopt the proposed amendments is before the Board but there had been discussion, but no motion, to refer the proposed amendments to the Rules Committee.

Mr. Anastos stated that since he made the original motion after reading the information staff provided, he believed that by making changes they would be making a completely different rule requiring republication or making the rule vulnerable to legal challenge.

A MOTION WAS MADE AND SECONDED (Mijares/Anastos) TO CALL THE PREVIOUS QUESTION ON THE MOTION TO ADOPT PROPOSED AMENDMENTS TO RULES 5.31 AND 5.51. THE MOTION PASSED BY UNANIMOUS CONSENT.

THE CHAIR CALLED THE VOTE ON THE PREVIOUS MOTION (Anastos/Mijares) TO ADOPT PROPOSED AMENDMENTS TO RULES 5.31 AND 5.51. THE MOTION PASSED 5-1 (Odell opposed.)

The Chair directed the General Counsel to outline proposed amendments to Rule 7.10, the agency fee schedule. The General Counsel stated the original draft amendments included changes to the fee schedule to implement legislative changes lowering late fees, to increase business registration fees, and to provide notice of a convenience fee charged by a contractor to process online payments. The Board considered those draft amendments at its last meeting. The General Counsel stated that at that meeting, Ms. Dockery suggested that the fee schedule specify the amount of fees, including convenience fees, payable by each registration status to clarify the specific fee a person must pay depending upon his or her registration status. The General Counsel stated that the proposed fee schedule is the result of the original substantive changes and the reformatting to clarify the fee schedule. The convenience fee is specified for each charge as is the sum of each fee with its corresponding convenience fee. The General Counsel stated another change to the fee schedule implements legislative changes to late fees which will apply only to the portion of the registration fee which remains with the agency and not the \$200 additional charge which is transferred to the General Revenue Fund and the Permanent School Fund. In addition, an annual business registration fee needed a revision from \$30 to \$45. The amendments also correct two typographical errors.

The General Counsel reported that the proposed amendments were published for 30 days and the agency received no public comment regarding them.

A MOTION WAS MADE AND SECONDED (Mijares/Odell) TO ADOPT THE PROPOSED AMENDMENT TO RULE 7.10 AS PUBLISHED IN THE *TEXAS REGISTER*. THE MOTION PASSED UNANIMOUSLY.

The Chair directed the General Counsel to describe draft amendments to Rules 1.149, 3.149 and 5.158 regarding criminal history background checks. The General Counsel stated the draft amendments implement the fingerprint requirement imposed by the agency's Sunset bill. The amendments replace the pre-existing self-reporting requirement with the legislative mandated requirement that each applicant submit a set of fingerprints to the state contract vendor for a criminal history check. The amendment is effective January 1, 2014. The amendments also require current registrants to undergo a fingerprint check prior to their next renewal. The amendments allow the agency's Executive Director to contact an applicant or registrant regarding any criminal conviction, other than a minor traffic offense, that is revealed as a result of a criminal history background check. The amendments allow the applicant or registrant 30 days to respond to the Executive Director's request. The General Counsel stated the amendments revoke a requirement that applicants and registrants contact the Board within 30 days after a conviction because under the new fingerprint process, the Board will receive notice from the vendor.

A MOTION WAS MADE AND SECONDED (Edwards/Bearden) TO PROPOSE AMENDMENTS TO RULES 1.149/3.149 AND 5.158 TO IMPLEMENT RECENT LEGISLATION MANDATING CRIMINAL BACKGROUND CHECKS BASED ON FINGERPRINTING.

The Chair asked if the law mandates fingerprinting for all registrants and applicants by January 1, 2014.

The Executive Director stated the requirement begins on January 1, 2014, and after that date, each registrant must be fingerprinted in order to become registered. The deadline is not January 1st but after that date submission of fingerprints is a prerequisite to renewing registration.

The Managing Investigator gave an explanation of the process that fingerprinting will entail when the program is to be implemented on January 1, 2014. He reported that fingerprinting will take place in 85 locations in the state.

Mr. Edwards suggested that the Board amend the rule to include language that this is only a one time process for renewals. The General Counsel stated that with the Board's approval he will amend the draft amendments to include a provision from the bill which states that a registrant is not required to submit another set of fingerprints after submitting a set as an applicant or as a prerequisite to an earlier renewal. By unanimous consent, the Board amended the draft Motion accordingly.

There were no further questions or discussion. The Chair called for the vote on the Motion to propose the amendments as amended. **THE MOTION TO PROPOSE THE DRAFT AMENDMENTS TO RULES 1.149/3.149/5.158 AS AMENDED PASSED UNANIMOUSLY.**

6. Report on conferences and meetings

- A. NCARB Annual Meeting, June 19-22, San Diego, CA
- B. Building Officials Association of Texas (BOAT) Annual Conference August 6-7, Waco
- C. METROCON13 Expo & Conference, August 15-16, Dallas, TX

Mr. Mijares reported on the NCARB Annual Meeting in San Diego. He stated he participated in a panel discussion regarding the University of Minnesota School of Architecture. He stated there is an effort to compress the time it takes to get registered, including the requirement that 5th year seniors take the registration examination. He stated he would be very interested to learn how it worked, how it was implemented and whether it was successful. The Chair stated he had heard something about that as well and thought it might have been a post-graduate program requirement. Mr. Mijares also stated that the Chair (Alfred Vidaurri) was presented with a crown, scepter and a cape as Chair of NCARB Region III which is the largest of the regions in the country. He congratulated the Chair on his "coronation." The Chair thanked him.

The Chair reported that NCARB is now in its second year of a new CEO. NCARB has gone through a lot of restructuring, reduction of costs of committees, and noted most committees now meet only once per year. The new CEO has implemented a lot of change.

Mr. Mijares reported that the regional meeting will be in San Antonio from March 6-8, 2014. It is a regional meeting with all regions meeting with Region III so all regions will be in Texas.

The Managing Investigator reported on the BOAT Annual Conference in Waco and stated that he made a presentation to building officials and he and the General Counsel manned a TBAE booth for three days. He noted it was part of the agency's effort to fulfill the Board's direction to increase outreach to building officials. He noted the agency also had revamped its building official Web page to that end. He said that they gave the building officials an overview of enforcement cases in order for them to identify and refer enforcement issues to the agency. In addition, he stated representatives from the City of San Antonio and the City of Dallas expressed a desire to have TBAE make a presentation to staff of the plan reviewing and permitting offices in those cities.

The Executive Director reported on METROCON13 EXPO in Dallas and stated that they gave two presentations: (1) on legislative changes, including criminal history background checks and (2) on continuing education matters. She reported that more than 200 people visited the

TBAE booth. She also reported that she received invitations to make presentations to other groups.

7. CLARB Proposed Bylaws Revisions – 2013 Relating to Examination Administration

The Executive Director stated that these proposed bylaws were housekeeping issues to update the bylaws to reflect current examination processes.

1. Proposed change #1 deletes references to examinations administered by member boards. No member board administers the CLARB examination any more.
2. Proposed change #2 deletes references to the grading of the examination among the duties of the Examination Committee. Examinations are no longer graded by the Committee or any other individual.

A MOTION WAS MADE AND SECONDED (Mijares/Anastos) TO DIRECT TBAE DELEGATES TO VOTE IN FAVOR OF THE RESOLUTIONS AT THE CLARB MEETING. THE MOTION PASSED UNANIMOUSLY.

8. Updated Mutual Recognition Agreement between NCARB + Canadian Architectural Licensing Authorities (CALA) – Request to Sign Letter of Undertaking to NCARB – CALA

The Chair gave the background on the Mutual Recognition Agreement between the Canadian Architectural Licensing Authorities and NCARB and the request that member boards agree to the Letter of Undertaking. In 1994, there was recognition between NCARB and CALA that there were similar education and internship requirements in Canada and the United States and the use of the NCARB Architectural Registration Examination to justify an inter-recognition agreement between CALA and NCARB. The Chair reported that until recently, Canadians took the same exam as the U.S. architects (the ARE). However, over the years, Canada has implemented changes to its internship program and developed a Canadian registration examination. These changes necessitated updates and modifications to the 1994 agreement.

The Chair stated NCARB and CALA have been working on a resolution for 3 years. All 11 Canadian jurisdictions have approved of the new Mutual Recognition Agreement in principal and at NCARB the vote among the jurisdictions was 47-3 this summer. Three jurisdictions could not vote in favor of it under their laws.

In order to fully implement the agreement, a majority of the jurisdictions have to sign a letter of undertaking agreeing to be bound by it. The Chair outlined the

Mutual Recognition Agreement as requiring the following in order for an architect from the other country to become registered in a signatory jurisdiction:

- A letter of registration or licensure in good standing;
- 2000 hours of post-licensure experience;
- Proof of citizenship or permanent residency in her/his home state; and
- NCARB certification.

The Chair reported that he requested that the letter go before the Board for approval before signing the Letter of Undertaking.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE THE REVISED AGREEMENT AND FOR THE CHAIR TO SIGN THE LETTER OF UNDERTAKING ON BEHALF OF THE BOARD, AGREEING TO COMPLY WITH THE MUTUAL RECOGNITION AGREEMENT. THE MOTION PASSED UNANIMOUSLY.

9. Enforcement Cases

Review and possibly adopt the ED's recommendation in the following enforcement cases: The Executive Director's recommendations are to resolve the following cases in accordance with proposed settlement agreements reached with the Respondents. The Chair recognized the General Counsel to present the enforcement cases.

A. Registrant & Non-Registrant Cases:

Garrison, Michael (#168-13N) – The General Counsel reported that the case had not been settled prior to the Board meeting and requested that the Board disregard this item on the agenda.

Jacobs, Anton (#047-10A) – The General Counsel made a presentation to the Board on this case and stated that the registrant had signed an agreed order to pay the Board an administrative penalty of \$6,000.00 for practicing architecture while his license was delinquent.

Mercadillo, Eduardo (#046-13N) – The General Counsel made a presentation to the Board on this case and stated that the registrant had signed an agreed order to pay the Board an administrative penalty of \$600.00 for using the title "architect" on a business card.

A MOTION WAS MADE AND SECONDED (Mijares/Edwards) TO ACCEPT THE EXECUTIVE DIRECTOR'S RECOMMENDATION AND ADMINISTRATIVE PENALTY IN CASE NUMBER 047-10A AND CASE NUMBER 046-13N. THE MOTION PASSED UNANIMOUSLY.

Taniguchi, Evan (#176-13A)

The General Counsel stated the registrant had signed an agreed order to pay an administrative penalty of \$1,000.00 for affixing his architectural seal to a construction document not prepared by him. Mr. Anastos inquired about the propriety of a penalty under the circumstances of the

case. He believes the architect is in compliance and is not breaking TBAE's rules. The architect was requested to review the plans for the project after they had been rejected by the City of Austin. The plans had been prepared by a person who had been an architect, but is no longer an architect. The Managing Investigator approached the Board and gave them the background on the case and explained how the registrant broke our rules. The Managing Investigator stated respondent's plans were identical to the set prepared by the original designer, except dimensions had been added. The Respondent may add to plans prepared by another and may affix his seal to plans prepared by another but he must clearly identify the portion of the plans he prepared and must note that his seal applies only to those portions. Respondent neglected to include that notation to the plans and specifications.

A MOTION WAS MADE AND SECONDED (Mijares/Davis) TO ACCEPT THE EXECUTIVE DIRECTOR'S RECOMMENDATION FOR a \$1,000.00 ADMINISTRATIVE PENALTY.

MR. MIJARES WITHDREW HIS MOTION. He stated that he wanted to hear the companion case against Respondent Michael Garrison, the original designer of the project, at the next board meeting.

A MOTION WAS MADE AND SECONDED (Mijares/Anastos) TO POSTPONE CONSIDERATION OF THE CASE UNTIL THE NEXT BOARD MEETING. THE MOTION PASSED UNANIMOUSLY.

B. Continuing Education Cases:

The General Counsel outlined the cases on the agenda. For continuing education cases, the Executive Director's proposed agreed orders include a standard penalty of \$700 for misstatements to the Board, \$500 for failing to complete required continuing education, and \$250 for failing to timely respond to an inquiry of the Board.

A MOTION WAS MADE AND SECONDED (Mijares/Anastos) THAT THE BOARD APPROVE THE EXECUTIVE DIRECTOR'S PROPOSED SETTLEMENTS IN THE FOLLOWING CASES INVOLVING CONTINUING EDUCATION VIOLATIONS:

Bengston, Gary (#145-13A)
Cash, Cynthia C. (#086-13L)
Chaloupka, Merridee (#125-13I)
Davy, Siobhan (#137-13I)
Goertz, Michael (#178-13A)
Hensley, R. Don (#180-13A)
Hickman, Keith A. (#179-13A)
Lambdin, Wayne (#136-13A)
Lambert, Charles R. (#175-13A)

Noack, Elizabeth E. (#163-13I)
Parker, Timothy K. (#172-13A)
Phillips, L. Forrest (#187-13A)
THE MOTION PASSED UNANIMOUSLY.

The Chair announced that he would like for the Board to take up the next two items together.

10. Approval of the Proposed 2014 Board Meeting Dates

The Board changed the date for the meeting scheduled for Thursday, February 6, 2014 to Thursday, February 13, 2014

Thursday, May 22, 2014

Thursday, August 21, 2014

Thursday, October 23, 2014

The Board changed the proposed meeting date on October 23, 2014 to October 16, 2014 or October 30, 2014 depending on room availability.

11. Upcoming Board Meeting

October 24, 2013

The Board took a break at 2:20 p.m. and reconvened in open meeting at 2:30 to go into closed session pursuant to Section 551.074, Government Code, to deliberate on personnel matters.

12. Executive Director Performance Review Report

A. Executive Director's presentation regarding annual performance evaluation

B. Executive Committee report on findings based on annual performance evaluation

C. Full Board adoption of the ED's 2014 performance objectives

D. Full Board adoption of the ED's Executive Development Plan

The Board reconvened in open meeting at 4:05pm.

The Chair announced that the Board had not completed the performance evaluation of the Executive Director. The Board will deliberate upon the goals for the Executive Director during the next Board meeting, scheduled for October.

13. Chair's Closing Remarks

The Chair stated that the Board has come to a conclusion. He thanked the members for their service.

14. Adjournment

A MOTION WAS MADE AND SECONDED (Anastos/Davis) TO ADJOURN THE MEETING AT 4:09 P.M. THE MOTION PASSED UNANIMOUSLY.

Approved by the Board:

ALFRED VIDAURRI, JR., AIA, NCARB, AICP
Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS



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July 26, 2013

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Chairman Alfred Vidauri Jr., AIA, NCARB, AICP
Texas Board of Architectural Examiners
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RE: Proposed Rule 5.51

Dear Chairman Vidauri and Board Members,

On behalf of the more than 6,200 members of the Texas Society of Architects (TxA), a state regional component of the American Institute of Architects, thank you for the opportunity to comment on your recent proposed rule, #5.51, published in the June 28 Texas Register.

TxA wholeheartedly supports adoption of this proposed language because it recognizes that the approximately 1,140 licensed architects who are also dually recognized as Registered Interior Designers (RIDs) as a result of having been grandfathered as an RID in 1991-92, should be allowed to continue being dually recognized as a result of having already passed a national qualifying exam establishing appropriate professional knowledge and competence.

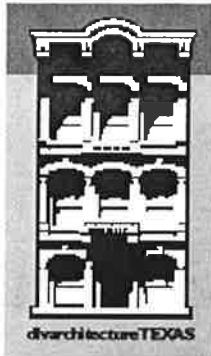
The legislative intent of HB 1717, your agency's 2013 Sunset bill, was to ensure that grandfathered RIDs pass a national qualifying exam by January 1, 2018, to be eligible for continued official state recognition as an RID. Your proposed rule acknowledges that intent without requiring that the 1,140 dually licensed Architect/RIDs to take a second national qualifying exam.

We applaud the approach that rule drafters took in using the "in lieu of..." language for this proposed rule. It keeps the NCIDQ exam (or any predecessor or successor test) as "the" RID test standard while acknowledging that those the State recognizes as licensed architects have, indeed, met the standard intended by the 83rd Texas Legislature.

We will be happy to answer any questions you have, or to clarify our position on this matter further, if so needed. Please feel free to contact us any time prior to your August 22 meeting if we can be of assistance.

Sincerely,

David Lancaster, Hon. AIA
Senior Advocate



David Lockwood Van de Ven, Jr.

Emeritus AIA, CSI, RA, R/O, PREI, TONEI,
NAOIA (Associated)
2307 Pine Oak Lane
Arlington, Texas 76010



August 1, 2013

Texas Board of Architectural Examiners
Hobby Building
P.O. 12337
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Austin Texas 78701
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Attention: Alfred Vidaurre Jr., AIA, NCARB, AICP, Chair
Chase Bearden, Vice-Chair Public Member
Sonya B. Odell Secretary-Treasurer Registered Interior Designer
Charles H. (Chuck) Anastos, AIA, Architect Member
Debra Dockery, AIA Architect Member
Paula A. Miller Public Member
Bert Mijares, Jr., AIA Architect Member
Chad Davis Landscape Architect
Davoy Edwards Public Member

Attention: Executive Committees

Members: Alfred Vidaurre, Jr. - Chair, Architect
Chuck Anastos - Vice Chair, Architect
Chase Bearden - Secretary/Treasurer, Public Member
Bert Mijares - Architect

Attention: Legal Counsel

Scott Gibson - General Counsel
Phone: (512) 305-8519
E-Mail: scott.gibson@tbae.state.tx.us

Re: Registered Interior Designer, Licensing in State of Texas

Dear Sirs /Ms:

I am corresponding in favor of the ARE being an accepted testing criteria for licensing Registered Interior Designers in the Design Profession Building of Spatial Planning. AS a current RA and RID having gone through the ARE testing equating process and with years of intern and licensed experience in AE / ID and ID Facility / Design Build Firms, I would see my existing design professional license striped after years of practice and all aspects of ID experience with major commercial and healthcare interior design firms such as HKS, Inc, J.P.J. Inc., BHCS / Healthcare Environment Design. Dahl Braden Jones Chapman, Inc.

Sincere best regards,

David L. Van de Ven, Jr., Emeritus AIA, CSI, RA, RID, PREI
divarchitectureTEXAS
(817) 469 6279 (v)
(817) 860 0867 (fax)

NCIDQ Examination

2016 Fundamentals Exam (IDFX) Distribution of 100 Scored Questions

INTERIOR DESIGN FUNDAMENTALS EXAM (IDFX) – PAGE 1

2016 CONTENT AREA	DISTRIBUTION
1. Programming and Site Analysis	15 Items – 15%
For example: <ul style="list-style-type: none"> • Research methods (interviewing, surveying, case studies, benchmarking/precedent) • Analysis tools (e.g., spreadsheets, site photographs, matrices, bubble diagrams) • Project context (e.g., space use, culture, client preference) • Site context (e.g., location, views, solar orientation) • Existing conditions • Sustainable attributes (e.g., indoor air quality, energy conservation, renewable resources) 	
2. Human Behavior and the Designed Environment	10 Items – 10%
For example: <ul style="list-style-type: none"> • Influences (environmental, social, psychological, cultural, aesthetic, global) • Human factors (e.g., ergonomics, anthropometrics, proxemics) • Sensory considerations (e.g., acoustics, lighting, visual stimuli, color theory, scent, tactile) • Universal Design • Special population considerations (e.g., Aging in Place, pediatric, special needs) 	
3. Building Systems and Construction	15 Items – 15%
For example: <ul style="list-style-type: none"> • Building construction types (e.g., wood, steel, concrete) • Building components (e.g., doors, windows, studs) • Mechanical systems • Electrical systems • Lighting systems (e.g., zoning, sensors, daylighting) • Plumbing systems • Structural systems • Fire protection systems • Low voltage systems (e.g., data and communication, security, A/V) • Acoustical systems 	

INTERIOR DESIGN FUNDAMENTALS EXAM (IDFX) – PAGE 2

2016 CONTENT AREA	DISTRIBUTION
4. Furniture, Finishes, Equipment and Lighting	15 Items – 15%
<p>For example:</p> <ul style="list-style-type: none"> • Life safety (e.g., flammability, toxicity, slip resistance) • Textiles • Acoustics • Wall treatments • Floor coverings • Ceiling treatments • Window treatments • Lighting (e.g., light sources, fixtures, calculations, distribution color rendering) • Furniture and equipment (e.g., types, uses, space needs) 	
5. Construction Drawings and Specifications	20 Items – 20%
<p>For example:</p> <ul style="list-style-type: none"> • Demolition plan • Floor plan (e.g., partitions, construction, dimensions, enlarged) • Reflected ceiling plan • Lighting plan • Power and communication plan • Furniture plan • Finish plan • Elevations, sections, and details (e.g., partition types, millwork) • Schedules • Specifications (e.g., prescriptive, performance, and proprietary) 	
6. Technical Drawing Conventions	15 Items – 15%
<p>For example:</p> <ul style="list-style-type: none"> • Measuring conventions (e.g., scale, unit of measure, dimensioning) • Construction drawing standards (e.g., line weights, hatching, symbols) 	
7. Design Communication	10 Items – 10%
<p>For example:</p> <ul style="list-style-type: none"> • Functional parti diagrams • Models (e.g., physical, virtual) • Rendering (e.g., 2-D, perspective) • Material and finish presentations (e.g., boards, binders, digital) • Bubble diagrams • Adjacency matrices • Charts (e.g., flow chart, Gantt chart) • Stacking/zoning diagrams • Block plans/square footage allocations • Floor plans • Mock-ups and prototypes 	

2/27/2015

NCIDQ Examination

2016 Professional Exam (IDPX) Distribution of 150 Scored Questions

INTERIOR DESIGN PROFESSIONAL EXAM (IDPX) - PAGE 1

2016 CONTENT AREA	DISTRIBUTION
1. Project Coordination	15 Items – 10%
For example: <ul style="list-style-type: none"> • Critical path (i.e., design milestones, sequencing) • Project team dynamics • Project budgeting/tracking during design phases • Architects • Engineers (e.g., electrical, structural, mechanical, civil) • Specialty consultants (e.g., landscape, lighting A/V, acoustical, food service, graphics/signage) • Contractors/construction managers • Real estate professionals (e.g., realtor, landlord, leasing agent, developer, property owner) 	
2. Codes and Standards	27 Items – 18%
For example: <ul style="list-style-type: none"> • Universal/accessible design • Life safety (e.g., egress, fire separation) • Zoning and building use • Environmental regulations (e.g., indoor air quality, energy conservation, renewable resources, water conservation) • Square footage standards (e.g., code, BOMA, lease) 	
3. Building Systems and Integration	24 Items – 16%
For example: <ul style="list-style-type: none"> • Building construction types (e.g., wood, steel, concrete) • Building components (e.g., doors, windows, wall assemblies) • Mechanical systems • Electrical systems • Lighting systems (e.g., zoning, sensors, daylighting) • Plumbing systems • Structural systems • Fire protection systems • Low voltage systems (e.g., data and communication, security, A/V) • Acoustical systems • Sequencing of work (e.g., plumbing before drywall) • Permit requirements 	

INTERIOR DESIGN PROFESSIONAL EXAM (IDPX) – PAGE 2

2016 CONTENT AREA	DISTRIBUTION
4. Product and Material Coordination	21 Items – 14%
<p>For example:</p> <ul style="list-style-type: none"> • Cost estimating • Product components (e.g., types, assembly, methods) • Material detail drawings (e.g., custom products) • Lead time (e.g., manufacturing time, delivery) • Installation • Life safety (e.g., flammability, toxicity, slip resistance) • Technical specifications • Maintenance documents (e.g., warranties, manuals) • Existing FF&E inventory documentation • Procurement procedures (e.g., purchase orders, prepayment requirements) 	
5. Contract Documents	24 Items – 16%
<p>For example:</p> <ul style="list-style-type: none"> • Cover sheet (e.g., General Conditions and Notes, drawing index) • Code required plans (e.g., egress, accessibility, specialty codes) • Elevations, sections and details (e.g., partition types, millwork) • Consultant drawings (e.g., MEP, structural, security, specialty consultants) • Specification types (e.g., prescriptive, performance, and proprietary) • Specification formats (e.g., divisions) 	
6. Contract Administration	27 Items – 18%
<p>For example:</p> <ul style="list-style-type: none"> • Project management (e.g., schedule, budget, quality control) • Forms (e.g., transmittals, change orders, bid/tender, addenda, bulletin, purchase orders) • Punch list/deficiency lists • Site visits and field reports • Project meetings/meeting management/meeting protocol and minutes • Shop drawings and submittals • Construction mock-ups • Value engineering • Project accounting (e.g., payment schedules, invoices) • Contractor pay applications • Project close-out • Post-occupancy evaluation 	

INTERIOR DESIGN PROFESSIONAL EXAM (IDPX) – PAGE 3

2016 CONTENT AREA	DISTRIBUTION
7. Professional and Business Practices	12 Items – 8%
<p>For example:</p> <ul style="list-style-type: none"> • Scope of practice • Proposals e.g., time and fee estimation, RFP process, project scope) • Budgeting principles and practices (project specific) • Contracts • Phases of a project • Business licenses (e.g., sales and use tax, resale certificates) • Accounting principles (office/business) • Legal considerations (e.g., liabilities and forms of business) • Insurance • Professional licensure, certification, registration • Economic factors 	

2/27/2015

NCIDQ Examination

2014 Practicum Exam Exercise Descriptions

PART A - 4 HOURS TOTAL

EXERCISE	WEIGHT
<p><u>Space Planning</u></p> <p>3 hours – ¼” [1:50] scale – 1 sheet – 2,200-2,600 sq. ft. [204.4-241.5 m²]</p> <p>Design a plan solution meeting all program requirements for 15-20 spaces, including adjacencies, accessibility, egress and specified power/voice/data requirements. This exercise will be either commercial or residential.</p>	23%
<p><u>Lighting Design</u></p> <p>1 hour – ¼” [1:50] scale – 2 sheets – 550-850 sq. ft. [51.1-78.9 m²]</p> <p>Design lighting and switching solutions for an area of work using cut sheets provided; complete a lighting schedule; and calculate energy use. This exercise will be either commercial or residential.</p>	11%

PART B - 2 HOURS TOTAL

EXERCISE	WEIGHT
<p><u>Egress</u></p> <p>1 hour – 1/8” [1:100] scale – 1 sheet – 10,000-13,500 sq. ft. [929.0-1254.2 m²]</p> <p>Taking an upper floor in a multi-story building with 1 existing tenant, subdivide the remaining floor area for 4 additional spaces and determine occupancy load for each; create a common egress corridor; show common path of travel from existing suite and travel distance to exit stairs; and calculate occupant load for each exit stair. This exercise will be either commercial or residential.</p>	18%
<p><u>Life Safety</u></p> <p>0.5 hour – 1/8” [1:100] scale – 1 sheet – 3,000-5,000 sq. ft. [278.7-464.5 m²]</p> <p>Indicate specified life safety equipment in a tenant suite, elevator lobby, public restrooms [washrooms] and public corridors; complete a door/frame/hardware schedule for specified doors; and complete a partition schedule for specified partitions. This exercise will be commercial.</p>	18%
<p><u>Restroom [Washroom]</u></p> <p>0.5 hour – ¼” [1:50] scale – 1 sheet</p> <p>Draw and dimension specified plumbing fixtures and accessories in a public restroom [washroom] for men; and complete a fixture and accessory schedule indicating proper mounting heights. This exercise will be commercial.</p>	9%

INTERIOR DESIGN PRACTICUM EXAM (PRAC) EXERCISE DESCRIPTIONS

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PART C - 2 HOURS TOTAL

EXERCISE	WEIGHT
<p><u>Systems Integration</u></p> <p>1 hour – 1/8” [1:100] scale – 2 sheets – 1,500-5,000 sq. ft. [139.4-464.5 m²]</p> <p>Evaluate plans provided to understand and describe eight (8) identified conflicts between lighting, mechanical, electrical, plumbing and structural systems and recommend solutions to those conflicts. This exercise will be commercial.</p>	12%
<p><u>Millwork</u></p> <p>1 hour – 1/4” [1:50] and 3/4” [1:20] scale – 1 sheet</p> <p>Draw a plan view of a required millwork solution; draw elevation(s) and draw a section at an element that requires accessibility. This exercise will be either commercial or residential.</p>	9%

INTERIOR DESIGN PRACTICUM EXAM (PRAC) EXERCISE DESCRIPTIONS

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NCIDQ EXAMINATION BUILDING CODE REQUIREMENTS

Code requirements listed below are for the purpose of the NCIDQ Examination only.

Your exam exercises will be graded for compliance with these code requirements. Use the following codes to develop your design solution for the **TOTAL** space as necessary to protect the health, safety, and welfare of the public.

1.0 DEFINITIONS

- 1.1 Common Path of Egress Travel – The portion of the exit access [access to an exit] that must be traversed **BEFORE** two separate and distinct paths of travel to two exits are available. Common path of egress travel shall be included within the permitted travel distance.
- 1.2 Travel Distance – The distance measured from the most remote point within a story to the entrance to an exit along the natural and unobstructed path of egress travel.

2.0 FIRE-RESISTANT RATED CONSTRUCTION

- 2.1 Demising partitions between tenant spaces **MUST** be 1-hour fire rated.
- 2.2 Partitions along a public corridor **MUST** be 1-hour fire rated.
- 2.3 Partitions that demise an Assembly Occupancy of 750 sq. ft. [70 m²] or greater **MUST** be 1-hour fire rated.
- 2.4 Door assemblies in a 1-hour fire rated partition **MUST** have a minimum fire protection rating of 20 minutes and be self-closing.
- 2.5 Storage rooms exceeding 100 sq. ft. [9.3 m²] **MUST** be 1-hour rated.
- 2.6 Glazing in fire rated partitions, doors or sidelights may not exceed 240 sq. in. [1548 cm²].

3.0 FIRE PROTECTION SYSTEM

- 3.1 There **MUST** be an audio/visual fire signal device located in each restroom, hallway, lobby, and general assembly area.
- 3.2 An audio/visual fire signal device **MUST** be visible from any location in the room or space and **MUST** be mounted between 6'-8" to 7'-6" [2 m to 2.3 m] AFF.
- 3.3 The minimum number of fire extinguishers **MUST** be calculated based on one (1) fire extinguisher per 3000 sq. ft. [280 m²].
- 3.4 Fire extinguishers **MUST** be located no more than 75' [23 m] from the furthest occupant.
- 3.5 Smoke and Heat Detector coverage **MUST** include all rooms, corridors and storage areas.

4.0 MEANS OF EGRESS

- 4.1 General Means of Egress
 - 4.1.1 The means of egress **MUST** have a ceiling height of not less than 7'-6" [2.3 m].
 - 4.1.2 Protruding objects are permitted to extend below the minimum ceiling height provided a minimum headroom of 6'-8" [2 m] shall be provided along the path of egress, including any corridor, aisle or passageway.
 - 4.1.3 Protruding objects **MUST NOT** reduce the minimum clear width of accessible routes.

4.1.4 **ALL** objects located on a wall between 27" [685 mm] and 80" [2115 mm] AFF **MUST NOT** protrude more than 4" [100 mm] into an egress path of travel.

4.2 Exit Signs

4.2.1 Exit signs with a directional indicator (illuminated) showing the direction of travel shall be placed in every location where the direction of travel to reach the nearest exit is not apparent.

4.3 Illumination

4.3.1 Emergency illumination shall be provided for a minimum of 1½ hours in the event of failure of normal lighting. Emergency lighting facilities shall be arranged to provide initial illumination along the path of egress.

4.4 Travel Distance

4.4.1 **ALL** paths of travel **MUST** be accessible (barrier-free) and provide at minimum a 60" [1500 mm] turning circle at changes of travel direction.

4.4.2 The path of egress travel **MUST NOT** pass through a secondary space that is subject to closure by doors or that contains storage materials or has items that project into the path of travel.

4.4.3 The common path of egress travel distance **MUST NOT** exceed 100'-0" [30.5 m].

4.4.4 The travel distance to an exit **MUST** be measured on the floor along the centerline of the natural path of travel, starting from the most remote point to the centerline of the exit.

4.4.5 The travel distance **MUST NOT** exceed 250'-0" [76.2 m] measured along the path of travel.

4.5 Exit Access Doors, Doorways, Door Hardware and Windows

4.5.1 The height of doors **MUST NOT** be less than 7'-0" [2.1 m].

4.5.2 **ALL** door openings shall be a **MINIMUM** of 36" [900 mm] wide with an 18" [450 mm] clear space on the pull side of the door and a 12" [300 mm] clear space on the push side of the door.

4.5.3 Where a pair of doors is provided, one of the doors **MUST** be not less than 36" [900 mm] wide.

4.5.4 Locks, if provided, **MUST NOT** require the use of a key, special knowledge, or effort for operation from the egress side.

4.5.5 Doors opening from occupied spaces into the path of egress travel shall not project more than 7" [180 mm] into the required width.

4.5.6 Exit access doorways **MUST** open in the direction of exit travel.

4.5.7 Exit access doorways **MUST** be placed at a distance that is equal to or greater than:

4.5.7.1 When the building is **NOT** sprinklered, one-half the length of the maximum overall diagonal dimension of the area being served, measured in a straight line between exit doors or exit access doorways.

4.5.7.2 When the building is sprinklered, one-third the length of the maximum overall diagonal dimension of the area being served, measured in a straight line between exit doors or exit access doorways.

4.5.8 Two (2) exit access doorways **MUST** be provided from any space where the Occupancy Load exceeds 49 in Occupancy Groups A (Assembly), B (Business) and M (Mercantile) or exceeds 29 in Occupancy Group S (Storage).

4.6 Corridors

4.6.1 The **MINIMUM** interior corridor width **MUST** be 44" [1100 mm].

4.6.2 Dead end corridors **MUST NOT** exceed 20'-0" [6 m] in length.

5.0 ACCESSIBILITY

5.1 Service (reception/transaction) counters over 8'-0" [2.4 m] in length **MUST** have an accessible height service counter, a minimum of 36" [900mm] in length.

5.2 **ALL** accessible (barrier-free) countertops, sinks, reception/transaction surfaces, and other horizontal work surfaces **MUST NOT** exceed 34" [865 mm] AFF with a 27"H [685 mm] clear knee space below.

5.3 **ALL** accessible (barrier-free) counters **MUST** have clear knee space of at least 30"W x 17"D [760 mm x 430 mm].

5.4 **ALL** exposed hot water pipes and drains **MUST** be insulated or otherwise protect wheelchair users from burns on the legs.

5.5 **ALL** accessible (barrier-free) wall-mounted controls **MUST** be located between 15" [380 mm] and 44" [1100 mm] AFF for a Forward Reach and between 9" [230 mm] and 48" [1200 mm] AFF for a Side Reach.

5.6 **ALL** accessible (barrier-free) lower cabinets **MUST** have a 6" D maximum x 9" H minimum [150mm x 230 mm] toe-kick.

5.7 **ALL** accessible (barrier-free) upper cabinets or shelves located above a work surface **MUST NOT** exceed 44" [1100 mm] AFF.

5.8 Restrooms [Washrooms]

5.8.1 **ALL** accessible toilets **MUST** have an unobstructed 60" [1500 mm] turning circle.

5.8.2 Centerline of accessible toilets **MUST** be 16"-18" [400 mm - 450 mm] from side wall or partition.

5.8.3 Clearance around accessible toilets **MUST** be 60" [1500 mm] along the rear wall and 56" [1420 mm] along the side wall.

5.8.4 Accessible toilets **MUST** be mounted at 17"-19" [430 mm – 480 mm] AFF to the top of the toilet seat.

5.8.5 **ALL** grab bars at toilets **MUST** be 36" [900 mm] long at the rear and 42" [1060 mm] long at the side, mounted between 33" [840 mm] and 36" [900 mm] AFF.

5.8.6 **ALL** accessible showers **MUST** have horizontal grab bars on three (3) sides mounted at a height between 33" [840 mm] and 36" [900 mm] AFF.

5.8.7 Accessible showers **MUST** be a minimum of 30" [760 mm] x 60" [1500 mm].

5.8.8 Accessible urinals **MUST** have an elongated rim at a maximum height of 17" [430 mm] AFF.

5.8.9 A clear floor space of 30" [760 mm] x 48" [1200 mm] **MUST** be provided in front of accessible lavatories, urinals, showers, and bathtubs.

5.8.10 Accessible mirrors **MUST** be mounted with the edge of the reflective surface no higher than 40" [1000 mm] AFF.

6.0 STRUCTURAL

6.1 Core drills **MUST NOT** be within 18" [450 mm] of any structural element.

7.0 ELECTRICAL

7.1 **ALL** electrical receptacles **MUST** be 18" [450 mm] AFF unless otherwise noted.

7.2 **ALL** electrical receptacles located within 36" [900 mm] of a water source **MUST** be GFI.

7.3 Clearance of 36" [900 mm] deep **MUST** be provided in front of power panels.

8.0 OCCUPANCY LOAD TABLE

FUNCTION OF SPACE	FLOOR AREA IN SQ. FT. [m ²] PER OCCUPANT
Accessory storage areas, mechanical equipment room	300 [28 m ²] gross
Assembly without fixed seats Concentrated (chairs only—not fixed) Standing space Unconcentrated (tables and chairs)	7 [.7 m ²] net 5 [.5 m ²] net 15 [1.4 m ²] net
Business areas	100 [9.3 m ²] gross
Education Classroom area Shops and other vocational room areas	20 [1.9 m ²] net 50 [4.6 m ²] net
Exercise rooms	50 [4.6 m ²] gross
Kitchens, commercial	200 [18.6 m ²] gross
Mercantile Areas on other floors Basement and grade floor areas Storage, stock, shipping areas	60 [5.6 m ²] gross 30 [2.8 m ²] gross 300 [28 m ²] gross
Residential	200 [18.6 m ²] gross

PROGRAMMING, PLANNING & PRACTICE

KNOWLEDGE / SKILLS

The division has been broken down into a listing of knowledge and skills for each major content area.

1. PROGRAMMING & ANALYSIS (27-33 percent of scored items)

- A. Assess client needs and requirements to develop a master plan and program. Document design objectives including site characteristics, spatial and functional relationships, and building systems considerations. Establish preliminary project scope, phasing, budget, and schedule.

1. Architectural Programming

Ascertain and translate client and user needs into descriptive criteria to inform subsequent phases of design.

2. Interpreting Existing Site/Environmental Conditions and Data

Collect and assess site characteristics and related information and data needed to inform the subsequent design.

3. Adaptive Reuse of Buildings and/or Materials

Research and evaluate existing sites, buildings, and materials for new or associated uses.

4. Space Planning and Facility Planning/Management

Ascertain and translate client and user needs into functional characteristics and relationships for management and facility planning of interior and exterior spaces.

5. Fixtures, Furniture, Equipment, and Finishes

Assess and inventory client and user needs with respect to functional and spatial requirements for furniture, fixtures, and equipment.

2. ENVIRONMENTAL SOCIAL & ECONOMIC ISSUES (17-23 percent of scored items)

- A. Obtain and review site and building surveys. Assess physical, environmental, social, and economic issues and project impact. Develop project concepts utilizing sustainable principles, alternative energy systems, and new material technologies. Apply basic design principles and historic precedent.

1. Regional Impact on Project

Research and analyze the regional impact of built, environmental, and planned conditions as they affect or are affected by the proposed project.

2. Community-Based Awareness

Assess pertinent planning, social, demographic, and economic issues within a local community and incorporate their impact on the proposed project.

3. Hazardous Conditions and Materials

Assess the potential for hazardous conditions and their impact on the proposed project.

4. Design Principles

Apply design principles and historic precedents to test, develop, and refine project design concepts.

5. Alternative Energy Systems, New Technologies, and Sustainable Design

Assess and incorporate innovative environmental, energy-related sustainable design concepts on the program, scope and budget into the proposed project.

PROGRAMMING, PLANNING & PRACTICE

KNOWLEDGE / SKILLS

Overview

Knowledge/
Skills

Sample Multiple
Choice Questions

Site Zoning
Vignette

References

3. CODES & REGULATIONS (11-17 percent of scored items)

A. Identify, analyze, and incorporate building codes, specialty codes, zoning, and other regulatory requirements. Manage regulatory approval process.

1. Government and Regulatory Requirements and Permit Processes

Identify and manage the prescribed planning, zoning, and building code requirements of the proposed project design.

2. Adaptive Reuse of Buildings and/or Materials

Identify and incorporate planning, zoning, and building code requirements relative to repurposed buildings and reused materials for the proposed project.

3. Specialty Codes and Regulations including Accessibility Laws, Codes and Guidelines

Identify and incorporate relevant specialty codes into the proposed project design.

4. PROJECT & PRACTICE MANAGEMENT (33-39 percent of scored items)

A. Develop scope of services and project delivery method. Assess project budget and financing. Identify project team members including consultants. Document project meetings. Manage project schedule and design process. Assist with construction procurement. Manage legal issues relating to practice including fees, insurance, and professional services contracts.

1. Project Delivery & Procurement Methods

Determine the delivery and construction procurement method based on client requirements.

2. Project Budget Management

Determine fiscal requirements and apply appropriate methodology and techniques to manage project budgets.

3. Project Schedule Management

Establish and manage the professional service schedules for the project.

4. Contracts for Professional Services and Contract Negotiation

Determine, negotiate, execute, and manage the professional services agreements for the project.

6. Risk Management and Legal Issues Pertaining to Practice and Contracts

Assess and manage risk and legal issues related to the business and practice of architecture.

SITE PLANNING & DESIGN

Overview

KNOWLEDGE / SKILLS

Knowledge/
Skills

Sample Multiple
Choice Questions

Site Grading
Vignette

Site Design
Vignette

References

The division has been broken down into a listing of knowledge and skills directly related to each major content area

1. PRINCIPLES

(22-30 percent of scored items)

- A. Review and assess sites. Incorporate the implication of human behavior, historic precedent, and design theory in the selection of systems, materials, and methods related to site design and construction.

1. Site Planning

Use physical, contextual, and regulatory characteristics, in combination with programmatic requirements, to evaluate project sites.

2. Site Design and Design Principles

Use site evaluation data and programmatic requirements to develop and evaluate alternative site designs.

3. Implications of Design Decisions

Use architectural, engineering, and construction principles and procedures to evaluate site design.

4. Adaptive Reuse of Buildings and/or Materials

Apply principles for adaptive reuse of facilities and materials to site design.

5. Architectural History and Theory

Analyze and evaluate the project site with respect to its regional, local, and site-specific historical context.

2. ENVIRONMENTAL ISSUES

(24-32 percent of scored items)

- A. Interpret site and environmental conditions. Assess and apply systems, materials, and construction methods. Incorporate principles of sustainability. Assess design impact on human behavior.

1. Interpreting Existing Site/Environmental Conditions and Data

Assess site layout and proposed materials and systems with respect to environmental context.

2. Design Impact on Human Behavior

Assess site layout and proposed materials and systems with respect to human behavior, safety, and security.

3. Hazardous Conditions and Materials

Assess the site with respect to the presence of hazardous conditions and materials, and identify mitigation options.

4. Sustainable Design

Identify and apply sustainable strategies and technologies to site layout and selection of materials and systems.

5. Alternative Energy Systems and New Material Technologies

Identify and apply alternative energy systems and new material technologies to site layout and selection of materials and systems.

SITE PLANNING & DESIGN

Overview

KNOWLEDGE / SKILLS

Knowledge/
Skills

Sample Multiple
Choice Questions

Site Grading
Vignette

Site Design
Vignette

References

3. CODES & REGULATIONS (18-26 percent of scored items)

- A. Incorporate building codes, specialty codes, zoning and other regulatory requirements in site design and construction.

1. Government and Regulatory Requirements and Permit Processes

Identify and apply relevant land use, building codes, and regulations into the site design, and assist in permitting.

2. Accessibility Laws, Codes and Guidelines

Identify and apply relevant specialty codes and regulations into the site design, and assist in permitting.

4. MATERIALS & TECHNOLOGY (16-20 percent of scored items)

- A. Analyze the implication of design decisions in the selection of systems, materials, and methods incorporated in site design and construction.

1. Construction Details and Constructability

Incorporate appropriate materials into site details, systems, and assemblies.

2. Construction Materials

Evaluate and select appropriate site products, materials, and systems based on programmatic, performance, and sustainability requirements.

3. Fixtures, Furniture, Equipment, and Finishes

Evaluate and select appropriate site fixtures, furniture, equipment, and finishes based on programmatic and performance requirements.

4. Thermal and Moisture Protection

Manage the impact of temperature, water, and climatic conditions on site design.

5. Natural and Artificial Lighting

Apply principles of natural and artificial lighting in site design.

6. Implications of Design Decisions

Use architectural, engineering, and construction principles and procedures to evaluate site materials, assemblies, and systems.

5. PROJECT & PRACTICE MANAGEMENT (4-8 percent of scored items)

- A. Assess and administer site design, including construction sequencing, scheduling, cost, and risk management.

1. Construction Sequencing

Determine site phasing based upon prioritized programmatic requirements and anticipated construction sequencing.

2. Cost Estimating, Value Engineering, and Life-cycle Costing

Analyze site development costs relative to programmatic and budgetary requirements.

BUILDING DESIGN & CONSTRUCTION SYSTEMS

Overview

KNOWLEDGE/SKILLS

Knowledge/ Skills

Sample Multiple- Choice Questions

Accessibility/Ramp Vignette

Stair Design Vignette

Roof Plan Vignette

References

The division has been broken down into a listing of knowledge and skills directly related to each major content area.

1. PRINCIPLES

(27-33 percent of scored items)

- A. Incorporate the implications of human behavior, historic precedent, and design theory in the selection of systems, materials, and methods related to building design and construction.

1. Building Design

Analyze and evaluate those tasks, procedures, and methodologies influencing building design during schematic design and design development, including building systems and materials.

2. Design Principles and Design Impact on Human Behavior

Analyze and evaluate design principles that influence human behavior in the built environment.

3. Building Systems and their Integration

Analyze, evaluate, and integrate appropriate building systems considering design and engineering principles.

4. Implications of Design Decisions

Evaluate how decisions made in schematic design and design development, relating to orientation, area, materials, cost, code, sustainability, and/or phasing, impact later phases of design, construction, and building use.

5. Space Planning and Facility Planning/Management

Utilize principles of space planning and facility planning/management.

6. Fixtures, Furniture, Equipment, and Finishes

Evaluate and select fixtures, furniture, equipment, and finishes and determine the impact on building design.

7. Adaptive Reuse of Buildings and/or Materials

Evaluate constraints, issues, methodologies, programmatic concerns and cost impacts associated with adaptive reuse of buildings and materials.

8. Architectural History and Theory

Apply architectural history, precedent, and theory to building design.

BUILDING DESIGN & CONSTRUCTION SYSTEMS

KNOWLEDGE/SKILLS

3. CODES & REGULATIONS (10-13 percent of scored items)

- A. Incorporate building and specialty codes, zoning, and other regulatory requirements in building design and construction systems.
- 1. Government and Regulatory Requirements and Permit Processes**
Demonstrate comprehension of building codes and planning requirements and assess their effect on building design.
 - 2. Specialty Codes and Regulations including Accessibility Laws, Codes, and Guidelines**
Demonstrate comprehension of specialty codes and guidelines, such as accessible design, seismic code, life safety, and fair housing requirements, and assess their effect on building design.

4. MATERIALS & TECHNOLOGY (43-49 percent of scored items)

Analyze the implication of design decisions in the selection of systems, materials, and methods incorporated in building design and construction.

A. MASONRY

Identify the properties and characteristics of masonry structures and finish materials.

1. Building Systems and their Integration

Analyze characteristics of masonry systems and materials and their appropriate integration into building design.

2. Implications of Design Decisions

Evaluate the selection of masonry components to determine their effects on design, cost, engineering, and/or scheduling.

3. Construction Details and Constructability

Demonstrate comprehension of masonry details and their application in building design and construction.

4. Construction Materials

Determine the appropriate use of masonry in building design and construction.

5. Product Selection and Availability

Evaluate and prioritize the selection of masonry systems, materials, and availability.

6. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to masonry.

7. Thermal and Moisture Protection

Assess the use of masonry components in thermal and moisture protection.

BUILDING DESIGN & CONSTRUCTION SYSTEMS

Overview

KNOWLEDGE/SKILLS

Knowledge/ Skills

Sample Multiple- Choice Questions

Accessibility/Ramp Vignette

Stair Design Vignette

Roof Plan Vignette

References

B. METALS

Identify the properties and characteristics of structural and miscellaneous metals.

1. Building Systems and their Integration

Analyze characteristics of metal systems and materials and their appropriate integration into building design.

2. Implications of Design Decisions

Evaluate the selection of metal components to determine their effects on design, cost, engineering, and/or scheduling.

3. Construction Details and Constructability

Demonstrate comprehension of metal details and their application in building design and construction.

4. Construction Materials

Determine the appropriate use of metal in building design and construction.

5. Product Selection and Availability

Evaluate and prioritize the selection of metal systems, materials, and availability.

6. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to metal.

7. Thermal and Moisture Protection

Assess the use of metal components in thermal and moisture protection.

C. WOOD

Identify the properties and characteristics of wood structures, rough carpentry, finish carpentry, and millwork assemblies.

1. Building Systems and their Integration

Analyze characteristics of wood systems and materials and their appropriate integration into building design.

2. Implications of Design Decisions

Evaluate the selection of wood components to determine their effects on design, cost, engineering, and/or scheduling.

3. Construction Details and Constructability

Demonstrate comprehension of wood details and their application in building design and construction.

4. Construction Materials

Determine the appropriate use of wood in building design and construction.

5. Product Selection and Availability

Evaluate and prioritize the selection of wood systems, materials, and availability.

6. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to wood.

7. Thermal and Moisture Protection

Assess the use of wood components in thermal and moisture protection.

BUILDING DESIGN & CONSTRUCTION SYSTEMS

Overview

KNOWLEDGE/SKILLS

Knowledge/
Skills

Sample Multiple-
Choice Questions

Accessibility/Ramp
Vignette

Stair Design
Vignette

Roof Plan Vignette

References

D. CONCRETE

Identify the properties and characteristics of concrete structures and finishes.

- 1. Building Systems and their Integration**
Analyze characteristics of concrete systems and materials and their appropriate integration into building design.
- 2. Implications of Design Decisions**
Evaluate the selection of concrete components to determine their effects on design, cost, engineering, and/or scheduling.
- 3. Construction Details and Constructability**
Demonstrate comprehension of concrete details and their application in building design and construction.
- 4. Construction Materials**
Determine the appropriate use of concrete in building design and construction.
- 5. Product Selection and Availability**
Evaluate and prioritize the selection of concrete systems, materials, and availability.
- 6. Cost Estimating, Value Engineering, and Life-Cycle Costing**
Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to concrete.
- 7. Thermal and Moisture Protection**
Assess the use of concrete components in thermal and moisture protection.

E. OTHER

Identify the properties and characteristics of miscellaneous systems, assemblies, membranes, cladding, coatings, and finish materials (e.g., plastics, composites, glass, tensile, pneumatics, EFS, etc.).

- 1. Building Systems and their Integration**
Analyze the relationship of building systems and materials (other than masonry, metal, concrete, and wood) and their appropriate selection and integration into building design.
- 2. Implications of Design Decisions**
Evaluate the selection of building components (other than masonry, metal, concrete, and wood) to determine their effects on design, cost, engineering, and/or scheduling.
- 3. Construction Details and Constructability**
Demonstrate comprehension of the relationship of building systems and materials (other than masonry, metal, concrete, and wood) details and their application in building design and construction.
- 4. Construction Materials**
Determine the appropriate use of building systems and materials (other than masonry, metal, concrete, and wood) in building design and construction.
- 5. Product Selection and Availability**
Evaluate and prioritize the selection of building systems and materials (other than masonry, metal, concrete, and wood) and availability.
- 6. Cost Estimating, Value Engineering, and Life-Cycle Costing**
Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to building systems and materials (other than masonry, metal, concrete, and wood).
- 7. Thermal and Moisture Protection**
Assess the use of building systems and materials (other than masonry, metal, concrete, and wood) in thermal and moisture protection.

BUILDING DESIGN & CONSTRUCTION SYSTEMS

Overview

KNOWLEDGE/SKILLS

Knowledge/
Skills

Sample Multiple-
Choice Questions

Accessibility/Ramp
Vignette

Stair Design
Vignette

Roof Plan Vignette

References

F. SPECIALTIES

Analyze and select accessories, equipment, and fittings.

1. Building Systems and their Integration

Analyze the relationship of accessories, equipment, and fittings and their appropriate selection and integration into building design.

2. Implications of Design Decisions

Evaluate the selection of accessories, equipment, and fittings to determine their effects on design, cost, engineering, and/or scheduling.

3. Construction Details and Constructability

Demonstrate comprehension of the relationship of accessories, equipment, and fittings in details and their application in building design and construction.

4. Construction Materials

Determine the appropriate use of accessories, equipment, and fittings in building design and construction.

5. Product Selection and Availability

Evaluate and prioritize the selection of accessories, equipment, and fittings and their availability.

6. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate knowledge of cost estimating, value engineering, and life-cycle costing related to of accessories, equipment, and fittings.

7. Thermal and Moisture Protection

Assess the use of accessories, equipment, and fittings in thermal and moisture protection.

5. PROJECT & PRACTICE MANAGEMENT

(4-7 percent of scored items)

A. Determine the impact of construction sequencing, scheduling, cost, and risk management on selection of systems, materials, and methods.

1. Construction Sequencing

Evaluate the selection of systems, materials, and methods and their impact on construction sequencing.

2. Cost Estimating, Value Engineering, and Life-Cycle Costing

Demonstrate comprehension of cost estimating, value engineering, and lifecycle costing methods and principles.

3. Project Schedule Management

Demonstrate comprehension and use of project scheduling, staffing projections, contracts, and project management principles.

4. Risk Management

Apply risk management principles and demonstrate methods of conflict resolution.

SCHEMATIC DESIGN

OVERVIEW

DIVISION STATEMENT

Apply knowledge and skills required for the schematic design of buildings and interior space planning.

Vignettes

INTERIOR LAYOUT

Design an interior space plan and furniture arrangement responding to program, code, and accessibility requirements.

BUILDING LAYOUT

Develop a schematic design for a two-story building addressing program, code, site, and environmental requirements.

STRUCTURAL SYSTEMS

KNOWLEDGE / SKILLS

The division has been broken down into a listing of knowledge and skills directly related to each major content area.

1. GENERAL STRUCTURES

(50-54 percent of scored items)

A. Principles

Apply general structural principles to building design and construction.

1. Building Design

Analyze and investigate the structural loads and conditions that affect building design through use of engineering principles and functional requirements.

2. Building Systems and their Integration

Determine appropriate building structural systems and components.

3. Implications of Design Decisions

Evaluate the impact of structural design decisions on other building design issues.

B. Materials & Technology

Analyze the implications of design decisions in the selection of systems, materials, and construction details related to general structural design.

1. Construction Details and Constructability

Analyze the impact of structural decisions on the construction process.

2. Construction Materials

Apply knowledge of the properties of materials that affect their structural characteristics

C. Codes & Regulations

incorporate building codes, specialty codes, and other regulatory requirements in the design of general structural systems.

1. Government and Regulatory Requirements

Assess and apply building codes and other regulations that affect structural systems.

STRUCTURAL SYSTEMS

KNOWLEDGE / SKILLS

2. **SEISMIC FORCES**
(18-22 percent of scored items)
 - A. **Principles**
Apply seismic forces principles to building design and construction.
 1. **Building Design**
Analyze and investigate seismic loads and conditions that affect building design through use of engineering principles and functional requirements.
 2. **Building Systems and their Integration**
Determine appropriate seismic load resisting systems and components.
 3. **Implications of Design Decisions**
Evaluate the impact of seismic load design decisions on other building design issues.
 - B. **Materials & Technology**
Analyze the implications of design decisions in the selection of systems, materials, and construction details related to seismic forces design.
 1. **Construction Details and Constructability**
Analyze construction details and non-structural elements relative to their resistance to seismic forces.
 2. **Construction Materials**
Consider construction materials relative to their resistance to seismic forces.
 - C. **Codes & Regulations**
Incorporate building codes, specialty codes, and other regulatory requirements related to seismic forces.
 1. **Government and Regulatory Requirements**
Assess and apply building codes and regulations with respect to the design of structures for resistance to seismic forces.

3. **WIND FORCES**
(18-22 percent of scored items)
 - A. **Principles**
Apply lateral forces principles to the design and construction of buildings to resist wind forces.
 1. **Building Design**
Analyze and investigate wind loads and conditions that affect building design through use of engineering principles and functional requirements.
 2. **Building Systems and their Integration**
Determine appropriate wind load resisting systems and components.
 3. **Implications of Design Decisions**
Evaluate the impact of wind load design decisions on other building design issues.
 - B. **Materials & Technology**
Analyze the implications of design decisions in the selection of systems, materials, and construction details related to wind forces.
 1. **Construction Details and Constructability**
Analyze construction details and non-structural elements relative to their resistance to wind forces.
 2. **Construction Materials**
Consider construction materials relative to their resistance to wind forces.
 - C. **Codes & Regulations**
Incorporate building codes and other regulatory requirements related to wind forces.
 1. **Government and Regulatory Requirements**
Assess and apply building codes and regulations with respect to the design of structures for resistance to wind forces.

STRUCTURAL SYSTEMS

KNOWLEDGE / SKILLS

4. LATERAL FORCES (7-9 percent of scored items)

A. Principles

Apply lateral forces principles to the design and construction of buildings.

1. Building Design

Analyze and investigate lateral loads and conditions that affect building design through use of engineering principles and functional requirements.

2. Building Systems and their Integration

Determine appropriate lateral load resisting systems and components.

3. Implications of Design Decisions

Evaluate the impact of lateral load design decisions on other building design issues.

B. Materials & Technology

Analyze the implications of design decisions in the selection of systems, materials, and construction details related to lateral forces.

1. Construction Details and Constructability

Analyze construction details and non-structural elements relative to their resistance to lateral forces.

2. Construction Materials

Consider construction materials relative to their resistance to lateral forces.

BUILDING SYSTEMS

Overview

KNOWLEDGE / SKILLS

Knowledge/
Skills

Sample Multiple-Choice Questions

Mechanical & Electrical Plan Vignette

References

The division has been broken down into a listing of knowledge and skills directly related to each major content area.

1. CODES & REGULATIONS (6-9 percent of scored items)

- A. Incorporate building codes, specialty codes, and other regulatory requirements in the design of mechanical, electrical, plumbing, conveying, and other specialty systems.

1. Government and Regulatory Requirements and Permit Processes

Interpret codes, protocols, and procedures of government regulations to determine their impact on building design, and construction.

2. ENVIRONMENTAL ISSUES (9-11 percent of scored items)

- A. Apply sustainable design principles to the selection, design, and construction of building systems.

1. Building Design

Utilize sustainable and environmental principles in building design as it relates to basic engineering systems.

2. Building Systems and their Integration

Analyze and evaluate the implications of sustainable design decisions in relation to project goals.

3. Implications of Design Decisions

Evaluate and determine environmental and sustainability parameters most appropriate for building design.

4. Construction Details

Utilize sustainable and environmental design details and recognize their effect on constructability, aesthetics, and technical properties.

5. Sustainable Design

Utilize sustainable design principles in building design as it relates to basic engineering systems.

6. Alternative Energy Systems and New Technologies

Evaluate sustainable strategies to utilize alternative energy systems and evolving technologies in building design.

7. Adaptive Reuse of Buildings and/or Materials

Evaluate sustainable strategies for adaptive reuse of components, systems and/or materials in building design.

3. PLUMBING

(10-15 percent of scored items)

A. PRINCIPLES

Analyze and design plumbing systems.

1. Building Design

Apply basic engineering principles and technologies for plumbing systems in building design.

2. Implications of Design Decisions

Analyze and evaluate the implications of plumbing system design decisions in relation project goals, cost, schedule, and quality.

BUILDING SYSTEMS

KNOWLEDGE / SKILLS

- B. MATERIALS & TECHNOLOGY**
Evaluate and select materials and construction details related to plumbing systems.
- Building Systems and their Integration**
Evaluate and determine plumbing system parameters most appropriate for building design.
 - Construction Details and Constructability**
Utilize plumbing system details and recognize their effect on constructability, aesthetics, and technical properties.
- 4. HVAC**
(18-23 percent of scored items)
- A. PRINCIPLES**
Analyze and design heating, ventilating, and air conditioning systems.
- Building Design**
Apply basic engineering principles and technologies for HVAC systems in building design.
 - Implications of Design Decisions**
Analyze and evaluate the implications of HVAC system design decisions in relation to project goals, cost, schedule, and quality.
- 3. Indoor Air Quality**
Analyze and evaluate the implications of HVAC system design decisions in relation to indoor air quality.
- B. MATERIALS & TECHNOLOGY**
Evaluate and select materials and construction details related to heating, ventilating, and air conditioning systems.
- Building Systems and their Integration**
Evaluate and determine HVAC system parameters most appropriate for building design.
- 2. Construction Details and Constructability**
Utilize HVAC system details and recognize their effect on constructability, aesthetics, and technical properties.
- 3. Thermal and Moisture Protection**
Analyze and evaluate the implications of thermal and moisture protection principles in relation to HVAC system design.
- 5. ELECTRICAL**
(10-15 percent of scored items)
- A. PRINCIPLES**
Analyze and design electrical systems.
- Building Design**
Apply basic engineering principles and technologies for electrical systems in building design.
 - Implications of Design Decisions**
Analyze and evaluate the implications of electrical system design decisions in relation to project goals, cost, schedule, and quality.
- B. MATERIALS & TECHNOLOGY**
Evaluate and select materials and construction details related to electrical systems.
- Building Systems and their Integration**
Evaluate and determine electrical system parameters most appropriate for building design.
 - Construction Details and Constructability**
Evaluate and determine electrical system parameters most appropriate for building design.

BUILDING SYSTEMS

KNOWLEDGE / SKILLS

6. LIGHTING (15-20 percent of scored items)

A. PRINCIPLES

Analyze and design natural and artificial lighting systems.

1. Building Design

Apply basic engineering principles and technologies for lighting systems in building design.

2. Implications of Design Decisions

Analyze and evaluate the implications of lighting system design decisions in relation to project goals, cost, schedule, and quality.

3. Natural and Artificial Lighting

Evaluate and determine design principles and theories related to sustainable strategies, daylighting, solar control, energy consumption, and artificial lighting.

B. MATERIALS & TECHNOLOGY

Evaluate and select materials and construction details related to natural and artificial lighting systems.

1. Building Systems and their Integration

Evaluate and determine lighting system parameters most appropriate for building design.

2. Construction Details and Constructability

Utilize lighting system details and recognize their effect on constructability, aesthetics, and technical properties.

3. Natural and Artificial Lighting

Utilize lighting components and details to recognize their effect on constructability, aesthetics, and technical properties.

7. SPECIALTIES (18-23 percent of scored items)

A. ACOUSTICS

Evaluate, select, and design acoustical systems.

1. Building Design

Apply basic engineering principles and technologies for acoustic systems in building design.

2. Building Systems and their Integration

Evaluate and determine acoustic system parameters most appropriate for building design.

3. Implications of Design Decisions

Analyze and evaluate the implications of acoustic system design decisions in relation to project goals.

4. Construction Details and Constructability

Utilize acoustical components and details to recognize their effect on constructability, aesthetics, and technical properties.

B. COMMUNICATIONS & SECURITY

Evaluate, select, and design communications and security systems.

1. Building Design

Apply basic engineering principles and technologies for communications and security systems in building design.

2. Building Systems and their Integration

Evaluate and determine communications and security systems parameters most appropriate for building design.

3. Implications of Design Decisions

Analyze and evaluate the implications of communication and security system design decisions in relation to project goals.

BUILDING SYSTEMS

Overview

KNOWLEDGE / SKILLS

Knowledge/ Skills

Sample Multiple-Choice Questions

Mechanical & Electrical Plan Vignette

References

4. Construction Details and Constructability
Utilize communications and security system details and recognize their effect on constructability, aesthetics, and technical properties.

C. CONVEYING SYSTEMS

Evaluate, select, and design elevators, escalators, moving walkways, and other conveying systems.

1. Building Design

Apply basic engineering principles and technologies for conveying systems in building design.

2. Building Systems and their Integration

Evaluate and determine conveying system parameters most appropriate for building design.

3. Implications of Design Decisions

Analyze and evaluate the implications of conveying system design decisions in relation to project goals.

4. Construction Details and Constructability

Utilize conveying system details and recognize their effect on constructability, aesthetics, and technical properties.

D. FIRE DETECTION AND SUPPRESSION

Evaluate, select, and design fire detection and suppression systems.

1. Building Design

Apply basic engineering principles and technologies for fire detection and suppression systems in building design.

2. Building Systems and their Integration

Evaluate and determine fire detection and suppression system parameters most appropriate for building design.

3. Implications of Design Decisions

Analyze and evaluate the implications of fire detection and suppression system design decisions in relation to project goals.

4. Construction Details and Constructability

Utilize fire detection and suppression system details and recognize their effect on constructability, aesthetics, and technical properties.

CONSTRUCTION DOCUMENTS & SERVICES

KNOWLEDGE / SKILLS

Overview

Knowledge/
Skills

Sample Multiple-Choice Questions

Building Section Vignette

References

The division has been broken down into a listing of knowledge and skills directly related to each major content area.

1. CODES & REGULATIONS (9-11 percent of scored items)

- A. Incorporate building codes, specialty codes, zoning, and other regulatory requirements in construction documents and services.

1. Government and Regulatory Requirements and Permit Processes

Review governmental and regulatory requirements and incorporate provisions in the construction documents for required permit submittals and to achieve code compliance.

2. Specialty Codes and Regulations including Accessibility Laws, Codes, and Guidelines

Incorporate applicable specialty codes and regulations into the construction documents.

2. ENVIRONMENTAL ISSUES (6-9 percent of scored items)

- A. Incorporate sustainable design principles, universal design, adaptive reuse concepts, alternative energy systems, new material technologies, and hazardous material mitigation in construction documents.

1. Hazardous Conditions and Materials

Assess the presence of hazardous materials on the site and in the building during construction and recommend mitigation procedures.

2. Sustainable Design

Incorporate sustainable design principles into the construction documents.

3. CONSTRUCTION DRAWINGS & PROJECT MANUAL (48-53 percent of scored items)

- A. Prepare and coordinate construction drawings including building systems, product selection, and constructibility. Prepare, coordinate, and review general and supplementary conditions and technical specifications.

1. Site Design

Prepare and coordinate construction documents pertaining to the site.

2. Building Design

Prepare and coordinate construction documents pertaining to the building, and review and revise documents for constructibility and budget compliance.

3. Building Systems and their Integration

Coordinate building system components and resolve conflicts in construction documents.

4. Specifications

Prepare specifications and coordinate them with construction drawings.

4. PROJECT & PRACTICE MANAGEMENT (30-35 percent of scored items)

A. COST

Prepare estimates of probable construction cost. Consider cost implications on design decisions.

CONSTRUCTION DOCUMENTS & SERVICES

KNOWLEDGE / SKILLS

1. **Cost Estimating, Value Engineering, and Lifecycle Costing**
Update cost estimates for the project during construction document phase; adjust construction documents to align with budget and reflect lifecycle cost goals and value engineering results.
- B. **SCHEDULING & COORDINATION**
Prepare and manage project schedule and coordinate all contract documents including those of consultants.
 1. **Construction Sequencing**
Advise on the sequencing of construction and monitor its impact on project delivery.
 2. **Project Schedule Management**
Prepare and monitor a project schedule during both the construction documents phase and construction.
- C. **PROJECT DELIVERY**
Establish project delivery method. Provide contract administration documentation and services.
 1. **Project Delivery Methods**
Evaluate and finalize appropriate project delivery method.
 2. **Construction Procurement Processes**
Prepare procurement documentation and manage procurement process.
 3. **Product and Material Substitutions**
Evaluate proposed material substitutions for compliance with the construction documents.
 4. **Construction Records Management**
Document, prepare and maintain project records during the construction phase.
 5. **Shop Drawing Review**
Review and process shop drawings/submittals to ensure compliance with construction documents.
6. **Site Observation / Construction Contract Compliance**
Observe construction and perform construction administration to ensure compliance with construction documents and agreements.
7. **Change Order Process**
Determine and apply proper procedures for executing changes in the work.
8. **Construction Conflict Resolution**
Resolve conflicts between members of the project team during construction.
9. **Post-Occupancy Studies**
Assist in preparing a post-occupancy study and evaluate the results.
- D. **CONTRACTS & LEGAL ISSUES**
Review and administer professional services and construction contracts. Consider issues pertaining to practice including risk management and professional and business ethics.
 1. **Contracts for Construction**
Manage terms of professional service contracts and prepare construction contracts between owner and contractors.
 2. **Legal Issues Pertaining to Practice and Contracts**
Apply relevant laws and regulations governing the practice of architecture.
 3. **Risk Management**
Assess professional and general liability and apply risk management procedures related to architectural practice.
 4. **Professional and Business Ethics**
Apply professional and business ethics to architectural practice.

RIDs that were licensed via the ARE since September 1, 2013

	Initial RID Registration Date	Initial Architect Registration Date
1	11/6/2013	9/15/1987
2	12/18/2014	9/8/1995
3	1/23/2015	3/21/1996
4	2/19/2015	9/12/1989
5	7/2/2015	6/29/2015
6	11/4/2015	9/8/1994
7	11/20/2015	2/1/1974
8	1/9/2016	7/24/2009
9	1/11/2016	11/28/2012
10	3/9/2016	1/28/2015
11	3/15/2016	5/7/1991
12	Pending	9/9/1999

Discussion of Application of IRC to Unincorporated Areas

Background

At the February Board meeting, the Board considered a disciplinary action involving architect registrant Mark Todd. This investigation was opened after Staff received allegations that the Respondent made a number of errors in the design of a large single family home in unincorporated Montgomery County, Texas, including the failure to design an appropriate access point to a large attic space. Though the investigation resulted in findings that the design of the attic stairs was in violation of the International Residential Code, Counsel recommended that these violations be dismissed, because the Respondent had successfully argued that the IRC did not apply to the location in question.¹ Since this finding was contrary to common understanding about the application of the IRC to unincorporated areas of the state, the chairman has asked that this matter be briefed to the Committee.

Discussion

In 2009, the legislature adopted Subchapter F of Local Government Code Chapter 233, relating to County Regulation of Housing and Other Structures. This subchapter is entitled “Residential Building Code Standards Applicable to Unincorporated Areas of Certain Counties.” §233.153(a) of Subchapter F states,

“New residential construction of a single-family house or duplex in the unincorporated area of a county *to which this subchapter applies* shall conform to the version of the International Residential Code published as of May 1, 2008, or the version of the International Residential Code that is applicable in the county seat of that county.”

This is the provision which has been understood apply the IRC to the unincorporated areas of Texas. However, it is important to note the italicized qualifier, which limits the provision in an important way. The application of the IRC in unincorporated area applies only to a county *in which the subchapter applies*. §233.152 of Subchapter F, which describes the applicability of the Subchapter, states that, “This subchapter applies only to a county that has adopted a resolution or order requiring the application of the provisions of this subchapter.” Therefore, in order for the IRC to be the controlling code in an unincorporated area, the county must affirmatively act to adopt Subchapter F. Opposing counsel in the Todd matter correctly pointed out that Montgomery County had not adopted a resolution implementing Subchapter F, and did not enforce a building code in unincorporated areas of the county. Therefore, Staff was unable to move forward with the allegations based on a violation of the IRC.

Attachments

¹ An administrative penalty was entered in the matter, based on allegations that Mr. Todd had failed to maintain registration for his firm.

Copies of §§233.152 and 233.153 have been attached, as well as Montgomery County's statement on the issue.

Vernon's Texas Statutes and Codes Annotated
Local Government Code (Refs & Annos)
Title 7. Regulation of Land Use, Structures, Businesses, and Related Activities
Subtitle B. County Regulatory Authority
Chapter 233. County Regulation of Housing and Other Structures
Subchapter F. Residential Building Code Standards Applicable to Unincorporated Areas of Certain
Counties

V.T.C.A., Local Government Code § 233.152

§ 233.152. Applicability

Effective: September 1, 2009

[Currentness](#)

This subchapter applies only to a county that has adopted a resolution or order requiring the application of the provisions of this subchapter and that:

- (1) is located within 50 miles of an international border; or
- (2) has a population of more than 100.

Credits

Added by [Acts 2009, 81st Leg., ch. 1318, § 1, eff. Sept. 1, 2009](#).

V. T. C. A., Local Government Code § 233.152, TX LOCAL GOVT § 233.152

Current through the end of the 2015 Regular Session of the 84th Legislature

Vernon's Texas Statutes and Codes Annotated

Local Government Code (Refs & Annos)

Title 7. Regulation of Land Use, Structures, Businesses, and Related Activities

Subtitle B. County Regulatory Authority

Chapter 233. County Regulation of Housing and Other Structures

Subchapter F. Residential Building Code Standards Applicable to Unincorporated Areas of Certain Counties

V.T.C.A., Local Government Code § 233.153

§ 233.153. Building Code Standards Applicable

Effective: September 1, 2009

[Currentness](#)

- (a) New residential construction of a single-family house or duplex in the unincorporated area of a county to which this subchapter applies shall conform to the version of the International Residential Code published as of May 1, 2008, or the version of the International Residential Code that is applicable in the county seat of that county.
- (b) Standards required under this subchapter apply only to new residential construction that begins after September 1, 2009.
- (c) If a municipality located within a county to which this subchapter applies has adopted a building code in the municipality's extraterritorial jurisdiction, the building code adopted by the municipality controls and building code standards under this subchapter have no effect in the municipality's extraterritorial jurisdiction.
- (d) This subchapter may not be construed to:
- (1) require prior approval by the county before the beginning of new residential construction;
 - (2) authorize the commissioners court of a county to adopt or enforce zoning regulations; or
 - (3) affect the application of the provisions of Subchapter B, Chapter 232, to land development.
- (e) In the event of a conflict between this subchapter and Subchapter B, Chapter 232, the provisions of Subchapter B, Chapter 232, control.
- (f) A county may not charge a fee to a person subject to standards under this subchapter to defray the costs of enforcing the standards.

Credits

Added by [Acts 2009, 81st Leg., ch. 1318, § 1, eff. Sept. 1, 2009](#).

[Notes of Decisions \(1\)](#)

V. T. C. A., Local Government Code § 233.153, TX LOCAL GOVT § 233.153
Current through the end of the 2015 Regular Session of the 84th Legislature

End of Document

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MONTGOMERY COUNTY

PERMIT DEPARTMENT
501 N. THOMPSON, SUITE 100
CONROE, TEXAS 77301
(936) 539-7836 • FAX (936) 538-8155

RE: Building Codes/Fire Codes/Zoning in Unincorporated Areas of Montgomery County.
Certificates of Occupancy and Certificates of Compliance.

TO WHOM IT MAY CONCERN:

Please be advised that Montgomery County does not have zoning regulations, and does not issue Certificates of Occupancy for buildings or structures. Primarily, Certificates of Occupancy are issued by incorporated areas or subdivision associations. Building Codes are not enforced for single family residential structures or multi-family complexes with less than four (4) units.

Effective January 1, 2008, The Montgomery County Fire Marshal will enforce fire codes and applicable building codes under the 2012 IFC and NFPA for relevant commercial structures. No codes were enforced before this date. A Certificate of Compliance will be issued by the Montgomery County Fire Marshal's office for commercial Fire Code Permits after final inspection and approval.

Montgomery County does require septic permits, development permits, food service permits, and fire code permits, if applicable.

Sincerely,

A handwritten signature in black ink that reads "Phil D. Jones".

Phil D. Jones, CFM
Director, Permit Department