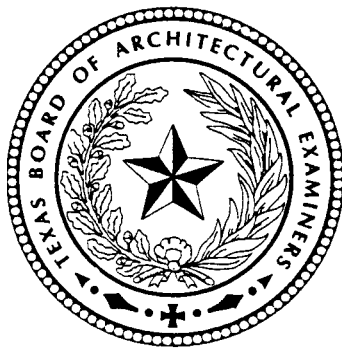


TEXAS BOARD OF ARCHITECTURAL EXAMINERS

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RULES and REGULATIONS of the BOARD REGULATING THE ADMINISTRATION OF THE BOARD



**For clarification and uniform application and
enforcement of the Texas Architects'
Registration Law, Texas Administrative Code,
Title 22, Part 1, Chapter 7**

July 7, 2017

This document is intended to be a convenient tool for site users. While we have taken care to present agency rules herein accurately, a small number of errors may remain in this document. Please refer to the agency rules hosted by the Secretary of State for official purposes.

PREFACE

Questions remaining after study of these rules should be directed to the Executive Director of the Board, at its Austin, Texas offices.

These rules may be amended only in accordance with the Administrative Procedure Act.

Texas Board of Architectural Examiners

As Adopted – October 12, 2004

Effective November 21, 2004

Amended – October 9, 2005

Amended – July 18, 2007

Amended – September 1, 2008

Amended – December 29, 2009

Amended – February 21, 2011

Amended – September 11, 2011

Amended – April 17, 2012

Amended – September 18, 2013

Amended – September 21, 2015

Amended – March 22, 2016

Amended – January 11, 2017

Amended – July 7, 2017

ADMINISTRATION

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7.1 OFFICERS AND EMPLOYEES

(a) As prescribed by law, the Governor shall appoint a Chairman, and the Board, appointed by the Governor, shall elect a Vice-Chairman and a Secretary-Treasurer. The Chairman shall hold office until replaced by the Governor. The Vice-Chairman and Secretary-Treasurer shall hold office until their successors have been elected.

(b) The Board shall employ an executive director to conduct the affairs of the Board under the Board's direction. The executive director shall be responsible for hiring and managing additional staff as necessary to sustain the daily operations of the Board's office.

(c) The Board shall be responsible for establishing an annual budget to govern the expenditure of funds received by the Board. All expenditures must comply with applicable statutory provisions and rules, including the most recently adopted rules of the Texas Building and Procurement Commission relating to Historically Underutilized Businesses.

Note: The provisions of this §7.1 adopted to be effective November 21, 2004, 29 TexReg 10509.

7.2 DIVISION OF RESPONSIBILITIES

(a) It is the Board’s policy to maintain separation between the policymaking responsibilities of the Board and the management responsibilities of the executive director and the staff of the Board.

(b) The Board has the duty to exercise the legal authority delegated to it by the Legislature. The Board’s responsibilities are:

- (1) the adoption of rules interpreting and implementing the Board’s enabling legislation and other statutes that vests legislative authority in the Board;
- (2) disciplining Registrants according to statute;
- (3) imposing administrative penalties on unregistered persons pursuant to law;
- (4) bringing an action to enjoin a violation of the laws and rules enforced by the Board or to enforce a subpoena issued by the executive director;
- (5) addressing issues that relate to regulation of the professions under the Board’s jurisdiction;
- (6) employing an executive director, evaluating the performance of the executive director, and setting a job description and compensation for the executive director; and
- (7) such other responsibilities stipulated by law.

(c) The executive director is responsible for carrying out the business of the Board and the ministerial functions in implementing and enforcing the law. The responsibilities of the executive director are:

- (1) employing, directing, evaluating the performance of, and setting compensation for the staff;
- (2) directing the administrative functions in regulating the professions under the Board’s jurisdiction, including the processing of applications for registration by the Board, monitoring of continuing education of Registrants, investigating alleged violations of the law enforced by the Board, recommending enforcement action to the Board, receiving and accounting for administrative fees and penalties, and all other management responsibilities;
- (3) issuing subpoenas to compel the production of information relevant to the investigation of an alleged violation of the laws enforced by the Board;
- (4) contracting for services and materials necessary to fulfill the requirements of the law as implemented

by the Board;

(5) providing administrative support and information to the Board as required for the Board to fulfill its policymaking responsibilities;

(6) such other responsibilities that are necessary to fulfill duties delegated by the Board or the Chairman; and

(7) such other responsibilities stipulated by law.

Note: The provisions of this §7.2 adopted to be effective November 21, 2004, 29 TexReg 10509.

7.3 COMMITTEES

The Chairman may appoint members of the Board to serve on committees as necessary to conduct the business of the Board.

Note: The provisions of this §7.3 adopted to be effective November 21, 2004, 29 TexReg 10506.

7.4 OFFICIAL SEAL

The Board's official seal includes a border of two concentric circles around a five-pointed star, the outer circle resembling a rope and the inner circle resembling a chain. The words "Texas Board of Architectural Examiners" shall appear within the border between the two circles. This seal should not be confused with the seal to be affixed to documents by an architect, landscape architect, and an interior designer pursuant to Section 1.101, Section 3.101, and Section 5.111, respectively. The following is the official seal of the Board:



Note: The provisions of this §7.4 adopted to be effective November 21, 2004, 29 TexReg 10509.

7.5 ROBERT'S RULES OF ORDER

Unless required otherwise by law or this chapter, Robert's Rules of Order shall be used in the conduct of the Board's meetings, subject to the following adaptations to the rules:

(1) Agency personnel may introduce a matter on the Board's agenda, prior to a motion and a second, in order to put the matter before the Board;

(2) A member of the Board, upon recognition by the Chair and without objection by another Board member, may ask agency personnel factual or technical questions about a matter before the Board, prior to a motion and second on the matter;

(3) Upon request by a member of the Board or upon the Chair's prerogative, the Chair may recognize someone who is not a member of the Board to provide factual or technical data germane to the matter currently before the Board, subject to strict limitations on relevance and time. Upon motion by a member of the Board or upon the Chair's prerogative, the Chair may reclaim the floor at any time from a person who is not a Board member.

Note: The provisions of this §7.5 adopted to be effective November 21, 2004, 29 TexReg 10509; 29 TexReg 10509; amended to be effective February 21, 2011, 36 TexReg 929.

7.6 PROCEDURES FOR ADDRESSING THE BOARD

(a) The Board shall include "public comment" as a topic on the agenda for each regularly scheduled meeting of the Board.

(b) During the "public comment" portion of a meeting, any member of the public may address the Board regarding any subject related to the business of the Board. Each member of the public shall be allotted

five (5) minutes to make a presentation to the Board. The five-minute period may be extended at the Board's discretion.

(c) Pursuant to Chapter 551, Texas Government Code, relating to open meetings, the Board may respond to an inquiry regarding a subject not listed on the agenda only with:

- (1) a statement of specific factual information in response to the inquiry; or
- (2) a recitation of existing policy in response to the inquiry.

(d) Except as allowed by subsection (c) of this section, any deliberation of or decision about a subject not listed on the agenda shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

Note: The provisions of this §7.6 adopted to be effective November 21, 2004, 29 TexReg 10509.

7.7 NEGOTIATED RULEMAKING

(a) It is the policy of the Board to encourage public input and negotiation in the Board's rulemaking process.

(b) A petition to initiate a rulemaking proceeding pursuant to §2001.021, Government Code, must be submitted to the Board's offices in writing. A petition must include:

- (1) a brief explanation of the proposed rule;
- (2) the full text of the proposed rule, and, if the petition is to modify an existing rule, the text of the proposed rule prepared in the same manner as an amendment to legislation that clearly identifies any words to be added or deleted from the existing text by underscoring added words and striking through words to be deleted;
- (3) a concise explanation of the legal authority to adopt the proposed rule, including a specific reference to the particular statute or other authority that authorizes it;
- (4) an explanation of how the proposed rule would protect life, health, property, and public welfare within the jurisdiction of the Board;
- (5) all available data or information showing a need for the proposed rule;
- (6) the identity of the petitioner and sufficient information to demonstrate eligibility to petition for rulemaking under subsection (c); and
- (7) such other information that the Board or the staff of the Board may request.

(c) Eligibility to petition for rulemaking under subsection (b) shall be limited to:

- (1) a resident of this state;
- (2) a business entity located in this state
- (3) a governmental subdivision located in this state; or
- (4) a public or private organization located in this state that is not a state agency.

(d) The Board may initiate a negotiated rulemaking process pursuant to Chapter 2008, Government Code, upon:

- (1) the filing of a petition to initiate the rulemaking proceeding under subsection (b) of this section;
- (2) the filing of a petition to initiate negotiated rulemaking proceeding with regard to a rule that has been proposed by the Board; or
- (3) a determination by the Board that negotiated rulemaking would be beneficial to the Board's consideration of a proposed rule.

(e) The Board may select any method of negotiation specified in Chapter 2008, Government Code, including the appointment of a convener, a negotiated rule-making committee, and a facilitator. The Chairman shall make all appointments involved in the negotiated rule-making process.

(f) The Board may adopt, amend, or refuse to adopt a rule created through the negotiated rulemaking process. The Board may not adopt any rule or any provision within a rule that the Board has no legal authority to adopt.

Note: The provisions of this §7.7 adopted to be effective November 21, 2004, 29 TexReg 10509, amended to be effective March 22, 2016, 41 TexReg 2164.

7.8 ALTERNATIVE DISPUTE RESOLUTION

(a) It is the Board's policy to encourage the resolution and early settlement of all disputed matters, internal and external, through voluntary settlement procedures.

- (b) The executive director shall designate at least one employee of the Board to serve as the Board's alternative dispute resolution coordinator to:
 - (1) coordinate the implementation of the Board's alternative dispute resolution policies;
 - (2) serve as a resource for any training needed to implement the procedures for negotiated rule-making or alternative dispute resolution; and
 - (3) collect data concerning the effectiveness of these procedures, as implemented by the Board.
- (c) The Board, a respondent, the executive director, or any other party involved in an internal or external disputed matter may request that the matter be resolved through any manner of alternative dispute resolution specified in Chapter 154, Civil Practice and Remedies Code, including mediation, arbitration, and moderated settlement conferences, or through the appointment of an ombudsman. The parties may agree to follow the guidelines established by the State Office of Administrative Hearings relating to alternative dispute resolution, to the extent possible.
- (d) The allocation of the costs of alternative dispute resolution is subject to negotiation and agreement between the parties. In the absence of an agreement, the costs of alternative dispute resolution shall be allocated by the third-party mediator, moderator, arbitrator, or ombudsman.
- (e) Any resolution reached as a result of an alternative dispute resolution procedure is intended to be through the voluntary agreement of the parties. Any resolution that purports to bind the Board must be approved by the Board at a meeting subject to the Texas Open Meetings Act, Chapter 551, Government Code.
- (f) The Board is subject to the Texas Public Information Act, Chapter 552, Government Code. Any written record, communication, or other material is confidential only to the extent provided by law and subject to the exemptions provided in that Act.

Note: The provisions of this §7.8 adopted to be effective November 21, 2004, 29 TexReg 10509.

7.9 PROCUREMENT – PROTESTS/DISPUTE RESOLUTION/HEARING

- (a) An actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract by the Board may file a formal protest with the Board's procurement director. A formal protest must be in writing and received by the procurement director within ten (10) business days after the aggrieved person knows or should have known of the occurrence of the action which is protested. The aggrieved person may mail or deliver copies of the protest to all vendors who have submitted bids or proposals for the contract at issue.
- (b) In the event of a timely protest or appeal filed pursuant to this section, the Board may not proceed further with the solicitation or with the award of the contract unless the executive director, after consultation with the procurement director, makes a written determination that the award of contract without delay is necessary to protect the best interests of the state.
- (c) A formal protest must be sworn and include:
 - (1) an identification of the specific statutory or regulatory provision(s) that the action complained of is alleged to have violated;
 - (2) a specific description of each act alleged to have violated the statutory or regulatory provision(s) identified in paragraph (1) of this subsection;
 - (3) a precise statement of relevant facts;
 - (4) an identification of the issues to be resolved;
 - (5) argument and authorities in support of the protest; and
 - (6) a notation stating whether copies of the protest have been mailed or delivered to all other vendors who have submitted bids or proposals for the contract at issue.
- (d) The procurement director is authorized, prior to appeal to the executive director, to settle and resolve the dispute concerning the solicitation or the award of a contract. The procurement director may solicit responses to the protest from other interested parties.
- (e) If the protest is not resolved by mutual agreement, the procurement director shall issue a written determination of the protest.
- (f) The procurement director shall send written notice of the determination of the protest to the aggrieved party and to other vendors who submitted bids or proposals for the contract. The procurement director's determination shall set out the reasons for the determination and appropriate remedial action, if any,

which may include ordering the contract at issue in the protest void. The procurement director shall confer with the Board's general counsel prior to issuing a written determination of a protest.

(g) The protesting party may appeal the procurement director's determination of the protest to the executive director of the Board. The appeal must be written and received in the executive director's office no later than ten (10) business days after the date of the procurement director's determination. The appeal shall be limited to a review of the determination. The protesting party may mail or deliver copies of the appeal to each other vendor who submitted bids or proposals on the contract at issue. If applicable, the appeal must include a certified statement that copies have been sent to the other vendors.

(h) The executive director may confer with general counsel in reviewing the appeal of the protest. The executive director may:

- (1) issue a written decision on the protest, or
- (2) refer the appeal to the Board for resolution.

(i) If the executive director refers the appeal to the Board, a copy of the appeal, the procurement director's determination of the appeal, and copies of statements or correspondence, if any, from other vendors must be submitted to the Board. The Board may issue a final order on any appeal referred to the Board.

(j) A written decision issued by either the Board or the executive director shall be the final administrative action of the Board.

(k) Protests and appeals that are not timely filed will not be considered, unless good cause is established or the procurement director determines that the protest or appeal raises issues significant to the agency's procurement practices or procedures.

Note: The provisions of this §7.9 adopted to be effective November 21, 2004, 29 TexReg 10509.

7.10 FEES – GENERAL

(a) FAILURE TO TIMELY PAY A REGISTRATION RENEWAL WILL RESULT IN THE AUTOMATIC CANCELLATION OF REGISTRATION BY OPERATION OF LAW.

(b) The following fees shall apply to services provided by the Board in addition to any fee established elsewhere by the rules and regulations of the Board or by Texas law.

Description	Architects	Landscape Architects	Registered Interior Designers
Exam Application	\$100	\$100	\$100
Examination	***	**	*
Registration by Examination – Resident	\$155	\$155	\$155
Registration by Examination – Nonresident	\$180	\$180	\$180
Reciprocal Application	\$150	\$150	\$150
Reciprocal Registration	\$200	\$200	\$200
Active Renewal – Resident	\$108	\$105	\$105
Active Renewal – Nonresident	\$200	\$200	\$200
Active Renewal 1-90 days late – Resident	\$160.50	\$157.50	\$157.50
Active Renewal > than 90 days late – Resident	\$213	\$210	\$210

Active Renewal 1-90 days late – Nonresident	\$300	\$300	\$300
Active Renewal > than 90 days late – Nonresident	\$400	\$400	\$400
Emeritus Renewal – Resident	\$10	\$10	\$10
Emeritus Renewal – Nonresident	\$10	\$10	\$10
Emeritus Renewal 1-90 days late – Resident	\$15	\$15	\$15
Emeritus Renewal > than 90 days late – Resident	\$20	\$20	\$20
Emeritus Renewal 1-90 days late – Nonresident	\$15	\$15	\$15
Emeritus Renewal > than 90 days late – Nonresident	\$20	\$20	\$20
Inactive Renewal – Resident	\$28	\$25	\$25
Inactive Renewal – Nonresident	\$125	\$125	\$125
Inactive Renewal 1-90 days late – Resident	\$40.50	\$37.50	\$37.50
Inactive Renewal > than 90 days late – Resident	\$53	\$50	\$50
Inactive Renewal 1-90 days late – Nonresident	\$187.50	\$187.50	\$187.50
Inactive Renewal > than 90 days late – Nonresident	\$250	\$250	\$250
Reciprocal Reinstatement	\$610	\$610	\$610
Change in Status – Resident	\$65	\$65	\$65
Change in Status – Nonresident	\$95	\$95	\$95
Reinstatement – Resident	\$685	\$685	\$685
Reinstatement – Nonresident	\$775	\$775	\$775
Certificate of Standing – Resident	\$30	\$30	\$30
Certificate of Standing – Nonresident	\$40	\$40	\$40
Replacement or Duplicate Wall Certificate – Resident	\$40	\$40	\$40
Replacement of Duplicate Wall Certificate – Nonresident	\$90	\$90	\$90
Duplicate Pocket Card	\$5	\$5	\$5

Reopen Fee for closed candidate files	\$25	\$25	\$25
Annual Business Registration Fee****	\$45	\$45	\$45
Business Registration Renewal 1-90 days late****	\$67.50	\$67.50	\$67.50
Business Registration Renewal > than 90 days late****	\$90	\$90	\$90
Examination – Record Maintenance	\$25	\$25	\$25
Returned Check Fee	\$25	\$25	\$25

*Examination fees are set by the Board examination provider, the National Council for Interior Design Qualification (“NCIDQ”). Contact the Board or the examination provider for the amount of the fee, and the date and location where each section of the examination is to be given.

**Examination fees are set by the Board’s examination provider, the Council of Landscape Architectural Registration Boards (“CLARB”). Contact the Board or the examination provider for the amount of the fee, and the date and location where each section of the examination is to be given.

***Examination fees are set by the Board’s examination provider, the National Council of Architectural Registration Boards (“NCARB”). Contact the Board or the examination provider for the amount of the fee, and the date and location where each section of the examination will be given.

****Notwithstanding the amounts shown in each column, a multidisciplinary firm which renders or offers two or more of the regulated professions of architecture, landscape architecture, and interior design is required to pay only a single fee in the same manner as a firm which offers or renders services within a single profession.(c) As authorized under §1051.355 and §1051.651 of the Texas Occupations Code, the fee schedule in subsection (b) includes a \$3 fee to be collected from each Texas resident who renews an active or inactive registration as an architect, to fund the examination fee scholarship program under §1051.653, Texas Occupations Code.

(d) Applicants and registrants who submit payments online through Texas.gov will be subject to convenience fees set by the Department of Information Resources in addition to the fees listed in subsection (b).

(e) The Board cannot accept cash as payment for any fee.

(f) An official postmark from the U.S. Postal Service or other delivery service receipt may be presented to the Board to demonstrate the timely payment of any fee.

(g) If a check is submitted to the Board to pay a fee and the bank upon which the check is drawn refuses to pay the check due to insufficient funds, errors in routing, or bank account number, the fee shall be considered unpaid and any applicable late fees or other penalties accrue. The Board shall impose a processing fee for any check that is returned unpaid by the bank upon which the check is drawn.

(h) Payment of fees for a military service member, military veteran, or military spouse.

(1) In this subsection, the terms "military service member," "military veteran," and "military spouse" shall have the meanings defined in §§1.29, 3.29, and 5.39 of the Board Rules.

(2) A military service member who is a registrant in Good Standing or was in Good Standing at the time the Registrant entered into military service shall be exempt from the payment of any fee during any period of active duty service. The exemption under this subsection shall continue through the remainder of the fiscal year during which the Registrant's active duty status expires.

(3) A military service member or military veteran whose military service, training, or education substantially meets all requirements of a license shall be exempt from payment of license application and examination fees paid to the state.

(4) A military service member, military veteran or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for registration in this state shall be exempt from payment of license application and examination fees paid to the state.

Note: The provisions of this §7.10 adopted to be effective November 21, 2004, 29 TexReg 10509; amended to be effective October 9, 2005, 30 TexReg 6431; amended to be effective July 18, 2007, 32 TexReg 4397; amended to be effective September 1, 2008, 33 TexReg 7217; amended to be effective December 29, 2009, 34 TexReg 9444; amended to be effective September 11, 2011, 36 TexReg 5688; amended to be effective April 17, 2012, 37 TexReg 2638; amended to be effective September 18, 2013, 38 TexReg 6040; amended to be effective September 21, 2015, 40 TexReg 6351; amended to be effective March 22, 2016, 41 TexReg 2164; amended to be effective January 11, 2017, 41 TexReg 10333.

7.11 ENHANCED CONTRACT AND PERFORMANCE MONITORING

(a) The Board will complete a risk assessment to identify procurement contracts for goods or services from a private vendor that require enhanced contract or performance monitoring.

(b) For all contracts with a value greater than \$25,000, the finance manager will complete a risk assessment to evaluate whether enhanced contract or performance monitoring may be required. For contracts of a lesser value, the finance manager may complete a risk assessment to evaluate whether enhanced contract or performance monitoring is indicated. The risk assessment may consider the following factors:

- (1) total cost of the contract, including contract renewals;
- (2) risk of loss to the agency under the contract;
- (3) risk of fraud, waste or abuse;
- (4) scope of the goods or services provided;
- (5) availability of agency resources;
- (6) complexity of the contract;
- (7) business process impact of failure or delay;
- (8) vendor past performance; and
- (9) whether the vendor is a foreign or domestic person or entity.

(c) Contracts identified for enhanced contract and/or performance monitoring will be reported to the Board at the first regular Board meeting after the contract is executed. The report shall include:

- (1) the basis for the determination that enhanced contract or performance monitoring is appropriate;
- (2) any serious issues or risks identified with the contract, if applicable; and
- (3) the plan for carrying out the enhanced contract or performance monitoring.

(d) For any contract subject to enhanced contract or performance monitoring, the finance manager shall provide the Board with progress reports, as directed by the Board.

(e) This section does not apply to a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is not a cost.

Note: The provisions of this §7.11 adopted to be effective July 2, 2017, 42 TexReg 3373.

7.15 EMPLOYEE TRAINING

(a) The Board shall adopt policies and procedures relating to training and education of administrators and employees under Chapter 656 of the Texas Government Code. Such policies shall address the following matters:

- (1) the eligibility of the agency's administrators and employees for training and education supported by the agency; and
- (2) the obligations assumed by the administrators and employees on receiving the training and education.

(b) Reimbursement of tuition or other expenses incurred by an administrator or employee related to a training or education program offered by an institution of higher education or private or independent institution of higher education shall not occur unless:

- (1) Eligibility requirements contained in the Board's policies and procedures have been satisfied;

- (2) The program course is completed successfully by the administrator or employee at an accredited institution of higher education; and
- (3) The reimbursement is authorized by the Executive Director.

Note: *The provisions of this §7.15 adopted to be effective March 22, 2016, 41 TexReg 2165.*