



THE NEBRASKA
ENGINEERS AND
ARCHITECTS
REGULATION ACT
HANDBOOK

Effective April 30, 2016

Introduction

This handbook contains the Nebraska Engineers and Architects Regulation Act and the Rules and Regulations of the Nebraska Board of Engineers and Architects. Together, these statutes and rules govern the practice of engineering and architecture in the state of Nebraska in order to safeguard life, health, property, and promote the public welfare.

This handbook comprises three sections. The first two sections are preceded by a table of contents for that section.

The first section presents the Statutes as cited in the Engineers and Architects Regulation Act, enacted by the Nebraska Legislature in 1997, which replaced the statutory provisions first enacted in 1937—the year the Nebraska Board of Engineers and Architects was established.

The most recent changes to the Act were enacted through Legislative Bill 23 of the One Hundred Fourth Legislature, First Session, and became effective August 30, 2015.

The second section presents the Rules and Regulations, or Title 110 of the Nebraska Administrative Code, chapters 1 through 11. These Rules and Regulations are written by the Board to enable administration of the Statutes, and cannot exceed the powers assigned to the Board by the Legislature. The Rules and Regulations were last updated on April 30, 2016.

The third section is an alphabetical index using key words to enable quick reference to important concepts and terms.

This handbook incorporates all current statutes and rules & regulations as of April 30, 2016. For further information concerning the law or rules and regulations governing the practice of engineering and architecture in Nebraska, please contact:

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STATUTES

81-3401. Act, how cited.

Sections 81-3401 to 81-3455 shall be known and may be cited as the Engineers and Architects Regulation Act.

Source: Laws 1997, LB 622, § 1; Laws 2009, LB446, § 1; Laws 2011, LB45, § 2; Laws 2015, LB23, § 1.

81-3402. Architecture and engineering; regulation.

In order to safeguard life, health, and property and to promote the public welfare, the professions of architecture and engineering are declared to be subject to regulation in the public interest. The practice of architecture and engineering and use of the titles architect or professional engineer is a privilege granted by the state through the board based on the qualifications of the individual as evidenced by a certificate of licensure which is not transferable.

Source: Laws 1997, LB 622, § 2; Laws 2015, LB23, § 2.

81-3403. Definitions, where found.

For purposes of the Engineers and Architects Regulation Act, the definitions found in sections 81-3404 to 81-3427 shall be used.

Source: Laws 1997, LB 622, § 3; Laws 2011, LB45, § 3; Laws 2015, LB23, § 3.

81-3404. Architect, defined.

Architect means a person who is licensed by the board to practice architecture.

Source: Laws 1997, LB 622, § 4; Laws 2015, LB23, § 4.

81-3405. Board, defined.

Board means the Board of Engineers and Architects.

Source: Laws 1997, LB 622, § 5.

81-3405.01. Building official, defined.

Building official means a person appointed by the state or a political subdivision having responsibility for the public safety and welfare and the enforcement of building codes with regard to buildings and other structures within such person's jurisdiction.

Source: Laws 2011, LB45, § 4; Laws 2015, LB23, § 6.

81-3405.02. Building, defined.

Building means any structure used, or intended to be used, to support, shelter, or enclose any use or occupancy.

Source: Laws 2015, LB23, § 5.

81-3406. Repealed. *Laws 2015, LB 23, § 51.***81-3407. Continuing education, defined.**

Continuing education means lifelong learning and training relevant to a licensee's professional practice.

Source: Laws 1997, LB 622, § 7; Laws 2015, LB23, § 7.

81-3408. Coordinating professional, defined.

Coordinating professional means a licensee who coordinates, as appropriate, the work of all licensees involved in a project.

Source: Laws 1997, LB 622, § 8; Laws 2015, LB23, § 8.

81-3409. Design, defined.

Design means the preparation of schematics, layouts, plans, drawings, specifications, calculations, and other diagnostic documents which show the features of an architectural or engineering project.

Source: Laws 1997, LB 622, § 9; Laws 2015, LB23, § 9.

81-3410. Repealed. *Laws 2015, LB 23, § 51.***81-3411. Direct supervision, defined.**

Direct supervision means having full professional knowledge and control over work that constitutes the practice of architecture or engineering.

Source: Laws 1997, LB 622, § 11; Laws 2015, LB23, § 10.

81-3412. Emeritus, defined.

Emeritus means an architect or professional engineer who has relinquished his or her license and who is approved by the board to use the honorary title emeritus.

Source: Laws 1997, LB 622, § 12; Laws 2015, LB23, § 11.

81-3413. Repealed. *Laws 2015, LB 23, § 51.***81-3414. Engineer-intern, defined.**

Engineer-intern means a person who has been duly enrolled as an engineer-intern by the board.

Source: Laws 1997, LB 622, § 14; Laws 2015, LB23, § 12.

81-3415. Estimator, technician, or other similar titles, defined.

Estimator, technician, or other similar titles means a person who through training or experience is performing tasks associated with the practice of architecture or engineering under the supervision of an architect or professional engineer, respectively.

Source: Laws 1997, LB 622, § 15; Laws 2015, LB23, § 13.

81-3416. Good ethical character, defined.

Good ethical character means such character as will enable a person to discharge the fiduciary duties of an architect or professional engineer to his or her client and to the public for the protection of the public health, safety, and welfare.

Source: Laws 1997, LB 622, § 16; Laws 2015, LB23, § 14.

81-3416.01. Intern architect, defined.

Intern architect means a person who has enrolled in the Intern Development Program of the National Council of Architectural Registration Boards and holds a degree from a program accredited by the National Architectural Accrediting Board or equivalent.

Source: Laws 2015, LB23, § 15.

81-3416.02. Licensee, defined.

Licensee means a licensed architect or professional engineer.

Source: Laws 2015, LB23, § 16.

81-3417. Repealed. *Laws 2015, LB 23, § 51.***81-3418. Organization, defined.**

Organization means a business entity created by law, including, but not limited to, a partnership, limited liability company, corporation, or joint venture.

Source: Laws 1997, LB 622, § 18; Laws 2015, LB23, § 17.

81-3419. Repealed. *Laws 2015, LB 23, § 51.***81-3420. Practice of architecture, defined.**

(1) Practice of architecture means providing or offering to provide design services in connection with the construction, enlargement, or alteration of a building or group of buildings and the space within and surrounding the buildings. The services may include, but not be limited to, planning, providing studies, designs, drawings, specifications, and other technical submissions, and administering construction contracts. The practice of architecture does not include the practice of engineering.

(2) A person shall be construed to practice architecture, within the meaning and intent of the Engineers and Architects Regulation Act, if he or she:

- (a) Practices the profession of architecture or holds himself or herself out as able and entitled to practice architecture;
- (b) By verbal claim, sign, advertisement, letterhead, or card or in any other way, represents himself or herself to be an architect; or
- (c) Through the use of some other title, implies that he or she is an architect or licensed under the Engineers and Architects Regulation Act.

Source: Laws 1997, LB 622, § 20; Laws 2015, LB23, § 18.

81-3421. Practice of engineering, defined.

(1) Practice of engineering means any service or creative work that requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences. The services may include, but not be limited to, planning, providing studies, designs, drawings, specifications, and other technical submissions, and administering construction contracts. The practice of engineering does not include the practice of architecture.

(2) A person shall be construed to practice engineering, within the meaning and intent of the Engineers and Architects Regulation Act, if he or she:

- (a) Practices any discipline of the profession of engineering or holds himself or herself out as able and entitled to practice any discipline of engineering;
- (b) By verbal claim, sign, advertisement, letterhead, or card or in any other way, represents himself or herself to be a professional engineer; or
- (c) Through the use of some other title, implies that he or she is a professional engineer or licensed under the Engineers and Architects Regulation Act.

Source: Laws 1997, LB 622, § 21; Laws 2015, LB23, § 19.

81-3422. Professional engineer, defined.

Professional engineer means a person who is licensed by the board to practice engineering. The board may designate a professional engineer, on the basis of education, experience, and examination, as being licensed in a specific discipline of engineering signifying an area in which the professional engineer has demonstrated competence.

Source: Laws 1997, LB 622, § 22; Laws 2015, LB23, § 20.

81-3422.01. Project, defined.

Project means one or more related activities that require the practice of architecture or engineering for completion.

Source: Laws 2011, LB45, § 5; Laws 2015, LB23, § 21.

81-3423. Public service provider, defined.

Public service provider means any political subdivision which employs or appoints an architect or a professional engineer to be in responsible charge of the political subdivision's architectural or engineering work.

Source: Laws 1997, LB 622, § 23; Laws 2015, LB23, § 22.

81-3424. Repealed. *Laws 2015, LB 23, § 51.***81-3425. Responsible charge, defined.**

Responsible charge means the management of the technical and financial aspects of engineering or architectural work through an organization.

Source: Laws 1997, LB 622, § 25; Laws 2015, LB23, § 23.

81-3426. Rules and regulations, defined.

Rules and regulations means rules and regulations adopted and promulgated under the Engineers and Architects Regulation Act by the board.

Source: Laws 1997, LB 622, § 26.

81-3427. Technical submissions, defined.

Technical submissions means designs, drawings, specifications, studies, and other technical reports that constitute, or may be prepared in conjunction with, a project.

Source: Laws 1997, LB 622, § 27; Laws 2015, LB23, § 24.

81-3428. Board of Engineers and Architects; created; members; terms; location.

(1) The Board of Engineers and Architects is created to administer the Engineers and Architects Regulation Act. The board shall consist of eight members appointed by the Governor for terms of five years terminating on the last day of February. The board shall consist of:

- (a) Three architect members, two of whom shall be appointed after consulting with the appropriate architectural professional organizations, and one education member who is a faculty member of the University of Nebraska appointed upon the recommendation of the Dean of Architecture of the University of Nebraska;
- (b) Four professional engineer members, three of whom shall be appointed after consulting with the appropriate engineering professional organizations, and one education member who is a faculty member of the University of Nebraska appointed upon the recommendation of the Dean of Engineering of the University of Nebraska; and
- (c) One public member.

(2) Each member shall hold office after the expiration of his or her term until his or her successor is duly appointed and qualified. Vacancies in the membership of the board, however created, shall be filled for the unexpired term by appointment by the Governor. The Governor shall reappoint or replace existing members as their terms expire, and the public member shall be reappointed or replaced in the fifth year of his or her term. The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty.

(3) Each member of the board shall be a citizen of the United States and a resident of the State of Nebraska for at least one year immediately preceding appointment. Each architect or professional engineer member shall have been engaged in the active practice of the design profession for at least ten years, shall have had direct supervision of work for at least five years at the time of his or her appointment, and shall be licensed in the relevant profession.

(4) The board may designate a former member of the board as an emeritus member, but for no more than ten years after his or her original board membership expires. Emeritus member status, when conferred, must be renewed annually.

(5) The board offices shall be located in Lincoln, Nebraska.

Source: Laws 1997, LB 622, § 28; Laws 2015, LB23, § 25.

81-3429. Board; members; per diem; expenses.

Each member of the board shall receive as compensation not more than one hundred dollars per day for each day or substantial portion of a day spent traveling to and from and attending sessions of the board and its committees, authorized meetings of the National Council of Architectural Registration Boards, the National Council of Examiners for Engineering and Surveying, or their subdivisions or committees, or other business as authorized by the board. Each member of the board shall be reimbursed for all necessary and authorized expenses incident to the performance of his or her duties under the Engineers and Architects Regulation Act as provided in sections 81-1174 to 81-1177.

Source: Laws 1997, LB 622, § 29; Laws 2011, LB45, § 6; Laws 2015, LB23, § 26.

81-3430. Certificate of appointment; oath; Attorney General; legal advisor; seal; rules and regulations.

Each member of the board shall receive a certificate of appointment from the Governor and, before beginning his or her term of office, shall file with the Secretary of State the constitutional oath of office. The board or any committee of the board is entitled to the services of the Attorney General in connection with the affairs of the board, and the board may compel the attendance of witnesses, administer oaths, and take testimony and proofs concerning all matters within its jurisdiction. The Attorney General shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the Engineers and Architects Regulation Act. The board shall adopt and have an official seal, which shall be affixed to all certificates of licensure granted, and shall adopt and promulgate rules and regulations to carry out the act.

Source: Laws 1997, LB 622, § 30; Laws 2015, LB23, § 27.

81-3431. Board; meetings; officers; quorum.

The board shall hold at least one regular meeting each year. Special meetings shall be held as the rules and regulations provide and at such places as the board elects. Notice of all meetings shall be given in such manner as the rules and regulations provide. The board shall elect from its members, annually at its first meeting after March 1, a chairperson, vice-chairperson, and secretary. A quorum of the board shall consist of not less than five members.

Source: Laws 1997, LB 622, § 31.

81-3432. Engineers and Architects Regulation Fund; created; use; investment.

The Engineers and Architects Regulation Fund is created. The secretary of the board shall receive and account for all money derived from the operation of the Engineers and Architects Regulation Act and shall remit the money to the State Treasurer for credit to the Engineers and Architects Regulation Fund. All expenses certified by the board as properly and necessarily incurred in the discharge of duties, including compensation and administrative staff, and any expense incident to the administration of the act relating to other states shall be paid out of the fund. Debt repayments payable pursuant to section 81-3432.01 shall be paid out of the fund. Warrants for the payment of expenses shall be issued by the Director of Administrative Services and paid by the State Treasurer upon presentation of vouchers regularly drawn by the chairperson and secretary of the board and approved by the board. At no time shall the total amount of warrants exceed the total amount of the fees collected under the act and to the credit of the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1997, LB 622, § 32; Laws 2009, LB446, § 2; Laws 2009, First Spec. Sess., LB3, § 86; Laws 2015, LB23, § 28.

Cross References: Nebraska Capital Expansion Act, see section 72-1269. Nebraska State Funds Investment Act, see section 72-1260.

81-3432.01. Repayment of qualified educational debt; authorized; eligibility.

- (1) The board may repay qualified educational debt owed by an eligible graduate. Such repayment shall be made from the Engineers and Architects Regulation Fund. To be eligible for debt repayment, a recipient shall be a graduate of (a) a National Architectural Accrediting Board-accredited architecture program in Nebraska or (b) an ABET-accredited engineering program in Nebraska and shall have obtained qualified educational debt.
- (2) For purposes of this section, qualified educational debt means government and commercial loans obtained by a student for postsecondary education tuition, other educational expenses, and reasonable living expenses, as determined by the board.
- (3) The board may adopt and promulgate rules and regulations governing any debt repayment under this section.

Source: Laws 2009, LB446, § 3; Laws 2015, LB23, § 29.

81-3433. Roster.

The board shall maintain and make available to the public a complete roster of all architects and professional engineers showing their names and last-known addresses. The board shall file the roster with the Secretary of State and may distribute a copy to each licensed person as well as county and municipal officials. The board may charge a fee for distributing the roster.

Source: Laws 1997, LB 622, § 33; Laws 2015, LB23, § 30.

81-3434. Code of practice; contents.

- (1) The Legislature hereby finds and declares that a code of practice established by the board by which architects and professional engineers could govern their professional conduct would be beneficial to the state and would safeguard the life, health, and property and promote the public welfare of the citizens of this state.
- (2) The code of practice established by this section shall include provisions on:
 - (a) Professional competence;
 - (b) Conflict of interest;
 - (c) Full disclosure of financial interest;
 - (d) Full disclosure of matters affecting public safety, health, and welfare;
 - (e) Compliance with laws;
 - (f) Professional conduct and good ethical character standards; and
 - (i) Practice of architecture and engineering.
- (3) The board may adopt and promulgate rules and regulations to implement the code of practice.

(4) The board may publish commentaries regarding the code of practice. The commentaries shall explain the meaning of interpretations given to the code by the board.

Source: Laws 1997, LB 622, § 34; Laws 2015, LB23, § 31.

81-3435. Application for licensure, examination, intern enrollment, certificate of authorization, or emeritus status; form; fees.

(1) Applications for licensure, examination, intern enrollment, a certificate of authorization, or emeritus status shall be made on a form prescribed and furnished by the board. Applications shall be made under oath.

(2) The board may accept the verified information contained in a valid Council Record issued by the National Council of Architectural Registration Boards or the National Council of Examiners for Engineering and Surveying in lieu of the same information that is required on the form prescribed and furnished by the board.

(3) (a) The board shall establish application and licensure fees as provided in this subsection. All fees are nonrefundable.

(b) The fee for license applications may not exceed three hundred dollars.

(c) The fee for examination applications may be set to recover the costs of examination and its administration.

(d) The fee for intern enrollment may not exceed one hundred dollars.

(e) The certificate of authorization fee for organizations may not exceed three hundred dollars per year.

(f) The fee for emeritus status may not exceed one hundred dollars per year.

Source: Laws 1997, LB 622, § 35; Laws 2015, LB23, § 32.

81-3436. Organizational practice; certificate of authorization; when required; application; immunity; Secretary of State; registration of trade name or service mark; limitation.

(1) An individual licensed under the Engineers and Architects Regulation Act may practice or offer to practice the profession of architecture or engineering through an organization if the criteria for organizational practice established by the board are met and the organization has been issued a certificate of authorization by the board.

(2) An organization applying for a certificate of authorization shall designate at least one licensed architect as the person in responsible charge of any practice of architecture by the organization and at least one professional engineer as the person in responsible charge of any practice of engineering by the organization. One who renders only occasional professional services for an organization may not be designated as being in responsible charge of the professional activities of an organization under this section.

(3) To obtain a certificate of authorization, a board-approved application shall be filed with the board. The application shall contain the names and license numbers of the individual or individuals designated as in responsible charge and licensed to practice architecture or engineering in Nebraska. Certificates of authorization shall be for a defined period and may be renewed.

(4) An organization shall notify the board of any changes in the status of any individual designated as in responsible charge within thirty days after the effective date of the change.

(5) All technical submissions issued or filed for public record through an organization involving the practice of architecture or engineering shall be sealed in accordance with the act by the licensee who prepared the submissions or under whose direct supervision they were prepared.

(6) An organization is not relieved of responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section. An individual practicing architecture or engineering is not relieved of responsibility for services performed by reason of employment or any other relationship with an organization holding a certificate of authorization.

(7) The Secretary of State shall not issue a certificate of authority to do business in the state to an applicant or issue a registration of name in the state to an organization which intends to engage in the practice of architecture or engineering unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive a certificate or to register the name.

(8) Except as otherwise authorized in the Engineers and Architects Regulation Act or in the Professional Landscape Architects Act, the Secretary of State shall not register any trade name or service mark which includes the words architect or engineer, or any modification or derivative of such words, in an applicant's firm name or logotype unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to register the trade name or servicemark.

(9) A public service provider or an organization may engage in the practice of architecture or engineering for itself without obtaining a certificate of authorization.

Source: Laws 1997, LB 622, § 36; Laws 2013, LB7, § 1; Laws 2015, LB23, § 33.

Cross References: Professional Landscape Architects Act, see section 81-8,183.01.

81-3436.01. Combined services with construction services; authorized; conditions.

(1) Providing combined services involving the practice of architecture or engineering, or both, with construction services is allowed if:

- (a) An architect participates substantially in, and has direct supervision of, the architectural services provided on the project;
- (b) A professional engineer participates substantially in, and has direct supervision of, the engineering services provided on the project; and
- (c) The rendering of architectural or professional engineering services conforms to the Engineers and Architects Regulation Act and the rules and regulations.

(2) A temporary permit holder under the act may perform engineering or architectural services pursuant to this section.

Source: Laws 2015, LB23, § 34.

81-3437. Certificate of licensure; issuance; certificate of enrollment; issuance.

(1) The board shall issue to any applicant who, on the basis of education, experience, and examination, has met the requirements of the Engineers and Architects Regulation Act a certificate of licensure giving the licensee proper authority to carry out the prerogatives of the act. If a professional engineer's license has been issued in a specific discipline, the discipline shall be specified on the certificate of licensure. The certificate of licensure shall carry the designation Licensed Architect or Licensed Professional (discipline) Engineer. The certificate shall give the full name of the licensee and license number and shall be signed by the chairperson of the board, the secretary of the board, and one other board member.

(2) The certificate of licensure shall be prima facie evidence that the person is entitled to all rights, privileges, and responsibilities of an architect or a professional engineer while the certificate of licensure remains unrevoked and unexpired.

(3) The board shall issue to any applicant who, on the basis of education and examination, has met the requirements of the Engineers and Architects Regulation Act a certificate of enrollment as an engineer-intern. The engineer-intern certificate does not authorize the holder to practice as a professional engineer.

Source: Laws 1997, LB 622, § 37; Laws 2013, LB7, § 2; Laws 2015, LB23, § 35.

81-3437.01. Seal; contents; use; prohibited acts.

(1) Each licensee authorized to practice architecture or engineering must obtain a seal. The design of the seal shall be determined by the board. If a professional engineer's license has been issued in a specific discipline, the discipline shall be specified on the seal. The following information shall be on the seal: State of Nebraska; licensee's name; licensee's license number; and the words Architect or Professional (discipline) Engineer.

(2) Whenever the seal is applied, the licensee's signature shall be across the seal. The board may adopt and promulgate rules and regulations for application of the seal.

(3) The seal and the date of its placement shall be on all technical submissions and calculations whenever presented to a client or any public or governmental agency. It shall be unlawful for a licensee to affix his or her seal or to permit his or her seal to be affixed to any document after the expiration of the certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade the Engineers and Architects Regulation Act.

(4) The seal and date shall be placed on all originals, copies, tracings, or other reproducible drawings and the first and last pages of specifications, reports, and studies in such a manner that the seal, signature, and date will be reproduced and be in compliance with rules and regulations of the board. The application of the licensee's seal shall constitute certification that the work was done by the licensee or under the licensee's control.

(5) In the case of a temporary permit issued to a licensee of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and temporary permit to all his or her work.

Source: Laws 2015, LB23, § 36.

81-3437.02. Coordinating professional; designation; duties.

(1) Projects involving more than one licensed architect or professional engineer shall have an architect or professional engineer designated as the coordinating professional for the entire project. The coordinating professional may, but need not, provide architectural or engineering services on the project. The coordinating professional shall apply his or her seal in accordance with the Engineers and Architects Regulation Act to the cover sheet of all documents and denote the seal as that of the coordinating professional.

(2) The coordinating professional shall be responsible for reviewing and coordinating technical documents prepared by others for compatibility with the design of the project.

Source: Laws 2015, LB23, § 37.

81-3438. Certificates; expiration; renewal; fees; continuing education.

Certificates of licensure and certificates of authorization shall expire on a date established by the board and shall become invalid after that date unless renewed. The board shall notify every person licensed under the Engineers and Architects Regulation Act and every organization holding a certificate of authorization under the act of the date of the expiration of the certificate of licensure or certificate of authorization and the amount of the fee required for renewal. The notice shall be mailed at least one month in advance of the date of the expiration to the licensee or organization at the last-known address on file with the board. Valid certificates may be renewed prior to expiration upon application and payment of applicable fees. Expired certificates may be renewed in accordance with rules and regulations of the board. Renewal fees shall not exceed two hundred dollars per year. The board may require licensees to obtain continuing education as a condition of license renewal.

Source: Laws 1997, LB 622, § 38; Laws 2015, LB23, § 38.

81-3439. Replacement certificates; fee.

The board may issue a new certificate of licensure or certificate of authorization to replace any lost, destroyed, or mutilated certificate. A fee not to exceed one hundred dollars shall be charged for each such issuance.

Source: Laws 1997, LB 622, § 39.

81-3440. Enforcement.

The board shall enforce the Engineers and Architects Regulation Act and the rules and regulations, including enforcement against any unlicensed person. If any person refuses to obey any decision or order of the board, the board or, upon the request of the board, the Attorney General or the appropriate county attorney shall file an action for the enforcement of the decision or order, including injunctive relief, in the district court. After a hearing, the court shall order enforcement of the decision or order, or any part thereof, if legally and properly made by the board and, if appropriate, injunctive relief.

Source: Laws 1997, LB 622, § 40.

81-3441. Use of title; unlawful practice.

Except as provided in sections 81-3414, 81-3415, 81-3449, and 81-3453, an individual shall not directly or indirectly engage in the practice of architecture or engineering in the state or use the title architect or professional engineer or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that he or she is an architect or professional engineer or is practicing architecture or engineering unless he or she is licensed under the Engineers and Architects Regulation Act. A licensee shall not aid or abet any person not licensed under the act in the practice of architecture or engineering.

Source: Laws 1997, LB 622, § 41; Laws 2011, LB45, § 7; Laws 2015, LB23, § 39.

81-3442. Prohibited acts; penalties.

(1) It is unlawful for any person to:

- (a) Practice or offer to practice architecture or engineering in this state without being licensed in accordance with the Engineers and Architects Regulation Act unless such practice or offer to practice is otherwise exempt under the act;
- (b) Knowingly and intentionally employ or retain a person to practice architecture or engineering in this state who is not licensed in accordance with the act, except as provided in sections 81-3414 and 81-3415, and who is not exempted by section 81-3449 or 81-3453;
- (c) Use the words architect, engineer, or any modification or derivative of such words in its name or form of business activity except as authorized in the act or in the Professional Landscape Architects Act;
- (d) Advertise any title or description tending to convey the impression that he or she is a licensed architect or professional engineer unless the person is duly licensed under the Engineers and Architects Regulation Act;
- (e) Present or attempt to use the certificate of licensure or the seal of another person;
- (f) Give any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate;
- (g) Falsely impersonate any other licensee of like or different name;
- (h) Attempt to use an expired, suspended, revoked, or nonexistent certificate of licensure or practice or offer to practice when not qualified;
- (i) Falsely claim that he or she is licensed or authorized under the act; or
- (j) Violate the act.

(2) Any person who performs any of the actions described in subsection (1) of this section is guilty of a Class I misdemeanor for the first offense and a Class IV felony for the second or any subsequent offense.

Source: Laws 1997, LB 622, § 42; Laws 2011, LB45, § 8; Laws 2015, LB23, § 40.

Cross References: Professional Landscape Architects Act, see section 81-8,183.01.

81-3443. Enforcement procedures.

(1) A complaint against any person or organization involving any matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board.

(2) A hearing on the complaint shall be held within a reasonable time in accordance with the rules and regulations and may be heard through the use of a hearing officer. The accused shall have the right to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in his, her, or its defense.

(3) The board shall set the time and place for the hearing and shall cause a copy of the complaint, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused, at his, her, or its last-known business or residence address known to the board, at least thirty days before the hearing.

(4) If after the hearing the board finds the accused has violated the Engineers and Architects Regulation Act or any rules or regulations, it may issue any order or take any action described in section 81-3444. If the order revokes, suspends, or cancels a license, the board shall notify, in writing, the Secretary of State. If the board finds no violation, it shall enter an order dismissing the complaint.

(5) The board may reissue a license that has been revoked. Application for the reissuance of a license shall be made in such a manner as the board directs and shall be accompanied by a fee established by the board.

Source: Laws 1997, LB 622, § 43; Laws 2011, LB45, § 9; Laws 2015, LB23, § 41.

81-3444. Disciplinary actions authorized; civil penalties.

(1) The board, after hearing and upon proof satisfactory to the board, may determine by two-thirds majority vote that any person or organization has violated the Engineers and Architects Regulation Act or any rules or regulations.

(2) Upon a finding that a person or organization has committed a violation, one or more of the following actions may be taken against such person or organization upon a two-thirds majority vote of the board:

(a) Issuance of censure or reprimand;

(b) Suspension of judgment;

(c) Placement of the offender on probation;

(d) Placement of a limitation or limitations on the holder of a license and upon the right of the holder of a license to practice the profession to such extent, scope, or type of practice for such time and under such conditions as are found necessary and proper;

(e) Imposition of a civil penalty not to exceed ten thousand dollars for each offense. The amount of the penalty shall be based on the severity of the violation;

(f) Entrance of an order of revocation, suspension, or cancellation of the certificate of licensure;

(g) Issuance of a cease and desist order;

(h) Imposition of costs as in an ordinary civil action in the district court, which may include reasonable attorney's fees and hearing officer fees incurred by the board and the expenses of any investigation undertaken by the board; or

(i) Dismissal of the action.

(3) The board may take into account suitable evidence of reform when determining appropriate action.

(4) Civil penalties collected under subdivision (2)(e) of this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. All costs collected under subdivision (2)(h) of this section shall be remitted to the State Treasurer for credit to the Engineers and Architects Regulation Fund.

Source: Laws 1997, LB 622, § 44; Laws 2011, LB45, § 10; Laws 2015, LB23, § 42.

81-3445. State and political subdivisions; construction projects.

Except as otherwise provided in this section and sections 81-3449 and 81-3453, the state and its political subdivisions shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer. This section shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this section every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount.

Source: Laws 1997, LB 622, § 45; Laws 1999, LB 253, § 2; Laws 2004, LB 599, § 2; Laws 2011, LB45, § 11.

81-3446. Construction projects on private lands; applicability of act; owner; duties.

(1) A project on private land is subject to the provisions of the Engineers and Architects Regulation Act unless exempt under section 81-3449 or 81-3453.

(2) The owner of any real property who allows a project to be constructed on his or her real property is engaged in the practice of architecture or engineering unless he or she employs or causes others to employ licensed architects or professional engineers or persons under the direct supervision of licensed architects or professional engineers to furnish at least minimum construction phase services with respect to the project or is exempt from the Engineers and Architects Regulation Act under sections 81-3449 and 81-3453.

(3) For purposes of this section:

(a) Construction phase service includes at least the following services: (i) Visiting the project site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the technical submissions submitted to the building official at the time the project permit was issued; and (ii) processing technical submissions required of the contractor by the terms of contract documents. The term does not include supervision of construction, review of payment applications, resolution of disputes between the owner and contractor, and other such items which are considered additional construction administration services which the owner may or may not elect to include in the architect's or engineer's scope of work; and

(b) Owner means with respect to any real property the following persons: (i) The record owner of such real property; (ii) the lessee of all or any portion of the real property when the lease covers all of that portion of the real property upon which the project is being constructed, the lessee has significant approval rights with respect to the project, and the lease, at the time the project begins, has a remaining term of not less than ten years; or (iii) the grantee of an easement granting right-of-way to construct the project.

Source: Laws 1997, LB 622, § 46; Laws 2011, LB45, § 12; Laws 2015, LB23, § 43.

81-3447. Repealed. *Laws 2004, LB 599, § 7.*

81-3448. Architect; license; application; fee; requirements; examination; temporary permit.

(1) The following shall be considered as the minimum evidence satisfactory to the board that an applicant is eligible for admission to an examination on technical and professional subjects of architecture as prescribed by the board:

(a) Graduation from a program accredited by the National Architectural Accrediting Board, or satisfying the requirements of the Education Standard of the National Council of Architectural Registration Boards as determined by the council;

(b) Establishment of a record maintained by the National Council of Architectural Registration Boards for the purpose of documenting architectural work experience for the council's Intern Development Program; and

(c) Submittal of an application accompanied by the fee established by the board.

(2) The following shall be considered as the minimum evidence satisfactory to the board that an applicant is eligible for initial licensure as an architect:

(a) Passage of an examination on technical and professional subjects as prescribed by the board as set forth in subsection (1) of this section;

(b) Completion of the Intern Development Program of the National Council of Architectural Registration Boards, or its equivalent as determined by the council;

(c) Passage of an examination on the statutes, rules, and other requirements unique to this state; and

(d) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure.

(3) An individual holding a license to practice architecture issued by a proper authority of any jurisdiction, based on credentials that do not conflict with subsection (2) of this section and other provisions of the Engineers and Architects Regulation Act, may, upon application, be licensed as an architect after:

(a) Successful passage of an examination on the statutes, rules, and other requirements unique to this state; and

(b) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure.

(4) An individual who holds a current and valid certification issued by the National Council of Architectural Registration Boards and who submits satisfactory evidence of such certification to the board may, upon application, be licensed as an architect after:

(a) Successful passage of an examination on the statutes, rules, and other requirements unique to this state; and

(b) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure.

(5) An individual who has been licensed to practice architecture for fifteen years or more in one or more jurisdictions and who has practiced architecture for fifteen years in compliance with the licensing laws in the jurisdictions where his or her architectural practice has occurred since initial licensure may, upon application, be licensed as an architect after:

(a) Successful passage of an examination on the statutes, rules, and other requirements unique to this state; and

(b) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure.

(6) An individual who holds a valid license to practice architecture in another jurisdiction may be issued a temporary permit to provide architectural services for a specific project. An individual may not be issued more than one temporary permit. Temporary permit holders are subject to all of the provisions of the Engineers and Architects Regulation Act governing the practice of architecture.

(7) None of the examination materials described in this section shall be considered public records.

(8) The board or its agent shall direct the time and place of the architectural examinations referenced in subsections (1) and (2) of this section.

(9) The board may adopt the examinations and grading procedures of the National Council of Architectural Registration Boards. The board may also adopt guidelines published by the council.

(10) Licensure shall be effective upon issuance.

Source: Laws 1997, LB 622, § 48; Laws 2011, LB45, § 13; Laws 2015, LB23, § 44.

81-3449. Practice of architecture; exempted activities.

The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet of above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

- (4) Any public works project with contemplated expenditures for a completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;
- (5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;
- (6) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accrediting Board;
- (7) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;
- (8) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture if such employees are acting under the direct supervision of an architect;
- (9) A public service provider or an organization who employs a licensee performing professional services for itself;
- (10) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards offering to render the professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the Engineers and Architects Regulation Act. The nonresident shall notify the board in writing that he or she holds a National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services, he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;
- (11) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of the respective profession, if such qualified member does not represent himself or herself to be practicing architecture and does not represent himself or herself to be an architect;
- (12) Financial institutions making disbursements of funds in connection with construction projects;
- (13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality; and
- (14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

Source: Laws 1997, LB 622, § 49; Laws 1999, LB 253, § 3; Laws 1999, LB 440, § 1; Laws 2000, LB 900, § 251; Laws 2004, LB 599, § 3; Laws 2011, LB45, § 14; Laws 2015, LB23, § 45.

Cross References: Negotiated Rulemaking Act, see section 84-921.

81-3450. Technical submissions by architect; affix seal and signature; conditions.

(1) An architect shall not affix his or her seal and signature to technical submissions that are subject to the Engineers and Architects Regulation Act unless the technical submissions were:

- (a) Prepared entirely by the architect;
- (b) Prepared entirely under the direct supervision of the architect; or

(c) Prepared partially by others if the architect has reviewed and integrated the work into his or her own technical submissions.

(2) An architect may affix his or her seal to technical submissions not subject to the act if the architect has reviewed or adapted in whole or in part such submissions and integrated them into his or her work.

Source: Laws 1997, LB 622, § 50; Laws 2013, LB7, § 3; Laws 2015, LB23, § 46.

81-3451. Engineer-intern; enrollment; requirements; application; fee; professional engineer; license; application; fee; examination; requirements.

(1) The following shall be considered as the minimum evidence satisfactory to the board that an applicant is eligible for enrollment as an engineer-intern:

(a) Graduation from a program accredited by the Engineering Accreditation Commission of ABET, or meeting the Education Standard of the National Council of Examiners for Engineering and Surveying as determined by the council;

(b) Passage of an examination in the fundamentals of engineering as accepted by the board;

(c) Submittal of an application accompanied by the fee established by the board; and

(d) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for enrollment.

(2) (a) The following shall be considered as the minimum evidence satisfactory to the board that an applicant is eligible for admission to the examination on the principles and practice of engineering that is adopted by the board:

(i) Graduation from a program accredited by the Engineering Accreditation Commission of ABET, or meeting the Education Standard of the National Council of Examiners for Engineering and Surveying as determined by the council;

(ii) A record of four years or more of progressive post-accredited-degree experience on engineering projects of a grade and character which indicates to the board that the applicant may be competent to practice engineering;

(iii) Passage of an examination in the fundamentals of engineering as accepted by the board;

(iv) Submittal of an application accompanied by the fee established by the board; and

(v) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application.

(b) A candidate who fails the principles and practice of engineering examination may apply for reexamination, which may be granted upon payment of a fee established by the board. In the event of a second or subsequent failure, the examinee may, at the discretion of the board, be required to appear before the board with evidence of having acquired the necessary additional knowledge to qualify before admission to the examination.

(3) The following shall be considered as the minimum evidence satisfactory to the board that an applicant is eligible for licensure as a professional engineer:

(a) Passage of the principles and practice of engineering examination as set forth in subsection (2) of this section;

(b) A record of four years or more of progressive post-accredited-degree experience on engineering projects of a grade and character which indicates to the board that the applicant may be competent to practice engineering;

(c) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure; and

(d) Successful passage of an examination on the statutes, rules, and other requirements unique to this state.

(4) An individual holding a license to practice engineering issued by a proper authority of any jurisdiction, based on credentials that do not conflict with subsections (2) and (3) of this section and other provisions of the Engineers and Architects Regulation Act, may, upon application, be licensed as a professional engineer after:

- (a) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure; and
- (b) Successful passage of an examination on the statutes, rules, and other requirements unique to this state.
- (5) An individual who has been licensed to practice engineering for fifteen years or more in one or more jurisdictions and who has practiced engineering for fifteen years in compliance with the licensing laws in the jurisdictions where his or her engineering practice has occurred since initial licensure may, upon application, be licensed as a professional engineer after:
- (a) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure; and
- (b) Successful passage of an examination on the statutes, rules, and other requirements unique to this state.
- (6) The board may designate a professional engineer as being licensed in a specific discipline or branch of engineering signifying the area in which the professional engineer has demonstrated competence.
- (7) An individual who holds a valid license to practice engineering in another jurisdiction may be issued a temporary permit to provide engineering services for a specific project. An individual may not be issued more than one temporary permit. Temporary permit holders are subject to all of the provisions of the Engineers and Architects Regulation Act governing the practice of engineering.
- (8) None of the examination materials described in this section shall be considered public records.
- (9) The board or its agent shall direct the time and place of the engineering examinations referenced in subsections (1), (2), and (3) of this section.
- (10) The board may adopt the examinations and grading procedures of the National Council of Examiners for Engineering and Surveying. The board may also adopt guidelines published by the council.
- (11) Licensure shall be effective upon issuance.

Source: Laws 1997, LB 622, § 51; Laws 2004, LB 599, § 4; Laws 2004, LB 1069, § 1; Laws 2011, LB45, § 15; Laws 2015, LB23, § 47.

81-3452. Repealed. *Laws 2015, LB 23, § 51.*

81-3453. Practice of engineering; exempted activities.

The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

- (1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;
- (2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

- (3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;
- (4) Any public works project with contemplated expenditures for the completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;
- (5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;
- (6) The teaching, including research and service, of engineering subjects in a college or university offering an ABET-accredited engineering curriculum of four years or more;
- (7) A public service provider or an organization who employs a licensee performing professional services for itself;
- (8) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of such profession, if such qualified member does not represent himself or herself to be practicing engineering and does not represent himself or herself to be a professional engineer;
- (9) The offer to practice engineering by a person not a resident of and having no established place of business in this state if the person is legally qualified by licensure to practice engineering in his or her own state or country. The person shall make application to the board in writing and after payment of a fee established by the board may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to such applicant with respect to any other work not set forth in the permit;
- (10) The work of an employee or a subordinate of a person holding a certificate of licensure under the Engineers and Architects Regulation Act or an employee of a person practicing lawfully under subdivision (9) of this section if the work is done under the direct supervision of a person holding a certificate of licensure or a person practicing lawfully under such subdivision;
- (11) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;
- (12) Financial institutions making disbursements of funds in connection with construction projects;
- (13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality;
- (14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;
- (15) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;

(16) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply;

(17) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission; and

(18) Siting, layout, construction, and reconstruction of a private onsite wastewater treatment system with a maximum flow from the facility of one thousand gallons of domestic wastewater per day if such system meets all of the conditions required pursuant to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act unless the siting, layout, construction, or reconstruction by an engineer is required by the Department of Environmental Quality, mandated by law or rules and regulations imposed upon the owner of the system, or required by the owner.

Source: Laws 1997, LB 622, § 53; Laws 1999, LB 253, § 4; Laws 1999, LB 440, § 2; Laws 2000, LB 900, § 252; Laws 2003, LB 94, § 19; Laws 2004, LB 599, § 5; Laws 2011, LB45, § 17; Laws 2015, LB23, § 48.

Cross References: Negotiated Rulemaking Act, see section 84-921. Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act, see section 81-15,236.

81-3454. Technical submissions by professional engineer; affix seal and signature; conditions.

(1) A professional engineer shall not affix his or her seal and signature to technical submissions that are subject to the Engineers and Architects Regulation Act unless the technical submissions were:

- (a) Prepared entirely by the professional engineer;
- (b) Prepared entirely under the direct supervision of the professional engineer; or
- (c) Prepared partially by others if the professional engineer has reviewed and integrated the work into his or her own technical submissions.

(2) A professional engineer may affix his or her seal to technical submissions not subject to the act if the professional engineer has reviewed or adapted in whole or in part such submissions and integrated them into his or her work.

Source: Laws 1997, LB 622, § 54; Laws 2013, LB7, § 4; Laws 2015, LB23, § 49.

81-3455. Act, how construed.

The Legislature declares that the Engineers and Architects Regulation Act is necessary for the public convenience and welfare, is remedial in nature, and shall be construed liberally. Nothing in the act shall be construed to establish a statewide building code.

Source: Laws 1997, LB 622, § 55.

RULES AND REGULATIONS

TITLE 110, NEBRASKA ADMINISTRATIVE CODE

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CHAPTER 1. GENERAL PROVISIONS

1.1 Definitions

- 1.1.1 ACE: The acronym "ACE" means Architectural Continuing Education, the biennial continuing education required by the Board for renewal or reinstatement of licensure for architects.
- 1.1.2 ARE: The acronym "ARE" means the Architects Registration Examination, as developed by NCARB.
- 1.1.3 EAC/ABET: The acronym "EAC/ABET" means the Engineering Accreditation Commission of ABET Inc. EAC/ABET accreditation is required for engineering programs not later than two years after issuance of the degree.
- 1.1.4 ECE: The acronym "ECE" means the Engineering Continuing Education, the biennial continuing education required by the Board for renewal or reinstatement of licensure for professional engineers.
- 1.1.5 FE Examination: "FE Examination" means the Fundamentals of Engineering Examination, as developed by NCEES.
- 1.1.6 IDP: The acronym "IDP" means the Intern Development Program of NCARB, or its equivalent as determined by NCARB.
- 1.1.7 NAAB: The acronym "NAAB" means the National Architectural Accrediting Board. NAAB accreditation is required for architecture programs not later than two years after issuance of the degree.
- 1.1.8 NCARB: The acronym "NCARB" means the National Council of Architectural Registration Boards.
- 1.1.9 NCEES: The acronym "NCEES" means the National Council of Examiners for Engineering and Surveying.
- 1.1.10 PE Examination: "PE Examination" means the Principals and Practice of Engineering Examination, as developed by NCEES.
- 1.1.11 E&A Act: The Engineers and Architects Regulation Act, Neb. Rev. Stat. §§ 81-3401 through 81-3455, shall be known and may be cited as E&A Act.
- 1.1.12 E&A Rules: The Nebraska Rules and Regulations, Title 110 of the Nebraska Administrative Code, Chapters 1 through 11, shall be known and may be cited as E&A Rules.
- 1.1.13 MLE: "MLE" means an individual who holds an NCEES Council Record that has been designated as a Model Law Engineer or Model Law Structural Engineer record by NCEES.
- 1.1.14 MLSE: "MLSE" means an individual who holds an NCEES Council Record that has been designated as a Model Law Structural Engineer.
- 1.1.15 NCARB Certificate Holder: "NCARB Certificate Holder" means an individual who holds a Certificate issued by NCARB indicating the NCARB Certification requirements have been met.
- 1.1.16 Temporary Permit: A permit issued by the Board to an architect or professional engineer who is not licensed in Nebraska for use on a single project.

1.2 Terms Defined by Statute

Terms defined in the E&A Act shall have the same meanings when used in these regulations.

1.3 Purpose

The Nebraska Rules and Regulations are set forth for the purpose of interpreting and implementing the Engineers and Architects Regulation Act (hereafter, the E&A Act), establishing the Board, and conferring upon it responsibility for licensure of architects and professional engineers and the regulation of the practice of engineering and architecture.

1.4 Board's Regulatory Authority

The E&A Rules are promulgated under authority of and in conformity with the E&A Act.

1.5 Severability

If any provisions of these regulations or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

1.6 Adoption of the Attorney General's Model Rules

The Board has adopted Title 53, Nebraska Administrative Code, Chapters 1 through 4 of the Nebraska Department of Justice, also known as the Attorney General's Model Rules, and has incorporated them into these regulations.

1.7 Federal Requirements

Nothing in the Act shall imply exemption from requirements of any federal statute or regulation, including, but not limited to, the Americans with Disabilities Act and the Fair Housing Act.

1.8 Declaratory Rulings

Procedures governing Declaratory Rulings shall be in accordance with Title 53, Nebraska Administrative Code, Chapter 3 of the Nebraska Department of Justice.

1.9 Record of Board's Actions

A quorum of five members of the Board is required for Board actions. The Board will keep record of actions enacted at its meetings.

1.10 Board Member Conflicts of Interest

- 1.10.1 Board members shall not vote on any matter in which they have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of their duties as a Board member.
- 1.10.2 Board members are prohibited from using or attempting to use their official position to secure unwarranted privileges or exemptions for themselves or others.
- 1.10.3 Board members shall not give the impression that they may be improperly influenced in the performance of Board member duties, or that they are improperly affected by the kinship, rank, position, or influence of any party or person.
- 1.10.4 A Board member shall not accept gifts of value or loans from persons having business before the Board which are intended to or which might appear to influence the official relationship between the donor and recipient.

1.11 Confidentiality of Information

- 1.11.1 Records denoted in Neb. Rev. Stat. § 84-712.05 shall be considered confidential.
- 1.11.2 Replies received from references regarding the qualifications of an applicant shall be placed in files that are considered non-public records. The source and character of the information will not be divulged except when required by law.

1.12 Conditional License

- 1.12.1 The Board may authorize Board staff to issue licenses on a conditional basis, pending formal approval of the license application by the Board.
- 1.12.2 A conditional license may be withdrawn by the Board if it determines the applicant does not qualify for any reason.
- 1.12.3 In the event the Board fails to give formal approval of a license that has been issued on a conditional basis, the conditional license will expire at 11:59 p.m. on the date the licensee is notified of such Board action.

- 1.12.4 Architectural and professional engineering services performed pursuant to a conditional license that is subsequently withdrawn by the Board will be deemed to have been performed pursuant to a valid license.

1.13 Expired License Status

1.13.1 License Expiration Date

- 1.13.1.1 A license to practice expires at 11:59 p.m. on the expiration date noted on the license.
- 1.13.1.2 An architect or professional engineer cannot practice, as provided in the E&A Act, with an expired license.

1.13.2 Renewing Expired Licenses

- 1.13.2.1 Licenses that have expired may be renewed during the following twelve months upon payment of a penalty plus the renewal fee.
- 1.13.2.2 The penalty fee to be paid for the renewal shall be ten percent of the renewal fee for each month after the expiration date, not to exceed the amount of the renewal fee.
- 1.13.2.3 Licenses that have expired and are not renewed within twelve months from their expiration date cannot be renewed, but will require reinstatement.

1.13.3 Reinstatement of a License

- 1.13.3.1 An expired license may be reinstated to active status, pending approval of the Board, upon submission of the following:
 - 1.13.3.1.1 A new application;
 - 1.13.3.1.2 Payment of fees and penalties, if applicable;
 - 1.13.3.1.3 Documentation establishing that the applicant has complied with the continuing education requirements set forth in these rules for the period during which the license was expired; and
 - 1.13.3.1.4 An affidavit attesting that the applicant has not practiced engineering and/or architecture in Nebraska during the time the license was expired; or
 - 1.13.3.1.5 If such attestation cannot be made, an explanation acceptable to the Board of the applicant's practice during the expiration period.
- 1.13.3.2 Applicants seeking reinstatement must meet current requirements for licensure by examination or comity.
- 1.13.3.3 The original license number will be retained.

1.13.4 Emeritus Status

- 1.13.4.1 Professional engineers and architects whose licenses are subject to renewal but who are not engaged in their professional practice may elect emeritus status.
- 1.13.4.2 Architects and professional engineers who have elected emeritus status retain their professional honorary titles but are prohibited from practicing.
- 1.13.4.3 Architects and professional engineers who have elected emeritus status are subject to annual renewals at a fee established by the Board.
- 1.13.4.4 Architects and professional engineers who have elected emeritus status will receive Board publications.
- 1.13.4.5 To be reinstated to practice, an architect or professional engineer who has elected emeritus status must submit a new application to the Board, submit an affidavit that they have not practiced architecture or engineering during the emeritus period, and meet the requirements of Rule 9.6.1.4.

1.14 Enrollment as an Engineer Intern (EI)

- 1.14.1 Enrollment as an Engineer Intern may be granted upon the applicant's submission of the following:
 - 1.14.1.1 An application and fee as prescribed by the Board;
 - 1.14.1.2 Verification that the applicant has passed the FE Examination; such verification shall be submitted directly by the jurisdiction in which the examination was taken or by NCEES;
 - 1.14.1.3 Verification that the applicant has satisfied the education requirement set forth in Rule 2.2.1; such verification shall be submitted directly by the institution at which the education was obtained or from its authorized agent; and
 - 1.14.1.4 Three references indicating the applicant's good reputation and ethical character.
- 1.14.2 Applications for enrollment as an EI may be administratively approved by Board staff but are conditional until formally approved by the Board.
- 1.14.3 Enrollment as an EI is not required for licensure in Nebraska or to sit for the PE Examination.

1.15 License Fees

- 1.15.1 The fee schedule and methods of payment shall be set by the Board.
- 1.15.2 All fees are non-refundable. However, fees initially paid to the Board by an applicant for a specific application, but not used for that specific application, may be used as a credit for a different application fee during the same fiscal year at the applicant's discretion.

1.16 Professional Assistance

The Board may retain professional assistance in carrying out administrative matters and other general governance of the Board. Such assistance may include financial, technological, legal, and administrative consultation.

1.17 Licensee Lists

Lists of architects and professional engineers licensed by the Board, as well as those who have applied for licensure, will be issued upon written request in accordance with Nebraska law regarding the production of public records.

1.18 Photographs and Transcripts

Photographs shall not be required for identification on applications received by the Board. Transcripts or other documents issued directly by the granting institution of higher education, or its authorized agent, will be acceptable as proof of graduation when such proof is required by the Board.

1.19 Emeritus Board Member

When requested by the Board, an Emeritus board member may represent the Board at authorized meetings. Expenses incurred by the Emeritus board member at such functions may be reimbursed by the Board.

1.20 Licensure of Board Members

At all times during their terms on the Board, professional engineer and architect members of the Board, including the education members, must be licensed in Nebraska in their respective professions.

CHAPTER 2. LICENSURE OF PROFESSIONAL ENGINEERS BY EXAMINATION

2.1 Requirements for Licensure by Examination

Licensure by examination requires that the applicants have:

- (1) Satisfied the education requirements set forth in Rule 2.2;
- (2) Satisfied the experience requirement set forth in Rule 2.3;
- (3) Passed the FE Examination, the PE Examination, and the Nebraska E&A Act Examination as set forth in Rule 2.4; and
- (4) Complied with the application process set forth in Rule 2.5.

2.2 Education Requirements for Examination (FE and PE)

- 2.2.1 Candidates for the Fundamentals of Engineering Examination (FE) are required to hold a degree or have senior standing in a curriculum leading to an engineering degree from an EAC/ABET-accredited engineering program or meet the NCEES Education Standard.
- 2.2.2 Candidates for the Principles and Practice of Engineering Examination (PE) are required to hold an EAC/ABET-accredited engineering degree or meet the NCEES Education Standard.
- 2.2.3 A program is considered to be EAC/ABET accredited under these rules if accreditation is granted for the program no later than two years after issuance of the applicant's degree.
- 2.2.4 A degree in Engineering Technology does not meet the education requirements.
- 2.2.5 Those holding degrees from programs not EAC/ABET accredited must establish that their education meets the NCEES Education Standard by evaluation through the NCEES Credentials Evaluation.
 - 2.2.5.1 Deficiencies defined by the evaluation service may be corrected by taking coursework related to the deficiency in a post-secondary institution offering EAC/ABET-accredited engineering programs or in programs otherwise acceptable to the Board.
 - 2.2.5.2 Coursework from post-secondary education institutions that are not EAC/ABET accredited will be acceptable if the coursework is approved by an EAC/ABET-accredited institution to be "transferable." A letter from the EAC/ABET-accredited institution may be required for substantiation.
 - 2.2.5.3 Passing scores will be accepted in college level exams given by approved third parties including College Board Exams (CLEP) in subjects related to the deficiency or as otherwise acceptable to the Board.
 - 2.2.5.4 With Board approval, up to nine semester credit hours of deficiency in general education may be removed for applicants who have obtained a college degree from an institution whose primary language of instruction is not English or who can demonstrate fluency in multiple languages or dialects.
 - 2.2.5.5 Once the deficiencies are removed, the Board will consider the education as satisfying the Board's education requirement.
 - 2.2.5.6 The Board may defer action on deficient applications until these education requirements have been met.

2.3 Experience

- 2.3.1 Candidates for the Principles and Practice of Engineering Examination (PE) shall have not less than four years of work experience acceptable to the Board.
 - 2.3.1.1 For purposes of this rule, "work" means professional services comprising the practice of engineering.
- 2.3.2 Work experience for applicants may start immediately following graduation from a four-year or equivalent engineering program.

- 2.3.3 A candidate may not sit for the PE Examination or the SE Examination until at least four calendar years after completion of an EAC/ABET-accredited degree, irrespective of the combination of work experience and education credit that may be available for an advanced degree.
- 2.3.4 Successful completion of graduate study leading to an advanced degree in engineering may satisfy part of the experience requirement.
 - 2.3.4.1 A Masters Degree in engineering may be used for credit for one year of experience *if it is preceded by an EAC/ABET-accredited baccalaureate degree in engineering.*
 - 2.3.4.2 A Doctorate Degree in engineering may be used for two years of experience *if it is preceded by an EAC/ABET-accredited degree in engineering; in the case of a Doctorate Degree, no additional experience will be credited for a Masters Degree.*
- 2.3.5 The Board will consider engineering experience performed outside the United States if the Board determines that such experience is gained under a licensed professional engineer from an NCEES jurisdiction, or upon reasonable investigation by an engineer Board member, that such experience was performed under circumstances comparable to the standards for engineering in the United States. All materials necessary to such determination must be provided by and at the expense of the applicant.
- 2.3.6 Experience must indicate that, over the course of time, the applicant's work has been of increasing quality and has required greater responsibility.
- 2.3.7 Only work of an engineering nature which follows graduation from a professional engineering program may be used to satisfy the experience requirement.
- 2.3.8 Experience must not be obtained in violation of the E&A Act.
- 2.3.9 Experience gained in the armed services may be used to satisfy the experience requirement if it was of a character equivalent to that which would have been gained in the civilian sector doing similar work. Generally, such experience will be creditable only if the applicant served in an engineering or engineering-related group.
- 2.3.10 Experience should be gained under the supervision of a licensed professional engineer or, if not, an explanation should be made showing why the experience should be considered acceptable to the Board.
- 2.3.11 Sales experience may be used to satisfy the experience requirement only if the applicant can demonstrate that engineering principles were required and used in gaining the experience.
- 2.3.12 Engineering teaching experience may be used to satisfy the experience requirement, subject to the Board's approval, if the courses were at an advanced level in a college or university offering an engineering curriculum of four years or more.
- 2.3.13 Experience gained in engineering research and design projects by members of an engineering faculty where the curriculum is approved by the Board may be used to satisfy the experience requirement.
- 2.3.14 Construction experience may be used to satisfy the experience requirement only if the applicant can demonstrate that the work required the application of engineering principles.
- 2.3.15 Experience may not be anticipated. The experience must have been received at the time of the application.

2.4 Examination for Licensure as Professional Engineers

- 2.4.1 The Examinations used by the Board to determine eligibility for licensure shall be the current NCEES Fundamentals of Engineering Examination (FE), the Principles and Practice of Engineering Examination (PE) or the Structural Engineering Examination (SE), and the Nebraska E&A Act Examination.
 - 2.4.1.1 The Board will follow NCEES policies and schedules for taking and retaking FE Examinations.

- 2.4.1.2 The Board will determine applicant eligibility for the PE Examination and the SE Examination, and forward eligibility information to NCEES.
 - 2.4.1.2.1 Once an applicant has been approved to take the PE Examination or the SE Examination, they remain qualified to retake that same examination for five years. The five years shall commence on the date of the first scheduled examination after the applicant has been approved.
- 2.4.1.3 The Board will accept the examination result as determined by NCEES.
- 2.4.1.4 If there is any reported examination irregularity on the part of an applicant, the Board will investigate the allegation and take appropriate action.
- 2.4.1.5 Passage of the FE Examination, PE Examination, and SE Examination will be determined by the NCEES pass/fail standards in place at the time the examination was taken.
- 2.4.1.6 For security reasons, items in the examination will not be available for review by the examinee.
- 2.4.1.7 After a fourth or subsequent failure of the PE Examination or the SE Examination, the candidate shall present the Board with evidence of having acquired additional relevant formal instruction before being reexamined. Such candidates shall be eligible for examination annually. Relevant formal instruction means coursework consisting of at least two semester credit hours at the undergraduate or graduate level in the knowledge areas identified as failed in the NCEES diagnostic report. The coursework must be acceptable at, or transferrable to an institution that offers EAC/ABET-accredited engineering programs. Online coursework is acceptable. Examination preparatory classes, continuing education offerings, and individual study do not satisfy the formal learning requirement.
 - 2.4.1.7.1 Failure of either component of the SE Examination will be treated as a retake for purposes of Rule 2.4.1.7.
- 2.4.1.8 An applicant's failure to attend an examination for which he or she has been scheduled will forfeit the application fee, except as otherwise determined by NCEES policies.
- 2.4.1.9 Failure of an applicant to attend an examination for which he or she has been scheduled to attend shall not be considered as a failure of the examination or as a retake under Rule 2.4.1.7.
- 2.4.1.10 Only active United States military personnel will be allowed to have the PE examination or the SE Examination proctored; any proctoring shall be in accordance with NCEES policies and guidelines.
- 2.4.2 All applicants for the PE Examination or the SE Examination must have passed the FE Examination.
- 2.4.3 The Principles and Practice of Engineering Examination (PE Examination)
 - 2.4.3.1 The PE Examinations are given in disciplines offered by NCEES, *except* that the Board reserves the right not to examine in certain disciplines offered by NCEES or to examine in specialized disciplines or areas of engineering not offered by NCEES.
 - 2.4.3.2 Applicants will be permitted to sit for the PE Examination in a discipline different from that of the applicant's education upon the Board's acceptance of evidence of four years of work experience in the discipline of the requested examination.
- 2.4.4 The Principles and Practice of Structural Engineering Examination (SE Examination)
 - 2.4.4.1 The SE Examination shall consist of two components: the Vertical Forces (gravity/other) and Incidental Lateral component, and the Lateral Forces (wind/earthquake) component.

- 2.4.4.1.1 A candidate may sit for each component in separate exam administrations but must receive acceptable results on both components within a five-year period.
- 2.4.4.1.2 Receiving acceptable results on only one component shall not be sufficient for licensure in structural engineering or any other engineering discipline.
- 2.4.4.1.3 Applicants who have passed both components of the SE Examination, or its equivalent as defined by NCEES, shall be eligible for licensure as a Professional Structural Engineer.

2.4.5 The Nebraska E&A Act Examination

- 2.4.5.1 Following successful passage of the PE Examination or the SE Examination, an applicant must pass an examination, prepared and administered by the Board, on the Nebraska E&A Act, E&A Rules and practice ethics.
- 2.4.5.2 The purpose of the examination is to test an applicant's familiarity with the E&A Act, the E&A Rules, and the ethics of practicing engineering.
- 2.4.5.3 After a second or subsequent failure of the Nebraska E&A Act Examination, the candidate may be required to acquire additional instruction before being reexamined. Such candidates shall be eligible for examination every thirty days.

2.5 Application for PE Examination or SE Examination

- 2.5.1 To be eligible to sit for the PE Examination or the SE Examination, an applicant must:
 - 2.5.1.1 Submit an application on or before the filing deadline established by the Board;
 - 2.5.1.1.1 Applicants must submit a separate application for each discipline in which examination is requested.
 - 2.5.1.2 Submit five references indicating good reputation and ethical character, three of which are from professional engineers;
 - 2.5.1.2.1 If an applicant cannot provide three references from professional engineers, five references must still be submitted together with an explanation as to why the professional references are unavailable.
 - 2.5.1.3 Provide satisfactory evidence of meeting the education requirement as set forth in these rules. Such evidence shall be received directly from the institution at which the education was received or from the institution's authorized agent;
 - 2.5.1.4 Provide verification of passing the FE Examination. Such verification must be received directly from the jurisdiction in which the examination was taken or from NCEES; and
 - 2.5.1.5 Provide satisfactory evidence of meeting the experience requirement as set forth in these rules.
- 2.5.2 Licensure as a Professional Engineer following Examination
 - 2.5.2.1 Upon passage of the PE Examination or the SE Examination, as approved by the Board, a certificate of licensure shall be issued containing the licensed applicant's full name, license number, and discipline of practice.
 - 2.5.2.2 Licensure shall be in the discipline of the PE Examination upon which the license is issued.
 - 2.5.2.3 Certificates of Licensure issued to Professional Engineers will be inscribed with the discipline in which the individual is licensed to practice.
 - 2.5.2.3.1 Those licensed in multiple disciplines will be issued separate certificates for each discipline.

- 2.5.2.4 Professional Architectural Engineer
 - 2.5.2.4.1 Professional Engineers licensed on the basis of Architectural Engineering education, experience, and examination shall be designated Professional Architectural Engineers.
 - 2.5.2.4.2 Professional Architectural Engineers shall be considered qualified to design engineering systems commonly associated with buildings. They shall not practice or offer to practice architecture.
- 2.5.2.5 Professional Structural Engineer (S.E.)
 - 2.5.2.5.1 Professional Engineers who are licensed on the basis of structural engineering, experience and examination shall be designated Professional Structural Engineers and may use the designation S.E. with their name.

CHAPTER 3. LICENSURE OF ARCHITECTS BY EXAMINATION

3.1 Requirements for Licensure by Examination

Licensure by examination requires that the applicant have:

- (1) Satisfied the education requirements set forth in Rule 3.2;
- (2) Satisfied the experience requirements set forth in Rule 3.3;
- (3) Passed the ARE Examination and the Nebraska E&A Act Examination as set forth in Rule 3.4;
and
- (4) Complied with the application process set forth in Rule 3.5.

3.2 Education Requirements

3.2.1 An applicant must:

- 3.2.1.1 Hold a professional degree in architecture from a program accredited by NAAB; or
- 3.2.1.2 Obtain an evaluation report in accordance with Board requirements stating that the applicant has met the NCARB Education Standard through the Education Evaluation Services for Architects (EESA) through NAAB.
 - 3.2.1.2.1 If education deficiencies are not resolved by EESA, the Board will review and make a determination of the appropriate corrective measures to remove the deficiency.

3.3 Experience

3.3.1 Completion of IDP, or its equivalent as determined by NCARB, is required prior to licensure.

3.4 Examinations

3.4.1 The Examination used by the Board to determine eligibility for licensure shall be the current NCARB Architect Registration Examination (ARE) as accepted by the Board.

- 3.4.1.1 The Board will follow NCARB's policies on scheduling and retaking the ARE.
- 3.4.1.2 The Board will verify applicant eligibility and forward eligibility information to NCARB.
- 3.4.1.3 The Board may allow candidates to make application to take all divisions of the ARE after verification of having met the education requirements and establishing an NCARB record for the purpose of documenting architectural work experience in IDP or its equivalent as determined by NCARB.
- 3.4.1.4 The Board will allow applicants to take the ARE at any NCARB-approved test center.
- 3.4.1.5 The Board will accept the examination result as determined by NCARB.
- 3.4.1.6 If there is any alleged improper behavior on the part of an applicant, the Board will investigate the allegation and take appropriate action.
- 3.4.1.7 An applicant must have passed the examination in accordance with the NCARB pass/fail standards current at the time the applicant took the examination.
- 3.4.1.8 For security reasons, items in the examination will not be available for review by the examinee. Examinees have the right to review or challenge failed divisions of the ARE through the Board in accordance with NCARB rules and policies.

3.4.2 Rolling Clock

- 3.4.2.1 Applicants shall be required to complete the ARE within the time limitations set by NCARB policies and procedures.
- 3.4.2.2 Approval to sit for the ARE shall terminate if the applicant has not attempted a division of the ARE within five years of such approval. Any applicant seeking initial licensure in Nebraska and whose test approval has terminated must submit a new application to the Board for approval to take the ARE.

3.4.3 The Nebraska E&A Act Examination

- 3.4.3.1 Following successful passage of the ARE, an applicant must pass an examination, prepared and administered by the Board, on the E&A Act, E&A Rules, and practice ethics.
- 3.4.3.2 The purpose of the examination is to test applicants' familiarity with the E&A Act, E&A Rules, and the ethics of practicing architecture.
- 3.4.3.3 After a second or subsequent failure of the Nebraska E&A Act Examination, the candidate may be required to acquire additional instruction before being reexamined. Such candidates shall be eligible for examination every thirty days.

3.5 Application for ARE Examination

3.5.1 To be eligible to sit for the ARE examination, an applicant must:

- 3.5.1.1 Submit a completed application to the Board, accompanied by the filing fee established by the Board;
- 3.5.1.2 Provide satisfactory evidence of meeting the education requirement as set forth in these rules. Such evidence shall be received directly from the institution at which the education was received, the institution's authorized agent, or NCARB;
- 3.5.1.3 Submit five references indicating good reputation and ethical character, three of which must be architects; and
 - 3.5.1.3.1 If an applicant cannot provide three references from architects, five references must still be submitted along with an explanation as to why the professional references cannot be submitted.
- 3.5.1.4 Submit verification that the applicant has established an NCARB record for the purpose documenting architectural work experience.

3.6 Certificates

- 3.6.1 When the Board has determined that an applicant for licensure by examination has satisfied the licensure requirements set forth herein, the Board shall issue a certificate of licensure containing the architect's full name and license number.

CHAPTER 4. COMITY

4.1 Comity for Engineers

4.1.1 Discipline of Licensure by Comity

- 4.1.1.1 In order to be eligible for licensure in Nebraska the engineering applicant must qualify in one or more engineering discipline(s).
- 4.1.1.2 Verification of good standing must be provided by the licensing authority of the candidate's current licensure, including the discipline of the PE Examination.
 - 4.1.1.2.1 In the event the licensing authority does not license by discipline or have record of examination discipline, verification of discipline of practice may be provided by the affidavit of an individual with knowledge of the applicant's discipline of practice.
- 4.1.1.3 With respect to candidates applying for licensure who have passed the NCEES Structural I examination, such candidates may be licensed as a Professional Civil Engineer or another applicable discipline approved by the Board. Such applicants cannot be licensed as a Structural Engineer without also having passed the NCEES Structural II examination.
- 4.1.1.4 Professional Architectural Engineer
 - 4.1.1.4.1 Professional Engineers licensed on the basis of the Architectural Engineering examination shall be designated Professional Architectural Engineers.
 - 4.1.1.4.2 Professional Architectural Engineers shall not practice or offer to practice architecture.
- 4.1.1.5 Professional Structural Engineer (S.E.)
 - 4.1.1.5.1 Professional Engineers licensed on the basis of a structural engineering examination of at least sixteen hours and/or experience shall be designated Professional Structural Engineers and may use the designation S.E. with their name.

4.1.2 Comity Licensure for Model Law Engineers and Model Law Structural Engineers

- 4.1.2.1 The Board staff is authorized to review and evaluate the applications of comity applicants to determine if they meet or exceed the criteria of a MLE or MLSE as designated by NCEES.
- 4.1.2.2 If the applicant meets or exceeds these requirements, the Board staff may issue a conditional license authorizing that individual to provide engineering services in Nebraska if the applicant:
 - 4.1.2.2.1 Files an application with required fee;
 - 4.1.2.2.2 Submits satisfactory evidence of such MLE or MLSE designation to the Board; and
 - 4.1.2.2.3 Passes the Nebraska E&A Act Examination in accordance with Rule 2.4.5.
- 4.1.2.3 Any information requested on the application with respect to education, experience, or references may be provided by submitting an NCEES record.
- 4.1.2.4 A listing of professional engineers issued conditional licenses will be placed on the agenda of the next meeting of the Board for formal approval by the Board.

4.1.3 Jurisdictional Comity

- 4.1.3.1 An engineering applicant who holds a current and valid license issued by a licensing authority of another jurisdiction that is recognized by the Board may be licensed by Jurisdictional Comity after the applicant:
 - 4.1.3.1.1 Files an application with required fee;
 - 4.1.3.1.2 Submits satisfactory evidence of such licensure to the Board;
 - 4.1.3.1.3 Submits three references from professional engineers indicating good reputation and ethical character. In the event three professional engineers are not available to make such references, the applicant shall submit an explanation for the Board's review;
 - 4.1.3.1.4 Submits verification that the applicant has passed the FE and PE Examinations;
 - 4.1.3.1.5 Submits verification that the applicant has satisfied the education requirements set forth in Rule 2.2; and
 - 4.1.3.1.6 Passes the Nebraska E&A Act Examination in accordance with Rule 2.4.5.
- 4.1.3.2 Any information requested on the application with respect to education, experience, or references may be provided by submitting an NCEES record.
- 4.1.3.3 The application will go to the Board for review and final approval.

4.1.4 Comity Licensure by Experience

- 4.1.4.1 Notwithstanding the education requirement of Rule 4.1.3.1.5, engineers who are licensed by a licensing authority recognized by the Board and who have at least 15 years of licensed professional engineering work experience may be licensed by experience if the engineer:
 - 4.1.4.1.1 Files an application with required fee;
 - 4.1.4.1.2 Submits satisfactory evidence of 15 years of licensed work experience in a discipline acceptable to the Board;
 - 4.1.4.1.3 Provides three references from professional engineers indicating good reputation and ethical character. In the event three professional engineers are not available to make such references, the applicant shall submit an explanation for the Board's review; and
 - 4.1.4.1.4 Passes the Nebraska E&A Act Examination in accordance with Rule 2.4.5.
- 4.1.4.2 Any information requested on the application with respect to education, experience, or references may be provided by submitting an NCEES record.
- 4.1.4.3 The application will go to the Board for review and final approval.

4.1.5 Temporary Permit

- 4.1.5.1 An engineering applicant who holds a current and valid license issued by a licensing authority of another jurisdiction that is recognized by the Board may apply for a Temporary Permit for the purpose of providing engineering service on a single project, not to exceed two years, after the applicant:
 - 4.1.5.1.1 Files an application with required fee;
 - 4.1.5.1.2 Submits satisfactory evidence of such licensure to the Board. Such evidence must be received directly from the licensing authority or NCEES; and

- 4.1.5.1.3 Passes an examination, prepared and administered by the Board, on the E&A Act, E&A Rules, and practice ethics.
- 4.1.5.2 The permit will include a template containing the applicant's name, permit number, expiration date, and project name and location.
- 4.1.5.3 In the event the project lasts longer than two years, the temporary permit holder must obtain a Nebraska license.
- 4.1.5.4 Engineers holding a temporary permit shall use their seal from the state of verified licensure when sealing documents pertaining to the Nebraska project and shall accompany the seal with the template issued by the Board.
- 4.1.5.5 An engineer is eligible for only one temporary permit.
- 4.1.5.6 Applications for temporary permits may be administratively approved by Board staff but are conditional until formally approved by the Board.

4.2 Comity Licensure for Architects

4.2.1 Comity Licensure for NCARB Certificate Holders

- 4.2.1.1 The Board staff is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria of an NCARB Certificate Holder.
- 4.2.1.2 If the applicant meets or exceeds these requirements, the Board staff may issue a conditional license authorizing that individual to offer or provide architectural services in Nebraska if the applicant:
 - 4.2.1.2.1 Files an application with the required fee;
 - 4.2.1.2.2 Submits satisfactory evidence of having an NCARB Certificate;
 - 4.2.1.2.3 Submits three references indicating good reputation and ethical character; and
 - 4.2.1.2.4 Passes the Nebraska E&A Act Examination in accordance with Rule 3.4.3.
- 4.2.1.3 A listing of all architects issued conditional licenses will be placed on the agenda of the next meeting of the Board for formal approval by the Board.

4.2.2 Comity Licensure by Experience (no NCARB Record or NCARB Certificate)

- 4.2.2.1 Architects who are licensed by a licensing authority recognized by the Board by professional examination and who have at least 15 years of licensed architectural work experience may be licensed by experience if they:
 - 4.2.2.1.1 File the Nebraska application with required fee;
 - 4.2.2.1.2 Submit satisfactory evidence of 15 years of licensed work experience acceptable to the Board;
 - 4.2.2.1.3 Provide three references indicating good reputation and ethical character; and
 - 4.2.2.1.4 Pass the Nebraska E&A Act Examination in accordance with Rule 3.4.3.
- 4.2.2.2 The application will go to the Board for review and final approval.

4.2.3 Temporary Permit

- 4.2.3.1 An architect applicant who holds a current and valid license issued by a licensing authority in another jurisdiction that is recognized by the Board may apply for a Temporary Permit for the purpose of providing architectural service on a single project, not to exceed two years, if the applicant:
 - 4.2.3.1.1 Files an application with the required fee;

- 4.2.3.1.2 Submits satisfactory evidence of such licensure to the Board. Such evidence must be received directly from the licensing authority of NCARB; and
- 4.2.3.1.3 Passes an examination, prepared and administered by the Board, on the E&A Act, E&A Rules, and practice ethics.
- 4.2.3.2 The permit will include a template containing the architect's name, permit number, expiration date, and project name and location.
- 4.2.3.3 In the event the project lasts longer than two years, the temporary permit holder must obtain a Nebraska license.
- 4.2.3.4 Architects holding a temporary permit shall use their seal from the state of verified licensure when sealing documents pertaining to the Nebraska project, and shall accompany the seal with the template issued by the Board.
- 4.2.3.5 An architect is eligible for only one temporary permit.
- 4.2.3.6 Applications for temporary permits may be administratively approved by Board staff, but are conditional until formally approved by the Board.

CHAPTER 5. CODE OF PRACTICE

5.1 Competence

- 5.1.1 In practicing engineering or architecture, the architect or professional engineer shall act with reasonable care and competence and shall apply the technical knowledge and skill ordinarily applied by architects or professional engineers of good standing in the same locality.
- 5.1.2 In designing a project, the architect or professional engineer shall take into account all applicable federal, state, and municipal laws and regulations. While the architect or professional engineer may rely on the advice of other professionals (e.g., attorneys, architects, professional engineers, or other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, the architect or professional engineer shall not knowingly design a project in violation of such laws and regulations.
- 5.1.3 The architect or professional engineer shall undertake to perform professional services only when they, together with those whom the architect or professional engineer may engage as consultants, is qualified by education, training, and experience in the specific technical areas involved.
- 5.1.4 No person shall be permitted to practice engineering or architecture if, in the Board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.
- 5.1.5 An architect or professional engineer convicted of a crime in connection with their profession or a crime of moral turpitude under state law, federal law, or the law of another jurisdiction, may be held in violation of the code of practice if, in the opinion of the Board, the events and circumstances leading to the conviction indicate a condition which would affect the competency of the architect or professional engineer to serve the health, safety, and welfare of the public.
- 5.1.6 The architect or professional engineer shall not sign, seal, or attest to any work pertaining to any technical discipline or specialty that the architect or professional engineer does not have professional training and experience.

5.2 Conflict of Interest

- 5.2.1 The architect or professional engineer shall not accept compensation for their services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.
- 5.2.2 If the architect or professional engineer has any business association or direct or indirect financial interest which is substantial enough to influence their judgment in the selection of any contractor or sub-consultant, or in connection with their performance of professional services, the architect or professional engineer shall fully disclose in writing to their client or employer the nature of the business association or financial interest. If the client or employer objects to such association or financial interest, the architect or professional engineer will either terminate such association or interest, or offer to give up the commission or employment.
- 5.2.3 The architect or professional engineer shall not solicit or accept compensation from material or equipment suppliers, contractors, or sub-consultants in return for specifying or endorsing their products.
- 5.2.4 When acting as the interpreter of construction contract documents, studies, and reports, the architect or professional engineer shall render decisions impartially. When acting as the judge of contract performance, the architect or professional engineer shall render decisions in an objective manner, favoring neither party to the contract.
- 5.2.5 An architect or professional engineer who initiates a complaint to the Board shall not become involved as the architect or professional engineer of record for the project which was the subject of the complaint.

- 5.2.6 Architects and professional engineers shall not solicit or accept a contract for professional services from a governmental body when the architect or professional engineer, or a principal or officer of the architect's or professional engineer's organization, serves as a voting or non-voting member, whether elected or appointed, or serves as an employee or contractor to perform professional services, of the same governmental body which is procuring the professional services. For purposes of this subparagraph, "governmental body" means a board, council, commission, or similar multi-membered body of any county or political subdivision. Architects and professional engineers are not in violation of this provision, however, if the architect or professional engineer, or the principal or officer of their organization who serves as a member of the governmental body, plays no role in the solicitation or procurement of the contract on behalf of the governmental body.

5.3 Disclosure of Professional Relationships or Responsibility

- 5.3.1 When making public statements on engineering or architectural questions, the architect or professional engineer shall disclose if they are being compensated for making such statements.
- 5.3.2 The architect or professional engineer shall accurately represent to a prospective or existing client or employer their qualifications and the scope of their responsibility in connection with work for which they are claiming credit.
- 5.3.3 The architect or professional engineer possessing knowledge of a violation of these rules by another architect or professional engineer shall report such knowledge to the Board.

5.4 Compliance with Laws

- 5.4.1 The architect or professional engineer shall not, in the conduct of their engineering or architectural practice, knowingly violate any state or federal criminal law. Allegations of violations of this section may be based on an independent finding of a violation of the law by a court of competent jurisdiction or an administrative or regulatory body.
- 5.4.2 The architect or professional engineer shall neither offer nor give any gift of significant value, or any monetary payment to a government official with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect or professional engineer is interested or has an interest.
- 5.4.3 The architect or professional engineer shall comply with the laws and regulations governing their professional practice in any United States jurisdiction.
- 5.4.3.1 An architect or professional engineer may be subject to disciplinary action if, based on grounds substantially similar to those which lead to disciplinary action in this jurisdiction, the architect or professional engineer is disciplined in any other United States jurisdiction.
- 5.4.3.2 A person whose Nebraska license was issued on the basis of an NCARB Certificate or NCEES Record shall, upon suspension or revocation, have their Nebraska license suspended until the certificate or record is reinstated.
- 5.4.3.3 A Nebraska license based upon comity with another jurisdiction shall be concurrently suspended upon suspension or revocation of that jurisdiction's license, pending reinstatement of the license by the other jurisdiction.
- 5.4.3.4 A license under suspension must be kept current through the suspension period. If the license has expired during the suspension period, a new application for licensure will be required.
- 5.4.4 Architects and/or professional engineers are responsible for obtaining formal review and approval of design work when such approval is required prior to construction.

5.5 Professional Conduct

- 5.5.1 Each organization maintained for the purpose of serving the public through professional engineering or architectural work, including the preparation of drawings, specifications, reports, and the administration of contract documents, shall have a qualified architect or professional engineer in responsible charge of the work.
- 5.5.2 The architect or professional engineer shall not sign or seal drawings, specifications, reports, or other professional work for which they do not have direct supervision. If the portions of such professional work were prepared by the architect's or professional engineer's consultants who are licensed under the law of the State of Nebraska or another state, the architect or professional engineer may sign or seal that portion of the professional work if the architect or professional engineer has reviewed such portion, has coordinated its preparation, and accepts responsibility for its adequacy.
- 5.5.3 The architect or professional engineer shall not engage in conduct involving fraud or wanton disregard of the rights of others.
- 5.5.4 The architect or professional engineer shall not engage in unethical, immoral, or dishonorable conduct that would indicate lack of fitness to perform the tasks required by clients or a level of proficiency that is insufficient to serve the public interest.
- 5.5.5 The architect or professional engineer shall not in advertisements or public statements engage in misleading, untruthful, or improbable statements, or flamboyant, exaggerated or extravagant claims concerning the architect's or professional engineer's professional excellence or abilities.
- 5.5.6 The architect or professional engineer shall not knowingly aid or abet the practice or the performance of activities requiring a license by a person not licensed to conduct such practice or activity.
- 5.5.7 The architect or professional engineer shall not deliberately make a materially false statement or fail deliberately to disclose accurately and completely a material fact requested in connection with their application for licensure or renewal or otherwise requested by the Board.
- 5.5.8 The architect or professional engineer shall not assist the application for licensure of a person known by the architect or professional engineer to be unqualified in respect to education, training, experience, or character.
- 5.5.9 If, in the course of their work on a project, an architect or professional engineer becomes aware of a decision or an action taken by the employer or client against the architect's or professional engineer's advice, which violates applicable laws and regulations and which will, in the architect's or professional engineer's judgment, have a material adverse effect on the safety to the public of the finished project, the architect or professional engineer shall advise the employer or the client of the violation and request reconsideration of the decision or action. In the event the employer or client does not reverse or alter the decision or action in order to bring it into conformity with applicable laws, the architect or professional engineer shall:
- 5.5.9.1 Report the decision or action to the local building inspector or other public official charged with the enforcement of the applicable laws and regulations;
- 5.5.9.2 Refuse to consent to the decision or action; and
- 5.5.9.3 In circumstances where the architect or professional engineer reasonably believes that other such decisions or actions will be taken notwithstanding their objection, terminate their services with reference to the project.

5.6 Use of Regulated Titles

- 5.6.1 Architects or professional engineers who are licensed in Nebraska may identify themselves as such.
- 5.6.2 Architects or professional engineers who are not licensed in Nebraska, but who hold a valid license in another jurisdiction recognized by the Board:
 - 5.6.2.1 May identify themselves as such on correspondence and other routine documents that do not contain an offer to provide professional services;
 - 5.6.2.2 May identify themselves as such on correspondence and other documents that offer to provide professional services in Nebraska, *if* such documents clearly indicate and disclose that the architect or professional engineer:
 - 5.6.2.2.1 Holds a valid and current license in another jurisdiction recognized by the Board;
 - 5.6.2.2.2 Does not hold a current and valid license from Nebraska;
 - 5.6.2.2.3 Would have to obtain a license in Nebraska in order to perform the services described in the offer; and
 - 5.6.2.2.4 Has a reasonable likelihood of being issued a license in Nebraska.
- 5.6.3 Individuals who do not hold a current and valid license in any jurisdiction shall not use the titles architect or professional engineer.

CHAPTER 6. THE LICENSEE SEAL

6.1 Use of the Seal

- 6.1.1 Each person licensed as an architect or professional engineer must have a seal that bears the licensee's name, their license number, the words "State of Nebraska," and whether the individual is licensed to practice as a professional engineer, with discipline specified, or an architect.
- 6.1.2 The purpose of the seal is to assist in identification of the design professional responsible for work performed under the requirements of the E&A Act.
- 6.1.3 The seal used by an architect or professional engineer shall be legible, whether an embossing, computer generated, or other type of seal. In the absence of legibility, the seal is invalid.
- 6.1.4 The responsible architect or professional engineer shall identify all work that they have prepared, as well as all work that has been prepared under their direct supervision, by applying their seal to each sheet of original drawings.
- 6.1.5 All specifications, reports, studies, and other documents prepared as architectural or professional engineering services shall be sealed on the title page and/or the first page, as well as the last page, of the document by the individual architect or professional engineer responsible for the work. Two or more architects or professional engineers may affix their signatures and seals to a sheet provided it is designated by a note under the seal the specific subject matter for which each is responsible.
- 6.1.6 No seal shall be valid unless signed across the face of the seal with the architect's or professional engineer's name and the date on which the material was signed.
- 6.1.7 Documents clearly marked as "Draft" prepared for preliminary submission and review do not require the professional's seal, signature, and date, including documents prepared for a client or governmental agency, unless otherwise required by that entity.
- 6.1.8 Architects and professional engineers are responsible for providing adequate security over their seal and signature wherever it appears, regardless of whether the seal and signature is produced electronically or by other means.
- 6.1.9 Record and as-built drawings.
- 6.1.9.1 Architects and professional engineers are not obligated to seal record or as-built drawings.
- 6.1.9.2 If an architect or professional engineer elects to seal record or as-built drawings, the seal may be applied only to the work over which the architect or professional engineer had direct supervision or which the architect or professional engineer personally observed during construction.
- 6.1.9.3 Architects and professional engineers shall not seal drawings that represent changes not actually observed during construction.
- 6.1.9.4 Architects and professional engineers may include notations on record or as-built drawings that indicate the work that they can actually confirm based on information obtained through observation, interview, samples, and other reliable sources, such as the following:
- These record drawings are a compilation of a copy of the sealed [engineering/architectural] drawings for this project, as modified by addenda, change orders, and information furnished by the contractor or others on the project. The information shown on the record drawings that was provided by the contractor or others not associated with the design [engineer/architect] cannot be verified for accuracy or completeness. The original sealed drawings are on file at the offices of [...].*
- 6.1.9.5 Alternatively, architects and professional engineers may seal and sign a cover letter stating what they have determined to be as-built through their own research and attach the letter to the drawings or plans.

- 6.1.9.6 Documentation of the work that was actually constructed is not the practice of architecture or engineering under the E&A Act.

6.2 Projects Based on Previously Sealed Project Documents

- 6.2.1 Design documents prepared for projects that are designed by architects and professional engineers licensed in jurisdictions other than Nebraska may be used for the construction of the project in Nebraska if reviewed, revised as appropriate, and sealed by an architect or professional engineer licensed in Nebraska under the following circumstances:
 - 6.2.1.1 The original architects and/or professional engineers provide written consent for the adaptation of the documents or, if such permission cannot reasonably be obtained, the architect or professional engineer seeking to adapt the documents provides a written explanation of the circumstances that prevent such permission from being obtained;
 - 6.2.1.2 The documents include appropriate revisions relating to site and local climate considerations;
 - 6.2.1.3 The documents are reviewed for zoning and code compliance, and revised as necessary;
 - 6.2.1.4 The architect or professional engineer in Nebraska accepts full responsibility of the revised documents; and
 - 6.2.1.5 The seal of a coordinating professional is applied, if required.

6.3 The Coordinating Professional

- 6.3.1 The Coordinating Professional is a licensed professional engineer or architect recognized as such by the project owner.
- 6.3.2 The Coordinating Professional's role is:
 - 6.3.2.1 To coordinate communication between the design professionals related to technical documents on the project;
 - 6.3.2.2 To act as project liaison with the governing building official; and
 - 6.3.2.3 To verify that all design disciplines involved in a project are working in coordination with one another, and that any changes made to the design are approved by the corresponding discipline, so that life, health, safety, and welfare are not compromised.
- 6.3.3 The Coordinating Professional's seal does not indicate responsible charge or direct supervision of the work.
- 6.3.4 The Coordinating Professional must use the following language in conjunction with their individual seal for identification as the Coordinating Professional: *"I, (name of licensee), am the Coordinating Professional on the (name of project) project."*

CHAPTER 7. ORGANIZATIONAL PRACTICE

7.1 Applications

Organizations practicing or offering to practice engineering or architecture in Nebraska shall apply to the Board for a Certificate of Authorization. The Board will review the organization's application and issue a Certificate of Authorization if the minimum requirements are satisfied. The certificate is for use only by the organization to indicate that it has satisfied the minimum requirements of the Board for a period of two years to practice or offer to practice the professions of engineering and/or architecture in the State of Nebraska. The certificate of authorization shall be used to file any applications with the Nebraska Secretary of State to fulfill the appropriate statutes or requirements for practicing in Nebraska as a corporation, partnership, limited liability company, professional corporation, or other such organizational designations appropriate under Nebraska law.

7.2 Minimum Organizational Requirements

- 7.2.1 The minimum requirement for an organization to practice engineering in Nebraska is to have one professional engineer for engineering practice for the duration of the certificate of authorization.
- 7.2.2 The minimum requirement for an organization to practice architecture in Nebraska is to have one architect for architectural practice for the duration of the certificate of authorization.
- 7.2.3 The minimum requirement for an organization to practice engineering and architecture in Nebraska is to have one professional engineer and one architect for engineering and architectural practice for the duration of the certificate of authorization.
- 7.2.4 The architect and/or professional engineer must be licensed to practice in the State of Nebraska and must regularly perform professional services for the organization.

7.3 Criteria for Issuing a Certificate of Authorization

- 7.3.1 For certification to practice the profession of engineering, the signature of one or more professional engineers licensed in the State of Nebraska must appear on the organization application.
- 7.3.2 For certification to practice the profession of architecture, the signature of one or more architects licensed in the State of Nebraska must appear on the organization application.
- 7.3.3 A licensed professional whose signature appears on the application may or may not have ownership interest in the organization.
- 7.3.4 The applicant must pay appropriate application fees.
- 7.3.5 An individual who has elected to take emeritus status is not eligible to sign an organization's application for a Certificate of Authorization.
- 7.3.6 Should any licensed professional who has signed the application leave the organization, die, or lose their signatory authority, the organization within 30 days must notify the Board and file an amendment to its application identifying the new licensed professional with signatory authority.
- 7.3.7 A temporary permit may be issued to a qualifying applicant practicing through an organization when the associated organization obtains a certificate of authorization.
 - 7.3.7.1 The temporary permit holder will be listed on the certificate of authorization as the architect or professional engineer in responsible charge of the organization.
- 7.3.8 Applications for temporary permits may be administratively approved by Board staff but are conditional until formally approved by the Board.

7.4 Design-Build

An organization may offer or provide engineering and/or architectural services combined with construction services under the following conditions:

- 7.4.1 An architect and/or professional engineer licensed to practice in Nebraska participates substantially in those aspects of the services which involve engineering and/or architectural services;

- 7.4.2 At the time the organization offers to perform such combined services, the organization shall deliver to the project owner a written statement identifying the architect and/or professional engineer who will perform the architectural &/or engineering services for the design-build project;
- 7.4.3 The architect and/or professional engineer engaged by such organization to perform the engineering and/or architectural services with respect to a design-build project shall have direct supervision of such work;
- 7.4.4 If an architect and/or professional engineer engaged by such organization to perform the architectural and/or engineering services on the project ceases to be involved in the project, the design-builder shall promptly notify the project owner of such departure and of the identification of the architect and/or professional engineer who will assume those responsibilities;
- 7.4.5 An organization offering design-build services, using its own employees who are licensed as architects or professional engineers in Nebraska, shall comply with the E&A Act by procuring a certificate of authorization to practice engineering and/or architecture; and
- 7.4.6 The performance of architectural and/or engineering services by such licensed architect and/or professional engineer shall conform to the E&A Act and E&ARules.

CHAPTER 8. ENFORCEMENT

8.1 Initial Review of Complaints and Compliance Issues

- 8.1.1 When a complaint is received by the Board in which a person or organization is alleged to have violated the Act, or if the Board becomes aware of a compliance issue that may constitute a violation of the Act, the Board may refer the complaint or compliance issue to a committee or an investigator, or may consider the complaint or compliance issue without such referral.
- 8.1.2 If applicable, the committee or investigator shall make a recommendation as to:
- 8.1.2.1 Whether the matter should be dismissed for lack of probable cause; or
 - 8.1.2.2 Whether there is probable cause that a violation of the Act has occurred; or
 - 8.1.2.3 Whether further investigation is required in order to determine whether there is probable cause.
- 8.1.3 Upon receipt of a recommendation or upon consideration by the entire Board, the Board will determine whether there is probable cause and, if so, whether informal or formal process should be undertaken to resolve the matter. If the Board finds there is no probable cause, the complaint shall be dismissed.
- 8.1.3.1 The Board may make a determination on probable cause with or without having requested a response from the respondent.
- 8.1.4 A complaint or compliance issue against any person or organization may be brought in the name of the Board.

8.2 Informal Process

The Board may utilize an informal process as described below in lieu of, or as a prerequisite for, entering into a formal legal process.

- 8.2.1 The respondent shall be entitled to copies of the complaint and all information upon which the probable cause determination was made.
- 8.2.2 The Board and the respondent may reach an agreement as to the terms of the resolution of the matter without the respondent's appearance before the Board.
- 8.2.3 If an agreement is not reached without the appearance of the respondent, the respondent will be requested in writing to appear before the Board for an informal discussion of the matter.
- 8.2.3.1 The Board may, but need not, request any other party involved in the complaint to appear along with the respondent. Such appearance is voluntary and cannot be compelled.
 - 8.2.3.2 Copies of the documents referred to in Rule 8.2.1 shall be provided to the respondent no later than the time the request to appear is made.
- 8.2.4 At the scheduled meeting with the Board, the Board shall clearly state to the party or parties that the meeting is informal and that no individuals or organizations will be giving up their rights to due process by participating in the informal process.
- 8.2.5 The Board may request that a party or parties bring materials, documents, or exhibits to facilitate the informal discussion with the Board.
- 8.2.6 The matter will be resolved if the Board and the respondent can reach terms of mutual agreement on the issues, and a consent agreement or other such document is executed on those terms. Acceptable terms may include, but are not limited to, a requirement for additional professional education, limitations on practice, civil penalties, and assessment of fees and/or costs.
- 8.2.7 The Board may separate issues within a complaint into those that can be resolved with an informal process from those that must be resolved under a formal process.
- 8.2.8 The respondent's participation in the informal process is voluntary, not mandatory.

8.3 Formal Process

- 8.3.1 The procedure for hearings in matters not resolved by informal process shall be in accordance with Title 53, Nebraska Administrative Code, Chapter 4 of the Nebraska Department of Justice.
 - 8.3.1.1 The formal process shall be initiated by the filing of a petition in accordance with the Nebraska Administrative Code. The Board's receipt of a complaint shall not constitute the initiation of a formal process.
- 8.3.2 Any person aggrieved by a final decision in a formal process is entitled to judicial review under the Administrative Procedures Act, or resort to such other means of review as may be provided by law.

8.4 Remediation

- 8.4.1 Projects with inadequately sealed documents or work performed by an unlicensed individual may be remediated under the following circumstances:
 - 8.4.1.1 Pursuant to a complaint alleging the unlicensed practice of engineering or architecture, the Board may, at its discretion, allow work not in compliance with the E&A Act or the E&A Rules to be remediated by the following method:
 - 8.4.1.1.1 A licensed architect or professional engineer, as appropriate, must submit a letter to the Board bearing the architect's or professional engineer's seal, explaining their relationship to the project, and identifying deficiencies, if any, found in the improperly sealed documents, including the need for involvement of other design disciplines; and
 - 8.4.1.1.2 If the project is under construction, the remediation architect or professional engineer must identify immediate concerns of public safety and, when required, notify the appropriate authority to halt construction; and
 - 8.4.1.1.3 If deficiencies are identified, the remediation architect or professional engineer must recommend design solutions to correct those deficiencies; and
 - 8.4.1.1.4 The letter will become a permanent part of the existing contract documents; and
 - 8.4.1.1.5 Revisions made to the deficient documents by the remediation architect or professional engineer must be attributed accordingly; and
 - 8.4.1.1.6 The remediation architect or professional engineer must assume responsibility for the design, and a coordinating professional must be designated if required; and
 - 8.4.1.1.7 New documents, prepared by the licensed professionals involved must be sealed, signed, and dated; and
 - 8.4.1.1.8 The remediation architect or professional engineer shall not seal any of the unsealed or improperly sealed documents with respect to the project.
 - 8.4.1.2 The Board may take steps to issue a cease and desist order or any other remedy available to the Board under the law if, for any reason, no solutions are proposed to correct the deficiencies or the recommended solutions are not implemented.

8.5 Failure to Comply with Board Orders

- 8.5.1 If any person refuses to obey any decision or order of the Board, enforcement proceedings may be commenced in the appropriate district court in accordance with Neb. Rev. Stat. § 81- 3440.

CHAPTER 9. CONTINUING EDUCATION

9.1 Introduction

- 9.1.1 Every architect and professional engineer must meet the Continuing Education requirements of these regulations as a condition for license renewal.

9.2 Definitions Regarding Continuing Education

- 9.2.1 Architects must complete 24 actual hours of architectural-related learning every biennial period to satisfy the ACE requirement; of those, at least 16 are to address the safeguarding of life, health, and property.
- 9.2.2 Professional Engineers must complete 30 actual hours of engineering-related learning every biennial period to satisfy the ECE requirement.
- 9.2.3 Web-based offerings other than those provided by
- (1) International Association for Continuing Educational Training (IACET) approved providers,
 - (2) institutions of higher education that have an accredited program in architecture or engineering,
 - (3) professional engineering or architectural societies,
 - (4) technical societies and associations recognized at a national level, or
 - (5) governmental agencies
- may constitute no more than one-fourth of the biennial education requirement that is six ACE hours or seven and one-half ECE hours.
- 9.2.4 At least one PDH hour of the biennial ACE and ECE requirements must be directly related to ethical issues of professional practice.
- 9.2.5 An individual who is both an architect and professional engineer may use ethics related hours and any other hours to satisfy both the ACE and ECE requirements if the subject directly relates to both professional practices.

9.3 Continuing Education Units and Carry-over

- 9.3.1 One Professional Development Hour (PDH) is equivalent to at least 50 minutes of instruction.
- 9.3.2 One semester credit hour of formal education is equivalent to 45 PDHs.
- 9.3.3 One quarter credit hour of formal education is equivalent to 30 PDHs.
- 9.3.4 Architects and professional engineers may carry up to one-half of the required continuing education credits from the previous biennial period. Excess credits can be carried over only into the biennial period immediately following the period in which the credit was earned.

9.4 Determination of Credit

- 9.4.1 The Board has final authority with respect to approval of courses, credit, unit value for courses, and other methods of earning ACE and ECE credit. No pre-approval of offerings will be issued.
- 9.4.2 Certified satisfaction of mandatory continuing education requirements in any jurisdiction recognized by the Board, for the exact renewal period in question in Nebraska, will satisfy the Nebraska requirement.

9.5 Recordkeeping

- 9.5.1 Every architect and professional engineer is responsible for maintaining records necessary to support credits claimed for continuing education. Records required include, but are not limited to:
 - 9.5.1.1 A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and unit credits earned; or
 - 9.5.1.2 Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or
 - 9.5.1.3 Records relating to continuing education that are maintained by NCEES, NCARB, or other organizations may be accepted by the Board as evidence of completion of the ACE or ECE requirements.

9.6 Exemptions and Waiver

- 9.6.1 Architects and professional engineers may be exempt from the continuing education requirements for one of the following reasons:
 - 9.6.1.1 Architects and professional engineers licensed by examination or comity shall be exempt for their initial renewal period.
 - 9.6.1.2 Architects and professional engineers serving on temporary full-time active duty in the armed forces of the United States or any state for a period of time exceeding 120 consecutive days in a year shall be exempt from obtaining the continuing education hours required during that year.
 - 9.6.1.3 Architects and professional engineers experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board may be exempt. Supporting documentation must be furnished to the Board.
 - 9.6.1.4 Architects and professional engineers who have elected emeritus status are exempt from the continuing education requirement. In the event such a person elects to have their license to practice reinstated, continuing education hours must be earned for each year of emeritus status before the license will be reinstated, but not to exceed 24 hours for architects or 30 hours for professional engineers. Such credits must be earned in accordance with the restrictions related to ACE or ECE requirements.
- 9.6.2 The Board may, at its discretion, waive the continuing education requirement for any architect or professional engineer.

9.7 Audits

- 9.7.1 The Board will establish a number of architects and professional engineers, to be selected at random, to submit substantiating information to support their continuing education claim.
- 9.7.2 Board staff is authorized to approve continuing education audit submittals for license renewals. Submittals that raise significant questions of acceptability will be forwarded to an individual Board member for final determination.
- 9.7.3 If the Board disallows any of the ACE or ECE hours claimed, the applicant for licensure renewal or reinstatement shall have 120 days after notification to substantiate the original claim or to earn other credit to meet the minimum requirements.

CHAPTER 10. EXEMPTIONS; CLARIFICATION

10.1 Introduction

Any citation to the state building code shall mean the most recent edition of the state building code as adopted in Neb. Rev. Stat. § 71-6403.

10.2 Definitions; Neb. Rev. Stat. §§ 81-3449 (1) & 81-3453 (1)

The following definitions may be used as an adjunct to that reference:

- 10.2.1 Above-grade Finished Space: For single-family through 4-dwelling units; this includes all enclosed, potentially-habitable area on any level, up to a maximum of three levels.
- 10.2.2 Detached sheds or storage buildings and attached or detached garages, up to a maximum of three stalls, are exempted from the area calculations for Residential occupancies.
- 10.2.3 Occupancy Classification relates to the type of occupancy intended for the built area and shall be as defined in the state building code.
- 10.2.4 Building area shall be as defined in the state building code.

10.3 Statutory Exemptions to the Engineers and Architects Regulation Act

Notwithstanding other provisions of the E&A Act, persons who are not licensed architects or professional engineers may perform planning and design services in connection with any building, structure, or work as indicated below:

	OCCUPANCY CLASSIFICATION	MAXIMUM BUILDING AREA
10.3.1	A - Assembly	Less than 1,000 square feet
10.3.2	B - Business	Less than 3,000 square feet
10.3.3	E - Educational	Less than 1,000 square feet
10.3.4	F - Factory	Less than 5,000 square feet
10.3.5	H - Hazardous	
	H-1, H-2, H-3, H-4	Less than 2,000 square feet
	H-5	Less than 4,000 square feet
10.3.6	I - Institutional	
	I-1 Personal care	Less than 3,000 square feet
	I-2 Healthcare	Less than 5,000 square feet
	I-1 Detention	Less than 3,000 square feet
	I-4 Day care	Less than 2,000 square feet
10.3.7	M - Mercantile	Less than 3,000 square feet
10.3.8	R - Residential	
	R-1, R-2, R-4	Less than 4,000 square feet
	R-3 single family	Less than 10,000 square feet
10.3.9	S - Storage	Less than 5,000 square feet
10.3.10	U - Utility	Less than 5,000 square feet
10.3.11	Any structure which contains two or more occupancies shall be governed by the most restrictive occupancy for the purpose of utilizing Rule 10.3.	

10.4 Renovations and One-Level Additions

- 10.4.1 Renovations and one-level additions to an existing building, structure, or work shall be exempt from the E&A Act if:
 - 10.4.1.1 The total impacted area is less than the area set by Section 10.3 of this Chapter; and
 - 10.4.1.2 The area of renovation or addition does not adversely impact the mechanical system; the electrical system; the structural integrity; the means of egress; and does not change or come into conflict with the occupancy classification of the existing or adjacent tenant space, building, structure or work.

10.5 The Practice of Engineering and Architecture

- 10.5.1 The development and utilization of construction means and methods such as schedules, work plans, work orders and directions, procedures, construction calculations, selection, provision and use of temporary facilities in support of construction activities, reports, selection and use of safety procedures and facilities, instructions and similar items customarily used by contractors to implement construction work designed by licensed persons does not constitute the practice of engineering or architecture.
- 10.5.2 The preparation by employees of construction companies of ancillary drawings and data, such as field details, shop drawings, product data, conceptual drawings, calculations, diagrammatic instructions and similar documents and information, which are typically utilized to implement the construction of a facility designed by a licensed person does not constitute the practice of engineering or architecture.
- 10.5.3 The performance of field layout and installation work by employees of construction companies on projects designed by a licensed person or persons, including construction work such as field staking and measurement; installation of material or equipment at designed locations or locations selected in the field; field fitup and modification work; and layout of construction installation and support work does not constitute the practice of engineering or architecture.
- 10.5.4 The estimate of the cost of construction work (including the extent of the cost of changes in the work) by construction companies including such things as preparing and reviewing preliminary concepts of the project, identifying the scope of the construction work, preparing preliminary schedules and sequences for the construction work, and evaluating the estimates of subcontractors and suppliers, does not constitute the practice of engineering or architecture.
- 10.5.5 The performance of work customarily involved in project management of construction work on projects designed by licensed persons does not constitute the practice of engineering or architecture. Examples would be:
 - 10.5.5.1 The evaluation of the project and its budget;
 - 10.5.5.2 Services relating to financing the project;
 - 10.5.5.3 Recommendations on construction feasibility, timing of design and construction, and factors relating to construction costs such as alternative designs prepared by a licensed professional;
 - 10.5.5.4 Procurement of labor and materials;
 - 10.5.5.5 Coordination and evaluation of subcontractor performance;
 - 10.5.5.6 Preparation of schedules;
 - 10.5.5.7 Estimating the project costs;
 - 10.5.5.8 Performing construction work; and
 - 10.5.5.9 Reporting on the progress and costs of the work.

10.5.6 Preliminary and Final Plats

Preparation of a preliminary plat is not restricted, but the final plat must be prepared and certified by a registered Land Surveyor. If, however, the final plat contains streets (other than rights-of-way), sewers, water lines, or other engineering works, it needs to be prepared and certified by both a registered Land Surveyor and a professional engineer. Mathematical details of the final plat are the responsibility of the registered Land Surveyor. Physical details, such as grading, public works, or construction are the responsibility of the professional engineer and may not be certified by the registered Land Surveyor.

10.5.7 Livestock Waste Permits; Neb. Rev. Stat. §§ 81-3449(13) & 81-3453(12)

Under the E&A Act, the seal of an architect or professional engineer will be required for work related to livestock waste facilities only when the work falls within the definition of practice of architecture (Neb. Rev. Stat. § 81-3420) or practice of engineering (Neb. Rev. Stat. § 81-3421).

10.5.8 Water Based Fire Protection Systems; Neb. Rev. Stat. §§ 81-3449 (11) & 81-3453 (7)

Nothing in the E&A Act shall prevent a certified water-based fire protection system contractor with a responsible managing employee from engaging in the business of installation, repair, alteration, addition, maintenance, or inspection of water-based fire protection systems, or system layout recognized by the State Fire Marshal, in accordance with Neb. Rev. Stat. §§ 81-5,158 to 81-5,164.

10.5.9 Participation in a Design Competition

Conceptual design services, as provided in a design competition, are a part of the practice of architecture and engineering. Those services are also an offer to practice; therefore, design professionals participating in a Design Competition in Nebraska must be licensed to practice their profession in Nebraska, or procure a temporary permit.

10.5.10 Spill Prevention Containment and Countermeasures

Preparation of Spill Prevention Containment and Countermeasure (SPCC) plans for a project located in Nebraska that requires the seal of a professional engineer, constitutes the practice of engineering and must be prepared by a professional engineer licensed by the Board.

10.6 Building Officials

Notwithstanding these exemptions, the responsible building official may require plans and specifications to be designed and prepared by an architect and/or professional engineer if the official finds a hazard to life, health, safety, or welfare due to the unusual circumstances of the building or structure or an unusually large number of potential occupants in relation to square footage for a particular occupancy.

10.7 Emergency Services

A person who is not currently licensed in this state, but who is currently licensed in another jurisdiction in the United States, may provide uncompensated (other than reimbursement of expenses) professional services at the scene of a declared emergency at the request of a public officer acting in an official capacity.

CHAPTER 11. PROMULGATION, AMENDMENT, OR REPEAL OF RULES

11.1 Petitioning For Rulemaking

- 11.1.1 Petitioning for rulemaking shall be in accordance with Title 53, Nebraska Administrative Code, Chapter 2 of the Nebraska Department of Justice.

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