Texas Board of Engineering Laws & Rules

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Approved for: TX

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Frequently Asked Questions Regarding Enforcement

How does an individual know when a P.E. (Professional Engineer) is required?

Refer to Sections 1001.053 and 1001.056 of the Texas Engineering Practice Act.

- When public money and electrical or mechanical engineering is involved and the contemplated expenditure for the project exceeds $8,000 (Section 1001.053);
- When public money is involved but electrical or mechanical engineering is not required and the contemplated expenditure for the project exceeds $20,000 (Section 1001.053);
- Apartments that are exceeding eight units for one-story buildings or exceeding four units for two-story buildings (Section 1001.056);
- Other buildings having more than one story; buildings that contain a clear span between supporting structures greater than 24 feet on the narrow side; and single story buildings having a total floor area over 5,000 square feet (Section 1001.056).

How do I find out if a license holder has had any complaints filed against him/her?

Contact the Board office and ask if a complaint has ever been filed against a professional engineer, an unlicensed person, or a firm offering to perform engineering services in Texas.

How do I sign my seal?

License holders should sign their name either above or below the seal so that the signature does not obscure the license holder's name and license number.

When do I seal a document?

License holders should affix their engineer seal, signature, and date of execution to all documents containing the final version of any engineering work. Refer to Board Rule 137.31 and 137.33.

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Can I use a computer-generated seal?

Yes, you may use a computer-generated seal and it may be of a reduced size provided that the engineer's name and number are clearly legible. Refer to Board Rule 137.31(c).

How can I use an electronic signature?

An electronic signature is a digital representation of an engineer's signature. It may be affixed to an electronic file and the engineering work may then be submitted electronically or printed and submitted with the printed version of the electronic signature. This allows an engineer to affix a computer-generated seal and an electronic signature to an engineering work. This may then be submitted either electronically or in printed form. This does not prohibit an engineer from placing an original wet seal or seal impression, and/or an original signature on any engineering work. By affixing an electronic signature to an engineering work, the engineer is taking the responsibility for that work being done by him or under his direct supervision. The engineer must maintain the security of the electronic signature consistent with maintaining the protection of their seal. Please be advised that local authorities may have additional/more stringent requirements.

Can I submit a bid for an engineering project?

A license holder can only submit a competitive bid on private engineering projects. A license holder cannot submit a competitive bid on public projects like projects for any city, county, state, or independent school district.

Does the board register firms?

Yes. Effective January 1, 2000, the Board began registering firms. You can obtain a Firm Registration Application by contacting the Board office or downloading the application from our web site. If the engineer is practicing engineering as a sole proprietor, he/she must also register as a firm. Section 1001.405

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What title can I use if I'm a graduate engineer?

Graduates of all public universities recognized by the American Association of Colleges and Universities who have a degree from an ABET engineering program have the right to disclose any college degrees received and use the title "Graduate Engineer" on stationery, business cards, and personal communications of any character. A graduate engineer who is employed by a registered firm and who is supervised by a licensed professional engineer may use the term "engineer". Refer to the Texas Engineering Practice Act, Section 1001.406.

Can I perform land surveying or architecture as an engineer?

You may perform engineering surveys that includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of an engineered project, but does not include the surveying of real property and other activities regulated under the Professional Land Surveying Practices Act (Article 5282C, Vernon's Texas Civil Statues). Likewise, the Texas Board of Architectural Examiners governs the practice of architecture.

Do I need a license to be an expert witness?

No. Expert witnesses, as long as they are preparing documents or evidence for court, are exempted from licensure. Refer to the Texas Engineering Practice Act, Section 1001.004(e)(2).

Do I need to notify the board if I believe that someone has violated the Texas Engineering Practice Act or Board rules?

License holders shall first notify involved parties or the Board of any engineering decisions or practices that might endanger the health, safety, property, or welfare of the public. When, in an engineer's judgment, any risk to the public remains, unresolved, that engineer shall report any fraud, gross negligence, incompetence, misconduct, unethical or illegal conduct to the Board or proper civil or criminal authorities. Refer to Board Rule 137.55(c).

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What do I do when I'm asked to correct or complete a project begun by another engineer?

An engineer, as a third party, may alter, complete, correct, revise, or add to the work of another engineer when engaged to do so by a client, provided: the client furnishes the documentation of such work submitted to the client by the first engineer. The second engineer of the engagement immediately upon acceptance of the engagement notifies the first engineer in writing. Any work altered, completed, corrected, revised, or added to shall have a seal affixed by the second engineer. The second engineer then becomes responsible for any alterations, additions or deletions to the original design including any effect or impact of those changes on the original engineer's design. Refer to Board Rule 137.33(i).

Can an architect perform the engineering for a building that is over 5,000 square feet?

No. Engineering for buildings that are in excess of 5,000 square feet must be performed by a licensed engineer in Texas. Refer to the Texas Engineering Practice Act, Sections 1001.056.

If I am licensed in another state, can I use the P.E. title in Texas?

Yes, but only when using a disclaimer. Refer to **Engineering Advisory Opinion Request Number 10**. The engineer may not offer engineering services in Texas, but they may identify themselves in the following manner: John W. Doe, P.E., Oklahoma (Not licensed in Texas)

Can an engineer who is licensed as a civil engineer practice in mechanical engineering or similar disciplines?

A license holder may perform any engineering assignment for which the engineer is qualified by education, examination, or experience to perform adequately and competently. Refer to Board Rule 137.59(b). Branches of competency can be found with the PE Search function.

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How do I file a complaint?

Complaints shall be submitted on complaint forms provided by the Board or in a written format that includes a description of the violation, supporting information and factual evidence, names and addresses of witnesses, sources of other pertinent information, and what section of the Act or Board rule(s) have been violated. Refer to Board Rule 139.13.

Are disciplinary actions against a license holder open to the public?

Yes. Disciplinary actions against a license holder, except for an informal reprimand, are published on our web site.

Can a license holder receive a disciplinary sanction and administrative penalty?

Yes. The suggested sanctions and administrative penalties against license holders are set forth in Board Rule 139.35(b).

If I am not a licensed engineer and I am found to be illegally practicing engineering, can I be sanctioned by the Board?

Yes. The suggestion sanctions and administrative penalties against non-licensed individuals are set forth in Board Rule 139.31(a) and 139.35(c).

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THE STATE OF TEXAS

TEXAS ENGINEERING PRACTICE ACT AND RULES CONCERNING THE PRACTICE OF ENGINEERING AND PROFESSIONAL ENGINEERING LICENSURE

TEXAS BOARD OF PROFESSIONAL ENGINEERS
1917 S. INTERSTATE 35
AUSTIN, TX 78741-3702
Email: info@engineers.texas.gov
Website: http://engineers.texas.gov

Lines to the left of the text indicate rules which have changed since the last publication was released on September 5, 2017. Changes to tables are indicated with a gray background.

Rules effective March 15, 2018

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OCCUPATIONS CODE
TITLE 6. REGULATION OF ENGINEERING, ARCHITECTURE, LAND SURVEYING, AND RELATED PRACTICES
SUBTITLE A. REGULATION OF ENGINEERING AND RELATED PRACTICES

CHAPTER 1001. ENGINEER

SUBCHAPTER A. GENERAL PROVISIONS

§ 1001.001. Short Title
This chapter may be cited as The Texas Engineering Practice Act.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.002. Definitions
In this chapter:

(1) "Board" means the Texas Board of Professional Engineers.

(2) "Engineer" means a person licensed to engage in the practice of engineering in this state.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.003. Practice of Engineering
(a) In this section:

(1) "Design coordination" includes the review and coordination of technical submissions prepared by others, including the work of other professionals working with or under the direction of an engineer with professional regard for the ability of each professional involved in a multidisciplinary effort.

(2) "Engineering survey" includes any survey activity required to support the sound conception, planning, design, construction, maintenance, or operation of an engineered project. The term does not include the surveying of real property or other activity regulated under Chapter 1071.

(b) In this chapter, "practice of engineering" means the performance of or an offer or attempt to perform any public or private service or creative work, the adequate performance of which requires engineering education, training, and experience in applying special knowledge or judgment of the mathematical, physical, or engineering sciences to that service or creative work.

(c) The practice of engineering includes:

(1) consultation, investigation, evaluation, analysis, planning, engineering for program management, providing an expert engineering opinion or testimony, engineering for testing or evaluating materials for construction or other engineering use, and mapping;

(2) design, conceptual design, or conceptual design coordination of engineering works or systems;

(3) development or optimization of plans and specifications for engineering works or systems;

(4) planning the use or alteration of land or water or the design or analysis of works or systems for the use or alteration of land or water;

(5) responsible charge of engineering teaching or the teaching of engineering;

(6) performing an engineering survey or study;

(7) engineering for construction, alteration, or repair of real property;

(8) engineering for preparation of an operating or maintenance manual;

(9) engineering for review of the construction or installation of engineered works to monitor compliance with drawings or specifications;

(10) a service, design, analysis, or other work performed for a public or private entity in connection with a utility, structure, building, machine, equipment, process, system, work, project, or industrial or consumer product or equipment of a mechanical, electrical, electronic, chemical, hydraulic, pneumatic, geotechnical, or thermal nature; or

(11) providing an engineering opinion or analysis related to a certificate of merit under Chapter 150, Civil Practice and Remedies Code; or

(12) any other professional service necessary for the planning, progress, or completion of an engineering service.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.001(a), eff. Sept. 1, 2003.Amended by: Acts 2005, 79th Leg., Ch. 259, Sec. 1, eff. September 1, 2005.

§ 1001.0031. Practices of Engineering and Architecture.
(a) Except as provided by Subsection (d) or (e), the practice of engineering does not include, and engineers may not engage in or offer to engage in, the practice of architecture as defined by Sections 1051.001(7)(A), (B), and (C), as that definition existed on April 1, 2011, and by Section 1051.0016(a).

(b) An engineer may not prepare or provide a complete, comprehensive set of building plans for a building designed for human use or occupancy unless:

(1) the plans and specifications as described by Section 1051.001(7)(A) or (B) are prepared by, or under the supervision of, an architect;

(2) the building is part of a project described by Section 1051.601(b) or a building described by Section 1051.606(a)(4); or

(3) the engineer has received administrative approval by the Texas Board of Architectural Examiners to practice architecture under Section 1051.607.

(c) An engineer is responsible for the engineering plans and specifications of a building unless the work is exempt under Section 1001.053 or 1001.056. In this section, the term "engineering plans and specifications" means:

(1) plans for a structural, mechanical, electrical, electronic, fire suppression, or geotechnical system in a building;

(2) specifications of structural elements and connections of a building;

(3) foundation design;

(4) hydrologic management calculations and design of surface water control and detention necessary for compliance with ordinances and regulations;

(5) design of building drain and waste system plumbing, fresh water plumbing, graywater systems, and mechanical aspects of moving water in and out of a structure, other than simple roof drainage;

(6) evaluation of structural framing members before the addition of roof-mounted equipment or a heavier roof covering;

(7) design of changes in roof pitch by the addition of structural framing members;

(8) evaluation and repair of damaged roof structural framing;

(9) design of electrical and signal and control systems;

(10) shop drawings by manufacturers or fabricators of materials and products to be used in the building features designed by the engineer; and

(11) specifications listing the nature and quality of materials and products for construction of features of the building elements or systems designed by an engineer.

(d) The preparation of engineering plans and specifications for the following tasks is within the scope of practice of both engineering and architecture:

(1) site plans depicting the location and orientation of a building on the site based on:

(A) a determination of the relationship of the intended use with the environment, topography, vegetation, climate, and geographic aspects; and

(B) the legal aspects of site development, including setback requirements, zoning and other legal restrictions, and surface drainage;

(2) the depiction of the building systems, including structural, mechanical, electrical, and plumbing systems, in:

(A) plan views;

(B) cross-sections depicting building components from a hypothetical cut line through a building; and

(C) the design of details of components and assemblies, including any part of a building exposed to water infiltration or fire-spread considerations;

(3) life safety plans and sheets, including accessibility ramps and related code analyses; and

(4) roof plans and details depicting the design of roof system materials, components, drainage, slopes, and directions and location of roof accessories and equipment not involving structural engineering calculations.

(e) The following activities may be performed by either an engineer or an architect:

(1) programming for construction projects, including:

(A) identification of economic, legal, and natural constraints; and

(B) determination of the scope of functional elements;

(2) recommending and overseeing appropriate construction project delivery systems;

(3) consulting with regard to, investigating, and analyzing the design, form, materials, and construction technology used for the construction, enlargement, or alteration of a building or its environment; and

(4) providing expert opinion and testimony with respect to issues within the responsibility of the engineer or architect.

Added 82nd Leg, HB 2284, eff. September 1, 2011.

§ 1001.004. Legislative Purpose and Intent; Liberal Construction of Chapter

(a) The legislature recognizes the vital impact that the rapid advance of knowledge of the mathematical, physical, and engineering sciences as applied in the practice of engineering has on the lives, property, economy, and security of state residents and the national defense.

(b) The purpose of this chapter is to:

(1) protect the public health, safety, and welfare;

(2) enable the state and the public to identify persons authorized to practice engineering in this state; and

(3) fix responsibility for work done or services or acts performed in the practice of engineering.

(c) The legislature intends that:

(1)the privilege of practicing engineering be entrusted only to a person licensed and practicing under this chapter;

(2) only a person licensed under this chapter may:

(A) engage in the practice of engineering;

(B) be represented in any way as any kind of “engineer”; or

(C) make any professional use of the term “engineer”; and

(3) this chapter will be strictly complied with and enforced.

(d) This chapter shall be liberally construed to carry out the intent of the legislature.

(e) This chapter does not:

(1) prevent a person from identifying the person in the name and trade of any engineers’ labor organization with which the person is affiliated;

(2) prohibit or otherwise restrict a person from giving testimony or preparing an exhibit or document for the sole purpose of being placed in evidence before an administrative or judicial tribunal, subject to the board’s disciplinary powers under Subchapter J regarding negligence, incompetency, or misconduct in the practice of engineering;

(3) repeal or amend a law affecting or regulating a licensed state land surveyor; or

(4) affect or prevent the practice of any other legally recognized profession by a member of the profession who is licensed by the state or under the state’s authority.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 1, eff. Sept. 1, 2003.

§ 1001.005. Application of Sunset Act

The Texas Board of Professional Engineers is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2025.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003. Amended 78th Leg, SB 277, eff. September 1, 2003. Amended 82nd Leg, SB 652, eff. September 1, 2011. Amended 83rd Leg., R.S., SB 204, eff. September 1, 2013.

SUBCHAPTER B. EXEMPTIONS

§ 1001.051. Limitation on Exemption

An exemption under this subchapter applies only to a person who does not offer to the public to perform engineering services.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 2003.

§ 1001.052. Employee of License Holder

A person who is an employee or subordinate of an engineer is exempt from the licensing requirements of this chapter if the person's practice does not include responsible charge of design or supervision.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.053. Public Works

The following work is exempt from this chapter:

(1) a public work that involves electrical or mechanical engineering, if the contemplated expense for the completed project is $8,000 or less; or

(2) a public work that does not involve electrical or mechanical engineering, if the contemplated expense for the completed project is $20,000 or less; or

(3) road maintenance or improvement undertaken by the commissioners court of a county.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1142, Sec. 1, eff. June 19, 2009.

§ 1001.054. Federal Officer or Employee

An officer or employee of the United States is exempt from the licensing requirements of this chapter during the time the officer or employee is engaged in the practice of engineering for the United States in this state.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.055. Mechanical, Electrical, or Other Equipment

(a) A person is exempt from the licensing requirements of this chapter if the person is installing, operating, repairing, or servicing a locomotive or stationary engine, steam boiler, diesel engine, internal combustion engine, refrigeration compressor or system, hoisting engine, electrical engine, air conditioning equipment or system, or mechanical, electrical, electronic, or communications equipment or apparatus.

(b) This exemption does not permit a person to:

(1) sign an engineering plan or specification if the person is not an engineer; or

(2) use the term "engineer" or "engineering" in any manner prohibited by this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.056. Construction or Repair of and Plans for Certain Buildings

(a) A person, sole proprietorship, firm, partnership, joint stock association, or private corporation is exempt from the licensing requirements of this chapter if:

(1) a representation that engineering services have been or will be offered to the public is not made or implied; and

(2) the person or entity is erecting, constructing, enlarging, altering, or repairing or is drawing plans or specifications for:

(A) a private dwelling;

(B) apartments not exceeding eight units for each building in the case of one-story buildings;

(C) apartments not exceeding four units for each building and having a maximum height of two stories;

(D) a garage or other structure pertinent to a building described by Paragraph (A), (B), or (C);

(E) a private building to be used exclusively for:

(i) farm, ranch, or agricultural purposes; or

(ii) storage of raw agricultural commodities

(F) a building having no more than one story that:

(i) is not a building exempt from the licensing requirements of this chapter under Section 1001.053 or subject to Section 1001.407;

(ii) has a total floor area of not more than 5,000 square feet; and

(iii) does not contain a clear span between supporting structures greater than 24 feet on the narrow side.

(b) If a structure described by Subsections (a)(2)(F)(i) and (ii) contains unsupported spans greater than 24 feet, only the trusses, beams, or other roof supporting members must be engineered or pre-engineered.

(c) The exemption provided by this section does not apply to a person or entity that is:

(1) providing engineering design or inspection services necessary to comply with windstorm certification standards for a residential dwelling under Subchapter F, Chapter 2210, Insurance Code; or

(2) providing engineering design relating to constructing, enlarging, altering, or repairing, or drawing plans or specifications for, a residential dwelling slab located on expansive soil that meets the expansive soil classification provisions of the International Residential Code as applied in the jurisdiction in which the residential dwelling is located, unless the construction, enlargement, alteration, repair, or drawing of plans or specifications meets the International Residential Code requirements as applied in the jurisdiction in which the residential dwelling is located.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1142, Sec. 1, eff. June 19, 2009.

§ 1001.057. Employee of Private Corporation or Business Entity

(a) This chapter shall not be construed to apply to the activities of a private corporation or other business entity, or the activities of the full-time employees or other personnel under the direct supervision and control of the business entity, on or in connection with:

(1) reasonable modifications to existing buildings, facilities, or other fixtures to real property not accessible to the general public and which are owned, leased, or otherwise occupied by the entity; or

(2) activities related only to the research, development, design, fabrication, production, assembly, integration, or service of products manufactured by the entity.

(b) A person who claims an exemption under this section and who is determined to have directly or indirectly represented the person as legally qualified to engage in the practice of engineering or who is determined to have violated Section 1001.301 may not claim an exemption until the 10th anniversary of the date the person made that representation.

(c) This exemption does not prohibit:

(1) a licensed professional engineer who intends to incorporate manufactured products into a fixed work, system, or facility that is being designed by the licensee on public property or the property of others from requiring the manufacturer to have plans or specifications signed and sealed by a licensed professional engineer; or

(2) the board from requiring, by rule, that certain manufactured products delivered to or used by the public must be designed and sealed by a licensed professional engineer, if necessary to protect the public health, safety, and welfare.

(d) For purposes of this section, "products manufactured by the entity" also includes computer software, firmware, hardware, semiconductor devices, and the production, exploration, and transportation of oil and gas and related products.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 3, eff. Sept. 1, 2003.

§ 1001.058. Employee of Certain Utilities or Affiliates

(a) A regular full-time employee of a privately owned public utility or cooperative utility or of the utility's affiliate is exempt from the licensing requirements of this chapter if the employee:

(1) performs services exclusively for the utility or affiliate; and

(2) does not have the final authority to approve, or the ultimate responsibility for, engineering designs, plans, or specifications that are to be:

(A) incorporated into fixed works, systems, or facilities on the property of others; or

(B) made available to the public.

(b) A person who claims an exemption under this section and who is determined to have directly or indirectly represented the person as legally qualified to engage in the practice of engineering or who is determined to have violated Section 1001.301 may not claim an exemption until the 10th anniversary of the date the person made that representation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 4, eff. Sept. 1, 2003.

§ 1001.059. Qualified Scientists

A qualified scientist engaged in scientific research and investigation of the physical or natural sciences is exempt from the licensing requirements of this chapter. This exemption includes the usual work and activities of a meteorologist, seismologist, geologist, chemist, geochemist, physicist, or geophysicist.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.060. Soil and Water Conservation

Agricultural work performed in carrying out soil and water conservation practices is exempt from this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.061. Telephone Companies

(a) An operating telephone company, an affiliate of the company, or an employee of the company or affiliate is exempt from this chapter with respect to any plan, design, specification, or service that relates strictly to the science and art of telephony.

(b) This exemption includes the use of a job title or personnel classification by a person included under Subsection (a) if the person does not use:

(1) the title or classification in connection with an offer to the public to perform engineering services; and

(2) a name, title, or word that tends to convey the impression that a person not licensed under this chapter is offering to the public to perform engineering services.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.062. Certain Employees Working From Engineer's Plans

(a) A regular full-time employee of a private business entity who is engaged in erecting, constructing, enlarging, altering, repairing, rehabilitating, or maintaining an improvement to real property in accordance with plans or specifications that have an engineer's seal is exempt from this chapter.
(b) This exemption includes the use of a job title or personnel classification by the employee if the employee does not use the title or classification in connection with an offer to the public to perform engineering services.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.063. Architects, Landscape Architects, and Interior Designers

This chapter or a rule adopted under this chapter does not prevent or otherwise restrict a person licensed as an architect under Chapter 1051, a landscape architect under Chapter 1052, or an interior designer under Chapter 1053 from performing an act, service, or work that is within the definition of the person's practice under those chapters.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.064. State Land Surveyors

A licensed state land surveyor is exempt from this chapter in performing a state land surveyor's duties.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.065. Employees of Institutions of Higher Education

(a) In this section, "institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.
(b) An employee of an institution of higher education or a private or independent institution of higher education who is performing research or instructional work within the scope of the person's employment by the institution is exempt from the licensing requirements of this chapter.

Added Section 14A.002,(HB3507), 78th Leg. eff. September 1, 2003

§ 1001.066. Certain NASA-Related Activities

This chapter does not:

(1) apply to a business entity or the business entity's employees to the extent that the entity's products or services consist of space vehicles or space services provided to, or space technology transfer programs required by, the National Aeronautics and Space Administration; or
(2) prohibit the use of the term "engineer" or "engineering" in a job title or personnel classification by an employee described by Subdivision (1) to the extent that the use of the title or classification is related to activities described by that subdivision.

Added 78th Leg, SB277 eff. September 1, 2003.

§ 1001.067. Certain Fire Department Employees

This chapter does not prohibit the professional use of the term "fire engineer" by a member of a fire department in a municipality with a population of one million or more that has adopted Chapter 143, Local Government Code, and to which Subchapter G of that chapter does not generally apply, who:

(1) holds the position of fire apparatus operator; and
(2) is not otherwise engaged in the practice of engineering.

Added by Acts 2009, 81st Leg., R.S., Ch. 1142, Sec. 2, eff. June 19, 2009.

§ 1001.068. Certain Out-Of-State Engineers Engaged In Evaluating Oil And Gas Resources

(a) In this section, "evaluation of oil and gas resources" includes:

(1) the quantification of the volume of oil and gas reserves and resources in the subsurface of the earth;
(2) the determination of production forecasts for the reserves or resources; and
(3) the evaluation of the economic impact of the production forecasts.

(b) This chapter does not apply to the evaluation of oil and gas resources if the evaluation:

(1) is done by an engineer licensed in a state that does not prohibit engineers licensed under this chapter from engaging in the evaluation of oil and gas resources in that state;
(2) does not involve design, construction, or engineering assessments on the surface; and
(3) does not present a risk to public health or safety.

Added by HB 2067, 82nd Leg. Session, effective May 28, 2011.

SUBCHAPTER C. TEXAS BOARD OF PROFESSIONAL ENGINEERS

§ 1001.101. Board Membership

(a) The Texas Board of Professional Engineers consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) six engineers; and
(2) three members who represent the public.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 6, eff. Sept. 1, 2003.

§ 1001.102. Member Eligibility

(a) A person may not be a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of engineering;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the board other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) An engineer member of the board must:

(1) be a citizen of the United States and a resident of this state for at least 10 years before the date of appointment; and

(2) have been engaged in the practice of engineering for at least 10 years before the date of appointment.

(c) For purposes of Subsection (b)(2), a person who has graduated from an approved engineering school may be considered to have engaged in the practice of engineering for two years.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 7, eff. Sept. 1, 2003.

§ 1001.103. Membership and Employee Restrictions

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of engineering; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of engineering.

(c) A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 9, eff. Sept. 1, 2003.

§ 1001.104. Terms; Vacancy

(a) Board members serve staggered six- year terms, with the terms of one-third of the members expiring each odd- numbered year.

(b) If a vacancy occurs during a member's term, the governor shall appoint a replacement to fill the unexpired term.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.105. Participation of Public Members

(a) The board by majority vote may limit the participation of public members in evaluating license applications.

(b) This section does not apply to the evaluation of license applications at an official meeting of the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.106. Grounds for Removal

(a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Sections 1001.101 and 1001.102;

(2) does not maintain during service on the board the qualifications required by Sections 1001.101 and 1001.102;

(3) is ineligible for membership under Section 1001.102 or 1001.103; or

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year, without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 9, eff. Sept. 1, 2003.

§ 1001.107. Per Diem

A board member is entitled to receive a per diem as set by the General Appropriations Act for each day that the member engages in the business of the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 1, eff. September 1, 2007.

§ 1001.108. Officers

The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor. The board shall elect annually from its members an assistant presiding officer, a treasurer, and a secretary.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 10, eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 2, eff. September 1, 2007.

§ 1001.109. Board Secretary's Duties And Salary

Repealed by Acts 2007, 80th Leg., Sec. 8 HB 899.

§ 1001.110. Meetings

The board shall hold at least two regular meetings each year. Special meetings shall be held at the time provided by the board's bylaws.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.111. Filing of Oath

Before assuming the duties of office, each board member shall file with the secretary of state a copy of the constitutional oath of office taken by the member.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.112. Training

(a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.
(b) The training program must provide the person with information regarding:
- (1) this chapter;
- (2) the programs operated by the board;
- (3) the role and functions of the board;
- (4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the board;
- (6) the results of the most recent formal audit of the board;
- (7) the requirements of:
  - (A) the open meetings law, Chapter 551, Government Code;
  - (B) the public information law, Chapter 552, Government Code;
  - (C) the administrative procedure law, Chapter 2001, Government Code; and
  - (D) other laws relating to public officials, including conflict-of-interest laws; and
- (8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added 78th Leg, SB277 eff. September 1, 2003.

SUBCHAPTER D. BOARD PERSONNEL

§ 1001.151. Personnel

(a) The board shall employ clerical or other assistants as necessary to perform the board's work.
(b) A salary paid under this section may not exceed the salary paid for similar work in other departments.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.152. Career Ladder Program; Performance Evaluations

(a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of each nonentry level position with the board at least 10 days before the date of any public posting.
(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations of the board's employees based on measurable job tasks. All merit pay authorized by the executive director must be based on the system established under this subsection.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§1001.153. Division of Responsibilities

The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

Added 78th Leg, SB 277, eff. September 1, 2003.

§1001.154. Qualifications and Standards of Conduct Information

The executive director or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added 78th Leg, SB 277, eff. September 1, 2003.

§1001.155. Equal Employment Opportunity Policy; Report

(a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.
(b) The policy statement must include:
(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and
(2) an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.
(c) The policy statement must:
(1) be updated annually;
(2) be reviewed by the Commission on Human Rights for compliance with Subsection (b)(1); and
(3) be filed with the governor's office.

Added 78th Leg, SB 277, eff. September 1, 2003.

SUBCHAPTER E. BOARD POWERS AND DUTIES

§ 1001.201. General Powers and Duties
(a) The board shall administer and enforce this chapter.

(b) The board may spend money for any purpose the board considers reasonably necessary for the proper performance of its duties under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.202. Rules
The board may adopt and enforce any rule or bylaw necessary to perform its duties, govern its proceedings, and regulate the practice of engineering.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.203. Rules Restricting Advertising or Competitive Bidding
(a) The board by rule shall prescribe standards for compliance with Subchapter A, Chapter 2254, Government Code.
(b) Except as provided by Subsection (a), the board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.
(c) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:
(1) restricts the use of any medium for advertising;
(2) restricts the use of a license holder's personal appearance or voice in an advertisement;
(3) relates to the size or duration of an advertisement by the license holder; or
(4) restricts the license holder's advertisement under a trade name.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 13, eff. Sept. 1, 2003.

§ 1001.2035. Rules on Consequences of Criminal Conviction
The board shall adopt rules and guidelines as necessary to comply with Chapter 53.

Added 78th Leg, SB 277, eff. September 1, 2003.

§ 1001.204. Fees
(a) The board shall establish the following fees in amounts reasonable and necessary to cover the costs of administering this chapter:
(1) license fee;
(2) annual and late renewal fees;
(3) reciprocal license fee;
(4) duplicate license fee;
(5) engineer-in-training certificate fee;
(6) roster of engineers fee;
(7) examination fee;
(8) registration fee for engineering firm; and
(9) inactive status fee.
(b) Fee revenue may not exceed the amount reasonable and necessary to administer this chapter.
(c) General revenue of the state may not be used to pay the costs of administering this chapter in an amount that exceeds the amount of fees received under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 15, eff. Sept. 1, 2003.Amended by:Acts 2005, 79th Leg., Ch. 259, Sec. 2, eff. September 1, 2005.

§ 1001.205. Reduced Fees: Elderly, Disabled, Inactive Status
(a) For purposes of this section, a person is disabled if the person has a mental or physical impairment that substantially limits the ability of the person to earn a living as an engineer, other than an impairment caused by a current addiction to the use of alcohol or an illegal drug or controlled substance.

(b) The board by rule may adopt reduced license fees and annual renewal fees for engineers who are:

(1) at least 65 years of age; or

(2) disabled and not actively engaged in the practice of engineering.

(c) A person entitled to reduced fees under Subsection (b)(2) shall notify the board that the person has resumed the active practice of engineering not later than the 15th day after the date the person resumes active practice.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.206. Fee Increase

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 16, eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 3, eff. September 1, 2007. Amended 83rd Leg., R.S., SB 204, eff. September 1, 2013. Repealed by 84th Leg., R.S., HB7, eff. September 1, 2015.

§ 1001.207. Standards of Conduct and Ethics

The board may establish standards of conduct and ethics for engineers in keeping with the purposes and intent of this chapter and to ensure strict compliance with and enforcement of this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.208. Roster of Engineers

(a) The board shall prepare and publish a roster of persons, including business entities, licensed, registered, certified, or enrolled by the board. The roster shall include the name, business address, and other identifying information required by board rule.

(b) The board shall make the roster available to the public without cost in an online computer database format.

(c) The board shall provide a physical copy of the roster on request and may charge a reproduction and shipping fee for providing a physical copy of the roster.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.209. Register of Applicants

The board shall maintain a register of license applications that shows:

(1) the name, age, and residence of each applicant;

(2) the date of the application;

(3) the applicant's place of business;

(4) the applicant's educational and other qualifications;

(5) whether an examination was required;

(6) whether the applicant was issued or denied a license;

(7) the date of board action; and

(8) any other information the board considers necessary.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.210. Continuing Education Programs

(a) The board shall recognize, prepare, or administer continuing education programs for its license holders. A license holder must participate in the programs to the extent required by the board to keep the person's license.

(b) The board may not require a license holder to obtain more than 15 hours of continuing education annually. The board shall permit a license holder to certify at the time the license is renewed that the license holder has complied with the board's continuing education requirements.

(c) The board shall permit a license holder to receive continuing education credit for educational, technical, ethical, or professional management activities related to the practice of engineering, including:

(1) successfully completing or auditing a course sponsored by an institution of higher education;

(2) successfully completing a course certified by a professional or trade organization;

(3) attending a seminar, tutorial, short course, correspondence course, videotaped course, or televised course;

(4) participating in an in-house course sponsored by a corporation or other business entity;

(5) teaching a course described by Subdivisions (1)-(4);

(6) publishing an article, paper, or book on the practice of engineering;

(7) making or attending a presentation at a meeting of a technical or engineering management society or organization or writing a paper presented at such a meeting;

(8) participating in the activities of a professional society or association, including serving on a committee of the organization; and

(9) engaging in self-directed study.

(d) A license holder may not receive more than five continuing education credit hours annually for engaging in self-directed study.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 17, eff. Sept. 1, 2003.

§ 1001.211. Records

(a) The board shall maintain a record of its proceedings.

(b) The board's records shall be available to the public at all times.

(c) The board's records are prima facie evidence of the proceedings of the board set forth in the records. A transcript of the records certified by the secretary of the board under seal is admissible in evidence with the same effect as if it were the original.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.212. Confidentiality of Certain Information Related to License Application

(a) A statement made by a person providing a reference for an applicant and other pertinent information compiled by or submitted to the board relating to an applicant for a license under this chapter is privileged and confidential.
(b) Information described by Subsection (a) may be used only by the board or its employees or agents who are directly involved in the application or licensing process. The information is not subject to discovery, subpoena, or other disclosure.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.213. Subpoena

(a) The board may request and, if necessary, compel by subpoena:
(1) the attendance of a witness for examination under oath; and
(2) the production for inspection or copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter.
(b) The board, acting through the attorney general, may bring an action to enforce a subpoena issued under Subsection (a) against a person who fails to comply with the subpoena.
(c) Venue for an action brought under Subsection (b) is in a district court in:
(1) Travis County; or
(2) the county in which the board may hold a hearing.
(d) The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.214. Technology Policy

The board shall develop and implement a policy requiring the executive director and board employees to research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:
(1) ensure that the public is able to find information about the board on the Internet;
(2) ensure that persons who want to use the board's services are able to:
(A) interact with the board through the Internet; and
(B) access any service that can be provided effectively through the Internet; and
(3) be cost-effective and developed through the board's planning processes.

Added 78th Leg, SB277 eff. September 1, 2003.

§ 1001.215. Negotiated Rulemaking and Alternative Dispute Resolution Policy

(a) The board shall develop and implement a policy to encourage the use of:
(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and
(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.
(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.
(c) The board shall designate a trained person to:
(1) coordinate the implementation of the policy adopted under Subsection (a);
(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and
(3) collect data concerning the effectiveness of those procedures, as implemented by the board.

Added 78th Leg, SB 277, eff. September 1, 2003.

§ 1001.216. Joint Advisory Committee on the Practice of Engineering and Architecture

Repealed by HB 2284, 82nd Leg. Session, eff. September 1, 2011.

SUBCHAPTER F. CONSUMER INTEREST INFORMATION AND COMPLAINT PROCEDURES

§ 1001.251. Consumer Interest Information

(a) The board shall prepare information of consumer interest describing the regulatory functions of the board and the procedures by which consumer complaints are filed with and resolved by the board.
(b) The board shall make the information available to the public and appropriate state agencies.
(c) The board shall maintain on the board's Internet website:
(1) information regarding the procedure for filing a complaint with the board; and
(2) a form that a person may use to file a complaint with the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 19, eff. Sept. 1, 2003.

§ 1001.252. General Rules Regarding Complaint Investigation and Disposition

(a) The board shall adopt rules that permit the board to receive and investigate a confidential complaint against a license holder or other person who may have violated this chapter. The board shall maintain the confidentiality of the complaint during the investigation.
(b) The board by rule shall specify:
(1) the manner by which a person may contact the board for assistance in filing a complaint;

(2) the place at which a complaint must be filed;
(3) the proper form of a complaint; and
(4) the information that must be included in a complaint.

(c) The board's procedures must permit a member of the public who desires to file a complaint to:
(1) speak to an investigator on the staff of the board if the person desires to do so; or
(2) easily and conveniently access the board's complaint process without being required to speak to an investigator on the staff of the board if the person does not desire to speak to an investigator.

(d) The board shall consider any written grievance against a license holder or other person filed with the board as a complaint.

(e) A complaint must include information sufficient for the board to determine whether it has the authority to resolve the complaint. A complaint that contains sufficient information for the board to commence an investigation is not required to include all of the information necessary for the board to determine the validity of the complaint.

(f) On receipt of a complaint, the board shall determine whether the board has the authority to resolve the complaint. If the board does not have the authority to resolve the complaint, the board shall dismiss the complaint. If the board has the authority to resolve the complaint, the board shall initiate a disciplinary proceeding against the person who is the subject of the complaint.

(g) The board by rule shall prescribe a method for prioritizing complaints for purposes of complaint investigation. In establishing priorities:
(1) a complaint that alleges an action that could potentially harm the public takes precedence over a complaint that does not allege an action that could potentially harm the public; and
(2) with regard to complaints that do not allege an action that could potentially harm the public, a complaint filed by a member of the public takes precedence over a complaint filed by the staff of the board.

(h) The board's staff is responsible for conducting all phases of complaint investigation, including gathering evidence necessary to determine the validity of the complaint.

(i) The board may employ or contract with advisors, consultants, engineers, or other persons to provide technical assistance in investigations and disciplinary proceedings. Except for an action involving fraud, conspiracy, or malice, a person whose services are obtained by the board under this subsection is immune from civil liability and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken in the course of performing the person's official duties.

(j) The board's staff shall regularly report to the board on each complaint dismissed by board staff, including:
(1) the name of the complainant;
(2) the name of the person who is the subject of the complaint;
(3) the basis of the complaint; and
(4) the reason for the dismissal of the complaint.

(k) Except as provided by Subsection (l), a complaint filed with the board is public information.

(l) For any complaint determined to be frivolous or without merit, the complaint and other enforcement case information related to that complaint are confidential. The information may be used only by the board or by its employees or agents directly involved in the enforcement process for that complaint. The information is not subject to discovery, subpoena, or other disclosure.

(m) In this section, "frivolous complaint" means a complaint that the executive director and investigator, with board approval, determined:
(1) was made for the purpose of harassment; and
(2) does not demonstrate harm to any person.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 20, eff. Sept. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 259, Sec. 3, eff. September 1, 2005.

§ 1001.253. Complaint Information

(a) The board shall:
(1) assign a number to each complaint filed with the board; and
(2) ensure that each phase of the processing of a complaint is appropriately documented.

(b) The board shall maintain a file on each written complaint filed with the board. The file must include:
(1) the name of the person who filed the complaint;
(2) the date the complaint is received by the board;
(3) the subject matter of the complaint;
(4) the name of each person contacted in relation to the complaint;
(5) a summary of the results of the review or investigation of the complaint; and
(6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

(c) The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

(d) The board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 20, eff. Sept. 1, 2003.

§ 1001.254. Statistical Analysis of Complaints

(a) The board shall develop and maintain a complaint tracking system to monitor the processing of complaints filed with the board.

(b) The board shall include with the board's annual financial report under Section 2101.011, Government Code, a statistical analysis of the complaints filed with the board during the preceding year, including:
(1) the number of complaints filed;
(2) a categorization of complaints filed according to the basis of the complaint and the number of complaints in each category;
(3) the number of complaints filed by board staff;
(4) the number of complaints filed by persons other than board staff;
(5) the average length of time required to resolve a complaint;

(6) the number of complaints resolved and the manner in which they were resolved, including:

(A) the number of complaints dismissed and the reasons for dismissal; and

(B) the number of complaints resulting in disciplinary action, the disciplinary action taken, and whether the disciplinary action taken was imposed by stipulation, agreed settlement, consent order, default, or order following a contested case hearing; and

(7) the number of complaints filed that are unresolved, the number of those complaints filed by board staff, the number of those complaints filed by persons other than board staff, and the average length of time that the unresolved complaints have been on file.

Added 78th Leg, SB 277, eff. September 1, 2003.

§ 1001.255. Public Participation

The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Added 78th Leg, SB277 eff. September 1, 2003.

SUBCHAPTER G. LICENSE REQUIREMENTS

§ 1001.301. License Required

(a) A person may not engage in the practice of engineering unless the person holds a license issued under this chapter.

(b) Except as provided by Subsection (f), a person may not, unless the person holds a license issued under this chapter, directly or indirectly use or cause to be used as a professional, business, or commercial identification, title, name, representation, claim, asset, or means of advantage or benefit any of, or a variation or abbreviation of, the following terms:

(1) "engineer";

(2) "professional engineer";

(3) "licensed engineer";

(4) "registered engineer";

(5) "registered professional engineer";

(6) "licensed professional engineer"; or

(7) "engineered."

(c) Except as provided by Subsection (f), a person may not directly or indirectly use or cause to be used an abbreviation, word, symbol, slogan, or sign that tends or is likely to create an impression with the public that the person is qualified or authorized to engage in the practice of engineering unless the person holds a license and is practicing under this chapter.

(d) A person may not receive any fee or compensation or the promise of any fee or compensation for engaging in the practice of engineering unless the person holds a license issued under this chapter.

(e) A person, sole proprietorship, firm, partnership, association, or corporation that engages in or offers or attempts to engage in conduct described by this section is conclusively presumed to be engaged in the practice of engineering.

(f) Notwithstanding the other provisions of this chapter, a regular employee of a business entity who is engaged in engineering activities but is exempt from the licensing requirements of this chapter under Sections 1001.057 or 1001.058 is not prohibited from using the term "engineer" on a business card, cover letter, or other form of correspondence that is made available to the public if the person does not:

(1) offer to the public to perform engineering services; or

(2) use the title in any context outside the scope of the exemption in a manner that represents an ability or willingness to perform engineering services or make an engineering judgment requiring a licensed professional engineer.

(g) Subsection (f) does not authorize a person to use a term listed in Subsections (b)(2)-(6) or a variation or abbreviation of one of those terms.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 22, eff. Sept. 1, 2003.

§ 1001.302. License Eligibility Requirements

(a) An applicant for a license under this chapter must submit evidence satisfactory to the board showing at least that the applicant has:

(1) graduated from:

(A) an engineering curriculum approved by the board as having satisfactory standing; or

(B) an engineering or related science curriculum at a recognized institution of higher education, other than a curriculum approved by the board under Paragraph (A);

(2) passed the examination requirements prescribed by the board; and

(3) engaged in the active practice of engineering for at least:

(A) four years, if the applicant graduated from a curriculum described by Subdivision (1)(A); or

(B) eight years, if the applicant graduated from a curriculum described by Subdivision (1)(B).

(b) To satisfy the requirement of Subsection (a)(3), an applicant must submit a specific record showing engineering work of a character satisfactory to the board indicating that the applicant is competent to be placed in responsible charge of that work.

(c) For purposes of determining an applicant's qualifications under Subsection (a)(3), the board may not consider as active practice in engineering work:

(1) engineering teaching;

(2) the mere execution, as a contractor, of work designed by an engineer; or

(3) the supervision, as a foreman or superintendent, of the construction of work designed by an engineer.

(d) A person is not eligible to be licensed as an engineer unless the person is of good character and reputation.

(e) A person who has the necessary license qualifications described by this chapter is eligible for the license regardless of whether the person is practicing at the time the person applies for the license.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.003(a), eff. Sept. 1, 2003.

§ 1001.303. Application for License

(a) An applicant for a license under this chapter must submit an application on a form prescribed and provided by the board.
(b) The application must contain:

(1) personal information about the applicant, as required by board rule;
(2) a description of the applicant's education;
(3) a detailed summary of the applicant's actual engineering work;
(4) a description of any engineering license or registration previously issued to the applicant and any denial, revocation, or suspension of an engineering license or registration held by the applicant;
(5) a description of any criminal offense of which the applicant has been convicted; and
(6) at least three references from engineers having personal knowledge of the applicant's character, reputation, general suitability for a license, and engineering experience.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 23, eff. Sept. 1, 2003.

§ 1001.3035. Criminal History Record Information Requirement for License Issuance

(a) The board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.
(b) The board may not issue a license to a person who does not comply with the requirement of Subsection (a).
(c) The board shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and
(2) made available to the board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and
(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

Added 83rd Leg., R.S., SB 204, eff. September 1, 2013.

§ 1001.304. Examination

(a) The board shall administer examinations to determine the qualifications of applicants for a license.
(b) The board shall prescribe the scope of the examination and the methods of procedure with special reference to an applicant's ability to design and supervise engineering works to ensure the safety of life, health, and property.
(c) On payment of the examination fee, the board shall administer an oral or written examination to a qualified applicant at a time and place determined by the board.
(d) The board by rule shall ensure that the examination is administered to applicants with disabilities in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), and its subsequent amendments.
(e) The board shall:

(1) adopt policies and guidelines detailing the procedures for the examination process, including examination admission, examination administration, and national examination requirements; and
(2) post on the board's Internet website the policies that reference the examination procedures of the board or, if applicable, the national organization selected by the board to administer an examination.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 24, eff. Sept. 1, 2003. Amended 83rd Leg., R.S., SB 204, eff. September 1, 2013.

§ 1001.305. Waiver of Examination Requirement

The board by rule may waive all or part of the examination requirement for an applicant for the issuance or reissuance of a license. The board may not waive the requirement unless the board first determines that:

(1) the applicant possesses sufficient qualifications to justify the waiver; and
(2) issuing or reissuing the license to the applicant does not pose a threat to the public health, safety, or welfare.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.306. Examination Results

(a) Not later than the 30th day after the date a person takes a licensing examination under this chapter, the board shall notify the person of the results of the examination.
(a-1) If the examination is graded or reviewed by a testing service:

(1) the board shall notify the person of the results of the examination not later than the 14th day after the date the board receives the results from the testing service; and
(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the board shall notify the person of the reason for the delay before the 90th day.

(b) The board may require a testing service to notify a person of the results of the person's examination.
(c) If requested in writing by a person who fails a licensing examination administered under this chapter, the board shall furnish the person with an analysis of the person's performance on the examination.

(d) Examination results reported under this section must include a numerical score and an indication of whether the person passed or failed the examination.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 25, eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 4, eff. September 1, 2007.

§ 1001.307. Reexamination

The board may permit reexamination of an applicant on payment of an appropriate reexamination fee in an amount set by the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.308. Issuance of License

(a) On payment of the license fee, the board shall issue a license authorizing the practice of engineering to an applicant who, in the board's opinion, has met all the requirements of this subchapter.
(b) A license shall:
(1) show the full name of the license holder;
(2) have a serial number; and
(3) be signed by the presiding officer and the secretary of the board under the board's seal.
(c) A license is evidence that the person named on the license is entitled to all rights and privileges of an engineer.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.309. Certification or Enrollment of Engineers-In-Training

(a) The board shall certify or enroll as an engineer-in-training an applicant who meets the requirements of Subsection (b) if the applicant is otherwise qualified.
(b) The board shall consider as minimum evidence that an applicant is qualified for certification or enrollment as an engineer-in-training if the applicant:
(1) complies with the education and character requirements of Section 1001.302; and
(2) has passed the board's examination in the fundamentals of engineering.
(c) The fee for an engineer-in-training certificate or enrollment must accompany the application.
(d) The certification or enrollment of an engineer-in-training is valid for eight years.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003. Amended 83rd Leg., R.S., SB 204, eff. September 1, 2013.

§ 1001.310. Temporary or Provisional License

(a) The board by rule may adopt standards and procedures for issuing a temporary or provisional license under this chapter.
(b) The board may issue a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who:
(1) has been licensed in good standing as an engineer for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;
(2) has passed a national or other examination recognized by the board relating to the practice of engineering; and
(3) is sponsored by a person licensed by the board under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.
(c) The board may waive the requirement of Subsection (b)(3) for an applicant if the board determines that compliance with that subsection would be a hardship to the applicant.
(d) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this chapter to the provisional license holder if:
(1) the provisional license holder is eligible to be licensed under Section 1001.311(b); or
(2) the provisional license holder meets the following requirements:
(A) the provisional license holder passes an examination that tests the provisional license holder's knowledge and understanding of the laws and rules relating to the practice of engineering in this state;
(B) the board verifies that the provisional license holder meets the academic and experience requirements for a license under this chapter; and
(C) the provisional license holder satisfies any other licensing requirements under this chapter.
(e) The board must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.
(f) The board may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 25, eff. Sept. 1, 2003.

§ 1001.311. Application by Nonresident

(a) A person who holds a license or certificate of registration issued by another state or a foreign country may apply for a license in this state.
(b) The board may waive any prerequisite to obtaining a license for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 25, eff. Sept. 1, 2003.

§ 1001.312. Replacement License

The board, subject to board rules, may issue a new license to replace a license that is lost, destroyed, or mutilated.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER H. LICENSE RENEWAL

§ 1001.351. Annual Renewal Required

(a) The board shall provide for the annual renewal of a license or registration issued under this chapter.
(b) The board by rule may adopt a system under which licenses and registrations expire on various dates during the year . For the year in which the license or registration expiration date is changed, the board shall prorate license or registration fees on a monthly basis so that each license or registration holder pays only that portion of the license or registration fee that is allocable to the number of months during which the license or registration is valid. On renewal of the license or registration on the new expiration date, the total license or registration renewal fee is payable.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 26, eff. Sept. 1, 2003.

§ 1001.352. Notice of License Expiration

Not later than the 30th day before the date a person's license is scheduled to expire, the board shall send written notice of the impending expiration to the person at the person's last known address according to the records of the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 27, eff. Sept. 1, 2003.

§ 1001.353. Procedure for Renewal

(a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required annual renewal fee to the board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.
(b) A person whose license has been expired for 90 days or less may renew the license by paying to the board the required annual renewal fee and a late renewal fee.
(c) A person whose license has been expired for more than 90 days but less than two years may renew the license by paying to the board the required annual renewal fee and a late renewal fee for each delinquent year or part of a year.
(d) A person whose license has been expired for two years or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 27, eff. Sept. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 259, Sec. 4, eff. September 1, 2005. Amended by 84th Leg., R.S., HB7, eff. September 1, 2015.

§ 1001.3535. Criminal History Record Information Requirement for License Renewal

(a) An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 1001.3035.
(b) The board may not renew the license of a person who does not comply with the requirement of Subsection (a).
(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 1001.3035 for the initial issuance of the license; or
(2) this section as part of a prior license renewal.

Added 83rd Leg., R.S., SB 204, eff. September 1, 2013.

§ 1001.354. Renewal of Expired License by Out-of-State Practitioner

(a) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination.
(b) The person must pay to the board a fee that is equal to two times the normally required renewal fee for the license.

Added 78th Leg, SB277 eff. September 1, 2003.

§ 1001.355. Inactive Status

(a) An engineer may request inactive status at any time. A license holder on inactive status may not practice engineering.
(b) A license holder on inactive status must pay an annual fee set by the board.
(c) A license holder on inactive status is not required to:

(1) comply with the continuing education requirements adopted by the board; or
(2) take an examination for reinstatement to active status.

(d) To return to active status, a license holder on inactive status must:

(1) file with the board a written notice requesting reinstatement to active status;
(2) pay the fee for the annual renewal of the license; and
(3) provide evidence satisfactory to the board that the person has complied with the continuing education requirements adopted by the board.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 28, eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 5, eff. September 1, 2007. Amended by 84th Leg., R.S., HB7, eff. September 1, 2015.

SUBCHAPTER I. PRACTICE OF ENGINEERING

§ 1001.401. Use of Seal

(a) On receiving a license, a license holder shall obtain a seal in a design authorized by the board, showing the license holder's name and the legend "Licensed Professional Engineer" or "Registered Professional Engineer."
(b) A plan, specification, plat, or report issued by a license holder for a project to be constructed or used in this state must include the license holder's seal placed on the document. A license holder is not required to use a seal required by this section if the project is to be constructed or used in another state or country.
(c) A person may not place a seal on a document if the license of the license holder named on the seal has expired or has been suspended or revoked.
(d) A license holder is not required to use a seal under this section for a project for which the license holder is not required to hold a license under an exemption provided by Subchapter B.
(e) A license holder shall not be required to provide or hold any additional certification, other than a license issued under this chapter, to seal an engineering plan, specification, plat, or report.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 259, Sec. 5, eff. September 1, 2005. Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 6, eff. September 1, 2007. Acts 2009, 81st Leg., R.S., Ch. 1142, Sec. 3, eff. June 19, 2009.

§ 1001.402. Enforcement by Certain Public Officials

A public official of the state or of a political subdivision of the state who is responsible for enforcing laws that affect the practice of engineering may accept a plan, specification, or other related document only if the plan, specification, or other document was prepared by an engineer, as evidenced by the engineer's seal.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.403. Professional Identification

A person licensed under this chapter shall use the term "Engineer," "Professional Engineer," or "P.E." in the professional use of the person's name on a sign, directory, listing, document, contract, pamphlet, stationery, advertisement, signature, or another similar written or printed form of identification.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.404. Eligibility for Appointed State Position

An engineer is eligible to hold any appointive engineering position with the state.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.405. Practice by Business Entity; Registration

(a) In this section, "business entity" includes a sole proprietorship, firm, partnership, corporation, or joint stock association.
(b) A business entity may not engage in the practice of engineering in this state unless:
(1) the business entity is registered with the board; and
(2) the practice is carried on only by engineers.
(c) A business entity may register under this section by filing an application with the board on a form provided by the board. In addition to any other information required by board rule, the application must list the name and address of each officer or director of the business entity and each engineer who engages in the practice of engineering on behalf of the business entity.
(d) The registration of a business entity issued under this section expires on the first anniversary of the date the registration is issued. The registration may be renewed by the filing of an updated application under Subsection (c).
(e) A business entity may not represent to the public that it is engaged in the practice of engineering under any business name or use or cause to be used the term "engineer," "engineering," "engineering services," "engineering company," "engineering, inc.," " professional engineers," "licensed engineer," "registered engineer," "licensed professional engineer," "registered professional engineer," or "engineered," or any abbreviation or variation of those terms, or directly or indirectly use or cause to be used any of those terms in combination with other words, letters, signs, or symbols as a part of any sign, directory, listing, contract, document, pamphlet, stationery, advertisement, signature, or business name unless:
(1) the business entity is registered under this section;
(2) the business entity is actively engaged in the practice of engineering; and
(3) each service, work, or act performed by the business entity that is part of the practice of engineering is either personally performed by an engineer or directly supervised by an engineer who is a regular full-time employee of the business entity.
(f) This section does not prohibit an engineer from performing engineering services on a part-time basis.
(g) Notwithstanding the other provisions of this section, the board by rule may provide that a business entity that has not previously registered with the board and that is engaged in the practice of engineering in violation of Subsection (b) is not subject to disciplinary action for the violation if the business entity registers with the board not later than the 30th day after the date the board gives written notice to the business entity of the registration requirement. This subsection does not apply to a business entity whose registration has expired.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 29, eff. Sept. 1, 2003.

§ 1001.406. Graduate Engineers

(a) A graduate of a university recognized by the American Association of Colleges and Universities who has a degree from an engineering program accredited by the Accreditation Board for Engineering and Technology (ABET) has the right to:
(1) disclose any college degree received by the person; and
(2) use the term "graduate engineer" on the person's stationery or business cards or in personal communications of any character.

(b) A graduate engineer who is employed in a firm registered under this chapter and who is working under the direct supervision of a licensed professional engineer may use the term "engineer" on the person's stationery or business cards or in personal communications of any character.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 30, eff. Sept. 1, 2003.

§ 1001.407. Construction of Certain Public Works

The state or a political subdivision of the state may not construct a public work involving engineering in which the public health, welfare, or safety is involved, unless:

(1) the engineering plans, specifications, and estimates have been prepared by an engineer; and

(2) the engineering construction is to be performed under the direct supervision of an engineer.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER J. PROHIBITED PRACTICES AND DISCIPLINARY PROCEDURES

§ 1001.451. Disciplinary Powers of Board

On a determination that a ground for disciplinary action exists under Section 1001.452, the board may:

(1) deny an application for a license;

(2) revoke, suspend, or refuse to renew a license;

(3) probate the suspension of a license; or

(4) formally or informally reprimand a license holder.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.452. Grounds for Disciplinary Action

A person is subject to disciplinary action under Section 1001.451 for:

(1) a violation of this chapter or a board rule;

(2) fraud or deceit in obtaining a license;

(3) a documented instance of retaliation by an applicant against an individual who has served as a reference for that applicant;

(4) gross negligence, incompetency, or misconduct in the practice of engineering; or

(5) a failure to timely provide plans or specifications to the Texas Department of Licensing and Regulation as required by Article 9102, Revised Statutes.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.4525. Probation

(a) If a person's license suspension is probated, the board may require the person to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the board; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(b) The board by rule shall adopt written guidelines to ensure that probation is administered consistently.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 31, eff. Sept. 1, 2003.

§ 1001.4526. Restitution

(a) Subject to Subsection (b), the Board may order a person licensed or registered under this chapter to pay restitution to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of restitution ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the person for a service regulated by this chapter. The Board may not require payment of other damages or estimate harm in a restitution order.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 31, eff. Sept. 1, 2003.

§ 1001.4527. Recusal of Board Member

(a) A board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint:

(1) may not vote on the matter at a board meeting related to the complaint; and

(2) shall state at the meeting why the member is prohibited from voting on the matter.

(b) A statement under Subsection (a)(2) shall be entered into the minutes of the meeting.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 31, eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 7, eff. September 1, 2007.

§ 1001.4528. Emergency Suspension

(a) The board or a three-member panel of board members designated by the board shall temporarily suspend the license, certificate, or registration of a person if the board or panel determines from the evidence or information presented to it that continued practice by the person would constitute a continuing and imminent threat to the public welfare.

(b) A license, certificate, or registration may be suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for a hearing before the State Office of Administrative Hearings simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.

(c) The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension.

Added 83rd Leg., R.S., SB 204, eff. September 1, 2013.

§ 1001.453. Review of License Holder's Status

(a) The board by rule may review the status of a license holder the board believes:

(1) may have been issued a license through fraud or error; or

(2) may constitute a threat to the public health, safety, or welfare.

(b) The board may suspend or revoke a license held by a person whose status is reviewed under this section.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.454. Right to Hearing

(a) If the board proposes to suspend or revoke a person's license, the person is entitled to a hearing.

(b) Proceedings for the suspension or revocation of a license are governed by Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.455. Appeal of License Revocation

A person whose license has been revoked may file suit to annul or vacate the board's order revoking the license. The person may file the suit in the district court of the county in which:

(1) the person resides; or

(2) the alleged conduct that is the ground for revocation occurred.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.456. Reissuance of Revoked License

The board may reissue a license to a person whose license has been revoked if the board has sufficient reason to reissue the license. At least six board members must vote for reissuance of the license. A new license may be issued in accordance with board rules.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER K. ADMINISTRATIVE PENALTY

§ 1001.501. Imposition of Administrative Penalty

The board may impose an administrative penalty on a person who violates this chapter or a rule adopted or order issued under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.502. Amount of Administrative Penalty

(a) The amount of an administrative penalty may not exceed $5,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of the prohibited act; and

(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts or resistance to efforts to correct the violation; and

(6) any other matter that justice may require.

(c) The board may include in the amount of the penalty the actual costs of investigating and prosecuting the violation.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003. Amended 83rd Leg., R.S., SB 204, eff. September 1, 2013.

§ 1001.503. Options Following Decision: Pay or Appeal

(a) Not later than the 30th day after the date the board's order becomes final, the person shall:

(1) pay the administrative penalty;

(2) pay the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both; or

(3) without paying the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court and that is:

(i) for the amount of the penalty; and

(ii) effective until judicial review of the board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court an affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(c) If the executive director receives a copy of an affidavit under Subsection (b)(2), the executive director may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

(d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or give a supersedeas bond.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.504. Collection of Penalty

If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.505. Determination by Court

(a) If a court sustains the determination that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced penalty.

(b) If a court does not sustain the determination that a violation occurred, the court shall order that an administrative penalty is not owed.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.506. Remittance of Penalty and Interest

(a) If, after judicial review, the administrative penalty is reduced or not imposed by the court, the court shall:

(1) order the appropriate amount, plus accrued interest, be remitted to the person if the person paid the penalty; or

(2) order the release of the bond:

(A) if the person gave a supersedeas bond and the penalty is not upheld by the court; or

(B) after the person pays the penalty if the person gave a supersedeas bond and the penalty is reduced.

(b) The interest paid under Subsection (a)(1) is at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.507. Disposition of Penalty

The part of an administrative penalty that represents the costs incurred by the board in investigating and prosecuting the violation may be appropriated only to the board to reimburse the board for performance of its regulatory functions.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.508. Administrative Procedure

(a) A proceeding under this subchapter is subject to Chapter 2001, Government Code.

(b) The board shall adopt rules of procedure for imposing an administrative penalty. The rules must conform to the requirements of Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER L. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

§ 1001.551. Injunction

(a) In addition to any other action authorized by law, the board may bring an action in the board's name to enjoin a person from violating this chapter or a board rule.

(b) An action under this section must be brought in a district court of Travis County.

(c) To sustain an action under this section, the board is not required to allege or prove that:

(1) an adequate remedy at law does not exist; or

(2) substantial or irreparable damage would result from the continued violation.

(d) In an action for an injunction under this section, the defendant may assert and prove as a complete defense to the action that the board deprived the defendant of a license by a board action or proceeding that was:

(1) arbitrary or capricious;

(2) contrary to law; or

(3) conducted without due process of law.

(e) Either party to an action under this section may appeal to the appellate court with jurisdiction of the action.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.552. Criminal Penalty

(a) A person commits an offense if the person:

(1) engages in the practice of engineering without being licensed or exempted from the licensing requirement under this chapter;

(2) violates this chapter;

(3) presents or attempts to use as the person's own the license or seal of another; or
(4) gives false evidence of any kind to the board or a board member in obtaining a license.
(b) An offense under this section is a Class A misdemeanor.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.553. Report of Violation
A public official shall report a violation of this chapter to the proper authorities.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.554. Presentation of Complaints by Board; Assistance at Trial
(a) A member of the board may present to a prosecuting officer a complaint relating to a violation of this chapter.
(b) The board through its members, officers, counsel, and agents and subject to the control of the prosecuting officer may assist in the trial of a case involving an alleged violation of this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1001.555. Attorney General as Legal Advisor; Representation by Attorney General
(a) The attorney general shall:
(1) act as legal advisor of the board;
(2) provide legal assistance to the board as necessary to enforce this chapter and make it effective; and
(3) represent the board in an action brought to enforce this chapter.
(b) This section does not affect the duties of local prosecuting officers.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

§ 1001.556. Appeal Bond
The board is not required to give an appeal bond in a cause arising under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

§ 1001.5511. Cease and Desist Order
If it appears to the board that a person who is not licensed, certified, or registered under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the practice of engineering, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

Added 83rd Leg., R.S., SB 204, eff. September 1, 2013.

SUBCHAPTER M. ADVISORY OPINIONS

§ 1001.601. Board Advisory Opinions
(a) On its own initiative or at the request of any interested person, the board shall prepare a written advisory opinion about:
(1) an interpretation of this chapter; or
(2) the application of this chapter to a person in regard to a specified existing or hypothetical factual situation.
(b) The board shall respond to requests for opinions within 180 days unless the board affirmatively states the board's reason:
(1) for not responding to the request within 180 days; or
(2) for not responding to the request at all.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003. Amended by:Acts 2005, 79th Leg., Ch. 259, Sec. 6, eff. September 1, 2005.

§ 1001.602. Maintenance of Opinions; Summary
The board shall:
(1) number and classify each advisory opinion issued under this subchapter; and
(2) annually compile a summary of the opinions in a single reference document that is available on the Internet.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003.

§ 1001.603. Attorney General's Opinions
The authority of the board to issue an advisory opinion under this subchapter does not affect the authority of the attorney general to issue an opinion as authorized by law.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003.

§ 1001.604. Reliance on Advisory Opinion
It is a defense to prosecution or to imposition of a civil penalty that a person reasonably relied on a written advisory opinion of the board relating to:
(1) the provision of the law the person is alleged to have violated; or
(2) a fact situation that is substantially similar to the fact situation in which the person is involved.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003

SUBCHAPTER N. WINDSTORM-RELATED DESIGN SERVICES

§ 1001.651. Definitions In this subchapter:

Repealed by 84th Leg., R.S., HB7, eff. September 1, 2015.

Sec. 1001.652. Qualifications; Roster

Repealed by 84th Leg., R.S., HB7, eff. September 1, 2015.

Sec. 1001.653. Compliance With Building Codes; Enforcement

Added by Acts 2011, 82nd Leg., Special Session, HB 3, effective September 28, 2011. Repealed by 84th Leg., R.S., HB7, eff. September 1, 2015.

Rules Concerning the Practice of Engineering and Professional Engineering Licensure
Texas Administrative Code, Title 22: Examining Boards
Part 6 Texas Board of Professional Engineers

Chapter 131: Organization and Administration

SUBCHAPTER A: ORGANIZATION OF THE BOARD

§131.1 Purpose and Duties
(a) The board is statutorily empowered to regulate the practice of engineering in Texas.
(b) The board shall promulgate and adopt rules as authorized and required by statute, which are necessary for the performance of its duties. Such rules shall establish standards of conduct and ethics for engineers, ensure strict compliance with and enforcement of the provisions of the Act, ensure uniform standards of practice and procedure, and provide for public participation, notice of the agency actions, and a fair and expeditious determination of causes before the board.
(c) The board may act directly under its statute and rules or through the executive director or a committee of the board.
(d) Pursuant to the Texas Engineering Practice Act, the board is responsible for policy-making decisions and the executive director is responsible for the agency's management decisions.

Source Note: The provisions of this §131.1 amended to be effective December 11, 2016.

§131.3 Headquarters of the Board
The headquarters and administrative office of the Texas Board of Professional Engineers (board) is located at 1917 South Interstate 35, Austin, Texas 78741-3702.

Source Note: The provisions of this §131.3 amended to be effective December 11, 2016.

§131.5 Board Seal
The seal of the board shall be an embossed circular seal consisting of two concentric circles. The diameter of the inner circle shall be approximately 60% of the size of the outer circle which shall be the official seal of the State of Texas. The area between the two circles shall contain the wording “Texas Board of Professional Engineers.” The executive director shall be the custodian of the seal. The seal may be reproduced in other sizes provided the dimensions remain proportionate.

Source Note: The provisions of this §131.5 amended to be effective May 20, 2004.

§131.7 Organization of the Board
(a) In accordance with Texas Occupations Code, Chapter 1001, the board shall consist of members appointed by the Governor with the advice and consent of the Senate.
(b) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor. The presiding officer shall be the Chair of the board.
(c) The terms of board members shall be six years in length and shall be staggered so that the terms of not more than one-third of the members shall expire in a single calendar year. The terms of two members who are practicing licensed engineers and one member who is a representative of the public expire on August 31 of each odd-numbered year. Upon completion of a term, a member may continue to serve until a successor has been appointed. A member may be reappointed to successive terms at the discretion of the Governor.
(d) The board shall elect from its own membership a vice chair, secretary, and treasurer. These officers shall serve from September 1 through August 31 and shall be elected annually at a board meeting prior to September 1.
(e) The board as a whole may act as an executive committee.
(f) Five members of the board shall constitute a quorum.
(g) The board may transact official business only when in session with a quorum present and shall not be bound in any way by any statement or action on the part of any individual member except when such statement or action is in pursuance of specific instructions of the board. No order or decree shall be adopted by the board except in open meeting and in accordance with the Texas Government Code, Chapter 551.

Source Note: The provisions of this §131.7 amended to be effective December 11, 2016.

§131.9 Officers of the Board
(a) Chair of the Board. The presiding officer shall be the chair of the board. When present, the chair shall preside at all meetings. The chair shall appoint such committees required by rule and may appoint any additional committees as needed. The chair shall perform all other duties usually pertaining to the office of chair and permitted by law, and shall have the authority to delegate any of those duties to the executive director. The chair shall have the authority to review the performance of the executive director and initiate alterations in the executive director's job requirements or employment status. The chair shall select and determine the agenda for meetings of the full board and may delegate that authority to the executive director.
(b) Vice Chair of the Board. The vice chair, in the absence of the chair, shall perform the duties of the chair as specified in subsection (a) of this section. In the event the office of the chair shall become vacant, the vice chair shall serve until a new presiding officer has been appointed by the governor.

(c) Pro Tem Chair of the Board. In the absence of the chair and vice chair from a regular or special meeting of the board, the remaining members, providing there is a quorum, shall elect a chair who shall serve until the conclusion of the meeting or until the arrival of the chair or vice chair.
(d) Secretary of the Board. The secretary of the board is charged with carrying out the duties prescribed in the Act, §1001.211 and §1001.308 and may delegate those duties prescribed in §1001.211 to the executive director.
(e) Treasurer of the Board. The treasurer of the board is charged with advising the board on budgetary and financial matters and carrying out any duties delegated by the board.

Source Note: The provisions of this §131.9 amended to be effective December 2, 2007.

§131.11 Board Member Responsibilities and Duties

(a) Each board member shall meet and maintain the qualifications for board membership as set by §1001.101 and §1001.102 of the Act.
(b) Each board member appointed after September 1, 2003 shall attend a board member training prior to attendance and participation in a board or committee meeting.
(c) A board member is subject to the provisions of §1001.106 of the Act relating to grounds for removal.
(d) In order to be reimbursed for travel for other than travel to board and committee meetings, a board member shall have the approval of the chair or full board or executive director.
(e) Each member of the board shall receive per diem as provided by law for each day that the member engages in the business of the board and will be reimbursed for travel expenses incurred in accordance with the state of Texas and board's travel policies.
(f) A board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint:
(1) may not vote on the matter at a board meeting related to the complaint; and
(2) shall state at the meeting and record in the minutes why the member is prohibited from voting on the matter.
(g) board members shall submit an activity report that shall document the board member's activities related to the board that have occurred since the previous activity report was submitted including activities that occurred in a meeting that was noticed and held in accordance with the open meeting requirements of Chapter 551of the Texas Government Code.

Source Note: The provisions of this §131.11 amended to be effective December 21, 2008.

§131.13 Vacancies in the Board

If for any reason a vacancy shall occur in the board, the chair shall prepare a notice to the governor asking for the appointment of a new member to fill the unexpired term. If the vacancy shall occur in offices of vice chair, secretary, or treasurer of the board, the board shall elect a new officer to serve for the remainder of the unexpired term from its own membership at the first regular or special meeting following the vacancy.

Source Note: The provisions of this §131.13 amended to be effective December 21, 2008.

§131.15 Committees

(a)The board chair shall appoint the following standing committees as stated in paragraphs (1) - (5) of this subsection, composed of four board members at least one of whom is a public member. A committee quorum shall consist of three members. Committee appointments shall be made by the chair for a term of two years but may be terminated at any point by the chair. Committee members may be re-appointed at the discretion of the chair. The board chair shall appoint a committee chair.
(1) General Issues Committee. The committee shall meet as required to evaluate issues and possibly develop proposed actions for the full board on issues of importance to the board and the profession. Such issues might include engineering ethics, professionalism in practice, legislation, board management, and engineering business issues.
(2) Licensing Committee. The committee shall meet no less than twice each fiscal year to evaluate issues and possibly develop proposed actions for the full board on licensing issues. The committee may participate in activities such as evaluating rules concerning licensing of engineers; evaluating education and continuing education program requirements; conducting personal interviews of applicants; evaluating applications; participating in national and international engineering licensing activities on the board's behalf; providing general guidance to the executive director on licensing issues; and evaluating any other issue indirectly or directly relating to engineering licensing.
(3) Compliance and Enforcement Committee. The committee shall meet as required to evaluate issues and possibly develop proposed actions for the full board on enforcement issues. The committee may participate in activities such as evaluating rules concerning enforcement of the Act; reviewing the progress of major enforcement cases or groups of cases; suggesting sanctions for violations of the Act; participation in national and international engineering law enforcement activities on the board's behalf; providing general guidance to the executive director on enforcement issues; and evaluating any other issue indirectly or directly relating to engineering law enforcement.
(4) Policy Advisory Opinion Committee. The committee shall meet as required to review, prepare and recommend policy advisory opinions regarding the interpretation or application of the Act and to perform related activities pursuant to board approval. The committee shall follow the process and procedures for issuing advisory opinions as prescribed in Subchapter G of this chapter (relating to Advisory Opinions).
(5) Legislative Issues Committee. The committee shall meet as needed to consider legislative matters that may affect the practice of engineering in the state. Pursuant to the Chapter 556, Texas Government Code, the committee shall not lobby or strive to influence legislation regarding the practice of engineering but meet to consider board responses to pending legislation and assist in answering related inquiries from the Texas Legislature, Governor or other state agency or governmental entity during the legislative session. The committee shall report to the full board on actions and activities addressed on behalf of the board.
(b) Nominating Committee. The board's chair shall appoint a nominating committee consisting of the chair and two board members to nominate candidates for the offices of vice chair, secretary, and treasurer. The nominating committee shall meet prior to the regular board meeting prior to September 1 of each year to allow election of officers at that meeting.
(c) Ad Hoc Committees. The board and its committees may appoint temporary committees to assist in resolving particular engineering issues.

(1)The board's chair, board, and/or committee chair may appoint ad hoc committees composed of committee members, other board members, and other persons to address particular issues.
(2)The chair or committee chair shall establish a specific purpose and duration for each ad hoc committee. Ad hoc committees previously appointed may be reappointed in part or in whole for a specific purpose and duration.
(3)Ad hoc committees shall be limited to investigating and evaluating issues assigned, and making a report to the full board or appropriate standing committee with recommendations concerning possible board positions, actions or inactions. The board or appropriate standing committee shall receive the report of each ad hoc committee publicly, and shall recommend appropriate action, if any, to the full board.

(d) Advisory Committees. The chair or board may convene the following committees in an advisory capacity:

(1) Educational Advisory Committee. The educational advisory committee shall consist of the deans of the colleges or the department heads or other program administrator for those institutions without a college of engineering or the representatives for the deans or department heads and other invited representatives of the academic community. The committee shall meet as needed and submit any reports or recommendations to the Licensing Committee. The board chair may appoint one or more board members as liaisons to the advisory committee. If requested by the advisory committee, the executive director or staff may act as the secretary for the meeting.
(2) Industry Advisory Committee. The industry advisory committee shall consist of practicing engineers from various disciplines and functions in engineering including, but not limited to, consulting, manufacturing, regulatory, research, and utility service. The committee shall meet as needed and submit any reports or recommendations to the General Issues Committee. The board chair may appoint one or more board members as liaisons to the advisory committee. If requested by the advisory committee, the executive director or staff may act as the secretary for the meeting.
(3) Governmental Advisory Committee. The governmental advisory committee shall consist of representatives of various governmental agencies, organizations, or jurisdictions that employ professional engineers or use engineering services. The committee shall meet as needed and submit any reports or recommendations to the General Issues Committee. The board chair may appoint one or more board members as liaisons to the advisory committee. If requested by the advisory committee, the executive director or staff may act as the secretary for the meeting.

(e) Committee actions. The actions of the committees are recommendations only and are not binding until ratification by the board at a regularly scheduled meeting or if authorized by rule.

Source Note: The provisions of this §131.15 amended to be effective March 15, 2018.

SUBCHAPTER B: ORGANIZATION OF THE BOARD STAFF

§131.31 Executive Director

(a) The executive director shall be employed by the board to be the administrator of the agency.
(b) The executive director shall be a licensed professional engineer, and shall faithfully execute all directives of the Texas Board of Professional Engineers that are within the scope of the board's legal authority.
(c) The duties of the executive director shall be to administer and enforce the applicable law, to assist in conducting meetings of the board, and to carry out other responsibilities as assigned by the board. The executive director shall have sole authority to employ a staff within the budget authorized; perform all supervisory functions including employee evaluations, promotions, disciplinary actions and terminations; and develop and implement all agency policies and procedures concerning the operation of the agency office. The duties imposed on the executive director under this section may be executed through board staff.
(d) The executive director shall be evaluated by the chair as needed. The executive director serves at the pleasure of the board and employment may be terminated at any time by a negative vote of confidence from a simple majority of the full board.

Source Note: The provisions of this §131.31 amended to be effective May 20, 2004.

§131.33 Career Ladder

The agency career ladder program and guidelines shall be maintained by the executive director or executive director's designee in the agency employee handbook.

Source Note: The provisions of this §131.33 amended to be effective May 20, 2004.

§131.35 Employee Training

(a) Pursuant to the State Employees Training Act, Section 656 of the Texas Government Code, the board may provide training and educational programs for its administrators and employees as a part of staff development and continuing education. These programs shall be offered in order for the staff to keep abreast of changes in technologies, legal developments, human resource issues, and to further enhance the employees' knowledge, skills, and abilities, and to provide continuing professional competency education for the engineering staff members.
(b) Employees may be approved to attend workshops, seminars, conferences, and other special programs or activities that directly benefit the employee and the agency. The approval decision shall be made in advance and shall be at the discretion of the executive director. Any membership fees, dues, and travel associated with an employee's attendance at these functions shall be paid for by the board as long as there is a direct benefit to the board and the activity is part of the agency's official business.
(c) Financial assistance may be awarded for some or all of the following expenses:

(1) tuition, including correspondence courses that fulfill degree, professional or General Equivalence Diploma (GED) program plan requirements;
(2) degree plan pertinent College Level Equivalency Program examinations if the employee receives college credit or waiver of course requirements;
(3) degree plan pertinent Life Experience Assessments if the employee receives college credit; and
(4) required fees, including lab fees, and books.

(d) Financial assistance granted under this program shall not exceed $1500 per fiscal year per employee.
(e) To be eligible for consideration for training and education assistance, an employee must:
(1) be in good standing with the board;
(2) meet and continue to meet all performance expectations;
(3) have at least 12 months of service with the board or state; and
(4) seek enrollment and participation in a field of study that relates to assigned or prospective job duties, a professional development requirement, a GED program or a higher education degree plan.
(f) To maintain eligibility in a degree program, an employee must be enrolled in an institution of higher education in a course of instruction leading toward a degree and maintain a passing grade point average.
(g) To maintain eligibility in a GED program an employee must be enrolled each semester in a GED program and maintain a passing grade point average.
(h) The employee must attend and satisfactorily complete the education and training, including passing tests or other types of performance measures where required.
(i) Each semester an employee must provide grade reports to verify that full credit was received for courses taken.
(j) An employee must provide fee receipts for courses to be taken and must promptly report outside funds such as grants, scholarships or other financial aid received. The executive director may adjust the assistance provided to the employee at any time for any reason.
(k) Any employee who has received assistance under this program shall repay the entire amount of the assistance received if the employee voluntarily leaves the board's employ within six months of concluding an educational program for which assistance was granted.
(l) The executive director may require a written agreement between the board and the employee describing the terms and conditions of the education or training assistance to be provided by the board. The board may impose such terms and conditions as may be reasonable and appropriate, including but not limited to, specifying the circumstances under which the assistance may be terminated and the employee may be required to repay the amount of assistance.
(m) The executive director will reconsider each employee's participation in the Education Assistance Program each semester.
(n) Assistance may be terminated and the employee may be required to repay all funds received from the institution if the employee:
(1) withdraws from the institution;
(2) is removed or prohibited from attending the institution;
(3) fails to comply with one or more terms of the assistance agreement, including but not limited to, additional terms concerning termination and repayment of assistance; or
(4) is terminated by the board during the duration of the assistance agreement.
(o) The board may pay the license fees of employees who are required to provide services as part of their duty assignments. The board will not pay for driver's license fees or other license fees where the license can be considered a basic personal resource.

Source Note: The provisions of this §131.35 amended to be effective September 29, 2013.

§131.37 State Contract Guidelines

Pursuant to Texas Government Code, §2261.253, the executive director or his/her representative shall establish a written procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the Board.

Source Note: The provisions of this §131.37 adopted to be effective December 14, 2015

SUBCHAPTER C: MEETINGS

§131.41 Open to the Public

All meetings of the board and standing committees shall be held in accordance with Chapter 551, Texas Government Code.

Source Note: The provisions of this §131.41 amended to be effective May 20, 2004.

§131.43 Public Participation

(a) The board shall include "public comment" as a topic on the agenda for each regularly scheduled board or committee meeting.
(b) A person may address the board regarding any issue related to the jurisdiction of the board other than open complaints filed with the board pursuant to Subchapter F of the Texas Engineering Practice Act, matters concerning cases pending at the State Office of Administrative Hearings, or cases deemed confidential. A person wishing to address the board about any subject under the board's jurisdiction shall fill out a Public Comment form prior to the start of the meeting and submit the form to the chair.
(c) The chair will recognize those requests to address the board during the "public comment" portion of a meeting.
(d) The chair or executive director may impose a time limit for those wishing to address or make a presentation to the board. The allotted period for a person addressing the board may only be extended by board vote and may not be extended by another person delegating, ceding, passing or otherwise granting allotted comment time in lieu of addressing the board.
(e) The board may not comment or make a decision about a subject not listed on the agenda except to reply with:
(1) a statement of specific factual information in response to the inquiry;
(2) a recitation of existing policy in response to the inquiry; or,
(3) a proposal to place the subject on the agenda for a subsequent board or committee meeting.
(f) At least 20 days prior to a meeting, a person from the general public may submit a written request to the chair, a committee chair, or executive director for an item to be placed on the meeting agenda. The executive director shall forward such requests to the chair or appropriate committee chair. The chair or committee chair shall consider the request but has the discretion to include the requested item on the agenda or to only allow for comment as described in paragraphs (a) through (e) of this section.

Source Note: The provisions of this §131.43 amended to be effective March 15, 2018.

§131.45 Regular Board Meetings

The board shall hold a minimum of two regular meetings each calendar year. Board meetings shall take place at the headquarters of the board or at other places as designated by the board.

Source Note: The provisions of this §131.45 amended to be effective May 20, 2004.

§131.47 Special Board Meetings

Special meetings may be called by the chair or upon the request of at least three board members.

Source Note: The provisions of this §131.47 amended to be effective May 20, 2004.

§131.49 Rules of Order

Conduct of board meetings shall be guided by Roberts' Rules of Order Newly Revised; however, no board action shall be invalidated by reason of failure to strictly comply with those rules.

Source Note: The provisions of this §131.49 amended to be effective May 20, 2004.

§131.51 Order of Business

(a) In conjunction with the chair of the board or committee chair as applicable, the executive director shall prepare a written agenda for each board and committee meeting and distribute a copy of the agenda to all board members and shall post notice of the meeting with the secretary of state in compliance with Chapter 551, Texas Government Code.
(b) At least 20 days prior to a meeting, any board member may request the chair or committee chair to place an item on the meeting agenda. It is within the chair's or committee chair's discretion to determine the items to be placed on the agenda; however, upon the request of at least three board members, the chair or committee chair shall place an item on the agenda.

Source Note: The provisions of this §131.51 amended to be effective May 20, 2004.

§131.53 Minutes

In addition to the distribution required by law, copies of the official minutes of each meeting of the board shall be distributed to such persons as the board may direct and to such private citizens as may make a formal written request. An official copy of all board minutes shall remain on file in the board office, available to any citizen desiring to examine them. The board may elect to make recordings of the board meetings and shall maintain such recordings in accordance with the approved State of Texas Records Retention Schedule.

Source Note: The provisions of this §131.53 amended to be effective September 9, 2012.

SUBCHAPTER D: FISCAL MATTERS

§131.61 Financial

(a) The fiscal year of the board shall begin September 1 and close the following August 31. The fiscal year shall be designated to correspond with the calendar year in which it closes.
(b) The operating budget and fees schedule shall be prepared by the executive director and submitted to the board for approval.
(c) Pursuant to the requirements of §2161.003 of the Texas Government Code, the board adopts the rules of the Comptroller of Public Accounts relating to the Historically Underutilized Business (HUB) Program and stated at Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter B.
(d) The board adopts by reference the rules of the Office of the Attorney General in Title 1, Part 3, Texas Administrative Code, Chapter 68 relating to Negotiation and Mediation of Certain Contract Disputes to comply with the requirements of Texas Government Code, Chapter 2260, §2260.052(c). The rules set forth a process to permit parties to structure a negotiation or mediation in a manner that is most appropriate for a particular dispute regardless of contract's complexity, subject matter, dollar amount, or method and time of performance.

Source Note: The provisions of this §131.61 amended to be effective December 21, 2008.

§131.63 Self-Directed Semi-Independent Agency Project Act

The board shall adopt, monitor, and update policies as required to comply with the Self-Directed Semi-Independent Act (Government Code, Title 4, Subtitle E, Chapter 472).

Source Note: The provisions of this §131.63 amended to be effective December 17, 2013.

SUBCHAPTER E: COOPERATIVE AFFILIATIONS

§131.71 National Council of Examiners for Engineering and Surveying

(a) The board may affiliate with the National Council of Examiners for Engineering and Surveying (NCEES). Each board member may become a member of the council and the executive director and other staff members designated by the board may be associate members of the council.
(b) The board may select and contract with former board members to serve as emeritus members to NCEES meetings to participate in Council activities and represent board interests in national professional engineering issues. The emeritus members to NCEES may attend board and committee meetings to serve in an advisory capacity and shall present board actions to NCEES as directed by the board.

Source Note: The provisions of this §131.71 amended to be effective May 20, 2004.

§131.73 Memoranda of Understanding

The board may enter into a memorandum of understanding with any state agency, governmental entity, or other organization.

Source Note: The provisions of this §131.73 amended to be effective December 21, 2008.

SUBCHAPTER F: ADMINISTRATION

§131.81 Definitions

In applying the Texas Engineering Practice Act and the board rules, the following definitions shall prevail unless the word or phrase is defined in the text for a particular usage. Singular and masculine terms shall be construed to include plural and feminine terms and vice versa.

(1) ABET--ABET, Inc., formerly the Accreditation Board for Engineering and Technology.

(2) Act--The Texas Engineering Practice Act, Chapter 1001, Texas Occupations Code.

(3) Advisory Opinion--A statement of policy issued by the board that provides guidance to the public and regulated community regarding the board's interpretation and application of Chapter 1001, Texas Occupations Code, referred to as the Texas Engineering Practice Act "Act" and/or board rules and that do not have the force and effect of law.

(4) Agency or Board--Texas Board of Professional Engineers.

(5) Applicant--A person applying for a license to practice professional engineering or a firm applying for a certificate of registration to offer or provide professional engineering services.

(6) Application--The forms, information, and fees necessary to obtain a license as a professional engineer, certification as an engineer-in-training, or a certificate of registration for a firm.

(7) Certificate of Registration--The annual certificate issued by the board to a firm offering or providing professional engineering services to the public in Texas.

(8) Complainant--Any party who has filed a complaint with the board against a person or entity subject to the jurisdiction of the board.

(9) Contested case--A proceeding, including but not restricted to rate making and licensing, in which the legal rights, duties, or privileges of a party are to be determined by an agency after an opportunity for adjudicative hearing pursuant to the Administrative Procedure Act, Chapter 2001, Texas Government Code.

(10) Direct supervision--The control over and detailed professional knowledge of the work prepared under the engineer's supervision. The degree of control should be such that the engineer personally makes engineering decisions or personally reviews and approves proposed decisions prior to their implementation. The engineer must have control over the decisions either through physical presence or the use of communications devices.

(11) EAC/ABET--Engineering Accreditation Commission of ABET.

(12) EAOR number--An engineering advisory opinion request file number assigned by the executive director to a pending advisory opinion in accordance with this chapter.

(13) Electronic Seal--For the purposes of this Chapter, an electronic seal is a digital representation of an engineer's seal including, but not limited to, digital scans of physical seals.

(14) Electronic Signature--For the purposes of this Chapter, an electronic signature is a digital representation of an engineer's signature including, but not limited to, digital scans of physical signatures.

(15) Engineering--The profession in which a knowledge of the mathematical, physical, engineering, and natural sciences gained by education, experience, and practice is applied with judgment to develop ways to utilize, economically, the materials and forces of nature for the benefit of mankind.

(16) ETAC/ABET--Engineering Technology Accreditation Commission of ABET.

(17) Firm--Any entity that engages or offers to engage in the practice of professional engineering in this state. This includes sole practitioners, sole proprietorships, firms, co-partnerships, corporations, partnerships, or joint stock associations.

(18) Good Standing--(License or Registration)--A license or registration that is current, eligible for renewal, and has no outstanding fees or payments.

(19) Gross negligence--Any willful or knowing conduct, or pattern of conduct, which includes but is not limited to conduct that demonstrates a disregard or indifference to the rights, health, safety, welfare, and property of the public or clients. Gross negligence may result in financial loss, injury or damage to life or property, but such results need not occur for the establishment of such conduct.

(20) Incompetence--An act or omission of malpractice which may include but is not limited to recklessness or excessive errors, omissions or failures in the license holder's record of professional practice; or an act or omission in connection with a disability which includes but is not limited to mental or physical disability or addiction to alcohol or drugs as to endanger health, safety and interest of the public by impairing skill and care in the provision of professional services.

(21) License--The legal authority granting the holder to actively practice engineering upon the payment of the annual renewal fee. Also, a certificate issued by the board showing such authority.

(22) License Holder--Any person whose license to practice engineering is current.

(23) Licensure--The granting of an original certificate and license to an individual.

(24) Misconduct--The violation of any provision of the Texas Engineering Practice Act and board rules. A conviction of a felony or misdemeanor that falls under the provisions of Texas Occupations Code, Chapter 53, will also be misconduct under the Texas Engineering Practice Act.

(25) NAFTA--North American Free Trade Agreement. NAFTA is related to the practice and licensure of engineering through mutual recognition of registered/licensed engineers by jurisdictions of Canada, Texas, and the United Mexican States.

(26) NCEES--National Council of Examiners for Engineering and Surveying.

(27) Party--Each person or agency named or admitted as a party to a proceeding under the Administrative Procedure Act.

(28) Person--Any individual, firm, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(29) Petitioner--Any party requesting the adoption of a rule by the board.

(30) Pleading--Written allegations filed by parties concerning their respective claims.

(31) Professional engineering--Professional service which may include consultation, investigation, evaluation, planning, designing, or direct supervision of construction, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the public welfare, or the safeguarding of life, health, and property is concerned or involved, when such professional service requires the application of engineering principles and the interpretation of engineering data.

(32) Professional engineering services--Services which must be performed by or under the direct supervision of a licensed engineer and which meet the definition of the practice of engineering as defined in the Act, §1001.003. A service shall be conclusively considered a professional engineering service if it is delineated in that section; other services requiring a professional engineer by contract, or services where the adequate performance of that service requires an engineering education, training, or experience in the application of special knowledge or judgment of the mathematical, physical or engineering sciences to that service shall also be conclusively considered a professional engineering service.
(33) Protestant--Any party opposing an application or petition filed with the Board.
(34) Recognized institution of higher education--An institution of higher education as defined in §61.003, Education Code; or in the United States, an institution recognized by one of the six regional accrediting associations, specifically, the New England Association of Schools and Colleges, the North Central Association Commission on Accreditation and School Improvement, the Northwest Association of Schools and Colleges, the Southern Association of Colleges and Schools, the Western Association of Schools and Colleges, or the Middle States Association of Colleges & Schools; or, outside the United States, an institution recognized by the Ministry of Education or the officially recognized government education agency of that country; or a program accredited by ABET.
(35) Respondent--The person or party that is the subject of a complaint filed with the board.
(36) Responsible charge--An earlier term synonymous with the term "direct supervision"; the term is still valid and may be used interchangeably with "direct supervision" when necessary.
(37) Responsible supervision--An earlier term synonymous with the term "direct supervision;" the term is still valid and may be used interchangeably with "direct supervision" when necessary.
(38) Sole Practitioner--A firm that consists of an individual license holder with no other employees.
(39) Supervision of Engineering Construction--As used in §1001.407 of the Act, includes but is not limited to the periodic observation of materials and completed work to determine general compliance with plans, specifications and design and planning concepts. Supervision of engineering construction does not include the construction means and methods; responsibility for the superintendence of construction processes, site conditions, operations, equipment, personnel; or the maintenance of a safe place to work or any safety in, on or about the site.

Source Note: The provisions of this §131.81 amended to be effective December 11, 2016.

§131.83 Requests for Information

The executive director shall be the official custodian of all board records and the executive director or their designee shall process and respond to all requests for information in the manner prescribed by Chapter 552, Texas Government Code.

Source Note: The provisions of this §131.83 amended to be effective December 21, 2008.

§131.85 Board Rules Procedures

(a) Proposed amendments, deletions, or additions to the board rules of practice and procedure may be submitted by the staff or any board member. Board action to accept or amend the proposal shall require a majority vote when a quorum is present at a meeting. A proposal or amended proposal, as accepted by the board, can be promulgated as an amendment, deletion, or addition to board rules by following the procedures set out in Chapters 2001 and 2002 of the Texas Government Code.
(b) The board shall accept a petition from an interested person as defined in Texas Government Code, Chapter 2001, submitted by at least 25 persons or by an association having at least 25 members to adopt, delete, or amend a rule. For a petition under this section, at least 51 percent of the total number of signatures required must be of residents of this state. The petition must be filed with the executive director at least 30 days and not more than 60 days prior to a regular board meeting at which board action will be taken. Such a petition must include, but need not be limited to, the following requirements:

(1) Full name and complete mailing address and telephone number of the petitioner on whose behalf the petition is filed.
(2) Reference to the rule which it is proposed to make, change or amend, or delete, so that it may be identified and prepared in a manner to indicate the word, phrase, or sentence to be added, changed, or deleted from the current text, if any. The proposed rule should be presented in the exact form in which it is to be published, adopted, or promulgated.
(3) The desired effective date should be stated.
(4) Justification for the proposed action in narrative form with sufficient particularity to fully inform the board and any interested party of the facts upon which the petitioner relies, including the statutory authority for the promulgation of the proposed rule.
(5) Include a brief statement detailing the desired effect to be achieved by the proposed rule, change, or amendment or deletion.
(6) A concise summary of the proposed rule, change, or amendment.
(7) Signatures on the petition of the petitioners and/or the attorney or representative of the petitioners.
(8) Any fee required by statute or board rules.

(c) Within 60 days after submission of a petition requesting the adoption of a rule, the board either shall deny the petition in writing, stating its reasons for the denial, or shall initiate rule making proceedings in accordance with subsection (a) of this section and by law.
(d) In any case in which a public emergency or imperative public necessity so requires, the board may suspend the operation of these sections to the extent authorized by law.
(e) Invalid Portions and Saving Provisions:

(1) If any subcategory, rule, section, subsection, sentence, clause, or phrase of these rules is for any reason held invalid, such decision shall not affect the validity of the remaining portions of these sections. The board hereby declares that it would have adopted these sections and such subcategories, rules, sections, subsections, sentences, clauses, or phrases thereof irrespective of the fact that any one or more of the subcategories, rules, sections, subsections, sentences, clauses, or phrases be declared invalid.
(2) Since individual board rules are adopted, changed, or deleted periodically, each rule herein will apply only to acts occurring on or after the effective date of the rule. An act occurring before the effective date of one or more of these rules will be governed by the rules existing before the effective date, which rules are continued in effect for this purpose as if these rules were not in force. Any proceeding pending before the board on the effective date of one or more of these rules is governed by the rules existing before the effective date of these rules, which rules are continued in effect for this purpose as if these rules were not in force.

(3) If there is any conflict between the agency's rules and statutory provisions, and the rules cannot be harmonized with the statute in a timely manner, the statutory provisions shall control. The board shall issue a statement describing the irregularity, expected schedule for correction, and necessary action by an effected party.

(f) The effective date of each rule or subdivision of each rule shall be that date published as the effective date of the rule or subdivision of the rule in the Texas Register as a result of the rule making procedures set out in Chapters 2001 and 2002, Texas Government Code.

(g) The board reserves the right to revise the format of these rules of practice and procedure to comply with statutory requirements, and such required revision shall not invalidate any portion or change the effective date of the rules of practice and procedure as adopted by the board.

Source Note: The provisions of this §131.85 amended to be effective December 11, 2016.

§131.87 Negotiated Rule Making Procedures

The board's policy is to encourage the use of negotiated rulemaking for the adoption of board rules in appropriate situations.

(1) The Executive Director shall designate the board's negotiated rulemaking coordinator (NRC). The NRC shall perform the following functions, as required:

(A) coordinate the implementation of the policy set out in this subsection, and in accordance with the Negotiated Rulemaking Act, Chapter 2008, Government Code;

(B) serve as a resource for any staff training or education needed to implement negotiated rulemaking procedures; and

(C) collect data to evaluate the effectiveness of negotiated rulemaking procedures implemented by the board.

(2) The Board, a committee of the Board, or the Executive Director may direct the NRC to begin negotiated rulemaking procedures on a specified subject.

Source Note: The provisions of this §131.87 to be effective March 15, 2018.

SUBCHAPTER G: ADVISORY OPINIONS

§131.101 Subject of an Advisory Opinion.

On its own initiative or at the request of any interested person, the board shall prepare a written advisory opinion about:

(1) an interpretation of the Act; or

(2) the application of the Act to a person in regard to a specified existing or hypothetical factual situation.

Source Note: The provisions of this §131.101 amended to be effective December 21, 2008.

§131.103 Request for an Advisory Opinion.

(a) A request for an advisory opinion shall include, at a minimum, sufficient information in order for the board to provide a complete response to the request. The requestor must provide the following, as applicable:

(1) requestor contact information,

(2) affected section(s) of the Act and/or board rules,

(3) description of the situation,

(4) reason engineering advisory opinion is requested,

(5) parties or stakeholders that will be affected by the opinion, if known, and

(6) any known, pending litigation involving the situation

(b) A request for an advisory opinion shall be in writing. A written request may be mailed, sent via electronic mail, hand-delivered, or faxed to the board at the agency office.

Source Note: The provisions of this §131.103 amended to be effective September 8, 2005.

§131.105 Board Initiated Opinion.

When a majority of the board determines that an opinion would be in the public interest or in the interest of any person or persons within the jurisdiction of the board, the board may on its own motion issue an advisory opinion.

Source Note: The provisions of this §131.105 amended to be effective May 20, 2004.

§131.107 Receipt, Review, and Processing of a Request.

(a) The board, through the policy advisory opinion committee, shall review all requests for advisory opinions.

(b) Upon receipt of a request for an engineering advisory opinion, executive director will date stamp the request, issue an EAOR tracking number, and make a preliminary determination on the board's jurisdiction regarding the request.

(c) The executive director will review the request to determine if the request can be answered by reference to the plain language of a statute or a board rule, or if the request has already been answered by the board.

(d) If the executive director determines the board has no jurisdiction or the request can be answered by reference to a statute, board rule, or previous opinion, the executive director shall prepare a written response for the policy advisory opinion committee addressed to the person making the request that cites the jurisdictional authority, the language of the statute or rule, or the prior determination.

(e) The policy advisory opinion committee shall review all requests for advisory opinions and may:

(1) approve jurisdiction and reference responses, as applicable, and report a summary of these actions to the full board for ratification; or

(2) determine the request warrants an advisory opinion and to proceed with developing an advisory opinion.

(f) If a request warrants an advisory opinion, the policy advisory opinion committee shall determine if further information is needed to draft an advisory opinion. If additional information is needed, the committee shall determine what information is needed and instruct the

executive director to obtain expert resources, hold stakeholder meetings, or perform other research and investigation as necessary to provide the information required to draft an advisory opinion and report back to the committee.
(g) If during the process, the committee determines that the request is one the board cannot answer, then the committee shall have the executive director provide written notification to the person making the request of the reason the request will not be answered and this response shall be ratified by the full board.
(h) When sufficient information exists, the policy advisory opinion committee shall draft an engineering advisory opinion and post the request and draft opinion on the agency website and in the Texas Register for comments.
(i) Draft opinions shall be posted for at least 30 days and any interested person may submit written comments concerning an advisory opinion request. Comments submitted should reference the EAOR number.
(j) Upon completion of the comment period, the policy advisory opinion committee shall consider any comments made and draft a final opinion recommendation to be presented for review and adoption by the full board.
(k) The full board shall review and adopt the engineering policy advisory opinion or determine if further revisions are required and refer the request back to the policy advisory opinion committee with guidance on proceeding with completing the request.
(l) Each final engineering advisory opinion adopted by the full board shall be published in summary form in the Texas Register.
(m) To reconsider or revise an issued advisory opinion, the board shall process the reconsideration or revision as a new request and follow the process as set forth in this section.

Source Note: The provisions of this §131.107 amended to be effective May 20, 2004.

§131.109 Compilation of Advisory Opinions.

The board shall number and classify each final engineering advisory opinion issued and shall annually compile a summary of advisory opinions in a single reference document made available on the Internet. The executive director may also publish and provide copies of advisory opinions in other formats as may be in the public interest.

Source Note: The provisions of this §131.109 amended to be effective May 20, 2004.

§131.111 Time Period.

The board shall respond to requests for an engineering advisory opinion within 180 days after the date the board receives the written request unless the board affirmatively states the board's reason for not responding to the request within 180 days or for not responding to the request at all.

Source Note: The provisions of this §131.111 amended to be effective December 21, 2008.

SUBCHAPTER H: ALTERNATIVE DISPUTE RESOLUTION

§131.113 Mediation and Alternative Dispute Resolution.

It is the Board's policy to encourage the resolution and early settlement of all disputed matters, internal and external, through voluntary settlement procedures.

(1) The Executive Director shall designate a board employee as the board's Alternative Dispute Resolution Director to perform the following functions:

(A) maintain necessary agency records of alternative dispute resolution procedures while maintaining the confidentiality of participants;

(B) establish a method for the appointment of impartial third party mediators, moderators or arbitrators for alternative dispute resolution proceedings;

(C) provide information about available alternative dispute resolution processes to agency employees, potential users, and users of the alternative dispute resolution program;

(D) arrange training or education necessary to implement alternative dispute resolution processes; and

(E) establish a system to evaluate the alternative dispute resolution program and mediators.

(2) The Board, a committee of the Board, a respondent in a disciplinary matter pending before the board pursuant to §139.31 of this title (relating to Enforcement Actions for Violations of the Act), the Executive Director of the Board or a board employee engaged in a dispute with the Executive Director may request that a contested matter be submitted for alternative dispute resolution through mediation as described in §154.023 of the Texas Civil Practice and Remedies Code, moderated settlement conference as described in §154.025 of the Texas Civil Practice and Remedies Code, and non-binding arbitration as described in §154.027 of the Texas Civil Practice and Remedies Code by making a written request for alternative dispute resolution that states the type of alternative dispute resolution requested and sets forth the issues to be submitted for alternative dispute resolution. A respondent in a disciplinary proceeding may not request mediation until a recommendation regarding that disciplinary matter has been made and a Consent Order has been offered in accordance with Board Rule §139.19 (relating to Final Resolution of Complaint). The request must be delivered to the Alternative Dispute Resolution Director at the board's office.

(3) The party who requests alternative dispute resolution shall pay the cost of the impartial third party mediator, moderators or arbitrators and shall otherwise bear their own costs of alternative dispute resolution.

(4) Any resolution reached as a result of an alternative dispute resolution procedure is intended to be through the voluntary agreement of all of the parties. The resolution of a contested matter reached as a result of an alternative dispute resolution procedure must be in writing, signed by all of the parties, and is enforceable in the same manner as any other written contract; provided however, that any signed resolution that purports to bind the board must be ratified by the board and may be made public depending upon the terms of the agreed resolution.

(5) A communication relating to the subject matter made by a party in an alternative dispute resolution procedure is confidential, is not subject to disclosure, and may not be used as evidence in any further proceeding. Any notes or record made of an alternative dispute resolution procedure are confidential, and parties, including impartial third party mediators, moderators, or arbitrators may not be required to testify in any proceedings relating to or arising out of the matter in dispute or be subject to process requiring disclosure of confidential information or data relating to or arising out of the matter in dispute or under consideration. An oral communication or written material used in or made a part of an alternative dispute resolution procedure is

admissible or discoverable only if it is admissible or discoverable independent of the procedure. If this section conflicts with other legal requirements for disclosure of communications or materials, the issue of confidentiality may be presented to a judge or administrative law judge in Travis County, Texas to determine, in camera, whether the facts, circumstances, and context of the communications or materials sought to be disclosed warrant a protective order or whether the communications or materials are subject to disclosure.

Source Note: The provisions of this §131.113 to be effective March 15, 2018.

Chapter 133: Licensing

SUBCHAPTER A: ENGINEER-IN-TRAINING

§133.1 Engineer-in-Training Designation

Individuals who meet the educational requirements of §1001.302(a)(1) of the Act and have successfully passed the examination on the fundamentals of engineering are eligible to apply for engineer-in-training certification. This certification does not entitle an individual to practice as a professional engineer.

Source Note: The provisions of this §133.1 amended to be effective May 20, 2004.

§133.3 Engineer-in-Training Application and Certification

(a) To become enrolled as an Engineer-in-Training (EIT), an individual must:

(1) submit an EIT application in a format prescribed by the Board,

(2) submit an official transcript in accordance with §§133.33 or 133.35 of this chapter (relating to Proof of Educational Qualifications), and

(3) pay the fee as established by the Board.

(b) A certificate as an engineer-in-training expires eight years from the date of issuance. Although the certificate has an expiration date, the records of the Board will indicate that an individual has passed the Fundamentals of Engineering examination and these records will be maintained in the file indefinitely and will be made available as requested by the individual or another licensing jurisdiction.

(c) The certificate may be renewed upon receipt of an application in a format prescribed by the Board and payment of the EIT certification fee established by the Board.

(d) Effective January 1, 2002, official transcripts will be kept on file and an EIT may request its use when filing the professional engineer application.

(e) If the applicant for EIT certification does not submit all documents required within 90 days of the original application date, the application shall expire and the applicant must reapply and pay a new application fee.

Source Note: The provisions of this §133.3 amended to be effective May 1, 2016.

SUBCHAPTER B: PROFESSIONAL ENGINEER LICENSES

§133.11 Types of Licenses

The board shall receive, evaluate and process all applications for licensure as a professional engineer received from individuals who assert through the application process that they meet the minimum requirements of §1001.302 of the Act. The board shall deny a license to any applicant found not to have met all requirements of the Act and board rules.

(1) Standard License. Unless requested by the applicant or license holder, all licenses issued by the board shall be considered standard licenses. Standard licenses are fully renewable annually until such time as the board takes specific action to prevent renewal or provision of the Texas Engineering Practice Act prevents renewal.

(2) Reciprocal License. The board does not recognize any jurisdiction for reciprocity at this time.

(3) Temporary License.

(A) A temporary license holder shall be subject to all other rules and legal requirements to which a holder of a standard license is subject. A temporary license may only be renewed twice for a total maximum duration of three years.

(B) After a temporary license has expired, a former temporary license holder may not apply for a subsequent temporary license.

(C) A current temporary license holder may initiate the standard licensure process.

(4) Provisional. The board does not issue provisional licenses at this time.

Source Note: The provisions of this §133.11 amended to be effective July 16, 2009.

§133.13 Branches of Engineering

The board recognizes the following list of disciplines to assist in determining an applicant's competency. Those branches in which a National Council of Examiners for Engineering and Surveying (NCEES) examination is offered are followed by the acronym (NCEES).

(1) Aeronautical/aerospace;

(2) Agricultural (NCEES);

(3) Architectural (NCEES);

(4) Biomedical;

(5) Ceramic;

(6) Chemical (NCEES);

(7) Civil (NCEES);

(8) Control systems (NCEES);

(9) Electrical, electronic, computer, communications (NCEES);

(10) Engineering sciences/general;
(11) Environmental (NCEES);
(12) Fire protection (NCEES);
(13) Geological;
(14) Industrial (NCEES);
(15) Manufacturing;
(16) Mechanical (NCEES);
(17) Metallurgical (NCEES);
(18) Mining/mineral (NCEES);
(19) Naval architecture/marine engineering (NCEES);
(20) Nuclear (NCEES);
(21) Ocean;
(22) Petroleum (NCEES);
(23) Sanitary;
(24) Software;
(25) Structural (NCEES);
(26) Textile;
(27) Welding;
(28) Other.

Source Note: The provisions of this §133.13 amended to be effective March 15, 2018.

SUBCHAPTER C: PROFESSIONAL ENGINEER LICENSE APPLICATION REQUIREMENTS

§133.21 Application for Standard License

(a) To be eligible for licensure as a professional engineer, one must submit a completed application.
(b) All persons must have passed the examination on the fundamentals of engineering or be eligible for a waiver from the examination on the fundamentals of engineering before submitting an application.
(c) Applicants must speak and write the English language. Proficiency in English may be evidenced by possession of an accredited degree taught exclusively in English, or passage of the Test of English as a Foreign Language (TOEFL) with a written score of at least 550, a computer based score of at least 200 or an internet based score of at least 95 or other evidence such as significant academic or work experience in English acceptable to the executive director.
(d) Applicants for a license shall submit:
(1) an application in a format prescribed by the board and shall:
(A) list his or her full, legal and complete name without abbreviations, nicknames, or other variations of the full legal name. If applicable, the applicant shall submit proof of a legal name change including but not limited to a marriage certificate, passport, current Driver's License issued by the State of Texas, court documents, or nationalization documents to substantiate other documentation submitted in the application; and
(B) list social security number, as required under the Texas Family Code, §231.302;
(2) current application fee as established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;
(3) proof of educational credentials pursuant to §133.33 or §133.35 of this chapter (relating to Proof of Educational Qualifications);
(4) supplementary experience record as required under §133.41 of this chapter (relating to Supplementary Experience Record);
(5) reference statements as required under §133.51 of this chapter (relating to Reference Providers);
(6) documentation of passage of examination(s), which may include official verifications from the National Council of Examiners for Engineering and Surveying (NCEES) or other jurisdictions as required under §133.61(g) of this chapter (relating to Engineering Examinations), if applicable;
(7) verification of a current license, if applicable;
(8) a completed Texas Engineering Professional Conduct and Ethics Examination as required under §133.63 of this chapter (relating to Professional Conduct and Ethics Examination);
(9) scores of TOEFL, if applicable;
(10) information regarding any criminal history including any judgments, deferred judgments or pre-trial diversions for a misdemeanor or felony provided in a format prescribed by the board together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges;
(11) documentation of submittal of fingerprints for criminal history record check as required by §1001.3035 of the Act; and
(12) if applicable, written requests for waivers of the examinations on the fundamentals and/or principles and practices of engineering, the TOEFL, or a commercial evaluation of non-accredited degrees and a statement supporting the request(s).
(e) At the time the application is filed, an applicant may request in writing that any transcripts, reference statements, evaluations, experience records or other similar documentation previously submitted to the board be included in a current application; however, such documentation may not meet the requirements of the board at the time of the subsequent application and new or updated information may be required.
(f) The NCEES record may be accepted as verification of an original transcript, licenses held, examinations taken, experience record and reference documentation to meet the conditions of subsection (d)(3)--(7) of this section.
(g) Once an application is accepted for review, the fee shall not be returned, and the application and all submissions shall become a permanent part of the board records.

(h) An applicant who is a citizen of another country shall show sufficient documentation to the board to verify the immigration status for the determination of their eligibility for a professional license in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
(i) Once an application under this section is accepted for review, the board will follow the procedures in §133.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to clarify an application and ensure eligibility pursuant to §1001.302 of the Act, as needed. Pursuant to §1001.453 of the Act, the board may review the license holder's status and take action if the license was obtained by fraud or error or the license holder may pose a threat to the public's health, safety, or welfare.

Source Note: The provisions of this §133.21 amended to be effective March 15, 2018.

§133.23 Applications from Former Standard License Holders

(a) A former standard license holder, whose original license has been expired for two or more years and who meets the current requirements for licensure, may apply for a new license. This section does not apply to a former holder of a temporary license.
(b) A former standard license holder applying for a license under the current law and rules must have the documentation requested in §133.21 of this chapter (relating to Application) recorded and on file with the board and may request in writing that any transcripts, reference statements, evaluations, supplementary experience records or other similar documentation previously submitted to the board be applied toward the new application. The applicant shall:

(1) submit a new application in a format prescribed by the board;
(2) pay the application fee established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;
(3) submit a completed Texas Engineering Professional Conduct and Ethics examination;
(4) submit a supplementary experience record that includes at least the last four years of engineering experience, which may include experience before the previous license expired;
(5) submit also at least one reference statement conforming to §133.51 of this chapter (relating to Reference Providers), in which a professional engineer shall verify at least four years of the updated supplementary experience record; and
(6) documentation of submittal of fingerprints for criminal history record check as required by §1001.3035 of the Act, unless previously submitted to the board.

(c) Once an application from a former standard license holder is received, the board will follow the procedures in §133.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications) to review and approve or deny the application.
(d) Any license issued to a former standard license holder shall be assigned a new serial number.
(e) Once an application under this section is accepted for review, the board will follow the procedures in §133.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to clarify an application and ensure eligibility pursuant to §1001.302 of the Act, as needed. Pursuant to §1001.453 of the Act, the board may review the license holder's status and take action if the license was obtained by fraud or error or the license holder may pose a threat to the public's health, safety, or welfare.

Source Note: The provisions of this §133.23 amended to be effective March 15, 2018.

§133.25 Applications from Engineering Educators

(a)Persons whose current, primary employment is as an engineering educator instructing engineering courses in a recognized institution of higher education in Texas, as defined in §131.81 of this title (relating to Definitions) are permitted to seek licensure utilizing an alternate application.
(b) The minimum educational qualifications are as follows:

(1) Earned doctoral degree in engineering from a college or university that offers an undergraduate or master's degree program in a related branch of engineering that is approved by the EAC/ABET as published in the current version of the ABET Accreditation Yearbook and or the current version of the ABET International Yearbook or as published in the yearbook applicable to a previous year in which the applicant graduated; or
(2) Earned doctoral degree in engineering or another related field of science or mathematics assessed and approved by the board.

(c) An engineering educator, applying under the alternate process, shall submit:

(1) an application in a format prescribed by the board;
(2) a supplementary experience record:
(A) For tenured faculty (or those approved for promotion), submit a dossier including a comprehensive resume or curriculum vitae containing educational experience, engineering courses taught, and description of research and scholarly activities in lieu of the supplementary experience record;
(B) For non-tenured faculty, a standard supplementary experience record with courses taught and/or other engineering experience shall be submitted;
(3) reference statements or letters from currently licensed professional engineers who have personal knowledge of the applicant's teaching and/or other creditable engineering experience. A reference provider may, in lieu of the reference statement, submit a letter of recommendation that, at a minimum, testifies to the credentials and abilities of the educator. The reference statements or letters of recommendation can be from colleagues within the department, college, or university; from colleagues from another university; or professional engineers from outside academia;
(4) proof of educational credentials pursuant to §133.33 or §133.35 of this chapter (relating to Proof of Educational Qualifications);
(5) a completed Texas Professional Conduct and Ethics Examination;
(6) current application fee as established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;
(7) Information regarding any criminal history including any judgments, deferred judgments or pre-trial diversions for a misdemeanor or felony provided in a format prescribed by the board, together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges;

(8) documentation of submittal of fingerprints for criminal history record check as required by §1001.3035 of the Act;
(9) documentation of passage of examination(s), which may include official verifications from the National Council of Examiners for Engineering and Surveying (NCEES) or other jurisdictions as required under §133.61(g) of this chapter (relating to Engineering Examinations), if applicable; and
(10) written requests for waivers of the examinations on the fundamentals and/or principles and practices of engineering, if applicable.

(d) Once an alternative application from an engineering educator is received, the board will follow the procedures in §133.85 of this chapter (relating to Board Review of and Action on Applications) to review and approve or deny the application.

(e) This section does not prohibit any engineering educator from applying for licensure under the standard application process.

(f) Once an application under this section is accepted for review, the board will follow the procedures in §133.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to clarify an application and ensure eligibility pursuant to §1001.302 of the Act, as needed. Pursuant to §1001.453 of the Act, the board may review the license holder's status and take action if the license was obtained by fraud or error or the license holder may pose a threat to the public's health, safety, or welfare.

Source Note: The provisions of this §133.25 amended to be effective March 15, 2018.

§133.27 Application for Temporary License for Engineers Currently Licensed Outside the United States

(a) Pursuant to §1001.311 of the Act, a temporary license may be issued under this section for applicants who:
(1) are citizens of Australia, Canada, the Republic of Korea or the United Mexican States;
(2) are seeking to perform engineering work in Texas for three years or less;
(3) are currently licensed or registered in good standing with Engineers Australia, at least one of the jurisdictions of Canada, the Korean Professional Engineers Association or the United Mexican States; and
(4) meet the following experience requirements:
(A) Applicant currently registered in Australia, Canada or the Republic of Korea shall have at least seven years of creditable engineering experience, three of which must be practicing as a registered or chartered engineer with Engineers Australia, the Korean Professional Engineers Association or Engineers Canada and one of which must be working with or show familiarity with U.S. codes, as evaluated by the board under §133.43 of this chapter (relating to Experience Evaluation).
(B)Applicant currently licensed in United Mexican States shall:
(i) meet the educational requirements of §1001.302(a)(1)(A) of the Act and have 12 or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter; or
(ii) meet the educational requirements of §1001.302(a)(1)(B) of the Act and have 16 or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter.

(b)The applicant applying for a temporary license from Australia, Canada, the Republic of Korea or the United Mexican States shall submit:
(1) an application in a format prescribed by the board;
(2) proof of educational credentials pursuant to §133.33 or §133.35 of this chapter (relating to Proof of Educational Qualifications);
(3) a supplementary experience record as required under §133.41 (1) – (4) of this chapter (relating to Supplementary Experience Record) or a verified curriculum vitae and continuing professional development record;
(4) at least three reference statements as required under §133.51 and §133.53 of this chapter (relating to Reference Providers and Reference Statements);
(5) passing score of TOEFL as described in §133.21(c) of this chapter (relating to Application for Standard License);
(6) information regarding any criminal history including any judgments, deferred judgments or pre-trial diversions for a misdemeanor or felony provided in a format prescribed by the board, together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges;
(7) documentation of submittal of fingerprints for criminal history record check as required by §1001.3035 of the Act;
(8) a statement describing any engineering practice violations, if any, together with documentation from the jurisdictional authority describing the resolution of those charges;
(9) submit a completed Texas Engineering Professional Conduct and Ethics examination;
(10) pay the application fee established by the board; and
(11) a verification of a license in good standing from one of the jurisdictions listed in subsection (a)(3) of this section.

(c) Once an application under this section is accepted for review, the board will follow the procedures in §133.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to clarify an application and ensure eligibility pursuant to §1001.302 of the Act, as needed. Pursuant to §1001.453 of the Act, the board may review the license holder's status and take action if the license was obtained by fraud or error or the license holder may pose a threat to the public's health, safety, or welfare.

Source Note: The provisions of this §133.27 amended to be effective March 15, 2018.

SUBCHAPTER D: EDUCATION

§133.31 Educational Requirement for Applicants

(a) Applicants for a license shall have graduated from at least one of the following degree programs or degree program combinations listed in this section:
(1) Approved engineering curriculums under §1001.302(a)(1)(A) of the Act. The following degrees are acceptable to the board for meeting the educational requirements of §1001.302(a)(1)(A) of the Act:
(A) a degree from an engineering program accredited or otherwise approved by:
(i) EAC/ABET;

(ii) Consejo de Acreditacion de la Ensenanza de la Ingenieria, Mexico (Council of Accreditation for Engineering Education, C.A.); or

(iii) The Washington Accord.

(B) A graduate degree in engineering, provided that:

(i) the graduate degree is obtained from a college having an engineering program approved by one of the organizations listed in subparagraph (A) of this paragraph where either the graduate or undergraduate degree in the same discipline is accredited; and

(ii) the combination of the degrees is acceptable to the board as equivalent in EAC/ABET approved curricula content, and the combination of degrees contain sufficient design curricula to provide minimal competency in the use of engineering algorithms and procedures.

(C) a completed degree that has not been accredited or approved by either of the organizations identified in subparagraph (A) of this paragraph but has been evaluated in accordance with §133.33 of this chapter, (relating to Proof of Educational Qualifications-Non-Accredited/Non-Approved Programs), and determined to meet the ABET general and program criteria requirements for an EAC/ABET-accredited or -approved program.

(2) Other programs under §1001.302(a)(1)(B) of the Act. The following degrees are acceptable to the board for meeting the educational requirements of §1001.302(a)(1)(B) of the Act:

(A) a bachelor degree from an engineering technology program that is accredited by the ETAC/ABET;

(B) A bachelors or graduate degree in engineering, engineering technology, mathematical, physical, or related science that has not been accredited or approved by any of the organizations identified in paragraphs (1)(A) or (2)(A) of this subsection but has been obtained from a recognized institution of higher education as defined in Chapter 131 of this title. Such degree programs must include, as a minimum, the courses listed in clauses (i) and (ii) of this subparagraph or these courses must be taken in addition to the bachelor or graduate degree program:

(i) eight semester hours (12 quarter hours) of mathematics beyond trigonometry, including differential and integral calculus; and

(ii) 20 semester hours (30 quarter hours) of related engineering sciences including subjects such as mechanics, thermodynamics, electrical and electronic circuits, and others selected from material sciences, transport phenomena, computer science and comparable subjects depending on the discipline or branch of engineering. Course work should incorporate hands-on laboratory work as described in the EAC/ABET criteria, and shall contain a sufficient design program to provide minimal competency in the use of engineering algorithms and procedures.

(3) Degree programs submitted to the board by the conferring institutions and determined by the board as meeting or exceeding the criteria of either of the accrediting organizations referred to in this section.

(A) The following programs have been reviewed by the board and determined to be eligible for licensure under §1001.302(a)(1)(A) of the Act:

(i) The engineering programs at the University of Texas at Tyler for those who graduated in 1999.

(ii) Biosystems engineering program at the University of Texas A&M at College Station for those who graduated between 1999 and 2003.

(B) The following programs have been reviewed by the board and determined to be eligible for licensure under §1001.302(a)(1)(B) of the Act and eligible for taking the examination on the fundamentals of engineering, effective the date listed:

(i) Tarleton State University, Accepted Programs: Hydrology (1992) and Engineering Physics (2001);

(ii) West Texas State A&M, Accepted Program: Mechanical Engineering (2003).

(b) Degree programs that have not been accredited or approved by any of the organizations identified in subsection (a)(1)(A) or (2)(A) of this section are not acceptable for fulfilling the educational requirements of the Act if they do not meet the definition of a recognized institution of higher learning as defined in Chapter 131 of this title and:

(1) give credit for life experience; or

(2) consist primarily of engineering, mathematical, physical, or engineering sciences courses that are correspondence courses that are self-taught outside a formal classroom setting.

(c) Applicants who have graduated from a degree program that is accredited by the jurisdictional authority in the Canadian or European community that have been evaluated pursuant to §133.33 of this chapter (relating to Proof of Educational Qualifications/Non-Accredited/Non-Approved Programs) and contain sufficient course hours to meet the requirements of subsection (a)(2)(B) of this section but not found to have sufficient course hours to be deemed equivalent or comparable to a Bachelor of Science degree as would be issued by a recognize institution of higher education in the United States may apply for licensure solely through the examination process.

(d) An applicant holding a verified Canadian P.Eng. or ing. License shall be considered to have academic qualifications substantially equivalent to an accredited engineering program.

Source Note: The provisions of this §133.31 amended to be effective September 9, 2012.

§133.33 Proof of Educational Qualifications–Non-Accredited/Non-Approved Programs

(a) An applicant for licensure who has graduated from a program other than one in which the undergraduate or graduate degree in the same discipline has been accredited or approved by any of the organizations identified in §133.31(a)(1)(A) or (a)(2)(A) of this chapter (relating to Educational Requirements for Applicants) shall furnish both an official transcript and an evaluation for each degree to be relied upon to meet the educational requirements of licensure as a professional engineer or certification as an engineer-in-training. Official transcripts shall include either grades or mark sheets and proof that the degree was conferred. In addition to providing a transcript reflecting the degree(s) earned by an applicant, the applicant shall also provide an official transcript from each school from which more than 15 semester hours were earned towards the degree.

(1) The applicant shall ensure that the required transcript(s) are forwarded from the officially recognized and approved institutional authority of records (e.g., registrar or other authority) of the institution from which the applicant graduated directly to a commercial degree evaluation service approved by the board. The applicant is responsible for ordering and paying for all

such transcripts and evaluations. Additional academic information, including but not limited to grades and transfer credit, shall be submitted to the board at the request of the executive director.

(2) The degree evaluation must:

(A) validate the authenticity of the transcript, diploma, and any other supporting documentation;

(B) include a detailed, course-by-course evaluation of courses, including semester hours and grades;

(C) a comparison of the applicant's degree program to criteria of ABET applicable to the applicant's year of graduation; and a determination whether the curriculum of the degree program being evaluated meets the applicable criteria;

(D) establish that the applicant has received a conferred degree which is equivalent to a degree from a United States educational institution; and

(E) be sent by the commercial evaluation service directly to the board, accompanied by the applicant's official transcript or a copy of the transcript verified by the commercial evaluation service.

(b) Upon written request by an applicant provided at the time of application, a commercial degree evaluation of a program other than one accredited or approved by the EAC/ABET or the ETAC/ABET may be waived by the executive director if:

(1) sufficient resources are available for the board to evaluate it; or

(2) the degree program contains curricula that are deemed by the executive director to not be an integral part of the applicant's engineering education.

(c) Upon receipt or waiver of a commercial degree evaluation, the executive director shall evaluate, under the standards of §133.31(a)(1)(C) or (a)(2)(B) of this chapter (relating to Educational Requirements for Applicants), the curricula of a degree program that has not been accredited or approved by any of the organizations identified in §133.31 (a)(1)(A) or (a)(2)(A) of this chapter.

(d) If a transcript cannot be transmitted directly to the evaluation service from the issuing institution, the executive director may, at his or her discretion, approve an alternative method of evaluating the applicant's educational qualifications, upon written request from the applicant explaining why the transcript cannot be directly transmitted from the issuing institution. An alternative method approved by the executive director may include validation of transcript(s) in the applicant's possession through a commercial evaluation service approved by the board. In the event the executive director approves an alternative method such as validation of a transcript in the applicant's possession by an evaluation service, the evaluation service shall forward to the board the evaluation and all documentation provided by the applicant.

(e) The board will not accept a commercial evaluation of a degree in lieu of an official transcript or a validated transcript that was in the applicant's possession. An official transcript or validated transcript must be submitted to complete the application.

(f) An applicant seeking an educational credential evaluation under this section but wishing to qualify for licensure only under §133.31(a)(2)(B) of this section is exempt from the evaluation requirement in subsection (a)(2)(C) of this section.

Source Note: The provisions of this §133.33 amended to be effective September 9, 2012.

§133.35 Proof of Educational Qualifications–Accredited/Approved Programs

(a) An applicant for licensure who has graduated from a degree program in which the undergraduate or graduate degree in the same discipline has been accredited or approved by any of the organizations identified in §133.31(a)(1)(A) or (a)(2)(A) of this chapter (relating to Educational Requirements for Applicants) shall provide to the board an official transcript for each degree to be relied upon to meet the educational requirements for certification or licensure.

(b) Transcript(s) shall include either grades or mark sheets and proof that the degree was conferred.

(c) To ensure security of transcripts, each transcript must be received directly from:

(1) the registrar of the institution from which the applicant graduated; or

(2) the National Council of Examiners for Engineering and Surveying (NCEES) or board approved commercial evaluation service provided the transcripts were forwarded directly from the registrar of the institution from which the applicant graduated.

(d) Copies of transcripts of all other engineering or mathematical, physical, or engineering science degrees shall be submitted to the board; these transcripts can be copies of the original transcript and can be forwarded to the board by the applicant.

(e) The applicant is responsible for ordering and paying for all transcripts.

(f) Additional academic information, including but not limited to grades and transfer credit, shall be submitted to the board at the request of the executive director.

Source Note: The provisions of this §133.35 amended to be effective December 11, 2016.

§133.37 English Translation

All documents supporting the application written in language other than English shall be accompanied by a certified English translation.

Source Note: The provisions of this §133.37 amended to be effective May 20, 2004.

SUBCHAPTER E: EXPERIENCE

§133.41 Supplementary Experience Record

Applicants shall submit a supplementary experience record to the board as a part of the application. The supplementary experience record is a written summary documenting all of the applicant's engineering experience used to meet the requirements for licensure. The NCEES record experience information may be accepted as all or part of a supplementary experience record.

(1) The supplementary experience record shall be written by the applicant and shall:

(A) provide an overall description of the nature and scope of the work with emphasis on detailed descriptions of the engineering work;

(B) clearly describe the engineering work that the applicant personally performed;

(C) delineate the role of the applicant in any group engineering activity; and

(D) include any relevant training or participation in engineering organizations or societies that contribute to the applicant's competence and readiness for licensure (consistent with the requirements listed in §137.17 of this title (relating to Continuing Education Program)).

(2) The supplementary experience record shall be divided into employment engagements that correspond to those listed in the application and shall be written in sufficient detail to allow a board reviewer to document the minimum amount of experience required and to allow a reference provider to recognize and verify the quality and quantity of the experience claimed.
(3) Experience that is unsupported by references may not be considered. All experience claimed to meet the minimum requirements for licensure shall be verified by one or more currently licensed professional engineer(s) pursuant to §133.51 of this chapter (relating to Reference Providers).
(4) Experience from part-time employment must be accounted for proportionally to a standard 40-hour work week, if it was part-time employment.
(5) The supplementary experience record must cover at least the minimum amount of time needed by the applicant for issuance of a license.

(A) Applicants applying under §1001.302(a)(1)(A) of the Act shall provide supplementary experience records for at least four years of engineering experience.
(B) Applicants applying under §1001.302(a)(1)(B) of the Act shall provide supplementary experience records for at least eight years of engineering experience.

(C) Applicants seeking a waiver from the examination on the fundamentals of engineering and/or the examination on the principles and practices of engineering requirements shall provide a supplementary experience record for at least the minimum number of years of experience required for a waiver of examinations under §133.69 of this chapter (relating to Waiver of Examinations).

Source Note: The provisions of this §133.41 amended to be effective September 11, 2016.

§133.43 Experience Evaluation

(a) The board shall evaluate the nature and quality of the experience found in the supplementary experience record or the NCEES record experience information and shall determine if the work is satisfactory to the board for the purpose of issuing a license to the applicant. The board shall evaluate the supplementary experience record for evidence of the applicant's competency to be placed in responsible charge of engineering work of a similar character.

(1) Engineering work shall be satisfactory to the board and, therefore, considered by the board to be creditable engineering experience for the purpose of licensure if it is of such a nature that its adequate performance requires engineering education, training, or experience. The application of engineering education, training and experience must be demonstrated through the application of the mathematical, physical, and engineering sciences. Such work must be fully described in the supplementary experience record. Satisfactory engineering experience shall include an acceptable combination of design, analysis, implementation, and/or communication experience, including the following types of engineering activities:

(A) design, conceptual design, or conceptual design coordination for engineering works, products or systems;
(B) development or optimization of plans and specifications for engineering works, products, or systems;
(C) analysis, consultation, investigation, evaluation, planning or other related services for engineering works, products, or systems;
(D) planning the use or alteration of land, water, or other resources;
(E) engineering for program management and for development of operating and maintenance manuals;
(F) engineering for construction, or review of construction;
(G) performance of engineering surveys, studies, or mapping;
(H) engineering for materials testing and evaluation;
(I) expert engineering testimony;
(J) any other work of a mechanical, electrical, electronic, chemical, hydraulic, pneumatic, geotechnical, or thermal nature that requires engineering education, training or experience for its adequate performance; and
(K) the teaching of engineering subjects by a person who began teaching prior to September 1, 2001.

(2) In the review of engineering experience, the board may consider additional elements including:

(A) whether the experience was sufficiently complex and diverse, and of an increasing standard of quality and responsibility;
(B) whether the quality of the engineering work shows minimum technical competency;
(C) whether the experience was gained in accordance with the provisions of the Act;
(D) whether the experience was gained in one dominant branch;
(E) whether non-traditional engineering experience such as sales or military service provides sufficient depth of practice;
(F) whether short engagements have had an impact upon professional growth;
(G) whether the applicant intends to practice or offer engineering services in Texas; and
(H) whether the experience was supplemented by training courses or participation in engineering organizations or societies that contribute to the applicant's competence and readiness for licensure (consistent with the requirements listed in §137.17 of this title (relating to Continuing Education Program)).

(3) Engineering experience may be considered satisfactory for the purpose of licensing provided that:

(A) the experience is gained during an engagement longer than three months in duration;
(B) the experience, when taken as a whole, meets the minimum time;
(C) the experience is not anticipated and has actually been gained at the time of application;
(D) the experience includes at least two years of experience in the United States, not including time claimed for educational credit, or otherwise includes experience that would show a familiarity with US codes and engineering practice; and
(E) the time granted for the experience claimed does not exceed the calendar time available for the periods of employment claimed.

(b) Experience credit may be granted for experience gained prior to an applicant's receiving a conferred degree per §133.31 of this chapter (relating to Educational Requirement for Applicants). Effective January 1, 2009, experience gained in this manner is limited to a total of two years, and must:

(1) be substantiated in the supplementary experience record and a reference statement provided for the experience;

(2) be accounted for proportionally to a standard 40-hour work week, if it was part-time employment; and

(3) reflect that, at the time the experience was gained, the applicant had passed junior and/or senior level engineering or related engineering science courses and applied relevant engineering knowledge in the claimed experience.

(c) One year of experience credit may be granted for each post-baccalaureate engineering degree earned by an applicant, provided:

(1) the applicant has a baccalaureate or other post-baccalaureate degree in engineering; and

(2) the post-baccalaureate degree is from an engineering program where either the graduate or undergraduate degree in the same discipline is accredited or approved by one of the organizations listed in §133.31(a)(1) of this chapter (concerning Educational Requirements for Applicants). Experience credit for all post-baccalaureate degrees is limited to a total of two years.

(d) Engineering Educators applying for a waiver of examinations under §133.69 of this chapter (relating to Waiver of Examinations) will not receive additional experience credit pursuant to subsection (c) of this section.

(e) Experience gained in conjunction with or in relation to earning a post-baccalaureate degree, such as research or teaching assistant work, will not be credited in addition to experience credited pursuant to subsection (c) of this section.

(f) For Engineering Educator applicants applying under §133.25 of this chapter (relating to Applications from Engineering Educators), other acceptable creditable engineering experience may include, but is not limited to, scholarly activity such as publishing papers in technical and professional journals; making technical and professional presentations; publishing books and monographs; performing sponsored research; reporting on research conducted for sponsors; supervising research of undergraduate and graduate students, postdoctoral fellows, or other employees; providing counseling, guidance, and advisement for engineering students; and performing certain other types of formal or informal functions in higher education.

Source Note: The provisions of this §133.43 amended to be effective March 15, 2018.

SUBCHAPTER F: REFERENCE DOCUMENTATION

§133.51 Reference Providers

(a) Applicants for licensure shall provide reference statements to verify character suitability for licensure and all engineering experience claimed to meet the minimum years of experience required. Reference statements will be used to verify the applicant's character and the factual presentation of the applicant's experience and to determine to the extent the experience is creditable engineering experience. The NCEES record reference documentation may be accepted as reference statements as specified in this section.

(1) Standard Licensure Procedure. Applicants applying under §1001.302(a)(1)(A) or (B) of the Act, including those applicants licensed in another jurisdiction or previously licensed in Texas, shall provide reference statements from at least three reference providers. These reference providers shall be currently licensed professional engineers who have personal knowledge of the applicant's character, reputation, suitability for licensure, and engineering experience and shall review all applicable portions of the applicant's supplementary experience record and complete the reference statement in full.

(2) Waiver of Examinations Procedure. Applicants requesting a waiver from the examinations on the fundamentals of engineering or principles and practice of engineering shall provide reference statements from at least five reference providers. These reference providers shall be currently licensed professional engineers who have personal knowledge of the applicant's character, reputation, suitability for licensure, and engineering experience and shall review all applicable portions of the applicant's supplementary experience record and complete the reference statement in full.

(b) Professional engineers who have not worked with or directly supervised an applicant may review and judge the applicant's experience and may serve as a licensed engineer reference provider; such review shall be noted on the reference statement.

(c) All reference providers shall be individuals with personal knowledge of the applicant's character, reputation, and general suitability for holding a license. If possible, reference providers should be individuals who directly supervised the applicants.

(d) Professional engineers who provide reference statements and who are licensed in a jurisdiction other than Texas shall include a copy of their pocket card or other verification to indicate that their license is current and valid.

(e) Professional engineers who provide reference statements shall not be compensated.

(f) Reference statements on file with the board from previous applications may be used upon written request of the applicant and with the approval of the executive director. Additional references may be required.

(g) The board members and staff may, at their discretion, rely on any, all, or none of the reference statements provided in connection with an application for licensure.

Source Note: The provisions of this §133.51 amended to be effective December 21, 2008.

§133.53 Reference Statements

(a) The applicant shall make available to each reference provider, the board's reference statement form and a complete copy of the applicable portion(s) of the supplementary experience record.

(b) Persons providing reference statements verifying an applicant's engineering experience shall:

(1) complete and sign the reference statement in a format prescribed by the board; and

(2) review, evaluate, and sign all applicable portions of the supplementary experience record(s). The reference provider's signature indicates that he has read the supplementary experience record(s), that the record(s) are correct to the best of his knowledge, and that the experience is relevant to licensure. If the reference provider disagrees with or has comments or clarification to the information provided by the applicant, the reference provider should submit written comments or concerns to the board.

(3) for the purposes of this section, a reference statement and associated portions of the applicant's supplementary experience record submitted directly to the board through a secure method prescribed by the board will be considered "signed" as required in this subsection.

(c) The reference provider shall submit to the board both the reference statement and the supplementary experience record.

(d) For any reference statement to meet the requirements of the board, the reference statement must be secured. For a reference statement to be considered secure, the reference provider shall:

(1) place the completed reference statement and reviewed supplementary experience records in an envelope;

(2) seal the flap of the envelope;

(3) after sealing the envelope, the reference provider shall sign across the sealing edge of the flap of the envelope and cover the signature with transparent tape; and

(4) the reference provider shall return the sealed envelope to the applicant or transmit the documents directly to the board.

(e) Secured reference envelopes shall be submitted to the board by applicant or reference provider.

(f) Reference documents submitted directly to the board by the reference provider in a method prescribed by the board will meet the requirements of subsection (d) of this section.

(g) Evidence of retaliation by an applicant against a person who provides reference material for an application may be considered in the application process as described in §133.81(d) of this chapter (relating to Receipt and Process).

(h) The NCEES record reference documentation may be accepted as reference statements as specified in this section.

Source Note: The provisions of this §133.53 amended to be effective June 13, 2010.

§133.55 Reference Communication

(a) Additional references may be required of the applicant when the executive director finds it necessary to adequately verify the applicant's experience or character. The board and/or staff may at their discretion communicate with any reference or seek additional information.

(b) The board may post the names of applicants on the board website and receive information regarding an applicant from the regulated community and general public. The board members and staff may, at their discretion, rely on any, all, or none of the public comments received in connection with an application for licensure.

Source Note: The provisions of this §133.55 amended to be effective May 20, 2004.

SUBCHAPTER G: EXAMINATIONS

§133.61 Engineering Examinations Required for a License to Practice as a Professional Engineer

(a) Applicants are required to take two written experience and knowledge examinations, furnished and graded by the NCEES or by the board, or request a waiver of such examinations pursuant to §133.69 of this chapter (relating to Waiver of Examinations), and the Texas Engineering Professional Conduct and Ethics examination, furnished and graded by the board.

(b) All examinations shall be in the English language.

(c) Experience and knowledge examinations may be a Fundamentals of Engineering examination and a Principles and Practice of Engineering examination prepared by the NCEES or equivalent as determined by the board.

(d) The board shall publish examination information which shall include at least the following:

(1) the places where the examinations shall be held;

(2) the dates of the examinations;

(3) the deadline date for an examinee to schedule an examination, if applicable;

(4) fees for each examination; and

(5) types of examinations offered.

(e) Examinations may be scheduled by timely submission of registration information in a format specified by the Board with the appropriate examination fee.

(f) Individuals who plan to take an examination must have their registration completed by the close of regular business on the date established by the applicable examination schedule.

(g) Applicants providing an official verification from NCEES or an NCEES member board certifying that they have passed the Fundamentals of Engineering and/or Principle and Practices of Engineering examination(s) in that state shall not be required to take the examination(s) again.

(h) Examination registration fees may be collected by the board or a contracted exam administrator and shall be refunded or transferred to future examination administrations in accordance with established board or exam administrator policy and if approved by the executive director.

(i) Examination candidates who have been called into active U.S. military duty or who are re-assigned military personnel and will not be available to sit for an examination may request an extension of the approved examination period defined in §133.67 of this chapter (relating to Examination on the Principles and Practice of Engineering). Such candidates shall submit adequate documentation, including copies of orders, and a request to extend the approved examination period to the board. The candidate shall notify the board of their availability to resume the examination period within 60 days of release from active duty or when they are deployed to a location that provides a board approved examination.

(j) All examinations shall be administered to applicants with disabilities in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.), and its subsequent amendments. Special accommodations can be provided for examinees with physical or mental impairments that substantially limit life activities.

(1) Any individual with a disability who wishes to request special accommodations must submit an official request and supporting medical documentation in a format specified by the contracted exam administrator that has been generated by an appropriate licensed health care professional.

(2) The request must be submitted prior to the exam registration deadline established by the contracted exam administrator.

(3) The board or the contracted exam administrator may request additional documentation to substantiate a request for special accommodations.

(4) The requestor will be notified of approval of the request or reason for denial of the request by the board or contracted exam administrator.

(k) Pursuant to Texas Occupations Code §54.002, if an examination candidate's religious beliefs prevent the candidate from taking an examination on a religious holy day that conflicts with the normally scheduled examination date, the candidate shall submit a request to the contracted exam administrator and the board to take the examination on an alternate date.
(l) Upon successful passage of the experience and knowledge examinations, or being granted a waiver of one or both examinations pursuant to §133.69 of this chapter (relating to Waiver of Examinations), an applicant shall be considered to have met the examination requirements for licensure as a professional engineer in Texas.

Source Note: The provisions of this §133.61 amended to be effective May 1, 2016.

§133.63 Texas Engineering Professional Conduct and Ethics Examination

(a) The Texas Engineering Professional Conduct and Ethics Examination shall be self administered by the applicant and shall be prepared and furnished by the board. Each applicant must submit this examination in a format prescribed by the board with the application and must pass with a score of at least 90 percent.
(b) No fees or advanced scheduling forms are required for the Texas Engineering Professional Conduct and Ethics Examination.

Source Note: The provisions of this §133.63 amended to be effective September 20, 2009.

§133.65 Examination on the Fundamentals of Engineering

(a) An undergraduate student who is within two regular semesters (not including summer sessions) of graduating may take the examination on the fundamentals of engineering provided that the student is enrolled in a degree program which is:

(1) an engineering program accredited or approved by the EAC/ABET;
(2) a four year baccalaureate technical program accredited or approved by the ETAC/ABET;
(3) an engineering-related science program of four years or more that has been approved by the board; or
(4) a non-engineering related curriculum or other degree in which the student has provided evidence acceptable to the executive director as meeting the minimum requirements of §1001.302(a)(1)(A) or (B) of the Act.

(b) Persons who demonstrate that they meet the educational requirements for a license and who have not passed the examination on the fundamentals of engineering may apply to take the examination in accordance with the applicable examination registration requirements.
(c) Persons who do not meet the criteria of subsection (a) of this section, but who need only to complete the examination on the fundamentals of engineering to fulfill the graduation requirements of a degree program that would meet the educational requirements for a license, may apply to the board to take the examinations in accordance with the applicable examination schedule.

Source Note: The provisions of this §133.65 amended to be effective May 1, 2016.

§133.67 Examination on the Principles and Practice of Engineering

(a) The examination on the principles and practice of engineering is open only to licensed engineers who wish to take the examination for record purposes and to applicants who have received board approval to take it. Applicants who are granted certification as an Engineer-in-Training in accordance with §133.1 of this chapter (relating to Engineer-in-Training Designation) or submit equivalent qualifications at the time of application for licensure shall be approved to take the examination on the principles and practice of engineering.
(b) An applicant approved to take the examination on the principles and practice of engineering:

(1) shall be advised of the date he or she is eligible.
(2) shall schedule to test in any area of competency appropriate to his or her experience or education.
(3) shall be solely responsible for timely scheduling for the examination and any payment of examination fees.
(4) shall have no more than three examination attempts within a four year period starting with the date of the first exam taken by the applicant. No extensions shall be granted except as provided for in §133.61(i) of this chapter (relating to Engineering Examinations Required for a License to Practice as a Professional Engineer.
(5) shall have no more than three attempts for each component if taking the Structural Engineering examination and must receive acceptable results for all components of the exam within a four year period starting with the date of the first exam taken by the applicant.
(6) shall have no more than eight years from the date of approval to complete the allowed exam attempts.

(c) For the purposes of this section, exam attempt means a unique administration of an examination or exam component of any discipline for which attendance is documented.
(d) An applicant who does not pass the examination on the principles and practice of engineering within the approved examination period described in subsection (b) of this section is considered not approved and may not re-apply for approval until he or she has obtained at least one (1) year of additional engineering experience as described in Subchapter E of this chapter (relating to Experience) or until the applicant has completed at least six (6) additional semester hours of formal college level classroom courses relevant to the applicant's dominant branch or discipline of experience. The time period to obtain additional engineering experience or enroll in additional college courses commences on the date of the last exam attempt or when the approved examination period expired. Applicants meeting the additional experience or education requirements must apply in accordance with §133.21 of this chapter (relating to Application for Standard License) and receive approval for additional exam attempts.
(e) The examination on the principles and practice of engineering shall be offered according to the schedule determined by the NCEES or by the board.

Source Note: The provisions of this §133.67 amended to be effective December 11, 2016.

§133.69 Waiver of Examinations

(a) Examinations are considered an integral part of the licensing process; all applicants are expected to have passed the examinations or to offer sufficient evidence of their qualifications in the absence of passage of the examinations. The board may waive one or both of the examinations on the fundamentals of engineering or the principles and practice of engineering for applicants who:

(1) do not pose a threat to the public health, safety, or welfare;
(2) request a waiver in writing at the time the application is filed; and
(3) meet the requirements of subsections (b) or (c) of this section.

(b) Waiver of Fundamentals of Engineering Examination. Applications for a waiver of the fundamentals of engineering examination will only be accepted from persons who meet the requirements of paragraphs (1) or (2) of this subsection.

(1) Standard Application:

(A) meet the educational requirements of §1001.302(a)(1)(A) of the Act and have eight or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter (relating to Experience Evaluation); or

(B) meet the educational requirements of §1001.302(a)(1)(B) of the Act and have twelve or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter.

(2) Engineering Educator: meet the requirements of §133.25(a) and (b) of this chapter (relating to Applications from Engineering Educators).

(c) Waiver of Principles and Practice of Engineering Examination. Applications for a waiver of the principles and practice of engineering examination will only be accepted from persons who meet the requirements of this subsection.

(1) Currently Licensed in U.S. State or Territory or Former Texas License Holder: An applicant who is applying for a standard license and is currently licensed and in good standing in any U.S. state or territory, or a former Texas license holder applying under §133.23 of this chapter (relating to Applications from Former Texas License Holders), shall:

(A) meet the educational requirements of §1001.302(a)(1)(A) of the Act and have 12 or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter (relating to Experience Evaluation); or

(B) meet the educational requirements of §1001.302(a)(1)(B) of the Act and have 16 or more years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter;

(2) Engineering Educator:

(A) meet the requirements of §133.25(a) and §133.25(b)(1) of this chapter (relating to Applications from Engineering Educators) and have:

(i) taught in an EAC/ABET-accredited or -approved program for at least six years and began teaching engineering prior to September 1, 2001;

(ii) at least six years of experience consisting of a combination of EAC/ABET teaching experience or other creditable engineering experience, as evaluated by the board under §133.43 of this chapter and began teaching engineering prior to September 1, 2001; or

(iii) at least four years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter; or

(B) meet the requirements of §133.25(a) and §133.25(b)(2) of this chapter and have:

(i) taught in an EAC/ABET-accredited or -approved program for at least eight years and began teaching engineering prior to September 1, 2001;

(ii) at least eight years of experience consisting of a combination of EAC/ABET teaching experience or other creditable engineering experience, as evaluated by the board under §133.43 of this chapter and began teaching engineering prior to September 1, 2001; or

(iii) at least six years of creditable engineering experience, as evaluated by the board under §133.43 of this chapter.

(d) An applicant is not eligible to request a waiver of the examination on the fundamentals of engineering if the applicant has taken and failed any examination on the fundamentals of engineering in any jurisdiction within the previous two years.

(e) An applicant is not eligible to request a waiver of the examination on the principles and practice of engineering if the applicant has taken and failed any examination on the principles and practice of engineering in any jurisdiction within the previous four years.

(f) Applicants requesting a waiver from any examination(s) shall file any additional information needed to substantiate the eligibility for the waiver with the application, as provided in §133.51 of this chapter (relating to Reference Providers), and §133.53 of this chapter (relating to Reference Statements). The board shall review all elements of the application to evaluate waiver request(s) and may grant a waiver(s) to qualified applicants.

Source Note: The provisions of this §133.69 amended to be effective December 17, 2013.

§133.71 Examination for Record Purposes

An engineer currently licensed in Texas may take the examination on the principles and practice of engineering for record purposes. Unless required to do so by the Board, an individual who has passed the examination in a specific discipline may not re-take the examination in that discipline.

Source Note: The provisions of this §133.71 amended to be effective May 1, 2016.

§133.73 Examination Results and Analysis

(a) For each examinee that has completed the examination on the fundamentals of engineering or the examination on the principles and practice of engineering, the board or NCEES shall provide a numerical score, if applicable, and an indication of whether the person passed or failed the examination.

(b) For those exams or exam components with numerical scores, the passing score is 70.

(c) An examinee taking the principles and practice exam for structural engineering must receive acceptable results for each component to pass the exam.

(d) In accordance with §1001.306(c) of the Act, the board or NCEES will provide a written analysis furnished by the NCEES to anyone who has failed either the examination on the fundamentals of engineering or the examination on the principles and practice of engineering.

(e) Once the board has provided a written analysis of an examination, no further review or re-grading shall be available for the examination except as provided in subsection (f) of this section. However, the executive director may, at his or her discretion, review the administrative portions of an examination answer sheet to resolve administrative uncertainties and/or determine the manner in which an examination should be scored.

(f) An examinee may request manual verification of grading of the examination on the principles and practice of engineering results only as permitted by the uniform examination procedures set out by NCEES or by the board:

(1) only at the date(s) and time(s) specified by NCEES in its notification to the examinee of his or her failure of the examination; and
(2) provided that any costs associated with manual verification by NCEES will be paid by the examinee.

Source Note: The provisions of this §133.73 amended to be effective December 17, 2013.

§133.75 Examination Irregularities

(a) The examinations will be administered in accordance with the NCEES or the board policies and procedures. An examinee who does not abide by the NCEES or the board policies and procedures will be subject to dismissal from the remainder of the examination. Cheating on examinations will not be tolerated. Examination proctors who observe that an examinee is giving assistance to or receiving assistance from another person, compromising the integrity of the examination, or participating in any other form of cheating or violation of exam policies or procedures during an examination may require the examinee to surrender all examination materials. The examinee involved may be required to leave the room and may not be permitted to return. Evidence of cheating found after the examination shall also be a cause for action. The executive director shall be informed of such instances of suspected cheating at the earliest possible opportunity and will determine appropriate action.
(b) If the executive director determines that sufficient evidence exists of an examination irregularity related to an examinee, an examinee has knowingly violated NCEES or the board policies and procedures, or an examinee cheated, the examinee may have their exam results invalidated, and may be barred from taking any examination in Texas for a period of up to two years. Any application for licensure pending or approved for examination may be denied and will be evaluated or re-evaluated on that basis. Any examination taken and passed while barred from taking an examination in Texas will not be acceptable for licensure purposes in Texas.
(c) A licensed professional engineer suspected of cheating may be charged with violating §1001.452 of the Act and applicable board rules.

Source Note: The provisions of this §133.75 amended to be effective December 17, 2013.

SUBCHAPTER H: REVIEW PROCESS OF APPLICATIONS AND LICENSE ISSUANCE

§133.81 Receipt and Processing of Applications by the Board

(a) Upon receipt of an application for licensure and application fee at the board office, the board shall initiate a review of the credentials submitted. Applicants who meet the licensure requirements shall be issued a license. Applicants who fail to meet one or more of the licensure requirements shall be denied a license.
(b) Once an application and fee is received by the board, no refunds will be granted. By submitting an application and fee, the applicant attests that he or she has reviewed the education, experience, reference, and examination requirements for licensure as prescribed in this chapter and that he or she is qualified for a license based on these requirements.
(c) Once an application has entered the review process as described in §133.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications), the executive director may determine that the application has been so altered by the addition of supplemental information that the description of the applicant's qualifications has been substantially revised. If the executive director determines that an application is substantially revised, the application will be treated as a new application and reviewed under the rules in place on the date of the determination. The executive director will provide an applicant with written notice if an application is determined to be substantially revised. If the applicant disagrees with a determination by the Executive Director, the applicant may make an appeal to the Licensing Committee.
(d) Once an application has been reviewed and before a license has been issued or denied, the board will not accept a new or amended application from the applicant. This does not prohibit the executive director, a board member, or the board from requesting, when they deem necessary, additional information from an applicant regarding his or her application.
(e) In the event that information bearing on the suitability of an applicant is discovered after submission of an application but prior to issuance of a license, the board may rescind or alter any previous decision, or hold the application in abeyance, or may deny an application until the suitability of the applicant is adequately established.
(f) An applicant may request an application to be withdrawn from consideration provided that the application has not been approved for licensure subject to passage of an examination and the application has not begun circulation under the Board Review Process under §133.85 of this chapter (relating to Board Review of and Action on Applications). All requests for withdrawal must be submitted to the board in writing.
(g) An applicant may only have one pending application on file with the board at any time.
(h) Pursuant to Chapter 55, Texas Occupations Code, an application for license from a military service member, military veteran or military spouse shall be processed and reviewed as soon as practicable in accordance with subsection (a) of this section. All other applications will be processed in the order they were received.

Source Note: The provisions of this §133.81 amended to be effective December 14, 2015.

§133.83 Executive Director Review, Evaluation and Processing of Applications

All references to the executive director in this section shall allow for the delegation of authority by the executive director to other staff members. An application for licensure shall be handled in the following manner and order:

(1) The application is received at the board office.
(2) The executive director shall review the application for completeness.
(3) The executive director shall:
    (A) accept the application as complete for processing and evaluating; or
    (B) accept the application and notify the applicant at the earliest possible time of deficient information and give the applicant 60 calendar days to complete the application. The executive director or designee may grant the applicant an additional 30 day period to submit any information identified as necessary to complete the application. If the applicant does not submit all documents required in the time allowed for such submittals, the application shall be

administratively withdrawn and further processing performed in accordance with §133.89 of this chapter (relating to Processing of Administratively Withdrawn Applications).

(4) Once an application is complete, the executive director shall review and evaluate the qualifications found in the application and determine whether the applicant should interview with the licensing committee or whether the application should be:

(A) approved,

(B) denied, or

(C) reviewed by the professional engineer members of the board in accordance with §133.85 of this chapter (relating to Board Review of and Action on Applications).

(5) The executive director may approve the application without further board review unless the application is accompanied by:

(A) an unfavorable recommendation by one or more reference providers; or

(B) a request for waiver of examination(s), except when the applicant is solely requesting waiver of the examination on the fundamentals of engineering.

(6) The executive director may deny an application for licensure without further board review if the applicant does not:

(A) have sufficient years of experience to qualify for licensure,

(B) have an education acceptable to the board as prescribed in §133.31 of this chapter (relating to Educational Requirement for Applicants),

(C) pass an examination within the time allotted, or

(D) complete the application and it becomes administratively withdrawn for more than six months.

(7) An application for licensure that cannot be approved or denied by the executive director pursuant to paragraphs (5) and (6) of this section shall be circulated among the professional engineer board members.

Source Note: The provisions of this §133.83 amended to be effective March 15, 2018.

§133.85 Board Review of and Action on Applications

The application shall be circulated randomly among the professional engineer board members if any of the conditions listed in paragraph (5)(A) or (B) of §133.83 of this chapter apply or on request of the executive director and shall be processed as follows:

(1) The application is approved if the first reviewing board member agrees with an executive director recommendation of approval.

(2) If the executive director or the first reviewing board member determines that the application or a request for waiver of examinations should be denied or requests that the applicant appear before the licensing committee, then circulation shall continue until the application receives at least three votes for either approval or denial of the waiver request(s) or application or a personal interview of the applicant. If, after circulation among all the professional engineer board members, an application does not receive three like votes, the application shall then be referred to the licensing committee for a determination whether the application should be approved or denied or that additional information or a personal appearance of the applicant before the committee is necessary.

(3) If there are three like votes among the professional engineer board members in favor of the application or if, after circulation among the board members and referral to the licensing committee, the licensing committee determines that an application should be approved, the executive director shall approve the application without further action by the board.

(4) If there are three like votes among the professional engineer board members to deny the application, the licensing committee determines that an application should be denied, or the licensing committee is unable to reach a decision, the application and any such determination shall be presented to the full board at its next regularly scheduled meeting.

Source Note: The provisions of this §133.85 amended to be effective December 21, 2008.

§133.87 Final Action on Applications

(a) Upon approval of an application by the executive director, the licensing committee, or the board in a manner provided in this subchapter, the executive director shall:

(1) issue a license subject to the applicant's taking and passing the examination on the principles and practice of engineering according to §133.67 of this chapter (relating to Examination on the Principles and Practice of Engineering); or

(2) issue a license to an applicant who has passed the examination on the principles and practice of engineering or who has had that examination waived.

(b) The board shall deny an application if any of the following occurs:

(1) the application has been administratively withdrawn for a period of six months;

(2) pursuant to §133.85 of this chapter (relating to Board Review of and Action on Applications) three of the professional engineer board members vote to deny an application on the basis that the applicant does not meet the requirements of §1001.302 of the Act;

(3) a majority of the full board voted to deny an application on the basis that the applicant does not meet the requirements of §1001.302 of the Act; or

(4) the applicant did not pass the examination on the principles and practice of engineering in the prescribed time.

(c) The board by vote shall confirm the action taken on a license at its next regularly scheduled meeting.

(d) The executive director shall advise the applicant in writing of any decision of the executive director, the licensing committee, or the board, as applicable.

Source Note: The provisions of this §133.87 amended to be effective May 1, 2016.

§133.89 Processing of Administratively Withdrawn Applications

(a) To reactivate an administratively withdrawn application, the applicant must submit:

(1) a reactivation fee as established by the board;

(2) a new application form complete with signatures;

(3) updated supplementary experience records for the time period since the application was first submitted; and

(4) documentation of submittal of fingerprints for criminal history record check as required by §1001.3035 of the Act, unless previously submitted to the board.

(b) If the application has been administratively withdrawn for a period of six months, the application shall be denied.

Source Note: The provisions of this §133.89 amended to be effective December 17, 2013.

§133.91 Reconsideration of Denied Applications or Requests for Examination Waivers

(a) Reconsideration is not available to persons whose application is denied because of the failure to pass the examination on the principles and practice of engineering.

(b)If the application is denied because of the merits of the application, the completeness or incompleteness of the application, the failure to demonstrate an acceptable education, the failure to claim the required creditable experience, or if the board did not grant a request to waive one or more examinations, then the applicant may initiate a request that the application be reconsidered provided:

(1) the request is in writing;

(2) the request includes additional information bearing on the deficiency of the original application;

(3) the request is received at the board office by the close of business on or before the 60th calendar day from the date of the letter notifying the applicant of denial; and

(4) no previous reconsideration has been given during this application.

(c) If a valid request for reconsideration is received, the application shall repeat the process of application review. Applicants whose applications or requests for an examination waiver are denied under reconsideration may request a personal interview.

Source Note: The provisions of this §133.91 amended to be effective May 20, 2004.

§133.93 Personal Interviews of Applicants

(a) A personal interview with the Licensing Committee of the board or the board's designated representative may be scheduled by the executive director to:

(1) obtain additional information or clarify submitted information as requested by the board, or to;

(2) reconsider a denied application or a denial of an examination waiver request resulting from §133.91 of this chapter (relating to Reconsideration of Denied Applications or Examination Waivers) at the applicant's request, provided that:

(A) a written request has been submitted and received at the board's office by the close of business on or before the 60th calendar day from the date of the notification of denial;

(B) the personal interview is not to be construed as a hearing, but is held to obtain additional information in support of an application; and

(C) the executive director may excuse and reschedule an applicant for a personal interview for cause. The executive director may also withdraw an invitation or permission for a personal interview for any reason including a previous failure to appear.

(b) The Licensing Committee or the board's designated representative shall make recommendations to the full board at the next available board meeting to approve or deny an application.

(c) The Licensing Committee may request additional information or require additional documentation to clarify an application and ensure eligibility pursuant to §1001.302 of the Act.

(d) Another personal interview with the full board may be scheduled with a written request in accordance with subsection (a)(2)(A) - (C) of this section. This interview with the full board shall constitute the last administrative appeal available to the applicant.

Source Note: The provisions of this §133.93 amended to be effective March 15, 2018.

§133.95 Application Files

(a) Images of applications that have been through the complete administrative process for approval or denial shall be stored digitally and/or microfilmed.

(b) One copy of the records shall be kept in the board office file and one copy shall be kept in the permanent State Archive file.

(c) All documents incidental to the complete application may be retained at the discretion of the board.

Source Note: The provisions of this §133.95 amended to be effective May 20, 2004.

§133.97 Issuance of License

(a) A license as a professional engineer shall be issued upon the approval of the application pursuant to §133.87(a) of this chapter (relating to Final Action on Applications).

(b) The new license holder shall be assigned a serial number issued consecutively in the order of approval.

(c) The executive director shall notify the new license holder in writing of:

(1) the license issuance;

(2) the license serial number;

(3) the instructions to obtain a seal; and

(4) the instructions to return a seal imprint and a recent, wallet-size, portrait photograph.

(d) Within 60 days from the written notice from the executive director of license issuance, the new license holder shall:

(1) obtain a seal(s);

(2) place the seal imprint(s) on the form provided by the board and return it to the board office; and

(3) furnish a wallet-size portrait photograph for the board's files.

(e) Failure to comply with paragraph (d) of this section is a violation of board rules and shall be subject to sanctions.

(f) The printed license shall bear the signature of the chair and the secretary of the board, bear the seal of the board, and bear the full name and license number of the license holder.

(g) The printed license shall be uniform and of a design approved by the board. Any new designs for a printed license shall be made available to all license holders upon request.

(h) A license issued by the board is as a professional engineer, regardless of branch designations or specialty practices. Practice is restricted only by the license holder's professional judgment and applicable board rules regarding professional practice and ethics.
(i) The records of the board shall indicate a branch of engineering considered by the board or license holder to be a primary area of competency. A license holder shall indicate a branch of engineering by providing:

(1) a transcript showing a degree in the branch of engineering;

(2) a supplementary experience record documenting at least 4 years of experience in the branch of engineering and verified by at least one PE reference provider that has personal knowledge of the license holder's character, reputation, suitability for licensure, and engineering experience; or

(3) verification of successful passage of the examination on the principles and practice of engineering in the branch of engineering.

(j) A license holder may request that the board change the primary area of competency or indicate additional areas of competency by providing one or more of the items listed in paragraphs (1) - (3) of this subsection:

(1) a transcript showing an additional degree in the new branch other than the degree used for initial licensure;

(2) a supplementary experience record documenting at least 4 years of experience in the new branch verified by at least one PE reference provider who has documented competence in the engineering discipline being added that has personal knowledge of the license holder's character, reputation, suitability for licensure, and engineering experience; or

(3) verification of successful passage of the examination on the principles and practice of engineering in the new branch.

(k) All requests relating to branch listings for areas of competency require the review and approval of the executive director or the executive director's designee.

Source Note: The provisions of this §133.97 amended to be effective March 15, 2018.

§133.99 Processing of Applications with a Criminal Conviction

(a) The board may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination consistent with the requirements of Chapter 53 of the Texas Occupations Code.
(b) For purposes of licensure under this chapter, the Board shall consider the following:

(1) The nature and seriousness of the crime;

(2) The relationship of the crime to the board's statutory responsibility to ensure that a person practicing as a Professional Engineer in Texas protects the health, safety, and welfare of the public;

(3) The relationship of the crime to the competence, ability, capacity, fitness or professional judgment required to perform the duties and discharge the responsibilities of an engineer;

(4) The outcome or resolution of criminal charges and any associated judgment, deferral of judgment, penalty or punishment, whether completed or on-going;

(5) The date of completion and resolution of the terms of any judgment, deferral of judgment, penalty or punishment; and

(6) The extent to which issuance of a license will allow a person to engage in further criminal activity of the same type as that which the applicant previously had been involved.

(c) In determining the present fitness of an applicant or license holder who has been convicted of a crime, the board will consider the following evidence:

(1) the extent and nature of the past criminal activity;

(2) the age at the time of the commission of the crime;

(3) the amount of time that has elapsed since the last criminal activity;

(4) the conduct and work activity prior to and following the criminal activity;

(5) evidence of rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence of present fitness including letters of recommendation from:

(A)prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility;

(B)the sheriff and chief of police in the community where the applicant or license holder resides; and

(C) any other person in contact with the applicant or license holder.

(d) It shall be the responsibility of the applicant or license holder to the extent possible to secure and provide the board the recommendations of the prosecution, law enforcement, and correctional authorities, as well as evidence, in the form required by the board, relating to whether the applicant has maintained a record of steady employment, has supported his or her dependents and otherwise maintained a record of good conduct, and is current on the payment of all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which the person has been convicted.
(e) Pursuant to Texas Occupations Code §53.102, before applying for a license, a person may request the Board to determine the prospective applicant's potential eligibility by submitting the request in a format prescribed by the Board. Upon receiving such a request, the Board may request additional supporting materials. Requests will be processed under the same standards as applications for a license.
(f) Pursuant to §133.93 of this Chapter (relating to Personal Interviews of Applicants), applicants will be referred to the Licensing Committee to obtain additional information and make recommendations for final action. The Licensing Committee may consider applications if any of the following conditions apply:

(1) Any reportable criminal judgments discovered by staff through the Criminal History Records Check that were not reported in the application materials by the applicant.

(2) Any direct relationship of a reportable criminal judgment to the applicant's fitness to practice as a Professional Engineer in Texas.

(3) Multiple reportable misdemeanor or felony judgments that occurred within 10 years of the date of application that indicate a pattern of unethical behavior.

(4) Any reportable felony judgment for which the date of completion and resolution of the terms is within 10 years of the date of application.

(g) Pursuant to Texas Occupations Code §53.025(a), the Board considers that the following crimes directly relate to the practice of engineering due to the adverse impact each of these crimes has on the special trust and ethical duties a Professional Engineer owes to the client and the public involving honesty, integrity, fidelity and the exercise of good judgment and character:

(1) Any felony or misdemeanor which involves a disregard for the health, safety or welfare of the general public or individuals, including violent crimes or crimes involving drugs or alcohol;
(2) Any felony or misdemeanor of which theft, fraud or deceit is an essential element;
(3) Any felony or misdemeanor which demonstrates a lack of professional judgment expected of a Professional Engineer;
(4) Any felony or misdemeanor involving financial or other loss for a client(s) or the public; and
(5) Any other felony or misdemeanor reflecting adversely upon the applicant's fitness to practice engineering.

(h) No currently incarcerated individual is eligible to obtain or renew a license. A person's license will be revoked upon the person's imprisonment following a felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory suspension.
(i) A person may administratively appeal, pursuant to Texas Occupations Code chapter 2001, a decision by the board to suspend or revoke a license or deny a license or an opportunity to take a licensing examination.

Source Note: The provisions of this §133.99 amended to be effective March 15, 2018.

Chapter 135: Firm Registration

§135.1 Authority

The Texas Board of Professional Engineers shall receive, evaluate, and process all applications for a certificate of registration issued under the authority of the Texas Engineering Practice Act (Act). Applications for the certificate of registration shall be accepted from all firms offering to engage or engaging in the practice of professional engineering for the public in Texas. For the purposes of this section, the term "public" includes but is not limited to political subdivisions of the state, business entities, and individuals. The board has the authority under the Act to issue an annual certificate of registration to applicants that, subsequent to review and evaluation, are found to have met all requirements of the Act and board rules. The board has the authority under the Act to deny a certificate of registration to any applicant found not to have met all requirements of the Act and board rules.

Source Note: The provisions of this §135.1 amended to be effective May 20, 2004.

§135.3 Application for a Certificate of Registration

(a) The board may issue a certificate of registration only to applicant firms having submitted sufficient information to meet the requirements set forth in §1001.405 of the Act and this section.
(b) The authorized official of the firm shall complete the form furnished by the board including but not limited to the following information listed in paragraphs (1) - (7) of this subsection:
(1) the name, address, and communication number of the firm offering to engage or engaging in the practice of professional engineering for the public in Texas;
(2) the name, position, address, and communication numbers of each officer or director;
(3) the name, address, and current active Texas professional engineer license number of each engineer employee performing engineering for the public in Texas on behalf of the firm;
(4) the name, location, and communication numbers of each subsidiary or branch office offering to engage or engaging in the practice of professional engineering for the public in Texas, if any;
(5) the federal employer identification number (EIN) for the firm (unless the firm is a sole practitioner);
(6) a signed statement attesting to the correctness and completeness of the application; and
(7) a registration fee as established by the board.
(c) The application fee will not be refunded.

Source Note: The provisions of this §135.3 amended to be effective December 10, 2006.

§135.5 Renewal and Good Standing

To maintain a certificate of registration in good standing, a firm shall abide by the compliance rules as prescribed in Chapter 137, Subchapter D of this title (relating to Firm and Governmental Entity Compliance)

Source Note: The provisions of this §135.5 amended to be effective December 10, 2006.

Chapter 137: Compliance and Professionalism

SUBCHAPTER A: INDIVIDUAL AND ENGINEER COMPLIANCE

§137.1 License Holder Designations

(a) Pursuant to §1001.301 of the Act, a license holder may use the following terms when representing himself or herself to the public:
(1) "engineer",
(2) "professional engineer",
(3) "licensed engineer",
(4) "registered engineer",
(5) "licensed professional engineer",
(6) "registered professional engineer", or
(7) any combination of words with or variation of the terms listed in paragraphs (1) - (6) of this subsection.
(b) Certificates, seals, and other official documentation showing earlier terminology shall be considered valid for all purposes.
(c) License holders who have placed their license in an inactive status pursuant to §137.13 of this chapter (relating to Inactive Status) may use the terms in §137.1(a) of this section but must include the term "inactive" or "retired" in conjunction with the designation.

Source Note: The provisions of this §137.1 amended to be effective December 21, 2008.

§137.3 Other Use of Term "Engineer"

A person may not use the name, title, or words that convey to the public that a person is offering to perform engineering services to the public unless licensed under the requirements of the Act. The Act allows for the use or variation of the term "engineer" in a limited manner as summarized in this section.

(1) Pursuant to §1001.004(e)(1) of the Act, a person may use the term "engineer" or variation of the term to identify the name and trade in affiliation with an engineers' labor organization.

(2) Pursuant to §1001.055(b)(2) of the Act, a person who installs, operates, repairs or services any equipment or apparatus as listed in the statute may not use the term "engineer" unless authorized by another provision in the Act.

(3) Pursuant to §1001.061(b)(2) of the Act, a person employed by an operating telephone company or an affiliate of an operating telephone company engaged strictly in the art and science of telephony may use the term "engineer" in the person's job title or personnel classification if the person does not offer engineering services to the public and if the designation does not imply that the person is licensed under the Act.

(4) Pursuant to §1001.062(b) of the Act, a person who is a regular full-time employee of a private business entity that implements the design or specification sealed by an engineer licensed under the Act may use the term "engineer" in the person's job title or personnel classification if the person does not use the designation in conjunction with an offer to perform engineering services for the public.

(5) Pursuant to §1001.066(2) of the Act, a person employed by a business entity whose products or services consist of space vehicles, services or technology required by the National Aeronautical and Space Administration (NASA) may use the terms "engineer" or "engineering" in the person's job title or personnel classification if the person only uses the designation in association with the products and services related to NASA.

(6) Pursuant to §1001.301(f) of the Act, a person who is a regular employee of a business entity that is engaged in engineering activities but exempt from the licensure requirements under §1001.057 or §1001.058 of the Act may use the term "engineer" on business cards and forms of correspondence made available to the public providing the person does not:

(A) offer to perform engineering services to the public;

(B) use the designation outside the scope of §1001.057 or §1001.058 to convey the ability or willingness to perform engineering services or make an engineering judgment requiring a licensed professional engineer.

(7) Pursuant to §1001.406(a)(2) of the Act, a person who has an undergraduate or graduate degree from an engineering program accredited by ABET may use the term "graduate engineer" on the person's business cards and in any forms of correspondence or personal communication.

(8) Pursuant to §1001.406(b) of the Act, a person who has an undergraduate or graduate degree from an engineering program accredited by ABET and who is employed by a firm registered pursuant to Chapter 135 of this title and under the direct supervision of a licensed professional engineer may use the term "engineer" on the person's business cards and in any forms of correspondence or personal communication.

Source Note: The provisions of this §137.3 amended to be effective December 21, 2008.

§137.5 Notification of Name Change, Address Change, Employer Change, and Criminal Convictions

(a) Each license holder shall notify the board in writing not later than 30 days after a change in the person's legal name, personal mailing address, or employment status.

(b) A notice informing the board of a change in employment status shall include, as applicable, the:

(1) full legal trade or business name of the association or employment;

(2) physical location and mailing address of the business;

(3) telephone number of the business office;

(4) type of business (corporation, assumed name, partnership, or self-employment through use of own name);

(5) legal relationship and position of responsibility within the business; and

(6) effective date of this change.

(c) Each license holder shall notify the board in writing not later than 30 days after a misdemeanor or felony criminal conviction, or any sanction is imposed against a licensee by another state's engineering licensing board.

Source Note: The provisions of this §137.5 amended to be effective December 11, 2016.

§137.7 License Expiration and Renewal

(a) Pursuant to §1001.352 of the Act, the license holder must renew the license annually to continue to practice engineering under the provisions of the Act. If the license renewal requirements are not met by the expiration date of the license, the license shall expire and the license holder may not engage in engineering activities that require a license until the renewal requirements have been met.

(b) Pursuant to §1001.352 of the Act, the board will mail a renewal notice to the last recorded address of each license holder at least 30 days prior to the date a person's license is to expire. Regardless of whether the renewal notice is received, the license holder has the sole responsibility to pay the required renewal fee together with any applicable late fees at the time of payment.

(c) A license holder may renew a license by submitting:

(1) the required annual renewal fee. Payment may be made by personal, company, or other checks drawn on a United States bank (money order or cashier's check), or by electronic means, payable in United States currency;

(2) the continuing education program documentation as required in §137.17 of this chapter (relating to Continuing Education Program) to the board prior to the expiration date of the license; and

(3) documentation of submittal of fingerprints for criminal history record check as required by §1001.3535 of the Act, unless previously submitted to the board.

(d) Licenses will expire according to the following schedule:

(1) Licenses originally approved in the first quarter of a calendar year will expire on December 31.

(2) Licenses originally approved in the second quarter of a calendar year will expire on March 31.

(3) Licenses originally approved in the third quarter of a calendar year will expire on June 30.

(4) Licenses originally approved in the fourth quarter of a calendar year will expire on September 30.

(e) A temporary license applied for in accordance with §133.27 of this title (regarding Application for Temporary License for Engineers Currently Licensed Outside the United States) may only be renewed twice for a total duration of three years, after which the former license holder may apply for a standard license as provided in the current Act and applicable board rules.
(f) A license holder who, at the time of his or her annual renewal, has any unpaid administrative penalty owed to the Board or who has failed to comply with any term or condition of a Consent Order, Agreed Board Order, or a Final Board Order shall not be allowed to renew his or her license to practice engineering until such time as the administrative penalty is paid in full or the term or condition is satisfied unless otherwise authorized by the Consent Order, Agreed Board Order, or a Final Board Order.

Source Note: The provisions of this §137.7 amended to be effective March 15, 2018.

§137.9 Renewal for Expired License

(a) A license holder may renew a license that has expired for 90 days or less by submitting to the board the required annual renewal fee, a late renewal fee and the continuing education program documentation as required in §137.17 of this chapter.
(b) A license holder may renew a license that has expired for more than 90 days but less than one year by submitting to the board the required annual renewal fee, a late renewal fee and the continuing education program documentation as required in §137.17 of this chapter (relating to Continuing Education Program).
(c) A license holder may renew a license that has expired for more than one year but less than two years by submitting to the board the required annual renewal fee, a late renewal fee and the continuing education program documentation as required in §137.17 of this chapter for each delinquent year or part of a year.
(d) A license which has been expired for two years may not be renewed, but the former license holder may apply for a new license as provided in the current Act and applicable board rules. Military service members, as defined in Texas Occupations Code, §55.001(4), may be granted up to two years of additional time to renew a license.
(e) Annual renewal fees or late renewal fees will not be refunded unless incorrect fee was assessed through a documented procedural error by Board staff.
(f) In strict accordance with the provisions of the Texas Education Code §57.491, pertaining to the loan default proceedings of the Texas Guaranteed Student Loan Corporation (TGSLC), if a license holder's name has been provided by the TGSLC as being in default of a loan, the board shall not renew the license of the license holder, unless the TGSLC certifies that the individual has entered into a repayment agreement with TGSLC, or is not in default on a loan. Such license holder may request an informal hearing, similar to that provided by §139.33 of this title (relating to Informal Proceedings), before any action concerning the denial of a renewal of a license is taken under this subsection. A defaulted loan shall not bar the board's issuance of an initial license if the applicant is otherwise qualified for licensure.
(g) In strict accordance with the provisions of the Texas Family Code, Chapter 232, pertaining to delinquent child support, if a license holder's name has been provided by the OAG (Office of the Attorney General) as being in default of child support, the board shall not renew the license of the license holder on the renewal date following such notification. The board shall not renew or reinstate said license unless the OAG certifies the individual has satisfied the requirements of the Texas Family Code, Chapter 232.
(h) Pursuant to Texas Occupations Code Chapter 55, a license holder is exempt from any penalty imposed in this section for failing to renew the license in a timely manner if the license holder provides adequate documentation, including copies of orders, to establish to the satisfaction of the board that the license holder failed to renew in a timely manner because the license holder was serving as a military service member as defined in Texas Occupations Code, §55.001(4).

Source Note: The provisions of this §137.9 amended to be effective December 14, 2015.

§137.11 Expiration and Licensed in Another Jurisdiction

(a) A person who was licensed in Texas and moved to another state and, for the two years preceding the date of application for an out-of-state renewal, who is currently licensed and has been practicing engineering in the other state may apply for a new license pursuant to this section.
(b) A person meeting the criteria in §137.11(a) of this section is exempt from examination requirements.
(c) To apply for renewal, the former license holder meeting the criteria in subsection (a) of this section, must fill out an out-of-state renewal application form, submit documentation demonstrating licensure in the other state, pay a renewal fee that is equal to two times the normally required renewal fee for the license, and submit documentation demonstrating compliance with the continuing education program requirements for an expired license as prescribed in §137.17 of this chapter (relating to Continuing Education Program).
(d) Any license issued to a former Texas license holder under this section shall be assigned a new serial number.

Source Note: The provisions of this §137.11 amended to be effective December 14, 2015.

§137.13 Inactive Status

(a) A license holder may request in writing to change the status of the license to "inactive" at any time. A license holder whose license is inactive may not practice engineering. A license holder who has requested inactive status shall not receive any refunds for licensing fees previously paid to the board.
(b) A license holder whose license is inactive must pay an annual fee as established by the board at the time of the license renewal. If the inactive fee is not paid by the date a person’s license is to expire, the inactive renewal fee for the expired license shall be increased in the same manner as for an active license renewal fee.
(c) A license holder whose license is inactive is not required to:
    (1) comply with the continuing education requirements adopted by the board; or
    (2) take an examination for reinstatement to active status.
(d) To return to active status, a license holder whose license is inactive must:
    (1) submit a request in writing for reinstatement to active status;
    (2) pay the fee for annual renewal, as applicable;
    (3) provide documentation of submittal of fingerprints for criminal history record check as required by §1001.3535 of the Act, unless previously submitted to the board; and

(4) comply with the continuing education program requirements for inactive license holders returning to practice as prescribed in §137.17(o) of this chapter (relating to Continuing Education Program).

(e) A license holder may claim inactive status and return to active only once during the year period determined by the renewal schedule of the license. If a license holder claims inactive status and returns to active status during the same annual renewal period, the license holder shall comply with the full continuing education program requirements for that year.

(f) A license holder claiming inactive status may use any term allowed for an active license holder followed by the term "Inactive" or "Retired" on business cards, stationery and other forms of correspondence. Failure to note inactive status in this manner is a violation of the Act and board rules and is subject to disciplinary action by the board.

(g) A license holder on inactive status may provide a reference statement for an applicant for licensure.

(h) Offering or performing engineering services to the public while the license is inactive is a violation of the inactive status and is subject to disciplinary action by the board.

Source Note: The provisions of this §137.13 amended to be effective December 14, 2015.

§137.14. Voluntary Surrender of License.

(a) A license holder who does not wish to maintain a license, the legal guardian of the license holder, or other legal representative of the license holder may voluntarily surrender the license by submitting a request in writing provided that the license holder:

(1) is in good standing, and

(2) does not have an enforcement case pending before the board.

(b) A license that has been voluntarily surrendered may not be renewed. A license holder who has voluntarily surrendered a license may apply for a new license.

Source Note: The provisions of this §137.14 amended to be effective December 21, 2008.

§137.15 Replacement of Printed Licenses or Certificates

Each license holder will be issued a printed license or certificate. A license holder may obtain a new printed license or certificate to replace any license or certificate lost, destroyed, or mutilated or obtain a certificate in a new design by submitting a request in a format prescribed by the Board. Replacement licenses or certificates will reflect the original serial number of the license or certificate.

Source Note: The provisions of this §137.15 amended to be effective March 15, 2018.

§137.17 Continuing Education Program

(a) Each license holder shall meet the Continuing Education Program (CEP) requirements for professional development as a condition for license renewal.

(b)Terms used in this section are defined as follows:

(1) Professional Development Hour (PDH)--A contact hour (clock hour) of CEP activity. PDH is the basic unit for CEP reporting.

(2) Continuing Education Unit (CEU)--Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in an approved continuing education course.

(3) College/Unit Semester/Quarter Hour--Credit for course in ABET-approved program or other related college course.

(4) Course/Activity--Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the license holder's field of practice.

(5) Self-directed study--Time spent engaging in professional development that is not otherwise identified in this rule. (Examples include, but are not limited to: reading/reviewing trade magazines or books, watching tutorials, and viewing other online content.)

(c) Every license holder is required to obtain 15 PDH units during the renewal period year.

(d) A minimum of 1 PDH per renewal period must be in the area of professional ethics, roles and responsibilities of professional engineering, or review of the Texas Engineering Practice Act and Board Rules. PDH units carried forward may not be counted to meet the professional ethics requirement.

(e) If a license holder exceeds the annual requirement in any renewal period, a maximum of 14 PDH units may be carried forward into the subsequent renewal period. Professional Development Hours must not be anticipated and cannot be used for more than one renewal period.

(f) PDH units may be earned as follows:

(1) Successful completion or auditing of college credit courses.

(2) Successful completion of continuing education courses, either offered by a professional or trade organization, university or college, or offered in-house by a corporation, other business entity, professional or technical societies, associations, agencies, or organizations, or other group.

(3) Successful completion of correspondence, on-line, televised, videotaped, and other short courses/tutorials.

(4) Presenting or attending seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences sponsored by a corporation, other business entity, professional or technical societies, associations, agencies, or organizations, or other group.

(5) Teaching or instructing as listed in paragraphs (1) through (4) of this subsection.

(6) Authoring published papers, articles, books, or accepted licensing examination items.

(7) Active participation in professional or technical societies, associations, agencies, or organizations, including:

(A) Serving as an elected or appointed official;

(B) Serving on a committee of the organization;

(C) Serving in other official positions.

(8) Patents issued.

(9) Engaging in self-directed study.

(10) Active participation in educational outreach activities involving K-12 or higher education students.

(11) A passing score on the NCEES Principles and Practice of Engineering examination in accordance with §133.73 of this title (relating to Examination Results and Analysis).

(g) All activities described in subsection (f) of this section shall be relevant to the practice of a technical profession and may include educational, technical, ethical, or managerial content.

(h) The conversion of other units of credit to PDH units is as follows:

(1) 1 College or unit semester hour--15 PDH

(2) 1 College or unit quarter hour--10 PDH

(3) 1 Continuing Education Unit--10 PDH

(4) 1 Hour of professional development in course work, seminars, or professional or technical presentations made at meetings, conventions, or conferences--1 PDH

(5) 1 Hour of professional development through self-directed study--1 PDH (Not to exceed 5 PDH)

(6) Each published paper, article, or book--10 PDH

(7) Active participation in professional or technical society, association, agency, or organization--1 PDH (Not to exceed 5 PDH per organization)

(8) Active participation in educational outreach activities--1 PDH (Not to exceed 3 PDH)

(9) Each patent issued--15 PDH

(10) Other activities shall be credited at 1 PDH for each hour of participation in the activity.

(11) A passing score on the NCEES Principles and Practice of Engineering examination in accordance with §133.73 of this title - 14 PDH.

(i) Determination of Credit

(1) The board shall be the final authority with respect to whether a course or activity meets the requirements of these rules.

(2) The board shall not pre-approve or endorse any CEP activities. It is the responsibility of each license holder to assure that all PDH credits claimed meet CEP requirements.

(3) Credit for college or community college approved courses will be based upon course credit established by the college.

(4) Credit for seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at programs presented at professional and/or technical society meetings will earn PDH units for the actual time of each program.

(5) Credit for self-directed study will be based on one PDH unit for each hour of study and is not to exceed 5 PDH per renewal period. Credit determination for self-directed study is the responsibility of the license holder and subject to review as required by the board.

(6) Credit determination for activities described in subsection (h)(4) of this section is the responsibility of the license holder and subject to review as required by the board.

(7) Credit for activity described in subsection (h)(7) of this section requires that a license holder serve as an officer of the organization, actively participate in a committee of the organization, or serve in other official positions. PDH credits are not earned until the end of each year of service is completed.

(8) Teaching credit is valid for teaching a course or seminar for the first time only.

(j) The license holder is responsible for maintaining records to be used to support credits claimed. Records required include, but are not limited to:

(1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; and

(2) attendance verification records in the form of completion certificates or other documents supporting evidence of attendance.

(k) The license holder must certify that CEP requirements have been satisfied for that renewal year with the renewal application and fee.

(l) CEP records for each license holder must be maintained for a period of three years by the license holder.

(m) CEP records for each license holder are subject to audit by the board or its authorized representative.

(1) Copies must be furnished, if requested, to the board or its authorized representative for audit verification purposes.

(2) If upon auditing a license holder, the board finds that the activities cited do not fall within the bounds of educational, technical, ethical, or professional management activities related to the practice of engineering; the board may require the license holder to acquire additional PDH as needed to fulfill the minimum CEP requirements.

(n) A license holder may be exempt from the professional development educational requirements for one of the following reasons listed in paragraphs (1) - (4) of this subsection:

(1) New license holders shall be exempt for their first renewal period if the NCEES Principles and Practice of Engineering exam was taken within 1 calendar year of the license issuance date.

(2) A license holder serving on active duty and deployed outside the United States, its possessions and territories, in or for the military service of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the professional development hours required during that year.

(3) License holders 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.

(4) License holders who list their status as "Inactive" and who further certify that they are not providing professional engineering services in Texas shall be exempt from the professional development hours required.

(5) Exemptions must be claimed at the time of renewal.

(o) A license holder may bring an inactive license to active status by obtaining all delinquent PDH units and submitting copies of CEP records demonstrating compliance to the board or its authorized representative for verification purposes. If the total number required to become current exceeds 30 units, then 30 units shall be the maximum number required, and hours acquired must be within the two years prior to reactivation.

(p) Noncompliance:

(1) If a license holder does not certify that CEP requirements have been met for a renewal period, the license shall be considered expired and subject to late fees and penalties.

(2) Failure to comply with CEP reporting requirements as listed in this section is a violation of board rules and shall be subject to sanctions.

(3) A determination by audit that CEP requirements have been falsely reported shall be considered to be misconduct and will subject the license holder to disciplinary action.

(4) If found to be noncompliant, the board may require additional audits of the license holder.

Source Note: The provisions of this §137.17 amended to be effective March 15, 2018.

§137.19. Engineers Qualified to be Texas Windstorm Inspectors.

Source Note: The provisions of this §137.19 adopted to be effective December 11, 2011. Amended to be effective December 14, 2015. Repealed by 84th Leg., R.S., HB7, eff. September 1, 2015.

SUBCHAPTER B: SEALING REQUIREMENTS

§137.31 Seal Specifications

(a) Upon issuance of a license, each license holder is required to obtain a seal under the requirements of §133.97 of this title (relating to Issuance of License) and submit an impression of the seal or an electronic seal, and an original or an electronic signature to the board for board records.
(b) Physical and electronic seals shall be of the design illustrated in this section and shall be no larger than two inches. Regardless of seal size the engineer's name and number must be clearly legible.
(c) All physical seals obtained and used by license holders shall be capable of leaving a permanent ink image or permanent impression of the seal attached to the engineering work.

(d) All seals obtained and used by license holders shall contain any given name, commonly accepted variation of the given name, or initial combination with the surname as currently listed with the board and in the usual written signature. Nicknames shall not be permitted on a seal in lieu of a given name or initial combination. The name can be displayed on the seal using all uppercase letters such as "LESLIE H. DOE" or using the standard combination of upper and lowercase letters, such as "Leslie H. Doe". If after licensure, a license holder legally changes his/her name, the license holder must have a new seal or seals made showing the new legal name and submit an imprint or imprints of the new seal(s) to the board for review, approval, and processing (submitted within 60 days of name change).
(e) Preprinting of blank forms with an engineer's seal, or the use of decal or other seal replicas is prohibited.
(f) When signing an engineering work, the engineer may utilize the designation "P.E" or other terms as described in §137.1 of this chapter (relating to License Holder Designations).
(g) This section does not prevent the reproduction of sealed and signed, original works for distribution.

Source Note: The provisions of this §137.31 amended to be effective December 11, 2016.

§137.33 Sealing Procedures

(a) The purpose of the engineer’s seal is to assure the user of the engineering product that the work has been performed or directly supervised by the professional engineer named and to delineate the scope of the engineer’s work.
(b) License holders shall only seal work done by them, performed under their direct supervision as defined in §131.81 of this title, relating to Definitions, or shall be standards or general guideline specifications that they have reviewed and selected. Upon sealing, engineers take full professional responsibility for that work.
(c) When a license holder reviews and elects to use standards or general guideline specifications, those items shall be clearly labeled as such, shall bear the identity of the publishing entity, and shall be:

(1) individually sealed by the license holder; or
(2) specified on an integral design/title/contents sheet that bears the engineer’s seal, signature, and date with a statement authorizing its use.

(d) License holders shall take reasonable steps to ensure the security of their physical or electronic seals and electronic signatures. For electronic seals and electronic signatures, the engineer must have reasonable security measures in place to protect these files. In the event of loss of a seal or electronic signature, the engineer will, as soon as possible, but within 30 days of discovery, give written notification of the facts concerning the loss to board.
(e) Preliminary documents released from a license holder's control shall identify the purpose of the document, the engineer(s) of record and the engineer license number(s), and the release date by placing the following text or similar wording on the title sheet of bound engineering reports, specifications, details, calculations or estimates, and each sheet of plans or drawings regardless of size or binding, instead of a seal: "This document is released for the purpose of (Examples: interim review, mark-up, drafting) under the authority of (Example: Leslie H. Doe, P.E. 0112) on (date). It is not to be used for (Examples: construction, bidding, permit) purposes."
(f) License holders shall affix their seal and original signature or electronic seal and signature with the date on the final version of their engineering work before such work is released from their control.

(1) The signature and date shall not obscure the engineer's name or license number in the seal.
(2) Engineering work required to bear a seal and signature includes the original title sheet of bound engineering reports, specifications, details, calculations or estimates, and each original sheet of plans or drawings regardless of size or binding.
(3) All other engineering work, including but not limited to research reports, opinions, recommendations, evaluations, addenda, documents produced for litigation, and engineering software shall bear the engineer's printed name, date, signature and the designation "P.E." or other terms as described in §137.1 of this chapter (relating to License Holder Designations). A seal may be added on such work if required or at the engineer's discretion.

(g) Work performed by more than one license holder shall be sealed in a manner such that all engineering can be clearly attributed to the responsible license holder or license holders. When sealing plans or documents on which two or more license holders have worked, the seal and signature of each license holder shall be placed on the plan or document with a notation describing the work done under each license holder’s responsible charge.

(h) Licensed employees of the state, its political subdivisions, or other public entities are responsible for sealing their original engineering work; however, such licensed employees engaged in review and evaluation for compliance with applicable law or regulation of engineering work submitted by others, or in the preparation of general planning documents, a proposal for decision in a contested case or any similar position statement resulting from a compliance review, need not seal the review reports, planning documents, proposals for decision, or position statements.

(i) A license holder, as a third party, may alter, complete, correct, revise, or add to the work of another license holder when engaged to do so by a client, provided:

(1) the first license holder is notified in writing by the second license holder of the engagement immediately upon acceptance of the engagement; and

(2) any work altered, completed, corrected, revised, or added to shall have a seal affixed by the second license holder. The second license holder then becomes responsible for any alterations, additions or deletions to the original design including any effect or impact of those changes on the original license holder's design.

(j) A local authority may require an original seal and/or signature on reproduced documents.

(k) A plan, specification, plat, or report issued by a license holder for a project to be constructed or used in this state must include the license holder's seal placed on the document. A license holder is not required to use a seal if the project is to be constructed or used in another state or country.

(l)An engineer may securely transmit his or her final version of engineering work electronically provided that work bears the engineer's seal and uses one of the techniques described in §137.35(a) of this chapter (relating to Electronic Seals and Electronic Signatures) and must employ reasonable security measures to make the documents unalterable. Electronic correspondence of this type may be followed by a hard copy containing the engineer's printed name, date, signature and the designation "P.E." or other terms described in §137.1 of this chapter (relating to License Holder Designations).

(m)A license holder is not required to use a seal for a project for which the license holder is not required to hold a license under an exemption set forth under the Act, Texas Occupation Code §§1001.051 - 1001.066.

(n) All engineering documents released, issued, or submitted by a licensee, including preliminary documents, shall clearly indicate the firm name and registration number of the engineering firm by which the engineer is employed.

(1) If the engineer is employed by a local, State, or Federal Government agency, then only the name of the agency shall be required.

(2) If the engineer is exempt from sealing a document under subsection (m) of this section, but elects to seal a document, then only the name of the employer shall be required.

Source Note: The provisions of this §137.33 amended to be effective December 11, 2016.

§137.35 Electronic Seals and Electronic Signatures

(a) Licensed professional engineers shall maintain the security of their electronic seals and electronic signatures. The following methods are allowed:

(1) Licensed professional engineers may electronically copy their original hard copy work that bears their seal, original signature, and date and transmit this work in a secure electronic format.

(2) An engineer may create an electronic seal and electronic signature for use in transmitting electronically formatted engineering work, regardless of whether the work was originally in hard copy or electronic format.

(b) As an alternative to electronic sealing and electronic signatures, engineers shall affix their original seals and signatures and date to their engineering work as specified in §137.33(f) of this chapter (relating to Sealing Procedures).

Source Note: The provisions of this §137.35 amended to be effective April 27, 2008.

§137.37 Sealing Misconduct

(a) A license holder is guilty of misconduct and subject to disciplinary action if the license holder:

(1) knowingly signs or seals any engineering document or product if its use or implementation may endanger the health, safety, property or welfare of the public.

(2) signs or affixes a seal on any document or product when the license is inactive or has been revoked, suspended, or has expired.

(3) alters a sealed document without proper notification to the responsible license holder.

(4) allows others access to his or her electronic files containing his or her seal and/or electronic signature, unless access is explicitly authorized for particular engineering work.

(b) A person not licensed by the board shall not use, cause to be used, affix, or cause to be affixed or in any other manner, regardless of the means, attach or in any way depict an engineering seal or a representation of an engineering seal without the express permission of the currently active licensee.

Source Note: The provisions of this §137.37 amended to be effective December 11, 2016.

SUBCHAPTER C: PROFESSIONAL CONDUCT AND ETHICS

§137.51 General Practice

(a) In order to safeguard, life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the rules relating to professional conduct in this title shall be binding on every person holding a license authorized to offer or perform engineering services in Texas.

(b) License holders having knowledge of any alleged violation of the Act and/or board rules shall cooperate with the board in furnishing such information or assistance as may be required.

(c)A license holder shall respond to the board in writing to all written requests for information regarding all inquiries under the jurisdiction of the board within 21 days of receipt or by the date specified in board correspondence. A license holder shall fully comply with final

decisions and orders of the board. Failure to comply with these matters will constitute a separate offense of misconduct and will subject the license holder to any of the penalties provided under §1001.451(2), (3), or (4) and §1001.502 of the Act.
(d) Any license holder who directly or indirectly enters into any contract, arrangement, plan, or scheme with any person, firm, partnership, association, or corporation or other business entity which in any manner results in a violation of §137.77 of this title (relating to Firm Registration Compliance) shall be subject to legal and disciplinary actions available to the board. Professional engineers shall perform or directly supervise the engineering work of any subordinates as characterized in §131.81(10) of this title (relating to Definitions). Under no circumstances shall engineers work in a part-time arrangement with a firm not otherwise in full compliance with §137.77 of this chapter (relating to Firm Registration Compliance) in a manner that could enable such firm to offer or perform professional engineering services.
(e)A licensed professional engineer may offer or perform engineering services on a full or part-time basis as a firm (including a sole practitioner) or other business entity if registered pursuant to the requirements of Chapter 135 of this title (Relating to Firm Registration).

Source Note: The provisions of this §137.51 amended to be effective December 11, 2011.

§137.53 Engineer Standards of Compliance with Professional Services Procurement Act

(a) A licensed engineer shall not submit or request, orally or in writing, a competitive bid to perform professional engineering services for a governmental entity unless specifically authorized by state law and shall report to the board any requests from governmental entities and/or their representatives that request a bid or cost and/or pricing information or any other information from which pricing or cost can be derived prior to selection based on demonstrated competence and qualifications to perform the services.
(b) For the purposes of this section, competitive bidding to perform engineering services includes, but is not limited to, the submission of any monetary cost information in the initial step of selecting qualified engineers. Cost information or other information from which cost can be derived must not be submitted until the second step of negotiating a contract at a fair and reasonable cost.
(c) This section does not prohibit competitive bidding in the private sector.

Source Note: The provisions of this §137.53 amended to be effective June 4, 2007.

§137.55 Engineers Shall Protect the Public

(a) Engineers shall be entrusted to protect the health, safety, property, and welfare of the public in the practice of their profession. The public as used in this section and other rules is defined as any individual(s), client(s), business or public entities, or any member of the general population whose normal course of life might reasonably include an interaction of any sort with the engineering work of the license holder.
(b) Engineers shall not perform any engineering function which, when measured by generally accepted engineering standards or procedures, is reasonably likely to result in the endangerment of lives, health, safety, property, or welfare of the public. Any act or conduct which constitutes incompetence or gross negligence, or a criminal violation of law, constitutes misconduct and shall be censurable by the board.
(c) Engineers shall first notify involved parties of any engineering decisions or practices that might endanger the health, safety, property or welfare of the public. When, in an engineer's judgment, any risk to the public remains unresolved, that engineer shall report any fraud, gross negligence, incompetence, misconduct, unethical or illegal conduct to the board or to proper civil or criminal authorities.
(d) Engineers should strive to adequately examine the environmental impact of their actions and projects, including the prudent use and conservation of resources and energy, in order to make informed recommendations and decisions.

Source Note: The provisions of this §137.55 amended to be effective May 20, 2004.

§137.57 Engineers Shall Be Objective and Truthful

(a) Engineers shall issue statements only in an objective and truthful manner. The issuance of oral or written assertions in the practice of engineering shall not be:
(1) fraudulent;
(2) deceitful; or
(3) misleading or shall not in any manner whatsoever tend to create a misleading impression.
(b) Engineers should strive to make affected parties aware of the engineers' professional concerns regarding particular actions or projects, and of the consequences of engineering decisions or judgments that are overruled or disregarded.
(c)The engineer shall disclose a potential conflict of interest to a potential or current client or employer upon discovery of the possible conflict.
(d) A potential conflict of interest exists when an engineer accepts employment when a reasonable probability exists that the engineer's own financial, business, property, or personal interests may affect any professional judgment, decisions, or practices exercised on behalf of the client or employer. An engineer may accept such an employment only if all parties involved in the potential conflict of interest are fully informed in writing and the client or employer confirms the knowledge of the potential conflict in writing. An engineer in a potential conflict of interest employment shall maintain the interests of the client and other parties as provided by §137.61 of this title (relating to Engineers Shall Maintain Confidentiality of Clients) and other rules and statutes.

Source Note: The provisions of this §137.57 amended to be effective March 15, 2018.

§137.59 Engineers' Actions Shall Be Competent

(a) Engineers shall practice only in their areas of competence.
(b) The engineer shall not perform any engineering assignment for which the engineer is not qualified by education or experience to perform adequately and competently. However, an engineer may accept an assignment which includes phases outside of the engineer's area of competence if those other phases are performed by qualified licensed professionals, consultants, associates, or employees.
(c) The engineer shall not express an engineering opinion in deposition or before a court, administrative agency, or other public forum which is contrary to generally accepted scientific and engineering principles without fully disclosing the basis and rationale for such an opinion. Engineering opinions which are rendered as expert testimony and contain quantitative values shall be supported by adequate modeling or analysis of the phenomena described.

Source Note: The provisions of this §137.59 amended to be effective September 4, 2006.

§137.61 Engineers Shall Maintain Confidentiality of Clients

(a) The engineer may reveal confidences and private information only with a fully informed client's or employer's consent, or when required by law or court order; or when those confidences, if left undisclosed, would constitute a threat to the health, safety or welfare of the public.
(b) The engineer shall not use a confidence or private information regarding a client or employer to the disadvantage of such client or employer or for the advantage of a third party.
(c) The engineer shall exercise reasonable care to prevent unauthorized disclosure or use of private information or confidences concerning a client or employer by the engineer's employees and associates.

Source Note: The provisions of this §137.61 amended to be effective May 20, 2004.

§137.63 Engineers' Responsibility to the Profession

(a) Engineers shall engage in professional and business activities related to the practice of engineering in an honest and ethical manner.
(b) The engineer must:

(1) meet all of the applicable professional practice requirements of federal, state and local statutes, codes, regulations, rules, ordinances or standards in the performance of engineering services;
(2) exercise reasonable care or diligence to prevent the engineer's partners, associates, and employees from engaging in conduct which, if done by the engineer, would violate any provision of the Texas Engineering Practice Act, general board rule, or any of the professional practice requirements of federal, state and local statutes, codes, regulations, rules or ordinances in the performance of engineering services;
(3) exercise reasonable care to prevent the association of the engineer's name, professional identification, seal, firm or business name in connection with any venture or enterprise which the engineer knows, or should have known, is engaging in trade, business or professional practices of a fraudulent, deceitful, or dishonest nature, or any action which violates any provision of the Texas Engineering Practice Act or board rules.
(4) act as faithful agent for their employers or clients;
(5) conduct engineering and related business affairs in a manner that is respectful of the client, involved parties, and employees. Inappropriate behaviors or patterns of inappropriate behaviors may include, but are not limited to, misrepresentation in billing; unprofessional correspondence or language; sale and/or performance of unnecessary work; or conduct that harasses or intimidates another party; and
(6) practice engineering in a careful and diligent manner.

(c) The engineer shall not:

(1) aid or abet, directly or indirectly, any unlicensed person or business entity in the unlawful practice of engineering;
(2) maliciously injure or attempt to injure or damage the personal or professional reputation of another by any means. This does not preclude an engineer from giving a frank but private appraisal of engineers or other persons or firms when requested by a client or prospective employer;
(3) retaliate against a person who provides reference material for an application for a license or who in good faith attempts to bring forward an allegation of wrongdoing;
(4) give, offer or promise to pay or deliver, directly or indirectly, any commission, gift, favor, gratuity, benefit, or reward as an inducement to secure any specific engineering work or assignment;
(5) accept compensation or benefits from more than one party for services pertaining to the same project or assignment; or
(6) solicit professional employment in any false or misleading advertising.

(d) Engineers should strive to promote responsibility, commitment, and ethics both in the education and practice phases of engineering. They should attempt to enhance society's awareness of engineers' responsibilities to the public and encourage the communication of these principles of ethical conduct among engineers.

Source Note: The provisions of this §137.63 amended to be effective March 15, 2018.

§137.65 Action in Another Jurisdiction

(a) The engineer shall not practice or offer to practice engineering in any other jurisdiction in violation of the laws regulating the practice of professional engineering in that jurisdiction. A finding by such jurisdiction of illegal practice or offer to practice is misconduct and will subject the engineer to disciplinary action in Texas.
(b) Any disciplinary actions taken by another jurisdiction on a matter which would constitute a violation of the Texas Engineering Practice Act or board rules shall be sufficient cause for disciplinary action by this board. A certified copy of the board Order or Final Action from another jurisdiction shall be sufficient evidence to take disciplinary action in this state.
(c) Any complaint, referral or report that a Texas licensed professional engineer performing engineering related to Texas Occupations Code, §1001.068 in another state may be subject to disciplinary action by this board, if after investigation it is determined that the engineering work done in that other state was inadequate, deficient, incorrect or violated that state's law or rules regarding the practice of engineering.

Source Note: The provisions of this §137.65 amended to be effective December 25, 2012.

SUBCHAPTER D: FIRM AND GOVERNMENTAL ENTITY COMPLIANCE

§137.71 Firm Names

Pursuant to §1001.405(e), a business entity that is not registered with the board may not represent to the public by way of letters, signs, or symbols as a part of any sign, directory, listing, contract, document, pamphlet, stationery, advertisement, signature, or business name that it is engaged in the practice of engineering by using the terms:

(1) "engineer,"
(2)"engineering,"
(3)"engineering services,"

(4)”engineering company,”
(5)”engineering, inc.,”
(6)”professional engineers,”
(7)”licensed engineer,”
(8)”registered engineer,”
(9)”licensed professional engineer,”
(10) “registered professional engineer,”
(11)”engineered,” or
(12) any abbreviation or variation of those terms listed in (1)-(11) above, or directly or indirectly use or cause to be used any of those terms in combination with other words.

Source Note: The provisions of this §137.71 amended to be effective December 21, 2008.

§137.73 Firm Record Modifications

(a) Each registered firm shall notify the board in writing not later than 30 days after a change in the business entity’s:
(1) physical or mailing address, electronic mail address, telephone or facsimile number or other contact information;
(2) officers or directors;
(3) employment status of the professional engineers of the firm;
(4) operation including dissolution of the firm or that the firm no longer offers to provide or is not providing engineering services to the public in Texas; or
(5) operation including addition or dissolution of branch and/or subsidiary offices.
(b) Notice shall include, as applicable, the:
(1) full legal trade or business name entity,
(2) the firm registration number,
(3) telephone number of the business office,
(4) name and license number of the license holder employed or leaving the entity,
(5) description of the change, and
(6) effective date of this change.

Source Note: The provisions of this §137.73 amended to be effective December 21, 2008.

§137.75 Registration Renewal and Expiration

(a) The certificate of registration shall be valid until the last day of the twelfth month following the date of issuance of the certificate of registration. At least one month in advance of the date of the expiration, the board shall notify each firm holding a certificate of registration of the date of the expiration and the amount of the fee that shall be required for its renewal for one year. The renewal notice shall be mailed to the last address provided by the firm to the board. The certificate of registration may be renewed by completing the renewal application and paying the annual registration renewal fee set by the board. It is the sole responsibility of the firm to pay the required renewal fee prior to the expiration date, regardless of whether the renewal notice is received.
(b) A certificate of registration which has been expired for less than one year may be renewed by completing the renewal statement sent by the board and payment of two (2) times the normal renewal fee. When renewing an expired certificate of registration, the authorized official of the firm shall submit a written a statement of whether engineering services were offered, pending, or performed for the public in Texas during the time the certificate of registration was expired.
(c) If a certificate of registration has been expired for more than one year, the firm must re-apply for certification under the laws and rules in effect at the time of the new application and shall be issued a new certificate of registration serial number if the new application is approved.
(d) The renewal fee will not be refunded.

Source Note: The provisions of this §137.75 amended to be effective May 20, 2004.

§137.77 Firm Registration Compliance

(a) Any firm or other business entity shall not offer or perform engineering services to the public unless registered with the board pursuant to the requirements of Chapter 135 of this title (relating to Firm Registration).
(b) A firm shall provide that at least one full-time active license holder is employed with the entity and that the active license holder performs or directly supervises all engineering work and activities that require a license that is performed in the primary, branch, remote, or project office(s).
(c) An active license holder who is a sole practitioner shall satisfy the requirement of the regular, full-time employee.
(d) No engineering services are to be offered to or performed for the public in Texas by a firm while that firm does not have a current certificate of registration.
(e) A business entity that offers or is engaged in the practice of engineering in Texas and is not registered with the board or has previously been registered with the board and whose registration has expired shall be considered to be in violation of the Act and board rules and will be subject to administrative penalties as set forth in §§1001.501 - 1001.508 of the Act and §139.35 of this title (relating to Sanctions and Penalties).
(f) The board may revoke a certificate of registration that was obtained in violation of the Act and/or board rules including, but not limited to, fraudulent or misleading information submitted in the application or lack of employee relationship with the designated professional engineer for the firm.
(g) If a firm has notified the board that it is no longer offering or performing engineer services to the public, including the absence of a regular, full-time employee who is an active professional engineer licensed in Texas, the certificate of registration record will be placed in inactive status until the board is notified of resumed offering and services. If firm certificate of registration is inactive, the certificate of registration will expire under the same requirements of subsection (e) of this section unless renewed.
(h) All engineering documents released, issued, or submitted by or for a registered engineering firm, including preliminary documents, must clearly indicate the firm name and registration number.
(i) A firm registered under Chapter 135 of this title may voluntarily surrender the registration by submitting a request in writing provided that the firm:

(1) is in good standing; and
(2) does not have an enforcement case pending before the board.

(j) A firm registration that has been voluntarily surrendered may not be renewed. A firm which has voluntarily surrendered a registration may apply for a new registration.

Source Note: The provisions of this §137.77 amended to be effective June 13, 2010.

§137.79 Standards for Compliance with Professional Services Procurement Act

When procuring professional engineering services, a governmental entity and/or its representative(s) shall comply with the requirements of Subchapter A, Chapter 2254, Texas Government Code and shall select and award on the basis of demonstrated competence and qualifications to perform the services for a fair and reasonable price and shall not select services or award contracts on the basis of competitive bidding.

Source Note: The provisions of this §137.79 amended to be effective December 21, 2008.

Chapter 139: Enforcement

SUBCHAPTER A: ENFORCEMENT AUTHORITY

§139.1 General

The board will conduct inquiries into situations which allegedly violate the requirements of the Texas Engineering Practice Act (Act) and board rules concerning the practice of engineering, representations which imply the legal capacity to offer or perform engineering services for the public, and situations which are considered by the board to pose or have caused harm to the public. Situations that represent a repeat offense, a danger or nuisance to the public or cannot be reasonably resolved through voluntary compliance, will be disposed of by administrative, civil, or criminal proceedings as authorized by law.

Source Note: The provisions of this §139.1 amended to be effective May 20, 2004.

SUBCHAPTER B: COMPLAINT PROCESS AND PROCEDURES

§139.11 Complaints - General

(a) The board shall initiate or receive and investigate a complaint against a license holder or other person who may have violated the Act or board rules.
(b) The board shall maintain the confidentiality of the complaint from receipt through the investigation of the complaint. The complaint information will no longer be confidential after formal charges are filed with the State Office of Administrative Hearings or after the investigative file is closed. The following documents in an investigative file are releasable to a respondent or an attorney representing the respondent before the board during the informal resolution process of a complaint: copies of the original complaint documentation; copies of communications to or from the board and the complainant, the respondent, witnesses, technical experts used by the board to advise on the complaint issues, and private or public entities regarding requests for records, documents, or information regarding the complaint; and witness interview reports.
(c) The provisions of the Act and the provisions of the Administrative Procedure Act , Chapter 2001, Texas Government Code, shall apply to the conduct of all investigations and administrative actions in the board's processing of a complaint. In addition, the board may promulgate other procedural rules consistent with the Act or Chapter 2001, Texas Government Code.

Source Note: The provisions of this §139.11 amended to be effective December 21, 2008.

§139.13 Filing a Complaint

(a)A person who wishes to make a complaint with the board may obtain assistance, filing information, or contact the board by:

(1)visiting the board website at http://engineers.texas.gov;

(2)sending electronic mail to peboard@engineers.texas.gov;

(3)sending written correspondence to: 1917 S. Interstate 35, Austin, Texas 78741-3702;

(4)sending fax to (512) 440-5715;

(5)telephoning the board office at (512) 440-7723; or

(6)visiting the board office located at 1917 S. Interstate 35, Austin, Texas.

(b) A person may submit the complaint in writing through mail, electronic mail or facsimile.

(c) A complainant may contact the board in person or by telephone to file a complaint. However, the complaint shall be submitted in writing containing sufficient information to determine jurisdiction.

(d) A complaint shall be on the forms provided by the board or in written format and contain the following information as applicable:

(1) complainant's name and contact information;

(2) description of the alleged violation;

(3) name and contact information of the subject or parties of the complaint, if known;

(4) sections of the Act and board rules alleged violated, if known;

(5) name and contact information of witnesses, if known; and

(6) sources of other pertinent information, if known.

(e) Contact information may include, but is not limited to, name, address, telephone number, email address, business name, business address, business telephone number, and websites.

(f) A complaint shall contain sufficient information for the board to determine whether it has authority to resolve the complaint.

(g) Anonymous complaints will be received but will not be investigated unless sufficient information and evidence exists to demonstrate harm or potential harm to the public or violation of Act or board rules. Anonymous complaints that do not contain sufficient evidence and information to initiate an investigation will be logged and filed for information purposes only.

Source Note: The provisions of this §139.13 amended to be effective December 11, 2016.

§139.15 Processing a Complaint

(a) Upon receipt of the written complaint and supporting evidence, it will be logged and assigned a case number.

(b) The board staff shall review the complaint. If the complaint does not contain sufficient information to determine whether the board has jurisdiction or is determined to be outside the board's authority, the board staff may interview the complainant to develop additional information. If the board staff determines that a potential violation exists, the board staff will proceed with the investigation. If board staff concludes that the complaint resulted from a misunderstanding, is outside the jurisdiction of the board, or is without merit, the board staff will recommend to the executive director that the investigation be closed and that the complaint be dismissed. If the executive director concurs with the recommendation, the complainant will be so notified and the investigation will be closed. The board staff shall write a dismissal explanation for the dismissed complaint and close the file.

(c) If a potential violation exists and the board has jurisdiction over and authority to resolve the complaint, the board staff shall set a priority for the complaint and initiate disciplinary proceedings against the subject of the complaint. In setting the priority for complaints, a complaint from the public or initiated by the board or board staff that alleges action that could potentially harm the public shall be rated highest priority and investigation for this type complaint takes precedence over all other complaints. Complaints rating highest priority may include, but are not limited to, those complaints involving incompetence, gross negligence, plan stamping, or practicing without a license. The board staff shall report status of the investigation and preliminary determination to the executive director and complainant within 45 days of receiving complaint that rates as a high priority.

Source Note: The provisions of this §139.15 amended to be effective December 11, 2016.

§139.17 Investigating a Complaint

(a) The board staff shall be responsible for investigating the complaint including determining the need for and obtaining any additional evidence that may be required to proceed with disciplinary action.

(b) Board staff and persons acting in the official capacity of the board have authority to:

(1) informally or formally request information and documentation from the involved parties,

(2) perform site visits or inspections to investigate the complaint,

(3) contract technical consultants and other services to investigate and evaluate aspects of the complaint or evidence,

(4) subpoena information, as required,

(5) seek the assistance of local and state law enforcement authorities, and/or

(6) seek out any other investigative action needed to assist in the resolution of the complaint.

(c) Upon determination that sufficient evidence exists to indicate that a violation of law or rules may have occurred, the executive director shall notify the person or entity by personal service or by certified or registered mail of the alleged violation. The respondent will be afforded the opportunity to respond to the complaint to show that the actions which precipitated the complaint are not in violation of the Act or board rules.

(d) At any time before a complaint is resolved, board staff may conduct further investigation including, but not limited to, obtaining second or third opinions, obtaining supporting documents, or interviewing other witnesses depending on the case at hand.

(e) If the board staff intends to dismiss the complaint because the investigation of the complaint does not produce sufficient evidence to substantiate a violation of the Act or board rules, the board staff will inform the complainant of the rationale for the determination prior to reporting the dismissal to the board.

(f) Withdrawal of a complaint shall not be a reason to terminate or disrupt an ongoing investigation.

(g) At least quarterly during the investigation of the complaint, the board shall notify the parties of the complaint of the complaint status unless the notice would jeopardize an undercover investigation and such notation shall be included in the complaint file.

Source Note: The provisions of this §139.17 amended to be effective December 11, 2016.

§139.19 Final Resolution of Complaint

(a) Upon the completion of an investigation, the board staff shall present to the executive director a report of investigation and recommendation of final resolution of the complaint. If sufficient evidence and documentation exists to substantiate one or more violations of the Act or board rules has occurred, the board shall proceed as prescribed in §139.31 of this chapter (relating to Enforcement Actions for Violations of the Act). These actions may include, but are not limited to, one or more of the following:

(1) enter into an agreement of voluntary compliance;

(2) agree to informal Consent Order or Agreed Board Order that may include an administrative penalty and/or compliance requirements;

(3) agree to mediation and alternative dispute resolution prescribed in §131.113 of this title (relating to Mediation and Alternative Dispute Resolution);

(4) referral of injunctive or criminal actions to the proper authorities;

(5) referral to the State Office of Administrative Hearings; or

(6) other action as provided by law. (b) If sufficient evidence and documentation does not exist to substantiate that one or more violations of the Act or board rules has occurred and disciplinary action is not warranted, the board staff shall recommend to dismiss the complaint and report the dismissal to the board.

Source Note: The provisions of this §139.19 amended to be effective March 15, 2018.

§139.21 Reporting Complaint Status to the Board

(a) The executive director shall provide a summary report on the status of all complaints at the regularly scheduled board meetings. The report shall include:

(1) number of complaints filed;

(2) number of complaints received in each category;

(3) number of complaints initiated by the board;

(4) number of complaints filed by persons other than the board;

(5) the average length of time to resolve a complaint by totaling all the days accumulated for all resolved complaints and dividing by the total number of resolved complaints during the reporting period;

(6) number of complaints that are unresolved, including:

(A) by those filed by the board , or

(B) by those filed by persons other than the board, and

(C) including the average length of time the unresolved complaints have been on file obtained by summing the days accumulated for all unresolved complaints and dividing by the total number of unresolved complaints;

(7) number of dismissed cases; and

(8) number of complaints resulting in disciplinary action including the disciplinary action taken and whether the action was imposed by stipulation, agreed settlement, consent order, default, or order following a contested case hearing.

(b) The executive director shall report dismissed complaints to the board and shall include in the report the following information:

(1) name of the complainant,

(2) name of the person who is subject of the complaint,

(3) the basis of the complaint, and

(4) the reason for the dismissal of the complaint.

(c) If the executive director determines that the complaint filed is frivolous or without merit, the case information will be classified as confidential and as such the information is not subject to discovery, subpoena, and or other disclosure. The board shall approve this action upon acceptance of the report and the case will then be closed. Closed cases will not be reconsidered for classification under this rule.

(1) A "frivolous complaint" means a complaint that the executive director has determined:

(A) was made for the purpose of harassment; and

(B) does not demonstrate harm to any person.

(2) A complaint that is determined by the executive director to be "without merit" would include situations where a:

(A) professional engineer, individual, or firm has been determined to not be responsible or connected in any way with the alleged violative action in the complaint, as it relates to a violation of the Engineering Practice Act and or board rules; or,

(B) case has been determined to be outside the jurisdiction of the board; or,

(C) case has been determined to have been administratively opened in error.

Source Note: The provisions of this §139.21 amended to be effective December 21, 2008.

§139.23 Technical Consultants

(a) The executive director may employ or contract with or gain technical advice from technical consultants, including, but not limited to, advisors, consultants, engineers and other persons to provide technical assistance in investigations and disciplinary proceedings. In the course of performing the person's official duties for the board, technical consultants are immune from civil liability and may not be subject to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken, except for when an action involves fraud, conspiracy, or malice.

(b) The executive director may select technical consultants on the basis of their qualifications and may maintain a list of experts as technical consultants. The selection process may require documentation of a technical consultants qualifications including transcripts; verifiable experience records; references statements; texts, articles, and other published works; and compliance history and records. The board may interview prospective technical consultants. The board shall review a potential technical consultant's documentation to determine if the person's records demonstrate expert status and competency in a technical area. A technical consultant must inform the board and decline an assignment if the resource has personal knowledge of the complaint, parties involved in the complaint, or other conflicts of interest.

(c) During the course of an investigation, the executive director may dismiss a technical consultant that does not possess the technical knowledge to assist in the investigation or for any other reason relevant to the investigation.

Source Note: The provisions of this §139.23 amended to be effective December 21, 2008.

SUBCHAPTER C: ENFORCEMENT PROCEEDINGS

§139.31 Enforcement Actions for Violations of the Act

(a) Under the authority and provisions of §1001.201, §1001.202, and Subchapters J, K, and L of the Texas Engineering Practice Act (Act), the board shall take action against a person or entity, upon determination that censure is warranted, for a violation of the Act and/or board rules. An action may be composed of one or more of the following:

(1) revocation of a license;
(2) suspension of a license;
(3) probation of a suspended license;
(4) refusal to renew a license;
(5) issuance of a formal or informal reprimand;
(6) cease and desist order;
(7) voluntary compliance agreement;
(8) emergency suspension; or
(9) assessment of an administrative penalty under Subchapter K of the Act.

(b) All actions issued by the board will take the form of a Board Order and shall be permanently recorded and made available upon request as public information. Except for an informal reprimand, all enforcement actions shall be published in the board newsletter and on the board website, may be issued in a press release, and shall be transmitted to the National Council of Examiners for Engineering and Surveying.

(c) The respondent shall be afforded an opportunity to present rebuttals, arguments, and evidence prior to the initiation of disciplinary proceedings. If a respondent does not respond, the board may proceed with a contested case hearing at the State Office of Administrative Hearings.

Source Note: The provisions of this §139.31 amended to be effective December 11, 2016.

§139.33 Informal Proceedings

If, after evaluation of the respondent's response a violation appears evident, the executive director shall initiate enforcement action. Before proceeding with the formal contested case hearing process, the respondent shall have an opportunity to resolve the allegations informally.

(1) The executive director may also offer the respondent a Consent Order that will be presented to the board for acceptance or rejection. If the respondent declines such an offer, or if the board rejects it, the procedures in paragraphs (2) or (3) of this subsection will be followed.

(2) The respondent may request an informal conference to present additional evidence and discuss details of the allegation. Upon receipt of such a request the executive director shall schedule a conference at the board office or other location, and shall appoint an informal conference committee composed of one board member or board representative, the executive director or executive director's designee, and legal counsel; the committee may meet and act provided that no more than one committee member is absent. Other persons designated by the respondent or the executive director may be present as resources or as legal counsel to respondent. The informal conference committee shall hear the details of the allegations and shall recommend:

(A) dismissal;
(B) a proposal for an Agreed Board Order for disciplinary actions that will be presented to the board for acceptance or rejection; or
(C) scheduling of a formal hearing.

(3) Any board action under this subsection which is not informally disposed by Agreed or Consent Order, will be considered a contested case and will be handled in accordance with applicable law and board rules.

Source Note: The provisions of this §139.33 amended to be effective December 21, 2008.

§139.35 Sanctions and Penalties

(a) The board, the executive director, an administrative law judge, and the participants in an informal conference may arrive at a greater or lesser sanction than suggested in these rules. The minimum administrative penalty shall be $100 per violation. The maximum administrative penalty shall be $5,000.00 per violation. Pursuant to §1001.502(a) of the Act, each day a violation continues or occurs is considered a separate violation for the purpose of assessing an administrative penalty. Allegations and disciplinary actions will be set forth in the final board order and the severity of the disciplinary action will be based on the following factors:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited act and the hazard or potential hazard created to the health, safety, or economic welfare of the public;
(2) the history of prior violations of the respondent;
(3) the severity of penalty necessary to deter future violations;
(4) efforts or resistance to efforts to correct the violations;
(5) the economic harm to property or the environment caused by the violation; and
(6) any other matters impacting justice and public welfare, including any economic benefit gained through the violations.

(b) The following is a table of suggested sanctions the board may impose against license holders for specific violations of the Act or board rules. NOTE: In consideration of subsection (a)(1) - (6) of this section, the sanction issued could be less than or greater than the suggested sanctions shown in the following table. Also, for those suggested sanctions that list "suspension", all or any portion of the sanction could be probated depending on the severity of each violation and the specific case evidence.

Figure: 22 TAC §139.35(b):

CLASSIFICATION	VIOLATION	CITATION	SUGGESTED SANCTIONS
Engineering Misconduct	Gross negligence	§137.55(a), (b)	Revocation / $5,000.00
	Failure to exercise care and diligence in the practice of engineering	§§137.55(b), 137.63(b)(6)	1 year suspension / $2,500.00
	Incompetence; includes performing work outside area of expertise	§137.59(a), (b)	3 year suspension / $5,000.00
	Misdemeanor or felony conviction without incarceration relating to duties and responsibilities as a professional engineer	§139.43(b)	3 year suspension / $5,000.00
	Felony conviction with incarceration	§ 139.43(a)	Revocation / $5,000.00
Licensing	Fraud or deceit in obtaining a license	§§1001.452(2) 1001.453	Revocation/$5,000.00
	Retaliation against a reference	§137.63(c)(3)	1 year suspension/$2,500.00
	Enter into a business relationship which is in violation of 137.77 (Firm Compliance)	§137.51(d)	1 year suspension / $1,500.00
Ethics Violations	Failure to engage in professional and business activities related to the practice of engineering in an honest and ethical manner	§137.63(a)	2 year suspension / $4,000.00
	Failure to design a structure associated with windstorm insurance that complies with cited windstorm code design criteria	137.63(b)(1)	1 year suspension / $3,000.00
	Misrepresentation; issuing oral or written assertions in the practice of engineering that are fraudulent or deceitful	§§137.57(a)	2 year suspension / $4,000.00
	Misrepresentation; issuing oral or written assertions in the practice of engineering that are misleading	§§137.57(a)	1 year suspension / $1,500.00
	Conflict of interest	§137.57(c), (d)	2 year suspension / $4,000.00
	Inducement to secure specific engineering work or assignment	§137.63(c)(4)	2 year suspension / $4,000.00
	Accept compensation from more than one party for services on the same project	§137.63(c)(5)	2 year suspension / $4,000.00
	Solicit professional employment in any false or misleading advertising	§137.63(c)(6)	1 year suspension / $4,000.00
	Offer or practice engineering while license is expired or inactive	§§137.7(a) and 137.13(a) and (h)	1 year suspension / $750.00
	Failure to act as a faithful agent to their employers or clients	§137.63(b)(4)	1 year suspension / $2,500.00
	Reveal confidences and private information	§137.61(a), (b), (c)	Reprimand / $2,500.00
	Attempt to injure the reputation of another	§137.63(c)(2)	1 year suspension / $2,500.00
	Retaliation against a complainant	§137.63(c)(3)	1 year suspension / $2,500.00
	Aiding and abetting unlicensed practice or other assistance	§§137.63(b)(3), 137.63(c)(1)	3 year suspension / $5,000.00
	Failure to report violations of others	§137.55(c)	Reprimand / $2,500.00
	Failure to consider societal and environmental impact of actions	§137.55(d)	Reprimand / $2,500.00
	Failure to prevent violation of laws, codes, or ordinances	§137.63(b)(1), (2)	Reprimand / $2,500.00
	Failure to conduct engineering and related business in a manner that is respectful of the client, involved parties and employees	§137.63(b)(5)	1 year suspension / $2,500.00
	Competitive bidding with governmental entity	§137.53	Reprimand / $2,500.00
	Falsifying documentation to demonstrate compliance with CEP	§§137.17(p)(2), (3), 137.63(a)	2 year suspension / $4,000.00
	Action in another jurisdiction	§137.65(a) and (b)	Similar sanction as listed in this table if action had occurred in Texas
	Failure to provide plans and/or specs to TDLR/RAS for assessment within 20 days of issuance	§§1001.452(5), 137.63(b)(1) and (2)	Informal Reprimand / $750.00
Improper use of Seal	Failure to safeguard seal and/or electronic signature	§137.33(d)	Reprimand / $1,500.00
	Failure to sign, seal, date, or include firm identification on work	§§137.33(e), (f), (h), (n), 137.35(a), (b)	Reprimand / $750.00

	Alter work of another	§§137.33(i), 137.37(a)(3)	1 year suspension / $2,500.00
	Sealing work not performed or directly supervised by the professional engineer	§137.33(b)	Reprimand / $1,500.00
	Practice or affix seal with expired or inactive license	§§1001.401(c), 137.13(h), 137.37(a)(2)	1 year suspension / $750.00
	Practice or affix seal with suspended license	§137.37(a)(2)	Revocation / $5,000.00
	Preprinting of blank forms with engineer seal; use of a decal or other seal replicas	§137.31(e)	1 year suspension / $2,500.00
	Sealing work endangering the public	§137.37(a)(1)	Revocation / $5,000.00
	Work performed by more than one engineer not attributed to each engineer	§137.33(g)	Reprimand / $750.00
	Improper use of standards	§137.33(c)	Reprimand / $750.00
Administrative	Failure to return seal imprint and/or portrait	§§133.97(e), (f); 137.31(a)	Reprimand / $250.00
	Failure to report: change of address or employment, or of any criminal convictions, or legal name change	§137.5(a), (b), and/or (c)	Reprimand / $150.00
	Failure to respond to board communications	§137.51(c)	Reprimand / $750.00
	Failure to include “inactive” or “retired” representation with title while in inactive status	§137.13(f)	Reprimand / $500.00

(c) The following is a table of suggested sanctions that may be imposed against a *person or business entity* for specific violations of the Act or board rules. NOTE: In consideration of subsection (a)(1) - (6) of this section, the sanction issued could be less than or greater than the suggested sanctions shown in the following table.

Figure: 22 TAC §139.35(c):

		SUGGESTED SANCTIONS	
VIOLATION	**CITATION**	**FIRST OCCURRENCE**	**SUBSEQUENT OCCURRENCES**
Use of "Engineer" title	§§1001.004(c)(2)(B)(C); 1001.301(b)(1)	Voluntary Compliance Cease and Desist	Injunctive / Criminal and $1,500.00
Use of "P.E." designation, or claim to be a "Professional Engineer"	§1001.301(b)(2)-(6), (c), and (e)	Cease and Desist and $2,500.00	Injunctive / Criminal and $5,000.00
Offer or attempt to practice engineering (e.g., through solicitation, proposal, contract, etc.)	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405	Cease and Desist and $2,500.00	Injunctive / Criminal and $5,000.00
Representation of ability to perform engineering (e.g., telephone or HUB listing, newspaper, or other publications, letterhead, Internet, etc.)	§1001.405(e)	Voluntary Compliance	Cease and Desist and $750.00
Use of word "engineer" or any variation or abbreviation thereof under any assumed, trade, business, partnership, or corporate name	§1001.405(e)	Voluntary Compliance	Injunctive / Criminal and $5,000.00
Unlicensed practice of engineering	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405; §§137.51(e), 137.77(a)	Cease and Desist and $3,000.00	Injunctive / Criminal and $5,000.00
Unauthorized use of a P.E. seal	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405; §§137.37(b), 137.77(a)	Cease and Desist and $3,000.00	Injunctive / Criminal and $5,000.00
Fraudulent use of a P.E. seal	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405; §§137.37(b), 137.77(a)	Cease and Desist and $3,000.00	Injunctive / Criminal and $5,000.00

(d) The following is a table of suggested sanctions that may be imposed against a *person or business entity* for violations of the Act or board rules involving firm registration. NOTE: In consideration of subsection (a)(1) - (6) of this section, the sanction issued could be less than or greater than the suggested sanctions shown in the following table.

		SUGGESTED SANCTIONS	
VIOLATION	**CITATION**	**FIRST OCCURRENCE**	**SECOND OCCURRENCE**
Offer and perform consulting engineering services without being registered	§1001.405; §137.77(a), (e)	Voluntary Compliance / $500.00	Cease and Desist / $1,500.00
Offer and perform consulting engineering services while registration was expired	§1001.405; §137.77(d), (e)	$750.00	$2,000.00
Offer only (no consulting engineering services were performed) without being registered or while registration was expired	§1001.405; §137.77(a), (e)	Voluntary Compliance / $250.00	Cease and Desist / $1,500.00
Failure to include firm name and registration number on engineering work	§137.77(h)	Voluntary Compliance	$1,500.00
Failure to notify board of firm registration record modification	§137.73	Voluntary Compliance	$750.00

(e) The following is a table of suggested sanctions that may be imposed against a *governmental entity and/or its representative* for violations of the Act or board rules. NOTE: In consideration of subsection (a)(1) - (6) of this section, the sanction issued could be less than or greater than the suggested sanctions shown in the following table. Injunctive action could also result from a second or later occurrence of these violations.

		SUGGESTED SANCTIONS	
VIOLATION	**CITATION**	**FIRST OCCURRENCE**	**SECOND OCCURRENCE**
Failure to engage a professional engineer in the construction of any public work involving professional engineering	§1001.407(1)	Voluntary Compliance	Cease and Desist / $5000.00
Accepting engineering plans, specifications and estimates that were not prepared by a professional engineer	§1001.402	Voluntary Compliance	Cease and Desist / $5000.00
Failure to ensure that the engineering construction is performed under the direct supervision of a professional engineer	§1001.407(2)	Voluntary Compliance	Cease and Desist / $5000.00

Source Note: The provisions of this §139.35 amended to be effective March 15, 2018.

SUBCHAPTER D: SPECIAL DISCIPLINARY PROVISIONS FOR LICENSE HOLDERS

§139.41 License Holder with Renewable, Expired License

A license holder whose license has expired for nonpayment of renewal fees continues to be subject to all provisions of the Act and board rules governing license holders until the license is revoked by the board or becomes non-renewable under §1001.353(d) of the Act.

Source Note: The provisions of this §139.41 amended to be effective May 20, 2004.

§139.43 License Holder with Criminal Convictions

(a) The board shall follow the requirements of Chapter 53, Texas Occupations Code, and shall revoke the license of any license holder incarcerated after licensure as a professional engineer as a result of:

(1) a felony conviction,
(2) violation of felony probation or parole, or
(3) revocation of mandatory supervision.

(b) The board, after it considers the factors provided in Texas Occupations Code §53.022 and §53.023, may take any of the actions set out in §139.31 of this chapter when a license holder is convicted of a misdemeanor or a felony without incarceration if the crime directly relates to the license holder's duties and responsibilities as a professional engineer.

(c) Any license holder whose license has been revoked under the provisions of this subsection may apply for a new license upon release from incarceration, but the application shall be subject to additional scrutiny relating to the incarceration. Such scrutiny shall be in accordance with Chapter 53, Texas Occupations Code.

Source Note: The provisions of this §139.43 amended to be effective December 21, 2008.

§139.45 Restitution

In addition to or in lieu of an administrative penalty, the board may order a license holder to pay restitution to a consumer as a result of an agreement resulting from an informal settlement conference. The amount of the restitution may not exceed the amount paid by the consumer to the person for a service regulated by the Act.

Source Note: The provisions of this §139.45 amended to be effective May 20, 2004.

§139.47 Probation

As part of a disciplinary action for violating the Act and board rules including, but not limited to, negligence, incompetence, or endangerment to the public, the board may prescribe conditions of probation for each probated suspension on a case-by-case basis depending on the severity of the violation that will include reporting requirements, restrictions on practice, and/or continuing education requirements as applicable as described in this subsection.

(1) The board will determine the reporting requirements for each probated suspension and will include a list of board probation requirements and schedule for completion of those requirements in which the board may require the license holder to submit documentation including, but not limited to, client lists, job assignments, designs, proof of continuing education participation, restricted practice reports, and other documents concerning the practice of engineering to demonstrate compliance with the conditions of probation. As a condition of probation, the license holder shall accept that schedule deadlines are final and no extensions or revision shall be granted, unless approved by the board.

(2) Board will receive and date stamp documentation on the day received and track compliance with probation requirements for each probated suspension. The board shall honor postmarks for date of submittal; however, if not received by the required deadline, the license holder shall have the burden of proof to demonstrate documentation was submitted by the schedule deadline.

(3) As a condition of probation, the board may restrict the area of practice of the license holder. The board may require the license holder to practice under the supervision and mentorship of another professional engineer when performing engineering in prescribed areas.

(4) As a condition of probation, the board may require the license holder to obtain additional continuing education in addition to the minimum requirements of §137.17 and may prescribe formal classroom study, workshops, seminars, and other specific forms of continuing education.

(5) Failure to comply with probation requirements shall result in lifting of probation and suspending of the engineering license for the remainder of the suspension period.

Source Note: The provisions of this §139.47 amended to be effective December 11, 2016.

§139.49 License Suspension/Revocation Based on License Holder's Status Review.

(a) The board may review the status of a license holder the board believes:

(1) may have been issued a license through fraud or error; or
(2) may constitute a threat to the public health, safety, or welfare.

(b) The board may, as set out in §139.31, of this chapter (relating to Enforcement Actions for Violations of the Act) suspend or revoke a license held by a person whose status is reviewed under this section.

Source Note: The provisions of this §139.49 amended to be effective January 1, 2006.

§139.51 License Suspension Based on Delinquent Child Support

Pursuant to Texas Family Code, Chapter 232, on receipt of a final order by the OAG (Office of the Attorney General) regarding delinquent child support, the board must suspend a professional engineer license until the OAG notifies the Board that the obligor has paid the child support, established a repayment schedule, has been granted an exception as part of a court-supervised plan or successfully contested the denial of licensure.

Source Note: The provisions of this §139.51 added to be effective September 20, 2009.

SUBCHAPTER E: HEARINGS

§139.61 Contested Case Hearings

The State Office of Administrative Hearings shall conduct all formal hearings and contested cases in accordance with the Administrative Procedures Act, Chapter 2001,Texas Government Code and Title 1, Chapter 155, Texas Administrative Code.

Source Note: The provisions of this §139.61 amended to be effective May 20, 2004.

§139.63 Extensions of Time

The Executive Director may enter into an agreement with parties to a contested case to modify time limits as provided under the APA, Texas Government Code §2001.147.

Source Note: The provisions of this §139.63 added to be effective September 20, 2009.

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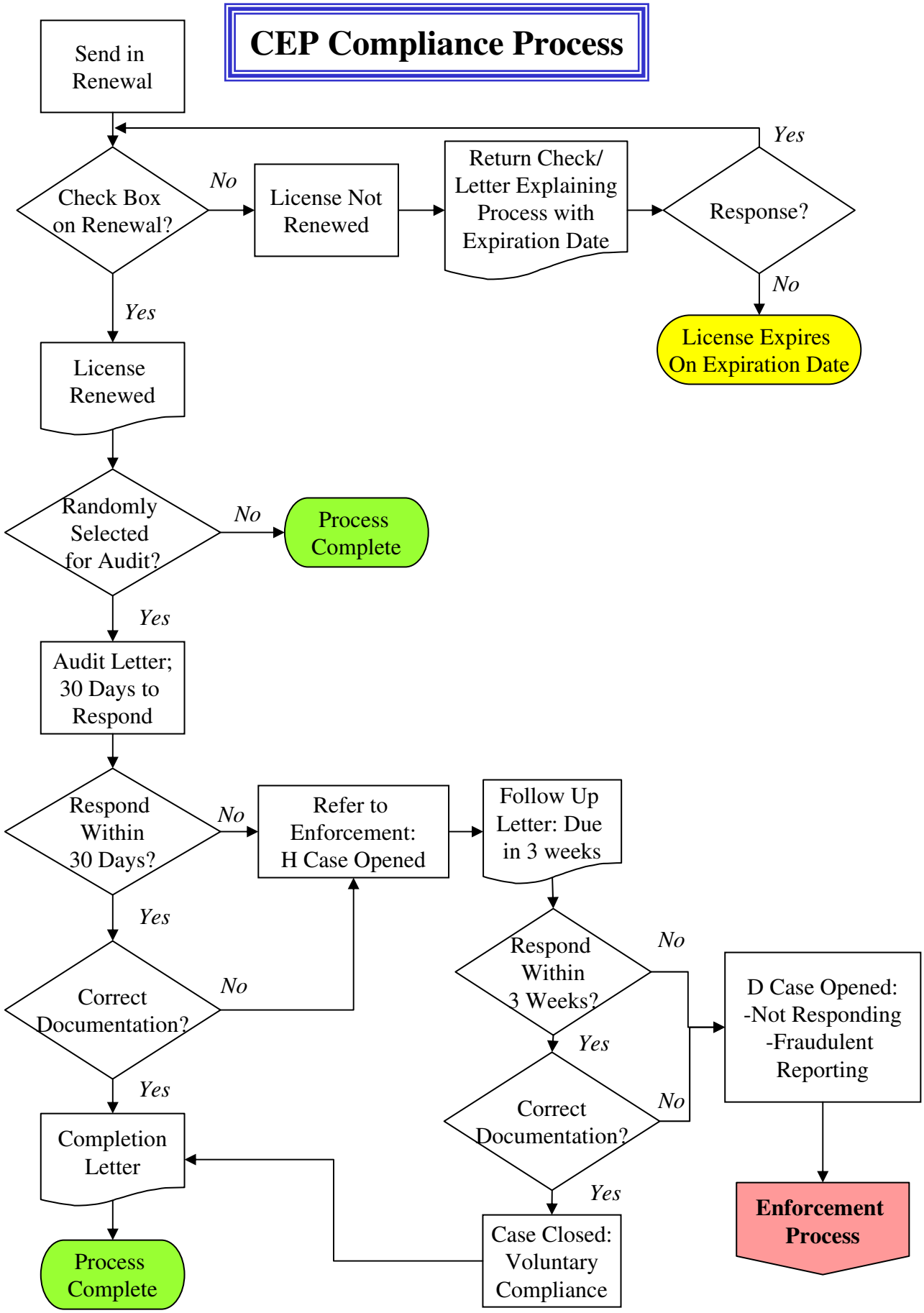
POLICY ADVISORY OPINIONS

TBPE accepts and acts on formal Policy Advisory Opinion requests and issues responses or opinions where appropriate. The following is a list of all the requests heard by the Policy Advisory Committee. The Board's interpretations, actions, and recommendations can be viewed/downloaded on our website at: http://engineers.texas.gov/policy.htm

Policy Number	Description	Date Adopted or Amended
1	Water Quality Planning	August 10, 2005
2	Metropolitan Transportation Planning	May 18, 2005
3	Structural or Mechanical Modifications to Building Roofs	October 6, 2004
4	Water Tank Rehabilitation	November 29, 2004
7	Construction Materials Engineering	Amended August 20, 2009
10	Professional Engineer (PE) Title Use	August 10, 2005
12	Professional Design of Indoor Antenna Systems	February 23, 2006
13	Specified Power Poles for Manufacture	August 10, 2005
14	PE Requirements for Telecomm/Datacomm Design	August 10, 2005
15	Use of Current Regulations in Design	August 9, 2006
16	PE's Engineering Areas of Competence	March 7, 2006
17	Forensic Engineering	February 23, 2006
18	Sealing Records Drawings	February 7, 2007
19	Commissioning of Engineered Systems (Buildings)	February 7, 2007
20	Engineer required for Building	August 9, 2006
21	Manufactured Buildings	Amended August 16, 2012
22	Conflict of Interest	May 9, 2007
23	Engineering Aspects of Facilities Assessment	August 20, 2009
24	Procurement of Engineering Services for Public Projects	August 20, 2009
25	Corrosion Protection Systems for Water Pipelines	February 25, 2010
26	Structural Integrity and Building Codes	August 20, 2009
28	Preliminary Documents	November 19, 2009
29	Engineering Aspects of Gas Turbine Acceptance Testing	February 25, 2010
30	Real Estate Inspection Reports and Engineering	February 25, 2010
31	Designated Engineering Representatives	AG Opinion Issued July 25, 2012; Board Approved on August 16, 2012
32	Texas Engineering Practice Act Board Rules and Staff Procedures	February 15, 2012
33	Direct Supervision and Engineering Discipline related to court testimony	May 24, 2012
34	Industry Exemption	May 21, 2014
35	Oil Well Production Casing String Design	May 23, 2013
36	Construction Management	May 21, 2014
37	Interpretation of Utility and Telephone Company Exemptions	Revoked May 5, 2015
38	Direct Supervision of Engineering Performed in Overseas Offices	November 20, 2014
39	On-Farm Energy Audits	February 11, 2016
40	Extent of Jurisdiction outside Texas	May 26, 2016
41	Firm Registration	February 16, 2017
43	TREC Inspector Providing an Opinion	November 16, 2017
44	Foundation Repair Methods	January 23, 2018
45	Electronic Signature	January 23, 2018

CEP Compliance Process



When is a **Professional Engineer** required on a project?

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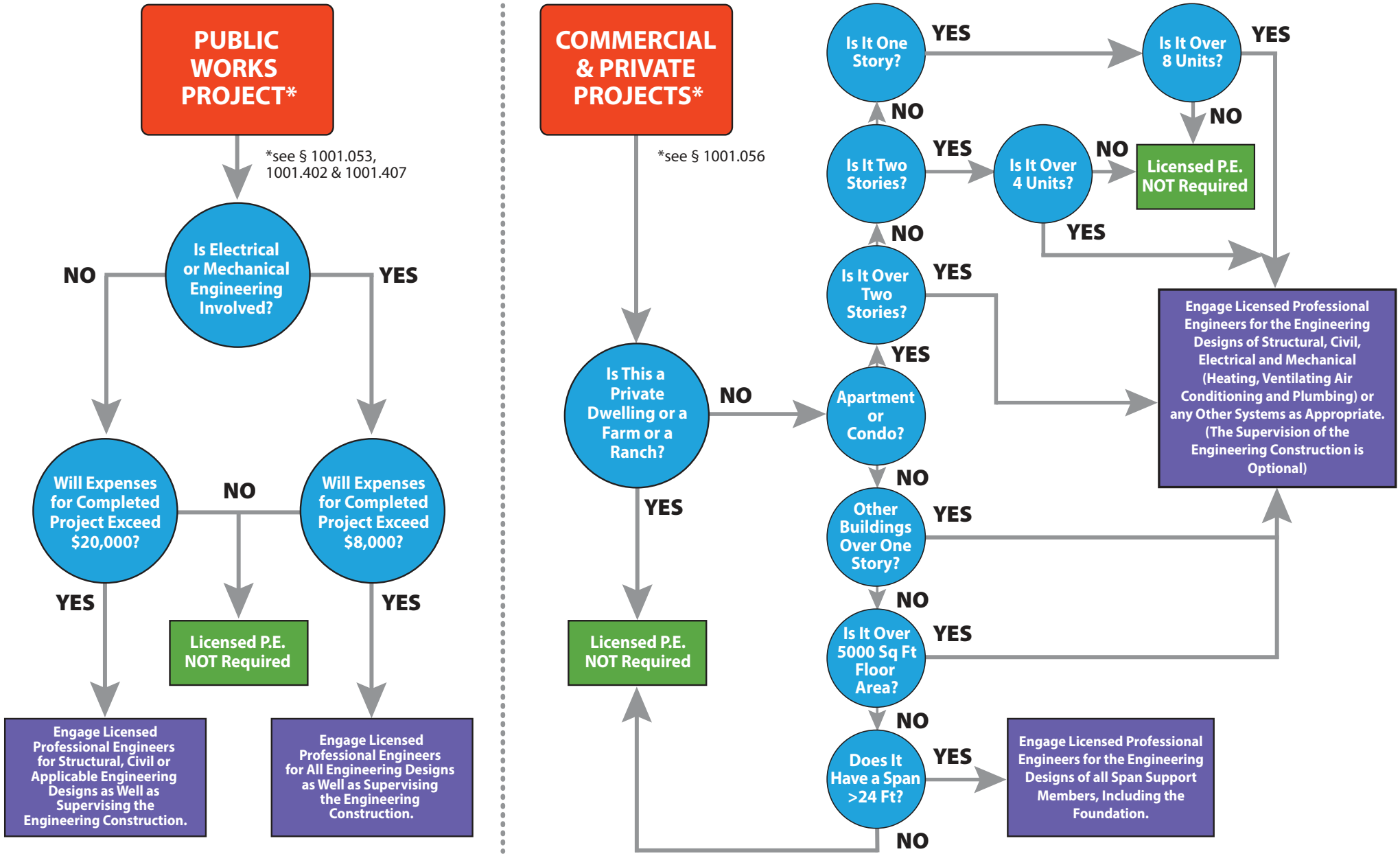
Texas Board *of* Professional Engineers
Engineering For A Better Texas



This flowchart is intended for guidance purposes only and the Texas Engineering Practice Act and Rules govern final interpretation. Local codes and ordinances may be more restrictive as long as not in conflict with the Texas Engineering Practice Act and Rules.

Visit http://engineers.texas.gov/downloads.htm for a copy of the Texas Engineering Practice Act and Board Rules and download this diagram.