

*** Proof of Publication ***

NOTICE OF RULEMAKING HEARING STATE OF NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

NOTICE is hereby given that the Board of Engineers and Architects will hold a rulemaking hearing on the 11th day of December 2020, commencing at 8:30 a.m., to be held at the Lincoln Community Foundation Building, 215 Centennial Mall South, 5th Floor, large conference room.

The PURPOSE of the hearing is to take testimony and evidence about adoption, amendments, and additions to Title 110, Chapters 1, 2, 3, 4, and 10. This action is proposed to implement Neb. Rev. Stat. §§ 81-3401 to 81-3455, consistent with the authority granted by the law and with constitutionality. The subject matter and scope of rulemaking action are as follows:

The Board of Engineers and Architects is implementing changes to its regulations primarily to implement the passage of LB755, which becomes effective November 14, 2020. The main topics to be considered through these proposals include, but are not limited to, the following:

Allowing candidates for a professional engineer license to take the Principles and Practice of Engineering Exam before gaining four years of experience;

Removing provisions that architect license candidates must take the professional architectural examinations after graduation from an architectural program accredited by the National Architectural Accreditation Board;

Allowing architect candidates the ability to take professional architectural examinations without Board approval; and

Recognizing a degree from a program accredited by the Canadian engineering and architecture accreditation boards satisfies the education requirements for licensure in Nebraska;

Clarifies provisions relating to temporary permits; and

Clarifies provisions that describe when projects are exempt from the Act.

This hearing is being conducted under the provisions of Neb. Rev. Stat. § 84-907 which provides that DRAFT COPIES OF THE PROPOSED RULES ARE AVAILABLE for public examination at the Board of Engineers and Architects and at the Office of the Secretary of State, State Capitol, Lincoln, NE 68508. The draft copy of the proposed rules and a hearing draft are also available on the Board of Engineers and Architects website at ea.nebraska.gov.

There is expected to be no fiscal impact from amending these regulations on political subdivisions and the Board of Engineers and Architects. There is expected to be increased costs to the regulated public and license applicants, as determined to implement LB755.

ALL INTERESTED PERSONS are invited to ATTEND and TESTIFY orally or by written submission at the hearing. Interested persons may also submit written comments prior to the hearing, which will be made part of the record at the time of hearing if received by the Board of Engineers and Architects by end of business day December 11, 2020. If auxiliary aids or reasonable accommodations are needed to participate at the hearing, please call (402) 471-2021 no later than ten days before the hearing. TDD users please call (800) 833-7352 and ask the relay operator to call us at (402) 471-2021.

DATED at Lincoln, Nebraska, this 31st day of October 2020.
Jon Wilbeck, Executive Director
946170 11 Oct 31

FISCAL IMPACT STATEMENT

Agency: Board of Engineers and Architects	
Title: 110	Prepared by: Jon Wilbeck, Executive Director
Chapter: 1-4, 10	Date prepared: October 27, 2020
Subject: Adoption of Revised Rules and Regulations	Telephone: 402-471-3060

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	()
Increased Costs	()	()	(X)
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Political Subdivision: No fiscal impact.

Regulated Public: There will be increased costs for architect and professional engineer candidates seeking their first license.

Before LB755, there was no application fee for ARE Examination candidates seeking Board approval to take this exam. With the passage of LB755, the application requirement is removed to sit for this exam; however, the Board has set the fee for initial architect license applications at \$100, as it still must evaluate the qualifications of architect license applicants to determine if they meet the standards of licensure as set forth in N.R.S. §81-3448.

Also, currently there is a \$30 fee associated with the PE Exam application, and applicants were not eligible to take the exam unless they had gained 4 years engineering experience. With the passage of LB755, PE Exam applicants will still apply to take the PE exam, but will not need to gain 4 years' experience until they apply for licensure. The Board has set the license application fee for initial professional engineer candidates at \$100, and the PE Exam application fee will be \$0.

State Agency: There will be indeterminable costs to the Board of Engineers and Architects, due to increased revenues related to the license application fees described above, but also increased costs due to the changes made by LB755 to N.R.S. §81-3429. To be clear, rules changes are neither needed nor proposed to implement LB755's changes to Section 81-3429. It is the Board's position that these two changes will result in no significant fiscal impact to the agency.

Last Effective Date: April 27, 2019

**RULES AND REGULATIONS
TITLE 110, NEBRASKA ADMINISTRATIVE CODE
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CHAPTER 1. GENERAL PROVISIONS

1.1 Definitions

- 1.1.1 **ARE:** ~~The acronym~~ “ARE” means the Architects Registration Examination, as developed by NCARB.
- 1.1.2 **AXP:** ~~The acronym~~ “AXP” means the Architectural Experience Program of NCARB, or its equivalent as determined by NCARB.
- 1.1.3 **CACB:** “CACB” means the Canadian Architectural Certification Board.
- 1.1.4 **CEAB:** “CEAB” means the Canadian Engineering Accreditation Board.
- 1.1.5 **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.~~
- 1.1.46 **ETAC/ABET:** “ETAC/ABET” means the Engineering Technology Accreditation Commission of ABET Inc.
- 1.1.7 **FE Examination:** “FE Examination” means the Fundamentals of Engineering Examination, as developed by NCEES.
- 1.1.58 **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.
- 1.1.69 **NCARB:** ~~The acronym~~ “NCARB” means the National Council of Architectural Registration Boards.
- 1.1.710 **NCEES:** ~~The acronym~~ “NCEES” means the National Council of Examiners for Engineering and Surveying.
- 1.1.811 **PE Examination:** “PE Examination” means the Principles and Practice of Engineering Examination, as developed by NCEES.
- 1.1.912 **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.~~
- 1.1.4013 **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.
- 1.1.4414 **MLE:** “MLE” means an individual who holds an NCEES Record that has been designated as a Model Law Engineer or Model Law Structural Engineer ~~record~~ by NCEES.
- 1.1.4215 **MLSE:** “MLSE” means an individual who holds an NCEES Record that has been designated as a Model Law Structural Engineer by NCEES.

1.1.1316 **NCARB Certificate Holder:** “NCARB Certificate Holder” means an individual who holds a Certificate issued by NCARB indicating the NCARB Certification requirements have been met.

1.1.4417 **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 will 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 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 will 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.

1.6.1 Procedures governing negotiated rulemaking will be in accordance with Title 53, Nebraska Administrative Code, Chapter 1.

1.6.2 Procedures governing petitioning for rulemaking will be in accordance with Title 53, Nebraska Administrative Code, Chapter 2.

1.6.3 Procedures governing Declaratory Rulings will be in accordance with Title 53, Nebraska Administrative Code, Chapter 3.

1.7 Federal Requirements

Nothing in the Act implies 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 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.

1.9 Board Member Conflicts of Interest

- 1.9.1 Board members cannot 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.
- 1.9.2 Board members cannot use or attempt to use their official position to secure unwarranted privileges or exemptions for themselves or others.
- 1.9.3 Board members cannot 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.
- 1.9.4 Board members cannot 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.

1.10 Conditional License

- 1.10.1 The Board may authorize Board staff to issue licenses on a conditional basis, pending formal approval of the license application by the Board.
- 1.10.2 A conditional license may be withdrawn by the Board if it determines the applicant does not qualify for any reason.
- 1.10.3 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.
- 1.10.4 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.

1.11 Expired License Status

1.11.1 License Expiration Date

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

1.11.2 Renewing Expired Licenses

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

1.11.3 Reinstatement of a License

- 1.11.3.1 An expired license may be reinstated to active status, pending approval of the Board, upon submission of the following:
 - 1.11.3.1.1 A new application;
 - 1.11.3.1.2 Payment of fees and penalties, if applicable;
 - 1.11.3.1.3 Documentation establishing that the applicant has complied with the continuing education requirements set forth in these rules for the two-year period immediately preceding the date the reinstatement application was received by the Board; and
 - 1.11.3.1.4 An affidavit attesting that the applicant has not practiced engineering and/or architecture in Nebraska during the time the license was expired; or
 - 1.11.3.1.5 If such attestation cannot be made, an explanation acceptable to the Board of the applicant's practice during the expiration period.
- 1.11.3.2 Applicants seeking reinstatement must meet current requirements for licensure by examination or comity.
- 1.11.3.3 The original license number will be retained.

1.11.4 Emeritus Status

- 1.11.4.1 Professional engineers and architects whose licenses are subject to renewal but who are not engaged in their professional practice may elect emeritus status.
- 1.11.4.2 Architects and professional engineers who have elected emeritus status may use the titles Architect Emeritus or Professional Engineer Emeritus, respectively, but are prohibited from practicing.
- 1.11.4.3 Architects and professional engineers who have elected emeritus status will receive Board publications.

- 1.11.4.4 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.

1.12 Enrollment as an Engineer Intern (EI)

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

1.13 License Fees

- 1.13.1 The fee schedule and methods of payment will be set by the Board.
- 1.13.2 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.

1.14 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.

1.15 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.

1.16 Photographs and Transcripts

Photographs are not required for identification on applications received by the Board. Transcripts or other documents provided by NCEES, NCARB, or 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.

1.17 Emeritus Board Members

- 1.17.1 Upon retiring from service with the Board, former board members are conferred as Emeritus board members.
- 1.17.2 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.

1.18 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.

1.19 Applications

- 1.19.1 Absent specific Board action, all documents and information requested by the Board in connection with any application must be provided by the applicant within one year. Applications that are incomplete after one year are invalid, and a new application and fee will be required.
- 1.19.2 Replies received from references regarding the qualifications of an applicant will be considered non-public records. The source and character of the information will not be divulged except when required by law.
- 1.19.3 An applicant's prior criminal or disciplinary history from any jurisdiction may be considered by the Board as part of the application process for initial licensure, comity licensure, or examination. The existence of such history is not an automatic bar to being licensed or to be allowed to take examinations, nor is disclosure intended to automatically require consideration of discipline by the Board.
- 1.19.4 The review and evaluation of disclosure statements provided by applicants during the licensing or examination application process may be performed by the Executive Director with the assistance of Board staff. However, the Board must review disclosures which an applicant has not previously disclosed and which indicate: 1) felony convictions; 2) probation, suspension, or revocation of an architect or professional engineer license in another jurisdiction; 3) repetitive or multiple violations; or 4) evidence of unfitness to practice the profession.

CHAPTER 2. INITIAL LICENSURE OF PROFESSIONAL ENGINEERS ~~BY EXAMINATION~~

2.1 Requirements ~~for Licensure by Examination~~

~~Licensure~~ Initial licensure as a professional engineer 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~~ Satisfied the examination requirement ~~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.~~

~~2.2.21~~ Candidates for initial ~~the Principles and Practice of Engineering Examination (PE)~~ licensure are required to either hold a degree from an EAC/ABET-accredited engineering degree program, a degree from a CEAB-accredited engineering program, or meet the NCEES Education Standard.

~~2.2.32~~ A program is considered to be ~~EAC/ABET~~ ABET- or CEAB-accredited under these rules ~~if accreditation is granted for the program no later than two years after issuance of the applicant's degree~~ in accordance with the accrediting entity's policies and procedures.

~~2.2.43~~ A degree from a program accredited by ETAC/ABET ~~in Engineering Technology~~ does not meet the education requirements.

~~2.2.54~~ Those holding degrees from programs not ~~EAC/ABET-~~ or ~~CEAB-~~accredited must establish that their education meets the NCEES Education Standard by evaluation through the NCEES Credentials Evaluation program.

~~2.2.54.1~~ Deficiencies defined by the evaluation service may be corrected by taking coursework related to the deficiency in a post-secondary institution offering acceptable ~~EAC/ABET-~~accredited engineering programs or in programs otherwise acceptable to the Board.

- 2.2.54.2 Coursework from post-secondary education institutions that are not ~~EAC/ABET~~ accredited will be acceptable if the coursework is approved by an ~~EAC/ABET~~ post-secondary institution offering acceptable accredited engineering programs ~~accredited institution~~ to be “transferable.” A ~~letter~~ Verification from the ~~EAC/ABET accredited~~ institution may be required for substantiation.
- 2.2.54.3 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.
- 2.2.54.4 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.
- 2.2.54.5 Once the deficiencies are removed, the Board will consider the education as satisfying the Board’s education requirement.
- 2.2.54.6 The Board may defer action on deficient applications until these education requirements have been met.

2.3 Experience Requirements

- 2.3.1 Candidates for ~~the Principles and Practice of Engineering Examination (PE)~~ initial licensure shall have ~~not a minimum of 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 a degree from an EAC/ABET accredited program, irrespective of the combination of work experience and education credit that may be available for an advanced degree.~~
 - ~~2.3.3.1 Candidates who do not have a degree from an EAC/ABET accredited program, but who have met the NCEES Education Standard, may not sit for the PE Examination or the SE Examination until at least four calendar years after completion of their baccalaureate degree, irrespective of the combination of work experience and education credit that may be available for an advanced degree.~~

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- 2.3.43 Successful completion of graduate study leading to an advanced degree in engineering may satisfy part of the experience requirement. ~~–A candidate may not satisfy the experience requirement until at least forty-eight (48) months have elapsed after completion of their first engineering degree, irrespective of the combination of work experience and education credit that may be available for an advanced degree. Associate degrees are not considered when determining a candidate’s first degree.~~
- 2.3.43.1 ~~A Masters Degree in engineering may be used for credit for one year of experience if it is preceded by a degree from an EAC/ABET accredited baccalaureate program.~~ Candidates who complete three years of acceptable work experience after confirmation of a degree from an EAC/ABET- or CEAB-accredited bachelor program and holds a master’s degree in engineering satisfy the experience requirement.
- 2.3.43.2 ~~A Doctorate Degree in engineering may be used for two years of experience if it is preceded by a degree from an EAC/ABET accredited program; in the case of a Doctorate Degree, no additional experience will be credited for a Masters Degree.~~ Candidates who complete three years of acceptable work experience after confirmation of a degree from an EAC/ABET- or CEAB-accredited masters program satisfy the experience requirement.
- 2.3.43.3 Candidates who complete two years of acceptable work experience, has a degree from an EAC/ABET- or CEAB-accredited bachelor or master’s program, and has an earned doctoral degree in engineering satisfy the experience requirement.
- 2.3.4 Candidates who do not have a degree from an EAC/ABET- or CEAB-accredited bachelor or master’s program, but who have met the NCEES Education Standard, may not satisfy the experience requirement until at least forty-eight (48) months after completion of their first degree. Associate degrees are not considered when determining a candidate’s first degree.
- 2.3.5 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.
- 2.3.6 The Board will consider engineering experience performed outside the United States if the Board determines that such experience ~~is~~ was 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 engineering standards for engineering~~ in the United States. ~~–All materials necessary to~~ make such determination must be provided by and at the expense of the applicant.
- 2.3.7 Experience must indicate that, over the course of time, the applicant’s work has been of increasing quality and has required greater responsibility.
- 2.3.8 Only work of an engineering nature which follows graduation from a professional engineering program may be used to satisfy the experience requirement.

- 2.3.9 Experience must not be obtained in violation of the E&A Act.
- 2.3.10 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.
- 2.3.11 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 at a post-secondary education institution college or university~~ offering an engineering curriculum of four years or more. "Advanced level" means select courses at the junior (300) level as approved by the Board, and all courses senior (400) level and above.
- 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 if acceptable to the Board.
- 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 for licensure.

2.4 Examination ~~for Licensure as Professional Engineers~~ Requirements

- 2.4.1 ~~Candidates for initial licensure must pass the~~ The Examinations used by the Board to determine eligibility for licensure are the current NCEES ~~NCEES Fundamentals of Engineering Examination (FE Examination), the NCEES Principles and Practice of Engineering PE 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 and, PE, and SE 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 four times.
 - 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.

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- 2.4.1.5 Passage of the FE ~~Examination, or~~ PE Examinations, ~~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 any PE Examination or unacceptable result of any Structural PE Examination component, the candidate must present the Board with evidence of having acquired additional relevant formal instruction before being reexamined. If approved by the Board, such candidates will be eligible for an additional PE Examination or Structural PE Examination component attempt. 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 a post-secondary educational institution that offers EAC/ABET-accredited engineering programs. —Online coursework is acceptable. —Examination preparatory classes, continuing education offerings, class auditing, and individual study do not satisfy the formal learning requirement.
- 2.4.1.7.1 Receiving an unacceptable result on either component of the Structural PE 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.~~98~~109 Failure of an applicant to attend an examination for which he or she has been scheduled to attend is not considered a failure of the examination or a retake under Rule 2.4.1.7.
- 2.4.1.~~109~~ ~~Only active United States military personnel will be allowed to have the PE Examination or the SE Examination proctored; any p~~Proctoring of the FE or PE Examinations will be done in accordance with NCEES rules and 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)~~

2.4.43.43 The Structural PE Examination consists of two components: the Vertical Forces (gravity/other) and Incidental Lateral component, and the Lateral Forces (wind/earthquake) component.

2.4.43.43.1 A candidate may sit for each component in separate exam administrations but must receive acceptable results on both components within a five-year period.

2.4.43.43.2 Receiving acceptable results on only one component is not sufficient for licensure in structural engineering or any other engineering discipline.

2.4.43.43.3 Applicants who have passed both components of the Structural PE Examination, or its equivalent as defined by NCEES, are 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 are eligible for reexamination every thirty days.~~

~~2.5—Application for PE Examination or SE Examination~~

~~2.45.41 To be eligible to sit for the PE Examination or the SE Examination, an applicant must:~~

~~2.45.41.1 Submit an application on or before the filing deadline established by the Board;~~

~~2.445.4.1.1 Applicants must submit a separate application for each discipline in which examination is requested.~~

~~2.45.41.2 Submit five references indicating good reputation and ethical character, three of which are from professional engineers;~~

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~~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;

~~2.45.4.43~~ 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.

~~2.45.4.42~~ All applications for the PE Examination ~~or SE Examination will~~ may be reviewed by the Board.

2.4.5 The Nebraska E&A Act Examination

2.4.5.1 Before license issuance, an applicant must pass an examination, prepared and administered by the Board, to test an applicant's familiarity with the Nebraska E&A Act, E&A Rules and the ethics of practicing engineering.

2.4.5.2 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 are eligible for reexamination every thirty days.

~~2.5.3 Licensure as a Professional Engineer following Examination~~

2.5 Application for Licensure

2.5.1 To be eligible for licensure as a professional engineer, an applicant must:

2.5.1.1 Submit a completed application to the Board, accompanied by the filing fee established by the Board;

2.5.1.2 Provide satisfactory evidence of meeting the licensure standards as set forth in the Act and these rules;

2.5.1.3 Submit five references indicating good reputation and ethical character, three of which are from professional engineers. 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.

2.5.2 Applications for professional engineering licensure may be reviewed by the Board.

2.6 Certificates

~~2.6.1~~ ~~2.5.3.1~~—When the Board has determined that an applicant for licensure ~~by examination~~ has satisfied the licensure requirements set forth herein, ~~—~~ a certificate of licensure will be issued containing the licensed applicant's full name, license number, and designated discipline of practice.

~~2.6.5.3.2~~ ~~Licensure-Discipline of practice will be in~~ is the discipline of the PE Examination upon which the license is issued.

~~2.5.3.3~~—~~Certificates of Licensure issued to Professional Engineers will be inscribed with the discipline in which the individual is licensed to practice.~~

~~2.5.26.32.1~~ Those licensed in multiple disciplines will be issued separate certificates for each discipline.

~~2.6.5.3.4.3~~ ~~Professional Architectural Engineer~~

~~2.5.3.4.1~~ Professional Engineers licensed on the basis of ~~Architectural~~ architectural Engineering engineering education, experience, and examination will be designated Professional Architectural Engineers.

~~2.5.3.4.2~~ Professional Architectural Engineers are considered ~~qualified~~ competent to design engineering systems commonly associated with buildings. -They may not practice or offer to practice architecture.

~~2.6.5.3.5.4~~ ~~Professional Structural Engineer (S.E.)~~

~~2.5.3.5.1~~ Professional Engineers who are licensed on the basis of structural engineering, experience and examination will be designated Professional Structural Engineers and may use the designation S.E. with their name.

2.6 Certificates

~~2.6.1~~ ~~When the Board has determined that an applicant for licensure by examination has satisfied the licensure requirements set forth herein, the Board will issue a certificate of licensure containing the professional engineer's full name and license number.~~

~~2.7~~ **Reimbursement of Educational Debt**

~~2.7.7.1~~ With respect to Neb. Rev. Stat. §81-3432.01, each eligible individual who passes the FE Examination on their first attempt no later than ~~9~~ nine months after graduation ~~is eligible to~~ may be reimbursed \$50.00 by the Board of Engineers and Architects. Individuals who retake the exam because of a no-show or failure are not eligible for reimbursement. In order to receive reimbursement, proof of graduation must be officially issued by the degree-granting institution and received by the Board within a year of graduation. Payment will be a warrant issued by the State of Nebraska.

CHAPTER 3. INITIAL LICENSURE OF ARCHITECTS ~~BY EXAMINATION~~

3.1 Requirements for Licensure ~~by Examination~~

Initial Licensure as an architect ~~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~~ Satisfied the examination requirements ~~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 Candidates for initial licensure ~~An applicant~~ must:

3.2.1.1 Hold a ~~professional~~ degree in architecture from a NAAB- or CACB- accredited 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 Requirements

3.3.1 Candidates for initial licensure must completion of AXP, or its equivalent as determined by NCARB, ~~is required prior to licensure.~~

3.4 Examination Requirements

3.4.1 ~~The Examination used by the Board to determine eligibility for licensure is the current~~ Candidates for initial licensure must pass the current NCARB ~~NCARB Architect Registration Examination (ARE)~~ Examination as accepted by the Board and the Nebraska E&A Act Examination.

3.4.2 ~~1.1~~ The ARE Examination

3.4.2.1 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.~~

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~~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 AXP 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.~~

3.4.2.21.5 The Board will accept the ARE examination result as determined by NCARB.

3.4.2.31.6 If there is any alleged improper behavior on the part of an applicant, the Board will investigate the allegation and take appropriate action.

3.4.2.41.7 An applicant must ~~have passed~~ the examination in accordance with the NCARB pass/fail standards current at the time the applicant took the examination.

3.4.2.51.8 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.

3.4.22.6 Rolling Clock

~~3.4.2.1 Applicants are required to complete the ARE within the time limitations set by NCARB policies and procedures.~~

3.4.2.7 Proctoring of the ARE will be done in accordance with NCARB rules and policies.

~~3.4.33.4.2 Approval to sit for the ARE terminates 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

~~3.4.4.3.3.1 Following successful passage of the ARE~~Before license issuance, an applicant must pass an examination, prepared and administered by the Board, on the E&A Act, E&A Rules, and practice ethics.

~~3.4.4.3.23.2~~ The purpose of the examination is to test applicants' familiarity with the E&A Act, E&A Rules, and the ethics of practicing architecture.

~~3.4.4.3.3.3~~ 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 are eligible for reexamination every thirty days.

3.5 Application for ~~ARE Examination~~Licensure

3.5.1 To be eligible ~~to for initial sit for the ARE examination~~licensure as an architect, an applicant must:

3.5.1.1 Submit a completed application to the Board, accompanied by the filing fee established by the Board;

~~3.5.1.1.1 The application fee is waived for first-time applicants.~~

3.5.1.2 Provide satisfactory evidence of meeting the ~~education~~licensure standards ~~as requirement as~~ set forth in the Act and these rules;

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.~~

3.5.2 All applications for ~~the ARE Examination~~architect licenses ~~will~~ may be reviewed by the Board.

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 will issue a certificate of licensure containing the architect's full name and license number.

3.7 Reimbursement of Educational Debt

3.7.1 With respect to Neb. Rev. Stat. §81-3432.01, each eligible individual who has graduated with a NAAB-accredited architectural degree ~~from~~ and establishes an NCARB record ~~is eligible to~~ may be reimbursed \$100 by the Board. In order to receive reimbursement, verification of NCARB record establishment and graduation must be received within one year of graduation. Verification of graduation may come from NCARB or officially from the degree-granting institution. Payment will be by a warrant issued by the State of Nebraska.

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 eligible for licensure as a Professional Civil Engineer or another applicable discipline approved by the Board. Such applicants are not eligible for licensure as a Professional Structural Engineer without also having satisfied one of the four provisions of Rule 4.1.1.5.
- 4.1.1.4 Professional Engineers licensed on the basis of the Architectural Engineering examination will be designated Professional Architectural Engineers. Professional Architectural Engineers may not practice or offer to practice architecture.
- 4.1.1.5 Professional Engineers who have passed one of the following sets of examinations are eligible for licensure as a Professional Structural Engineer and may use the designation "S.E." with their name:
 - 4.1.1.5.1 The NCEES 16-hour Structural Examination taken after January 1, 2011;
 - 4.1.1.5.2 16 hours of NCEES structural examinations, eight hours of which were from the NCEES Structural II Examination taken prior to January 1, 2011;
 - 4.1.1.5.3 A 16-hour U.S.-jurisdiction-written structural examination taken prior to 2004; or
 - 4.1.1.5.4 Both the NCEES Structural II Exam and an eight-hour U.S.-jurisdiction-written structural examination taken prior to January 1, 2011.

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 practice engineering 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, examinations, 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-satisfied~~ the ~~FE and PE E~~examinations requirements set forth in Rule 2.4;
 - 4.1.3.1.5 Submits verification that the applicant has satisfied the education requirements set forth in Rule 2.2;
 - 4.1.3.1.6 Submits four years of engineering experience that is in compliance with the licensing law in the jurisdiction where the practice occurs; and

- 4.1.3.1.7 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, examinations, 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~~ requirements 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 ~~one~~ 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 ~~one~~two years, the temporary permit holder must obtain a Nebraska license.
- 4.1.5.4 Engineers holding a temporary permit will use their seal from the state of verified licensure when sealing documents pertaining to the Nebraska project and must accompany this 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~~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 Jurisdictional Comity

- 4.2.2.1 An architecture 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:
 - 4.2.2.1.1 Files an application with required fee;
 - 4.2.2.1.2 Submits satisfactory evidence of such licensure to the Board;

- 4.2.2.1.3 Submits three references from architects indicating good reputation and ethical character. In the event three architects are not available to make such references, the applicant shall submit an explanation for the Board's review;
 - 4.2.2.1.4 Submits verification that the applicant has ~~passed the ARE Examination~~satisfied the education requirements set forth in Rule 3.2;
 - 4.2.2.1.5 Submits verification that the applicant has satisfied the ~~education~~experience requirements set forth in Rule 3.32;
 - 4.2.2.1.6 Submits verification that the applicant has satisfied the ~~experience~~ARE examination requirements set forth in Rule 3.43; and
 - 4.2.2.1.7 Passes the Nebraska E&A Act Examination in accordance with Rule 3.4.3.
- 4.2.2.2 Any information requested on the application with respect to education, experience, examinations, or references may be provided by submitting an NCARB record.
- 4.2.2.3 The application will go to the Board for review and final approval.
- 4.2.3 Comity Licensure by Experience
- 4.2.3.1 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:
 - 4.2.3.1.1 File the Nebraska application with required fee;
 - 4.2.3.1.2 Submit satisfactory evidence of 15 years of licensed work experience acceptable to the Board;
 - 4.2.3.1.3 Provide three references indicating good reputation and ethical character; and
 - 4.2.3.1.4 Pass the Nebraska E&A Act Examination in accordance with Rule 3.4.3.
 - 4.2.3.2 The application will go to the Board for review and final approval.
- 4.2.4 Temporary Permit
- 4.2.4.1 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:

- 4.2.4.1.1 Files an application with the required fee;
- 4.2.4.1.2 Submits satisfactory evidence of such licensure to the Board. Such evidence must be received directly from the licensing authority of NCARB; and
- 4.2.4.1.3 Passes an examination, prepared and administered by the Board, on the E&A Act, E&A Rules, and practice ethics.
- 4.2.4.2 The permit will include a template containing the architect's name, permit number, expiration date, and project name and location.
- 4.2.4.3 In the event the project lasts longer than two years, the temporary permit holder must obtain a Nebraska license.
- 4.2.4.4 Architects holding a temporary permit will use their seal from the state of verified licensure when sealing documents pertaining to the Nebraska project, and must accompany this seal with the template issued by the Board.
- 4.2.4.5 An architect is eligible for only one temporary permit.
- 4.2.4.6 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 licensee shall act with reasonable care and competence and shall apply the technical knowledge and skill ordinarily applied by licensees of good standing in the same locality.
- 5.1.2 In designing a project, the licensee shall take into account the applicable federal, state, and local laws and regulations. While the licensee 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 licensee shall not knowingly design a project in violation of such laws and regulations.
- 5.1.3 The licensee shall undertake to perform professional services only when they, together with those whom the licensee 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. The assessment of impairment should be performed by an appropriately qualified individual.
- 5.1.5 A licensee 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 licensee shall not sign, seal, or attest to any work pertaining to any technical discipline or specialty that the licensee does not have professional training and experience.

5.2 Conflict of Interest

- 5.2.1 The licensee shall not accept compensation for their services from more than one party on a project unless the circumstances are fully disclosed (and agreed to in writing) by all interested parties.
- 5.2.2 A licensee shall not perform professional services in the face of a conflict of interest that is not fully disclosed and waived in writing by all parties. A licensee has a conflict of interest when: (a) the licensee has or may acquire a financial or other interest in the project, someone participating in the project, or any component of project; or (b) the licensee's judgement may be adversely affected by a relationship with another party.
- 5.2.3 The licensee shall not solicit or accept compensation from material or equipment suppliers, contractors, or sub-consultants for specifying or endorsing their products.

- 5.2.4 A licensee, when acting by agreement of the parties as (a) the independent interpreter of construction contract documents, studies, and reports, or (b) the judge of contract performance; shall render decisions impartially.
- 5.2.5 A licensee 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 Licensees shall not solicit or accept a contract for professional services from a governmental body when the licensee, or a principal or officer of the licensee'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. Licensees are not in violation of this provision, however, if the licensee, 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 A licensee making public statements on engineering or architectural questions shall disclose if the licensee is being compensated for making such statements or has a financial interest in the issue.
- 5.3.2 The licensee shall not misrepresent their qualifications, capabilities, and experience or that of the licensee's organization.
- 5.3.3 The licensee possessing knowledge of a violation of the E&A Act or these rules by another licensee shall report such knowledge to the Board.

5.4 Compliance with Laws

- 5.4.1 The licensee shall not violate the law of the United States or any U.S. jurisdiction that in any material way relates to the conduct of the licensee's professional practice. 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 licensee shall neither offer nor give any gift of significant value, or any monetary payment with the intent of influencing a government official's judgment in connection with a prospective or existing project in which the architect or professional engineer is interested.
- 5.4.3 The licensee shall comply with the licensing laws and regulations governing their professional practice in any United States jurisdiction.
 - 5.4.3.1 A licensee may be subject to disciplinary action by the Board if the licensee 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 may, upon suspension or revocation of said certificate or record, 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 may 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 Licensees are responsible for obtaining formal review and approval of design work when such approval is required prior to construction.
- 5.4.5 An organization engaged in the practice of architecture or engineering found by a court or administrative tribunal to have violated the law of the United States or any U.S. jurisdiction protecting the rights of persons working for the employer, such as those pertaining to harassment, discrimination, and unfair compensation, may be subject to discipline by the Board.

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 licensee 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 licensee's consultants who are licensed under the law of the State of Nebraska or another state, the licensee may sign or seal that portion of the professional work if the licensee has reviewed such portion, has coordinated its preparation, and accepts responsibility for its adequacy.
- 5.5.3 The licensee shall not engage in conduct involving fraud or deliberate disregard of the rights of others.
- 5.5.4 The licensee 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 licensee 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 licensee 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 licensee shall not deliberately make a materially false statement or fail deliberately to disclose accurately and completely a material fact requested by the Board in connection with the licensee's application for licensure or renewal or otherwise requested.
- 5.5.8 An architect or professional engineer shall not knowingly sign any verification document related to licensure that contains false or misleading information and shall not assist in the application for licensure of a person known by the architect or professional engineer to be unqualified.
- 5.5.9 An architect or professional engineer possessing knowledge of a licensure candidate's qualifications for licensure shall cooperate with the candidate, the Board, NCARB, and NCEES by responding appropriately and in a timely manner regarding those qualifications.
- 5.5.10 If, in the course of their work on a project, a licensee becomes aware of a decision made by the licensee's employer or client against the licensee's advice, which violates applicable federal, state, or local laws and regulations and which will, in the licensee's judgment, materially and adversely affect the health and safety of the public, the licensee shall:
 - 5.5.10.1 Report the decision to the public official charged with enforcement of building laws and regulations; and
 - 5.5.10.2 Refuse to consent to the decision or action.
 - 5.5.10.3 In circumstances where the licensee reasonably believes that other such decisions or actions will be taken notwithstanding the licensee's objection, terminate the provision of services with reference to the project unless the licensee is able to cause the matter to be resolved by other means.

5.6 Use of Regulated Titles

- 5.6.1 Licensees who are licensed in Nebraska may identify themselves as such.
- 5.6.2 Licensees 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;
 - 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

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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."

6.4 Direct Supervision of Work

- 6.4.1 In order to exercise full professional knowledge of and control over work, a licensee in direct supervision of architectural or engineering work must:
- 6.4.1.1 Have and exercise the authority to review and to change, reject, or approve both the work in progress and the final work product, through a continuous process of examination, evaluation, communication, and direction throughout the development of the work;
 - 6.4.1.2 Be personally aware of the project's scope, needs, parameters, limitations, and special requirements;
 - 6.4.1.3 Be capable of answering questions relevant to the architectural or engineering decisions made as part of the services provided, in sufficient detail to demonstrate reasonable knowledge of and proficiency in the work; and
 - 6.4.1.4 Be reasonably satisfied with the product of the services rendered and accept full responsibility for the work.
- 6.4.2 The Board has final authority regarding the determination of whether technical documents were actually prepared under the direct supervision of a licensee.

CHAPTER 7. ORGANIZATIONAL PRACTICE

7.1 Applications

Organizations practicing or offering to practice engineering or architecture in Nebraska must 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 may 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.
 - 7.3.4.1 Fees for certificates of authorization may be based on the total number of architects and professional engineers, licensed in any jurisdiction, who are employed by that organization.

- 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 certificates of authorization 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 delivers 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 has 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 promptly notifies 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, complies 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 conforms to the E&A Act and E&A Rules.

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. A complaint may be filed by the Executive Director when he or she discovers a probable violation of the Act. If a Board member discovers a probable violation of the Act, the member may bring it to the Executive Director's attention.

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 is 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 does not constitute 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.

8.6 Organizations Practicing without a Certificate of Authorization

- 8.6.1 Regarding compliance with the Act by organizations allegedly practicing or offering to practice without holding a current certificate of authorization: in those cases where the alleged violation occurs within the past five years, and the organization has had no prior complaints or issues related to unauthorized practice, the Board has authorized the Executive Director to request that those organizations apply for a Certificate of Authorization immediately and pay any applicable *in arrears* fees. If the organization indicates to the Executive Director that they will not comply, the matter will be referred to the Board to determine whether a complaint should be filed.

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 or reinstatement.
- 9.1.2 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.

9.2 Requirements

- 9.2.1 Architects must complete 24 actual hours of architectural-related learning every biennial period to satisfy the continuing education requirement. Until January 1, 2022, at least 16 actual hours must 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 continuing education requirement.
- 9.2.3 Unless restricted by Rule 9.3 or its subsections, acceptable continuing education activities include, but are not limited to, the following:
 - 9.2.3.1 Successful completion of college courses from an educational institution that offers EAC/ABET- or NAAB-accredited programs, or courses transferrable to and accepted for credit by an educational institution that offers EAC/ABET- or NAAB-accredited programs;
 - 9.2.3.2 Successful completion of short courses, tutorials, web-based activities, and distance-education courses offered for self-study, independent study, or group study;
 - 9.2.3.3 Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations;
 - 9.2.3.4 Teaching or instructing in 9.2.3.1 through 9.2.3.3 above;
 - 9.2.3.5 Authoring published papers, articles, books;
 - 9.2.3.6 Participating in the development of items for NCEES or NCARB examinations;
 - 9.2.3.7 Active participation in professional or technical societies in which a licensee serves as an officer or actively participates in a committee of the society;
 - 9.2.3.8 Authoring a patent related to architecture or engineering; and
 - 9.2.3.9 Active participation in educational outreach activities pertaining to professional licensure or the architecture/engineering professions that involve K–12 or higher education students.

9.3 Restrictions

- 9.3.1 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 hours for architects or seven and one-half hours for professional engineers.
- 9.3.1.1 Web-based offerings including webinars, video conferences, and online meetings led by an instructor that enables both the instructor and attendees to give, receive, and discuss information *in real time* is not restricted under Rule 9.3.1.
- 9.3.2 At least one hour of the biennial continuing education requirements must be directly related to ethical issues of a licensee's professional practice.
- 9.3.3 An individual who is both an architect and professional engineer may use ethics related hours and any other hours to satisfy the continuing education requirements of both licenses if the subject is both architecture- and engineering-related learning.
- 9.3.4 Effective January 1, 2022, a learning activity that is 1) non-technical in nature, and 2) addresses a topic that is not part of that profession's body of knowledge as developed by the applicable national professional engineering society or is not categorized as a Health Safety and Welfare topic by NCARB, is not an acceptable continuing education activity.
- 9.3.5 Self-guided activities planned and performed under the licensee's own direction and guidance may constitute no more than one-fourth of the biennial education requirement, which is six hours for architects or seven and one-half hours for professional engineers.

9.4 Units and Carry-over

- 9.4.1 The Board has final authority with respect to approval of courses, credit, unit value for courses, and other methods of earning continuing education credit. No pre-approval of offerings will be issued.
- 9.4.2 The conversion of other units of credit to actual hours is as follows:
- 9.4.2.1 One actual hour is equivalent to at least 50 minutes of instruction.
- 9.4.2.2 One semester credit hour of formal education is equivalent to 45 actual hours.
- 9.4.2.3 One quarter credit hour of formal education is equivalent to 30 actual hours.

- 9.4.2.4 With respect to Rule 9.2.3.4, credit for teaching or presenting an activity may be credited double the number of actual hours. Credit is valid only for the first offering or presentation. Full-time faculty may not claim credit associated with their regular teaching duties.
- 9.4.2.5 Each published peer-reviewed paper or book in the licensee's area of professional practice is equivalent to 10 actual hours.
- 9.4.2.6 Each published paper or article which does not meet the requirements of Rule 9.4.2.5 but is in the licensee's area of professional practice is equivalent to five actual hours.
- 9.4.2.7 Active participation in a professional and technical society is equivalent to two actual hours. Actual hours are not earned until the end of each year of service is completed.
- 9.4.2.8 A patent is equivalent to 10 actual hours.
- 9.4.3 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.
- 9.4.4 Ethics hours can be carried over.

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;
 - 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 continuing education 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 are exempt for their initial renewal period. Architects who complete more than 24 acceptable hours and professional engineers who complete more than 30 acceptable hours in their initial renewal period are eligible to carry over excess continuing education credits, subject to the limitations described in this chapter.
- 9.6.1.2 Contingent upon approval from the Board or Executive Director:
 - 9.6.1.2.1 Architects and professional engineers serving on active duty in the armed forces of the United States or any state for a period of time exceeding 120 days in each calendar year of their renewal period are exempt from obtaining the continuing education hours required during that renewal period.
 - 9.6.1.2.2 Architects and professional engineers serving on active duty in the armed forces of the United States or any state for a period of time exceeding 120 days in only one calendar year of their renewal period require 15 actual hours of engineering-related learning at the time of license renewal if licensed as a professional engineer, or 12 actual hours of architectural-related learning if licensed as an architect.
 - 9.6.1.2.3 Licensees must submit military orders or other supporting documentation to the Board as proof that they qualify for exemption from the continuing education requirements.
- 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 continuing education 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 but not to exceed five percent of the total number of licensees, to submit documentation verifying compliance with the continuing education requirement of the previous renewal period.

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- 9.7.2 Board staff is authorized to review, verify, and approve continuing education audit submittals. Submittals that raise significant questions of acceptability will be forwarded to the Board for final determination.

- 9.7.3 If the Board disallows any of the continuing education hours claimed, the applicant must, within 120 days after notification of disallowance, substantiate the original claim or to earn other credit to satisfy the continuing education requirement.

CHAPTER 10. EXEMPTIONS; CLARIFICATION

10.1 Introduction

Any citation to the state building code means 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-3 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 through four-plex	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 is 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 are exempt from the E&A Act if:

10.4.1.1 The total adversely 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. If the renovation or addition adversely impacts other areas, the additional areas that are adversely impacted shall be included in the occupancy and building area calculations set by Section 10.3 of this Chapter.

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 prevents 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 Conceptual Design Competition

Participation in a conceptual design competition in Nebraska is not considered the practice of architecture or engineering.

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.

10.5.11 Forensic Engineering

Forensic testing requiring the services of an architect or professional engineer, for purposes of the Act, is considered the practice of architecture and/or engineering, regardless of where the test material originated, if the facility performing the testing services is located in Nebraska.

10.5.12 Expert Witness

An architect or professional engineer who serves as a testifying or non-testifying expert in a lawsuit or arbitration in the state of Nebraska regarding issues within the scope of their professional knowledge is not practicing architecture or engineering in Nebraska for purposes of the Act, and such service does not constitute the unauthorized practice of engineering or architecture if the expert is not licensed in this State.

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.