TEXAS BOARD OF ARCHITECTURAL EXAMINERS

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Rules and Regulations of the Board Regulating the Practice of Architecture

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

September 11, 2016

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

Various discretionary powers are vested in the Texas Board of Architectural Examiners by the Architects' Registration Law, as board procedures and rules support and implement the Act. Wisely, the legislature has thus enabled change as issues influence the practice regulated.

And today, changes challenge architecture in matters technical, sociological, and environmental, each critical to the public welfare this board must guard.

So, this codification of Board Rules and Regulations revalidates certain continuing procedures, repeals others not included, and adopts new ones appropriate to current responsibilities of practice.

Questions remaining after study of these rules should be directed to the executive director of the board, at its Austin, Texas offices.

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

Texas Board of Architectural Examiners

As Adopted - September 22, 1973
Revised - October 30, 1975
Revised - September 7, 1978
Revised - February 25, 1980
Revised - February 12, 1982
Revised - January 22, 1986
Revised - March 17, 1988
Revised - June 22, 1989
Revised - March 16, 1990
Revised - March 26, 1992
Revised - March 23, 1994
Revised - December 31, 1996
Revised - March 10, 1998
Revised – April 21, 2000
Revised – July 26, 2000
Revised – January 31, 2001
Revised – October 25, 2001
Revised – January 24, 2002
Revised – March 26, 2002
Revised – June 2, 2002
Revised – July 7, 2002
Revised – March 6, 2003
Revised – October 1, 2003
Revised – November 24, 2003
Revised – April 4, 2004
Revised – July 5, 2004
Revised – November 21, 2004
Revised – March 16, 2005
Revised – October 9, 2005
Revised – March 30, 2006
Revised – September 19, 2006
Revised – March 29, 2007
Revised – July 18, 2007
Revised – September 20, 2007
Revised – April 3, 2008
Revised – July 13, 2008
Revised – December 24, 2008
Revised – March 20, 2009
Revised – June 21, 2009
Revised – October 18, 2009
Revised – November 29, 2010
Revised – February 21, 2011
Revised – September 11, 2011
Revised – April 17, 2012
Revised – June 12, 2012
Revised – September 25, 2012
Revised – March 3, 2013
Revised – July 7, 2013
Revised – April 13, 2014
Revised – June 8, 2014
Revised – November 23, 2014
Revised – February 22, 2015
Revised – June 4, 2015
Revised – March 22, 2016
Revised – June 21, 2016
Revised – September 11, 2016

RULES AND REGULATIONS
TEXAS BOARD OF ARCHITECTURAL EXAMINERS
CHAPTER 1 - ARCHITECTS

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SUBCHAPTER A

SCOPE; DEFINITIONS

1.1 Purpose
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1.1 PURPOSE

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

Note: *The provisions of this §1.1 adopted to be effective March 17, 1988, 13 TexReg 1137; amended to be effective March 6, 2003, 28 TexReg 1864.*

1.5 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 Architects' Registration Law.

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

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

(4) APA--Administrative Procedure Act.

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

(6) Architect--An individual who holds a valid Texas architectural registration certificate granted by the Board.

(7) Architect Registration Examination (ARE)--The standardized test that a Candidate must pass in order to obtain a valid Texas architectural registration certificate.

(8) Architect Registration Examination Financial Assistance Fund (AREFAF)--A program administered by the Board which provides monetary awards to Candidates and newly registered Architects who meet the program's criteria.

(9) Architects' Registration Law--Article 249a, Vernon's Texas Civil Statutes, and Chapter 1051, Texas Occupations Code.

(10) Architectural Barriers Act--Article 9102, Vernon's Texas Civil Statutes and Texas Government Code, Chapter 469.

(11) Architectural Intern--An individual enrolled in the Intern Development Program (IDP).

(12) ARE--Architect Registration Examination.

(13) AREFAF--Architect Registration Examination Financial Assistance Fund.

(14) Authorship--The state of having personally created something.

(15) Barrier-Free Design--The design of a building or a facility or the design of an alteration of a building or 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.

(16) Board--Texas Board of Architectural Examiners.

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

(18) Candidate--An Applicant approved by the Board to take the ARE.

(19) EPH--Continuing Education Program Hour(s).

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

(21) 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.

(22) Consultant--An individual retained by an Architect who prepares or assists in the preparation of technical design documents issued by the Architect for use in connection with the Architect's Construction Documents.
(23) 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 hearing.
(24) Continuing Education Program Hour (CEPH)--At least fifty (50) minutes of time spent in an activity meeting the Board's continuing education requirements.
(25) Council Certification--Certification granted by NCARB to architects who have satisfied certain standards related to architectural education, training, and examination.
(26) Delinquent--A registration status signifying that an Architect:
(A) has failed to remit the applicable renewal fee to the Board; and
(B) is no longer authorized to Practice Architecture in Texas or use any of the terms restricted by the Architects' Registration Law.
(27) E-mail Directory--A listing of e-mail addresses:
(A) used to advertise architectural services; and
(B) posted on the Internet under circumstances where the Architects included in the list have control over the information included in the list.
(28) Emeritus Architect (or Architect Emeritus)--An honorary title that may be used by an Architect who has retired from the Practice of Architecture in Texas pursuant to Texas Occupations Code, §1051.357.
(29) 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.
(30) Feasibility Study--A report of a detailed investigation and analysis conducted to determine the advisability of a proposed architectural project from a technical architectural standpoint.
(31) Good Standing--
(A) a registration status signifying that an Architect 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 architectural registration board that would provide a ground for the denial of the application for architectural registration in Texas.
(32) Governmental Entity--A Texas state agency or department; a district, authority, county, municipality, or other political subdivision of Texas; or a publicly owned Texas utility.
(33) Governmental Jurisdiction--A governmental authority such as a state, territory, or country beyond the boundaries of Texas.
(34) IDP--The Intern Development Program as administered by NCARB.
(35) Inactive--A registration status signifying that an Architect may not Practice Architecture in the State of Texas.
(36) Intern Development Program (IDP)--A comprehensive internship program established, interpreted, and enforced by NCARB.
(37) Institutional Residential Facility--A building intended for occupancy on a 24-hour basis by persons who are receiving custodial care from the proprietors or operators of the building. Hospitals, dormitories, nursing homes and other assisted living facilities, and correctional facilities are examples of buildings that may be Institutional Residential Facilities.
(38) Licensed--Registered.
(39) Member Board--An architectural registration board that is part of the nonprofit federation of architectural registration boards known as NCARB.
(40) NAAB--National Architectural Accrediting Board.
(41) National Architectural Accrediting Board (NAAB)--An agency that accredits architectural degree programs in the United States.

(42) National Council of Architectural Registration Boards (NCARB)--A nonprofit federation of architectural registration boards from fifty-five (55) states and territories of the United States.
(43) NCARB--National Council of Architectural Registration Boards.
(44) Nonregistrant--An individual who is not an Architect.
(45) Practice Architecture--Perform or do or offer or attempt to do or perform any service, work, act, or thing within the scope of the Practice of Architecture.
(46) Practicing Architecture--Performing or doing or offering or attempting to do or perform any service, work, act, or thing within the scope of the Practice of Architecture.
(47) Practice of Architecture--A service or creative work applying the art and science of developing design concepts, planning for functional relationships and intended uses, and establishing the form, appearance, aesthetics, and construction details for the construction, enlargement, or alteration of a building or environs intended for human use or occupancy, the proper application of which requires education, training, and experience in those matters.
(A) The term includes:
(i) establishing and documenting the form, aesthetics, materials, and construction technology for a building, group of buildings, or environs intended to be constructed or altered;
(ii) preparing or supervising and controlling the preparation of the architectural plans and specifications that include all integrated building systems and construction details, unless otherwise permitted under Texas Occupations Code, §1051.606(a)(4); and
(iii) observing the construction, modification, or alteration of work to evaluate conformance with architectural plans and specifications described in clause (ii) of this subparagraph for any building, group of buildings, or environs requiring an architect.
(B) The term "practice of architecture" also includes the following activities which, pursuant to Texas Occupations Code §1051.701(a), may be performed by a person who is not registered as an Architect:
(i) programming for construction projects, including identification of economic, legal, and natural constraints and determination of the scope and spatial relationship of functional elements;
(ii) recommending and overseeing appropriate construction project delivery systems;
(iii) consulting, investigating, and analyzing the design, form, aesthetics, materials, and construction technology used for the construction, enlargement, or alteration of a building or environs and providing expert opinion and testimony as necessary;
(iv) research to expand the knowledge base of the profession of architecture, including publishing or presenting findings in professional forums; and
(v) teaching, administering, and developing pedagogical theory in academic settings offering architectural education.
(48) Principal--An architect who is responsible, either alone or with other architects, for an organization's Practice of Architecture.
(49) Prototypical--From or of an architectural design intentionally created not only to establish the architectural parameters of a building or facility to be constructed but also to serve as a functional model on which future variations of the basic architectural design would be based for use in additional locations.
(50) Public Entity--A state, a city, a county, a city and county, a district, a department or agency of state or local government which has official or quasi-official status, an agency established by state or local government though not a department thereof but subject to some governmental control, or any other political subdivision or public corporation.
(51) Registered--Licensed.
(52) Registrant--Architect.
(53) Regulatory Approval--The approval of Construction Documents by the applicable Governmental Entity after a review of the architectural content of the Construction Documents as a prerequisite to construction or occupation of a building or a facility.
(54) Reinstatement--The procedure through which a Surrendered or revoked Texas architectural registration certificate is restored.
(55) Renewal--The procedure through which an Architect pays a periodic fee so that the Architect's registration certificate will continue to be effective.

(56) 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 architects applying the applicable architectural standard of care.
(57) Revocation or Revoked--The termination of an architectural registration certificate by the Board.
(58) Rules and Regulations of the Board--22 Texas Administrative Code §§1.1 et seq.
(59) Rules of Procedure of SOAH--1 Texas Administrative Code §§155.1 et seq.
(60) Secretary-Treasurer--The member of the Board responsible for signing the official copy of the minutes of each Board meeting and maintaining the record of Board members' attendance at Board meetings.
(61) SOAH--State Office of Administrative Hearings.
(62) Sole Practitioner--An Architect who is the only design professional to offer or render architectural services on behalf of a business entity.
(63) 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
(64) Supervision and Control--The amount of oversight by an architect overseeing the work of another whereby:
(A) the architect and the individual performing the work can document frequent and detailed communication with one another and the architect has both control over and detailed professional knowledge of the work; or
(B) the architect is in Responsible Charge of the work and the individual performing the work is employed by the architect or by the architect's employer.
(65) Supplemental Document--A document that modifies or adds to the technical architectural content of an existing Construction Document.
(66) Surrender--The act of relinquishing a Texas architectural registration certificate along with all privileges associated with the certificate.
(67) 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 developments 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.
(68) TBAE--Texas Board of Architectural Examiners.
(69) TDLR--Texas Department of Licensing and Regulation.
(70) Texas Department of Licensing and Regulation (TDLR)--A Texas state agency responsible for the implementation and enforcement of the Texas Architectural Barriers Act.
(71) Texas Guaranteed Student Loan Corporation (TGSLC)--A public, nonprofit corporation that administers the Federal Family Education Loan Program.
(72) TGSLC--Texas Guaranteed Student Loan Corporation.
(73) 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 §1.5 adopted to be effective March 17, 1988, 13 TexReg 1137; amended to be effective March 16, 1990, 15 TexReg 1149; amended to be effective February 8, 1991, 16 TexReg 456; amended to be effective December 6, 1995, 20 TexReg 9845; amended to be effective June 30, 1997, 22 TexReg 5920; amended to be effective April 5, 2000, 25 TexReg 2807; amended to be effective February 27, 2001, 26 TexReg 1708; amended to be effective March 6, 2003, 28 TexReg 1864; amended to be effective March 30, 2006, 31 TexReg 2453; amended to be effective April 3, 2008, 33 TexReg 2687; amended to be effective December 14, 2008, 33 TexReg 10157; amended to be effective June 21, 2009, 34 TexReg 3946; amended to be effective February 21, 2011, 36 TexReg 926; amended to be effective September 25, 2012, 37 TexReg 7480; amended to be effective June 21, 2016, 41 TexReg 4487.*

SUBCHAPTER B

ELIGIBILITY FOR REGISTRATION

1.21 Registration by Examination
1.22 Registration by Reciprocal Transfer
1.23 Application Process
1.24 Fees
1.25 Pending Applications
1.26 Preliminary Evaluation of Criminal History
1.27 Provisional Licensure
1.28 Child Support Arrearage
1.29 Registration for Military Service Member, Military Veteran, or Military Spouse

1.21 REGISTRATION BY EXAMINATION

(a) In order to obtain architectural registration by examination in Texas, an Applicant:

(1) shall have a professional degree from:

(A) an architectural education program accredited by the National Architectural Accreditation Board (NAAB),

(B) an architectural education program that became accredited by NAAB not later than two years after the Applicant's graduation,

(C) an architectural education program that was granted candidacy status by NAAB and became accredited by NAAB not later than three years after the Applicant's graduation, or

(D) an architectural education program outside the United States where an evaluation by NAAB or another organization acceptable to the Board has concluded that the program is substantially equivalent to an NAAB accredited professional program;

(2) shall successfully demonstrate completion of the Intern Development Program; and

(3) shall successfully complete the architectural registration examination as more fully described in Subchapter C.

(b) An Applicant who applies for architectural registration by examination on or before August 31, 2011 is not required to complete the Intern Development Program if the Applicant successfully demonstrates that prior to January 1, 1984, he/she acquired at least eight (8) years of acceptable architectural experience or eight (8) years of a combination of acceptable education and experience. This subsection is repealed effective September 1, 2011.

(c) An Applicant who applies for architectural registration by examination on or before August 31, 2011 and who commenced his/her architectural education or experience prior to September 1, 1999, shall be subject to the rules and regulations relating to educational and experiential requirements as they existed on August 31, 1999. This subsection is repealed effective September 1, 2011.

(d) For purposes of this section, an Applicant shall be considered to have "commenced" his/her architectural education upon enrollment in an acceptable architectural education program. This subsection is repealed effective September 1, 2011.

(e) 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 §1.21 adopted to be effective January 1, 1976; amended to be effective February 19, 1980, 5 TexReg 385; amended to be effective February 12, 1982, 7 TexReg 509; amended to be effective March 17, 1988, 13 TexReg 1138; amended to be effective February 8, 1991, 16 TexReg 457; amended to be effective March 26, 1992, 17 TexReg 1910; amended to be effective March 23, 1994, 19 TexReg 1654; amended to be effective December 8, 1995, 20 TexReg 9845; amended to be effective September 19, 1996, 21 TexReg 8659; amended to be effective June 30, 1997, 22 TexReg 5920; amended to be effective April 20, 2000, 25 TexReg 3249; amended to be effective October 10,2001, 26 TexReg 7834; amended to be effective April 4, 2004, 29 TexReg 3460; amended to be effective March 30, 2006, 31 TexReg 245; amended to be effective July 13, 2008, 33 TexReg 5317; amended to be effective February 21, 2011, 36 TexReg 927.*

1.22 REGISTRATION BY RECIPROCAL TRANSFER

(a) A person may apply for architectural registration by reciprocal transfer if the person holds an architectural 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 architectural registration by reciprocal transfer, an Applicant must demonstrate the following:

(1) the Applicant has:

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

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

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

(c) An Applicant for architectural 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 §1.22 adopted to be effective October 10, 2001, 26 TexReg 7835; amended to be effective April 4, 2004, 29 TexReg 3460; amended to be effective November 23, 2014, 39 TexReg 9006; amended to be effective March 22, 2016, 41 TexReg 2159.*

1.23 APPLICATION PROCESS

(a) An Applicant for architectural registration by examination must apply through NCARB. The Applicant is responsible for having NCARB transmit to the Board a completed application with all required supporting documentation.

(b) An Applicant for architectural registration by reciprocal transfer may apply through NCARB or through the Board's direct application process. If the Applicant applies through NCARB, the Applicant is responsible for having NCARB transmit to the Board a completed application with all required supporting documentation.

(c) 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.

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

(e) 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.

(f) The Board may take action against an Applicant or Candidate pursuant to Section 1.151.

Note: *The provisions of this §1.23 adopted to be effective October 10, 2001, 26 TexReg 7836.*

1.24 FEES

The Board shall establish a schedule of fees for services provided by the Board, including fees related to application procedures. The fee schedule established by the Board shall be published, and copies shall be available from the Board's office.

Note: *The provisions of this §1.24 adopted to be effective January 1, 1976; amended to be effective March 29, 2000, 25 TexReg 2570; amended to be effective October 10, 2001, 26 TexReg 7837.*

1.25 PENDING APPLICATIONS

(a) A properly submitted application for registration by examination will be effective for three (3) years

from the date it is received by the Board. After three (3) years, the Board may require the Applicant or Candidate to update the application or reapply.

(b) Each Candidate approved for examination must pay an annual record maintenance fee as prescribed by the Board or the Candidate's application file will be closed. A Candidate 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 (5) years or longer may not be reopened.

Note: *The provisions of this §1.25 adopted to be effective October 10, 2001, 26 TexReg 7837.*

1.26 PRELIMINARY EVALUATION OF CRIMINAL HISTORY

a) An Applicant, Candidate or a person enrolled or planning to enroll in an accredited architectural 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 §1.149 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 the relationship between the conduct in question and the Practice of Architecture.

(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 (3) 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 §1.26 adopted to be effective November 29, 2010, 35 TexReg 10504.*

1.27 PROVISIONAL LICENSURE

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

(1) is not directly related to the Practice of Architecture as determined by the Executive Director under §1.149 of this chapter (relating to Criminal Convictions);

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

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

(4) 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 §1.27 adopted to be effective November 29, 2010, 35 TexReg 10504.*

1.28 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 §1.28 adopted to be effective June 8, 2014, 39 TexReg 4250.*

1.29 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) Architectural 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 architectural registration issued by another jurisdiction that has licensing or registration requirements that are substantially equivalent to the requirements for registration in this state; or
(B) Held an active architectural 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.

Note: *The provisions of this §1.29 adopted to be effective November 23, 2014, 39 TexReg 9006; amended to be effective March 22, 2016, 41 TexReg 2159.*

SUBCHAPTER C

EXAMINATION

1.41 Requirements
1.42 Scoring
1.43 Reexamination
1.44 Transfer of Passing Scores
1.45 Special Accommodations
1.52 Financial Assistance to ARE Candidates

1.41 REQUIREMENTS

(a) Every Applicant for architectural registration by examination in Texas must successfully complete all sections of the Architect Registration Examination (ARE).

(b) The Board may approve an Applicant to take the ARE only after the Applicant has completed the educational requirements for architectural registration by examination in Texas, has completed at least six (6) months of full-time experience working under the direct supervision of a licensed architect, has enrolled in the Intern Development Program by establishing a council record with NCARB, and has submitted the required application materials.

(c) An Applicant may take the ARE at any official ARE testing center but must satisfy all Texas registration requirements in order to obtain architectural registration by examination in Texas.

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

(e) 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 a Candidate, may request a refund of a portion of the examination fee paid to the national examination provider for scheduling all or a portion of the registration examination. A charge for refund processing may be withheld by the national examination provider. Refunds of examination fees are subject to the following conditions:

(A) A Candidate, 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 Candidate or a member of the Candidate'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 Candidate. 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 applicant from scheduling or taking the examination must be submitted by the Candidate 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 the national examination provider.

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

Note: *The provisions of this §1.41 adopted to be effective October 10, 2001, 26 TexReg 7838; amended to be effective April 4, 2004, 29 TexReg 3461; amended to be effective April 3, 2008, 33 TexReg 2690.*

1.42 SCORING

(a) An explanation of the scoring procedures for the ARE shall be provided to each Candidate prior to examination.

(b) A Candidate's ARE scores shall be determined by the entity that administers the examination. The Board shall not review any ARE score to determine its validity.

(c) If, for any reason, a Candidate takes a section or sections of the ARE but does not receive a score for the section or sections, the Board shall have no liability beyond authorizing the Candidate to retake the section or sections with the corresponding fee waived.

Note: *The provisions of this §1.42 adopted to be effective October 10, 2001, 26 TexReg 7838.*

1.43 REEXAMINATION

(a) A Candidate's passing grade for any section of the examination is valid for five (5) years. Each Candidate must pass all sections of the examination within five (5) years after the date the Candidate passes a section of the examination. A Candidate who does not pass all sections of the examination within five (5) years after passing a section of the examination will forfeit credit for the section of the examination passed and must pass that section of the examination again.

(b) The Board may grant extensions to the 5-year period for completion of the examination if the Candidate is unable to pass all sections of the examination within that period for the following reasons:

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

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

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

(c) A Candidate 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 Candidate learns of the impending adoption or birth. A Candidate 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 Candidate learns of the medical condition or the commencement of active duty military service. A Candidate shall immediately notify the Board in writing when the medical condition is resolved or active duty military service ends.

Note: *The provisions of this §1.43 adopted to be effective October 10, 2001, 26 TexReg 7838; amended to be effective March 16, 2005, 30 TexReg 1443; amended to be effective October 18, 2009, 34 TexReg 7068; amended to be effective November 23, 2014, 39 TexReg 9006.*

1.44 TRANSFER OF PASSING SCORES

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

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

Note: *The provisions of this §1.44 adopted to be effective October 10, 2001, 26 TexReg 7838; amended to be effective April 3, 2008, 33 TexReg 2690.*

1.45 SPECIAL ACCOMMODATIONS

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

(b) Special accommodations can be provided for examinees with physical or mental impairments that substantially limit major life activities. Available accommodations include the modification of examination procedures and the provision of auxiliary aids and services designed to furnish an

individual with a disability an equal opportunity to demonstrate his/her knowledge, skills, and ability.
(c) The Board is not required to approve every request for accommodation or auxiliary aid or provide every accommodation or service as requested. The Board is not required to grant a request for accommodation if doing so would fundamentally alter the measurement of knowledge or the measurement of a skill intended to be tested by the examination or would create an undue financial or administrative burden.
(d) Procedure for requesting accommodation:
(1) To protect the integrity of the testing process, an Applicant requesting an accommodation must submit documentation regarding the existence of a disability and the reason the requested accommodation is necessary to provide the Applicant with an equal opportunity to exhibit his/her knowledge, skills, and ability through the examination. The Board shall evaluate each request on a case-by-case basis.
(2) An Applicant requesting an accommodation must have a licensed health care professional or other qualified evaluator provide certification regarding the disability as described in Subsection (e) of this section.
(3) An Applicant 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 applicant'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 Applicant can spend on specific examination tasks;
(D) the recommended accommodation and how it relates to the applicant'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 Applicant'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 §1.45 adopted to be effective April 4, 2004, 29 TexReg 3461.*

1.52 FINANCIAL ASSISTANCE TO ARE CANDIDATES

(a) The fund established by the 76th Texas Legislature to provide financial assistance to Texas ARE Candidates shall be administered by the Board or, if authorized by law, by an independent scholarship administrator approved by the Board. As mandated by §1051.653 of the Texas Occupations Code, the Architect Registration Examination Financial Assistance Fund (AREFAF) shall be funded by a mandatory fee from all Texas registered Architects.
(b) A one-time maximum award of $500 shall be awarded to each approved applicant. Each scholarship recipient shall meet the following criteria:
(1) Each scholarship recipient shall be a Texas resident who has resided in Texas for at least 18 months immediately preceding the date the recipient submitted his or her application for the AREFAF award;
(2) Each scholarship recipient shall be a Candidate in good standing or shall be an Architect who completed the ARE during the 12-month period immediately preceding the date of application for the AREFAF award;
(3) Each scholarship recipient shall demonstrate that the examination fee for the ARE would pose or has posed a financial hardship for him or her; and
(4) Each scholarship recipient shall have attained passing scores on sections of the ARE for which the combined fees total at least $500.
(c) The Board shall not award an AREFAF scholarship to any of the following persons:
(1) any member of the Board;
(2) any employee of the Board;
(3) any person who assists in the administration of the AREFAF;
(4) any current or former member of the Texas Legislature; or
(5) any family member of any person described in subsection (c)(1), (c)(2), (c)(3), or (c)(4)of this section.
(d) Each applicant shall apply for an AREFAF award on an authorized form available in the Board's office or from an independent scholarship administrator that has been approved to administer the AREFAF.
(e) Each applicant shall be notified of the approval or rejection of the applicant's AREFAF application. Rejection of an application shall include an explanation of the reason for rejection.

Note: *The provisions of this §1.52 adopted to be effective February 27, 2001, 26 TexReg 1709, amended to be effective July 18, 2007, 32 TexReg 4394.*

SUBCHAPTER D

CERTIFICATION AND ANNUAL RENEWAL

1.61 Issuance of Certificates of Registration
1.62 Display of Certificate
1.63 Repealed
1.64 Surrender of Registration
1.65 Annual Renewal Procedure
1.66 Reinstatement
1.67 Emeritus Status
1.68 Inactive Status
1.69 Continuing Education Requirements

1.61 ISSUANCE OF CERTIFICATES OF REGISTRATION

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

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

Note: *The provisions of this §1.61 adopted to be effective October 10, 2001, 26 TexReg 7840.*

1.62 DISPLAY OF CERTIFICATE

(a) Each Architect holding an active certificate of registration shall display it at his/her office. If an Architect maintains an office in more than one (1) location, the Architect 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. An Architect may not copy his/her certificate of registration in order to display it.

Note: *The provisions of this §1.62 adopted to be effective October 10, 2001, 26 TexReg 7840.*

1.64 SURRENDER OF REGISTRATION

(a) An Architect may voluntarily surrender his/her registration by submitting to the Board a written notice of the voluntary surrender that has been signed by the Architect. 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 1.66.

(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, an Architect or former Architect shall immediately surrender his/her certificate of registration in the manner prescribed in the notice.

Note: *The provisions of this §1.64 adopted to be effective October 10, 2001, 26 TexReg 7840.*

1.65 ANNUAL RENEWAL PROCEDURE

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

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

(d) If the Board receives official notice that an Architect has defaulted on the repayment of a loan guaranteed by the Texas Guaranteed Student Loan Corporation (TGSLC), the Board may not renew the

Architect's registration unless:
(1) the renewal is the first renewal following the Board's receipt of official notice regarding the default;
(2) the Architect presents to the Board a certificate from TGSLC certifying that the Architect has entered into a repayment agreement for the defaulted loan; or
(3) the Architect presents to the Board a certificate from TGSLC certifying that the Architect is not in default on a loan guaranteed by TGSLC.
(e) If the Board receives official notice that an Architect has failed to pay court ordered child support, the Board may be prohibited from renewing the Architect's registration.
(f) If a registration is not renewed within 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 §1.21 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 §1.22 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 §1.65 adopted to be effective October 10, 2001, 26 TexReg 7840; amended to be effective October 9, 2005; amended to be effective April 3, 2008; amended to be effective December 24, 2008, 33 TexReg 10321; amended to be effective February 22, 2015, 40 TexReg 703; amended to be effective March 22, 2016, 41 TexReg 2160.*

1.66 REINSTATEMENT

(a) Once the Revocation or Surrender of an Architect'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 practiced architecture unlawfully or used any form of the title "architect" in violation of the Architects' 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;
(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 architectural registration that is active and in good standing in another jurisdiction where the registration requirements are substantially equivalent to Texas architectural 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 §1.66 adopted to be effective October 10, 2001, 26 TexReg 7840; amended to be effective April 4, 2004, 29 TexReg 3462; amended to be effective April 3, 2008; amended to be effective December 24, 2008, 33 TexReg 10321.*

1.67 EMERITUS STATUS

(a) A person who previously was registered as an Architect or who is an Architect whose registration is in Good Standing may apply for emeritus registration status on a form prescribed by the Board. In order for an Architect to obtain emeritus status, the Architect must demonstrate that:
(1) he/she has been registered as an architect for at least 20 years; and
(2) he/she is at least 65 years of age.
(b) An Emeritus Architect may engage in the Practice of Architecture as defined by Section 1051.001(7)(D)–(H) of the Texas Occupations Code and may prepare architectural plans and specifications for:
(1) the alteration of a building that does not involve a substantial structural or exit way change to the building; or
(2) the construction, enlargement, or alteration of a privately owned building that is:
(A) a building used primarily for farm, ranch, or agricultural purposes or for the storage of raw agricultural commodities;
(B) a single-family or dual-family dwelling or a building or appurtenance associated with the dwelling;
(C) a multifamily dwelling not exceeding a height of two stories and not exceeding 16 units per building;
(D) a commercial building that does not exceed a height of two stories or a square footage of 20,000 square feet; or
(E) a warehouse that has limited public access.
(c) An Emeritus Architect may use the title "Emeritus Architect" or "Architect Emeritus."
(d) An Emeritus Architect 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.
(e) If an Emeritus Architect fails to remit a completed registration renewal form and the prescribed fee on or before the specified expiration date of the Emeritus Architect's registration, the Board shall impose a late payment penalty that must be paid before the Emeritus Architect's registration may be renewed.
(f) In order to change his/her registration to active status, an Emeritus Architect 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 Architect Registration Examination during the five years immediately preceding the return to active status; and
(3) pay a fee as prescribed by the Board.
(g) 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.
(h) The Board may require an Applicant to include verification of compliance with the laws governing the Practice of Architecture with his or her application to return to active status.

Note: *The provisions of this §1.67 adopted to be effective November 24, 2003, 28 TexReg 10473; amended to be effective April 3, 2008, 33 TexReg 2690; amended to be effective March 3, 2013, 38 TexReg 1180.*

1.68 INACTIVE STATUS

(a) An Architect whose registration is in good standing may apply for Inactive registration status on a

form prescribed by the Board.

(b) An Inactive Architect may not Practice Architecture. The prohibition against the Practice of Architecture by Inactive Architects applies to architectural projects that may be designed by Nonregistrants as well as to projects that may be designed only by registered Architects. If an Inactive Architect engages in the Practice of Architecture, the Inactive Architect's registration may be suspended or revoked and the Inactive Architect may be fined as allowed by the Architects' Registration Law for each day that the Inactive Architect has engaged in the Practice of Architecture.

(c) An Inactive Architect shall not use his/her architectural seal during any period that his/her registration is Inactive.

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

(e) In order to return his/her registration to active status, an Inactive Architect 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 Architect whose registration has been Inactive for a continuous period of five (5) years or longer must do the following before the Inactive Architect 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 Architect currently holds an architectural registration in another jurisdiction where the registration requirements are substantially equivalent to Texas architectural registration requirements and that the current architectural 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 practice of architecture.

(i) An Inactive Architect may use the title "Emeritus Architect" or "Architect Emeritus" after filing the appropriate form with the board if the Inactive Architect held an emeritus architectural registration on or before January 1, 2002.

(j) A Nonregistrant may not use the title "Emeritus Architect" or "Architect Emeritus."

Note: *The provisions of this §1.68 adopted to be effective October 10, 2001, 26 TexReg 7840; amended to be effective June 2, 2002, 27 TexReg 4702; amended to be effective April 3, 2008, 33 TexReg 2690.*

1.69 CONTINUING EDUCATION REQUIREMENTS

(a) Each Architect shall complete a minimum of 12 continuing education program hours (CEPH) in topics pertinent to the public welfare, contributing to environmental and economic sustainability, promoting public health and well-being, encouraging community building and stewardship, offering aesthetic and creative experiences and enabling people and communities to function more effectively. These topics may include the following health and safety categories:

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

(2) technical: surveying, structural, mechanical, electrical, communications, fire protection, controls.

(3) environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, insulation.

(4) occupant comfort: air quality, lighting, acoustics, ergonomics.

(5) materials and methods: building systems, products, finishes, furnishings, equipment.

(6) preservations: historic, reuse, adaptation.

(7) pre-design: land use analysis, programming, site selection, site and soils analysis.

(8) design: urban planning, master planning, building design, site design, interiors, safety and security measures.

(9) Construction Documents: drawings, specifications, delivery methods.
(10) construction administration: contract, bidding, contract negotiations.
(b) Each Architect shall complete the minimum mandatory CEPH during the last full calendar year immediately preceding the date the Architect renews the Architect's certificate of registration. Of the 12 minimum mandatory CEPH, each Architect shall complete a minimum of one CEPH in barrier-free design and at least one CEPH in the study of Sustainable or Energy-Efficient design. One CEPH equals a minimum of 50 minutes of actual course time. No credit shall be awarded for introductory remarks, meals, breaks, or business/administration matters related to courses of study.
(c) Architects shall complete a minimum of eight CEPH in structured course study. No credit shall be awarded for the same structured course for which the Architect has claimed credit during the preceding three years except for the Texas Accessibility Academy or another similar course offered by the Texas Department of Licensing and Regulation (TDLR).
(d) Architects may complete a maximum of four CEPH in self-directed study. Self-directed study must utilize articles, monographs, or other study materials that the Architect has not previously utilized for self-directed study.
(e) The Board has final authority to determine whether to award or deny credit claimed by an Architect for continuing education activities. The following types of activities may qualify to fulfill continuing education program requirements:
(1) Attendance at courses dealing with technical architectural subjects related to the Architect's profession, ethical business practices, or new technology;
(2) Teaching architectural courses and time spent in preparation for such teaching:
(A) a maximum of four CEPH may be claimed per class hour spent teaching architectural courses;
(B) an Architect may not claim credit for teaching the same course more than once; and
(C) College or university faculty may not claim credit for teaching.
(3) Hours spent in professional service to the general public which draws upon the Architect's professional expertise, such as serving on planning commissions, building code advisory boards, urban renewal boards, or code study committees;
(4) Hours spent in architectural research which is published or formally presented to the profession or public;
(5) Hours spent in architectural self-directed study programs such as those organized, sponsored, or approved by the American Institute of Architects, the National Council of Architectural Registration Boards, or similar organizations acceptable to the Board;
(6) College or university credit courses on architectural subjects or ethical business practices; each semester credit hour shall equal one CEPH; each quarter credit hour shall equal one CEPH;
(7) One CEPH may be claimed for attendance at one full-day session of a meeting of the Texas Board of Architectural Examiners.
(f) An Architect may be exempt from continuing education requirements for any of the following reasons:
(1) An Architect 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 Architect shall be exempt for any registration period during which the Architect'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 Architect's registration may be returned to active status;
(3) An Architect who is not a full-time member of the Armed Forces shall be exempt for any registration period during which the Architect serves on active duty in the Armed Forces of the United States for a period of time exceeding 90 consecutive days;
(4) An Architect who has an active registration in another jurisdiction that has registration requirements which are substantially equivalent to Texas registration requirements and that has a mandatory continuing education program shall be exempt from mandatory continuing education program requirements in Texas for any registration period during which the Architect satisfies such other jurisdiction's continuing education program requirements, except with regard to the requirement in Texas that each Architect complete one CEPH related to Sustainable or Energy-Efficient design; or

(5) An Architect 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 architecture.

(g) When renewing his/her annual registration, each Architect shall attest to the Architect's fulfillment of the mandatory continuing education program requirements during the immediately preceding calendar year.

(1) Each Architect shall maintain a detailed record of the Architect's continuing education activities. Each Architect shall retain proof of fulfillment of the mandatory continuing education program requirements and shall retain the annual record of continuing education activities required by this subsection for a period of five years after the end of the registration period for which credit is claimed.

(2) Upon written request, the Board may require an Architect to produce documentation to prove that the Architect has complied with the mandatory continuing education program requirements. If acceptable documentation is not provided within 30 days of request, claimed credit may be disallowed. The Architect shall have 60 calendar days after notification of disallowance of credit to substantiate the original claim or earn other CEPH credit to fulfill the minimum requirements. Such credit shall not be counted again for another registration period.

(3) If an Architect is registered to practice more than one of the professions regulated by the Board and the Architect completes a continuing education activity that is directly related to more than one of those professions, the Architect may submit that activity for credit for all of the professions to which it relates. The Architect must maintain a separate detailed record of continuing education activities for each profession.

(4) An Architect may receive credit for up to 24 CEPH earned during any single registration period. A maximum of 12 CEPH that is not used to satisfy the continuing education requirements for a registration period may be carried forward to satisfy the continuing education requirements for the next registration period.

(h) Providing false information to the Board, failure to fulfill the annual continuing education program requirements, and failure to respond to, and comply with, audit and verification requests may result in disciplinary action by the Board.

(i) As the term is defined in §1.29(a) of the Board's rules, a military service member is entitled to two years of additional time to complete any CEPH requirements.

Note: *The provisions of this §1.69 adopted to be effective October 10, 2001, 26 TexReg 7840; amended to be effective April 3, 2008, 33 TexReg 2690, amended to be effective April 17, 2012, 37 TexReg 2628; amended to be effective November 23, 2014, 39 TexReg 9006; amended to be effective March 22, 2016, 41 TexReg 2159.*

SUBCHAPTER E

FEES

1.81 Repealed
1.82 Annual Fees

1.82 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 §1.82 adopted to be effective March 25, 2002, 27 TexReg 2231; amended to be effective April 4, 2004, 29 TexReg 3464; amended to be effective April 3, 2008, 33 TexReg 2691.*

SUBCHAPTER F

THE ARCHITECT'S SEAL

1.101 Seal Required
1.102 Type and Design
1.103 Required Use of Seal and Retention of Sealed Documents
1.104 Prohibitions
1.105 Prototypical Design
1.106 Other Professional Responsibilities

1.101 SEAL REQUIRED

As provided below, an Architect 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 1.103(a), thereby indicating that it may be used for regulatory approval, permitting, or construction; or

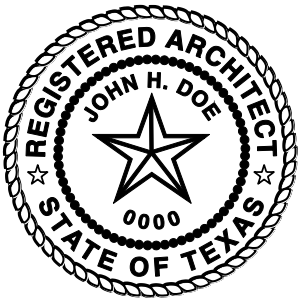
(2) labeled with the Architect's name and the date and clearly marked to indicate that it may not be used for regulatory approval, permitting, or construction pursuant to Subsection 1.103(b).

Note: *The provisions of this §1.101 adopted to be effective August 2, 2000, 25 TexReg 7157; amended to be effective October 1, 2003, 28 TexReg 8326.*

1.102 TYPE AND DESIGN

(a) On every document requiring an Architect's seal, the Architect 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. An Architect 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 an Architect's seal shall be the same as the design of the sample seal shown in this Subsection except that the name of the Architect and the Architect'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 Architect whose seal and signature are affixed to the document. An Architect's seal and signature and the date of signing may be affixed electronically or through any other means selected by the Architect 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 §1.102 adopted to be effective August 2, 2000, 25 TexReg 7158; amended to be effective October 1, 2003, 28 TexReg 8326; amended to be effective July 5, 2004, 29 TexReg 6275.*

1.103 REQUIRED USE OF SEAL AND RETENTION OF SEALED DOCUMENTS

(a) Construction documents:

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

(A) the Architect's seal;

(B) the Architect'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 Architect.
(2) The Architect'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 Architect. The Architect'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 architectural 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 architectural drawing or specification issued by or under the authority of an Architect for a purpose other than regulatory approval, permitting, or construction shall include:
(A) the Architect'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 architectural drawing and specification included in a Feasibility Study issued by or under the authority of an Architect must be sealed, signed, and dated in the manner described in Subsection 1.103(a) or labeled with the Architect'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 1.103(b).
(c) For a minimum of ten (10) years from the date of signature on each Construction Document and Prototypical Construction Document sealed by or under the authority of an Architect, the sealing Architect 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 §1.103 adopted to be effective August 2, 2000, 25 TexReg 7158; amended to be effective September 29, 2003, 28 TexReg 8326.*

1.104 PROHIBITIONS

(a) Except as provided in Subsection 1.105, an Architect may not affix or authorize the affixation of his/her seal to any document unless the document was prepared by the Architect or under the Architect's Supervision and Control.
(b) If only a portion of a document was prepared by an Architect or under an Architect's Supervision and Control, the Architect's seal may not be affixed to the document unless:
(1) the portion of the document prepared by the Architect or under the Architect's Supervision and Control is clearly identified; and
(2) it is clearly indicated on the document that the Architect's seal applies only to that portion of the document prepared by the Architect or under the Architect's Supervision and Control.
(c) Only the Architect and any person with the Architect's consent may use or attempt to use an Architect's seal. No other person may use or attempt to use:
(1) an Architect's seal;
(2) a copy of an Architect's seal; or
(3) a replica of an Architect's seal.

(d) An Architect may not modify a document bearing another Architect's seal without first:
(1) taking reasonable steps to notify the sealing Architect 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 an Architect's seal is issued, the seal may not be removed.

Note: *The provisions of this §1.104 adopted to be effective August 2, 2000, 25 TexReg 7160; amended to be effective September 29, 2003, 28 TexReg 8326.*

1.105 PROTOTYPICAL DESIGN

(a) An Architect may not affix or authorize the affixation of the Architect's seal to a Prototypical Construction Document derived from a Prototypical design prepared by another person unless:
(1) the Architect thoroughly reviews and makes appropriate changes to all aspects of the Prototypical design to adapt the Prototypical design to the specific site and ensure compliance with all applicable statutes, codes, and other regulatory provisions;
(2) the Architect affixes or causes the affixation of the Architect's seal and signature and the date of signing to each sheet or electronic equivalent of a sheet of the adapted Prototypical Construction Documents in the manner described in Subsection 1.103(a); and
(3) the Architect accepts full responsibility for each sheet or electronic equivalent of a sheet of the adapted Prototypical Construction Documents on which the Architect's seal is placed.
(b) In addition to the responsibility set forth in Subsection 1.103(c), an Architect who affixes or authorizes the affixation of his/her seal to an adapted Prototypical Construction Document derived from a Prototypical design prepared by another person shall be responsible for the maintenance of a copy of the complete set of Prototypical design documents prepared by the other person for at least ten (10) years from the date of the Architect's signature on the adapted Prototypical Construction Document.

Note: *The provisions of this §1.105 adopted to be effective August 2, 2000, 25 TexReg 7160; amended to be effective September 29, 2003, 28 TexReg 8326.*

1.106 OTHER PROFESSIONAL RESPONSIBILITIES

(a) An Architect shall provide a written statement of jurisdiction to each client for whom the Architect renders an architectural 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 architects in Texas";
(2) include the Board's current mailing address and telephone number; and
(3) be placed within every written contract for architectural services.
(c) If an Architect provides an architectural service to a client without entering into a written contract with the client, the Architect shall provide the client with the statement of jurisdiction:
(1) by including the statement of jurisdiction in each bill for architectural services presented to the client; or
(2) if the client visits the Architect's office, by posting the statement of jurisdiction on a sign prominently displayed in the Architect's office.

Note: *The provisions of this §1.106 adopted to be effective April 6, 2000, 25 TexReg 2809; amended to be effective September 29, 2003, 28 TexReg 8326.*

Note: Defined terms are capitalized.
Definitions are provided in rule 1.5, pages 3 - 6.

SUBCHAPTER G

COMPLIANCE AND ENFORCEMENT

1.121 General
1.122 Association
1.123 Titles
1.124 Business Registration

1.121 GENERAL

In carrying out its responsibility to insure strict enforcement of the Architects' 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 Architecture and the use of the title "architect." The Board also may investigate representations which imply that a person or a business entity is legally authorized to offer or provide architectural services to the public. 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 §1.121 adopted to be effective September 19, 1996, 21 TexReg 8661; amended to be effective February 27, 2001, 26 TexReg 1709; amended to be effective March 30, 2006, 31 TexReg 2454.*

1.122 ASSOCIATION

(a) An Architect or a Principal, on behalf of an architectural firm, who forms a business association to jointly provide architectural services with any Nonregistrant who is:

(1) not an employee of the Architect or architectural firm;

(2) not a client of the Architect or architectural firm; and

(3) not a subcontractor nor a consultant of the Architect or architectural firm under contract with a client except as described in subsection (e); shall, prior to providing architectural services on behalf of the business association, enter into a written agreement of association with the Nonregistrant whereby the Architect or the architectural 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 Architect or the Principal on behalf of an architectural firm which has agreed to associate with the Nonregistrant;

(3) The name, address, telephone number, and signature of the Nonregistrant with whom the Architect or Principal has agreed to associate.

(c) The Architect or Principal 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 Architect 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 Architect’s signature on the Construction Documents.

(e) If, pursuant to §1051.606(b) of the Texas Occupations Code, a Texas Architect associates with a person who is not a Texas Architect but is duly registered as an architect in another jurisdiction and does not maintain or open an office in Texas, The Texas Architect 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 Architect 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 Architect had prepared the Construction Documents or they had been prepared under the Architect's Supervision and Control. All other requirements of this section relating to associations apply to an association between an Architect and a person registered as an architect in another jurisdiction regardless of whether the Texas Architect or the

architect from another jurisdiction acts as the “consultant” as that term is used in §1051.606(b) of the Texas Occupations Code.

Note: *The provisions of this §1.122 adopted to be effective February 27, 2001, 26 TexReg 1710; amended to be effective September 19, 2006, 31 TexReg 7991.*

1.123 TITLES

(a) Architects duly registered in Texas are authorized to use any form of the word "architect" or the word "architecture" to describe themselves and to describe services they offer and perform in Texas.

(b) A firm, partnership, corporation, or other business association may use any form of the word "architect" or the word "architecture" in its name or to describe services it offers or performs in Texas only under the following conditions:

(1) The business employs at least one Architect on a full-time basis or associates with at least one Architect pursuant to the provisions of section 1.122; and

(2) The Architect(s) employed by or associated with the business pursuant to subsection (b)(1) of this section exercise Supervision and Control over all architectural services performed by nonregistrants on behalf of the business, or in the case of services rendered pursuant to section 1.122(e), exercise, at a minimum, Responsible Charge over all such services.

(c) No entity other than those qualified in subsections (a) and (b) of this section may use any form of the word "architect" or "architecture" in its name or to describe services it offers or performs in Texas.

(d) A person enrolled in the Intern Development Program (IDP) may use the title "architectural intern."

Note: *The provisions of this §1.123 adopted to be effective February 27, 2001, 26 TexReg 1710.*

1.124 BUSINESS REGISTRATION

(a) An architectural firm or other business entity that offers or provides architectural services in Texas must annually register information regarding the firm or business entity with the Board, including an email address to which all TBAE correspondence will be sent.

(b) An Architect or an architectural firm which enters into an agreement to create a business association pursuant to §1.122 of this title (relating to Association) shall annually register the association with the Board, including an email address to which all TBAE correspondence will be sent.

(c) If an architectural firm, business entity, or association dissolves or otherwise becomes unable to lawfully offer or provide architectural services in Texas, the architectural 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 architectural firm, business entity, or association became unable to lawfully offer or provide architectural services. Such an architectural firm, business entity, or association may not continue to offer or provide architectural services unless it employs or contracts with an Architect to offer or provide service and updates its registration within that 30 day period.

(d) An Architect who is a sole practitioner doing business under his/her name, which is registered with the Board, is exempt from the requirements of subsections (a) - (c) of this section.

(e) Each registered architectural 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 architectural 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 the 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 §1.124 adopted to be effective February 27, 2001, 26 TexReg 1710; amended to be effective September 19, 2006, 31 TexReg 7991, amended to be effective April 17, 2012, 37 TexReg 2630.*

SUBCHAPTER H

PROFESSIONAL CONDUCT

1.141 General
1.142 Competence
1.143 Recklessness
1.144 Dishonest Practice
1.145 Conflicts of Interest
1.146 Responsibility to the Architectural Profession
1.147 Professional Services Procurement Act
1.148 Prevention of Unauthorized Practice
1.149 Criminal Convictions
1.150 Substance Abuse
1.151 Effect of Enforcement Proceedings on Application
1.152 Repealed
1.153 Deferred Adjudication

1.141 GENERAL

(a) These rules of professional conduct are promulgated pursuant to the Architects' Registration Law (the Act), Chapter 1051, 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 architecture 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 architecture.

(b) The Board may revoke, suspend, or refuse to renew an Architect's certificate of registration, place on probation an Architect whose certificate of registration has been suspended, reprimand an Architect, or assess an administrative penalty against an Architect 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 section 1.151. 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 Architects involving their professional conduct.

(e) An Architect 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 architectural services rendered regardless of whether the Architect is paid for the services.

Note: *The provisions of this §1.141 adopted to be effective March 1, 2001, 26 TexReg 1712; amended to be effective July 5, 2004, 29 TexReg 6275; amended to be effective March 20, 2009, 34 TexReg 1850.*

1.142 COMPETENCE

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

(b) An Architect shall not affix his/her signature or seal to any architectural 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. An Architect may be

found guilty of "Gross Incompetency" under any of the following circumstances:

(1) the Architect 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 Architect;

(2) the Architect 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 architect under the same or similar circumstances and conditions;

(3) the Architect has been adjudicated mentally incompetent by a court; or

(4) pursuant to section 1.150(b) (relating to substance abuse.)

Note: *The provisions of this §1.142 adopted to be effective March 1, 2001, 26 TexReg 1712; adopted to be effective March 3, 2013, 38 TexReg 1181.*

1.143 RECKLESSNESS

(a) An Architect shall not practice architecture in any manner which, when measured by generally accepted architectural 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 Architect 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 architect 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 Architect 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 §1.143 adopted to be effective March 1, 2001, 26 TexReg 1712.*

1.144 DISHONEST PRACTICE

(a) An Architect 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) An Architect may not advertise in a manner which is false, misleading, or deceptive.

(c) An Architect 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 architectural work. An Architect may not give architectural 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 an Architect to render publicly funded architectural work. The term "significant value" means 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 an Architect or would create the appearance of an obligation or bias on the part of the governmental entity to select the Architect to perform the architectural work.

(d) An Architect serving as an expert witness is subject to discipline for committing a dishonest practice upon a finding by a court of law that the Architect:

(1) rendered testimony the Architect has actual knowledge is false; or

(2) agreed to receive payment contingent upon giving testimony that expresses a particular opinion.

(e) For purposes of this section, an Architect'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. An Architect's conduct is knowing or with knowledge, with respect to the nature of the conduct or to circumstances surrounding the conduct when a reasonably prudent Architect in the same or similar circumstances would be aware of the nature of the conduct or that the

circumstances exist. An Architect acts knowingly, or with knowledge, with respect to a result of the Architect's conduct when a reasonably prudent Architect would be aware of the conduct and the conduct is reasonably certain to cause the result. An Architect's intent or knowledge may be established by circumstantial evidence.

Note: *The provisions of this §1.144 adopted to be effective March 1, 2001, 26 TexReg 1712, amended to be effective July 18, 2007, 32 TexReg 4394; adopted to be effective March 3, 2013, 38 TexReg 1181; amended to be effective November 23, 2014, 39 TexReg 9006.*

1.145 CONFLICTS OF INTEREST

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

(b) An Architect 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) An Architect 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 Architect is performing or has contracted to perform architectural 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 Architect or otherwise could adversely affect the Architect's ability to exercise his/her own judgment without regard to such benefit.

Note: *The provisions of this §1.145 adopted to be effective March 1, 2001, 26 TexReg 1712; amended to be effective March 29, 2007, 32 TexReg 1741.*

1.146 RESPONSIBILITY TO THE ARCHITECTURAL PROFESSION

(a) An Architect 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 architecture;

(B) any business entity in the practice of architecture 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 architecture 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) An Architect 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) An Architect shall be responsible and accountable for the care, custody, control, and use of his/her architectural seal, professional signature, and other professional identification. An Architect 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 Architect if the Board deems it necessary.

Note: *The provisions of this §1.146 adopted to be effective March 1, 2001, 26 TexReg 1712.*

1.147 PROFESSIONAL SERVICES PROCUREMENT ACT

An Architect shall neither submit a competitive bid to nor solicit a competitive bid on behalf of any governmental entity that is prohibited by the Professional Services Procurement Act, Subchapter A, Chapter 2254, Government Code, from making a selection or awarding a contract on the basis of competitive bids. For purposes of this section, the term "competitive bid" means information which specifies the fee charged by an Architect for a professional service, including information from which such fee may be extrapolated or indirectly determined. An Architect may disclose to a governmental entity the fee for a professional service, including information found in a fee schedule, only after the governmental entity has selected the Architect on the basis of demonstrated competence and qualifications pursuant to the Professional Services Procurement Act.

Note: *The provisions of this §1.147 adopted to be effective March 1, 2001, 26 TexReg 1712; amended to be effective November 23, 2014, 39 TexReg 9006.*

1.148 PREVENTION OF UNAUTHORIZED PRACTICE

(a) An Architect shall not practice or offer to practice architecture in any governmental jurisdiction in which to do so would be in violation of a law regulating the practice of architecture in that jurisdiction.

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

(c) An Architect who fails to renew his/her certificate of registration prior to its annual expiration date shall not use the title "architect" and shall not "practice architecture" as defined by Section 10 of the Act until after the Architect's certificate of registration has been properly renewed.

Note: *The provisions of this §1.148 adopted to be effective March 1, 2001, 26 TexReg 1712; amended to be effective July 5, 2004, 29 TexReg 6275.*

1.149 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 §1.27 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 an Architect;

(2) the offense does not directly relate to the duties and responsibilities of an Architect and was committed within five (5) years before the date the person applied for registration as an Architect;

(3) the offense is listed in §3g, Article 42.12, Texas Code of Criminal Procedure; or

(4) 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 an Architect 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 an 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. The executive director shall allow the Applicant or Registrant no less than 30 days to provide a written response in sufficient detail to allow the executive director to determine whether the conduct at issue appears to directly relate to the duties and responsibilities of an Architect.
(4) If the executive director determines the conviction might be directly related to the duties and responsibilities of an Architect, 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 an Architect, the executive director and the Board will consider the following:
(1) the nature and seriousness of the crime;
(2) the relationship of the crime to the purposes for requiring a license to practice architecture;
(3) the extent to which architectural 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; and (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of an Architect.
(d) In addition to the factors that may be considered under subsection (c) of this section, the executive director and the Board shall consider the following:
(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 and the amount of time that has elapsed since the Applicant's or Registrant's last criminal activity;
(3) the conduct and work activity of the Applicant or Registrant prior to and following the criminal activity;
(4) evidence of the Applicant's or Registrant's rehabilitation or rehabilitative effort;
(5) other evidence of the Applicant's or Registrant's present fitness to practice as an Architect, including letters of recommendation from law enforcement officials involved in the prosecution or incarceration of the Applicant or Registrant or other persons in contact with the Applicant or Registrant; and
(6) proof that the Applicant or Registrant has maintained steady employment and has supported his/her dependents and otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered.
(e) Crimes directly related to the duties and responsibilities of a Registered Architect 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 Architecture, 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 architecture; 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;
(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 §1.149 adopted to be effective March 1, 2001, 26 TexReg 1712; amended to be effective March 20, 2009, 34 TexReg 1850; amended to be effective November 29, 2010, 35 TexReg 10505; amended to be effective April 13, 2014, 39 TexReg 2573.*

1.150 SUBSTANCE ABUSE

(a) If in the course of a disciplinary proceeding, it is found by the Board that an Architect'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 Architect'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) An Architect's abuse of alcohol or a controlled substance that results in the impairment of the Architect'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 an Architect'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 §1.150 adopted to be effective March 1, 2001, 26 TexReg 1712.*

1.151 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 an Architect.

(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 §1.151 adopted to be effective March 1, 2001, 26 TexReg 1712; amended to be effective July 5, 2004, 29 TexReg 6276.*

1.153 DEFERRED ADJUDICATION

(a) For purposes of §1.27 and §1.149 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 may consider a person to have been convicted for committing a criminal offense upon a finding that:

(1) the person may pose a continued threat to the public; or

(2) registration would create an opportunity for the person to engage in the same type of criminal activity as that for which the person pled guilty or nolo contendere.

(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 §1.153 adopted to be effective November 29, 2010, 35 TexReg 10505*

SUBCHAPTER I

DISCIPLINARY ACTION

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1.164 Initiating a Contested Case
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1.167 Publication of Disciplinary Action
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1.175 Evaluation of Evidence by Expert
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1.178 Reinstatement Following Suspension or Revocation

1.161 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 §1.161 adopted to be effective January 8, 2002, 27 TexReg 161; amended to be effective October 18, 2009, 34 TexReg 7068.*

1.162 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) A person shall be presumed to have received all pleadings and other notices upon a showing that such materials were sent to the respondent's last known address; the materials were sent by United States mail, first class postage prepaid; a return address was affixed to the exterior of the mailing materials and the materials were not returned; and in excess of seven days has elapsed from placement of the materials into the United States mail.

Note: *The provisions of this §1.162 adopted to be effective January 8, 2002, 27 TexReg 161; amended to be effective October 18, 2009, 34 TexReg 7068.*

1.164 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 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 §1.164 adopted to be effective January 8, 2002, 27 TexReg 161; amended to be effective October 18, 2009, 34 TexReg 7069.*

1.165 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 §1.165 adopted to be effective January 8, 2002, 27 TexReg 161; amended to be effective October 18, 2009, 34 TexReg 7069.*

1.166 INFORMAL CONFERENCE

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

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

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

Note: *The provisions of this §1.166 adopted to be effective January 8, 2002, 27 TexReg 161.*

1.167 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 has received 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 §1.167 adopted to be effective January 8, 2002, 27 TexReg 161; amended to be effective July 5, 2004, 29 TexReg 6276; amended to be effective October 18, 2009, 34 TexReg 7069.*

1.168 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 §1.168 adopted to be effective January 8, 2002, 27 TexReg 161.*

1.169 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 §1.169 adopted to be effective January 8, 2002, 27 TexReg 161.*

1.170 REFERRALS FROM THE TEXAS DEPARTMENT OF LICENSING AND REGULATION

(a) If an Architect 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 Architect.

(b) An Architect'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 §1.170 adopted to be effective January 8, 2002, 27 TexReg 161; amended to be effective October 18, 2009, 34 TexReg 7070.*

1.171 RESPONDING TO REQUEST FOR INFORMATION

An Architect, 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 §1.171 adopted to be effective January 8, 2002, 27 TexReg 161; amended to be effective October 18, 2009, 34 TexReg 7070.*

1.172 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 architectural 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 §1.172 adopted to be effective January 8, 2002, 27 TexReg 161; amended to be effective October 18, 2009, 34 TexReg 7070.*

1.173 VIOLATION BY ONE NOT AN ARCHITECT

(a) A person who is not an Architect who violates any of the laws or rules over which the Board has jurisdiction is subject to any or all of the following:

(1) judicial proceedings for injunctive relief;
(2) criminal prosecution in a court of appropriate jurisdiction;
(3) imposition of an administrative penalty;
(4) issuance of a cease and desist order from the board.

(b) In taking action against a person who is not an Architect, 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 Executive Director may recommend and the Board may, after notice and an opportunity for hearing, impose an administrative penalty in the manner prescribed in Subchapter I of the Architects' Practice Act and otherwise as permitted by law and Board rules.
(d) A person charged with a violation may request a hearing to contest a proposed administrative penalty that has been recommended by the Executive Director:
(1) A request for a hearing must be received in the Board's office no later than the 20th day after the date the person receives notice that the Executive Director has recommended the imposition of an administrative penalty.
(2) The hearing shall be conducted by an Administrative Law Judge at the State Office of Administrative Hearings under provision of the Administrative Procedure Act, Texas Government Code Annotated, Chapter 2001, and this subchapter.
(e) If a person charged with a violation agrees to a proposed administrative penalty recommended by the Executive Director, the Board may approve the Executive Director's recommendation and order payment of the proposed penalty without a hearing.
(f) Within thirty (30) days after the date on which the Board's order imposing an administrative penalty or taking other final agency action in a contested case proceeding becomes final, the person charged must pay the administrative penalty and otherwise ensure compliance with the terms set forth in the Board's Final Order or file a petition for judicial review with a district court in Travis County as provided by Subchapter G, Chapter 2001, Government Code.
(g) If the Executive Director determines that a Nonregistrant is violating, or has violated, a statutory provision or rule enforced by the Board, the Executive Director may:
(1) issue to the Nonregistrant a written notice describing the alleged violation and the Executive Director's intention to request that the Board impose administrative penalties and issue a cease and desist order. The written notice shall offer the Nonregistrant an opportunity to resolve all matters contained in the written notice by means of an agreed order or other instrument deemed appropriate by the Executive Director and of the Nonregistrant's ability to request an informal conference as well as of his or her right to request a hearing before an Administrative Law Judge at the State Office of Administrative Hearings; and
(2) take any other action and impose any other penalty described in this section or permitted by law.

Note: *The provisions of this §1.173 adopted to be effective January 8, 2002, 27 TexReg 161; amended to be effective July 5, 2004, 29 TexReg 6276; amended to be effective October 18, 2009, 34 TexReg 7070.*

1.174 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 §§1.165, 1.166 or 1.173 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 "architect" or "architecture";
(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 an architect 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 §1.174 adopted to be effective July 5, 2004, 29 TexReg 6277; amended to be effective October 18, 2009, 34 TexReg 7070; amended to be effective September 11, 2016, 41 TexReg 6689*

1.175 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 Architecture 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 an Architect.

(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 Architect under similar circumstances.

Note: *The provisions of this §1.175 adopted to be effective July 5, 2004, 29 TexReg 6277; amended to be effective October 18, 2009, 34 TexReg 7070.*

1.176 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 §1.176 adopted to be effective July 5, 2004, 29 TexReg 6277.*

1.177 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 paragraph (2) of this rule, the following classifications shall apply:

Figure: 22 TAC §1.177(1)

Minor Violations

	Citation
Unauthorized duplication of registration certificate or failure to display registration certificate as required	§1.62
Failure to respond to a Board inquiry	§1.171
Failure to provide statement of jurisdiction	§1.106
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. 1051.752(2) and §1.170
Use of a non-compliant seal by registrant	§1.102
Failure to register or annually renew the registration of a business	§1.124

Moderate Violations

	Citation
Unlawful practice by emeritus architect or practice of architecture while registration is inactive	§1.67 §1.68
Practice of architecture while registration is expired	§1.82(b)
Aiding or abetting an unregistered person in violating the Board's laws and rules	Tex. Occ. Code Sec. 1051.752(8)
Unauthorized use of term "architect" or "architectural"	Tex. Occ. Code Sec. 1051.606 and §1.123(c)
Failure to maintain a sealed document for ten years	§1.103(c)
Failure to seal documents	§1.103 §1.105

	§1.122(c),(e)
Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required	§1.103(b)
Violation of prototypical design requirements	§1.105
Failure to take reasonable steps to notify sealing Architect of intent to modify that architect's sealed documents and/or failure to clearly indicate extent of modifications to sealed plans	§1.104(d)
Failure to comply with requirements relating to preparation of only a portion of a document	§1.104(b)
Removal of seal after issuance of documents	§1.104(e)
Failure to enter into a written agreement of association when required	§1.122
Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture	§1.124(c)

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

(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 1.141(c) and/or 1.165(f).

(4) If a violation of the Board's laws or rules is not specifically defined in paragraph (1) as a minor, moderate, or major violation, the Board shall consider the factors outlined in Board Rules 1.141(c) and/or 1.165(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 paragraph (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 architectural 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 paragraph (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 paragraph (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) An Architect, Candidate, or Applicant who fails, without good cause, to provide information to the Board under provision of §1.171 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 §1.171 of this subchapter shall be considered a minor 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 §1.177 adopted to be effective July 5, 2004, 29 TexReg 6277; amended to be effective October 18, 2009, 34 TexReg 7071; amended to be effective March 3, 2013, 38 TexReg 1182; amended to be effective September 11, 2016, 41 TexReg 6689*

1.178 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 §1.178 adopted to be effective July 5, 2004, 29 TexReg 6277; amended to be effective October 18, 2009, 34 TexReg 7071.*

SUBCHAPTER J

1.191 Repealed

1.192 Repealed

SUBCHAPTER K

PRACTICE; ARCHITECT REQUIRED

1.210 Architectural Plans and Specifications
1.211 Privately Owned Buildings
1.212 Publicly Owned Buildings
1.213 Exemption for Alterations to Existing Buildings
1.214 Institutional Residential Facilities
1.216 Other Professional Responsibilities
1.217 Construction Observation

1.210 ARCHITECTURAL PLANS AND SPECIFICATIONS

(a) Architectural education, training and experience as described in §1.21 and §1.191 of this title (relating to Registration by Examination and Description of Experience Required for Registration by Examination) are necessary prerequisites for the design of the architectural elements as specified in subsection (b) of this section and the preparation of those architectural plans and specifications for the construction, enlargement, or alteration of a building intended for human use and occupancy. Generally, architectural plans and specifications document the design of architectural elements of buildings and also serve as instructions that integrate and coordinate the design of all building systems and related site components necessary for constructing a building and its environs intended for human use and occupancy. Architectural plans and specifications detail the design of architectural elements of a building, including the form, function, construction, habitability, and appearance of the building and the manner in which humans enter, exit, circulate, and use the interior space of the building and its external environs. An Architect shall coordinate with consultants in the design of a building intended for human use and occupancy in order to integrate all components and systems of the building and its environs.

(b) In accordance with §1051.0016 of the Texas Occupations Code, for purposes of Chapter 1051, Texas Occupations Code, the term "architectural plans or specifications" means a Construction Document that depicts in detail the design of the spatial relationships and the quality of materials and systems required for the construction of a building and its environs. The term includes:

(1) Floor plans and details:

(A) depicting the design of:

(i) internal and external walls and simple foundations;

(ii) the design of the internal spaces of the building; and

(iii) vertical circulation systems including accessibility ramps, stair systems, elevators and escalators; and

(B) implementing programming, regulatory, and accessibility requirements for a building.

(2) General cross sections and detailed wall sections depicting building components from a hypothetical cut line through a building to include the building's mechanical, electrical, plumbing or structural systems;

(3) Reflected ceiling plans and details depicting:

(A) the design of the location, materials, and connections of the ceiling to the structure; and

(B) the integration of the ceiling with electrical, mechanical, lighting, sprinkler and other building systems.

(4) Finish plans or schedules depicting surface materials on the interior and exterior of the building;

(5) Interior and exterior elevations depicting the design of materials, locations and relationships of components and surfaces;

(6) Partition, door, window, lighting, hardware and fixture schedules;

(7) Manufacturer or fabricator drawings that are integrated into and become part of the Construction Documents; and

(8) Specifications describing the nature, quality, and execution of materials for construction of the elements of the building design depicted in the Construction Documents prepared by the Architect.

(c) Notwithstanding the thresholds within Chapters 1001 and 1051, Texas Occupations Code, the following architectural plans and specifications may be prepared by a person who is registered as an Architect or licensed as a professional engineer in the State of Texas:
(1) Site plans depicting the location and orientation of the building on the site based upon:
(A) a determination of the relationship of the intended use with the environment, topography, vegetation, climate, geographic aspects; and
(B) the legal aspects of site development, including setback requirements, zoning and other legal restrictions; and
(2) The depiction of the building systems, including structural, mechanical, electrical, and plumbing systems, in:
(A) plan views;
(B) cross sections depicting building components from a hypothetical cut line through a building; and
(C) the design of details of components and assemblies, including any part of a building exposed to water infiltration or fire-spread considerations;
(3) Life safety plans and sheets, including accessibility ramps and related code analyses; and
(4) Roof plans and details depicting the design of roof system materials, components, drainage, slopes, and direction and location of roof accessories and equipment not involving structural engineering calculations.
(d) This section does not address the services or work that may otherwise be offered or rendered by Registered Interior Designers or Landscape Architects.
(e) Licensed professional engineers who are listed as permitted to engage in the practice of architecture pursuant to §1051.607, Texas Occupations Code, are not restricted from preparing any architectural plans and specifications described in this subchapter.

Note: *The provisions of this §1.210 adopted to be effective March 29, 2007, 32 TexReg 1742; amended to be effective September 25, 2012, 37 TexReg 7480.*

1.211 PRIVATELY OWNED BUILDINGS

(a) An architectural plan or specification for the construction, enlargement, or alteration of a privately owned building shall be prepared by an Architect or under the Supervision and Control of an Architect unless an engineer may prepare the architectural plan or specification pursuant to §1.210(c) or (e) of this title (relating to Architectural Plans and Specifications) or a Nonregistrant may prepare the plan or specification pursuant to an exemption described in Chapter 1051 of the Texas Occupations Code.
(b) For purposes of §1051.606 of the Texas Occupations Code, "multifamily dwelling" means a building containing more than two separate units intended to be used for human habitation where the units are not separated by open space but instead are separated only by walls or partitions.
(c) For purposes of §1051.606 of the Texas Occupations Code, "commercial building" means an enclosed structure primarily used for the purchase, sale, or exchange of commodities or services.
(d) For purposes of §1051.606 of the Texas Occupations Code, "warehouse that has limited public access" means a building primarily used for the storage of equipment, merchandise, or commodities where:
(1) only employees, delivery persons, and other specifically authorized people are routinely expected to enter the building; and
(2) persons who enter the building are expected to occupy the building only on a limited basis.

Note: *The provisions of this §1.211 adopted to be effective March 16, 1990, 15 TexReg 1151; amended to be effective August 3, 2000, 25 TexReg 7161; amended to be effective July 5, 2004, 29 TexReg 6280; amended to be effective September 25, 2012, 37 TexReg 7480.*

1.212 PUBLICLY OWNED BUILDINGS

(a) An architectural plan or specification, as defined by §1.210(b) of this title (relating to Architectural Plans and Specifications), for a new building constructed and owned by a public entity where the total projected building construction costs at the commencement of construction exceed $100,000 shall be prepared by an Architect, under the Supervision and Control of an Architect, or by an engineer who may

practice architecture under §1.210(e) of this title, if the building is intended for any of the following uses:
(1) education: the use of a building at any time for instructional purposes;
(2) assembly: the use of a building for the gathering together of persons for purposes such as civic, social, or religious functions or for recreation, food or drink consumption, or awaiting transportation; or
(3) office occupancy: the use of a building for business, professional, or service transactions or activities.
(b) An architectural plan or specification, as defined by §1.210(b) of this title, for an alteration or addition to an existing building owned by a public entity shall be prepared by an Architect, under the Supervision and Control of an Architect, or by an engineer who may practice architecture under §1.210(e) of this title, if:
(1) the total projected building construction costs at the commencement of construction exceed $50,000;
(2) the alteration or addition requires the removal, relocation, or addition of a wall or partition or the alteration or addition of an exit; and
(3) the building is intended for any of the uses listed in subsection (a) of this section.
(c) An architect or an engineer may prepare an architectural plan or specification as defined by §1.210(c) of this title.
(d) For purposes of §1051.703(b), of the Texas Occupations Code, designation as the "prime design professional" does not expand, limit, or otherwise alter the scope of a design professional's practice nor does it allow a design professional to fulfill the requirements of §1051.703(a) of the Texas Occupations Code.

Note: *The provisions of this §1.212 adopted to be effective March 16, 1990, 15 TexReg 1151; amended to be effective August 3, 2000, 25 TexReg 7161; amended to be effective July 5, 2004, 29 TexReg 6280; amended to be effective July 18, 2007, 32 TexReg 4395; amended to be effective September 25, 2012, 37 TexReg 7480.*

1.213 EXEMPTION FOR ALTERATIONS TO EXISTING BUILDINGS

(a) For purposes of Section 1051.606 of the Texas Occupations Code, a structural change is "substantial" if the engineering plans and specifications for the structural change must be prepared by a licensed engineer pursuant to Chapter 1001 of the Texas Occupations Code.
(b) For purposes of Section 1051.606 of the Texas Occupations Code, an exit way change is "substantial" if the change will affect a path of egress intended to be used by more than fifty (50) persons.

Note: *The provisions of this §1.213 adopted to be effective March 16, 1990, 15 TexReg 1151; amended to be effective April 4, 2000, 25 TexReg 2810; amended to be effective February 27, 2001, 26 TexReg 1716; amended to be effective July 5, 2004, 29 TexReg 6280.*

1.214 INSTITUTIONAL RESIDENTIAL FACILITIES

(a) An architectural plan or specification for the construction of any new building or for the modification of any existing building intended for use as an institutional residential facility shall be prepared by an Architect, under the Supervision and Control of an Architect, or by an engineer pursuant to §1.210(c) or (e) of this title (relating to Architectural Plans and Specifications), regardless of:
(1) the number of stories or square footage of the building; and
(2) whether the building is privately or publicly owned.
(b) For purposes of this section, "institutional residential facility" means a building intended for occupancy on a 24-hour basis by persons who are receiving custodial care from the proprietor or operator of the building.

Note: *The provisions of this §1.214 adopted to be effective March 16, 1990, 15 TexReg 1151; amended to be effective July 5, 2004, 29 TexReg 6280; amended to be effective September 25, 2012, 37 TexReg 7481.*

1.216 OTHER PROFESSIONAL RESPONSIBILITIES

If, in the course of his/her work on a project, an Architect becomes aware of a course of action taken against the Architect's advice which may violate an applicable state or local building law or regulatory provision and which is likely, in the Architect's judgment to have a material adverse effect on the safe use of the completed building, the Architect shall do the following:
(1) report the course of action in writing to the owner, to the local building official(s), and to other

responsible parties; and
(2) refuse to consent to the course of action.

Note: *The provisions of this §1.216 adopted to be effective April 6, 2000, 25 TexReg 2811; amended to be effective July 5, 2004, 29 TexReg 6281.*

1.217 CONSTRUCTION OBSERVATION

An Architect or a person working under the Supervision and Control of an Architect shall conduct construction observation of the construction of a new building or the alteration or addition of an existing building which is subject to §1.211 of this title (relating to Privately Owned Buildings), §1.212 of this title (relating to Publicly Owned Buildings) and §1.214 of this title (relating to Institutional Residential Facilities). For purposes of this subchapter, "construction observation" means the administration of the portion of the construction contract described and documented in the architectural plans and specifications, including the following:
(1) reviewing each shop drawing, sample, and other submittal by a contractor or consultant;
(2) preparing or reviewing each change to an architectural plan or specification;
(3) visiting the construction site at intervals appropriate to the stage of construction to:
(A) become generally familiar with and keep the client generally informed about the progress and quality of the portion of the construction completed;
(B) make a reasonable effort to identify defects and deficiencies in the construction;
(C) determine generally whether the construction is being performed in a manner indicating that the project, when fully completed, will be in accordance with the architectural plans and specifications; and
(4) in addition to any responsibilities under §1.216 of this title (relating to Other Professional Responsibilities), notifying the client in writing of any substantial deviation from the architectural plans and specifications that may prevent the building from being occupied or utilized for its intended use.

Note: *The provisions of this §1.217 adopted to be effective July 5, 2004, 29 TexReg 6282; amended to be effective September 25, 2012, 37 TexReg 7482.*

SUBCHAPTER L

HEARINGS--CONTESTED CASES

1.231 Formal Hearing Procedures
1.232 Board Responsibilities
1.233 Application and Construction of Procedures
1.234 Suspension of Registration

1.231 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 §1.231 adopted to be effective July 7, 2002, 27 TexReg 5774.*

1.232 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 §1.232(j)

Violation	**Rule or Statutory Citation**	**Recommended Penalty**
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§1.62	Administrative penalty
Unlawful practice of architecture while registration is on emeritus status	§1.67(b)	Administrative penalty
Practice of architecture while registration is inactive	§1.68 or §1.82(b)	Administrative penalty
Failure to fulfill mandatory continuing education requirements	§1.69	Administrative penalty, suspension, or both
Failure to timely complete required continuing education program hours	§1.69(b)	Administrative penalty of $500; subject to higher penalties or suspension for second or subsequent offenses
Falsely reporting compliance with mandatory continuing education requirements	§1.69(g)	Administrative penalty of $700; subject to higher penalties or suspension for second or subsequent offenses
Failure to maintain a detailed record of continuing education activities	§1.69(g)(1)	Administrative penalty of $700; subject to higher penalties for second or subsequent offenses
Use of non-compliant seal by registrant	§1.102	Administrative penalty
Failure to seal or sign documents	§1.103 §1.105 §1.122(c),(e)	Administrative penalty
Failure to mark documents issued for purposes other than regulatory approval, permitting or construction as required	§1.103(b)	Administrative penalty
Sealing or authorizing the sealing of a document prepared by another without Supervision and Control	§1.104(a) §1.122(c) or (e)	Administrative penalty and either suspension or revocation

or Responsible Charge – "plan stamping"		
Failure to take reasonable steps to notify sealing Architect of intent to modify that architect's sealed documents	§1.104(d)	Administrative penalty
Failure to indicate modifications or additions to a document prepared by another Architect	§1.104(b) and (d)	Administrative penalty, suspension, or both
Removal of seal after issuance of documents	§1.104(e)	Administrative penalty
Failure to maintain a document for 10 years as required	§1.103(g) §1.105(b) §1.122(d)	Administrative penalty
Unauthorized use of a seal or a copy or replica of a seal	§1.104(c)	Administrative penalty, suspension, or both
Failure to comply with requirements relating to preparation of only a portion of a document	§1.104(b)	Administrative penalty, suspension, or both
Violation of requirements regarding prototypical design	§1.105	Administrative penalty, suspension, or both
Failure to provide Statement of Jurisdiction	§1.106	Administrative penalty
Failure to enter into a written agreement of association when required	§1.122	Administrative penalty
Failure to exercise Supervision and Control over the preparation of a document as required	§1.122(c)	Administrative penalty, and either suspension or revocation
Failure to exercise Responsible Charge over the preparation of a document as required	§1.122(e)	Administrative penalty, and either suspension or revocation
Failure of a firm, business entity, or association to register	§1.124(a) and (b)	Administrative penalty
Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture	§1.124(c)	Administrative penalty, suspension, or both
Offering or rendering the Practice of Architecture by and through a firm, business entity or association that is not duly registered	§1.124 §1.146(a)(2)(B)	Administrative penalty
Gross incompetency	Tex. Occ. Code §1051.752(4), §1.142	Administrative penalty, and either suspension or revocation

Recklessness	Tex. Occ. Code §1051.752(5), §1.143	Administrative penalty, and either suspension or revocation
Dishonest practice	Tex. Occ. Code §1051.752(6), §1.144(a) or (b)	Administrative penalty, and either suspension or revocation
Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work	§1.144(c)	Administrative penalty and either suspension or revocation, and payment of restitution
Conflict of interest	§1.145	Administrative penalty and either suspension or revocation
Participating in a plan, scheme or arrangement to violate the Act or rules of the Board	§1.146(a)	Administrative penalty, suspension, and/or revocation
Failure to provide information regarding an Applicant upon request; failure to report lost, stolen or misused architectural seal	§1.146(b), (c)	Administrative penalty
Submission or solicitation of a competitive bid or direct or indirect disclosure of fee information in violation of the Board's Rule implementing the Professional Services Procurement Act	§1.147	Administrative penalty and either suspension or revocation
Unauthorized practice or use of title "architect"	§1.123 §1.148	Administrative penalty, denial of registration, or refusal to renew, reinstate, or reactivate registration
Criminal conviction	§1.149	Suspension or revocation
Gross incompetence caused by substance abuse	§1.150	Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety, followed by probated suspension if appropriate
Violation by Applicant regarding unlawful use title "architect", unlawful practice, or criminal convictions	§1.148 §1.149 §1.151	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 §1051.752(2), §1.170	Administrative penalty

Failure to respond to a Board inquiry	§1.171	Administrative penalty
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 §1051.752(7)	Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration
Aiding or abetting an unregistered person in violating Occupations Code Chapters 1051, 1052, or 1053	Tex. Occ. Code §1051.752(8)	Administrative penalty equivalent to that which would be appropriate for the underlying conduct by the unregistered person, and/or suspension or revocation
Using or attempting to use as the person's own the certificate of registration of another person.	Tex. Occ. Code §1051.752(9)	Administrative penalty, suspension, revocation, denial of application, denial of reapplication for up to five years, and/or probationary initial registration
Unregistered individual engaging in construction observation for a nonexempt building	§1.217	Administrative penalty, denial of application, denial of reapplication for up to five years, and/or probationary initial registration
Failure to report course of action likely to have material adverse effect on safe use of building or failure to refuse to consent to the course of action	§1.216	Administrative penalty and either suspension or revocation

(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 §1.177 of this chapter (relating to Administrative Penalty Schedule) shall be applied to determine the amount of the administrative penalty.

Note: *The provisions of this §1.232 adopted to be effective September 19, 1996, 21 TexReg 8667; amended to be effective July 7, 2002, 27 TexReg 5774; amended by be effective July 5, 2004, 29 TexReg 6282; amended to be effective September 19, 2006, 31 TexReg 7992; amended to be effective April 17, 2012, 37 TexReg 2631; amended to be effective November 23, 2014, 39 TexReg 9006; amended to be effective September 11, 2016, 41 TexReg 6689.*

1.233 APPLICATION AND CONSTRUCTION OF PROCEDURES

(a) SOAH shall conduct formal hearings in accordance with the APA, the Rules of Procedure of SOAH,

the Architects' 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 §1.233 adopted to be effective July 7, 2002, 27 TexReg 5776.*

1.234 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 Section 1.232; or

(E) would likely engage in the practice of Architecture in a manner that does not comply with a standard or practice normally followed by a reasonably prudent Architect 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 Architecture. A person whose registration is under active suspension may not Supervise and Control or have Responsible Charge over the Practice of Architecture 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 Architect; and

(5) successful completion of a rehabilitation program pursuant to Section 1.150.

(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 Architecture 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 Section 1.178 in order to obtain reinstatement of the person's suspended certificate of registration.

Note: *The provisions of this §1.233 adopted to be effective March 16, 2005, 30 TexReg 1444.*