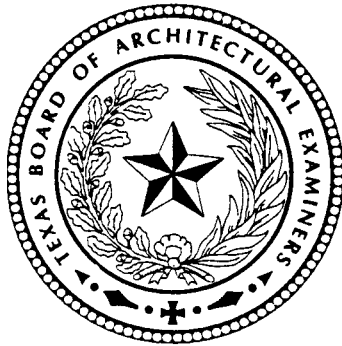


TEXAS BOARD OF ARCHITECTURAL EXAMINERS
505 E. HUNTLAND DRIVE, SUITE 350 AUSTIN, TX 78752 512/305-9000

**Rules and Regulations of the Board
Regulating the Practice of
Interior Design**



**For clarification and uniform application and
enforcement of the Texas Interior Designers'
Registration Law, Texas Administrative Code,
Title 22, Part 1, Chapter 5**

April 1, 2021

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.

Defined terms are capitalized. Definitions are provided in rule 5.5.

Texas Board of Architectural Examiners

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RULES AND REGULATIONS
TEXAS BOARD OF ARCHITECTURAL EXAMINERS
CHAPTER 5 – INTERIOR DESIGNERS

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SUBCHAPTER A

SCOPE; DEFINITIONS

- 5.1 Purpose
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5.1 PURPOSE

The Rules and Regulations of the Board are set forth for the purpose of interpreting and implementing the Interior Designers' Registration Law.

Note: The provisions of this §5.1 adopted to be effective May 4, 1992, 17 TexReg 2860; amended to be effective March 6, 2003, 28 TexReg 1877.

5.5 TERMS DEFINED HEREIN

The following words, terms, and acronyms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) The Act--The Interior Designers' Registration Law.
- (2) Administrative Procedure Act (APA)--Texas Government Code §§2001.001 et seq.
- (3) APA--Administrative Procedure Act.
- (4) Applicant--An individual who has submitted an application for registration or reinstatement but has not yet completed the registration or reinstatement process.
- (5) Architectural Barriers Act--Texas Government Code, Chapter 469.
- (6) Architectural Interior Construction--A building project that involves only the inside elements of a building and, in order to be completed, necessitates the "practice of architecture" as that term is defined in 22 Texas Administrative Code §1.5.
- (7) Barrier-Free Design--The design of a facility or the design of an alteration of a facility which complies with the Texas Accessibility Standards, the Americans with Disabilities Act, the Fair Housing Accessibility Guidelines, or similarly accepted standards for accessible design.
- (8) Board--Texas Board of Architectural Examiners.
- (9) Cancel, Cancellation, or Cancelled--The termination of a Texas Interior Design registration certificate by operation of law two years after it expires without renewal by the certificate-holder.
- (10) Candidate--An individual that is seeking registration by examination but has not yet completed the examination or application process.
- (11) CEPH--Continuing Education Program Hour(s).
- (12) Chair--The member of the Board who serves as the Board's presiding officer.
- (13) CIDQ--The Council for Interior Design Qualification.
- (14) Construction Documents--Drawings; specifications; and addenda, change orders, construction change directives, and other Supplemental Documents prepared for the purpose(s) of Regulatory Approval, permitting, or construction.
- (15) Consultant--An individual retained by a Registered Interior Designer who prepares or assists in the preparation of technical design documents issued by the Registered Interior Designer for use in connection with the Registered Interior Designer's Construction Documents.
- (16) Contested Case--A proceeding, including a licensing proceeding, in which the legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearings.
- (17) Continuing Education Program Hour (CEPH)--At least fifty (50) minutes of time spent in an activity meeting the Board's continuing education requirements.
- (18) Council for Interior Design Qualification (CIDQ)--An organization comprised of regulatory boards from the United States and Canada which administers the NCIDQ examination.
- (19) Delinquent--A registration status signifying that a Registered Interior Designer:
 - (A) has failed to remit the applicable renewal fee to the Board; and
 - (B) is no longer authorized to use the title "Registered Interior Designer" in Texas.

- (20) Emeritus Interior Designer (or Interior Designer Emeritus)--An honorary title that may be used by a Registered Interior Designer who has retired from the practice of Interior Design in Texas pursuant to §1053.156 of the Texas Occupations Code.
- (21) Energy-Efficient Design--The design of a project and the specification of materials to minimize the consumption of energy in the use of the project. The term includes energy efficiency strategies by design as well as the incorporation of alternative energy systems.
- (22) Feasibility Study--A report of a detailed investigation and analysis conducted to determine the advisability of a proposed Interior Design project from a technical Interior Design standpoint.
- (23) Good Standing--
- (A) a registration status signifying that a Registered Interior Designer is not delinquent in the payment of any fees owed to the Board; or
- (B) an application status signifying that an Applicant or Candidate is not delinquent in the payment of any fees owed to the Board, is not the subject of a pending TBAE enforcement proceeding, and has not been the subject of formal disciplinary action by an Interior Design registration board that would provide a ground for the denial of the application for Interior Design registration in Texas.
- (24) Governmental Jurisdiction--A governmental authority such as a state, territory, or country beyond the boundaries of Texas.
- (25) Inactive--A registration status signifying that a Registered Interior Designer may not practice Interior Design in the State of Texas.
- (26) Interior Design--The identification, research, or development of creative solutions to problems relating to the function or quality of the interior environment; the performance of services relating to interior spaces, including programming, design analysis, space planning of non-load-bearing interior construction, and application of aesthetic principles, by using specialized knowledge of interior construction, building codes, equipment, materials, or furnishings; or the preparation of Interior Design plans, specifications, or related documents about the design of non-load-bearing interior spaces.
- (27) Interior Designers' Registration Law--Chapter 1053, Texas Occupations Code.
- (28) Interior Design Intern--An individual participating in an internship to complete the experiential requirements for Interior Design registration by examination in Texas.
- (29) Licensed--Registered.
- (30) Member Board--An Interior Design registration board that is part of CIDQ.
- (31) NCIDQ--The examination developed and administered by the Council for Interior Design Qualification, which is the adopted examination for registration as a Texas Registered Interior Designer.
- (32) Nonregistrant--An individual who is not a Registered Interior Designer.
- (33) Principal--A Registered Interior Designer who is responsible, either alone or with other Registered Interior Designers, for an organization's practice of Interior Design.
- (34) Registered Interior Designer--An individual who holds a valid Texas Interior Design registration granted by the Board.
- (35) Registrant--Registered Interior Designer.
- (36) Regulatory Approval--The approval of Construction Documents by a Governmental Entity after a review of the Interior Design content of the Construction Documents as a prerequisite to construction or occupation of a building or facility.
- (37) Reinstatement--The procedure through which a Surrendered or Revoked Texas Interior Design registration certificate is restored.
- (38) Renewal--The procedure through which a Registered Interior Designer pays a periodic fee so that his or her registration certificate will continue to be effective.
- (39) Responsible Charge--That degree of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by Registered Interior Designers applying the applicable Interior Design standard of care.
- (40) Revocation or Revoked--The termination of a Texas Interior Design registration certificate by the Board.
- (41) Rules and Regulations of the Board--22 Texas Administrative Code §§5.1 et seq.
- (42) Rules of Procedure of SOAH--1 Texas Administrative Code §§155.1 et seq.

- (43) Secretary-Treasurer--The member of the Board responsible for signing the official copy of the minutes from each Board meeting and maintaining the record of Board members' attendance at Board meetings.
- (44) Signature--A personal signature of the individual whose name is signed or an authorized copy of such signature.
- (45) SOAH--State Office of Administrative Hearings.
- (46) Sole Practitioner--A Registered Interior Designer who is the only design professional to offer or render Interior Design services on behalf of a business entity.
- (47) State Office of Administrative Hearings (SOAH)--A governmental entity created to serve as an independent forum for the conduct of adjudicative hearings involving the executive branch of Texas government.
- (48) Supervision and Control--The amount of oversight by a Registered Interior Designer overseeing the work of another whereby:
- (A) the Registered Interior Designer and the individual performing the work can document frequent and detailed communication with one another and the Registered Interior Designer has both control over and detailed professional knowledge of the work; or
- (B) the Registered Interior Designer is in Responsible Charge of the work and the individual performing the work is employed by the Registered Interior Designer or by the Registered Interior Designer's employer.
- (49) Supplemental Document--A document that modifies or adds to the technical Interior Design content of an existing Construction Document.
- (50) Surrender--The act of relinquishing a Texas Interior Design registration certificate along with all privileges associated with the certificate.
- (51) Sustainable Design--An integrative approach to the process of design which seeks to avoid depletion of energy, water, and raw material resources; prevent environmental degradation caused by facility and infrastructure development during their implementation and over their life cycle; and create environments that are livable and promote health, safety and well-being. Sustainability is the concept of meeting present needs without compromising the ability of future generations to meet their own needs.
- (52) TBAE--Texas Board of Architectural Examiners.
- (53) TDLR--Texas Department of Licensing and Regulation.
- (54) Texas Department of Licensing and Regulations (TDLR)--A Texas state agency responsible for the implementation and enforcement of the Texas Architectural Barriers Act.
- (55) Vice-Chair--The member of the Board who serves as the assistant presiding officer and, in the absence of the Chair, serves as the Board's presiding officer. If necessary, the Vice-Chair succeeds the Chair until a new Chair is appointed.

Note: The provisions of this §5.5 adopted to be effective May 4, 1992, 17 TexReg 2860; amended to be effective December 6, 1995, 20 TexReg 9847; amended to be effective June 30, 1997, 22 TexReg 5922; amended to be effective April 5, 2000, 25 TexReg 2814; amended to be effective February 27, 2001, 26 TexReg 1723; amended to be effective March 6, 2003, 28 TexReg 1878; amended to be effective March 30, 2006, 31 TexReg 2455; amended to be effective September 19, 2006, 31 TexReg 7995; amended to be effective April 3, 2008, 33 TexReg 2693; amended to be effective December 14, 2008, 33 TexReg 10160; amended to be effective June 21, 2009, 34 TexReg 3947; amended to be effective December 29, 2009, 34 TexReg 9441; amended to be effective June 13, 2010, 35 TexReg 4700; amended to be effective September 25, 2012, 37 TexReg 7483; amended to be effective March 23, 2017, 42 TexReg 1251; amended to be effective January 1, 2018, 42 TexReg 7403; amended to be effective July 8, 2020, 45 TexReg 4516.

SUBCHAPTER B
ELIGIBILITY FOR REGISTRATION

- | | | | |
|------|-------------------------------------|------|--|
| 5.31 | Registration by Examination | 5.36 | Preliminary Evaluation of Criminal History |
| 5.32 | Registration by Reciprocal Transfer | 5.37 | Provisional Licensure |
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Military Veteran, Or Military Spouse |

5.35 Pending Applications

5.31 REGISTRATION BY EXAMINATION

(a) In order to obtain Interior Design registration by examination in Texas, an Applicant shall demonstrate that the Applicant has satisfied the educational and professional experience eligibility requirements adopted by the Council for Interior Design Qualification (CIDQ) to sit for the NCIDQ examination, and shall successfully complete the NCIDQ examination or a predecessor or other examination deemed equivalent by CIDQ as more fully described in Subchapter C of this chapter.

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

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

- (1) the educational and professional experience required by CIDQ to sit for its examination; or
- (2) the educational and professional experience requirements adopted by the Board and in effect at the time the application was filed.

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

Note: The provisions of this §5.31 adopted to be effective August 2, 2000, 25 TexReg 7166; amended to be effective October 11, 2001, 26 TexReg 7855; amended to be effective April 4, 2004, 29 TexReg 3469; amended to be effective March 30, 2006, 31 TexReg 2456; amended to be effective July 13, 2008, 33 TexReg 5318; amended to be effective June 13, 2010, 35 TexReg 4700; amended to be effective February 21, 2011, 36 TexReg 928; amended to be effective September 18, 2013, 38 TexReg 6039; amended to be effective March 22, 2016, 41 TexReg 2162; amended to be effective January 11, 2017, 42 TexReg 14; amended to be effective January 1, 2018, 42TexReg 7403.

5.32 REGISTRATION BY RECIPROCAL TRANSFER

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

- (1) has licensing or registration requirements substantially equivalent to Texas registration requirements; or
- (2) has entered into a reciprocity agreement with the Board that has been approved by the Governor of Texas.

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

- (1) successfully completed the NCIDQ examination or a predecessor or other examination deemed equivalent by the Council for Interior Design Qualification (CIDQ); and
- (2) acquired at least two years of acceptable Interior Design experience following registration in another jurisdiction.

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

Note: The provisions of this §5.32 adopted to be effective October 11, 2001, 26 TexReg 7856; amended to be effective April 4, 2004, 29 TexReg 3469; amended to be effective June 13, 2010, 35 TexReg 4701; amended to be effective November 23, 2014, 39 TexReg 9009; amended to be effective March 22, 2016, 41 TexReg 2163; amended to be effective January 1, 2018, 42 TexReg 7403.

5.33 APPLICATION PROCESS

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

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

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

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

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

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

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

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

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

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

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

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

Note: The provisions of this §5.33 adopted to be effective October 11, 2001, 26 TexReg 7857; amended to be effective June 13, 2010, 35 TexReg 4701; amended to be effective January 1, 2018, 42 TexReg 7403.

5.35 PENDING APPLICATIONS

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

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

Note: The provisions of this §5.35 adopted to be effective October 11, 2001, 26 TexReg 7859; amended to be effective January 1, 2018, 42 TexReg 7403.

5.36 PRELIMINARY EVALUATION OF CRIMINAL HISTORY

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

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

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

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

- (3) the names and contact information of the parole or probation department, if any, to which the requestor reports; and
- (4) the required fee for determining eligibility.
- (c) Within 90 days after receiving a request which complies with subsection (b) of this section, the executive director shall issue a criminal history evaluation letter which states:
 - (1) a determination that a ground for ineligibility based upon criminal conduct does not exist; or
 - (2) a determination that the requestor is ineligible due to criminal conduct and a specific explanation of the basis for that determination, including any factor considered under §5.158(c) or (d) of this chapter that served as the basis for the determination.
- (d) For purposes of determining eligibility for registration, a record of conviction is conclusive evidence of guilt. The Board may not consider a conviction in determining eligibility for registration upon receipt of proof that the conviction or an order of probation with or without adjudication of guilt has been reversed or set aside.
- (e) In the absence of evidence that was not disclosed by the requestor or reasonably available when a request for a criminal history evaluation was under consideration, the executive director's criminal history evaluation letter is a final determination regarding the requestor's eligibility for registration. If found to be ineligible for registration, a requestor may not apply for registration until one year after the date the letter is issued. A requestor who is determined to be ineligible may:
 - (1) submit a request for reconsideration of the determination of ineligibility based upon evidence that was not disclosed or reasonably available to the agency at the time the determination was made;
 - (2) submit a new request for an evaluation no sooner than one year after the date upon which the criminal history evaluation letter was issued; or
 - (3) request a hearing on the determination made in the executive director's criminal history evaluation letter. A hearing conducted pursuant to this section is subject to the Administrative Procedure Act, Chapter 2001, Government Code.
- (f) The Board shall issue a final order on the determination made in the criminal history evaluation after consideration of a proposal for decision issued by an administrative law judge at the State Office of Administrative Hearings. The Board's final order must specify findings of fact and conclusions of law, stated separately, regarding the person's eligibility for registration in light of his or her criminal history record.
- (g) A person who is found to be ineligible by a final order of the Board may not file another request for a criminal history evaluation or apply for registration until three years after the date of the Board's final order. However, a person may request reconsideration of the final order based upon evidence that was not disclosed or reasonably available to the Board at the time the final order was issued.

Note: The provisions of this §5.36 adopted to be effective November 29, 2010, 35 TexReg 10507; amended to be effective January 1, 2018, 42 TexReg 7403; amended to be effective July 8, 2020, 45 TexReg 4517.

5.37 PROVISIONAL LICENSURE

- (a) The Board shall grant a Certificate of Registration or a provisional Certificate of Registration to an otherwise qualified Applicant who has been convicted of an offense that:
 - (1) is not directly related to the Practice of Interior Design as determined by the executive director under §5.158 of this chapter (relating to Criminal Convictions);
 - (2) is not an offense listed in Article 42A.054, Code of Criminal Procedure; and
 - (3) is not a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.
- (b) A provisional Certificate of Registration expires six (6) months after the date it is issued.
- (c) A provisional Certificate of Registration may be Revoked for the following reasons:
 - (1) the provisional Registrant commits another offense during the 6-month provisional Registration period;
 - (2) the provisional Registrant's community supervision, mandatory supervision, or parole is Revoked; or
 - (3) the provisional Registrant violates a statute or rule enforced by the Board.
- (d) A provisional Registrant who is subject to community supervision, mandatory supervision, or parole shall provide the Board name and contact information of the probation or parole department to which the provisional Registrant reports. The Board shall provide notice to the department upon the issuance

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

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

Note: The provisions of this §5.37 adopted to be effective November 29, 2010, 35 TexReg 10508; amended to be effective January 1, 2018, 42 TexReg 7403; amended to be effective July 8, 2020, 45 TexReg 4517.

5.38 CHILD SUPPORT ARREARAGE

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

Note: The provisions of this §5.38 adopted to be effective June 8, 2014, 39 TexReg 4251.

5.39 REGISTRATION OF A MILITARY SERVICE MEMBER, MILITARY VETERAN, OR MILITARY SPOUSE

(a) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Alternative temporary registration procedure for military spouses.

(1) A military spouse may qualify for a temporary Interior Design registration if the spouse:

(A) holds a current interior design license or registration in good standing in another jurisdiction that has licensing requirements substantially equivalent to the requirements for Interior Design registration in this state;

(B) notifies the Board in writing of the spouse's intent to practice Interior Design in this state;

(C) submits to the Board required information to demonstrate eligibility for temporary Interior Design registration; and

(D) receives a verification letter from the Board that:

- (i) the Board has verified the spouse's license or registration in the other jurisdiction; and
- (ii) the spouse is issued a temporary Interior Design registration.
- (2) The Board will review and evaluate the following criteria when determining whether another jurisdiction's licensing requirements are substantially equivalent to the requirements for an Interior Design registration in Texas:
 - (A) whether the other jurisdiction requires an applicant to pass the Council for Interior Design Qualification (CIDQ) examination;
 - (B) any experience qualifications required by the jurisdiction to obtain the license or registration; and
 - (C) any education credentials required by the jurisdiction to obtain the license or registration.
- (3) The military spouse must submit the following information to the Board to demonstrate eligibility for temporary Interior Design registration:
 - (A) a written request for the Board to review the military spouse's eligibility for temporary Interior Design registration;
 - (B) sufficient documentation to verify that the military spouse is currently licensed or registered in good standing in another jurisdiction and has no restrictions, pending enforcement actions, or unpaid fees or penalties relating to the license or registration;
 - (C) proof of residency in this state;
 - (D) a copy of the military spouse's identification card; and
 - (E) proof the military service member is stationed at a military installation in Texas.
- (4) A temporary Interior Design registration issued under this subsection expires three years from the date of issuance or when the military service member is no longer stationed at a military installation in Texas, whichever occurs first. The registration may not be renewed.
- (5) Except as provided under the subsection, a military spouse who receives a temporary Interior Design registration under this subsection is subject to and shall comply with all applicable laws, rules, and standards governing the practice of Interior Design in this state.
- (6) A temporary Interior Design registration issued under this subsection may be revoked if the military spouse:
 - (A) fails to comply with paragraph (5) of this subsection; or
 - (B) the military spouse's license or registration required under paragraph (1)(a) of this subsection expires or is suspended or revoked.
- (7) The Board shall not charge a fee for the issuance of a temporary Interior Design registration under this subsection.

Note: The provisions of this §5.39 adopted to be effective November 23, 2014, 39 TexReg 9009; amended to be effective March 22, 2016, 41 TexReg 2163; amended to be effective April 5, 2020, 45 TexReg 2185.

SUBCHAPTER C

EXAMINATION

- | | | | |
|------|--|------|------------------------|
| 5.51 | Requirements | 5.54 | Repealed |
| 5.52 | Examination Administration and Scoring | 5.55 | Special Accommodations |
| 5.53 | Scheduling of Examinations | | |

5.51 REQUIREMENTS

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

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

(c) An examination fee may be refunded as follows:

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

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

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

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

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

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

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

(C) Approval of the request and refund of the fee or portion of the fee by CIDQ.

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

Note: The provisions of this §5.51 adopted to be effective October 11, 2001, 26 TexReg 7860; amended to be effective April 4, 2004, 29 TexReg 3471; amended to be effective December 24, 2008, 33 TexReg 10323; amended to be effective June 13, 2010, 35 TexReg 4701; amended to be effective September 18, 2013, 38 TexReg 6040; amended to be effective January 11, 2017, 42 TexReg 14; amended to be effective January 1, 2018, 42 TexReg 7403.

5.52 EXAMINATION ADMINISTRATION AND SCORING

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

(b) Unless otherwise noted in this chapter, the administration and scoring of the NCIDQ examination shall be governed by the procedures adopted by the Council for Interior Design Qualification (CIDQ). The Board shall not review any NCIDQ examination score to determine its validity.

Note: The provisions of this §5.52 adopted to be effective October 11, 2001, 26 TexReg 7860; amended to be effective June 13, 2010, 35 TexReg 4702; amended to be effective January 1, 2018, 42 TexReg 7403.

5.53 SCHEDULING OF EXAMINATIONS

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

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

(1) required by CIDQ; or

(2) adopted by the Board and in effect at the time the application was filed.

(c) A qualifying examinee may request an extension if the examinee is unable to pass all sections of the examination within the required time period for the following reasons:

(1) The examinee gave birth to, or adopted a child;

(2) The examinee developed a serious medical condition; or

(3) The examinee commenced active duty service as a member of the United States military.

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

Note: The provisions of this §5.53 adopted to be effective October 11, 2001, 26 TexReg 7860; amended to be effective March 16, 2005, 30 TexReg 1447; amended to be effective October 18, 2009, 34 TexReg 7077; amended to be effective November 23, 2014, 39 TexReg 9009; amended to be effective January 1, 2018, 42 TexReg 7403.

5.55 SPECIAL ACCOMMODATIONS

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

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

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

(d) Procedure for requesting accommodation:

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

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

(3) An examinee seeking an accommodation must make a request for accommodation on the prescribed form and provide documentation of the need for accommodation well in advance of the examination date. If the form is submitted less than sixty (60) days prior to the examination date, the Board will attempt to process the request but might not be able to provide the necessary accommodation for the next examination.

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

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

(2) Credential requirements of the evaluator:

(A) For physical or mental disabilities (not including learning), the evaluator shall be a licensed health care professional qualified to assess the type of disability claimed. If a person who does not fit these

criteria completes the evaluation, the Board may reject the evaluation and require another evaluation, and the request for accommodation may be delayed.

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

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

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

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

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

(III) assessing achievement level; and

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

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

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

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

(i) evaluate written material;

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

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

(C) whether the disability limits the amount of time the examinee can spend on specific examination tasks;

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

(E) the professional's name, title, telephone number, and his/her original signature;

(F) any other information necessary, in the professional's opinion, to enable the exam provider to understand the examinee's disability and the accommodation necessary to enable the examinee to demonstrate his/her knowledge, skills, and ability.

(f) Documentation supporting an accommodation shall be valid for five (5) years from the date submitted to the Board except that no further documentation shall be required where the original documentation clearly states that the disability will not change in the future.

(g) The Board has the responsibility to evaluate each request for accommodation and to approve, deny, or suggest alternative reasonable accommodations. The Board may consider an examinee's history of accommodation in determining its reasonableness in relation to the currently identified impact of the disability.

(h) Information related to a request for accommodation shall be kept confidential to the extent provided by law.

Note: The provisions of this §5.55 adopted to be effective April 4, 2004, 29 TexReg 3471; amended to be effective January 1, 2018, 42 TexReg 7403.

SUBCHAPTER D
CERTIFICATION AND ANNUAL RENEWAL

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|---|--|
| 5.71 Issuance of Certificates of Registration | 5.76 Reinstatement |
| 5.72 Display of Certificate | 5.77 Emeritus Status |
| 5.73 Repealed | 5.78 Inactive Status |
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| 5.75 Annual Renewal Procedure | |

5.71 ISSUANCE OF CERTIFICATES OF REGISTRATION

(a) Certificates of registration shall be issued to individuals who have satisfied the registration requirements as described in the Interior Designers' Registration Law and the Rules and Regulations of the Board.

(b) Each certificate of registration issued by the Board shall identify the Interior Designer by name and registration number, indicate the effective date of the registration, and acknowledge the Interior Designer's right to practice as a licensed Interior Designer in Texas.

Note: The provisions of this §5.71 adopted to be effective October 11, 2001, 26 TexReg 7862.

5.72 DISPLAY OF CERTIFICATE

(a) Each Registered Interior Designer holding an active certificate of registration shall display it at his/her office. If a Registered Interior Designer maintains an office in more than one (1) location, the Registered Interior Designer shall display a duplicate certificate at each additional location.

(b) A duplicate certificate may be obtained only by filing with the Board an application for a duplicate certificate and paying a fee as prescribed by the Board. A Registered Interior Designer may not copy his/her certificate of registration in order to display it.

Note: The provisions of this §5.72 adopted to be effective October 11, 2001, 26 TexReg 7862; amended to be effective June 13, 2010, 35 TexReg 4702.

5.74 SURRENDER OF REGISTRATION

(a) A Registered Interior Designer may voluntarily surrender his/her registration by submitting to the Board a written notice of the voluntary surrender that has been signed by the Registered Interior Designer. The voluntary surrender of a registration shall invalidate the registration. A registration that has been voluntarily surrendered may be reinstated in the manner described in Section 5.76 of this title (relating to Reinstatement.)

(b) Upon receipt of written notice from the Board requiring the surrender of a certificate of registration that has been suspended or revoked pursuant to the Rules and Regulations of the Board, a Registered Interior Designer or former Registered Interior Designer shall immediately surrender his/her certificate of registration in the manner prescribed in the notice.

Note: The provisions of this §5.74 adopted to be effective October 11, 2001, 26 TexReg 7862; amended to be effective June 13, 2010, 35 TexReg 4703.

5.75 ANNUAL RENEWAL PROCEDURE

(a) The Board shall send via email an annual registration renewal notice to each Registered Interior Designer. A Registered Interior Designer must notify the Board in writing (email, fax, on the Board's Web site, or by U.S. mail) each time the Registered Interior Designer's email address or mailing address of record changes. The written notice of the Registered Interior Designer's change of address must be submitted to the Board within thirty (30) days after the effective date of the change of address.

(b) A Registered Interior Designer may renew his/her registration prior to its specified annual expiration date by:

(1) remitting the correct fee to the Board; and

(2) providing the information or documentation requested by the annual registration renewal notice.

(c) If a Registered Interior Designer fails to remit a completed registration renewal form and the prescribed fee on or before the specified expiration date of the Registered Interior Designer's

registration, the Board shall impose a late payment penalty that must be paid before the Registered Interior Designer's registration may be renewed.

(d) If the Board receives official notice that a Registered Interior Designer has failed to pay court ordered child support, the Board may be prohibited from renewing the Registered Interior Designer's registration.

(e) If a registration is not renewed within two (2) years after the specified registration expiration date, the registration shall be cancelled by operation of law on the two-year anniversary of its expiration without an opportunity for a formal hearing. If a registration is cancelled pursuant to this subsection, the registration may not be reinstated. In order to obtain a new certificate of registration, a person whose registration was cancelled pursuant to this subsection must:

(1) submit an application for registration and satisfy all requirements for registration pursuant to §5.31 of this title (relating to Registration by Examination), including the successful completion of the registration examination;

(2) submit an application for registration by reciprocal transfer and satisfy all requirements for registration by reciprocal transfer pursuant to §5.32 of this title (relating to Registration by Reciprocal Transfer); or

(3) submit an application for registration and demonstrate that he/she moved to another state and is currently licensed or registered and has been in practice in the other state for at least the 2 years immediately preceding the date of the application.

Note: The provisions of this §5.75 adopted to be effective October 11, 2001, 26 TexReg 7862; amended to be effective April 4, 2004, 29 TexReg 3472; amended to be effective October 9, 2005, 30 TexReg 6430; amended to be effective April 3, 2008, 33 TexReg 2693; amended to be effective December 24, 2008, 33 TexReg 10324; amended to be effective June 13, 2010, 35 TexReg 4703; amended to be effective February 22, 2015, 40 TexReg 704; amended to be effective March 22, 2016, 41 TexReg 2163; amended to be effective July 8, 2020, 45 TexReg 4516.

5.76 REINSTATEMENT

(a) Once the Revocation or Surrender of a Registered Interior Designer's registration is effective, the registration may be reinstated only after an application for reinstatement is properly submitted and approved and the prescribed reinstatement fee is paid. THE BOARD IS NOT PERMITTED TO REINSTATE A CERTIFICATE OF REGISTRATION WHICH IS CANCELLED BY OPERATION OF LAW DUE TO THE REGISTRANT'S FAILURE TO RENEW THE REGISTRATION WITHIN 2 YEARS AFTER ITS DESIGNATED EXPIRATION DATE.

(b) If a reinstatement Applicant has used the title "registered interior designer" in violation of the Interior Designers' Registration Law since the effective date of the expiration of the Applicant's revoked registration or the Surrender of the Applicant's registration, the reinstatement fee to be paid upon approval of the application shall include an amount equal to the sum of the registration renewal fees for each year since the effective date of the expiration or Surrender.

(c) An application for reinstatement may be denied on the following grounds:

(1) the registration has been Revoked for a continuous period of five (5) years or longer; or

(2) the reinstatement Applicant has performed an act, omitted an act or allowed an omission, or otherwise engaged in a practice that could serve as the basis for the rejection of an application for registration or for the Revocation of a registration; or

(3) the registration was voluntarily Surrendered in lieu of potential disciplinary action and the Board finds that the approval of the reinstatement application does not appear to be in the public's interest.

(d) If at least five (5) years have passed since the effective date of the Revocation or Surrender of a registration, one of the following shall be required prior to approval of an application for reinstatement:

(1) successful completion of all sections of the current registration examination during the five (5) years immediately preceding reinstatement; or

(2) verification that the Applicant currently holds an interior design registration that is active and in good standing in another jurisdiction where the registration requirements are substantially equivalent to Texas interior design registration requirements.

(e) If a registration was Revoked as a result of disciplinary action or Surrendered in lieu of disciplinary action, the registration shall not be reinstated unless the Applicant:

(1) demonstrates that the Applicant has taken reasonable steps to correct the misconduct or deficiency that led to the Revocation or Surrender;

- (2) demonstrates that approval of the application is not inconsistent with the Board's duty to protect the public by ensuring that registrants are duly qualified and fit for registration; and
- (3) pays all fees and costs incurred by the Board as a result of any proceeding that led to the Revocation or Surrender.

Note: The provisions of this §5.76 adopted to be effective October 11, 2001, 26 TexReg 7862; amended to be effective April 4, 2004, 29 TexReg 3472; amended to be effective April 3, 2008, 33 TexReg 2693; amended to be effective December 24, 2008, 33 TexReg 10324; amended to be effective June 13, 2010, 35 TexReg 4703.

5.77 EMERITUS STATUS

(a) A Registered Interior Designer whose registration is in Good Standing may apply for emeritus registration status on a form prescribed by the Board. In order for a Registered Interior Designer to obtain emeritus status, the Interior Designer must demonstrate that:

- (1) he/she has been a Registered Interior Designer for at least 20 years; and
- (2) he/she is at least 65 years of age.

(b) An Emeritus Interior Designer may use the title "Emeritus Interior Designer" or "Interior Designer Emeritus."

(c) An Emeritus Interior Designer may renew his/her registration prior to its specified expiration date by:

- (1) remitting the correct fee to the Board; and
- (2) providing the information or documentation requested by the registration renewal notice and signing the renewal form to verify the accuracy of all information and documentation provided.

(d) If an Emeritus Interior Designer fails to remit a completed registration renewal form and the prescribed fee on or before the specified expiration date of the Emeritus Interior Designer's registration, the Board shall impose a late payment penalty that must be paid before the Emeritus Interior Designer's registration may be renewed.

(e) In order to change his/her registration to active status, an Emeritus Interior Designer must:

- (1) apply on a form prescribed by the Board;
- (2) either submit proof that he/she has completed all continuing education requirements for each year the registration has been emeritus or, in lieu of completing the outstanding continuing education requirements, successfully complete all sections of the current Interior Designer Registration Examination during the five years immediately preceding the return to active status; and
- (3) pay a fee as prescribed by the Board.

(f) Applications to return to active status may be rejected for any of the reasons for which an initial application for registration may be rejected or for which a registration may be revoked.

(g) The Board may require that an application to return to active status include verification that the Applicant has complied with the laws governing the Practice of Interior Design.

Note: The provisions of this §5.77 adopted to be effective October 11, 2001, 26 TexReg 7862; amended to be effective April 3, 2008, 33 TexReg 2693; amended to be effective June 13, 2010, 35 TexReg 4704.

5.78 INACTIVE STATUS

(a) A Registered Interior Designer whose registration is in good standing may apply for Inactive registration status on a form prescribed by the Board.

(b) An Inactive Registered Interior Designer may not practice Interior Design. If an Inactive Registered Interior Designer engages in the practice of Interior Design, the Inactive Registered Interior Designer's registration may be suspended or revoked and the Inactive Registered Interior Designer may be fined as allowed by the Interior Designers' Registration Law for each day that the Inactive Registered Interior Designer has engaged in the practice of Interior Design.

(c) An Inactive Registered Interior Designer shall not use or display his/her interior design seal during any period that his/her registration is Inactive.

(d) An Inactive Interior Designer shall pay an annual fee as prescribed by the Board.

(e) In order to return his/her registration to active status, an Inactive Registered Interior Designer must:

- (1) apply on a form prescribed by the Board;
- (2) either submit proof that he/she has completed all continuing education requirements for each year the registration has been Inactive if continuing education was required for that year or, in lieu of completing the outstanding continuing education requirements, successfully complete all sections of

the current registration examination during the five (5) years immediately preceding the return to active status; and

(3) pay a fee as prescribed by the Board.

(f) An Inactive Interior Designer whose registration has been Inactive for a continuous period of five (5) years or longer must do the following before the Inactive Interior Designer may return to active status:

(1) successfully complete all sections of the current registration examination during the five (5) years immediately preceding the return to active status; or

(2) furnish evidence that the Inactive Interior Designer currently holds an interior design registration in another jurisdiction where the registration requirements are substantially equivalent to Texas interior design registration requirements and that the current Interior Design registration is in good standing.

(g) An application to return to active status may be rejected for any of the reasons that an initial application for registration may be rejected or that a registration may be revoked.

(h) The Board may require that an application to return to active status include verification that the applicant has complied with the laws governing the registration of Registered Interior Designers.

(i) An Inactive Interior Designer may use the title "Emeritus Interior Designer" or "Interior Designer Emeritus" after filing the appropriate form with the Board if:

(1) the Inactive Interior Designer is at least 65 years of age and has been registered at least 15 years, or

(2) held an emeritus interior design registration on or before January 2, 2002.

(j) Nonregistrants may not use the title "Emeritus Interior Designer" or "Interior Designer Emeritus."

Note: The provisions of this §5.78 adopted to be effective October 11, 2001, 26 TexReg 7862; amended to be effective June 3, 2002, 27 TexReg 4704; amended to be effective April 3, 2008, 33 TexReg 2693; amended to be effective March 20, 2009, 34 TexReg 1851; amended to be effective June 13, 2010, 35 TexReg 4704.

5.79 CONTINUING EDUCATION REQUIREMENTS

(a) For the purposes of this Section, the following definitions shall apply:

(1) Approved Subject Areas - The following are the Approved Subject Areas for qualifying continuing education:

(A) Legal: laws, codes, zoning, regulations, standards, life-safety, accessibility, ethics, insurance to protect owners and public.

(B) Technical: structural, mechanical, electrical, communications, fire protection, controls.

(C) Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, insulation.

(D) Occupant Comfort: air quality, lighting, acoustics, ergonomics.

(E) Materials and Methods: building systems, products, finishes, furnishings, equipment.

(F) Preservations: historic, reuse, adaptation.

(G) Pre-design: programming, project analysis, survey of existing conditions, including the materials and configuration of the interior space of a project.

(H) Design: interior building design, interior specifications, accessibility, safety, and security measures.

(I) Construction Documents: drawings, specifications and other materials within the definition of the term "Construction Document".

(J) Construction Administration: contract, bidding, and contract negotiations.

(2) Health, Safety, or Welfare - Continuing education course content covering knowledge and practice of interior design that is focused on protection of the public and the environment.

(3) Structured Course Study - Courses of study relevant to the practice of Interior Design, taught or otherwise provided by qualified individuals or organizations, delivered by direct, in-person contact or through distance learning methods, the completion of which results in the issuance of a certificate or other record of attendance to the Registered Interior Designer by the provider.

(4) Self-Directed Study - Time spent by a Registered Interior Designer developing knowledge and skills relevant to the practice of Interior Design that does not qualify as Structured Course Study.

(b) During each calendar year between January 1 and December 31, a Registered Interior Designer shall complete a minimum of 12 qualifying continuing education program hours (CEPH) according to the requirements of this section. Each hour of continuing education applied to this requirement shall directly relate to Health, Safety, or Welfare.

(c) Of the 12 qualifying CEPH, each Registered Interior Designer shall complete a minimum of one CEPH relating to Barrier-Free Design and one CEPH relating to Sustainable or Energy-Efficient Design.

(d) Of the 12 qualifying CEPH, each Registered Interior Designer shall complete a minimum of eight CEPH in Structured Course Study.

(1) Each hour of Structured Course Study shall address one or more Approved Subject Areas and at least 45 minutes of every hour of CEPH shall directly relate to Health, Safety, or Welfare.

(2) Examples of Structured Course Study include the following:

(A) Attendance at continuing education courses dealing with technical Interior Design subjects related to the Registered Interior Designer's profession, ethical business practices, or new technology.

(B) The completion of college or university credit courses addressing Interior Design subjects, ethical business practices or new technology. Each semester or quarter credit hour shall equal one CEPH.

(e) Of the 12 qualifying CEPH, each Registered Interior Designer may claim a maximum of four hours of Self-Directed Study. Examples of Self-Directed Study may include the following:

(1) Reading written material or reviewing audio, video, or digital media that develops knowledge and skills relevant to the practice of Interior Design but does not qualify as Structured Course Study;

(2) Time spent in Interior Design research for publication or formal presentation to the profession or public;

(3) Hours spent in professional service to the general public that draws upon the Registered Interior Designer's professional expertise, such as serving on planning commissions, building code advisory boards, urban renewal boards, code study committees, or educational outreach activities;

(4) Time spent preparing to teach or teaching Interior Design courses. A Registered Interior Designer may not claim credit for preparing for or teaching the same course more than once; and

(5) One CEPH may be claimed for attendance at one full-day session of a meeting of the Texas Board of Architectural Examiners.

(f) A Registered Interior Designer may be exempt from continuing education requirements for any of the following reasons:

(1) A Registered Interior Designer shall be exempt upon initial registration and upon reinstatement of registration through December 31st of the calendar year of his/her initial or reinstated registration;

(2) An inactive or emeritus Registered Interior Designer shall be exempt during any calendar year in which the Registered Interior Designer's registration is in inactive or emeritus status, but all continuing education credits for each period of inactive or emeritus registration shall be completed before the Registered Interior Designer's registration may be returned to active status;

(3) A Registered Interior Designer who is not a full-time member of the Armed Forces shall be exempt for any calendar year during which the Registered Interior Designer serves on active

duty in the Armed Forces of the United States for a period of time exceeding 90 consecutive days;

(4) A Registered Interior Designer who has an active interior design registration in another jurisdiction shall be exempt from mandatory continuing education program requirements in Texas for any calendar year during which the Registered Interior Designer satisfies the other jurisdiction's continuing education program requirements, provided that the other jurisdiction's continuing education requirements are substantially equivalent to Texas requirements. Notwithstanding this exemption, the Registered Interior Designer shall complete one CEPH relating to Barrier-Free Design and one CEPH relating to Sustainable or Energy-Efficient Design; or

(5) A Registered Interior Designer who is, as of September 1, 1999, a full-time faculty member or other permanent employee of an institution of higher education, as defined in §61.003, Education Code, and who in such position is engaged in teaching Interior Design.

(g) A Registered Interior Designer shall maintain a detailed record of the Registered Interior Designer's continuing education activities, including all course completion certificates documenting completion of Structured Course Study and a record of Self-Directed Study including a date and description of the claimed activity, for a period of five years after the end of the calendar year for which credit is claimed.

(h) When renewing his/her annual registration, a Registered Interior Designer shall complete an attestation regarding the Registered Interior Designer's compliance with minimum continuing education requirements. A Registered Interior Designer may attest to compliance and shall be considered compliant with continuing education requirements if:

(1) The Registered Interior Designer fulfilled minimum continuing education program requirements during the immediately preceding calendar year according to the requirements of this Section; or

(2) The Registered Interior Designer failed to fulfill minimum continuing education program hours during the immediately preceding calendar year, but prior to renewing his/her registration in the current calendar year, the Registered Interior Designer:

(A) Completed sufficient qualifying CEPH to correct any deficiency for the prior calendar year (which will be applied to the previous calendar year and cannot be applied to the current calendar year requirement); and

(B) Completed 12 hours of qualifying CEPH to be applied to the current calendar year requirement.

(i) Upon written request, the Board may require a Registered Interior Designer to produce documentation to prove that the Registered Interior Designer has complied with the minimum continuing education program requirements.

(1) Board staff will review a Registered Interior Designer's response to such a request to determine whether the Registered Interior Designer is in compliance with this Section.

(2) If a Registered Interior Designer fails to provide acceptable documentation of compliance within 30 days of a request, the Registered Interior Designer will be presumed to have not complied with minimum continuing education requirements.

(3) The Board has final authority to determine whether to award or deny credit claimed by a Registered Interior Designer for continuing education activities.

(j) Violations of continuing education requirements and administrative penalties:

(1) Falsely attesting to compliance with minimum continuing education requirements shall be subject to an administrative penalty in the amount of \$500;

(2) Failure to timely complete minimum continuing education requirements shall be subject to an administrative penalty in the amount of \$100 for every hour of deficiency per calendar year;

- (3) Failure to maintain a detailed record of continuing education activities shall be subject to an administrative penalty of \$100 for every hour of claimed continuing education for which a Registered Interior Designer is unable to provide proof of compliance; and
- (4) Failure to timely respond to or comply with a continuing education audit or verification shall be subject to an administrative penalty of \$250 per failure.
- (k) The administrative penalties identified in subsection (j) of this section are considered appropriate for a first-time violation of continuing education requirements. If a Registered Interior Designer was previously found to have violated the Board's continuing education requirements in a warning or Order of the Board, the Board may increase the penalty up to a factor of two for a second or subsequent violation, in addition to consideration of suspension or revocation of registration under §5.242 of the Board's rules.
- (l) The administrative penalties identified in subsection (j) of this section are to be applied to each individual violation of the Board's continuing education requirements. If a Registered Interior Designer has committed multiple violations, the Registered Interior Designer shall be subject to a separate administrative penalty for each violation.
- (m) If a Registered Interior Designer is registered to practice more than one of the professions regulated by the Board and the Registered Interior Designer completes a continuing education activity that is directly related to more than one of those professions, the Registered Interior Designer may submit that activity for credit for all of the professions to which it relates. The Registered Interior Designer must maintain a separate detailed record of continuing education activities for each profession.
- (n) A Registered Interior Designer may receive credit for up to 24 CEPE earned during any single calendar year. A maximum of 12 CEPE that is completed in excess of the continuing education requirements for a calendar year may be carried forward to satisfy the continuing education requirements for the next calendar year.
- (o) As the term is defined in §5.39(a) of the Board's rules, a military service member is entitled to two years of additional time to complete any CEPE requirements.

Note: The provisions of this §5.79 adopted to be effective April 1, 2021, 46 TexReg 1742.

SUBCHAPTER E

FEES

- 5.91 Repealed
- 5.92 Annual Fees

5.92 ANNUAL FEES

(a) The Board shall send an annual notice to each person who must pay a fee that is due annually. Each annual notice shall be sent to the intended recipient's current address of record. Every annual fee must be paid regardless of whether an annual notice is received.

(b) Every Registrant must pay his/her annual renewal fee on or before the designated expiration date of the Registrant's certificate of registration. If a Registrant fails to pay his/her annual renewal fee on or before the designated expiration date of the Registrant's certificate of registration, the Board shall require that the Registrant pay a penalty fee in addition to the registration renewal fee before the registration may be renewed. A person whose certificate of registration has expired may not engage in activities that require registration until the certificate of registration has been renewed.

(c) If a Registrant fails to renew his/her certificate of registration within 2 years after its designated expiration date, the certificate of registration shall be cancelled by operation of law without the opportunity for a formal hearing. The Board shall send a notice of pending cancellation to a Registrant who fails to renew his/her certificate of registration within 2 years after its designated expiration date. The notice shall be sent to the Registrant's current address of record.

Note: The provisions of this §5.92 adopted to be effective March 25, 2002, 27 TexReg 2235; amended to be effective April 4, 2004, 29 TexReg 3474; amended to be effective April 3, 2008, 33 TexReg 2694.

SUBCHAPTER F

THE INTERIOR DESIGNER'S SEAL

- 5.111 Seal Required
- 5.112 Type and Design
- 5.113 Required Use of Seal and Retention of Sealed Documents
- 5.114 Prohibitions
- 5.115 Other Professional Responsibilities

5.111 SEAL REQUIRED

As provided in this section, a Registered Interior Designer may not issue or authorize the issuance of a document regulated by this Subchapter unless, pursuant to the requirements of this Subchapter, the document is:

- (1) sealed, signed, and dated pursuant to Subsection 5.113(a) of this title (relating to Required Use of Seal and Retention of Sealed Documents) thereby indicating that it may be used for regulatory approval, permitting, or construction; or
- (2) labeled with the Registered Interior Designer's name and the date and clearly marked to indicate that it may not be used for regulatory approval, permitting, or construction pursuant to Subsection 5.113(b) of this title.

Note: The provisions of this §5.111 adopted to be effective August 2, 2000, 25 TexReg 7169; amended to be effective September 29, 2003, 28 TexReg 8334; amended to be effective June 13, 2010, 35 TexReg 4704.

5.112 TYPE AND DESIGN

(a) On every document requiring a Registered Interior Designer's seal, the Registered Interior Designer shall affix or cause the affixation of a seal that will produce a clearly visible and legible image of the seal when the document is copied or reproduced. A Registered Interior Designer may not affix or authorize the affixation of an impression or embossing seal on a document requiring a seal unless the impression or embossing seal will produce a clearly visible and legible image of the seal when the document is copied or reproduced.

(b) The design of a Registered Interior Designer's seal shall be the same as the design of the sample seal shown in this Subsection except that the name of the Registered Interior Designer and the Registered Interior Designer's registration number shall be substituted for the name and registration number shown on the sample seal. The diameter of the seal shall be no smaller than one and one-half (1.5) inches.



(c) A document regulated by this subchapter may be issued electronically or in any other format selected by the Registered Interior Designer whose seal and signature are affixed to the document. A Registered Interior Designer's seal and signature and the date of signing may be affixed electronically or through any other means selected by the Registered Interior Designer as long as the seal, signature, and date will produce a clearly visible and legible image on any copy or reproduction of the document to which they are affixed.

Note: The provisions of this §5.112 adopted to be effective August 2, 2000, 25 TexReg 7169; amended to be effective September 29, 2003, 28 TexReg 8334; amended to be effective July 5, 2004, 29 TexReg 6289; amended to be effective June 13, 2010, 35 TexReg 4705.

5.113 REQUIRED USE OF SEAL AND RETENTION OF SEALED DOCUMENTS

(a) Construction Documents:

(1) On every Construction Document prepared by a Registered Interior Designer or under a Registered Interior Designer's Supervision and Control, the Registered Interior Designer shall affix or cause the affixation of:

(A) the Registered Interior Designer's seal;

(B) the Registered Interior Designer's signature (across the face of the seal's image or directly under or adjacent to the seal's image); and

(C) the date of signing (including the month, day, and year) before the Construction Document is issued by or under the authority of the Registered Interior Designer.

(2) The Registered Interior Designer's seal and signature and the date must be affixed in a manner that will be clearly visible and legible on each copy of a Construction Document issued by or under the authority of the Registered Interior Designer. The Registered Interior Designer's signature and the date may not conceal or obscure the name or registration number on the seal.

(3) Construction Documents requiring a seal, signature, and date include the following:

(A) each sheet of drawings or electronic equivalent of a sheet of drawings;

(B) each specification: if a specification is included in a bound grouping of specifications that includes a table of contents or index listing each individual specification, the seal must be placed in at least one conspicuous location on the bound document; any individual specification sheet or electronic equivalent of a specification sheet that is issued separately must be sealed individually;

(C) each sheet or electronic equivalent of a sheet that identifies the project and provides a list of sealed Construction Documents, such as a title sheet, table of contents, or index; and

(D) each Interior Design drawing and specification that is part of an addenda, change order, construction change directive, or other Supplemental Document.

(b) Documents issued for purposes other than regulatory approval, permitting, and construction:

(1) An Interior Design drawing or specification issued by or under the authority of a Registered Interior Designer for a purpose other than regulatory approval, permitting, or construction shall include:

(A) the Registered Interior Designer's name;

(B) the date the document is issued (including the month, day, and year); and

(C) the following statement placed in a conspicuous location on the document: "Not for regulatory approval, permitting, or construction."

(2) Each Interior Design drawing and specification included in a Feasibility Study issued by or under the authority of a Registered Interior Designer must be sealed, signed, and dated in the manner described in Subsection 5.113(a) or labeled with the Registered Interior Designer's name and the date and clearly marked to indicate that it may not be used for regulatory approval, permitting, or construction in the manner described in Subsection 5.113(b).

(c) For a minimum of ten (10) years from the date of signature on each Construction Document sealed by or under the authority of a Registered Interior Designer, the sealing Registered Interior Designer shall be responsible for the maintenance of the sealed, signed, and dated original document or a copy of the document bearing the clearly visible and legible seal, signature, and date.

Note: The provisions of this §5.113 adopted to be effective August 2, 2000, 25 TexReg 7170; amended to be effective September 29, 2003, 28 TexReg 8334; amended to be effective June 13, 2010, 35 TexReg 4705.

5.114 PROHIBITIONS

(a) A Registered Interior Designer may not affix or authorize the affixation of his/her seal to any document unless the document was prepared by the Registered Interior Designer or under the Registered Interior Designer's Supervision and Control.

(b) If only a portion of a document was prepared by a Registered Interior Designer or under a Registered Interior Designer's Supervision and Control, the Registered Interior Designer's seal may not be affixed to the document unless:

(1) the portion of the document prepared by the Registered Interior Designer or under the Registered Interior Designer's Supervision and Control is clearly identified; and

(2) it is clearly indicated on the document that the Registered Interior Designer's seal applies only to that portion of the document prepared by the Registered Interior Designer or under the Registered Interior Designer's Supervision and Control.

(c) Only the Registered Interior Designer and any person with the Registered Interior Designer's consent may use or attempt to use a Registered Interior Designer's seal. No other person may use or attempt to use:

(1) a Registered Interior Designer's seal;

(2) a copy of a Registered Interior Designer's seal; or

(3) a replica of a Registered Interior Designer's seal.

(d) A Registered Interior Designer may not modify a document bearing another Registered Interior Designer's seal without first:

(1) taking reasonable steps to notify the sealing Registered Interior Designer of the intent to modify the document; and

(2) clearly indicating on the document the extent of the modifications made.

(e) Once a Construction Document bearing a Registered Interior Designer's seal is issued, the seal may not be removed.

Note: The provisions of this §5.114 adopted to be effective August 2, 2000, 25 TexReg 7171; amended to be effective September 29, 2003, 28 TexReg 8334; amended to be effective June 13, 2010, 35 TexReg 4705.

5.115 OTHER PROFESSIONAL RESPONSIBILITIES

(a) A Registered Interior Designer shall provide a written statement of jurisdiction to each client for whom the Registered Interior Designer renders an interior design service in Texas.

(b) The statement of jurisdiction shall:

(1) state that "The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as registered interior designers in Texas";

(2) include the Board's current mailing address and telephone number; and

(3) be placed within every written contract for Interior Design services.

(c) If a Registered Interior Designer provides an Interior Design service to a client without entering into a written contract with the client, the Registered Interior Designer shall provide the client with the statement of jurisdiction:

(1) by including the statement of jurisdiction in each bill for Interior Design services presented to the client; or

(2) if the client visits the Registered Interior Designer's office, by posting the statement of jurisdiction on a sign prominently displayed in the Registered Interior Designer's office.

(d) If, in the course of his/her work on an Interior Design project, a Registered Interior Designer becomes aware of a course of action taken against the Registered Interior Designer's advice which may violate an applicable statute, code, or other regulatory provision and which is reasonably likely to have a material adverse effect on the safe use of the completed project, the Registered Interior Designer shall:

(1) report the course of action in writing to the owner, to the local building official with jurisdiction over the project, and to other responsible parties; and

(2) refuse to consent to the course of action.

Note: The provisions of this §5.115 adopted to be effective August 2, 2000, 25 TexReg 7172; amended to be effective September 29, 2003, 28 TexReg 8334; amended to be effective June 13, 2010, 35 TexReg 4706.

SUBCHAPTER G
COMPLIANCE AND ENFORCEMENT

- 5.131 General
- 5.132 Association

- 5.133 Titles
- 5.134 Business Registration

5.131 GENERAL

In carrying out its responsibility to insure strict enforcement of the Interior Designers' Registration Law (the Act), the Board may investigate circumstances which appear to violate or abridge the requirements of the Act or the rules dealing with the practice of Interior Design and the use of the title "registered interior designer." Violations of the Act or the rules which cannot be readily resolved through settlement shall be disposed of by administrative, civil, or criminal proceedings as authorized by law.

***Note:** The provisions of this §5.131 adopted to be effective September 19, 1996, 21 TexReg 8679; amended to be effective February 27, 2001, 26 TexReg 1724; amended to be effective December 29, 2009, 34 TexReg 9443.*

5.132 ASSOCIATION

(a) A Registered Interior Designer or a Principal on behalf of an Interior Design firm who forms a business association to jointly provide services designated as "interior design" with any Nonregistrant who is:

- (1) not an employee of the Registered Interior Designer or the Interior Design firm;
- (2) not a client of the Registered Interior Designer or the Interior Design firm; and
- (3) not a subcontractor nor a consultant of the Registered Interior Designer or Interior Design firm under contract with a client except as described in paragraph (e); shall, prior to providing such services on behalf of the business association, enter into a written agreement of association with the Nonregistrant whereby the Registered Interior Designer or the Interior Design firm agrees to be responsible for the preparation of all Construction Documents issued by the association.

(b) The written agreement of association shall include the following:

- (1) The date when the agreement to associate is effective;
- (2) The name, address, telephone number, registration number, and signature of the Registered Interior Designer or the Principal on behalf of the Interior Design firm which has agreed to associate with the Nonregistrant;
- (3) The name, address, telephone number, and signature of the Nonregistrant with whom the Interior Designer or Principal has agreed to associate.

(c) The Registered Interior Designer shall prepare or exercise Supervision and Control over the preparation of all Construction Documents issued by the association unless the Construction Documents are prepared and issued as described in subsection (e). All Construction Documents prepared pursuant to the association described in this section shall be sealed, signed, and dated in accordance with the provisions of Subchapter F.

(d) The Registered Interior Designer who seals Construction Documents on behalf of the association shall retain paper or electronic copies of them together with the written agreement of association and make them available for review by the Board for ten (10) years after the date of the Interior Designer's signature on the Construction Documents.

(e) If, pursuant to §1053.002(b) of the Texas Occupations Code, a Texas Registered Interior Designer associates with a person who is not a Texas Registered Interior Designer but is registered as an interior designer in another jurisdiction and does not maintain or open an office in Texas, the Texas Registered Interior Designer shall, at a minimum, exercise Responsible Charge over the preparation of all Construction Documents issued for use in Texas as a result of the association. The Texas Registered Interior Designer shall seal, sign, and date all Construction Documents issued for use in Texas as a result of the association in the same manner as if the Registered Interior Designer had prepared the Construction Documents or they had been prepared under the Registered Interior Designer's Supervision and Control. All other requirements of this section relating to associations apply to an association between a Registered Interior Designer and a person registered as an interior designer in another jurisdiction regardless of whether the Texas Registered Interior Designer or the interior designer from another jurisdiction acts as the "consultant" as that term is used in §1053.002(b) of the Texas Occupations Code.

Note: The provisions of this §5.132 adopted to be effective February 27, 2001, 26 TexReg 1724; amended to be effective September 19, 2006, 31 TexReg 7995; amended to be effective June 13, 2010, 35 TexReg 4706.

5.133 TITLES

- (a) Registered Interior Designers duly registered in Texas are authorized to use the title "registered interior designer" to describe themselves.
- (b) A firm, partnership, corporation, or other business association may use the title "registered interior designer" only under the following conditions:
 - (1) The business employs at least one Registered Interior Designer on a full-time basis or associates with at least one Registered Interior Designer pursuant to the provisions of §5.132 of this title (relating to Association;) and
 - (2) The Registered Interior Designer(s) employed by or associated with the business pursuant to paragraph (1) of this section exercise Supervision and Control over all Interior Design services performed by Nonregistrants on behalf of the business.
- (c) No entity other than those qualified under subsections (a) and (b) of this section may use the title "registered interior designer."
- (d) A person participating in an internship to complete the experiential requirements for Interior Design registration in Texas may use the title "interior design intern."

Note: The provisions of this §5.133 adopted to be effective February 27, 2001, 26 TexReg 1724; amended to be effective December 29, 2009, 34 TexReg 9443; amended to be effective June 13, 2010, 35 TexReg 4706.

5.134 BUSINESS REGISTRATION

- (a) An Interior Design firm or other business entity that uses the title "registered interior designer" to describe itself or which offers or renders the services described as those of a Registered Interior Designer must annually register information regarding the firm or business entity with the Board, including an email address to which all correspondence from the Board will be sent.
- (b) A Registered Interior Designer or a Registered Interior Design firm which enters into an agreement to create a business association pursuant to §5.132 of this title (relating to Association) shall annually register the association with the Board, including an email address to which all correspondence from the Board will be sent.
- (c) If a Registered Interior Design firm, business entity, or association dissolves or otherwise becomes unable to lawfully use the title "registered interior designer" to describe itself, the Registered Interior Design firm, business entity, or association shall so notify the Board in writing. Such notification must be postmarked or otherwise provided within 30 days of the date of dissolution or the date the Registered Interior Design firm, business entity, or association became unable to lawfully use the title "registered interior designer" and to offer or render the services described as those of a Registered Interior Designer. A business entity or association may not continue to use the title "registered interior designer" or offer or render the services of a Registered Interior Designer unless it employs or contracts with a Registered Interior Designer and updates its registration within that 30 day period.
- (d) A Registered Interior Designer who is a sole practitioner doing business under his/her own name, which is registered with the Board, is exempt from the requirements of subsections (a) - (c) of this section.
- (e) Each Registered Interior Design firm, business entity, or association shall annually renew its unexpired registration and pay a renewal fee not later than the anniversary of the date of its initial registration. Each Registered Interior Design firm, business entity, and association shall pay a registration renewal fee to renew an expired registration in an amount equal to 1-1/2 times the normally required renewal fee if registration has been expired for 90 days or less and in an amount equal to twice the normally required renewal fee if the registration has been expired for longer than 90 days. A firm, business entity, or association which offers or renders two or more professional disciplines regulated by the Board shall pay a single registration fee.

Note: The provisions of this §5.134 adopted to be effective February 27, 2001, 26 TexReg 1724; amended to be effective September 19, 2006, 31 TexReg 7996; amended to be effective December 29, 2009, 34 TexReg 9443; amended to be effective June 13, 2010, 35 TexReg 4707; amended to be effective April 17, 2012, 37 TexReg 2636.

SUBCHAPTER H
PROFESSIONAL CONDUCT

5.151	General	5.157	Prevention of Unauthorized Practice
5.152	Competence	5.158	Criminal Convictions
5.153	Recklessness	5.159	Substance Abuse
5.154	Dishonest Practice	5.160	Effect of Enforcement Proceedings on Application
5.155	Conflicts of Interest	5.161	Repealed
5.156	Responsibility to the Interior Design Profession	5.162	Deferred Adjudication

5.151 GENERAL

(a) These rules of professional conduct are promulgated pursuant to the Interior Designers' Registration Law (the Act), Chapters 1051 and 1053, Texas Occupations Code, which directs the Board to make all rules consistent with the laws and constitution of Texas which are reasonably necessary for the regulation of the practice of Interior Design and the enforcement of the Act. Except as otherwise noted, these rules of professional conduct apply only to situations which are directly or indirectly related to the practice of Interior Design.

(b) The Board may revoke, suspend, or refuse to renew a Registered Interior Designer's certificate of registration, place on probation a Registered Interior Designer whose certificate of registration has been suspended, reprimand a Registered Interior Designer, or assess an administrative penalty against a Registered Interior Designer for a violation of any provision of these rules of professional conduct or other provisions of the Rules and Regulations of the Board or the Act. The Board also may take action against an Applicant pursuant to §5.160 of this title (relating to Effect of Enforcement Proceedings on Application.) A single instance of misconduct may be grounds for disciplinary action by the Board.

(c) Upon a finding of professional misconduct, the Board shall consider the following factors in determining an appropriate sanction or sanctions:

(1) the seriousness of the conduct, including the hazard or potential hazard to the health or safety of the public;

(2) the economic damage or potential damage to property caused by the misconduct;

(3) the respondent's history concerning previous grounds for sanction;

(4) the sanction necessary to deter future misconduct;

(5) efforts to correct the misconduct; and

(6) any other matter justice may require.

(d) These rules of professional conduct are not intended to suggest or define standards of care in civil actions against Registered Interior Designers involving their professional conduct.

(e) A Registered Interior Designer may donate his/her services to charitable causes but must adhere to all provisions of the Act and the Rules and Regulations of the Board in the provision of all interior design services rendered regardless of whether the Interior Designer is paid for the services.

Note: The provisions of this §5.151 adopted to be effective March 1, 2001, 26 TexReg 1726; amended to be effective July 5, 2004, 29 TexReg 6290; amended to be effective March 20, 2009, 34 TexReg 1852; amended to be effective June 13, 2010, 35 TexReg 4707.

5.152 COMPETENCE

(a) A Registered Interior Designer shall undertake to perform a professional service only when the Registered Interior Designer, together with those whom the Registered Interior Designer shall engage as consultants, is qualified by education and/or experience in the specific technical areas involved. During the delivery of a professional service, a Registered Interior Designer shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by reasonably prudent Registered Interior Designers practicing under similar circumstances and conditions.

(b) A Registered Interior Designer shall not affix his/her signature or seal to any Interior Design plan or document dealing with subject matter in which he/she is not qualified by education and/or experience to form a reasonable judgment.

(c) "Gross Incompetency" shall be grounds for disciplinary action by the Board. A Registered Interior Designer may be found guilty of "Gross Incompetency" under any of the following circumstances:

- (1) the Registered Interior Designer has engaged in conduct that provided evidence of an inability or lack of skill or knowledge necessary to discharge the duty and responsibility required of an Interior Designer;
- (2) the Registered Interior Designer engaged in conduct which provided evidence of an extreme lack of knowledge of, or an inability or unwillingness to apply, the principles or skills generally expected of a reasonably prudent Registered Interior Designer under the same or similar circumstances;
- (3) the Registered Interior Designer has been adjudicated mentally incompetent by a court; or
- (4) pursuant to §5.159(b) of this title (relating to substance abuse.)

Note: The provisions of this §5.152 adopted to be effective March 1, 2001, 26 TexReg 1726; amended to be effective June 13, 2010, 35 TexReg 4707; amended to be effective March 3, 2013, 38 TexReg 1184.

5.153 RECKLESSNESS

(a) A Registered Interior Designer shall not practice Interior Design in any manner which, when measured by generally accepted Interior Design standards or procedures, is reasonably likely to result or does result in the endangerment of the safety, health, or welfare of the public.

(b) "Recklessness" shall be grounds for disciplinary action by the Board. "Recklessness" shall include the following practices:

- (1) conduct which indicates that the Registered Interior Designer is aware of yet consciously disregards a substantial risk of such a nature that its disregard constitutes a significant deviation from the standard of care that a reasonably prudent Registered Interior Designer would exercise under the circumstances;
- (2) knowing failure to exercise ordinary care and attention toward the intended result when a procedure, technique, material, or system is employed as a result of a decision made by the Registered Interior Designer and such failure jeopardizes any person's health, safety, or welfare; or
- (3) action which demonstrates a conscious disregard for compliance with a statute, regulation, code, ordinance, or recognized standard applicable to the design or construction of a particular project when such disregard jeopardizes any person's health, safety, or welfare.

Note: The provisions of this §5.153 adopted to be effective March 1, 2001, 26 TexReg 1726; amended to be effective June 13, 2010, 35 TexReg 4707.

5.154 DISHONEST PRACTICE

(a) A Registered Interior Designer may not directly or indirectly perform an act, omit an act or allow an omission, make an assertion, or otherwise engage in a practice with the intent to:

- (1) defraud;
- (2) deceive; or
- (3) create a misleading impression.

(b) A Registered Interior Designer may not advertise in a manner which is false, misleading, or deceptive.

(c) A Registered Interior Designer may not directly or indirectly solicit, offer, give, or receive anything or any service of significant value as an inducement or reward to secure any specific publicly funded Interior Design work. A Registered Interior Designer may not give Interior Design plans, design services, pre-bond referendum services, or any other goods or services of significant value to a governmental entity in response to a request for qualifications, a request for proposals, or otherwise during the process to select a Registered Interior Designer to render publicly funded Interior Design work. The term "significant value" is defined to mean any act, article, money, or other material consideration which is of such value or proportion that its offer or acceptance would affect the governmental entity's selection of a Registered Interior Designer or would create the appearance of an obligation or bias on the part of the governmental entity to select the Registered Interior Designer to perform the Interior Design work.

(d) For purposes of this section, a Registered Interior Designer's conduct is intentional, or with intent, if the nature of the conduct or a reasonable result of the conduct demonstrates a conscious objective or desire to engage in the conduct or cause the result. A Registered Interior Designer's intent may be established by circumstantial evidence.

Note: The provisions of this §5.154 adopted to be effective March 1, 2001, 26 TexReg 1726; amended to be effective July 18, 2007, 32 TexReg 4396; amended to be effective June 13, 2010, 35 TexReg 4708; amended to be effective March 3, 2013, 38 TexReg 1184; amended to be effective November 23, 2014, 39 TexReg 9009.

5.155 CONFLICTS OF INTEREST

(a) If a Registered Interior Designer has any business association or financial interest which might reasonably appear to influence the Registered Interior Designer's judgment in connection with the performance of a professional service and thereby jeopardize an interest of the Registered Interior Designer's current or prospective client or employer, the Registered Interior Designer shall promptly inform the client or employer in writing of the circumstances of the business association or financial interest.

(b) A Registered Interior Designer shall not solicit or accept, directly or indirectly, any financial or other valuable consideration, material favor, or other benefit of any substantial nature, financial or otherwise, from more than one party in connection with a single project or assignment unless the circumstances are fully disclosed in writing to all parties.

(c) A Registered Interior Designer shall not solicit or accept, directly or indirectly, any financial or other valuable consideration, material favor, or other benefit of any substantial nature from any supplier of materials or equipment or from any contractor or any consultant in connection with any project on which the Registered Interior Designer is performing or has contracted to perform Interior Design services unless the circumstances are fully disclosed in writing to all parties.

(d) The phrase "benefit of any substantial nature" is defined to mean any act, article, money, or other material consideration which is of such value or proportion that its acceptance creates an obligation or the appearance of an obligation on the part of the Registered Interior Designer or otherwise could adversely affect the Registered Interior Designer's ability to exercise his/her own judgment without regard to such benefit.

Note: The provisions of this §5.155 adopted to be effective March 1, 2001, 26 TexReg 1726; amended to be effective March 29, 2007, 32 TexReg 1746; amended to be effective June 13, 2010, 35 TexReg 4708.

5.156 RESPONSIBILITY TO THE INTERIOR DESIGN PROFESSION

(a) A Registered Interior Designer shall not:

(1) knowingly participate, directly or indirectly, in any plan, scheme, or arrangement having as its purpose the violation of any provision of the Act or any provision of the Rules and Regulations of the Board;

(2) aid or abet, directly or indirectly:

(A) any unregistered person in connection with the unauthorized practice of Interior Design;

(B) any business entity in the practice of Interior Design unless carried on in accordance with the Act; or

(C) any person or any business entity in the use of a professional seal or other professional identification so as to create the opportunity for the unauthorized practice of Interior Design by any person or any business entity;

(3) fail to exercise reasonable care or diligence to prevent his/her partners, associates, shareholders, and employees from engaging in conduct which, if done by him/her, would violate any provision of the Act or any provision of the Rules and Regulations of the Board.

(b) A Registered Interior Designer possessing knowledge of an Applicant's qualifications for registration shall cooperate with the Board by responding in writing to the Board regarding those qualifications when requested to do so by the Board.

(c) A Registered Interior Designer shall be responsible and accountable for the care, custody, control, and use of his/her interior design seal, professional signature, and other professional identification. A Registered Interior Designer whose seal has been lost, stolen, or otherwise misused shall report the loss, theft, or misuse to the Board immediately upon discovery of the loss, theft, or misuse. The Board may invalidate the registration number of the lost, stolen, or misused seal upon the request of the Registered Interior Designer if the Board deems it necessary.

Note: The provisions of this §5.156 adopted to be effective March 1, 2001, 26 TexReg 1726; amended to be effective June 13, 2010, 35 TexReg 4708.

5.157 PREVENTION OF UNAUTHORIZED PRACTICE

(a) A Registered Interior Designer shall not practice or offer to practice Interior Design in any governmental jurisdiction in which to do so would be in violation of a law regulating the practice of Interior Design in that jurisdiction.

(b) The revocation, suspension, refusal to renew, or denial of a registration to practice Interior Design in another jurisdiction shall be sufficient cause for the revocation, suspension, refusal to renew, or denial of a registration to practice Interior Design in the State of Texas.

(c) A Registered Interior Designer who fails to renew his/her certificate of registration prior to its annual expiration date shall not use the title "Registered Interior Designer" to describe himself/herself until after the Registered Interior Designer's certificate of registration has been properly renewed.

Note: The provisions of this §5.157 adopted to be effective March 1, 2001, 26 TexReg 1726; amended to be effective July 5, 2004, 29 TexReg 6290; amended to be effective June 13, 2010, 35 TexReg 4709.

5.158 CRIMINAL CONVICTIONS

(a) Pursuant to Chapter 53, Texas Occupations Code and §2005.052, Texas Government Code, the Board may suspend or revoke an existing certificate of registration, disqualify a person from receiving a certificate of registration, issue a provisional license subject to the terms and limitations of §5.37 of this chapter (relating to Provisional Licensure), or deny to a person the opportunity to be examined for a certificate of registration because of the person's conviction for committing an offense if:

(1) the offense directly relates to the duties and responsibilities of a Registered Interior Designer;

(2) the offense is listed in Article 42A.054, Texas Code of Criminal Procedure; or

(3) the offense is a sexually violent offense, as defined by Article 62.001, Texas Code of Criminal Procedure.

(b) The following procedures will apply in the consideration of an application for registration as a Registered Interior Designer or in the consideration of a Registrant's criminal history:

(1) Effective January 1, 2014, each Applicant shall submit a complete and legible set of fingerprints to the Department of Public Safety or a vendor under contract with the Department for the purpose of obtaining criminal history record information from the Department and the Federal Bureau of Investigation. The Applicant shall pay the cost of conducting the criminal history background check to the Department or the vendor on behalf of the Department. An Applicant who does not submit fingerprints in accordance with this subsection is ineligible for registration.

(2) Effective January 1, 2014, each Registrant on active status or returning to active status who has not submitted a set of fingerprints pursuant to paragraph (1) of this subsection shall submit a complete and legible set of fingerprints to the Department of Public Safety or a vendor under contract with the Department for the purpose of obtaining criminal history record information from the Department and the Federal Bureau of Investigation. The Registrant shall pay the cost of conducting the criminal history background check to the Department or the vendor on behalf of the Department. A Registrant who does not submit fingerprints in accordance with this subsection is ineligible for renewal of, or returning to, active registration. A Registrant is not required to submit fingerprints under this paragraph for the renewal of, or returning to, active registration if the Registrant previously submitted fingerprints under paragraph (1) of this subsection for initial registration or under this paragraph for a previous renewal of, or return to, active registration.

(3) The executive director may contact the Applicant or Registrant regarding any information about a criminal conviction, other than a minor traffic offense, disclosed in the Applicant's or Registrant's criminal history record. If the executive director intends to pursue revocation or suspension of a registration, or denial of a registration or opportunity to be examined for a registration because of a person's prior conviction of an offense, the executive director must:

(A) provide written notice to the person of the reason for the intended denial; and

(B) allow the person not less than 30 days to submit any relevant information to the Board.

(4) The notice provided by the executive director under this subsection must contain:

(A) a statement that the person is disqualified from being registered or being examined for registration because of the person's prior conviction of an offense specified in the notice; or

(B) a statement that:

- (i) the final decision of the Board to revoke or suspend the registration or deny the person a registration or the opportunity to be examined for the registration will be based on the factors listed in subsection (d) of this section; and
 - (ii) it is the person's responsibility to obtain and provide to the Board evidence regarding the factors listed in subsection (d) of this section.
- (5) If the executive director determines the conviction might be directly related to the duties and responsibilities of a Registered Interior Designer, the Board's staff will obtain sufficient details regarding the conviction to allow the Board to determine the effect of the conviction on the Applicant's eligibility for registration or on the Registrant's fitness for continued registration.
- (c) In determining whether a criminal conviction is directly related to the duties and responsibilities of a Registered Interior Designer, the executive director and the Board shall consider each of the following factors:
- (1) the nature and seriousness of the crime;
 - (2) the relationship of the crime to the purposes for requiring a license to practice Interior Design;
 - (3) the extent to which Interior Design registration might offer an opportunity to engage in further criminal activity of the same type as that in which the Applicant or Registrant had been involved;
 - (4) the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of a Registered Interior Designer; and
 - (5) any correlation between the elements of the crime and the duties and responsibilities of a Registered Interior Designer.
- (d) If the executive director or the Board determines under subsection (c) of this section that a criminal conviction directly relates to the duties and responsibilities of a Registered Interior Designer, the executive director and the Board shall consider the following in determining whether to suspend or revoke a registration, disqualify a person from receiving a registration, or deny to a person the opportunity to take a registration examination:
- (1) the extent and nature of the Applicant's or Registrant's past criminal activity;
 - (2) the age of the Applicant or Registrant at the time the crime was committed;
 - (3) the amount of time that has elapsed since the Applicant's or Registrant's last criminal activity;
 - (4) the conduct and work activity of the Applicant or Registrant prior to and following the criminal activity;
 - (5) evidence of the Applicant's or Registrant's rehabilitation or rehabilitative effort while incarcerated or after release;
 - (6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
 - (7) other evidence of the Applicant's or Registrant's fitness to practice as a Registered Interior Designer, including letters of recommendation.
- (e) Crimes directly related to the duties and responsibilities of a Registered Interior Designer include any crime that reflects a lack of fitness for professional licensure or a disregard of the standards commonly upheld for the professional practice of Interior Design, such as the following:
- (1) criminal negligence;
 - (2) soliciting, offering, giving, or receiving any form of bribe;
 - (3) the unauthorized use of property, funds, or proprietary information belonging to a client or employer;
 - (4) acts relating to the malicious acquisition, use, or dissemination of confidential information related to Interior Design; and
 - (5) any intentional violation as an individual or as a consenting party of any provision of the Act.
- (f) The Board shall revoke the certificate of registration of any Registrant who is convicted of any felony if the felony conviction results in incarceration. The Board also shall revoke the certificate of registration of any Registrant whose felony probation, parole, or mandatory supervision is revoked.
- (g) If an Applicant is incarcerated as the result of a felony conviction, the Board may not approve the Applicant for registration during the period of incarceration. If an Applicant's felony probation, parole, or mandatory supervision is revoked, the Board may not approve the Applicant for registration until the Applicant successfully completes the sentence imposed as a result of the revocation.
- (h) If the Board takes action against any Applicant or Registrant pursuant to this section, the Board shall provide the Applicant or Registrant with the following information in writing:

- (1) the reason for rejecting the application or taking action against the Registrant's certificate of registration, including any factor considered under subsections (c) or (d) of this section that served as the basis for the action;
 - (2) notice that upon exhaustion of the administrative remedies provided by the Administrative Procedure Act, Chapter 2001, Government Code, an action may be filed in a district court of Travis County for review of the evidence presented to the Board and its decision. The person must begin the judicial review by filing a petition with the court within 30 days after the Board's decision is final; and
 - (3) the earliest date the person may appeal.
- (i) All proceedings pursuant to this section shall be governed by the Administrative Procedure Act, Chapter 2001, Government Code.

Note: The provisions of this §5.158 adopted to be effective March 1, 2001, 26 TexReg 1726; amended to be effective March 20, 2009, 34 TexReg 1852; amended to be effective June 13, 2010, 35 TexReg 4709; amended to be effective November 29, 2010, 35 TexReg 10508; amended to be effective April 13, 2014, 39 TexReg 2574; amended to be effective July 8, 2020, 45 TexReg 4517.

5.159 SUBSTANCE ABUSE

- (a) If in the course of a disciplinary proceeding, it is found by the Board that a Registered Interior Designer's abuse of alcohol or a controlled substance, as defined by the Texas Controlled Substances Act, Chapter 481, Health and Safety Code, contributed to a violation of the Act or the Rules and Regulations of the Board, the Board may condition its disposition of the disciplinary matter on the Interior Designer's completion of a rehabilitation program approved by the Texas Commission on Alcohol and Drug Abuse that may include rehabilitation at a facility also approved by the Commission.
- (b) A Registered Interior Designer's abuse of alcohol or a controlled substance that results in the impairment of the Registered Interior Designer's professional skill so as to cause a direct threat to the property, safety, health, or welfare of the public may be deemed "Gross Incompetency" and may be grounds for the indefinite suspension of a Registered Interior Designer's certificate of registration until such time as he or she is able to demonstrate to the Board's satisfaction that the reasons for suspension no longer exist and that the termination of the suspension would not endanger the public.
- (c) In order to determine whether abuse of alcohol or a controlled substance contributed to a violation or has resulted in "gross incompetency," the Board may order an examination by one or more health care providers trained in the diagnosis or treatment of substance abuse.

Note: The provisions of this §5.159 adopted to be effective March 1, 2001, 26 TexReg 1726; amended to be effective June 13, 2010, 35 TexReg 4709.

5.160 EFFECT OF ENFORCEMENT PROCEEDINGS ON APPLICATION

- (a) The application of an Applicant against whom the Board has initiated an enforcement proceeding may be held at the Board's discretion, without approval, disapproval, or denial until:
 - (1) all enforcement proceedings have been terminated by a final judgment or order and the time for appeal has expired, or if an appeal is taken, such appeal has been terminated;
 - (2) the Applicant is in full compliance with all orders and judgments of the court, all orders and rules of the Board, and all provisions of the Act; and
 - (3) the Applicant has complied with all requests of the Board for information related to such compliance, upon which the Board shall complete the consideration of the application in the regular order of business.
- (b) An "enforcement proceeding" is initiated by the commencement of an investigation that is based either on a formal complaint filed with the Board or on information presented to the Board that establishes probable cause for a belief in the existence of facts that would constitute a violation of the Act or the Rules and Regulations of the Board.
- (c) The following sanctions may be imposed against an Applicant who is found to have falsified information provided to the Board, violated any of the practice or title restrictions of the Act, violated any similar practice or title restriction of another jurisdiction, or otherwise violated any of the statutory provisions or rules enforced by the Board:
 - (1) reprimand;
 - (2) imposition of an administrative penalty;
 - (3) suspension of the registration certificate upon its effective date;

- (4) denial of the application; and
- (5) denial of the right to reapply for registration for a period not to exceed five years.
- (d) The Board may take action against an Applicant for any act or omission if the same conduct would be a ground for disciplinary action against a Registered Interior Designer.
- (e) If an application is denied pursuant to subsection (c) or subsection (d) of this section, the Applicant may not subsequently be approved for registration unless the Applicant:
 - (1) demonstrates that he/she has taken reasonable steps to correct the misconduct or deficiency that led to the denial of the previous application;
 - (2) demonstrates that approval of the application is not inconsistent with the Board's duty to protect the public by ensuring that registrants are duly qualified and fit for registration; and
 - (3) pays all fees and costs incurred by the Board as a result of any proceeding that led to the denial of the previous application.

Note: The provisions of this §5.160 adopted to be effective March 1, 2001, 26 TexReg 1726; amended to be effective July 5, 2004, 29 TexReg 6291; amended to be effective June 13, 2010, 35 TexReg 4709.

5.162 DEFERRED ADJUDICATION

- (a) For purposes of §5.37 and §5.158 of this chapter (relating to Provisional Licensure and Criminal Convictions), a person is not convicted for committing a criminal offense if:
 - (1) the person entered a plea of guilty or nolo contendere;
 - (2) the court deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer of the court; and
 - (3) at the conclusion of a period of supervision, the judge dismissed the proceedings and discharged the person.
- (b) Notwithstanding subsection (a) of this section, the executive director or the Board may consider a person to have been convicted of a criminal offense regardless of whether the proceedings were dismissed and the person was discharged as described by subsection (a) of this section if:
 - (1) the person was charged with:
 - (A) any offense described by Article 62.001(5), Code of Criminal Procedure; or
 - (B) an offense other than an offense described by subparagraph (A) of this paragraph if:
 - (i) the person has not completed the period of supervision or the person completed the period of supervision less than five years before the date the person applied for registration; or
 - (ii) a conviction for the offense would make the person ineligible for registration by operation of law; and
 - (2) after consideration of the factors described by §5.158(c) or (d) of this chapter, the executive director or the Board determines that:
 - (A) the person may pose a continued threat to public safety; or
 - (B) employment of the person as a Registered Interior Designer would create a situation in which the person has an opportunity to repeat the prohibited conduct.
- (c) If a person pleads guilty or nolo contendere to conduct which is a violation of a law enforced by the Board, regardless of whether adjudication is deferred, the Board may take disciplinary action.

Note: The provisions of this §5.162 adopted to be effective November 29, 2010, 35 TexReg 10509; amended to be effective July 8, 2020, 45 TexReg 4517.

SUBCHAPTER I
DISCIPLINARY ACTION

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5.171 PURPOSE AND SCOPE

This chapter shall provide a system of procedures for the initiation, investigation, prosecution, hearing and resolution of disciplinary matters and allegations involving persons who are subject to the jurisdiction of the Texas Board of Architectural Examiners.

Note: The provisions of this §5.171 adopted to be effective January 8, 2002, 27 TexReg 168; amended to be effective October 18, 2009, 34 TexReg 7078.

5.172 COMPUTATION OF TIME

(a) In computing any period of time prescribed by this subchapter, by order of the Board, or by other applicable statutory provision or rule, the period shall begin on the day after the act or the event considered and conclude at the end of the last day of such period unless the last day falls on a Saturday, Sunday, or official national or Texas state holiday, in which case the period shall run until the end of the next day which is not a Saturday, Sunday, or official national or Texas state holiday.

(b) For purposes of this subchapter, an Interior Designer is presumed to have received a notice from the Board on the fifth day after the date the Board sent the notice to the Interior Designer's current address of record via certified mail, return receipt requested.

Note: The provisions of this §5.172 adopted to be effective January 8, 2002, 27 TexReg 168; amended to be effective October 18, 2009, 34 TexReg 7078.

5.174 INITIATING A CONTESTED CASE

(a) The Board may initiate a Contested Case proceeding in response to:

- (1) a written complaint filed by a member of the public;
- (2) information provided in a registration application or renewal form; or
- (3) other information known to the Board which establishes probable cause.

(b) The Board shall not act on a written complaint filed by a member of the public unless the allegations in the complaint, if proven, describe conduct that violates a rule or statutory provision enforceable by the Board.

(c) If the Board receives a written complaint filed by a member of the public, the Board may act on the complaint regardless of the status or outcome of separate litigation related to the subject matter of the complaint or the complainant's request to withdraw the complaint.

(d) The Board shall not act on a written complaint filed by a member of the public if the complaint is filed later than ten (10) years after the date of the act(s) or omission(s) described in the complaint.

Note: The provisions of this §5.174 adopted to be effective January 8, 2002, 27 TexReg 168; amended to be effective October 18, 2009, 34 TexReg 7078.

5.175 INFORMAL DISPOSITION OF A CONTESTED CASE

(a) A Contested Case may be resolved informally at any time.

(b) If the respondent agrees in writing to a settlement agreement and the Executive Director executes the written settlement agreement, the settlement agreement shall be presented to the Board for approval or rejection. The settlement agreement must include written findings of fact and conclusions of law and may be in the form of a consent order, letter of reprimand, or other format approved by the Executive Director.

(c) If the Board rejects a settlement agreement, the respondent shall have the opportunity to agree to alternative settlement terms approved by the Board. If the respondent does not agree to alternative settlement terms approved by the Board, the case shall be referred to the State Office of Administrative Hearings for a formal hearing.

(d) If the respondent and the Executive Director do not agree in writing to a settlement agreement, the case shall be referred to the State Office of Administrative Hearings for a formal hearing.

(e) An informal disposition may be made of a Contested Case by default. Default occurs whenever a respondent neither answers nor makes other written response to the filing of a Complaint or Petition at the State Office of Administrative Hearings alleging a violation of any law or Rule over which TBAE possesses jurisdiction. Default also occurs if the respondent fails to appear at a scheduled and properly noticed hearing to be conducted by the State Office of Administrative Hearings.

(f) The Board and the Executive Director shall take into account the following factors when considering a proposed settlement agreement:

(1) the nature, circumstances, extent, and gravity of any relevant act or omission;

(2) the hazard or potential hazard to the health, safety or welfare of the public;

(3) the economic harm resulting from the conduct;

(4) the respondent's history concerning any previous ground for sanction;

(5) the severity of penalty necessary to effectuate specific and general deterrence;

(6) any effort by the respondent to take prompt remedial action;

(7) the economic benefit gained by the respondent as a result of the conduct;

(8) any other matter justice may require; and

(9) When considering a referral from the Texas Department of Licensing and Regulation, in addition to the factors described in this subsection, the Board shall consider the actual number of days that the submission was late.

Note: The provisions of this §5.175 adopted to be effective January 8, 2002, 27 TexReg 168; amended to be effective October 18, 2009, 34 TexReg 7078.

5.176 INFORMAL CONFERENCE

(a) An informal conference may be held in order to provide a respondent with the opportunity to appear and answer a charge against the respondent in person.

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

(c) An informal conference shall be voluntary and shall not be a prerequisite to a formal hearing.

Note: The provisions of this §5.176 adopted to be effective January 8, 2002, 27 TexReg 168.

5.177 PUBLICATION OF DISCIPLINARY ACTION

(a) The Board shall cause to be published in the Board's official newsletter, on the Board's Web site, in a newspaper, or in another publication the name of any person who is the subject of disciplinary action by the Board. The publication may include a narrative summary of the facts giving rise to disciplinary action and a description of the action taken.

(b) In addition to other types of disciplinary action that shall be publicized pursuant to this section, the Board shall publicize the revocation or cancellation of a certificate of registration after its surrender in lieu of potential disciplinary action.

Note: The provisions of this §5.177 adopted to be effective January 8, 2002, 27 TexReg 168; amended to be effective July 5, 2004, 29 TexReg 6291; amended to be effective October 18, 2009, 34 TexReg 7079.

5.178 DISMISSAL

For good cause, the Board, the Executive Director, or a person designated by the Executive Director may dismiss a Contested Case at any time after a Contested Case proceeding is commenced.

Note: The provisions of this §5.178 adopted to be effective January 8, 2002, 27 TexReg 168.

5.179 ALTERNATIVE DISPUTE RESOLUTION

The Executive Director or a person designated by the Executive Director shall represent the Board in any alternative dispute resolution proceeding.

Note: The provisions of this §5.179 adopted to be effective January 8, 2002, 27 TexReg 168.

5.180 REFERRALS FROM THE TEXAS DEPARTMENT OF LICENSING AND REGULATION

(a) If a Registered Interior Designer fails to submit any document to the Texas Department of Licensing and Regulation as required by the Architectural Barriers Act, or a rule or procedure enacted pursuant to the Architectural Barriers Act, the Board may take disciplinary action against the Registered Interior Designer.

(b) A Registered Interior Designer's failure to submit documents to the Texas Department of Licensing and Regulation as required by subsection (a) of this section, shall result in a written warning from the Executive Director. An administrative penalty shall be imposed upon second and subsequent failures.

(c) When considering potential disciplinary action, including imposition of an administrative penalty, the Board and the Executive Director shall take into account the number of previous incidents involving a registrant's failure to timely submit documents to the Texas Department of Licensing and Regulation and the length of the delay in making the present submission.

Note: The provisions of this §5.180 adopted to be effective January 8, 2002, 27 TexReg 168; amended to be effective October 18, 2009, 34 TexReg 7079; amended to be effective June 13, 2010, 35 TexReg 4710.

5.181 RESPONDING TO REQUEST FOR INFORMATION

A Registered Interior Designer, a Candidate or an Applicant shall answer an inquiry or produce requested documents to the Board concerning any matter under the jurisdiction of the Board within thirty (30) days after the date the person receives the inquiry. Failure to respond within thirty (30) days may constitute a separate violation subject to disciplinary action by the Board up to and including suspension or revocation of a registration.

Note: The provisions of this §5.181 adopted to be effective January 8, 2002, 27 TexReg 168; amended to be effective October 18, 2009, 34 TexReg 7079; amended to be effective June 13, 2010, 35 TexReg 4710.

5.182 CONTINUING VIOLATION

(a) Each day a violation of any statutory provision or rule enforced by the Board occurs or continues may be considered a separate violation subject to disciplinary action by the Board.

(b) Each sheet of Interior Design plans and each separate section of the specifications which are prepared, modified or issued in violation of these rules or any laws over which the Board has jurisdiction shall each be considered an independent violation of applicable rules and laws.

Note: The provisions of this §5.182 adopted to be effective January 8, 2002, 27 TexReg 168; amended to be effective October 18, 2009, 34 TexReg 7079; amended to be effective June 13, 2010, 35 TexReg 4711.

5.183 VIOLATION BY ONE NOT A REGISTERED INTERIOR DESIGNER

(a) A Nonregistrant who violates Texas Occupations Code Chapter 1053 or this chapter is subject to any or all of the following:

- (1) judicial proceedings for injunctive relief;
- (2) issuance of a cease and desist order from the Board; or
- (3) denial of registration as a Registered Interior Designer, if applicable.

(b) In taking action against a Nonregistrant, the Board may be represented by agency staff, the Texas Attorney General, by a county or district attorney, or by other counsel as necessary.

(c) The following process shall be used to issue a cease and desist order to a Nonregistrant:

(1) If the Executive Director determines that a Nonregistrant is violating, or has violated, Texas Occupations Code Chapter 1053 or this Chapter, the Executive Director may issue to the Nonregistrant

a written notice describing the alleged violation and the Executive Director's intention to request that the Board issue a cease and desist order. The written notice shall offer the Nonregistrant an opportunity to request a hearing before an Administrative Law Judge at the State Office of Administrative Hearings. (2) If the Nonregistrant does not request a hearing before the 22nd day after the date of receiving notice, the board may:

(A) issue a cease and desist order; and

(B) refer the violation to the attorney general for further action.

(3) If the Nonregistrant requests a hearing before the 22nd day after the date of receiving notice, the board shall hold the hearing at the State Office of Administrative Hearings not later than the 30th day after the date the board receives the request for the hearing. A hearing under this section is subject to Chapter 2001, Government Code.

(d) Notwithstanding any other law or rule, the Board shall not impose an administrative penalty against a Nonregistrant for a violation of Texas Occupations Code Chapter 1053 or this Chapter. If a Nonregistrant has committed a violation that would otherwise result in the imposition of an administrative penalty under Board Rules §5.187 and/or §5.242, the Board shall consider a remedy described in subsection (a) of this section in lieu of an administrative penalty.

Note: The provisions of this §5.183 adopted to be effective January 8, 2002, 27 TexReg 168; amended to be effective July 5, 2004, 29 TexReg 6292; amended to be effective October 18, 2009, 34 TexReg 7079; amended to be effective June 13, 2010, 35 TexReg 4711; amended to be effective October 4, 2020, 45 TexReg 6997.

5.184 COMPLAINT PROCESS

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

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

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

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

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

(5) a description of each alleged violation; and

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

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

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

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

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

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

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

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

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

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

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

(B) the date the complaint was received by the Board's staff;

(C) a description of the subject matter of the complaint;

(D) the name of each person contacted in relation to the complaint;

(E) a summary of the results of the review and investigation of the complaint; and

- (F) an explanation for the reason the complaint was dismissed if the complaint was dismissed without action other than the investigation of the complaint.
- (d) After the preliminary evaluation period, the Board's staff may contact the complainant, the respondent, and any known witness concerning the complaint.
- (e) After the preliminary evaluation period, the Board's staff shall take steps to dismiss the complaint or proceed with an investigation of the allegation(s) against the respondent. A complaint may be referred to another government agency if it appears that the other agency might have jurisdiction over the issue(s) raised in the complaint.
- (f) If the Board's staff proceeds with an investigation, the staff shall:
- (1) investigate the complaint according to the priority level assigned to the complaint;
 - (2) notify the complainant and respondent that, as a result of the staff's preliminary evaluation of the complaint, the staff has determined that the Board has jurisdiction over the allegations(s) described in the complaint and has decided to proceed with an investigation of the allegation(s) against the respondent; and
 - (3) gather sufficient information and evidence to determine whether there is probable cause to believe that a violation of a statutory provision or rule enforced by the Board has occurred.
- (g) The Board's staff may conduct an investigation regardless of whether a complaint form was received as described in subsection (a) of this section.
- (h) If the information and evidence gathered during an investigation are insufficient to establish probable cause to believe that a violation has occurred, the Board's staff shall:
- (1) dismiss the complaint;
 - (2) send notices to the complainant and respondent regarding the dismissal;
 - (3) if warranted, include in the respondent's notice a recommendation or warning regarding the respondent's future conduct; and
 - (4) if a complaint is determined to be unfounded, state in the respondent's notice that no violation was found.
- (i) If the information and evidence gathered during an investigation are sufficient to establish probable cause to believe that a violation has occurred, the Board's staff shall:
- (1) seek to resolve the matter pursuant to §§5.175, 5.176 or 5.183 of this subchapter; or
 - (2) issue a warning in accordance with Subsection (j).
- (j) A warning may be issued by the Executive Director only as follows:
- (1) the violation is the Respondent's only violation of the Board's laws and rules;
 - (2) the Respondent has not previously been subject to a Board warning or order;
 - (3) the Respondent has provided a satisfactory remedy which has eliminated any harm or threat to the health or safety of the public; and
 - (4) The Respondent has committed one of the following violations:
 - (A) failure to provide or timely provide plans and specifications to TDLR under the requirements of Govt. Code Chap. 469 (Elimination of Architectural Barriers);
 - (B) Unauthorized use of term "registered interior designer";
 - (C) Failure to respond to a Board inquiry;
 - (D) Failure to provide a statement of jurisdiction;
 - (E) Use of a non-compliant seal by registrant;
 - (F) Failure to register or annually renew the registration of a business; or
 - (G) Creation of misleading impression by a registered interior designer advertising for services.
- (k) The decision to issue a warning is at the sole discretion of the Executive Director and not available as a result of a contested case proceeding conducted pursuant to the Government Code Chapter 2001.
- (l) Before a proposed settlement agreement may be approved by the Board, the terms of the agreement must be reviewed by legal counsel for the Board to ensure that all legal requirements have been satisfied.
- (m) If a complaint is dismissed, the complainant may submit to the Executive Director a written request for reconsideration. The written request must explain why the complaint should not have been dismissed. The Executive Director may, but is not required to, respond to the request for reconsideration.

Note: The provisions of this §5.184 adopted to be effective July 5, 2004, 29 TexReg 6292; amended to be effective October 18, 2009, 34 TexReg 7079; amended to be effective September 14, 2016, 41 TexReg 7103.

5.185 EVALUATION OF EVIDENCE BY EXPERT

(a) If the Board's staff determines that a respondent who is a Registrant, Candidate or Applicant appears to have engaged in the practice of Interior Design in a manner that was reckless, grossly incompetent, or dishonest, the matter may not be docketed at the State Office of Administrative Hearings for a formal hearing unless the evidence and information gathered during the investigation have been reviewed by a member of the Board or the Board's staff or a consultant who is registered as a Registered Interior Designer.

(b) The purpose of the review shall be to confirm, prior to the commencement of formal disciplinary proceedings that the respondent's professional conduct did not satisfy the requisite standard of care which should be applied by a reasonably prudent Registered Interior Designer under similar circumstances.

Note: The provisions of this §5.185 adopted to be effective July 5, 2004, 29 TexReg 6292; amended to be effective October 18, 2009, 34 TexReg 7079; amended to be effective June 13, 2010, 35 TexReg 4711.

5.186 SUBPOENAS AND DEPOSITIONS

(a) On a showing of good cause and on deposit of a sum reasonably estimated to cover the costs of issuing and serving the subpoena and the costs described in subsection (e) of this section, the Executive Director or the Chairman may issue a subpoena to require the attendance of a witness for examination under oath or the production of a record, document, or other evidence relevant to the investigation of, or a disciplinary proceeding related to, an alleged violation of a statutory provision or rule enforced by the Board.

(b) A subpoena must:

- (1) be issued in the name of the State of Texas;
- (2) be signed by the executive director or the Chairman;
- (3) be addressed to a sheriff, constable, or other party authorized by the Texas Rules of Civil Procedure to serve a subpoena;
- (4) state the time and place at which the witness is required to appear, the name of the person at whose instance the subpoena has been issued, and the date of the subpoena's issuance;
- (5) include a specific description of any record, document, or other evidence covered by the subpoena; and
- (6) be served by delivering a copy of the subpoena to the party named in the subpoena.

(c) A subpoena may be executed and returned at any time. The person serving the subpoena shall make due return thereof, showing the time and manner of service or showing that service was accepted by the witness by a written memorandum signed by the witness and attached to the subpoena.

(d) A deposition shall be taken in the manner prescribed for depositions in the Administrative Procedure Act (APA).

(e) A witness or deponent who is not a party to an enforcement proceeding and who is subpoenaed or otherwise compelled by the Board to attend any hearing or proceeding to provide testimony, give a deposition, or produce a record, document, or other evidence shall be entitled to receive:

- (1) payment for mileage and reimbursement for transportation, meal, and lodging expenses as required by the APA for going to and returning from the place of the hearing or the place where the deposition is taken if the place is more than 25 miles from the person's place of residence; and
- (2) a witness fee as required by the APA for each day or part of a day the person is necessarily present as a witness or deponent.

(f) Expenses and fees described in subsection (e) of this section shall be paid by the party at whose request the witness appears or the deposition is taken, on presentation of proper vouchers sworn by the witness and approved by the executive director.

(g) Payment for mileage and reimbursement for transportation, meal, and lodging expenses for a witness whose presence is required by a subpoena issued by the executive director or the Chairman shall be at the same rate as is paid to a state employee traveling on state business.

Note: The provisions of this §5.186 adopted to be effective July 5, 2004, 29 TexReg 6292; amended to be effective June 13, 2010, 35 TexReg 4711.

5.187 ADMINISTRATIVE PENALTY SCHEDULE

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

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

Figure: 22 TAC §5.187(1)	
Minor Violations	Citation
Unauthorized duplication of registration certificate or failure to display registration certificate as required.	§5.72
Failure to respond to a Board inquiry.	§5.181
Failure to provide statement of jurisdiction.	§5.115
Failure to provide or timely provide plans and specifications to TDLR under the requirements of Govt. Code Chap. 469 (Elimination of Architectural Barriers).	Tex. Occ. Code Sec. 1053.252(8) and §5.180
Use of a non-compliant seal by registrant.	§5.112
Failure to register or annually renew the registration of a business.	§5.134
Moderate Violations	Citation
Use of title “registered interior designer” while on emeritus status	§5.77
Practice of interior design while registration is inactive.	§5.78
Practice of interior design while registration is expired.	§5.92(b)
Aiding or abetting an unregistered person in violating the Board’s laws and rules.	Tex. Occ. Code Sec. 1053.252(7)
Unauthorized use of term “registered interior designer.”	Tex. Occ. Code Sec. 1053.101 and §5.133(c)
Failure to maintain a sealed document for ten years.	§5.113(c)
Failure to seal documents or insert statement in lieu of seal.	§5.113
Failure to notify another registered interior designer of modification to sealed plans and/or failure to clearly indicate extent of modifications to sealed plans	§5.114(d)
Failure to comply with requirements relating to preparation of only a portion of a document	§5.114(b)
Removal of seal after issuance of documents	§5.114(e)
Failure to enter into a written agreement of association when required	§5.132
Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide interior design	§5.134(c)
Major Violations	Citation
Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work.	§5.154(c)

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	Tex. Occ. Code Sec. 1053.252(3) or (9)
Acting dishonestly in the practice of interior design by the holder of a certificate of registration.	Tex. Occ. Code Sec. 1053.252(11) and §5.154
Advertising in a manner that tends to deceive or defraud the public	Tex. Occ. Code Sec. 1053.252(6)
Using or attempting to use as the person's own the certificate of registration of another person.	Tex. Occ. Code Sec. 1053.252(10)
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	§5.114(a) and/or §5.132(c)&(e)
Failure to exercise Supervision and Control or Responsible Charge over the preparation of a document, as required	§5.132(c) or (e)
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.	§5.114(c)
Recklessness in the practice of interior design.	Tex. Occ. Code Sec. 1053.252(4) and §5.153
Failure to report a course of action taken against a registered interior designer's advice as required	§5.115(d)
Gross incompetency in the practice of interior design	Tex. Occ. Code Section 1053.252(4) and §5.152(c)

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

(A) Minor violations-an administrative penalty of not more than \$1,000 shall be imposed.

(B) Moderate violations-an administrative penalty of not more than \$3,000 shall be imposed.

(C) Major violations-an administrative penalty of not more than \$5,000 shall be imposed.

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

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

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

(6) Multiple Violations

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

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

- (C) In the case of a continuing violation, each day a violation continues or occurs shall be considered a separate violation for purposes of calculating the total administrative penalty under subsection (6)(A).
- (7) The administrative penalties set out in this section may be considered in addition to any other disciplinary actions, such as revocation, suspension, or refusal to renew a registration.
- (8) If the facts of a case are unique or unusual, the Board may suspend the guidelines described in this section.
- (9) A Registered Interior Designer, a Candidate, or an Applicant who fails, without good cause, to provide information to the Board under §5.181 of this subchapter (relating to Responding to Request for Information) is presumed to be interfering with and preventing the Board from fulfilling its responsibilities. A violation of §5.181 of this subchapter shall be considered a moderate violation if a complete response is not received within 30 days after receipt of the Board's written inquiry. An additional 15 day delay constitutes a moderate violation, and each 15 day delay thereafter shall be considered a separate major violation of these rules.

Note: The provisions of this §5.187 adopted to be effective July 5, 2004, 29 TexReg 6292; amended to be effective October 18, 2009, 34 TexReg 7080; amended to be effective June 13, 2010, 35 TexReg 4712; amended to be effective March 3, 2013, 38 TexReg 1185; amended to be effective September 14, 2016, 41 TexReg 7103.

5.188 REINSTATEMENT FOLLOWING SUSPENSION OR REVOCATION

If the Board suspends or revokes a person's certificate of registration as a result of disciplinary action, the person may not reinstate the certificate of registration or obtain a new certificate of registration unless the person:

- (1) demonstrates that he/she has taken reasonable steps to correct the misconduct or deficiency that led to the suspension or revocation;
- (2) demonstrates that reinstatement or issuance of the certificate of registration is not inconsistent with the Board's duty to protect the public by ensuring that registrants are duly qualified and fit for registration; and
- (3) pays all fees and costs incurred by the Board as a result of any proceeding that led to the suspension or revocation. This shall include, but not be limited to, attorney's fees and all costs associated with the need to prosecute a Contested Case proceeding at the State Office of Administrative Hearings and subsequent activities including administrative and judicial appeals.

Note: The provisions of this §5.188 adopted to be effective July 5, 2004, 29 TexReg 6292; amended to be effective October 18, 2009, 34 TexReg 7080.

SUBCHAPTER J

TABLE OF EQUIVALENTS FOR EDUCATION AND EXPERIENCE IN INTERIOR DESIGN

5.201 Repealed
5.202 Repealed

5.203 Repealed

SUBCHAPTER K
HEARINGS--CONTESTED CASES

- | | |
|---------------------------------|--|
| 5.241 Formal Hearing Procedures | 5.243 Application and Construction of Procedures |
| 5.242 Board Responsibilities | 5.244 Suspension of Registration |

5.241 FORMAL HEARING PROCEDURES

- (a) Unless specifically indicated, the Administrative Procedure Act (APA) applies to all Contested Cases involving matters under the jurisdiction of the Board.
- (b) The Rules of Procedure of the State Office of Administrative Hearings (SOAH) apply to formal hearings of Contested Cases conducted for the Board by a SOAH administrative law judge.

Note: The provisions of this §5.241 adopted to be effective July 7, 2002, 27 TexReg 5779.

5.242 BOARD RESPONSIBILITIES

- (a) The Board shall investigate Contested Case matters and attempt to resolve Contested Cases informally as provided in Subchapter I of this chapter (relating to Disciplinary Action). However, if a Contested Case is not settled informally pursuant to Subchapter I of this chapter, it shall be referred to SOAH for a formal hearing to determine whether there has been a violation of any of the statutory provisions or rules enforced by the Board.
- (b) A formal hearing shall be conducted in accordance with the Rules of Procedure of SOAH.
- (c) After a formal hearing of a Contested Case, the SOAH administrative law judge who conducted the formal hearing shall prepare a proposal for decision and submit it to the Board so that the Board may render a final decision with regard to the Contested Case. The proposal for decision shall include findings of fact and conclusions of law.
- (d) If a party submits proposed findings of fact or conclusions of law, the proposal for decision shall include a ruling on each proposed finding or conclusion.
- (e) Any party of record in a Contested Case may request an oral hearing before the Board. A request for an oral hearing shall be filed with the Board and copies shall be served on the administrative law judge and on all other parties in the same manner as for serving other documents in a Contested Case. The Board, in its sole discretion, shall determine whether to grant or deny a request for an oral hearing. If a request for an oral hearing is granted, each party of record shall be allotted 30 minutes to make an oral presentation to the Board. The oral presentation shall be confined to matters contained within the administrative record.
- (f) Upon the expiration of the time provided for the filing of exceptions and briefs or, if exceptions and briefs are filed, upon the 10th day following the time provided for the filing of replies to exceptions and briefs, the Board may render a decision to finally resolve a Contested Case. The Board may change a finding of fact or conclusion of law made by an administrative law judge or may vacate or modify an order issued by an administrative law judge only if the Board determines:
 - (1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies, or prior administrative decisions;
 - (2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
 - (3) that a technical error in a finding of fact should be changed.
- (g) If the Board makes a change to a finding of fact or conclusion of law or vacates or modifies an order pursuant to subsection (f) of this section, the Board must state in writing the specific reason and the legal basis for the change.
- (h) The Board shall issue a written order regarding the Board's decision to finally resolve a Contested Case that is not settled informally. The written order shall include findings of fact and conclusions of law that are based on the official record of the Contested Case. The written order may adopt by reference the findings of fact and conclusions of law made by an administrative law judge and included in the proposal for decision submitted to the Board.
- (i) Motions for rehearing and appeals may be filed and judicial review of final decisions of the Board may be sought pursuant to the Administrative Procedure Act. The party who appeals a final decision in

a Contested Case shall be responsible for the cost of the preparation of the original or a certified copy of the record of the agency proceeding that is required to be sent to the reviewing court.

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

Figure: 22 TAC §5.242(j)		
Violation	Rule or Statutory Citation	Recommended Penalty
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§5.72	Administrative penalty
Using the title “Registered Interior Designer” while on emeritus status	§5.77(b)	Administrative penalty
Practice of Interior Design while registration is inactive or expired	§5.78 or §5.92(b)	Administrative penalty
Failure to fulfill mandatory continuing education requirements	§5.79	Administrative penalty
Failure to timely complete required continuing education program hours	§5.79	Administrative penalty
Falsely reporting compliance with mandatory continuing education requirements	§5.79	Administrative penalty
Failure to maintain a detailed record of continuing education activities	§5.79	Administrative penalty
Use of non-compliant seal by registrant	§5.112 §5.114(c)	Administrative penalty
Failure to sign or seal documents	§5.113 §5.132(c) and (e)	Administrative penalty
Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required	§5.113(b)	Administrative penalty
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)	Administrative penalty and either suspension or revocation
Failure to take reasonable steps to notify sealing Registered Interior Designer of intent to modify sealed documents	§5.114(d)	Administrative penalty

Failure to indicate modifications to or portion of document prepared by Registered Interior Designer	§5.114(b) and (d)	Administrative penalty, suspension, or both
Removal of seal after issuance of documents	§5.114(e)	Administrative penalty
Failure to maintain a document for 10 years as required	§5.113(c) §5.132(d)	Administrative penalty
Unauthorized use of a seal or a copy or replica of a seal	§5.114(c)	Administrative penalty, suspension, or both
Failure to comply with requirements relating to preparation of only a portion of a document	§5.115(b)	Administrative penalty, suspension, or both
Failure to provide Statement of Jurisdiction	§5.115(a)	Administrative penalty
Failure to report a course of action taken against the interior designer's advice as required	§5.115(d)	Administrative penalty and either suspension or revocation
Failure to enter into a written agreement of association when required	§5.132	Administrative penalty
Failure to exercise Supervision and Control over the preparation of a document as required	§5.132(c)	Administrative penalty and either suspension or revocation
Failure to exercise Responsible Charge over the preparation of a document as required	§5.132(e)	Administrative penalty and either suspension or revocation
Failure of a firm, business entity, or association to register	§5.134(a) and (b)	Administrative penalty
Failure to timely notify the Board upon dissolution of a business entity or association or upon loss of lawful authority to use the title "registered interior designer"	§5.134(c)	Administrative penalty
Representing an unregistered firm, business entity or association as a Registered Interior Designer firm	§5.134	Administrative penalty
Gross incompetency	§5.152	Administrative penalty and either suspension or revocation
Recklessness	§5.153	Administrative penalty and either suspension or revocation
Dishonest practice	§5.154(a), (c)	Administrative penalty and either suspension or revocation

Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work	§5.154(b)	Administrative penalty and either suspension or revocation and payment of restitution
Conflict of interest	§5.155	Administrative penalty and either suspension or revocation
Participating in a plan, scheme, or arrangement to violate the Act or rules of the Board	§5.156(a)	Administrative penalty, suspension, and/or revocation
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
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, followed by probated suspension if appropriate
Violation by Applicant regarding unlawful use of the title "registered interior designer," unlawful practice or criminal convictions	§5.157 §5.158 §5.160	Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration
Failure to submit a document as required by the Architectural Barriers Act	Tex. Occ. Code §1053.252(8) §5.180	Administrative penalty
Failure to respond to a Board inquiry	§5.181	Administrative penalty
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	Tex. Occ. Code §1053.252(3) or (9)	Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration
Practicing in a manner detrimental to the public health, safety, or welfare	Tex. Occ. Code §1053.252(5)	Administrative penalty, suspension, or revocation
Using or attempting to use as the person's own the certificate of registration of another person.	Tex. Occ. Code §1053.252(10)	Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration

Advertising in a manner that tends to deceive or defraud the public	Tex. Occ. Code §1053.252(6)	Administrative penalty, suspension, or revocation
Aiding or abetting an unregistered person in violating Occupations Code Chapters 1051, 1052, or 1053	Tex. Occ. Code §1053.252(7)	Administrative penalty equivalent to that which would be appropriate for the underlying conduct by the unregistered person, and/or suspension or revocation

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

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

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

Note: The provisions of this §5.242 adopted to be effective September 19, 1996, 21 TexReg 8684; amended to be effective July 7, 2002, 27 TexReg 5780; amended to be effective July 5, 2004, 29 TexReg 6295; amended to be effective September 19, 2006, 31 TexReg 7997; amended to be effective June 13, 2010, 35 TexReg 4713; amended to be effective April 17, 2012, 37 TexReg 2638; amended to be effective November 23, 2014, 39 TexReg 9009; amended to be effective September 14, 2016, 41 TexReg 7103; amended to be effective April 1, 2021, 46 TexReg 1742.

5.243 APPLICATION AND CONSTRUCTION OF PROCEDURES

(a) SOAH shall conduct formal hearings in accordance with the APA, the Rules of Procedure of SOAH, the Interior Designers' Registration Law, the Rules and Regulations of the Board, and case law, provided that:

(1) an administrative law judge may, by order, modify the requirements of the Rules of Procedure of SOAH and supplement other procedural requirements of law to promote the fair and efficient handling of a Contested Case; and

(2) an administrative law judge may modify the procedural requirements of the Rules of Procedure of SOAH in appropriate cases to facilitate resolution of issues if doing so does not prejudice any of a party's rights or contravene applicable statutes.

(b) If there is any conflict between the Rules and Regulations of the Board or a prior decision of the Board and any of the statutory provisions applicable to a Contested Case, the statute controls.

(c) Not all contested procedural issues may be susceptible to resolution by reference to the APA and other applicable statutes, the Rules of Procedure of SOAH, the Rules and Regulations of the Board, and case law. When they are not, the presiding administrative law judge shall consider the Texas Rules of Civil Procedure (TRCP) as interpreted and construed by Texas case law, and shall consider persuasive authority established in other forums in order to issue orders and rulings that are just in the circumstances of the Contested Case.

Note: The provisions of this §5.243 adopted to be effective July 7, 2002, 27 TexReg 5781.

5.244 SUSPENSION OF REGISTRATION

(a) If suspension of a person's registration is the appropriate sanction for a violation of a statutory provision or rule enforced by the Board, the Board and the administrative law judge shall apply the following guidelines to determine whether the suspension will be active or probated:

(1) The Board and the administrative law judge shall impose an active suspension upon a finding that the respondent:

(A) violated a statutory provision or rule enforced by the Board that demonstrated gross negligence or recklessness, or the conduct posed a serious threat to the health or safety of the public;

- (B) violated a statutory provision or rule enforced by the Board which caused economic damage to property in excess of \$1,000;
 - (C) committed a violation of a statutory provision or rule enforced by the Board while the respondent's registration was on probated suspension;
 - (D) has a sanction history including at least two findings by the Board that the respondent engaged in conduct for which the respondent's registration could have been suspended or revoked pursuant to §5.242 of this title (relating to Board's Responsibilities) or
 - (E) would likely engage in the practice of Interior Design in a manner that does not comply with a standard or practice normally followed by a reasonably prudent Registered Interior Designer under the same or similar circumstances.
- (2) In any case in which active suspension is not warranted, the suspension imposed by the Board shall be probated.
- (b) A person whose registration is under active suspension may not engage in the practice of Interior Design. A person whose registration is under active suspension may not Supervise and Control or have Responsible Charge over the practice of Interior Design by another.
 - (c) The Board may impose any of the following terms and conditions upon the practice of a person whose registration is subject to a probated suspension:
 - (1) monitoring of practice, including mandatory submission of information to the Board and random and unannounced visits by personnel of the Board to investigate compliance with the terms of the probated suspension;
 - (2) directed continuing education on applicable subjects, including ethics training, in excess of the continuing education requirements applicable to all Registrants;
 - (3) limitations on scope of practice;
 - (4) mandatory Supervision and Control of practice by another Registered Interior Designer; and
 - (5) successful completion of a rehabilitation program pursuant to §5.159 of this title (relating to Substance Abuse.)
 - (d) If a person violates the terms of a probated suspension of registration, the Board may:
 - (1) prolong the period of probated suspension;
 - (2) impose an active suspension of registration; or
 - (3) impose additional terms and conditions upon the probated suspension.
 - (e) If a person engages in the practice of Interior Design while the person's registration is subject to an active suspension, the Board may impose any or all of the following:
 - (1) issue an order restraining any further practice by the person;
 - (2) impose an administrative penalty;
 - (3) impose an additional period of suspension; or
 - (4) revoke the person's certificate of registration.
 - (f) In addition to fulfilling the terms and conditions of a probated or active suspension of registration, a person must fulfill the requirements of §5.188 of this title (relating to Reinstatement Following Suspension or Revocation) in order to obtain reinstatement of the person's suspended certificate of registration.

Note: The provisions of this §5.244 adopted to be effective March 16, 2005, 30 TexReg 1448; amended to be effective June 13, 2010, 35 TexReg 4713.