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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Board of Architects TITLE NUMBER: 2

CITE AUTHORITY West Virginia Code Section 30-12-1, et seq.

AMENDMENT TO AN EXISTING RULE: YES NO


IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Rules of the West Virginia Board
of Architects

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE
MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT
BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE
FILED WITH THE SECRETARY OF STATE.


Deputy Attorney General
Counsel for West Virginia Board
of Architects

2 CSR 1

TITLE 2
LEGISLATIVE RULES
BOARD OF ARCHITECTS
SERIES 1

RULES OF THE WEST VIRGINIA BOARD OF ARCHITECTS

§ 2-1-1. Scope.

1.1 Purpose -- The Rules of the West Virginia Board of Architects are set forth for the purpose of interpreting and implementing § 30-12-1, et seq., establishing the Board, and conferring upon its responsibility for registration of architects and the regulation of the practice of architecture.

1.2 Authority -- West Virginia Code § 30-12-1, et seq.

1.3 Filing Date --

1.4 Effective Date --

1.5 Repeal of Former Rule -- These Rules and Regulations repeal and replace the Rules and Regulations that became effective on December 27, 1982.

1.6 Board's Regulatory Authority -- The rules and regulations of the West Virginia Board of Architects are promulgated pursuant to the authority of West Virginia Code § 30-12-1 and in conformity with the applicable provisions of the West Virginia Administrative Procedures Act [W. Va. Code § 29A-1-1, et seq.].

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

§ 2-1-2. Definitions.

2.1 Terms Defined by Statute -- Terms defined in West Virginia Code § 30-12-2 have the same meanings when used in these regulations unless the context or subject matter clearly requires a different interpretation.

2.2 Terms Defined Herein -- As used in these regulations, the following terms have the following meanings unless the context or subject matter clearly requires a different interpretation:

Applicant - An individual who has submitted an application for registration to the Board.

Architect - Any person who engages in the practice of architecture as defined in W. Va. Code §§ 30-12-2 and 30-12-11.

A.R.E. - The current Architect Registration Examination, prepared by NCARB and available in paper-and-pencil and computer versions.

EESA - Education Evaluation Services for Architects, a program administered by Educational Credential Evaluators, Inc., a private organization not affiliated with NCARB or any of its member boards.

Examination - The current Architect Registration Examination (A.R.E.), as accepted by the Board.

IDP - Intern Development Program.

IDP Applicant - An individual who has completed the IDP training requirements set forth in subsection 5.2 of this rule and who has submitted an application for registration to the Board.

NAAB - The National Architectural Accrediting Board.

NCARB - The National Council of Architectural Registration Boards.

Principal - An individual who is (a) a registered architect and (b) in charge of an organization's architectural practice, either alone or with other registered architects.

VU - Value unit, used to calculate the hours of training earned by IDP applicants.

President or Secretary - The duly elected officers of this Board.

Division - A unit of the A.R.E. that test the applicant's knowledge of a certain subject area.

§ 2-1-3. General Provisions

3.1 Board Meetings -- The Board shall hold two (2) regular meetings annually, as set by the Board. Special meetings may be called by the secretary at the direction of the president or upon the written request of any four (4) Board members. All regular meetings shall be held at a time and place designated by the Board.

3.2 Election of Officers -- During the annual July meeting the Board shall elect from its members a president and a secretary, to take office at the beginning of the fiscal year and to hold office until the end of the year or until their successors have been duly elected. The secretary shall furnish a bond as required by law, the fee for such bond being paid out of the Board's funds.

3.3 Office of the Board -- The office of the Board shall be at a place and location as designated by the Board.

3.4 Compensation -- In addition to the compensation of Board members as stipulated by law, the secretary shall receive additional compensation for his services as determined by this Board.

3.5 Seal -- The Board shall adopt a seal for its own use, inscribed with the words "BOARD OF ARCHITECTS -- WEST VIRGINIA" which shall be in the custody of the secretary. It shall be used on all certificates, renewal cards and other official documents. This seal shall be applied to all certificates of registration issued by the Board.

3.6 President -- The president shall preside at all meetings, shall appoint any necessary committees, sign all certificates of registration and renewal cards issued and sign all minutes after approval. The president may issue a call for special meetings through the secretary. In the event that the president is unable to attend a regular or special meeting, the President shall designate a Board member to serve as presiding officer of in the absence of such designation by the President, a quorum of Board members may choose a presiding officer.

3.7 Secretary -- The secretary shall, with the assistance of such clerical help as may be required, conduct and care for all correspondence of the Board, keep the minutes of all meetings, keep all books, records and files and sign all certificates of registration and renewal cards. The Secretary shall provide notices of the time and place of all meetings to each Board member. The Secretary shall prepare the reports for submission to the Governor and to the Secretary of State as required by law. The Secretary shall receive all moneys from fees and shall regularly transmit those fees for deposit with the State Treasurer to the credit of the Board.

3.8 Order of Business -- (a) Call to order; (b) roll call of

members; (c) reading of minutes of last previous meeting; (d) unfinished business; (e) new business; (f) election of officers, July meeting only; (g) adjournment.

3.9 Quorum -- Four (4) Board members constitute a quorum, but action shall not be considered to have been taken on any matter unless there are three (3) three votes in accord.

3.10 Certificates of Registration and Renewal Cards -- Certificates of registration shall be issued to a qualified applicant upon payment of the required fee. An applicant is qualified when he or she meets the qualifications set forth in the law and this rule. Annual renewal cards shall be issued by the Board and signed by the President and Secretary, upon receipt of the annual renewal fee. Renewal notices shall be mailed annually to each registered architect at least three (3) weeks before the thirtieth day of June.

3.11 Public Information --

(A) The Board shall maintain at its offices a roster of registered architects, which is open to public inspection, which shall show each registered architect's certificate of registration, and last known mailing address.

(B) All documents relating to an application for registration as an architect shall not be treated as a public record.

(C) None of the following documents shall be treated as a public record pursuant to W. Va. Code § 29B-1-1, et seq., or otherwise disclosed to an applicant or any other member of the public:

1. The A.R.E. and all documents relating to the grading thereof.
2. Letters of recommendation.

3.12 Communication -- Prohibition of improper contacts. -- Prior to the filing of an application, and after final Board action on an application, verbal and written communication by the applicant with individual Board members or any member of the Board's staff is permitted: Provided, that in no event is any member of the Board or its staff authorized to give to the applicant any indication of what specific action the Board may take upon the merits of any application which may be filed with it. General advice, however, may be given as to the manner of completing or submitting applications, the procedures to be

followed in processing applications, and the nature of the standards applied by the Board in evaluating applications. While an application for registration or an enforcement proceeding is pending before the Board, no person shall initiate any written or oral communication with individual Board members concerning the matter; but inquiries may be made orally or in writing to the Board staff or in writing to the Board.

3.13 NCARB --

(A) The Board shall maintain membership in the NCARB and pay the necessary costs thereof.

(B) The Board shall keep up-to-date information on the recommended policies adopted from time to time by the NCARB.

(C) The Board shall cooperate with the NCARB in establishing uniform standards of architectural registration throughout the United States.

3.14 Availability of Forms -- Any forms prepared in accordance with these regulations shall be available upon request to the Board. If any forms are amended by the Board, a copy of each amended form shall be mailed by the Board staff to all individuals whose applications are pending and are affected by the amendment.

3.15 Fees --

(A) Every applicant for examination shall include with his or her application a non-refundable filing fee in the amount of one hundred dollars (\$100.00).

(B) The fee to be paid to the Board by an applicant for this examination or reexamination of any division to determine his or her fitness to receive a certificate of registration as an architect is the cost of the examination or division charged the West Virginia Board of Architects by the National Council of Architectural Registration Boards.

(C) The fee to be paid to the Board by an applicant for a hand seal and certificate of registration as a registered architect is fifty dollars (\$50.00).

(D) The fee to be paid to the Board upon annual

renewal of a certificate of registration is seventy-five dollars (\$75.00).

(E) The fee to be paid to the Board by an applicant who is an architect registered or licensed under the laws of another state or territory of the United States for a reciprocal certificate of registration is two hundred fifty dollars (\$250.00).

(F) The fee to be paid to the Board for the restoration of an expired certificate of registration is one hundred fifty dollars (\$150.00) if the certificate of registration is restored within twelve months (12) from the renewal date.

(1) The fee to be paid to the Board for restoration of an expired certificate of registration is two hundred fifty dollars (\$250.00) if the certificate of registration is restored more than twelve (12) months from the renewal date.

(G) The fee to be paid to the Board for the transfer of scores and other material to NCARB and any other duly constituted architectural registration board is thirty-five dollars (\$35.00).

§ 2-1-4. Applications for Registration

4.1 Submission of Applications -- Every person seeking a certificate of registration shall submit an application as prescribed by the Board accompanied by the nonrefundable filing fee established in subsection 3.15 of this rule.

4.2 Supplemental Material -- Material submitted to supplement any previously filed application must include copies of the originally submitted application and all material filed with that application.

§ 2-1-5. Registration Standards

5.1 Registration Standards

(A) To be eligible for a certificate of registration, an applicant shall:

(1) Be of good moral character, as

verified by employers and registered architects.

(2) Hold a professional degree in architecture from a degree program that has been accredited by the NAAB not later than two years after the applicant's termination of enrollment, or have satisfied the education requirements as specified in the NCARB's Circular of Information No. 3.

(3) Have at least three (3) years of training credits in accordance with NCARB Circular of Information No. 1. Effective June 30, 1993, all training requirements shall be under the IDP system as stipulated in the NCARB's Circular of Information No. 1.

(B) An applicant meeting the above registration requirements except for subparagraph 5.1(A)(2) of this rule may nonetheless be granted a certificate of registration if the applicant holds a high school diploma or equivalent and has accumulated at least five education credits as of June 30, 1984. See the NCARB's Circular of Information No. 3 for an explanation of education credits and current NCARB IDP guidelines.

(C) Other experience may be substituted for the registration requirements outlined in this section only insofar as the Board considers it to be equivalent to the required qualifications.

(D) In evaluating an applicant's records, the Board shall apply the education and training standards as set forth in Circular Information No. 2: Provided, that an applicant who qualified under the standards shall be evaluated by those standards.

(E) In evaluating an applicant's records, the board may, prior to granting a certificate of registration, require substantiation of the quality and character of the applicant's experience, notwithstanding the fact that the

applicant has complied with the technical registration requirements set forth in this section.

5.2 Training Standard --

(A) To satisfy the training standard, an applicant must have at least three years of training credits, or have satisfied the IDP training requirements in accordance with Circular of Information No. 1.

5.3 Notification -- When an applicant has submitted to the Board evidence that he or she has satisfied all the registration standards set forth in subsections 5.1 and 5.2 of this rule, the Board shall review the application and notify the applicant of its decision in writing. The Board shall endeavor to send notice within thirty (30) days of final action.

§ 2-1-6. Reciprocal Registration

6.1 Registration of NCARB Certificate Holders -- An applicant who holds a current and valid certification issued by the NCARB, and submits satisfactory evidence of such certification to the Board and meets the degree requirement of subparagraph 5.1(A)(2) of this rule, shall be registered without the necessity of complying with the remainder of the provisions of subdivision 5.1.(A) of this rule if he or she:

(A) Holds a current and valid registration issued by a registration authority recognized by the Board, upon a form and submits satisfactory evidence of such registration to the Board; and

(B) Files his or her application with the Board upon a form, containing such information, satisfactory to the Board, concerning the applicant as the Board considers pertinent.

§ 2-1-7. Examination

7.1 Nature of Examination -- The Examination used by the Board to determine eligibility for registration shall be the current A.R.E., as accepted by the Board.

7.2 Frequency of Examination -- The Board shall administer the Examination at least once each calendar year.

7.3 Conditions of Examination --

(A) A proctor assigned by the Board shall be

present during each Division of the Examination.

(B) Grading of the Examination shall be in accordance with the national grading procedure administered by the NCARB.

(C) The Board shall adopt the scoring procedures recommended by the NCARB.

(D) No information pertaining to the subject matter of the Examination will be given to applicants in advance, except as specifically authorized by the Board.

(E) The Board, in its discretion, may approve transfer credits for parts of examinations passed prior to the 1983 A.R.E. Information as to transfer credits will be provided, when appropriate, to applicants requesting application forms.

(F) There is no limitation to the number of times an individual may take the examination.

7.4 Application Deadline -- Each applicant determined to be eligible to take the Examination shall be notified to the dates set for each Division of the Examination, the location at which the Examination shall be held, the instruments and materials he or she shall supply and/or be permitted to bring to the Examination, the deadline for applying to take the Examination, and other necessary information.

7.5 Examination Fee -- The fee for the Examination or a division of the examination is determined under the provisions of subsection 3.16 of this rule.

7.6 Refund of Fee -- The Board, in its discretion, may return the Examination fee paid by any applicant whose application to take the Examination has been rejected. No refund of the application fee shall be returned to any applicant who takes any of the Examination or who voluntarily withdraws after his or her Examination has been approved.

7.7 Transfer of Scores From Other Boards -- The Board, in its discretion and upon proper application, may accept passing scores achieved on Divisions of the A.R.E. administered and attested to by another NCARB member board.

7.8 Transfer of Scores to Other Boards -- The Board, in its discretion and upon proper application, may forward the grades achieved by an applicant in the various Divisions of the

Examination given under the Board's jurisdiction to any other duly constituted architectural registration board and to the NCARB for use in evaluating such applicant's eligibility for NCARB certification. The applicant shall state his or her reason for requesting transfer, and pay a transfer fee as set forth in subsection 3.16 of this rule or \$35.00. Such transfer shall terminate the applicant's application pending before the Board.

§ 2-1-8. Registration

8.1 Issuance -- When the Board has determined that an applicant for a certificate of registration has satisfied the registration standards set forth in this rule, the Board shall issue a certificate of registration containing the registered applicant's name and registration number.

8.2 Duration -- Each certificate of registration issued by the Board is valid for one (1) year.

8.3 Renewal -- The terms for renewal of a certificate of registration shall be in accordance with West Virginia Code § 30-12-5. The fee for renewal is seventy-five (\$75.00) dollars.

8.4 Not Transferable -- A certificate of registration is not transferable.

8.5 Denial, Revocation, Suspension, Cancellation of Non-Renewal or Registration -- In the event of the denial, revocation, cancellation, suspension or non-renewal of any certificate of registration, the registered architect shall be required to immediately return his or her certificate of registration to the Board. An appeal shall be conducted pursuant to West Virginia Code § 30-12-9 and West Virginia Code § 30-1-8.

8.6 Reissuance -- The terms for reissuance of a certificate of registration shall be in accordance with subsection 2.16 of this rule, West Virginia Code § 30-12-5, and the applicable portions of West Virginia Code § 30-12-9.

§ 2-1-9. Rules of Professional Conduct

9.1 Competence --

(A) In engaging in the practice of architecture, a registered architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which are ordinarily applied registered architects of good standing, practicing in the same locality.

(B) In designing a project, a registered

architect shall take into account all applicable state and municipal building laws and regulations. While a registered architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of such laws and regulations, once having obtained such advice a registered architect shall not knowingly design a project in violation of such laws and regulations.

(C) A registered architect shall undertake to perform professional services only when he or she, together with those whom the registered architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved.

(D) No individual shall be permitted to engage in the practice of architecture if, in the Board's judgment, such individual's professional competence is substantially impaired by physical or mental disabilities.

9.2 Conflict of Interest --

(A) A registered architect shall not accept compensation for his or her services from more than one party on a project unless the circumstances are fully disclosed to and agreed to by the architect and all interested parties. The disclosure and agreement shall be in writing.

(B) If a registered architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services the registered architect shall fully disclose in writing his or her client or employer the nature of the business association or financial interest. If the client or employer objects to such association or financial interest, the registered architect will either terminate such association or interest or offer to give up the commission or employment.

(C) A registered architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

(D) When acting as the interpreter of building contract documents and the judge of contract performance, a registered architect shall render decisions, impartially, favoring neither party to the contract.

9.3 Full Disclosure --

(A) A registered architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statements.

(B) A registered architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

(C) If, in the course of his or her work on a project, a registered architect becomes aware of a decision made by his or her employer or client, against such registered architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the registered architect's judgment, materially and adversely affect the safety to the public of the finished project, the registered architect shall:

(1) Report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations; and

(2) Refuse to consent to the decision; and

(3) In circumstances where the registered architect reasonably believes that other such decisions will be taken, notwithstanding his or her services with respect to the project. In the case of a termination in accordance with this paragraph, the registered architect shall have no liability to his or

her account of such termination.

(D) A registered architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her renewal thereof.

(E) A registered architect shall not assist the application for registration of an individual known by the registered architect to be unqualified in respect to education, training, experience or character.

(F) A registered architect possessing knowledge of a violation of the provisions set forth in subsections 9.1 through 9.7 of this rule by another registered architect shall report such knowledge to the Board.

9.4 Compliance with Laws --

(A) A registered architect shall not, in the conduct of his or her practice, knowingly violate any state or federal criminal law.

(B) A registered architect shall neither offer nor make any payment or gift to a government official, whether elected or appointed, with the intent of influencing the official's judgment in connection with a prospective or existing project in which the registered architect is interested.

(C) A registered architect shall comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction.

9.5 Professional Conduct --

(A) Each office in West Virginia maintained for the preparation of drawings, specifications, reports or other professional work shall have a registered architect regularly employed and residing in that office having direct supervision of such work.

(B) A registered architect shall not sign or seal drawings, specifications, reports or other professional work which was not prepared under his or her direct supervision: Provided,

however, that the case of such portions of such work prepared under the direct supervision of persons consulting with or employed by the architect and who are registered under this or any other professional registration law of this State, the architect may sign or seal those portions of the professional work if the architect has reviewed such portions and has coordinated their preparation.

(C) A registered architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the registered architect is interested.

(D) A registered architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

9.6 Design and Use of Architect's Seal --

(A) Pursuant to West Virginia Code § 30-12-7 and subject to subsections 8.5 and 9.5(B) of this rule, each registered architect shall procure a seal, as prescribed by the Board.

(B) As required by West Virginia Code § 30-12-7, the seal shall be imprinted on all technical submissions, as follows: On the index sheet of each set of drawings; when no index sheet is included then on each sheet individually except as indicated in subdivision 9.5(B) of this rule; and on the cover identifying each set of specifications. The original signature of the individual named on the seal shall appear across the face of each original seal imprint.

(C) The seal, appearing on any technical submission shall be prima facie evidence that the technical submission was prepared by or under the direct supervision of the individual named on seal.

9.7 Amendments to Rules -- Proposed amendments to the rules of professional conduct must be adopted by unanimous vote of the Board members at any meeting at which there is a quorum present. A notice of each proposed amendment must be mailed or delivered to

each member at least ten (10) days prior to the date of the meeting at which they are to be considered. Proposed amendments are subject to the rulemaking process as set forth in W. Va. Code § 29A-3-1, et seq.